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**LINCOLN CITY
CITY COUNCIL**

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IN THE MATTER OF

An appeal of a decision by the Planning)
Commission extending expiration dates)
for land use approvals of Villages at)
Cascade Head and Rock Creek Village)
Planned Unit Development)
(APP 2012-01))

**FINAL ORDER
FO 2012-01**

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NATURE OF THE APPLICATION

Consideration of an appeal from a decision of the Planning Commission granting a two-year extension to expiration dates for land use approvals of Villages at Cascade Head and Rock Creek Village. The new expiration date was set as January 7, 2014, and the extension was made subject to fulfillment of a number of conditions, including a requirement for progress reports at six-month increments.

PROJECT INFORMATION

Owners ANB Venture LLC
 477 Shoup Avenue, Suite 207
 Idaho Falls, ID 83402

 Lincoln Highlands Limited Partnership
 5393 Poola Street
 Honolulu, Hawaii 96821

 Don Sheeley
 15297 S. Lake Side Court
 Oregon City, OR 97045

Acreege Of the 525 total acres approved for Villages at Cascade Head PUD, 46 acres were transferred into the Chinook Winds Golf Resort PUD. The Villages PUD master plans have not been amended to reflect only the remaining 479 acres.

Map & Tax Lots The Villages at Cascade Head property is found on 06-11-26/500; 06-11-34 DA/6402; 06-11-35/100, 301, 400, 402, 403, 1000, & 1100; 06-11-35 CB/100 & 106; 06-11-36/401; 06-11-36 BC/100 & 300; and 06-11-36 BD/200 & 500

1 **Comprehensive**
2 **Plan & Zoning**

Comprehensive Plan: Medium Density Residential (R-7.5)
Zoning: Single-Family Residential (R-1-7.5)

3 **Surrounding**
4 **Land Uses**
5 **& Zoning**

North: Vacant woodland (County T-C [Timber Conservation])
South: Single Family Residential, Golf Course (R-1-7.5 & R-C)
East: Single Family Residential, Golf Course (R-1-7.5 & County R-1)
West: Single Family Residential (City: R-1-7.5 & County R-1)

6 **Public Notice**

On February 21, 2012, a public hearing notice was mailed to property owners within 500 feet of the project site. On February 29, 2012, notice was published in the News-Guard. On May 23, 2012 a notice of continued public hearing was mailed to property owners within 500 feet of the project site, and on May 30, 2012, a notice of continued public hearing was published in the News-Guard.

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9 **FINDINGS**

- 10
- 11 1. On March 12, 2012 the City Council opened a duly-noticed public hearing on this matter. The City Council continued the hearing to June 11, June 25, September 24, October 8, October 22, November 26, and December 10, 2012.
 - 12 2. Richard Townsend, Planning & Community Development Director, and Stephanie Reid, City Engineer, presented staff reports. Included with the staff reports were the staff report presented to the planning commission and the planning commission's final order in this matter.
 - 13 3. All persons who wished to present testimony, oral or written, were given an opportunity to do so.
 - 14 4. Improvements and additions to the planning commission's conditions of approval for the extension of approvals for the Villages at Cascade Head preliminary master plan and the Rock Creek Village refined preliminary master plan will help to ensure that the property owners of the Villages at Cascade Head PUD take the necessary steps to correct problems with the infrastructure of the development in a timely manner and that future infrastructure development occurs in an appropriate manner.
 - 15 5. Granting a ten-year extension to the approvals, with a possible further extension will provide an incentive to meet the requirements.
 - 16 6. Planning Commission Final Order No. 98-17 is attached to this order as Exhibit D and is incorporated herein by reference as if fully set forth. Except as modified by this order, or by other orders previously adopted by the City Council or the Planning Commission, Final Order No. 98-17 remains in full force and effect.
 - 17 7. In reaching its decision on this matter the City Council was guided in part by the Revised Staff Report, dated October 8, 2012, attached as Exhibit B, and the memorandum from Richard Townsend dated December 3, 2012, attached as Exhibit C.
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25 **DECISION**

26 The City Council modifies the decision of the Planning Commission in matter number PUD 2011-01 as memorialized in Planning Commission Final Order No. 2012-01 and approves a ten-year

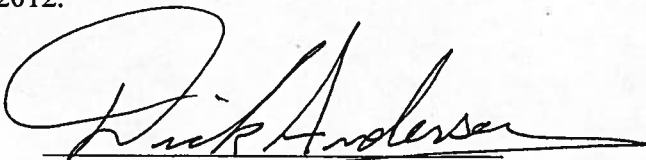
1 extension to the expiration dates for approval of the Villages at Cascade Head Preliminary
2 Master Plan and the Rock Creek Village Refined Preliminary Master Plan to January 31, 2023,
3 with possible further extension, subject to the conditions attached to this order as Exhibit A, and
4 except for the extension, subject to all previous final orders and conditions of approval, which
5 remain in full force and effect.

6
7 The City Recorder shall cause this order, including Exhibit A, to be recorded in the Lincoln
8 County deed records.


9 Attachments:

- 10 Exhibit A – Conditions of Approval
- 11 Exhibit B – Revised Staff Report dated October 8, 2012
- 12 Exhibit C – Memorandum from Richard Townsend dated December 3, 2012, supplementing the
13 revised staff report
- 14 Exhibit D – Planning Commission Final Order No. 98-17

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16 APPROVED THIS 10th DAY OF DECEMBER 2012.

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19 Dick Anderson
20 Mayor

21 ATTEST:

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24 Cathy Steere
25 City Recorder
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EXHIBIT A

**Villages at Cascade Head
Time Extension**

Conditions of Approval

For the purposes of these conditions of approval, “block” means an area of a specific residential development type as described in the Villages at Cascade Head preliminary master plan. It is not intended to refer to “city blocks” or to blocks as referred to in LCMC Title 16, Subdivisions.

For the purposes of these conditions of approval, “block owner” means the owner of one or more blocks.

For the purposes of conditions 8, 9, 10, and 11, “Property owners” means the owners of one or more blocks (other than Block A-prime) on December 10, 2012, or any party to whom is transferred part or all of an interest in any block or blocks prior to January 31, 2013.

1. Zoning Condition Number 11 in Exhibit A of Lincoln City Planning Commission Final Order No. 98-17 is deleted and replaced with the following:

The approval of the preliminary master plan shall be effective until January 31, 2023. Prior to expiration of the preliminary master plan, the planning commission may, on receipt of an application applying to the as yet unbuilt portions of the development, extend the expiration date, provided that the extension will be consistent with then-existing city zoning ordinance requirements, in relation to then-existing conditions.

2. Planning Condition Number 3 in Exhibit B of Lincoln City Planning Commission Final Order No. 98-17 is deleted and replaced with the following:

The approval of the refined preliminary master plan shall be effective until January 31, 2023. Prior to expiration of the refined preliminary master plan, the planning commission may, on receipt of an application applying to the as yet unbuilt portions of the development, extend the expiration date, provided that the extension will be consistent with then-existing city zoning ordinance requirements, in relation to then-existing conditions.

3. The capacity of the sewer system serving the Villages at Cascade Head is limited. Any available existing capacity will be allocated on a first-come, first-served basis. Before approval of any new development of any block, including any new development in Block A, the block owner must enter into

1 an agreement with the city describing the block owner's responsibility and
2 time table for designing, constructing, and installing improvements to the
3 sewer system required for the development, including i) connection of
4 sufficient capacity to the city sanitary sewer main, as determined necessary by
5 the city, and ii) necessary upgrades to the West Devils Lake Pump Station.
6 This agreement is required due to deferral of submittals detailing
7 improvements and costs required by LCMC 17.52.210.I and LCMC
8 17.52.230.C.
9

10 4. Before approval of any new development of any block outside of Block A-
11 prime, the block owner must enter into an agreement with the city for payment
12 to the city of the block owners' proportionate share, as determined by the city,
13 of the costs of upgrading the Road's End water booster station required to
14 serve this development. This agreement is required due to deferral of
15 submittals detailing improvements and costs required by LCMC 17.52.210.I
16 and LCMC 17.52.230.C.
17

18 5. Before approval of any new development of any block outside of Block A-
19 prime, the block owner must consult with the city engineer and then complete,
20 in a manner acceptable to the city engineer, the constructed portion of NE
21 Devils Lake Boulevard within the Villages at Cascade Head PUD and
22 intended to serve the new development. At a minimum, this will require the
23 block owner to add the final asphalt lift after first ensuring the road bed, the
24 first asphalt lift, curbs, gutters, sidewalks, and installed utilities meet current
25 city standards, as defined by the city engineer. The block owner must
26 maintain the streets to the satisfaction of the city engineer, making repairs
27 determined by the city engineer to be necessary, under the observation of the
28 city engineer and to her approval.
29

30 6. Before the block owner continues construction on Fernwood Loop, the block
31 owner must consult with the city engineer and then ensure that the road bed
32 and constructed utilities meet current city standards, by testing and making
33 any repairs that the city engineer determines necessary. The block owner shall
34 make the repairs under the observation of the city engineer and to her
35 approval. After the initial asphalt is placed, the block owner must maintain
36 Fernwood Loop in good repair. Before the block owner places the final
37 asphalt lift on Fernwood Loop, the block owner must ensure that the road bed,
38 the first asphalt lift, curbs, gutters, and sidewalks meet current city standards,
39 as defined by the city engineer, by making any repairs that the city engineer
40 determines necessary. The block owner shall make the repairs under the
41 observation of the city engineer and to her approval.
42

43 7. Before undertaking construction of any infrastructure improvements in or
44 serving any block, including but not limited to public or private streets,
45 roadways, storm drainage, sewer, or water systems, the block owner must
46 enter into an agreement with the city to ensure the timely completion of the

1 improvements and other actions set out in these conditions of approval. The
2 agreement shall:

- 3 a. Provide that if the block owner does not complete the required
4 improvements or take the required actions within the established time
5 periods, then the city may complete the improvements or take the actions
6 and recover the full cost and expense of completion from the owner;
7 b. Require the block owner to reimburse the city for all costs of inspection
8 by the city of the improvements and actions;
9 c. Require the block owner to hold harmless, defend, and indemnify the
10 city and its mayor and council members, officers, boards, commissioners,
11 and employees from claims of any nature arising or resulting from the
12 city's performance of any acts or completion of improvements required to
13 be done by the block owner;

14
15 As a condition to city acceptance of the agreement, the block owner shall file
16 with the city a surety bond executed by a surety company authorized to
17 transact business in the state of Oregon to assure the full and faithful
18 performance of the agreement by the block owner. The surety bond shall be in
19 an amount equal to 110 percent of the estimated cost to complete the required
20 improvements and take the required actions, as agreed upon by the city
21 engineer and the block owner. The amount may be reduced from time to time
22 at the sole discretion of the city engineer following satisfactory completion of
23 the improvements or actions. This agreement is required due to deferral of
24 submittals detailing improvements and costs required by LCMC 17.52.210.I
25 and LCMC 17.52.230.C.

- 26
27 8. Before January 31, 2013, the property owners must restore the full
28 functionality, as required by the city, of the storm water system in Devils Lake
29 Boulevard. This will include cleaning out the silt from catch basins, detention
30 ponds, and water quality ponds and swales.
31
32 9. Before January 31, 2013, the property owners shall submit a permanent
33 erosion control plan acceptable to the city either as submitted or with required
34 revisions.
35
36 10. Before January 31, 2013, the property owners must install erosion control
37 measures, as specified in the approved erosion control plan, in all disturbed
38 areas to the satisfaction of the city and maintain the erosion measures until the
39 city deems they are no longer needed.
40
41 11. Before January 31, 2013, to the satisfaction of the city, the property owners
42 must remove noxious vegetation as defined in LCMC 8.12.010 from disturbed
43 areas and remove vegetation that threatens damage to infrastructure. From
44 September 30, 2012, the owners must maintain the properties free of noxious
45 vegetation as defined in LCMC 8.12.010 and damaging vegetation.
46

- 1 12. From the date of this final order, no one shall disturb soils or remove trees
2 without city approval, and no one shall stockpile materials on the site, except
3 in conjunction with an issued building or site development permit.
4
- 5 13. The block owners of the unbuilt portions of the Villages at Cascade Head
6 PUD shall design the streets so that pullouts and public transit shelters may be
7 added in the future without the need to acquire additional rights-of-way or
8 relocate any sidewalks or utility lines.
9
- 10 14. All future construction in the Villages at Cascade Head, including but not
11 limited to development of right-of-way and construction of buildings, shall
12 comply with the Americans with Disabilities Act.
13
- 14 15. The block owners of the unbuilt portions of the Villages at Cascade Head
15 PUD shall design and install irrigation systems, if any, so that they do not
16 spray onto or otherwise result in irrigation water on impervious surfaces such
17 as roads, driveways, parking lots, and sidewalks.
18
- 19 16. In any future application for approval of a preliminary master plan, refined
20 preliminary master plan, or final master plan, whichever comes first, the block
21 owners also must submit an application for revision of the Villages at Cascade
22 Head Preliminary Master Plan and the Rock Creek Village Refined
23 Preliminary Master Plan to reflect the transfer of 46 acres of land (more or
24 less) to the Confederated Tribes of Siletz Indians for expansion of the
25 Chinook Winds golf course.
26
- 27 17. The block owner and/or the constructor of the improvements shall warrant the
28 materials and workmanship of all improvements for a period of one year from
29 the date of tentative acceptance by the city and shall provide financial security
30 for the warranty in the form of a surety bond executed by a surety company
31 authorized to transact business in the state of Oregon in the amount of 20
32 percent of the cost of construction, as verified by the city and approved by the
33 city engineer.
34
- 35 18. All conditions of FO 98-17 and other applicable final orders not otherwise
36 amended by this order or earlier orders remain in effect. In the event of any
37 conflict between a condition of approval in an applicable final order and a
38 condition of approval of this order, the most current condition that is
39 compatible with current zoning standards shall apply.



REVISED CITY COUNCIL STAFF REPORT

MEETING DATE: October 8, 2012

APP 2012-01 — VILLAGES AT CASCADE HEAD – ROCK CREEK VILLAGE –Appeal of Planning Commission decision to extend expiration deadlines and conditions (PUD 2011-01)

PROJECT INFORMATION

Applicant	Lincoln Highlands Limited Partnership 5393 Poola Street Honolulu, Hawaii 96821
Owners	ANB Venture LLC 477 Shoup Avenue, Suite 207 Idaho Falls, ID 83402 Lincoln Highlands Limited Partnership 5393 Poola Street Honolulu, Hawaii 96821 Don Sheeley 15297 S. Lake Side Court Oregon City, OR 97045
Acreage	Of the 525 total acres approved for Villages at Cascade Head PUD, 46 acres were transferred into the Chinook Winds Golf Resort PUD. The Villages PUD master plans have not been amended to reflect only the remaining 479 acres.
Map & Tax Lots	The Villages at Cascade Head property is found on 06-11-26/500; 06-11-34 DA/6402; 06-11-35/100, 301, 400, 402, 403, 1000, & 1100; 06-11-35 CB/100 & 106; 06-11-36/401; 06-11-36 BC/100 & 300; and 06-11-36 BD/200 & 500
Comprehensive Plan & Zoning	Comprehensive Plan: Medium Density Residential (R-7.5) Zoning: Single-Family Residential (R-1-7.5)
Surrounding Land Uses & Zoning	North: Vacant woodland (County T-C [Timber Conservation]) South: Single Family Residential, Golf Course (R-1-7.5 & R-C) East: Single Family Residential, Golf Course (R-1-7.5 & County R-1) West: Single Family Residential (City: R-1-7.5 & County R-1)

Public Notice

On February 21, 2012, a public hearing notice was mailed to property owners within 500 feet of the project site. On February 29, 2012, notice was published in the News-Guard. On May 23, 2012 a notice of continued public hearing was mailed to property owners within 500 feet of the project site, and on May 30, 2012, a notice of continued public hearing was published in the News-Guard. Subsequent continuances brought the hearing date to October 8, 2012.

**Applicable
Substantive
Criteria**

LCMC 17.76.040.B. Appeals, Decision of the Planning Commission.
Lincoln City Planning Commission Final Order No. 98-17, Exhibit A,
Zoning Condition 11 and Exhibit B, Planning Condition 3

On January 3, 2012, the Planning Commission approved a two-year extension of the approvals for the Villages at Cascade Head Planned Unit Development, a large real estate development in the northern-most part of the city. At the City Council meeting of January 9, 2012, on the recommendation of the City Manager, the City Council voted to appeal the Planning Commission’s decision to extend. The City Manager’s concerns were based on conditions of approval in an earlier time extension that had not been met, particularly with respect to infrastructure that was incomplete or had not been maintained. He wanted the City Council to ensure that conditions in the 2012 extension were adequate and included enforceable deadlines. The hearing on the appeal was scheduled for March 12, 2012 and continued to June 11, 2012, and then to June 25, 2012 and ultimately to October 8, 2012.

BACKGROUND

The Planning Commission gave this development its first approval in January 1996. By any measure the Villages at Cascade Head (Villages) is a large undertaking, originally encompassing 525 acres and providing for 1,926 dwelling units.

The Villages is a planned unit development or “PUD.” A PUD allows a more flexible approach to land development than that which is normally permitted by the city’s subdivision and zoning ordinances. The goals of allowing PUDs are to achieve more desirable environments through creative site planning and building designs, to make possible greater diversification between buildings and open spaces, and to conserve land and minimize development costs. In a PUD all zoning and subdivision standards are subject to negotiation with the exception of overall density, building height, and allowed uses. So a PUD may vary things like lot size (both area and dimensions), building setbacks, lot coverage, and street width.

Procedurally a PUD normally needs two approvals from the Planning Commission. The first is approval of a “preliminary master plan.” This plan is the overall design for the PUD, and includes a drawing of the layout of the proposed PUD, supplemented by proposed deed restrictions or CC&Rs, approximate plans for streets, sewers, and storm drains, landscaping plans, tree maintenance and protections plans, traffic analysis, and whatever other documents might be useful and appropriate. The planning commission considers this plan at a public hearing and disapproves or approves it, typically with several conditions of approval.

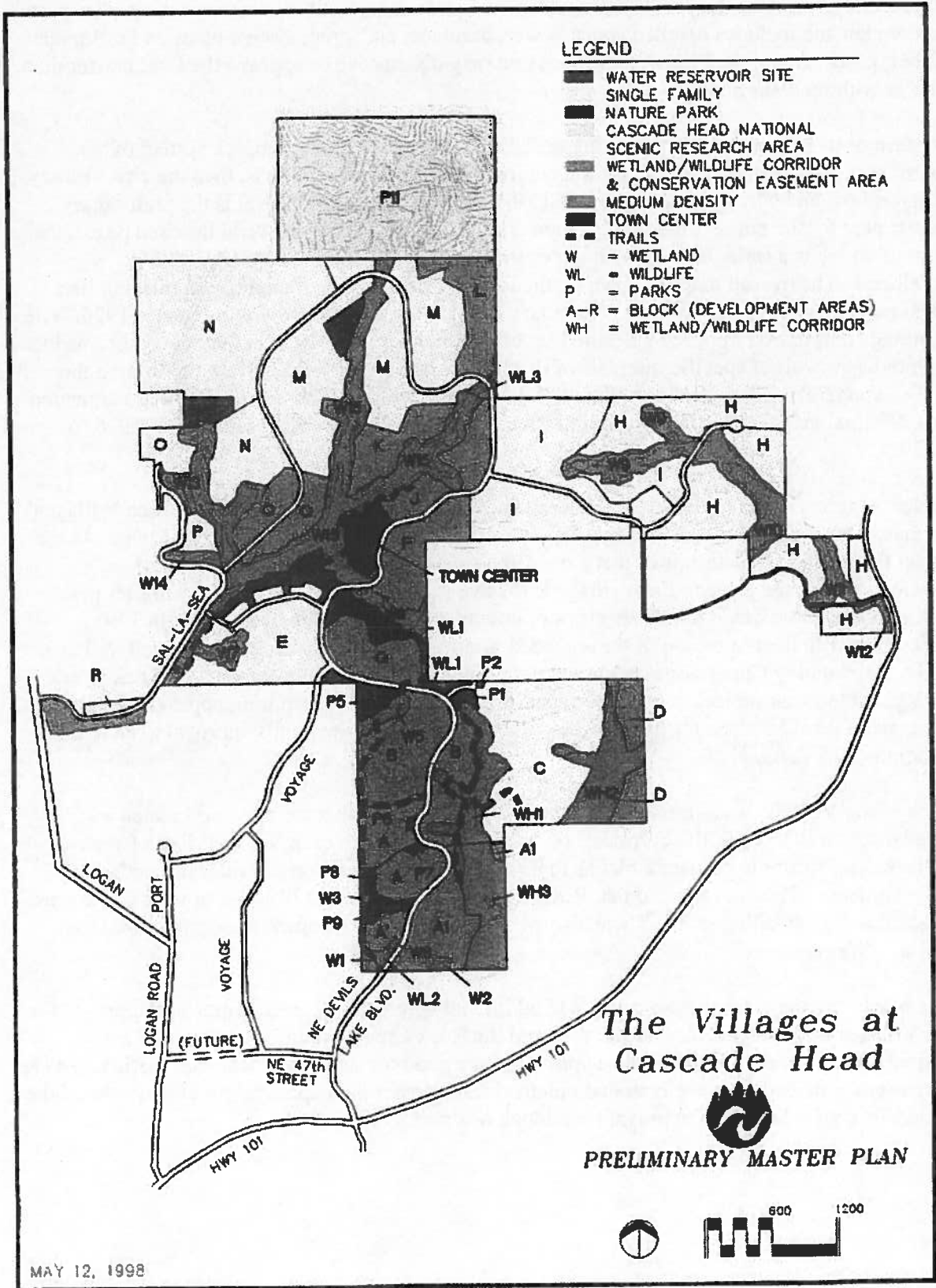
The second approval is for the "final master plan." It must be consistent with the preliminary master plan and includes detailed water, sewer, drainage, and street system plans and estimates of their costs. Again the Planning Commission may disapprove or approve the final master plan, with or without conditions.

Because of its size and scope the Villages PUD is subject to a more complex system of approvals. The attached July 27, 1998 memorandum from Chris Thomas, then the city attorney, explains how and why this came about (**Exhibit G**). At the broadest level is the preliminary master plan for the entire Villages development. It is a document of several hundred pages, the meat of which is a series of maps and tables showing how the project is intended to be developed. The overall map is shown on the following page. The planning commission first considered the preliminary master plan in late 1995, and granted approval in January 1996. The planning commission imposed a detailed set of conditions of approval, including conditions that required approvals at specific intervals of detailed plans for parts of the PUD and limited the PUD's approval to an overall duration of 15 years. In 1998 the Planning Commission amended its 1996 final order, including lowering the number of allowed dwelling units from 1,926 to 1,829.

Under the terms of the preliminary master plan the Villages PUD is divided into three "villages" or phases, named Rock Creek Village, Salmon Creek Village, and Logan Creek Village. At the outset the developers determined that Rock Creek Village would be the first phase of development for the project. Each village is to have its own "refined preliminary master plan" that goes into more detail on the specifics of how that village is to be developed. In 1998, concurrent with their approval of the amended preliminary master plan for the overall Villages PUD, the Planning Commission approved the refined preliminary master plan for Rock Creek Village. It too was subject to extensive conditions, including one requiring approvals at specific intervals of detailed plans for parts of the Village and limiting the plan's approval to an overall duration of 15 years.

Each of the Villages is comprised of several "blocks." There also are areas designated as "park," "wetland," "wetland/wildlife corridor," or "wildlife corridor" in each Village. Rock Creek Village consists of nine separate blocks to be developed with various densities of residential development. The plan showed that Rock Creek Village took in 178 acres, of which 75.5 was devoted to 863 dwelling units. There also were 87.44 acres of common area, parks, wetlands, and wildlife corridors.

The blocks are the areas that are subject to additional approvals. The conditions of approval for the Villages PUD preliminary master plan and the Rock Creek Village refined preliminary master plan specified that those two approvals were good for two years, with automatic two-year extensions provided the developer had obtained final master plan approval for at least one of the blocks or final subdivision approval for a block or a part of a block.



In the years since the Villages PUD and Rock Creek Village plan approvals there have been several approvals of final master plans for blocks, and in some cases, extensions of time for getting such approvals:

1. January 19, 1999: Final Master Plan approval, Extension of Devils Lake Boulevard
2. December 5, 2000: One year time extension for approval of final master plan for a block of Rock Creek Village
3. October 2, 2001: time extension for approval of master plans for blocks within the Villages at Cascade Head
4. November 5, 2002: time extension for approval of final master plan for a block within Rock Creek Village and for submission of a refined PMP or a final master plan for a block within Villages at Cascade Head (one year for each)
5. November 18, 2003: Final Master Plan for Block B, Rock Creek Village
6. May 16, 2006: Final Master Plan Block A, Rock Creek Village
7. June 6, 2006: Final master plan and tentative subdivision plat for Block A-Prime, Rock Creek Village
8. May 15, 2007: One-year extension to approve & record final subdivision plat for Block A Rock Creek Village
9. May 15, 2007: One year extension to approve & record final subdivision plat for Block A-Prime (PUD 03-07) (to May 16, 2008)
10. September 4, 2007: Amendment to preliminary master plan to allow review and approval of a final subdivision plat for Block A
11. May 6, 2008: Amendment to boundaries of Rock Creek Village and Villages at Cascade Head, reflecting transfer of 51 acres from VCH to Chinook Winds Golf Resort PUD. Inclusion of reconfigured Block D into scope of Rock Creek Village Refined Preliminary Master Plan. Reallocation of Rock Creek Village from 863 dwelling units to 737 dwelling units.
12. December 1, 2009: Extension to expiration dates for land use approvals of Villages at Cascade Head and Rock Creek Village – new expiration date is January 2, 2011.
13. December 7, 2010: One-year extension to expiration dates for land use approvals of Villages at Cascade Head and Rock Creek Village – new expiration date is January 3, 2012.
14. January 3, 2012: Two-year extension to expiration dates for land use approvals of Villages at Cascade Head and Rock Creek Village – new expiration date is January 7, 2014.

Financial difficulties led to foreclosure of much of the property in early 2012. ANB Ventures, LLC, the new owner, asked for an extension of the original appeal date to allow time to make improvements and prepare for the council hearing. ANB subsequently sold Maplewood (Block A) to Don Sheely, who has applied the second lift of asphalt in front of the occupied homes. Other improvements since the planning commission's January 2012 hearing include the second lift of asphalt on Devils Lake Boulevard up to Maplewood, the torch-burning of weeds and small trees in the joint between the curb and first lift, and removal of the wash station at the south end of the PUD.

ANALYSIS

Despite the many delays that have befallen the Villages PUD, staff has continued to support it and advocated for the extensions that the Planning Commission has granted it in the past. The principal reason for staff's support is the high quality of the plan and the protections it affords the area within its boundaries.

We have seen examples of the likely alternative to this PUD on adjacent or nearby properties. Typically they involve clearcutting of the entire property, which makes them fertile fields for invasive species such as scotch broom. The conventional subdivision layouts preserve no habitat or wildlife transit corridors.

Housing in the Villages PUD is designed to be a mixture of single family homes on individual lots, townhomes, condominiums and apartments. The housing units are clustered and surrounded by common areas, parks, and other open space. In an ordinary subdivision the entire site typically would be devoted to residential development and road. In the Villages PUD there are about 300 acres dedicated to residential use, about 27 acres for roads, and about 200 acres for open space.

Importantly the open space areas are linked together into a network of parks, wetlands, and wildlife corridors that provide the connectivity that wildlife depend on for safe movement into and out of their various habitat areas. It is particularly noteworthy that these corridors and other areas connect directly to the open space land to the north owned by the city, the U.S. Forest Service in its 9,670-acre Cascade Head Scenic Research Area, and the Westwind Stewardship Group.

Surrounding the wetlands on the site is a 50-foot buffer. Outside of the buffer is a 25-foot easement area in which no structures are allowed. This situation is quite different from what our current regulations require, which is no buffer at all.

The property contains three areas identified as potential marbled murrelet habitat. Under the conditions of approval, these habitat areas are protected from development. Other protected species provisions include providing off-site habitat improvements for the Oregon silverspot butterfly, limiting damage to habitat areas used by red-legged frogs, and using arched culverts at road crossings to minimize impacts on fish and amphibian habitat. None of these actions are required by our ordinances.

Infrastructure issues

The Planning Commission's approval of a two-year extension to the Villages approval included 14 conditions of approval. These are attached as a part of the Planning Commission's final order in **Exhibit C**. The city manager had a number of concerns about the terms of the approval and suggested the City Council call it up on appeal. The city manager's concerns centered on issues relating to the existing infrastructure. The council adopted the city manager's recommendation and initiated an appeal. An earlier version of this staff report included staff's proposed revised conditions of approval to address the city manager's concerns. These are attached as **Exhibit A**.

The city manager's principal concern was the condition of the streets in the development. As is typical of most subdivisions, developer installed the curbs, gutters, and sidewalks adjacent to the

streets, and put down the first of two asphalt lifts in the streets themselves. The second lift usually comes later, after most construction is completed. Here, even though construction had been completed on some of the dwellings in Block A-Prime, also known as Maplewood, and some of the dwellings sold to people who moved into them, the former owner of the majority of the Villages PUD did not put the second lift down in the street in Maplewood. Recently the new owner did put a second lift of asphalt in front of all of the occupied homes.

Likewise, only the former owner only put the first lift down on Devils Lake Blvd. within the development. The area of this street to the north of Maplewood was gated off and no traffic can use the street. Weeds and even trees became established in the joints between the gutter and the asphalt pavement. If allowed to go on too long these plants could degrade the roadbed, resulting in future maintenance problems, even after the final asphalt is put down. Exacerbating this problem is the fact that the lips of the stormwater catch basins are at the finished road level, but the surface of the road is lower. The result is that in some places stormwater is unable to enter the catchbasins and instead carries silt, and plant material along the roadway for long distances, sometimes depositing in a way that results in more plant growth.

The new owner has placed the second lift in Devils Lake Blvd. up to the gate. Before placing the asphalt the contractor torch burned the weeds and small trees in the joint between the curb and first lift, which seems to have solved the problem there. In the original proposed revised conditions of approval staff added a detailed condition (number 4) requiring the property owners to correct the problems with the condition of the road for the rest of the length of Devils Lake Blvd. within the PUD and to place the second lift on the remainder of the street by September 30, 2012.

During the construction of Devils Lake Blvd., the infrastructure and buildings in Maplewood (Block A-Prime), and the infrastructure for Fernwood (Block A) the developers did extensive grading. At the time they put in erosion control measures, but those measures were not maintained after the project fell on hard times. The result has been excessive erosion and deposition of silt in the roadway and elsewhere. Staff drafted condition of approval number 8 to require the property owners to submit a new erosion control plan for approval by the city before August 1, 2012. Proposed condition of approval number 9 required the property owners to install the erosion control measures specified in the plan by September 30, 2012.

In the Fernwood block, the Fernwood Loop road has been graded and rocked and utilities installed in the roadbed. However, this work was done a number of years ago and the roadbed has not been maintained since. Weeds and other plants have established themselves in the roadbed, and erosion has caused additional deterioration. Proposed condition of approval number 5 was designed to address the concerns about Fernwood Loop by requiring testing of the condition of the utilities in the roadbed, correction of any problems, and maintenance of the roadway once it is paved.

In addition to the stormwater problem mentioned above, other factors are adversely affecting the project's stormwater system. Because of the years of lack of maintenance of the erosion control measures in disturbed areas at the Villages, they have in essence worn out and ceased functioning. This has resulted in sediment entering the stormwater system and causing siltation in the catchbasins and detention ponds. It is likely that additional sedimentation is occurring in

downstream areas. Proposed condition of approval 7 required the property owners to correct the siltation problems and restore the functionality of the stormwater system by September 30, 2012.

Additional infrastructure-related issues concern the capacity of the off-site systems to handle the demands from the Villages PUD. Regarding the sewer system, the ultimate developer needs to ensure the connection to the city sanitary sewer main has the capacity to handle the flow. Further, the city will need to upgrade the West Devils Lake sewer pump station in part to accommodate flows from the Villages PUD and the ultimate developer must pay for its proportionate share of these improvements. Condition of Approval number 2 required the property owner to enter into an agreement before the end of this year to make the necessary improvements.

Similarly the city upgraded the Roads End water booster station in part to serve the Villages PUD. The developer of the Villages PUD must pay their share of the upgrade, and Condition of Approval number 3 required the property owners to enter into an agreement by the end of this year to do that.

Finally, at the time Devils Lake Blvd. was constructed with the PUD, the developer undertook extensive landscaping along the roadway in accordance with an approved landscaping plan. But since the project fell on hard times the landscaping has not been maintained. Invasive plants, weeds, and other plants have taken over much of the landscaped area, giving it a weedy, overgrown appearance. Condition of approval numbers 10 and 11 were intended to remedy this problem by requiring the removal of noxious and invasive plants before September 30, 2012, and to prevent grading or other erosion-causing activities in the future without city approval. Such approval would include specific erosion control measures.

Proposed conditions of approval 16, 17, 18, and 19 were intended to put teeth into the other conditions of approval. They required the property owners to enter into an agreement with the city before August 1, 2012 to ensure the steps required by the conditions of approval are taken in a timely manner. The agreement was to specify that if the property owners do not perform the required actions, the city may perform them and recover its costs from the property owners. Accompanying the agreement the property owners were to provide financial security in the amount of 110 percent to the expected costs of the improvements.

Staff believed the proposed conditions of approval amounted to a significant improvement over those approved by the planning commission. They addressed the city manager's concerns in a way that ensured the necessary steps will be taken to restore and protect the infrastructure of the Villages PUD. Staff suggests that instead of the two-year extension granted by the planning commission, there be a one-year extension, with an automatic second one-year extension if the property owners carry out the requirements of the conditions of approval. If for some reason the property owners do not carry out their requirements the approval of the Villages PUD would lapse on January 9, 2013. This would adversely affect the value of the Villages property to the present owners, a fact that gives them a strong incentive to take the necessary actions.

At the public hearing on June 25, 2012, for which the proposed conditions of approval were prepared, Scott Bleazard appeared before the City Council on behalf of ANB Venture LLC, majority owner of Villages at Cascade Head property. Citing the low level of residential building in Lincoln City, he said while the overall plan for the property is a good one and should be kept in place, the project should be mothballed until economic conditions improve. In

essence he said many of the proposed conditions were unrealistic for the times. The City Manager suggested continuing the hearing to give the owners and staff time to try to work out what would work. The City Council agreed and continued the hearing to September. At the request of one of the owners the council further continued the hearing to October 8, 2012. Subsequent meetings between Mr. Bleazard and city staff, and Mr. Bleazard's letter of August 21, 2012 (attached as **Exhibit H**) have led staff to suggest significant changes to the proposed conditions of approval. These are set out in **Exhibit I**. Staff generally concurs that mothballing the project (other than Maplewood and Fernwood) is appropriate at this time. With the development on hold, the only issues of concern to the city are the potential impacts, both on-site and off-site, from stormwater drainage and from invasive and noxious vegetation.

Staff is proposing amendments to the proposed conditions of approval that substantially reduce the current obligations of the property owners. The result, however, will be continued deterioration of the unused infrastructure and increased costs for any future developers who will have to bring the infrastructure back up to city standards. The present owner has indicated he is willing to accept that. For the city's part, it is important that the existing stormwater system be made functional and then be maintained. It also is important that invasive and noxious vegetation be fully removed as failure to do so will have harmful offsite effects and likely become more and more difficult, if not impossible, as the plants become more established on-site. For this reason staff recommends retaining the requirement to remove them from all disturbed areas, not just within ten feet of the roadway.

The original approval of the Villages at Cascade Head PUD was good for 15 years so long as additional approvals were obtained at least every two years. That 15-year period has passed, but the Planning Commission has extended it from time to time. Staff recommends eliminating time limit on the overall approval and further eliminating the 1998 requirements for semi-annual approvals of refined preliminary master plans for particular blocks.

RECOMMENDATION

Staff recommends the City Council adopt a final order modifying the decision of the Planning Commission subject to revised conditions of approval as drafted by staff.

Attachments:

- A - Proposed conditions of approval from June 25, 2012
- B - Planning Commission staff report
- C - Planning Commission final order
- D - Planning Commission minutes - January 3, 2012
- E - Correspondence/written testimony
- F - Not used
- G - Memorandum from Chris Thomas, dated July 27, 1998
- H - Letter from Scott Bleazard dated August 21, 2012
- I - Revised proposed conditions of approval

Memo

To: David Hawker, City Manager
From: Richard Townsend, Planning and Community Development Director
Date: December 3, 2012
Re: APP 2012-01 — VILLAGES AT CASCADE HEAD – ROCK CREEK VILLAGE –
Appeal of Planning Commission decision to extend expiration deadlines and conditions
(PUD 2011-01)

SUPPLEMENT TO OCTOBER 8, 2012 REVISED STAFF REPORT

In the time since my October 8, 2012 staff report was written I have substantially revised the proposed conditions of approval. I did this in response to concerns expressed by Scott Bleazard, who represents the owner of the majority of the Villages at Cascade Head, and after discussions with David Hawker, City Manager, and Stephanie Reid, City Engineer. I describe the changes contained in each of the latest proposed conditions here. The paragraph numbers correspond to the numbers of the proposed conditions.

1. Originally (via a 1996 final order amended in 1998) the approval of the Villages at Cascade Head (VCH) was to expire no later than January 2, 2001. The date has been extended several times as described in the staff report. The October 8 proposed conditions of approval eliminated the expiration dates altogether, but this was not consistent with LCMC 17.52.210.L.1.b. which requires the planning commission to set an expiration date for preliminary master plan approval. The latest version of this condition would extend approval until January 31, 2023 (i.e. for ten years). The condition also would allow extensions of the expiration date, but does not specify the number of extensions or their duration. The council may wish to amend this condition to set specific extension limits, such as one extension for five years.
2. In addition to approving the preliminary master plan for VCH, the 1996 and 1998 final orders approved a “refined preliminary master plan” for the “Rock Creek Village” portion of VCH. It too was to expire no later than 2001. This condition would extend the expiration date to January 31, 2023. Again, the condition also would allow extensions of the expiration date, but does not specify the number of extensions or their duration. The council may wish to amend this condition to set specific extension limits, such as one extension for five years.
3. This is a modification of the October 8 draft condition number 2. It draws attention to the limited existing capacity of the sewer pump station serving VCH and states that the remaining capacity will be allocated on a first come, first served basis. It then says before there can be any new development of any block in VCH the owner of the block

has to reach agreement with the city on the owner's responsibilities for upgrading the sewer system.

4. This is a modification of the October 8 draft condition number 3. It echoes the sewer agreement requirement from condition number 3, above, but this time for water.
5. This is a slight modification of October 8 draft condition number 4. The difference is in an explicit requirement to consult with the city engineer prior to working on the final improvements to Devils Lake Blvd. The condition requires the developer of any block to be served by Devils Lake Blvd. to complete the portion of the road providing access to the block.
6. This is a slight modification of October 8 draft condition number 5. Again, the difference is in an explicit requirement to consult with the city engineer prior to working on Fernwood Loop.
7. This is a new condition, and an important one. It requires the owner of any block to enter into an improvement agreement with the city to ensure that the improvements are completed properly and in a timely manner. One of the key provisions is a requirement to post a surety bond for the improvements.
8. This amends the October 8 draft condition number 7 by changing the required completion date to January 31, 2013.
9. This amends the October 8 draft condition number 8 by changing the required completion date to January 31, 2013.
10. This amends the October 8 draft condition number 9 by changing the required completion date to January 31, 2013.
11. This amends the October 8 draft condition number 10 by changing the required completion date to January 31, 2013.
12. This is the same as the October 8 draft condition number 11.
13. This is the same as the October 8 draft condition number 12.
14. This is the same as the October 8 draft condition number 13.
15. This is the same as the October 8 draft condition number 14.
16. This is the same as the October 8 draft condition number 15.
17. This amends the October 8 draft condition number 18 by specifying that the required financial security must be in the form of a surety bond.
18. This is a new condition, making explicit that all previously adopted conditions of approval not otherwise amended remain in effect.

October 8 draft condition number 6 has been eliminated since it has been performed. October 8 draft conditions numbers 16 and 17 have been eliminated and replaced with the requirements found in condition number 7. October 8 draft condition number 19 has been eliminated since a surety bond is specified elsewhere as the only acceptable form of financial security.

RECOMMENDATION

Staff recommends the City Council adopt a final order modifying the decision of the Planning Commission subject to revised conditions of approval as drafted by staff.

**LINCOLN CITY
PLANNING COMMISSION**

IN THE MATTER OF

Approval of amendments of the Villages)
at Cascade Head Preliminary Master)
Plan; approval of the Rock Creek)
Village Refined Preliminary Master)
Plan; and approval of the Rock Creek)
Village Tentative Subdivision Plan)
(PUD 02-97 & SUBD 02-97))
)

**FINAL ORDER
NO. 98 - 17**

NATURE OF THE APPLICATIONS

The applicant submitted requests for three approvals by the Planning Commission. The first request is for amendment of the Villages at Cascade Head Preliminary Master Plan approved by Planning Commission Findings, Conclusion and Order No. 96-02. The amendment involves several issues including the types and location of dwelling units, realignment of the roads, revision of the location and timing of the water reservoir, revision of the Highway 101 funding requirements, and revision of the street cross sections. The Villages at Cascade Head project site is approximately 525 acres.

The second and third requests are for approval of the Rock Creek Village Refined Preliminary Master Plan and Rock Creek Village Tentative Subdivision Plan. These plans involve 863 dwelling units on approximately 178 acres. Block D of the Rock Creek Village is excluded from the Rock Creek Village Refined Preliminary Master Plan.

BACKGROUND FACTS

The following is a summary of the background facts found to be relevant to this decision.

A. Comprehensive Plan and Zoning Ordinance Designations

- 1. The Villages at Cascade Head site is designated by the Comprehensive Plan as Residential Single-Family (R-1-7.5). The site is zoned Residential Single-Family (R-1-7.5) with an Environmental Quality (E-Q) Overlay.
- 2. The Rock Creek Village site is designated by the Comprehensive Plan as Residential Single-Family (R-1-7.5). The site is zoned Residential Single-Family (R-1-7.5).

B. Site Location and Description

- 1. The 525-acre Villages at Cascade Head site is located on tax lots 6-11-26/500; 6-11-34 DA/6402; 6-11-35/100, 301, 400, 402, 403, 1000, and 1100; 6-11-35 CB/100 and 106; 6-11-36/401; 6-11-36BC/100 and 300; and 6-11-36BD/200 and 500.

2. The 178-acre Rock Creek Village site is located on tax Lots 6-11-35/301, 400, 402, 1000, and 1100.

3. The surrounding land uses are:

North: Cascade Head Scenic Research Area
 South: Single Family Residential, Golf Course, & Woodland
 East: Single Family Rural Residential, Orchard, & Woodland
 West: Single Family Residential

C. Testimony Presented

Proponents:

1. Frank Weigel, representing the applicant, spoke on behalf of the project.

Opponents:

2. Larry Teufel, 150 NW Miller Rd., Portland, OR 97229
3. George Miller, 6106 NE Oar Dr.
4. Ron Usher, 5320 NE Port Place.
5. Vince Milligan, 355 Eola Dr. NW., Salem, OR 97301
6. Maud Krom, PO Box 65, Lincoln City.
7. Jeanne Saylor, 5155 NE Voyage.
8. Bob Lorenz, PO Box 290, Lincoln City.

Agencies:

9. Peter Idema, ODOT, 3700 Philomath, Corvallis 97330.

10. No other parties spoke in favor or in opposition to the project.

AUTHORITY

Section 4.210(2) of the *Zoning Ordinance* states that "The Planning Commission shall have the authority to approve, approve with conditions, or disapprove planned unit developments in any residential or commercial zone....."

Section 4.210(8)(a) of the *Zoning Ordinance* states the criteria a preliminary master plan needs to meet in order to be approved.

Section 4.210(10) of the *Zoning Ordinance* establishes the procedures for modification of an approved preliminary master plan.

Section 16.08.260 of the *Municipal Code* states that "the Planning Commission shall review tentative subdivision plans and approve, modify, or disapprove the plans."

FINDINGS

The Commission makes the following findings regarding the applicant's requests:

A. **AMENDMENTS TO PLANNING COMMISSION FINDINGS, CONCLUSION AND ORDER (FCO) 96-02**

1. **Request:** Replace Conditions Exhibit 2 of FCO 96-02 with the land use summary contained in Table 2 in the application.

Findings: The Commission finds that the overall effect of the amendment will result in a decrease of 157 single-family units and an increase of 60 multi-family units resulting in a net reduction of 97 dwelling units. The Commission finds that this amendment, which decreases the density, will result in enlarged open spaces and improved protection of natural features without detracting from the approved Village concept. The prior approval approved single-family units and multi-family units. The Commission finds that while the modification increases the number of multi-family units, such increase is offset by the overall reduction in dwelling units and does not affect the prior findings that the PUD will be substantially compatible with existing development in the surrounding area, and that it will not adversely affect the future development of undeveloped property in the surrounding area. The Commission further finds that the total reduction in dwelling units will not have negative impacts on the area surrounding the development or in the City resulting from construction and development. The overall reduction will only benefit the ability of street, water, sewer, drainage and drainage pretreatment, storm water detention, and other similar facilities in the area surrounding the development in the City as well as in the development itself to provide for the health, safety, and welfare of the development's population density.

2. **Request:** Replace Conditions Exhibit 3 of FCO 96-02 with the circulation plan illustrated in Figure 7A in the application. The primary realignments are the main north-south road (extension of N.E. Devils Lake Boulevard) in Block B, the northern-most road in Block E, and the east-west road in Block H.

Findings: The Commission finds that the proposed realignments will result in less cut and fill than would have been required for the prior alignments and will reduce impacts on wetlands. The proposed relocation does not change the general structure of the street, water, sewer, drainage and pre-treatment water detention for the project and are therefore adequate to serve the project. The internal changes will have no affect on the area surrounding the development or in the City.

3. Request: Amend Water Supply Condition 3 of FCO 96-02 to read as follows:

A water reservoir shall be provided by the developer/owner to meet the demands of Blocks I, L, M, N, O, and P, of the Master Plan (Conditions Exhibit 1) when any one of the areas is proposed for development. The volume of storage required shall be not less than 750,000 gallons subject to review and adjustment by the City engineer to assure that the facility is sized to meet the demands of the project based on the domestic water consumption required under the City of Lincoln City Comprehensive Water Source Distribution and Treatment Analysis (as revised September, 1992) along with a fire flow storage volume providing 2,200 gallons per minute for two hours.

Findings: The effect of this proposed amendment will be to eliminate the requirement of Water Supply Condition 3 of FCO 96-02 that the reservoir be provided to serve isolated high spots in Blocks B and G of the Preliminary Master Plan and that the reservoir be relocated slightly.

The applicant contends that the isolated high spots in Blocks B and G can be adequately served by pumping.

Staff has recommended that the Condition be further amended by requiring the applicant to demonstrate that the use of pumps in lieu of the reservoir will provide adequate water supply and further provide evidence that the reservoir access road and any associated hillside excavation or fill areas will not be visible from off-site locations. The Commission finds with the addition of the conditions suggested by staff, water facilities will be adequate to provide for the health, safety, and welfare of the development's population densities and that construction of the development can be accomplished in a manner that does not create unreasonable negative impacts in the areas surrounding the development or in the City.

4. Request: Replace Streets Condition 6 of FCO 96-02 with the following language:

6. A traffic impact study has been prepared for the proposed PUD, entitled *Transportation Impact Study (TIS), U.S. Highway 101, Lincoln City, Oregon*. The study identified that owner/developer's proportionate share of the cost of recommended Highway 101 improvements was the sum of Two

Thousand Three Hundred Dollars (\$2,300) for each dwelling unit constructed within the PUD.

Owner/Developer shall enter into an agreement with the City that owner/developer shall cause to be paid to the City its proportionate cost of traffic improvements, which agreement shall be in the form attached hereto as Exhibit A.

Owner/developer desires to enter into an agreement with City for owner/developer to make its proportionate share of the payments as provided in the TIS to City. City is willing to accept said payments.

Now, therefore, the premises being in general as stated in the foregoing Recitals, the parties agree as follows:

1. Owner/Developer agrees that there shall be paid to City, and City agrees to accept, the sum of Two Thousand Three Hundred Dollars (\$2,300) for each dwelling unit ("Unit") constructed within the PUD. Said sum shall be paid at the time each building permit for a unit is applied for and said payment shall be a condition precedent to the issuance of a permit. The money paid pursuant to this Agreement will be placed in a separate investment account and shall earn interest which shall be reinvested and both principal and interest shall be drawn upon as needed to finance the future improvement of transportation facilities in and around U.S. Highway 101 in North Lincoln City.

2. The improvements to be funded pursuant to this Agreement are not limited to the improvements identified in the TIS but such improvements shall be directly related to the traffic impacts in North Lincoln City caused by the PUD.

3. If Owner/Developer is required to construct any improvement of transportation facilities as a condition of approval of any part of the PUD, the cost of such improvement shall be reimbursed to Owner/Developer from the investment account.

4. City agrees to consult with Owner/Developer before committing funds paid to City pursuant to this Agreement.

Improvements referred to for Sal-La-Sea and Clancy Roads will be addressed as part of Phases 2 and 3, and are not part of Rock Creek Village.

Findings: The staff has recommended that, instead of the applicant's proposed revision, Condition 6 be amended to read as follows:

A traffic impact study has been prepared in relation to the proposed PUD entitled "Transportation Impact Study, U.S. Highway 101, Lincoln City, Oregon." The study is dated October, 1994. The study identified that owner/developer's proportionate share of the cost of recommended Highway 101 improvements was the sum of Two Thousand Three Hundred Dollars (\$2,300) for each dwelling unit constructed within the PUD. Owner/developer shall enter into an agreement with the City that owner/developer shall cause to be paid to City this proportionate share of the cost of traffic improvements to, or in relation to, Highway 101, which agreement shall be in the form attached hereto as Conditions Exhibit 6.

In addition, the "Restrictive Covenants" required by these Conditions of Approval shall include a deed restriction, applicable throughout the PUD, as follows:

At the time of application to the City of Lincoln City for a building permit to construct a new dwelling unit or new dwelling units, the owner of the site on which the dwelling unit or units are to be built shall pay, or cause the applicant to pay, to the City, in addition to any other amounts that the City lawfully requires to be paid, the sum of \$2,300 for each dwelling unit, as adjusted to reflect any increase occurring after October, 1994, in the construction price index as published in the weekly construction magazine "Engineering News Record" (for 20 cities, 1913-100). The applicant and the owner of the site shall have no right to the requested building permit until the sum has been paid for each dwelling unit covered by the building permit application, and the payment requirement shall be a restriction for the benefit of Lincoln City on any right the applicant or owner otherwise would have to receive a building permit. The amount of

the payment, plus any investment income earned thereon, will be used to finance traffic improvements to, or in relation to, Highway 101 in North Lincoln City.

Findings: The Commission finds that the condition recommended by staff accomplishes the same purpose as Streets Condition 6 of FCO 96-02 and that therefore the amendment of the condition will not negatively impact the prior finding that the development will not create unreasonable negative impacts on the areas surrounding the development or in the City.

5. **Request:** Replace Conditions Exhibit 5 of FCO 96-02 with the Open Space Plan illustrated in Figure 6A in the application.

Findings: Approval of this request will result in an overall increase in the amount of open space to 39.1 acres. The reconfiguration results primarily from the applicant's first request discussed in Finding 1 above and the realignment of roads discussed in Finding 2. The Commission finds that approval of this request will reduce potential adverse impacts to streams, wetlands, and wildlife corridors and will not adversely negatively impact any of the criteria set forth in *Zoning Ordinance* 4.210 8(a)(i -vii).

6. **Request:** Amend Environmental Condition 2 of FCO 96-02 which provides that a 50-foot buffer shall be established around all delineated wetlands and an additional 25-foot conservation easement shall be placed around the 50-foot wetlands buffer.

Findings: Biologists have identified several small additional wetlands subsequent to approval of FCO 96-02 which have formed since the original 1993 Wetlands Delineation was approved by the Corps of Engineers and the Division of State Lands. Staff and the applicant have recommended an amendment of the condition which requires that a qualified biologist delineate all newly formed or identified wetlands and evaluate their significance and based upon this evaluation, a protection strategy be prepared subject to review and approval of the City, and that the following protective measures in descending order of priority be utilized:

- a. A 50-foot buffer and a 25-foot conservation easement shall be provided;
- b. If site conditions or development constraints preclude provision of a 50-foot buffer and a 25-foot conservation easement, a buffer averaging 50 feet in width may be provided; or,
- c. If site conditions or development constraints preclude provision of a buffer averaging 50 feet in width, alternative buffer techniques (e.g. high-density

plantings) may be provided to improve the effectiveness of the available buffer area.

The proposed amendment implicates the criteria set forth in *Zoning Ordinance* 4.210 8(a)(iii) and (iv). The Commission finds that the proposed amendment will adequately protect the new wetlands and not create unreasonable negative impacts on the areas surrounding the development or in the City⁵, either in the construction of the development or by reason of the existence of the development itself.

7. **Request:** Amend the Environmental Condition 7E of FCO 96-02 that requires that the *Environmental Management Plan* include a prohibition on the use of herbicides, pesticides and fertilizers in the PUD. The applicant has requested the condition be amended to allow these materials with the approval or supervision of the Environmental Compliance Officer or Villages at Cascade Head Environmental Review Committee in emergency situations.

Findings: There was testimony from applicant's environmental expert that due to the clearing of surrounding land in adjoining developments, there has been some extensive infestation of non-native plants onto the site and that the only way to control the invasion of non-native species is by the limited use of herbicides. Applicant has also requested the limited use of pesticides and fertilizers for the limited purpose of ensuring the survival of new plantings.

The Commission finds that Environmental Condition 7E in FCO 96-02 was a self-imposed condition by the applicant and that the modification of the condition will not create unreasonable negative impacts on the development itself or in the areas surrounding the development or in the City.

8. **Request:** Replacement of Conditions Exhibit 4 of FCO 96-02 with street cross sections as illustrated in Figure 7D in the application.

Findings: The revised street cross sections provide minor adjustments for sidewalks and planting strips and provide narrower right of way for private streets. The City Engineer testified that he reviewed the proposed amendments and concurred with them. He particularly addressed the narrower right of way for private streets. It is his opinion that the width was more than adequate. Therefore, the Commission finds that the proposed street cross sections to be constructed as a part of the development are adequate to provide for the health, safety, and welfare of the population densities and the type of development proposed. The amendment will not affect areas outside the development.

9. **Request:** Replacement of Conditions Exhibit 1 of FCO 96-02 with the Preliminary Master Plan illustrated in Figure 3A in the application.

Findings: Applicant's representative testified and the Commission finds that the principal changes represented by Figure 3A as compared to FCO 96-02 Exhibit 1 are the location of some of the interior roads within the proposed development, the alteration of the land use table, and the redesignation and addition of proposed trails.

The principal effects of the changes in the road location are the reduction in the number and size of cuts and fills that will be required and the reduction of road impacts on wetlands. The Commission finds that the relocated roads will provide adequate traffic circulation within the development. The net effects of the alterations to the land use table are an increase of an additional 39 acres in the amount of area that will be preserved as open space and a shift of the areas designated for multi-family use from the western and northern areas of Rock Creek Village to the southerly areas. This change will reduce traffic loadings on Voyage Avenue and will transfer them to N.E. Devils Lake Boulevard which is intended to be the principal access route to and from the development.

The redesignation and addition of proposed trails allows the trails to be located, for the most part, in areas preserved as open spaces. The additional trails will allow interconnection between trails originally proposed which makes the trail system more accessible and functional.

No detrimental effects resulting from the proposed changes have been identified. Overall, the Commission finds that each of the proposed changes benefit the project.

In addition to the foregoing Findings, the Commission adopts the Findings of the staff as set forth in the Staff Report dated October 20, 1998, submitted to the Commission in connection with the application.

B. APPROVAL OF REFINED PRELIMINARY MASTER PLAN FOR ROCK CREEK VILLAGE

The Refined Preliminary Master Plan consists of figures, drawings, charts, and narrative proposing the amendments to FCO 96-02 for which findings have been made under Part A above. These findings are incorporated by reference in this Part B.

The criteria applicable to the approval of the Refined Preliminary Master Plan are the same as those applied to the approval of the Preliminary Master Plan in FCO 96-02. Therefore, the findings necessary to approval of the Refined Preliminary Master Plan need only address the modifications and refinements contained in the Refined Preliminary Master Plan.

The Refined Preliminary Master Plan addresses only Rock Creek Village and excepts Block D thereof for future development. This is consistent with the prior approval of the Preliminary Master Plan (FCO 96-02, p. 32).

1. The Commission finds that the Preliminary Master Plan, together with the Refined Preliminary Master Plan, meets all of the submittal requirements of the *Zoning Ordinance* § 4.210(4) and (5).
2. The Commission finds that the application for the Refined Preliminary Master Plan was deemed complete on December 27, 1997, subject to additional submittals which were accepted by the Planning and Community Development Department on September 23, 1998, and hence the application was timely (see PUD 03-97 wherein the Commission modified the timing requirements required by FCO 96-02, Zoning Condition 11). *Zoning Ordinance* § 4.210(6) has been complied with.
3. The Refined Preliminary Master Plan was distributed to the Site Plan Committee on June 12, 1997. Copies of the Refined Preliminary Master Plan were also provided to Lincoln County Public Works Department, Lincoln County Surveyor, Devils Lake Water Improvement District, North Lincoln Fire and Rescue District, Lincoln County School District, Oregon Department of Transportation, Oregon Department of Land Conservation and Development, and Oregon Division of State Lands. Written comments from the agencies were incorporated into the Conditions of Approval. *Zoning Ordinance* § 4.210(7) has been complied with.
4. *Zoning Ordinance* § 4.210(8) sets forth the substantive criteria for approval of the Refined Preliminary Master Plan. Each of the criteria has been addressed in the Staff Report submitted to the Commission. The staff found each of the criteria was met and the Commission concurs. The Staff Report findings are adopted as the findings of the Commission and are incorporated herein by this reference.
5. The Commission further finds that the Refined Preliminary Master Plan, subject to the conditions herein imposed, complies with all of the conditions of approval set forth in FCO 96-02 as amended by this Order and it therefore follows that the criteria of *Zoning Ordinance* § 4.210 (8) are met.

C. APPROVAL OF TENTATIVE SUBDIVISION PLAN FOR ROCK CREEK VILLAGE

1. The submittal requirements for a Tentative Subdivision Plan are set forth in *Subdivision Ordinance* § 16.08.270. The staff found that the Tentative Subdivision Plan as submitted contained all of the data required by *Subdivision Ordinance* § 16.08.270 and the Commission concurs. The Staff Report findings are adopted as the findings of the Commission and are incorporated herein by this reference.


2. The Staff Report submitted to the Commission discussed extensively the conformance of the Refined Preliminary Master Plan to other applicable ordinances and the Commission finds that the Refined Preliminary Master Plan complies with all other applicable City ordinances. The Commission finds that the Tentative Subdivision Plan is in accordance with the Refined Preliminary Master Plan. It therefore finds that the Tentative Subdivision Plan conforms to all applicable City ordinances.

ORDER AND CONDITIONS OF APPROVAL

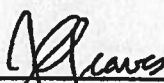
Based upon the foregoing, the Planning Commission amends conditions of approval for the Villages at Cascade Head Preliminary Master Plan approved by Planning Commission Findings, Conclusion and Order No. 96-02 and subsequently amended by Planning Commission Final Order 97-19. The complete conditions of approval for the Villages at Cascade Head Preliminary Master Plan, shall be as listed in Exhibit A.

Based upon the foregoing, the Planning Commission approves the Rock Creek Village Refined Preliminary Master Plan and Tentative Subdivision Plan (PUD 02-97 and SUBD 02-97), subject to the conditions listed in Exhibit B.

APPROVED THIS 15TH DAY OF DECEMBER 1998.


 Louis Darnell, Chair
 Planning Commission

ATTEST:


 Jeremy Graves, Director
 Planning & Community Development Department

Exhibits:

- A Amended Conditions of Approval for the Villages at Cascade Head Preliminary Master Plan
 B Conditions of Approval for Rock Creek Village Refined Preliminary Master Plan and Tentative Subdivision Plan

EXHIBIT A

**Amended Conditions of Approval for
Villages at Cascade Head Preliminary Master Plan
PUD 02-97**

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**AMENDED CONDITIONS OF APPROVAL FOR
THE VILLAGES AT CASCADE HEAD PRELIMINARY MASTER PLAN**

These conditions of approval supersede all previously-approved conditions of approval for the Villages at Cascade Head Preliminary Master Plan.

ZONING

1. The approved conditions (including exhibits) for File No. PUD-01-95, as amended, shall be incorporated into deed restrictions and into covenants, conditions and restrictions (C.C.&Rs). The approved conditions so incorporated into, the deed restrictions and C.C.&Rs are to be enforceable by the City, in a form approved by the city attorney, and not subject to amendment except as provided in Restrictive Covenants Condition 3, below, and shall be recorded as an encumbrance with the title of the property in order that said conditions of approval run with the land and are binding on all future owners/developers and land use decisions.
2. The Preliminary Master Plan dated October 20, 1998 (attached as Conditions Exhibit 1) establishes the land use plan for The Villages At Cascade Head PUD.

The Land Use Summary dated May 28, 1998 (attached as Conditions Exhibit 2) specifies the approximate acreage and maximum number of housing units for each area identified on the Preliminary Master Plan. The Preliminary Master Plan and Land Use Summary referenced here shall apply until such time as they are amended by the City of Lincoln City.
3. Subsequent to compliance with Zoning Condition 1, above, a refined preliminary PUD master plan and tentative subdivision plan shall be submitted for review and approval, approval with conditions, or disapproval by the Planning Commission subject to the requirements of the planned unit development provisions of the Zoning Code in effect at the time of the submission, and pursuant to the city's subdivision regulations in effect at the time of the submission, for each individual village (Rock Creek, Salmon Creek and Logan Creek), or portion thereof. All subsequent land use actions for phases or portions of the PUD shall conform to the Preliminary Master Plan and Land Use Summary referenced in Condition 2.
4. Subsequent to approval or approval with conditions of a refined preliminary PUD master plan under Zoning Condition 3, above, the final PUD master plan and subdivision plat for each of the individual villages or portions thereof shall be submitted for review by the planning commission to determine whether it is in substantial conformance with the refined preliminary master plan approval, the presently approved PUD master plan (including Conditions Exhibits 1 and 2) and the tentative subdivision plan for the village or portion thereof.
5. The Villages at Cascade Head PUD shall not exceed a total of 1,829 dwelling units. Each individual village (Rock Creek Village, Salmon Creek Village, and Logan Creek

Village) shall comply with the requirements of the underlying R-1-7.5 zoning classification relative to the overall density.

6. Condition Deleted
7. The Town Center shall be included as a part of the Logan Creek Village.
8. Blocks designated as Single Family Detached on the Preliminary Master Plan (Conditions Exhibit 1) are permitted to have any type of detached single family residential use allowed by the R-1-7.5 zone. Blocks designated as Medium Density on the Preliminary Master Plan are permitted to have any type of attached residential use allowed by the R-M zone. The term "block" refers to an area of housing as designated on Conditions Exhibit 1 and is not intended to refer to a "city block".
9. The dimensional standards applied to the PUD shall be as follows:

Blocks C, E, H, I, M, and N	R-1-5 zone standards
All other blocks	R-1-7.5 standards for single family detached uses and R-M standards for attached residential uses.
10. There shall be no industrial or commercial uses within the Villages at Cascade Head PUD. This shall not preclude, however, the construction of a fire station or community center within the Town Center or commercial uses within the town center if based on a future zone change applicable to the town center.
11. The initial approval of the preliminary master plan shall be effective for a period of two years with automatic two-year extensions thereafter so long as either:
 - a. During the previous two-year period the developer has submitted a refined preliminary master plan for at least one of the blocks identified in the preliminary master plan (e.g., Blocks A through Q); or
 - b. During the previous one-year period the developer has submitted a final master plan for a block (e.g., Blocks A through Q) within an area covered by a previously-approved refined preliminary master plan.

These extensions for the preliminary master plan approval shall continue to be available until the project is completed, not to exceed 15 years from the date of the original preliminary master plan approval (i.e., January 2, 1996).

12. Prior to approval of the first refined preliminary master plan submitted five years following the initial approval of the Preliminary Master Plan on January 2, 1996, the Planning Commission shall re-evaluate all unbuilt portions of the Villages at Cascade Head PUD for conformity with the then-existing City zoning ordinance requirements in relation to then-existing conditions. Following a public hearing, the Planning

Commission shall amend its approval of any portion of the Preliminary Master Plan as needed to ensure that the unbuilt portions of the Villages at Cascade Head PUD are in conformance with the then-existing City zoning ordinance requirements. A subsequent re-evaluation shall be conducted prior to approval of the first refined preliminary master plan submitted five years following completion of the aforementioned re-evaluation.

ENVIRONMENTAL

1. The Department of Environmental Quality (DEQ) shall be contacted for all necessary NPDES erosion control permits or their equivalent based on then effective regulations, and evidence of the DEQ review and approval of the erosion control plan shall be provided to the City and Devils Lake Water Improvement District. An erosion control plan shall also be submitted to the Lincoln City Public Works Department for review and approval prior to issuance of the development permit(s) and a copy of the approved plan shall be provided to the Devils Lake Water Improvement District.
2. A 50-foot buffer shall be established around all delineated wetland areas, as identified in the 1993 wetland delineation report approved by the Army Corps of Engineers and the Oregon Division of State Lands Wetlands identified subsequent to the 1993. An additional 25-foot conservation easement shall be placed around the 50-foot wetland buffer. The areas within the 50-foot buffer shall be open space owned and maintained by the Homeowners Association, except as otherwise provided in these conditions of approval. The 25-foot conservation easements shall be open space areas that may be owned by individual property owners.

In the event the Homeowners Association wishes to transfer all or part of the ownership or maintenance responsibilities for the 50-foot buffer areas, or any of them, to another person, the transfer shall be subject to review and approval by the City prior to the transfer. In addition, the proposed transfer shall be reviewed and voted on by the Villages at Cascade Head Environmental Resource Committee (VCHERC) prior to the transfer. Any proposed transfer shall be transmitted to the City's Planning and Community Development Director with documentation that it has been reviewed by the VCHERC, including any comments by that committee and the results of the committee's vote on the proposed transfer. The Planning Commission shall act on the City's behalf in reviewing and approving, approving with modifications, or disapproving the proposed transfer. The actions of the Planning Commission shall be subject to applicable appeal procedures, if any, established by the *Zoning Ordinance*.

The City shall approve a proposed transfer if it finds that (1) the proposed transfer is a reasonable way to implement the intent of this Final Order, of any final order approving a refined preliminary master plan or final master plan thereunder, or of applicable regulations, or that new information justifies a new approach; (2) the proposed transfer is in such a form that, in the event the transferee fails to carry out maintenance activities in conformance with the conditions of approval of this Final Order, the Homeowners Association has the legal right to enter onto the affected area and carry out the maintenance activities itself; and (3) the Homeowners Association has entered into an agreement with the City under which the Homeowners Association at all times will

remain responsible for the maintenance of the affected area in conformance with the conditions of approval of this Final Order.

In the event that a new wetland, other than those identified in the 1993 wetland delineation report, form or are identified, a qualified biologist shall delineate the wetland and evaluate its significance. Based upon this evaluation, a protection strategy shall be prepared, subject to the review and approval of the City, that will utilize one of the approaches listed below. The approaches are listed in descending order of priority:

- a. A 50-foot buffer and 25-foot conservation easement shall be provided;
 - b. If site conditions or development constraints preclude provision of a 50-foot buffer and a 25-foot conservation easement, a buffer averaging 50 feet in width may be provided; or
 - c. If site conditions or development constraints preclude provision of a buffer averaging 50-feet in width, alternative buffer techniques (e.g., high density plantings) may be provided that improve the effectiveness of the available buffer area.
3. No structures shall be permitted within the 75-foot wetland buffer/conservation easement areas, except for pathways, road crossings, utilities, and other similar improvements approved by the City. All landscaping performed in the 75-foot wetland buffer/conservation easement areas shall utilize native vegetation. Removal of vegetation, i.e., ground cover, shall not occur in these areas, other than as required for placement of pathways, road crossings, utilities, and other similar improvements approved by the City. Construction of berms and swales shall not occur in these areas except as approved by the City.
 4. The pathways built within the buffer/easement areas shall be permeable and shall be constructed of natural materials. Where trail crossings over waterways are necessary, the crossing design shall minimize the need for excavation, such as the use of wooden bridges rather than culverts if appropriate to minimize the need for excavation.
 5. The owner/developer shall remove only those trees which are situated upon the phase being developed at the time, and only as necessary for infrastructure improvements and/or to allow reconnaissance surveys of the project site. In addition, tree removal shall be subject to any applicable regulations regarding tree removal adopted by the City and in effect at the time of the removal. There shall be no disturbance of vegetation except in areas of building and structure envelopes, roadways, pedestrian paths, and utility line corridors. Prior to removal of any trees, a tree protection plan shall be prepared by the applicant, subject to City review and approval.
 6. The developer shall form a committee, known as the Villages at Cascade Head Environmental Resource Committee (VCHERC), to serve as the advisory group for protection of the natural resource values present on site. The Committee shall consist of a representative of the owner/developer, a member from each homeowners

association, a representative of the Devils Lake Water Improvement District, and the YWCA's Camp Westwind site manager. Each of these members shall hold a voting seat on the Committee. Interested environmental organizations and resource agencies (for example, the Oregon Department of Fish and Wildlife, the Division of State Lands, the United States Fish and Wildlife Service, the US Army Corps of Engineers, the Devils Lake Water Improvement District and interested non-governmental organizations) shall be encouraged to provide technical support as appropriate. The committee shall be responsible for maintaining the Environmental Resource Center (located in the Villages at Cascade Head Town Square) and providing other services as specified in the following conditions. Funding for the VCHERC shall be provided by the developer and/or Homeowners Association. VCHERC may make reports to the City as it deems appropriate, either on its own initiative or at the request of the City.

7. Formation of the VCHERC shall be followed by development of an Environmental Management Plan (EMP). The EMP shall be prepared by a qualified ecologist hired by the developer and approved by the VCHERC. The ecologist shall solicit and obtain input from interested environmental organizations and resource agencies. The overall purpose of the EMP shall be to establish guidelines and standards that will assure sound environmental management for the Villages at Cascade Head. At a minimum, the EMP shall identify construction guidelines, locations of sensitive habitat areas, requisite erosion prevention and sedimentation control measures, desirable native vegetation (based on wildlife habitat and soil stabilization qualities) to be used in plantings, undesirable non-native vegetation removal strategies, habitat improvement opportunities, wildlife rehabilitation and relocation measures anticipated to be necessary, and management plan guidelines. The VCHERC shall be responsible for implementation of the EMP. The EMP shall be prepared prior to any site disturbance, ground-breaking or vegetation removal.

The EMP shall include, but is not limited to, the following provisions:

- a. The resource agencies shall be notified in advance of vegetation clearing and grading activities so that the agencies may perform periodic compliance inspections.
- b. The EMP shall contain a list of native and compatible horticultural vegetation that is suitable for use in the project area. Landowners shall be permitted to plant only that vegetation which is approved by the EMP. The recommended species shall be capable of providing nesting and forage habitat for passerine species and other wildlife potentially impacted by the development. Invasive non-native plantings shall not be allowed and removal of invasive non-native vegetation that becomes established shall be performed following guidelines in the EMP.
- c. The EMP shall include erosion control practices and devices which shall be required of all contractors.
- d. No lawns shall be permitted in the project area.

- e. No herbicides, pesticides, or fertilizers shall be used without the approval or supervision of the ECO or VCHERC. Use of these materials shall be reserved for emergency situations. Use of herbicides and pesticides is limited to prevention and treatment of weed infestations. Use of fertilizers is limited to ensuring the survival of new plantings.
- f. An educational program shall be developed to inform residents about the Bristly Stemmed Sidalcea (*Sidalcea hirtipes*) and the Cascade Head Catchfly (*Silene douglasii* var. *oraria*). The program's materials shall explain the sensitivity of the species and shall tell residents not to disturb, pick, or otherwise harass these plants in the project area or on neighboring properties to the north.
- g. A survey of the meadow in Block N shall be performed to identify and mark the location of the Bristly Stemmed Sidalcea and/or the Cascade Head Catchfly prior to development of the meadow. In the event that development is unavoidable in an area where the Bristly Stemmed Sidalcea and/or Cascade Head Catchfly are identified, the developer shall work in conjunction with interested resource agencies and/or private landowners to relocate the species (on-site or on properties to the north).
- h. The two potential marbled murrelet (*Brachyramphus marmoratus*) stands located on the southern portion of the property shall be included in the Wetland/Wildlife Corridors WH2 and WH3 designated on the Preliminary Master Plan (Conditions Exhibit 1). The vegetation in those areas (including the canopy, understory, and herb layer) shall remain undisturbed. The placement of utility lines in these areas shall be allowed following guidelines established in the EMP.
- i. The potential marbled murrelet stand located on the northwest portion of the property (north end of Block N, west facing slope) shall be further evaluated, following U.S. Fish and Wildlife Service (USFWS) protocols, to determine if marbled murrelets utilize the stand for habitat before development is approved in this area. If use of the stand is documented, the developer shall set the stand (and its associated vegetation) aside for protection.
- j. The developer shall work in cooperation with the USFWS and the U.S. Forest Service (USFS) to provide reasonable off-site habitat improvements for the Oregon Silverspot Butterfly (*Speyeria zerene hippolyta*).
- k. No hunting of deer, elk, bear or other wildlife shall be allowed on the Villages at Cascade Head property.
- l. If bears are found to be problematic on the site, Oregon Department of Fish and Wildlife (ODFW) shall be contacted regarding management of the animal(s).
- m. Arched culverts shall be utilized at roadway stream crossings to minimize impacts to potential fish and amphibian habitat.

- n. Any in-stream work shall occur during in-water work periods approved by ODFW.
 - o. Sanitary sewer line placement shall minimize the use of heavy equipment and, when performed near drainages, shall minimize disturbance of the natural stream substrate.
 - p. If streams and/or drainage channels are impacted by construction activities, they shall be restored to pre-existing habitat conditions.
 - q. Stream channels shall be monitored by the ECO to ensure that red-legged frog habitat is not lost as a result of drainage improvements. If necessary, in-stream structures shall be utilized to keep the majority of the stream flow in the center of the channel, protect eddies and ponded areas, and protect underwater stems of riparian vegetation for egg-laying habitat.
 - r. Work in riparian areas shall minimize the use of heavy equipment to preclude accidental impacts to red-legged frogs hibernating in upland areas and shall be performed, under the supervision of the ECO, following recommendations provided by ODFW.
 - s. Natural vegetation and leaf litter (important for red-legged frog upland hibernation habitat) shall be retained in riparian zones and upland buffer areas as much as possible.
8. An Environmental Compliance Officer (ECO) shall be hired by the developer, subject to the approval of VCHERC, to implement the construction stages of the EMP. The ECO, who shall be qualified in the fields of ecology and construction observation, shall identify the sensitive areas, mark them for the contractors, provide guidelines for acceptable activities, review plans for compliance with the EMP, and discuss the site and the EMP with all field staff in pre-construction conferences. In addition, the ECO shall be present on site to perform frequent inspections during each new phase of development. The ECO shall report failures of the contractor to comply with the EMP to the City, the contractor, the developer, VCHERC and the resource agencies as appropriate. The ECO shall have the authority to issue a stop-work order to allow for a damage assessment and development of recommendations for management of the violation.
- 8A. Compliance by the owner with Environmental Condition 6 (regarding establishment of the VCHERC), Environmental Condition 7 (regarding development of an EMP), or Environmental Condition 8 (regarding ECO responsibilities) does not involve any delegation of City authority to the owner, VCHERC, EMP, or ECO. Actions by the owner, VCHERC, or ECO shall not be contrary to or in violation the City approvals and/or conditions for this project.
9. The developer shall establish an Environmental Resource Center to be located in the Town Center. The center shall provide educational materials about the natural resources and their protection within the Villages At Cascade Head.

10. No development shall occur in the 60 acre set-aside area located on the northern portion of the property.
11. All landowners shall be required to store their garbage inside their garages or inside a locked, bear-proof container. Compost piles and feed materials (if present) must be stored in bear-proof containers.
12. Water detention facilities shall be constructed to limit peak flows, up to the 25-year event, to the naturally occurring peak flow levels.
13. Water quality facilities shall be designed to accommodate summer flows and shall treat the collected water using the best available and financially feasible treatment technology.
14. Water quality ponds shall be landscaped with native vegetation which provides shading in pond areas to keep water temperatures low. Elevated water temperatures are harmful to red-legged frogs (and other amphibians and fish species) and must be avoided.
15. All collected stormwater runoff shall be discharged into site stormwater management facilities. No storm water from Block L shall be routed east through abutting property.
16. If street lights are required by the City, they shall be directed downward and shall be designed to minimize back-scatter.
17. The old fireplace present on the site shall be protected in the Town Center, unless the City approves a relocation of the fireplace.
18. The natural hazard area located near the rock quarry, below the open meadow, shall be reviewed by a qualified engineering geologist prior to development. This area is identified in the unadopted 1993 Environmental Quality Overlay Zone Map. The geologist shall prepare and provide to the City a report on the stability of any portion of the area proposed for or likely to be impacted by development and on the suitability of the area for development. Development may occur in the area only if approved by the City as geologically suitable for development.
19. The Environmental Resource Center shall contain information, provided by the YWCA, that explains that the property to the north is privately owned and that trespass is prohibited as part of a "Good Neighbor" policy. A YWCA contact name shall be provided for residents who seek more information about YWCA facilities.
20. All literature prepared by the Villages at Cascade Head owners or developers for public distribution shall define the adjacent property ownership.
21. YWCA staff shall have the opportunity for open dialogue with Villages at Cascade Head residents. A mailing list shall be provided so that the YWCA can contact landowners directly as needed.

22. If requested by the YWCA, the use of signage on properties adjoining the YWCA properties shall be employed as a means to further educate residents about the "Good Neighbor" policy.
23. Property owners who have pets shall be required to keep the animals contained in their homes. Strict leash requirements shall be in effect to prevent wildlife harassment by domestic animals within the project area and on neighboring properties. Pet owners shall be required to clean-up after their pets to prevent nutrient enrichment of surface waters.
24. The project shall be subject to any site preparation regulations, in effect at the time of development, adopted by the City for the purpose of protecting Devils Lake water quality.
25. There shall be no open burning conducted within the PUD, either during construction or after completion of construction.
26. Before any area or portion thereof is developed where wetland mitigation is required under applicable law, the mitigation shall occur not later than the time of development within the area or portion thereof.
27. The mitigation measures proposed in sections 3.1.3, 3.2.3, 3.3.3, 3.4.3, 3.5.3, and 3.6.3. of the *Villages at Cascade Head / Rock Creek Village Environmental Assessment Supplement #1* (approved September 24, 1998) are hereby incorporated as conditions applicable to the Villages at Cascade Head PUD.
28. Prior to the approval or amendment of a Refined Preliminary Master Plan, the owner shall prepare a supplement to the "Environmental Assessment, The Villages at Cascade Head" dated November 11, 1994 in order that the supplement and "Environmental Assessment, The Villages at Cascade Head" comply with the Environmental Quality (EQ) Overlay Zone as provided in Sections 3.110 and 3.120 of the *Zoning Ordinance* (as amended) for the actions of the City requested by the owner. The Planning and Community Development Director shall review and act upon the supplement and "Environmental Assessment, The Villages at Cascade Head" in accordance with Section 3.120 of the *Zoning Ordinance*.

SURVEY

1. The county surveyor may require post monumentation of interior monuments. The owner/developer shall discuss this issue with the county surveyor regarding the Villages at Cascade Head construction schedule. In addition, any survey monuments disturbed or destroyed during construction must be replaced and a survey filed showing how the position of the monument was reestablished.
2. The location, dimensions and purpose of all proposed easements shall be shown on the final PUD master plans and subdivision maps.

STREETS

1. The street names within the Villages at Cascade Head PUD shall be in accordance with the City of Lincoln City street naming and addressing grid and shall be approved by the Department of Planning and Community Development.
2. Access to the Villages of Cascade Head shall be by means of the following streets:
 - a. Sal-La-Sea Drive
 - b. Clancy Road
 - c. NE Devils Lake Blvd. (Main access)
 - d. NE Voyage Avenue
3. The primary circulation routes shall conform to the Preliminary Master Plan Circulation Plan dated October 20, 1998 (attached as Conditions Exhibit 3), subject to the following amendment:

Vehicular access shall be provided from Block I to the "Holly Farm" property (tax lot 6-11-35/300). The access shall be located within 500 feet of the southwestern corner of Block I.

The approved roadway dimensions and parking restrictions for the streets shown on Conditions Exhibit 3 are illustrated on Conditions Exhibit 4, dated October 20, 1998.

4. Local streets not shown on the Circulation Plan (Conditions Exhibit 3) shall be reviewed on a phase-by-phase (or portion thereof) basis. Local streets may be privately owned and maintained but shall be open for public use. The right-of-way and roadway dimensions are shown on Conditions Exhibit 4.
5. Street, driveway and pedestrian/bicycle route alignments shall be designed to discourage vehicular traffic from using Sal-La-Sea Drive in favor of NE Devils Lake Boulevard and, if it becomes available, NE Voyage Avenue.
6. A traffic impact study has been prepared in relation to the proposed PUD entitled "Transportation Impact Study, U.S. Highway 101, Lincoln City, Oregon." The study is dated October, 1994. The study identified that owner/developer's proportionate share of the cost of recommended Highway 101 improvements was the sum of Two Thousand Three Hundred Dollars (\$2,300) for each dwelling unit constructed within the PUD. Owner/developer shall enter into an agreement with the City that owner/developer shall cause to be paid to City this proportionate share of the cost of traffic improvements to, or in relation to, Highway 101, but outside the PUD, which agreement shall be in the form attached hereto as Conditions Exhibit 6.

In addition, the "Restrictive Covenants" required by these Conditions of Approval shall include a deed restriction, applicable throughout the PUD, as follows:

At the time of application to the City of Lincoln City for a building permit to construct a new dwelling unit or new dwelling units, the owner of the site on which the dwelling unit or units are to be built shall pay, or cause the applicant to pay, to the City, in addition to any other amounts that the City lawfully requires to be paid, the sum of \$2,300 for each dwelling unit, as adjusted to reflect any increase occurring after October 1994 in the construction price index as published in the weekly construction magazine "Engineering News Record" (for 20 cities, 1913-100). The applicant and the owner of the site shall have no right to the requested building permit until the sum has been paid for each dwelling unit covered by the building permit application, and the payment requirement shall be a restriction for the benefit of Lincoln City on any right the applicant or owner otherwise would have to receive a building permit. The amount of the payment, plus any investment income earned thereon, will be used to finance traffic improvements to, or in relation to, Highway 101 in North Lincoln City.

7. The Clancy Road/Highway 101 intersection shall be improved to provide adequate sight distance for a right in, right out movement. Channelization shall be designed to prohibit left-in and left-out movements. The improvements at this intersection shall be designed in coordination with the City and ODOT.
8. Engineered street improvement plans and specifications shall be submitted to the Lincoln City Public Works Department and the Lincoln County Road Department for review and approval prior to approval of construction permits.
9. Each phase of the Villages at Cascade Head will create several dead-end streets. Therefore, the owner/developer shall be required to build temporary cul-de-sacs. This shall require temporary roadway easements, which will extinguish when the next connected phase is completed. The owner/developer shall confer with the county surveyor for appropriate plat language to accomplish this.
10. No streets shall be gated or in any way restrict or obstruct access for the use and convenience of the general public.
11. All permanent, public and private deadend streets shall be provided with properly sized cul-de-sac or hammerhead turn-arounds to accommodate emergency vehicles. Use of hammerhead turn-arounds must be approved by the Public Works Department and the North Lincoln Fire and Rescue District.

MAILBOXES

1. The owners/developers shall coordinate with the U.S. Postal Service for the placement of mailboxes located within the Villages at Cascade Head PUD. In addition, if mailboxes are to be located adjacent to curbs, they shall be so situated that there shall be a minimum 5-foot clear space for the sidewalk. If allowed by the U.S. Postal Service, post office boxes may be located in an appropriate Town Center building.

STREET LIGHTS

1. The location, design, style and type of street light pole and luminaire shall be reviewed and approved by the city prior to and as a condition of refined preliminary PUD master plan approval for each phase.
2. Street lights shall be provided by the owner/developer, at street intersections, at the end of cul-de-sacs, and spaced along the length of the streets at a maximum distance as set forth by the standards of the City Public Works Department. The energy and maintenance costs for street lights on private streets shall be borne by the homeowners association.

RESTRICTIVE COVENANTS

1. Draft deed restrictions and covenants, conditions, and restrictions (CC&Rs) have been submitted for the development of the Villages at Cascade Head. The deed restrictions and CC&R's shall be in conformance with these conditions of approval, and shall otherwise not be in conflict with City zoning regulations and/or other municipal code requirements.
2. Final deed restrictions and CC&R's shall be prepared in accordance with Zoning Condition 1, above, and shall be subject to review and approval by the city attorney as to content and legal sufficiency. When approved, the deed restrictions and CC&R's shall be recorded in the deed records of Lincoln County at the applicant's expense.
3. Amendments to the approved deed restrictions and CC & Rs must be reviewed and approved by the City prior to recordation. In addition, proposed amendments shall be reviewed and voted on by the Villages at Cascade Head Environmental Resource Committee (VCHERC) prior to recordation. All proposed amendments shall be transmitted to the Planning Director with documentation that they have been reviewed by the VCHERC, including any comments by that committee and the results of the committee's vote on the proposed amendments. As to minor amendments, if a majority of the VCHERC members voted to approve the proposed amendments, then the Planning Director may act on the City's behalf in reviewing and approving, approving with modifications, or disapproving the proposed amendments. As to major amendments, or if a majority of the VCHERC members did not vote to approve proposed minor amendments, or if the Planning Director otherwise elects to refer proposed minor amendments to the Planning Commission for review, then the Planning Commission shall act on the City's behalf in reviewing and approving, approving with modifications, or disapproving the proposed amendments. The actions of the Planning Director and the Planning Commission shall be subject to applicable appeal procedures, if any, established by City Zoning Code. For purposes of this paragraph, minor amendments are only amendments that will not have public visibility and that (1) do not increase densities, (2) do not change boundaries, (3) do not change any use, specific or general, described in the approved preliminary master plan, any approved further refined preliminary master plan, or any approved final master plan, and (4) do not change the location or amount

of land devoted to specific land uses. For purposes of this paragraph, all other amendments are major amendments.

The City shall approve a proposed amendment if it finds that the proposed amendment is a reasonable way to implement the intent of this preliminary master plan approval, of any further refined preliminary master plan approval, of any final master plan approval or of applicable regulations, or that new information justifies a new approach, provided, however, that the conditions of preliminary master plan approval, of any further refined preliminary master plan approval, or of any final master plan approval incorporated into the CC&Rs may not be amended unless the preliminary master plan, further refined preliminary master plan, or final master plan itself first has been amended to modify the conditions.

UTILITIES

1. All utility lines shall be placed underground throughout the PUD.
2. All proposed easements shall be shown in dashed lines on the final plat, including the size and locations as required by the affected utilities, public agencies and utility service companies.
3. All utility easement restrictions are to be recorded with the final plat.
4. All utility easements shall be clearly defined as to their scope, purpose and term, preferably to be included within the restrictive covenants which are to be recorded with the subdivision plat. The abbreviation "PUE" (Public Utility Easement) must be clearly defined and spelled out.
5. A five (5) foot "PUE" adjacent to the rights-of-way and private streets shall be provided and be utilized for water-related equipment (meters, valves, etc) and other utilities (electrical pedestals, street lights, telephone pairs, junction boxes, etc.).
6. It shall be the responsibility of the subdivider to coordinate final acceptance of all proposed "PUEs" with affected utilities, public agencies and service companies prior to final plat approval of each phase of the subdivision.
7. The size, location, and number of all fire hydrants shall be submitted to the North Lincoln Fire and Rescue District No. 1 for review and approval.
8. The owner/developer shall respond to the concerns and standards of the North Lincoln Fire and Rescue District No. 1 and evidence of such review and approval shall be provided to the City.

SANITARY SEWER AND STORM DRAINAGE

1. Engineered sewer, water and storm drain utility plans and specification shall be submitted to the Lincoln City Public Works Department for review and approval.

2. All sewer laterals shall be stubbed, and the location of such stubbed sewer laterals shall be marked at the curb or edge of street right-of-way so that its location may be ascertained in the future with minimal difficulty by the contractor(s).
3. The developer shall limit peak runoff to that discharged under an undeveloped condition for 2, 5, 10 and 25 year storms.
4. The final number and location of water quantity and quality facilities shall be determined as individual phases are developed. Timely notice and opportunity for review and comment shall be provided to the Devils Lake Water Improvement District.
5. All water quality and water quantity facilities must be in compliance with the Villages at Cascade Head Environmental Management Plan (EMP). Except as otherwise provided by the EMP, stormwater facility designs shall comply with Resolution and Order No. 91-47 (as amended) of the Washington County Unified Sewerage Agency and City of Lincoln City stormwater facility requirements. All designs shall minimize overall environmental impacts, especially on streams and riparian vegetation.

DESIGNATED OPEN SPACE AREAS

1. The Cascade Head Scenic Research Area established by Act of Congress on December 22, 1974 abuts 60-acres located within the project limits. The Hebo Ranger district shall be contacted for all necessary permits related to the PUD, and evidence of such review and any needed approvals shall be provided to the City.
2. Open space, parks and trails shall be designated and improved in accordance with Conditions Exhibit 5 dated October 20, 1998, except that the 60 acres adjacent to the Cascade Head Scenic Research Area shall remain as an undisturbed natural area.

The areas designated as open space, parks, and trails shall be owned, improved, and maintained by the Homeowners Association, except as provided in these conditions of approval.

In the event the Homeowners Association wishes to transfer all or part of the ownership, improvement, or maintenance responsibilities for the designated open space, parks, trails, or any of them, to another person, the transfer shall be subject to review and approval by the City prior to the transfer. In addition, the proposed transfer shall be reviewed and voted on by the Villages at Cascade Head Environmental Resource Committee (VCHERC) prior to the transfer. Any proposed transfer shall be transmitted to the City's Planning and Community Development Director with documentation that it has been reviewed by the VCHERC, including any comments by that committee and the results of the committee's vote on the proposed transfer. The Planning Commission shall act on the City's behalf in reviewing and approving, approving with modifications, or disapproving the proposed transfer. The actions of the Planning Commission shall be subject to applicable appeal procedures, if any, established by the *Zoning Ordinance*.

The City shall approve a proposed transfer if it finds that (1) the proposed transfer is a reasonable way to implement the intent of this Final Order, of any final order approving a refined preliminary master plan or final master plan thereunder, or of applicable regulations, or that new information justifies a new approach; (2) the proposed transfer is in such a form that, in the event the transferee fails to carry out improvement and maintenance activities in conformance with the conditions of approval of this Final Order, the Homeowners Association has the legal right to enter onto the affected area and carry out the improvement and maintenance activities itself; and (3) the Homeowners Association has entered into an agreement with the City under which the Homeowners Association at all times will remain responsible for the improvement and maintenance of the affected area in conformance with the conditions of approval of this Final Order.

WATER SUPPLY

1. All lots within the PUD shall be served by the City's water supply system conforming to the City specifications.
2. Water meters shall be clustered at common lot lines to the extent possible.
3. A water reservoir shall be provided, by the developer/owner, to meet the demands of Blocks I, L, M, N, O, and P, and some isolated high spots in B and G of the Preliminary Master Plan (Conditions Exhibit 1) when any one of the areas is proposed for development.

Installation of the reservoir to serve the isolated high spots in Blocks B and G will not be required if the applicant demonstrates to the satisfaction of the City and the North Lincoln Fire and Rescue District that the use of pumps in lieu of the reservoir will provide adequate water supply, including fire flows, to the isolated high spots in Blocks B and G, and that the City's ability to provide water supply service and maintain adequate storage for the existing City service area is not impaired.

The volume of storage required shall be not less than 750,000 gallons, subject to review and adjustment by the city engineer to assure that the facility is sized to meet the demands of the project, based on the domestic water consumption required under the City of Lincoln City Comprehensive Water Source Distribution and Treatment Analysis (as amended) along with a fire flow storage volume providing 2200 gallons per minute for two hours.

The applicant shall provide evidence that the water reservoir, access road, and any associated hillside excavation or fill areas will be screened so as not to be visible or will not be visible at the time of installation from off-site locations. The evidence shall be submitted to the Planning Commission for review and approval in association with submittal of a refined preliminary master plan for development of Blocks I, L, M, N, O, or P. Alternatively, the applicant may request amendment of the Preliminary Master Plan dated October 20, 1998 (attached as Conditions Exhibit 1) to locate the water reservoir at a location at which the reservoir, access road, and any associated hillside

excavation or fill areas will not be visible at the time of installation from off-site locations.

4. If the City determines that land is needed for a second reservoir within the Villages At Cascade Head, the owner/developer at no charge shall provide use of a site, and right of access to it, adjacent to the reservoir referenced in Water Supply Condition 3.

FIRE PROTECTION

1. Roof materials which are fire-resistant shall be used in fire-sensitive areas as designated by the Lincoln City Fire Marshal.
2. The number and distribution of fire hydrants shall conform to Table No. A-111-B-1 of the 1991 Uniform Fire Code or the equivalent code and table as adopted by the City of Lincoln City at the time of plans submittal.
3. If the City determines that the fire fighting agency with responsibility for fire service needs a fire station within the Village at Cascade Head, the developer/owner at no charge shall provide a site of up to one acre within or adjacent to the Town Center.

CONSTRUCTION DRAWINGS AND SPECIFICATIONS

1. Public infrastructure improvement work shall not be commenced until construction plans have been reviewed for accuracy and approved by the City. Review and approval shall be a condition of final plat approval for each phase of development.
2. All costs of public infrastructure plan checks and inspections by the City shall be paid by the owner/developer to the City.
3. Information on the public infrastructure construction plans shall be provided pursuant to applicable City regulations as of the date of submittal and shall comply with the City's adopted standards and specifications for public infrastructure improvements.
4. The owner/developer, for each phase of development, shall pay a security deposit of \$1,000.00, or such amount as shall then be applicable, to the City to cover cost of the city engineer's review of the public infrastructure improvement plans and specifications and thereafter the city engineer's inspection of all public infrastructure improvement work conducted on the site. Any unused portion of the deposit shall be refunded to the owner/developer. If the review costs exceed the deposit, the owner/developer shall be responsible for the full payment to the City.

BOND AND AGREEMENT

1. Prior to approval of a final plat for a phase of the development, either:

- a. The city engineer shall verify that all public infrastructure improvements have been installed in accordance with the requirements of the final PUD master plan and tentative subdivision plan; or
 - b. The owner or developer shall enter into a written agreement with the City, which agreement shall be subject to review and approval by the city attorney, that all required public infrastructure improvement work as specified in the conditions of issuance of the development permit shall be completed within twenty-four (24) months from final plat approval in accordance with applicable City standards and approved plans and specifications.
2. The owner or developer shall warrant the materials and workmanship of the public infrastructure improvements for a period of one (1) year from date of acceptance by the City.
 3. Except as otherwise provide by applicable City regulations then in effect, with an improvement agreement entered into under Bond and Agreement Condition 1(b), above, the owner/developer shall post one of the following, in the amount of 110% of the estimated cost of improvements covered by the agreement, to ensure full and faithful performance:
 - 3.1 A surety bond executed by a surety company authorized to transact business in the state of Oregon.
 - 3.2 Cash.
 - 3.3 An irrevocable standby letter of credit or similar security in a form acceptable to the city attorney.

The form of security provided by the owner/developer shall be subject to the following:

- a. Upon satisfactory completion of all required public infrastructure improvements and acceptance thereof by the City, the amount allocated to such improvements shall be reduced to 20% of the original bond amount, or 20% of the cost of construction of the required infrastructure improvements, whichever is greater. The bond amount shall be fully released on satisfactory completion of the one-year warranty period.
 - b. Should the owner/developer fail to complete the listed improvements within the specified time period and/or in accordance with the terms of the agreement, the City may complete the improvements and recover the full cost and expense thereof from the security and, if the security is not sufficient, from the owner/developer.
4. The City shall accept streets, storm drains, sanitary sewer lines, water lines and easements in which they are located at such time as the owner/developer has fully complied with all the terms and conditions of the agreement and has satisfactorily

completed the one year warranty period. If, during the warranty period, the owner/developer fails to remedy defective materials or workmanship, then the City may remedy the defective materials or workmanship and recover the full cost and expense thereof from the security provided under Bond and Agreement Condition 4 and, if there is no security or if the security is not sufficient, from the owner/developer.

5. Before the City shall accept an improvement that shall become a City maintained improvement and/or facility, the owner/developer's engineer shall provide the City with a mylar drawing showing the as-built improvements along with two copies of said as-built drawings. In addition, the engineer shall provide digital as-built drawings on intergraph micro station format or other approved format. 1

Conditions Exhibits:

- 1 Preliminary Master Plan, dated 10/20/98
- 2 Land Use Summary, dated 5/28/98
- 3 Preliminary Master Plan Circulation Plan, dated 10/20/98
- 4 Street Sections, dated 10/20/98
- 5 Preliminary Master Plan Open Space Plan, dated 10/20/98
- 6 Cooperative Improvement Finance Agreement

CONDITIONS EXHIBIT 2

Table 2

THE VILLAGES AT CASCADE HEAD LAND USE SUMMARY - 5/28/98

Block	Acres	Detached Residential			Attached Residential		
		Ocean View Lots	Single-Family Lots	Manufactured Home Lots	Townhomes	Condominiums	Townhome/Multi-Family
A'	3.7				18		
A	13.1						200
A-1	9.9					150	
B	23.6					184	
C	28.4			70			
D	6.3				30		
E	23.5		63				
F	10.2				52		
G	12.4					96	
H	45.6			232			
I	30.9			170			
J	9.3				50		
K	9				60		
L	8.9				90		
M	58.2		240				
N	42	50					
O	4.1		3				
P	2.6		1				
Q	10.9				70		
R	0.6						
Residential Units By Type		501	307	472	370	430	200
Totals	353.2 ac	1829 units					

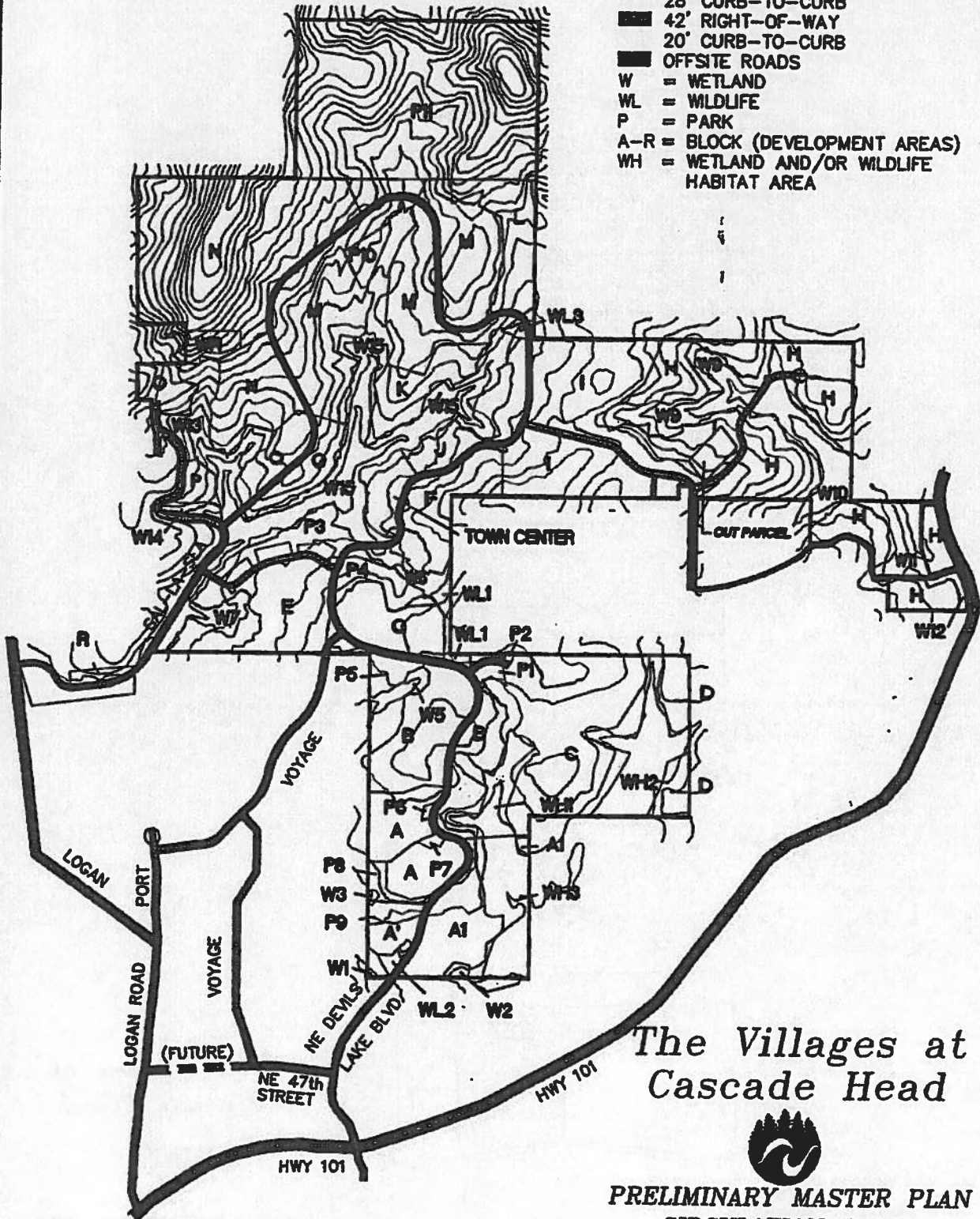
Tract	Size (acres)	Notes
P1 - P10	17.03	Other Nature Parks
P11	58.86	Northern Nature Park
	2.80	Water Reservoir
W.WH.WL	81.97	Wetlands/Wildlife Corridors
WQ1	3.5	Water Quality
C1-10	23.1	Common Area Tracts
C11-17	8.4	Multifamily/Condo Open Space
	<u>195.66</u>	

Road Type	Size (acres)	Notes
Public	20.01	
Private	6.61	
Ingress/Egress Tract	0.38	
	<u>27.00</u>	

Land Use	Acres	Percentage
Residential	297.6	56.7%
Town Center	4.6	0.9%
Open Space	195.7	37.3%
Roads	27.0	5.1%
Total Acreage	524.9	100%

LEGEND

- 50' RIGHT-OF-WAY
- 28' CURB-TO-CURB
- 42' RIGHT-OF-WAY
- 20' CURB-TO-CURB
- OFFSITE ROADS
- W = WETLAND
- WL = WILDLIFE
- P = PARK
- A-R = BLOCK (DEVELOPMENT AREAS)
- WH = WETLAND AND/OR WILDLIFE HABITAT AREA



The Villages at Cascade Head

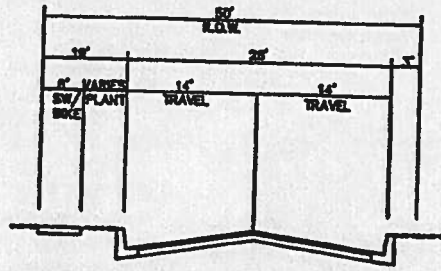


PRELIMINARY MASTER PLAN CIRCULATION PLAN

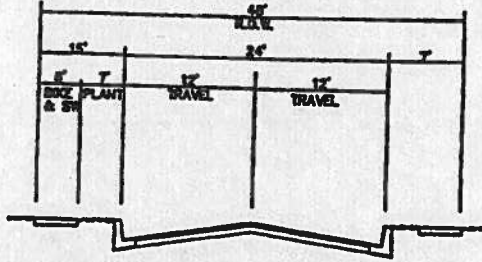


OCTOBER 20, 1998

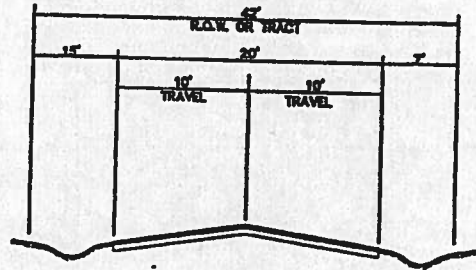
FIGURE 7A



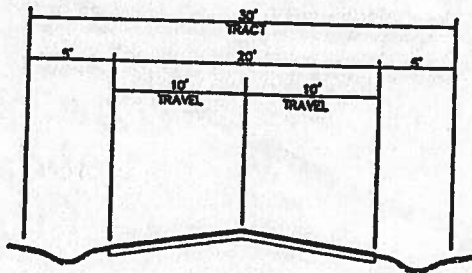
TYPICAL PUBLIC STREET SECTION
50' WIDTH RIGHT-OF-WAY
NO PARKING



TYPICAL PUBLIC STREET SECTION
48' WIDTH RIGHT-OF-WAY
NO PARKING



TYPICAL PUBLIC/PRIVATE STREET SECTION
42' WIDTH RIGHT-OF-WAY
NO PARKING



TYPICAL PRIVATE STREET SECTION
30' WIDTH RIGHT-OF-WAY
NO PARKING

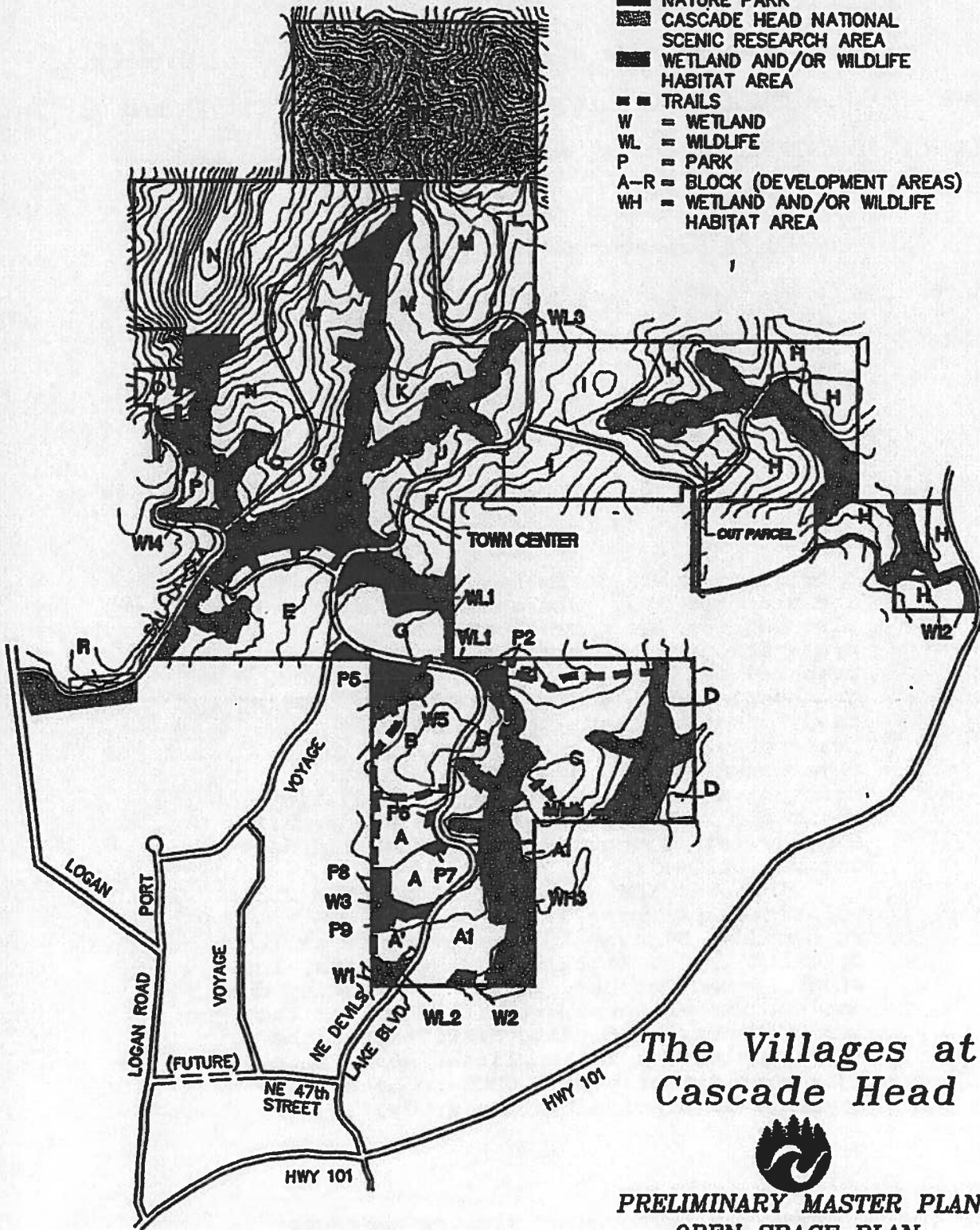
*The Villages at
Cascade Head*



ALPHA ENGINEERING INC.
PLANNING • DEVELOPMENT SERVICES • SURVEYING
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PLAZA WEST • SUITE 230 • 9400 SW GAK • PORTLAND, OR 97225

LEGEND

- WATER RESERVOIR SITE
- NATURE PARK
- ▨ CASCADE HEAD NATIONAL SCENIC RESEARCH AREA
- WETLAND AND/OR WILDLIFE HABITAT AREA
- TRAILS
- W = WETLAND
- WL = WILDLIFE
- P = PARK
- A-R = BLOCK (DEVELOPMENT AREAS)
- WH = WETLAND AND/OR WILDLIFE HABITAT AREA



The Villages at Cascade Head



PRELIMINARY MASTER PLAN
OPEN SPACE PLAN



OCTOBER 20, 1998

FIGURE 6A

CONDITIONS EXHIBIT 6

COOPERATIVE IMPROVEMENT FINANCE AGREEMENT

THIS AGREEMENT is made as of the 12th day of October, 1998, between the CITY OF LINCOLN CITY, OREGON, ("City") and B.A.S.S. CONSTRUCTION CO. ("Company").

RECITALS

Company's predecessor has applied to the City for approval of a Master Plan for a planned unit development to be known as Villages at Cascade Head ("PUD").

By Planning Commission Findings, Conclusion and Order No. 96-02, City approved the application subject to certain conditions. Condition No. 6 under the heading "STREETS" reads as follows:

A traffic impact study has been prepared for the proposed PUD. The owner/developer was also required to participate in the preparation of the traffic impact study prepared by Kittelson & Associates, Inc., Transportation Planning/Traffic Engineering firm, for the Oregon Department of Transportation (ODOT) on behalf of the developers of pending projects in the northern area of Lincoln City, said study entitled "Transportation Impact Study, U.S. Highway 101, Lincoln City, Oregon" and dated October, 1994.

The owner/developer shall pay the PUD's proportionate share of the cost of recommended Highway 101 improvements as detailed in the Kittelson & Associates, Inc. study, dated October, 1994. If the City does not execute an agreement with ODOT for the improvements and funding described in the Kittelson Study, the applicant shall enter an agreement directly with ODOT to make the payments as provided in the Study.

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Neither City nor Company has been able to negotiate an agreement with the State of Oregon Department of Transportation for the improvements and funding described in the above-referenced Kittelson Transportation Impact Study ("TIS"). On December 15, 1998, City, by Planning Commission Final Order No. 98-17, revised Condition No. 6 under the heading "Streets" in Order No. 96-02 to read as follows:

A traffic impact study has been prepared in relation to the proposed PUD entitled "Transportation Impact Study, U.S. Highway 101, Lincoln City, Oregon." The study is dated October, 1994. The study identified that owner/developer's proportionate share of the cost of recommended Highway 101 improvements was the sum of Two Thousand Three Hundred Dollars (\$2,300) for each dwelling unit constructed within the PUD. Owner/developer shall enter into an agreement with the City that owner/developer shall cause to be paid to City this proportionate share of the cost of traffic improvements to, or in relation to, Highway 101, but outside the PUD, which agreement shall be in the form attached hereto as Exhibit A.

In addition, the "Restrictive Covenants" required by these Conditions of Approval shall include a deed restriction, restrictive covenant, or restrictive condition, applicable throughout the PUD, as follows:

At the time of application to the City of Lincoln City for a building permit to construct a new dwelling unit or new dwelling units, the owner of the site on which the dwelling unit or units are to be built shall pay, or cause the applicant to pay, to the City, in addition to any other amounts that the City lawfully requires to be paid, the sum of \$2,300 for each dwelling unit, as adjusted to reflect any increase occurring after October 1994 in the construction price index as published in the weekly construction magazine "Engineering News Record" (for 20 cities, 1913-100). The applicant and the

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owner of the site shall have no right to the requested building permit until the sum has been paid for each dwelling unit covered by the building permit application, and the payment requirement shall be a restriction for the benefit of Lincoln City on any right the applicant or owner otherwise would have to receive a building permit. The amount of the payment, plus any investment income earned thereon, will be used to finance traffic improvements to, or in relation to, Highway 101 in North Lincoln City.

Company desires to enter into an agreement with City for Company to make its proportionate share of the payments as provided in the TIS to City. City is willing to accept said payments.

Now, therefore, the premises being in general as stated in the foregoing Recitals, the parties agree as follows:

1. Company agrees that there shall be paid to City, and City agrees to accept, the sum of Two Thousand Three Hundred Dollars (\$2,300), plus any increase in the construction price index as published in the weekly construction magazine "Engineering News Record" (for 20 cities, 1913-100) occurring after October 1994 for each dwelling unit ("Unit") constructed within the PUD. Said sum shall be paid at the time each building permit for a unit is applied for and said payment shall be a condition precedent to the issuance of a permit. The money paid pursuant to this Agreement will be placed in a separate investment account and shall earn interest which shall be reinvested and both principal and interest shall be drawn upon as

needed to finance future traffic improvements to, or in relation to, Highway 101 in North Lincoln City, but outside the PUD.

In order to assure fulfillment of this Agreement, Company shall record in the deed records of Lincoln County, a deed restriction, restrictive covenant, or restrictive condition, applicable throughout the PUD, as follows:

At the time of application to the City of Lincoln City for a building permit to construct a new dwelling unit or new dwelling units, the owner of the site on which the dwelling unit or units are to be build shall pay, or cause the applicant to pay, to the City, in addition to any other amounts that the City lawfully requires to be paid, the sum of \$2,300 for each dwelling unit, as adjusted to reflect any increase occurring after October 1994 in the construction price index as published in the weekly construction magazine "Engineering News Record" (for 20 cities, 1913-100). The applicant and the owner of the site shall have no right to the requested building permit until the sum has been paid for each dwelling unit covered by the building permit application, and the payment requirement shall be a restriction for the benefit of Lincoln City on any right the applicant or owner otherwise would have to receive a building permit. The amount of the payment, plus any investment income earned thereon, will be used to finance traffic improvements to, or in relation to, Highway 101 in North Lincoln City, but outside the PUD.

2. The improvements to be funded pursuant to this Agreement are not limited to the improvements identified in the TIS, but such improvements shall be outside the PUD and to, or in relation to, Highway 101 in North Lincoln City and the impacts to Highway 101 caused by the PUD.

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3. If Company is required to construct any improvement to, or in relation to, Highway 101, but outside the PUD, as a condition of approval of any part of the PUD, then the cost of such improvement shall be reimbursed to Company from the investment account to the extent of funds in the account and, as to any balance not covered by funds in the account, shall be a credit against any future payments that may become due from Company to the account under this Agreement. If Company is required to construct any improvement to the City transportation system that is a "qualified public improvement" under Section 13.08.100 of the City Municipal Code, then the cost of such improvement shall be a credit against any applicable transportation system development charge, to the extent a credit is authorized under Section 13.08.100 of the City Municipal Code. This Section 3 of this Agreement, however, does not provide a credit in relation to any local transportation system improvement that the City lawfully requires as a condition of approval of any part of the PUD, to the extent such local transportation system improvement is not an improvement to, or in relation to, Highway 101, but outside the PUD, and is not such a "qualified public improvement."

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/////
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4. City agrees to consult with Company before committing funds paid to City pursuant to this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first hereinabove written.

CITY OF LINCOLN CITY, OREGON

B.A.S.S. CONSTRUCTION CO.

By: _____
Robert Mack
City Manager

By: _____
Stephen L. Stoelk,
President

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EXHIBIT B

**Conditions of Approval for Rock Creek Village
Refined Preliminary Master Plan and Tentative Subdivision Map
PUD 02-97 / SUBD 02-97**

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Conditions of Approval for Rock Creek Village

These conditions of approval apply to the Refined Preliminary Master Plan and tentative subdivision plan entitled *Rock Creek Village Tentative Subdivision Plan & Refined Preliminary Master Plan* prepared by Alpha Engineering, Inc., date stamped September 22, 1998 and to the *Rock Creek Village Landscape Master Plan* and *Rock Creek Village Landscape Details* prepared by W&H Pacific, date stamped September 22, 1998.

Except for the conditions of approval noted below, the conditions of approval for the Preliminary Master Plan for the Villages at Cascade Head in Planning Commission Findings, Conclusion and Order No. 96-02 (as amended) do not apply to the *Rock Creek Village Tentative Subdivision Plan & Refined Preliminary Master Plan*; are satisfied by the conditions of approval noted below; or are satisfied by the *Rock Creek Village Tentative Subdivision Plan & Refined Preliminary Master Plan* and/or the *Rock Creek Village Landscape Master Plan* and *Rock Creek Village Landscape Details*.

PLANNING

1. The Rock Creek Village Land Use Summary (dated May 28, 1998), attached as Exhibit 1, specifies the approximate acreage and maximum number of housing units for each block identified on the Refined Preliminary Master Plan.
2. A final master plan and final subdivision plat for each of the individual blocks or portions thereof, shall be submitted for review by the Planning Commission to determine whether it is in substantial conformance with:
 - a. The presently-approved Refined Preliminary Master Plan for Rock Creek Village; and
 - b. The presently-approved tentative subdivision plan for Rock Creek Village.
3. The initial approval of the Refined Preliminary Master Plan shall be effective for a period of two years with automatic two-year extensions thereafter so long as either:
 - a) during the previous two-year period the developer has submitted and received approval of a final master plan for at least one of the blocks identified in the Refined Preliminary Master Plan (e.g., Blocks A through G); or
 - b) during the previous two-year period the developer has submitted and received approval of a final plat in accordance with Title 16 (Subdivisions) of the Municipal Code for a block, or a portion of a block, (e.g., Blocks A through G) within an area covered by a previously-approved final master plan.

These extensions for the Refined Preliminary Master Plan approval shall continue to be available until the Villages at Cascade Head planned unit development project is completed, not to exceed the time period for the Villages at Cascade Head Preliminary Master Plan, as specified in Planning Commission Findings, Conclusion and Order No. 96-02 (as amended).

4. Prior to approval of the first final master plan or final subdivision plat (whichever occurs first) submitted five years following approval of the *Rock Creek Village Tentative Subdivision Plan & Refined Preliminary Master Plan* prepared by Alpha Engineering, Inc., date stamped September 22, 1998, the Planning Commission shall re-evaluate all unbuilt portions of Rock Creek Village for conformity with the then-existing City zoning ordinance and subdivision ordinance requirements in relation to then-existing conditions. Following a public hearing, the Planning Commission shall amend its approval of any portion of the *Rock Creek Village Tentative Subdivision Plan & Refined Preliminary Master Plan* as needed to ensure that the unbuilt portions of Rock Creek Village are in conformance with the then-existing City zoning ordinance and subdivision ordinance requirements. A subsequent re-evaluation shall be conducted prior to approval of the first final master plan or final subdivision plat (whichever occurs first) submitted five years following completion of the aforementioned re-evaluation.
5. The time limitations stipulated by Section 16.08.280 of the *Municipal Code* for filing of a Final Subdivision Plat are waived since the project is to be constructed in phases.
6. Blocks designated as "Detached Residential" in the Rock Creek Village Land Use Summary (see Exhibit 1) are permitted to have any type of detached single family residential use allowed in the R-1-7.5 zone. Areas designated as "Attached Residential" in the Rock Creek Village Land Use Summary are permitted to have any type of attached residential use allowed in the R-M zone, except that the multi-family dwelling units in Block A shall not be permitted to operate as vacation rental dwellings.

OWNERSHIP AND IMPROVEMENTS IN OPEN SPACE AREAS

1. The Wildlife Habitat Tracts (WH1, WH2, and WH3), Wildlife Corridors (WL1 and WL2), and Wetland Tracts (W1, W2, W3, W5, W6, and W7) shall be open space areas owned and maintained by the Homeowners Association, except as otherwise provided in these conditions of approval. The 25-foot conservation easements around the Wildlife Habitat Tracts and Wetland Tracts shall be open space areas that may be owned by individual property owners.
2. The Parks (P1 through P9), Water Detention Facilities (WQ1 through WQ11), and Common Areas (C1 through C10) shall be owned and maintained by the Homeowners Association, except as otherwise provided in these conditions of approval.
3. In the event the Homeowners Association wishes to transfer all or part of the ownership or maintenance responsibilities for Wildlife Habitat Tracts, Wildlife Corridors, Wetland Tracts, Parks, Water Detention Facilities, or Common Areas, or any of them, to another person, the transfer shall be subject to review and approval by the City prior to the transfer. In addition, the proposed transfer shall be reviewed and voted on by the Villages at Cascade Head Environmental Resource Committee (ERC) prior to the transfer. Any proposed transfer shall be transmitted to the City's Director of Planning and Community Development with documentation that they have been reviewed by the ERC, including any comments by that committee and the results of the committee's vote on the proposed transfer. The Planning Commission shall act on the City's behalf in

reviewing and approving, approving with modifications, or disapproving the proposed transfer. The actions of the Planning Commission shall be subject to applicable appeal procedures, if any, established by the *Zoning Ordinance*.

The City shall approve a proposed transfer if it finds that (1) the proposed transfer is a reasonable way to implement the intent of this Final Order, of any final order approving a final master plan thereunder, or of applicable regulations, or that new information justifies a new approach; (2) the proposed transfer is in such a form that, in the event the transferee fails to carry out maintenance activities in conformance with the conditions of approval of this final order, the Homeowners Association has the legal right to enter onto the affected area and carry out the maintenance activities itself; and (3) the Homeowners Association has entered into an agreement with the City under which the Homeowners Association at all times will remain responsible for the maintenance of the affected area in conformance with the conditions of approval of this final order.

4. No structures shall be permitted within the Wildlife Habitat Tracts, Wildlife Corridors, Wetland Tracts, or the 25-foot conservation easement areas, except for trails, road crossings, utilities, and other similar improvements approved by the City. Removal of vegetation shall not occur in these areas, other than as required for placement of trails, road crossings, utilities, and other similar improvements approved by the City.
5. The final master plan for any block or portion thereof that includes parks dedicated to the Homeowners Association shall include improvement plans and a list of permitted uses in the parks. The improvement plans and uses shall be subject to City review and approval.
6. The *Landscape Master Plan* shall be revised to show the following trails:
 - a) A trail beginning at Tract P1 and following roads of Block C eastward past Tract WQ7, continuing east across Tract C7 to Tract WH2, then south through Tract WH2 along the west side of the wetland, then turning westward at the southern edge of Tract WH2 and extending across Tract C8, then extending around the southwest corner of Lot 46, and concluding at the street.
 - b) A trail beginning at the southern terminus of the proposed trail on the west side of Tract WH3, and extending south along the west side of Tract WH3 to the southern edge of the project, and then west along the southern edge of Tract W2 to the southern parking area of Block A1.
7. The Final Master Plan shall show improvements and landscaping for the Parks, Common Areas, pedestrian/bike paths, and nature trails.
8. Trails built within the Wildlife Habitat Tracts, Wildlife Corridors, Wetland Tracts, or the 25-foot conservation easement areas shall be permeable and constructed of natural materials. Where trail crossings over waterways are necessary, the crossing design shall minimize the need for excavation, such as the use of wooden bridges rather than culverts if appropriate to minimize the need for excavation.

ENVIRONMENTAL MITIGATION MEASURES

1. The owner shall comply with Environmental Conditions 6 - 8 of Planning Commission Findings, Conclusion and Order No. 96-02, as amended, regarding formation of the Villages at Cascade Head Environmental Resource Committee (ERC); preparation and implementation of an Environmental Management Plan (EMP); and establishment of an Environmental Compliance Officer (ECO) to provide oversight services on the behalf of the owner during construction activities. Compliance by the owner with the above conditions does not involve any delegation of City authority to the owner, ERC, EMP, or ECO. Actions by the owner, ERC, or ECO shall not be contrary to or in violation the City approvals and/or conditions for this project.
2. No construction activities shall take place within the following tracts during of red-legged-frog egg-laying and-hatching season (i.e., February and March):
 - a. Wetland Tracts W5 and W7;
 - b. Wildlife Habitat Tracts WH1, WH2, and WH3; and
 - c. Park P3 and P4.
3. Any in-stream work shall occur during in-water work periods approved by Oregon Department of Fish and Wildlife (ODFW).
4. If streams or drainage channels are impacted by construction activities, the impacted streams or drainage channels shall be restored to pre-existing habitat conditions prior to City acceptance of infrastructure improvements.
5. Stream channels shall be monitored by the ECO to ensure that red-legged frog habitat is not degraded as a result of drainage improvements. The ECO shall coordinate with the ODFW and shall develop and implement site-specific stream habitat restoration measures, including but not limited to, in-stream structures designed to keep the majority of the stream flow in the center of the channel, protect eddies and ponded areas, and protect underwater stems of riparian vegetation for egg-laying habitat.
6. All construction activities within or adjacent to Wetland Tracts or Wildlife Habitat Tracts shall minimize the use of heavy equipment to preclude accidental impacts to red-legged frogs hibernating in upland areas and shall be performed, under the supervision of the ECO, following any recommendations provided by the ODFW.
7. Natural vegetation and leaf litter (important for red-legged frog upland hibernation habitat) shall be retained in Wetland Tracts or Wildlife Habitat Tracts and upland buffer areas as much as possible.
8. There shall be no open burning conducted within Rock Creek Village either during construction or after completion of construction.

9. Before any area or portion thereof is developed where wetland mitigation is required under applicable law, the mitigation shall occur not later than the time of development within the area or portion thereof.
10. The mitigation measures proposed in sections 3.1.3, 3.2.3, 3.3.3, 3.4.3, 3.5.3, and 3.6.3. of the *Villages at Cascade Head / Rock Creek Village Environmental Assessment Supplement #1* (approved September 24, 1998) are hereby incorporated as conditions applicable to Rock Creek Village.

TREE PROTECTION

1. A tree protection plan shall be prepared by an arborist. The tree protection plan, which may use the *Detailed Tree Survey* prepared by CNF Consulting, Inc. (dated September 1998), shall identify the following tree attributes: location, size, species, condition, and prognosis for retention and integration into the final landscaping plan. The tree protection plan shall address all trees greater than 16" DBH within 25 feet of construction zones. Construction zones include areas where ground-disturbing activities will take place in association with:
 - a. Construction of all dwelling units (except units located on single family and manufactured home lots), parking areas, clubhouses, and ancillary facilities;
 - b. Installation of utilities, roads, sidewalks, trails, parks, water detention facilities, access corridors, and other infrastructure improvements;
 - c. Construction staging areas; and
 - d. Any other areas identified by the arborist.
2. The tree protection plan shall:
 - a. Incorporate the impact minimization and mitigation measures related to tree protection listed in subsections 3.1.3, 3.2.3, and 3.3.3 of the *Villages at Cascade Head / Rock Creek Village Environmental Assessment Supplement #1* (approved September 24, 1998);
 - b. Minimize tree removal in areas adjacent to water detention ponds in order to retain shading provided by trees;
 - c. Identify options for retaining and integrating existing trees in the multi-family residential areas to the maximum extent feasible.
 - d. Identify options for retaining buffers averaging 25 feet in width of existing trees along the borders of all residential blocks;
 - e. Demonstrate that all reasonable measures have been taken to preserve and protect existing trees; and

- f. A schedule, which describes the duties and responsibilities of the arborist, including, but not be limited to, the arborist's attendance at mandatory pre-construction meetings involving representatives from City staff and construction personnel; initial grading and clearing activities; and any other activities which may impact the on-site trees. The on-site arborist will be authorized to make field determinations regarding minor variations to the approved tree protection plan regarding the retention and removal of additional trees. Subject to the review and approval of the Planning and Community Development Department, the arborist may delegate on-site construction monitoring activities to the ECO.

The tree protection plan shall be submitted for review and approval by the Planning and Community Development Department and Public Works Department as part of the final master plan in order to determine if all actions reasonably necessary to protect trees have been identified. The final master plan shall incorporate measures to protect trees, as recommended in the approved tree protection plan.

3. Trees identified in the tree protection plan for retention shall be marked in the field and fenced prior to issuance of any construction permits. All fencing of trees to be retained shall be maintained during all phases of construction. If, during construction, it is found necessary to remove significant trees (as identified by the arborist), construction shall be halted in the immediate area of the subject tree(s) until a revision to the tree protection plan is reviewed and approved by the Planning and Community Development Department and Public Works Department. Individual trees may be removed as part of construction of single family residences.

The tree protection plan shall incorporate steps for protection of retained trees, which may include the following:

- a. Construction shall avoid injury to tree roots during onsite construction.
- b. During dry periods, water shall be made available to the exposed roots of trees subject to root loss.
- c. All construction traffic shall be excluded from areas identified to remain as undisturbed natural vegetation.
- d. In lieu of adding soil around the base of a tree, a tree well with a diameter of four feet greater than the tree diameter shall be installed.
- e. Retaining walls or similar structures shall be provided to protect roots from erosion.
- f. In situations where trees are to be removed, the trees shall be cut (if possible), rather than bulldozed or removed with similar procedures, in order to protect soils, hillside integrity, and root structure of adjacent trees to be retained.

- g. Trees which are to be retained, to serve as wind blocks for large trees planned for retention, shall be identified.
4. Removal of trees within the area of a final master plan shall be limited to the area(s) to be constructed shortly following removal. In addition, tree removal shall be subject to any applicable regulations regarding tree removal adopted by the City and in effect at the time of the removal. There shall be no disturbance of native vegetation outside of construction zones surveyed as part of the approved tree protection plan.

LANDSCAPING

1. A detailed landscape plan shall be submitted with the final master plan(s) for review and approval of staff. The landscape plan shall comply with Section 4.100 of the *Zoning Ordinance* and shall show and/or provide the following information:
- a. Landscaping shall be provided for all areas of the project site where ground-disturbing activities will occur, except for roads, sidewalk, parking areas, building footprints, and above-ground infrastructure facilities.
 - b. Trees to be retained and tree protection measures shall be provided in accordance with the approved tree protection plan.
 - c. Landscaping with suitable native tree plantings shall be provided adjacent to all water detention ponds in order to provide shading and screening of ponds. Elevated water temperatures are harmful to red-legged frogs, amphibians, and fish species and must be avoided.
 - d. Landscaping in the following areas shall utilize native vegetation:
Wildlife Habitat Tracts WH1, WH2, and WH3;
Wildlife Corridors WL1 and WL2;
Wetland Tracts W1, W2, W3, W5, W6, and W7;
Water Detention Facilities WQ1 - WQ11; and
The 25-foot conservation easements in Park P-3 and around the above-listed Wildlife Habitat Tracts and Wetland Tracts.
 - e. All mechanical equipment, including transformers shall be screened with landscaping. Details of landscaping shall be provided.
 - f. Details of any fencing shall be provided.
 - g. All trash container/recycling areas shall be screened with sight-obscuring fencing and landscaping.
 - h. All shrubs shall be provided in container sizes at a ratio of 3:1 (3-gallon containers: 5-gallon containers).

- i. All trees must be planted at least ten feet away from any public water, sewer, or storm drain lines. All trees must be installed with a minimum of two support stakes. All nursery stakes must be removed from trees.
- j. Wheel stops or curbs shall be provided along the outer boundaries of parking areas or where landscaping may be damaged by vehicles.
- k. A two-to-four inch layer of mulch must be applied in all landscape areas.

STREETS

1. The naming of streets within Rock Creek Village shall be in accordance with the Lincoln City street naming and addressing grid and shall be submitted to the Department of Planning and Community Development for review and approval.
2. Access to the Rock Creek Village shall be only by means of NE Devils Lake Boulevard and NE Voyage Avenue. Access to Rock Creek Village via Sal-La-Sea Drive shall not be available until such time that residential blocks within Salmon Creek Village are constructed.
3. Private Roads (R1 through R4) shall be privately owned and maintained and shall be open for public use.
4. A traffic impact study has been prepared in relation to the proposed PUD entitled "Transportation Impact Study, U.S. Highway 101, Lincoln City, Oregon." The study is dated October, 1994. The study identified that owner/developer's proportionate share of the cost of recommended Highway 101 improvements was the sum of Two Thousand Three Hundred Dollars (\$2,300) for each dwelling unit constructed within the PUD. Owner/developer shall enter into an agreement with the City that owner/developer shall cause to be paid to City this proportionate share of the cost of traffic improvements to, or in relation to, Highway 101, but outside the PUD, which agreement shall be in the form attached hereto as Exhibit 2.

In addition, the "Restrictive Covenants" required by these Conditions of Approval shall include a deed restriction, applicable throughout the PUD, as follows:

At the time of application to the City of Lincoln City for a building permit to construct a new dwelling unit or new dwelling units, the owner of the site on which the dwelling unit or units are to be built shall pay, or cause the applicant to pay, to the City, in addition to any other amounts that the City lawfully requires to be paid, the sum of \$2,300 for each dwelling unit, as adjusted to reflect any increase occurring after October 1994 in the construction price index as published in the weekly construction magazine "Engineering News Record" (for 20 cities, 1913-100). The applicant and the owner of the site shall have no right to the requested building permit until the sum has been paid for each dwelling unit covered by the building permit application, and the payment requirement shall be a restriction for the benefit of Lincoln City on any right the applicant or owner otherwise would have to receive a building permit. The amount of

the payment, plus any investment income earned thereon, will be used to finance traffic improvements to, or in relation to, Highway 101 in North Lincoln City.

5. Engineered street improvement plans and specifications shall be submitted to the Public Works Department for review and approval prior to approval of construction permits. In locations where sufficient right-of-way is available, sidewalks shall meander, rather than be located immediately adjacent to the road.
6. The owner shall design and build temporary cul-de-sacs for any temporary dead-end streets which are constructed. The design of the temporary cul-de-sacs shall be subject to the review and approval of the Public Works Department. Temporary roadway easements required for the temporary cul-de-sacs shall be provided as part of the final master plan and subdivision plat. Such temporary roadway easements shall extinguish when the next connected phase of the street is completed.
7. The North Lincoln Fire and Rescue District shall review and approve the proposed roadway widths and cul-de-sac configurations.
8. No streets shall be gated or in any way restrict or obstruct access for the use and convenience of the general public.
9. All permanent, public and private deadend streets shall be provided with properly sized cul-de-sac or hammerhead turn-arounds to accommodate emergency vehicles. Use of hammerhead turn-arounds must be approved by the Public Works Department and the North Lincoln Fire and Rescue District.
10. NE Devils Lake Boulevard shall be the primary access to Rock Creek Village for construction traffic. NE Voyage Avenue may be used for delivery and removal of equipment and for construction in Blocks E and F. Construction traffic shall not use NE Port Lane or Sal-La-Sea Drive to access the project site.
11. Prior to the issuance of development permits, the applicant shall prepare a survey the existing condition of NE Devils Lake Boulevard and NE Voyage Avenue, subject to the review and approval of the Public Works Department. Deterioration caused by construction activities shall be repaired by applicant up to and including a proportional share of a full A/C overlay. Repairs or overlays shall be done in accordance with the City's capital improvements program.
12. NE Voyage Avenue shall have a right-of-way width of 50 feet and shall be improved with a pavement width of 36 feet curb to curb.
13. The public road extending eastward from NE Devils Lake Boulevard to Tract R3 and northward the "Holly Farm" property (tax lot 6-11-35/300) shall have a right-of-way width of 50 feet.
14. Arched culverts shall be utilized at roadway crossings of streams to minimize impacts to potential fish and amphibian habitat.

UTILITIES

1. All water, electrical, tele-communication, and natural gas utility lines shall be placed underground within the road right-of-ways throughout Rock Creek Village.
2. All easements shall be shown in dashed lines on the final plat, including the size and locations as required by the affected utilities, public agencies and utility service companies.
3. All utility easement restrictions shall be recorded with the final plat.
4. All utility easements shall be clearly defined as to their scope, purpose, and term, preferably to be included within the restrictive covenants which are to be recorded with the subdivision plat. The acronym "PUE" for "public utility easement" must be clearly defined and spelled out.
5. A five (5) foot public utility easement adjacent to the right-of-ways and private streets shall be provided and maybe utilized for water-related equipment (e.g., meters, valves) and other utility-related equipment (e.g., electrical pedestals, street lights, telephone pairs, junction boxes).
6. It shall be the responsibility of the subdivider to coordinate final acceptance of all proposed public utility easements with affected utilities, public agencies, and service companies prior to final plat approval of each phase of the subdivision.

SEWER

1. All sewer laterals shall be stubbed, and the location of such stubbed sewer laterals shall be marked at the curb or edge of street right-of-way so that its location may be ascertained in the future with minimal difficulty by the contractor(s).
2. Engineered sewer utility plans and specifications shall be submitted to the Public Works Department and the Planning and Community Development Department for review and approval.
3. Construction plans for sewer lines shall minimize the use of heavy equipment and shall minimize disturbance of natural stream substrate in locations within 25 feet of drainages.
4. All wastewater pumping installations shall have auxiliary power. All components shall be compatible with City standards.
5. Costs of providing electric power to any pumping installation will be the responsibility of the owner. City responsibility for power cost will not include more than the regular monthly schedule billing after the agreed maintenance period has expired.
6. Structural maintenance costs incurred by the City for "Aerial Utility Crossings" shall be borne by the Homeowners Association.

7. The applicant is responsible for installation of the off-site sanitary sewer infrastructure connections shown on Sheet 11 of 17 the *Rock Creek Village Tentative Subdivision Plan & Refined Preliminary Master Plan* prepared by Alpha Engineering, Inc.
8. Utility easements for future sanitary sewer extensions to the "Holly Farm" property (tax lot 6-11-35/300) shall be provided to allow service from Blocks C and F.

WATER

1. All lots within Rock Creek Village shall be served by the City's water supply system, in accordance with City specifications.
2. Water meters shall be clustered at common lot lines to the maximum extent possible.
3. A water reservoir shall be provided, by the developer/owner, to meet the demands of some isolated high spots in Blocks B and G when any one of the areas is proposed for development.

Installation of the reservoir to serve the isolated high spots in Blocks B and G will not be required if the applicant demonstrates to the satisfaction of the City and the North Lincoln Fire and Rescue District that the use of pumps in lieu of the reservoir will provide adequate water supply, including fire flows, to the isolated high spots in Blocks B and G, and that the City's ability to provide water supply service and maintain adequate storage for the existing City service area is not impaired.

If the reservoir is installed to serve the isolated high spots in Blocks B and G, the volume of storage shall be not less than 750,000 gallons, subject to review and approval by the city engineer to assure that the facility is sized to meet the demands of the project, based on the domestic water consumption, required under the City of Lincoln City Comprehensive Water Source Distribution and Treatment Analysis (as amended) along with a fire flow storage volume providing 2200 gallons per minute for two hours. Furthermore, the applicant shall provide evidence that the water reservoir, access road, and any associated hillside excavation or fill areas will be screened so as not to be visible or will not be visible at the time of installation from off-site locations. The evidence shall be submitted to the Planning Commission for review and approval in association with submittal of a final master plan for development of the isolated high spots in Blocks B and G. Alternatively, the applicant may request amendment of the Villages at Cascade Head Preliminary Master Plan dated October 20, 1998 (as amended) to locate the water reservoir at a location at which the reservoir, access road, and any associated hillside excavation or fill areas will not be visible at the time of installation from off-site locations.

4. All water pumping installations shall have auxiliary power. All components shall be compatible with City standards.

5. Engineered water utility plans and specifications shall be submitted to the Public Works Department and the Planning and Community Development Department for review and approval.
6. The applicant is responsible for installation of the off-site water infrastructure connections shown on Sheet 11 of 17 the *Rock Creek Village Tentative Subdivision Plan & Refined Preliminary Master Plan* prepared by Alpha Engineering, Inc.
7. Utility easements for future water line extensions to the "Holly Farm" property (tax lot 6-11-35/300) shall be provided to allow service from Blocks C and F.
8. In Block C, a water line shall extend as a 12" main from NE Devils Lake Boulevard to the "Holly Farm" property (tax lot 6-11-35/300) to allow water service to the Holly Farm property.

STORM DRAINAGE

1. All development shall comply with the applicable provisions of *Municipal Code Chapter 12.08 (Grading and Erosion Control)* as then in effect, prior to issuance of any development permit(s).
2. Engineered grading, drainage, and erosion control plans and specifications shall be submitted to the Public Works Department and the Planning and Community Development Department for review and approval as part of submittal of the Final Subdivision Plat.

The grading plans shall identify the location of construction staging areas and shall minimize tree removal in areas adjacent to water detention ponds in order to retain shading provided by trees.
3. A copy of the erosion control plan approved by the City shall be provided to the Devils Lake Water Improvement District.
4. The owner shall limit peak runoff to that discharged under an undeveloped condition for 2-, 5-, 10- and 25-year storms.
5. Stormwater facility designs shall comply with Resolution and Order No. 91-47 (as amended) of the Washington County Unified Sewerage Agency and City of Lincoln City stormwater facility requirements. All designs shall minimize overall environmental impacts, especially on streams and riparian vegetation.
6. Water detention facilities shall be constructed to limit peak flows, up to the 25-year event, to the naturally occurring peak flow levels.
7. Water quality facilities shall be designed to accommodate summer flows and shall treat the collected water using the best available and financially feasible treatment technology.

8. All collected stormwater runoff shall be discharged into site stormwater management facilities.
9. The owner shall provide copies of all necessary National Pollution Discharge Elimination System erosion control permits or their equivalent based on then effective regulations, and evidence of the DEQ review and approval of the erosion control plan to the City and Devils Lake Water Improvement District.
10. The owner shall maintain annually all storm drainage improvements including ditches, pipes, and stormwater quality and detention facilities located on private property and enter into an agreement with the City that allows the City to maintain the facilities at applicant's expense should applicant fail to properly maintain the facilities.
11. Easements for stormwater ditches shall be shown on the Final Master Plan and Final Subdivision Plat. Access easements for maintenance of stormwater pipes and ditches, and water quality and detention facilities shall be provided for and shown on the final master plan(s) and final subdivision plat(s). Equipment and vehicular access to these facilities shall be provided on grades of 3 to 1 or less, unless approved otherwise by the Public Works Department.

STREET LIGHTS AND MAILBOXES

1. The location, design, style, and type of street light pole and luminaire located on public streets shall be reviewed and approved by the city engineer prior to approval of the final master plan for each and every block, and prior to the approval of the construction plans for all roadways.
2. Street lights located on public streets shall be provided by the owner, at street intersections, at the end of cul-de-sacs, and spaced along the length of the streets at a maximum distance as set forth by the standards of the Public Works Department.
3. Street lights shall be directed downward and shall be designed to minimize back-scatter.
4. The owner shall coordinate with the U.S. Postal Service for the placement of mailboxes located within the Rock Creek Village. If mailboxes are to be located adjacent to curbs, they shall be so situated that there shall be a minimum 5-foot clear space for the sidewalk.
5. The energy and maintenance costs for street lights on private streets shall be borne by the homeowners association.

FIRE PROTECTION

1. Roof materials which are fire-resistant shall be used in fire-sensitive areas as designated by the Lincoln City Fire Marshal.

2. The number and distribution of fire hydrants shall conform to Table No. A-111-B-1 of the 1991 Uniform Fire Code or the equivalent code and table as adopted by the City of Lincoln City at the time of plans submittal.
3. The size, location, and number of all fire hydrants shall be submitted to the North Lincoln Fire and Rescue District No. 1 for review and approval.
4. The owner shall respond to the concerns and standards of the North Lincoln Fire and Rescue District No. 1 and evidence of such review and approval shall be provided to the City.

SURVEYOR

1. Prior to ground disturbing activities, the owner shall notify the Lincoln County Surveyor regarding the construction schedule and activities for Rock Creek Village. The owner shall be responsible for replacing any survey monuments disturbed or destroyed during construction and filing a survey for the review and approval of the County Surveyor which shows how the positions of the monuments were reestablished. In addition, the owner is responsible for establishing post-monumentation of interior monuments required by the County Surveyor.
2. The location, dimensions, and purpose of all proposed easements shall be shown on the final master plan and subdivision map.

BOND AND AGREEMENT

1. Prior to approval of a final plat for a phase of the development, either:
 - a. The city engineer shall verify that all public infrastructure improvements have been installed in accordance with the requirements of the final master plan and tentative subdivision plan; or
 - b. The owner shall enter into a written agreement with the City, which agreement shall be subject to review and approval by the city attorney, that all required public infrastructure improvement work as specified in the conditions of issuance of the development permit shall be completed within twenty-four (24) months from final plat approval in accordance with applicable City standards and approved plans and specifications.
2. The owner shall warrant the materials and workmanship of the public infrastructure improvements for a period of one (1) year from date of acceptance by the City.
3. Except as otherwise provide by applicable City regulations then in effect, with an improvement agreement entered into under Bond and Agreement Condition 1(b), above, the owner shall post one of the following, in the amount of 110% of the estimated cost of improvements covered by the agreement, to ensure full and faithful performance:

- 3.1 A surety bond executed by a surety company authorized to transact business in the state of Oregon.
- 3.2 Cash.
- 3.3 An irrevocable standby letter of credit or similar security in a form acceptable to the city attorney.

The form of security provided by the owner shall be subject to the following:

- a. Upon satisfactory completion of all required public infrastructure improvements and acceptance thereof by the City, the amount allocated to such improvements shall be reduced to 20% of the original bond amount, or 20% of the cost of construction of the required infrastructure improvements, whichever is greater. The bond amount shall be fully released on satisfactory completion of the one-year warranty period.
 - b. Should the owner fail to complete the listed improvements within the specified time period and/or in accordance with the terms of the agreement, the City may complete the improvements and recover the full cost and expense thereof from the security and, if the security is not sufficient, from the owner.
4. The City shall accept streets, storm drains, sanitary sewer lines, water lines and easements in which they are located at such time as the owner has fully complied with all the terms and conditions of the agreement and has satisfactorily completed the one-year warranty period. If, during the warranty period, the owner fails to remedy defective materials or workmanship, then the City may remedy the defective materials or workmanship and recover the full cost and expense thereof from the security provided under Bond and Agreement Condition 4 and, if there is no security or if the security is not sufficient, from the owner.
 5. Before the City shall accept an improvement that shall become a City maintained improvement and/or facility, the owner's engineer shall provide the City with a mylar drawing showing the as-built improvements along with two copies of said as-built drawings. In addition, the engineer shall provide digital as-built drawings on Intergraph micro station format or other format approved by the City.

RESTRICTIVE COVENANTS

1. Deed restrictions incorporating the conditions of approval of Planning Commission Findings, Conclusion and Order No. 96-02, as amended, not otherwise in conflict with City zoning regulations and municipal code requirements, and applicable to the entire Villages at Cascade Head Planned Unit Development (except for the 60 acre set-aside area located on the northern portion of the property, which the owners have transferred to the City), shall be recorded in the deed records of Lincoln County prior to the approval of any final master plan submitted under the *Rock Creek Village Refined Preliminary Master Plan*. The conditions of approval incorporated into the deed

- restrictions shall be enforceable by the City and shall be recorded as an encumbrance on the title of the property within the Villages of Cascade Head Planned Unit Development in order that the conditions run with the land and are binding on all future owners and land use decisions. Prior to recording, the deed restrictions shall be subject to review and approval by the City Attorney as to conformance with this condition and as to legal sufficiency.
2. Supplemental deed restrictions in conformance with the conditions of approval of this Final Order, not otherwise in conflict with City zoning regulations and municipal code requirements, and applicable to the area covered by the *Rock Creek Village Refined Preliminary Master Plan*, to the extent conformance with the conditions of approval of this Final Order is not completely achieved by the deed restrictions referred to in Restrictive Covenants Condition 1 of this Final Order, shall be recorded in the deed records of Lincoln County prior to the approval of any final master plan or final subdivision plat submitted under the *Rock Creek Village Refined Preliminary Master Plan*. The conditions of approval incorporated into the deed restrictions shall be enforceable by the City and shall be recorded as an encumbrance on the title of the property within the area covered by the *Rock Creek Village Refined Preliminary Master Plan* in order that the conditions run with the land and are binding on all future owners and land use decisions. Prior to recording, the deed restrictions shall be subject to review and approval by the City Attorney as to conformance with this condition and as to legal sufficiency.
 3. Amendments to the recorded deed restrictions, referred to in Restrictive Covenants Conditions 1 and 2 of this Final Order, shall be subject to review and approval by the City prior to recording of the amendments. In addition, proposed amendments shall be reviewed and voted on by the Villages at Cascade Head Environmental Resource Committee (ERC) prior to recording. All proposed amendments shall be transmitted to the City's Director of Planning and Community Development with documentation that they have been reviewed by the ERC, including any comments by that committee and the results of the committee's vote on the proposed amendments. As to minor amendments, if a majority of the ERC members voted to approve the proposed amendments, then the Director may act on the City's behalf in reviewing and approving, approving with modifications, or disapproving the proposed amendments. As to major amendments, or if a majority of the ERC members did not vote to approve proposed minor amendments, or if the Director otherwise elects to refer proposed minor amendments to the Planning Commission for review, then the Planning Commission shall act on the City's behalf in reviewing and approving, approving with modifications, or disapproving the proposed amendments. The actions of the Director and Planning Commission shall be subject to applicable appeal procedures, if any, established by the *Zoning Ordinance*. For purposes of this paragraph, minor amendments are only amendments that will not have public visibility and that (1) do not increase densities, (2) do not change boundaries, (3) do not change any use, specific or general, described in the approved *Rock Creek Village Refined Preliminary Master Plan* or any approved final master plan thereunder, and (4) do not change the location or amount of land devoted to specific land uses. For purposes of this paragraph, all other amendments are major amendments.

The City shall approve a proposed amendment if it finds that the proposed amendment is a reasonable way to implement the intent of this Final Order, of any final order approving a final master plan thereunder, or of applicable regulations, or that new information justifies a new approach, provided, however, that any conditions of approval of this Final Order and of any final order approving a final master plan thereunder, that have been incorporated into already recorded deed restrictions, may not be amended unless this Final Order or the final master plan final order itself first has been amended to modify the conditions.

Exhibits:

- 1 Land Use Summary for Rock Creek Village, dated May 28, 1998
- 2 Cooperative Improvement Finance Agreement

Table 3

THE VILLAGES AT CASCADE HEAD
LAND USE SUMMARY - 5/28/98
ROCK CREEK VILLAGE

Block	Acres	Detached Residential			Attached Residential		
		Ocean View Lots	Single-Family Lots	Manufactured Home Lots	Townhomes	Condominiums	Townhome/Multi-Family
A'	3.7				18		
A	13.1						200
A-1	9.9					150	
B	23.6					184	
C	28.4			70			
D	6.3				30		
E	23.5		63				
F	10.2				52		
G	12.4					96	
Residential Units By Type		0	63	70	100	430	200
Totals		131.1 ac		863 units			

Tracts Not Included in Residential Blocks		
Tract	Size (acres)	Notes
P1	0.69	Dedicated Park
P2	0.29	Dedicated Park
W1	0.45	Wetland
W2	0.47	Wetland
W3	0.18	Wetland
W5	1.68	Wetland
W6	1.52	Wetland
W7	3.68	Wetland
WH1	7.45	Wetland/Wildlife Corridor
WH2	9.69	Wetland/Wildlife Corridor
WH3	9.27	Wetland/Wildlife Corridor
WL1	2.24	Wildlife Corridor
WL2	0.72	Wildlife Corridor
38.33		

Open Space Tracts Within Residential Blocks		
Tract	Size (acres)	Notes
P3	4.66	Dedicated Park
P4	3.21	Dedicated Park
P5	2.7	Dedicated Park
P6	0.22	Dedicated Park
P7	0.33	Dedicated Park
P8	1.34	Dedicated Park
P9	1.16	Dedicated Park
WO1	0.13	Water Quality
WO2	0.28	Water Quality
WO3	0.61	Water Quality
WO4	0.39	Water Quality
WO5	0.20	Water Quality
WO6	0.25	Water Quality
WO7	0.27	Water Quality
WO8	0.58	Water Quality
WO9	0.32	Water Quality
WO10	0.33	Water Quality
WO11	0.59	Water Quality
C1	1.96	Common Tract
C2	1.36	Common Tract
C3	0.47	Common Tract
C4	1.29	Common Tract
C5	5.73	Common Tract
C6	0.35	Common Tract
C7	2.67	Common Tract
C8	4.46	Common Tract
C9	3.85	Common Tract
C10	1.01	Common Tract
40.71		

Multifamily/Condo Open Space		
Tract	Size (acres)	Notes
C11	1.12	
C12	0.3	
C13	0.41	
C14	0.26	
C15	2.05	
C16	1.68	
C17	2.57	
8.4		

Land Use	Acres	Percentage
Residential 1/	75.5	42%
Open Space	87.1	49%
Public Roads	15.4	9%
Total Acreage	178.0	100%

1/Residential= 131.1 (total land in blocks)
- 40.2 (open space in blocks)
- 8.4 (multifamily/condo open space)
- 7.0 (private roads and I/E)

Roads		
Tract	Size (acres)	Notes
R1	1.67	Private Road
R2	1.24	Private Road
R3	3.38	Private Road
R4	0.32	Private Road
IE1	0.38	Ingress/Egress
8.40		Public Road
15.39		

COOPERATIVE IMPROVEMENT FINANCE AGREEMENT

THIS AGREEMENT is made as of the 12th day of October, 1998, between the CITY OF LINCOLN CITY, OREGON, ("City") and B.A.S.S. CONSTRUCTION CO. ("Company").

RECITALS

Company's predecessor has applied to the City for approval of a Master Plan for a planned unit development to be known as Villages at Cascade Head ("PUD").

By Planning Commission Findings, Conclusion and Order No. 96-02; City approved the application subject to certain conditions. Condition No. 6 under the heading "STREETS" reads as follows:

A traffic impact study has been prepared for the proposed PUD. The owner/developer was also required to participate in the preparation of the traffic impact study prepared by Kittelson & Associates, Inc., Transportation Planning/Traffic Engineering firm, for the Oregon Department of Transportation (ODOT) on behalf of the developers of pending projects in the northern area of Lincoln City, said study entitled "Transportation Impact Study, U.S. Highway 101, Lincoln City, Oregon" and dated October, 1994.

The owner/developer shall pay the PUD's proportionate share of the cost of recommended Highway 101 improvements as detailed in the Kittelson & Associates, Inc. study, dated October, 1994. If the City does not execute an agreement with ODOT for the improvements and funding described in the Kittelson Study, the applicant shall enter an agreement directly with ODOT to make the payments as provided in the Study.

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Neither City nor Company has been able to negotiate an agreement with the State of Oregon Department of Transportation for the improvements and funding described in the above-referenced Kittelson Transportation Impact Study ("TIS"). On December 15, 1998, City, by Planning Commission Final Order No. 98-17, revised Condition No. 6 under the heading "Streets" in Order No. 96-02 to read as follows:

A traffic impact study has been prepared in relation to the proposed PUD entitled "Transportation Impact Study, U.S. Highway 101, Lincoln City, Oregon." The study is dated October, 1994. The study identified that owner/developer's proportionate share of the cost of recommended Highway 101 improvements was the sum of Two Thousand Three Hundred Dollars (\$2,300) for each dwelling unit constructed within the PUD. Owner/developer shall enter into an agreement with the City that owner/developer shall cause to be paid to City this proportionate share of the cost of traffic improvements to, or in relation to, Highway 101, but outside the PUD; which agreement shall be in the form attached hereto as Exhibit A.

In addition, the "Restrictive Covenants" required by these Conditions of Approval shall include a deed restriction, restrictive covenant, or restrictive condition, applicable throughout the PUD, as follows:

At the time of application to the City of Lincoln City for a building permit to construct a new dwelling unit or new dwelling units, the owner of the site on which the dwelling unit or units are to be built shall pay, or cause the applicant to pay, to the City, in addition to any other amounts that the City lawfully requires to be paid, the sum of \$2,300 for each dwelling unit, as adjusted to reflect any increase occurring after October 1994 in the construction price index as published in the weekly construction magazine "Engineering News Record" (for 20 cities, 1913-100). The applicant and the

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owner of the site shall have no right to the requested building permit until the sum has been paid for each dwelling unit covered by the building permit application, and the payment requirement shall be a restriction for the benefit of Lincoln City on any right the applicant or owner otherwise would have to receive a building permit. The amount of the payment, plus any investment income earned thereon, will be used to finance traffic improvements to, or in relation to, Highway 101 in North Lincoln City.

Company desires to enter into an agreement with City for Company to make its proportionate share of the payments as provided in the TIS to City. City is willing to accept said payments.

Now, therefore, the premises being in general as stated in the foregoing Recitals, the parties agree as follows:

1. Company agrees that there shall be paid to City, and City agrees to accept, the sum of Two Thousand Three Hundred Dollars (\$2,300), plus any increase in the construction price index as published in the weekly construction magazine "Engineering News Record" (for 20 cities, 1913-100) occurring after October 1994 for each dwelling unit ("Unit") constructed within the PUD. Said sum shall be paid at the time each building permit for a unit is applied for and said payment shall be a condition precedent to the issuance of a permit. The money paid pursuant to this Agreement will be placed in a separate investment account and shall earn interest which shall be reinvested and both principal and interest shall be drawn upon as

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needed to finance future traffic improvements to, or in relation to, Highway 101 in North Lincoln City, but outside the PUD.

In order to assure fulfillment of this Agreement, Company shall record in the deed records of Lincoln County, a deed restriction, restrictive covenant, or restrictive condition, applicable throughout the PUD, as follows:

At the time of application to the City of Lincoln City for a building permit to construct a new dwelling unit or new dwelling units, the owner of the site on which the dwelling unit or units are to be build shall pay, or cause the applicant to pay, to the City, in addition to any other amounts that the City lawfully requires to be paid, the sum of \$2,300 for each dwelling unit, as adjusted to reflect any increase occurring after October 1994 in the construction price index as published in the weekly construction magazine "Engineering News Record" (for 20 cities, 1913-100). The applicant and the owner of the site shall have no right to the requested building permit until the sum has been paid for each dwelling unit covered by the building permit application, and the payment requirement shall be a restriction for the benefit of Lincoln City on any right the applicant or owner otherwise would have to receive a building permit. The amount of the payment, plus any investment income earned thereon, will be used to finance traffic improvements to, or in relation to, Highway 101 in North Lincoln City, but outside the PUD.

2. The improvements to be funded pursuant to this Agreement are not limited to the improvements identified in the TIS, but such improvements shall be outside the PUD and to, or in relation to, Highway 101 in North Lincoln City and the impacts to Highway 101 caused by the PUD.

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3. If Company is required to construct any improvement to, or in relation to, Highway 101, but outside the PUD, as a condition of approval of any part of the PUD, then the cost of such improvement shall be reimbursed to Company from the investment account to the extent of funds in the account and, as to any balance not covered by funds in the account, shall be a credit against any future payments that may become due from Company to the account under this Agreement. If Company is required to construct any improvement to the City transportation system that is a "qualified public improvement" under Section 13.08.100 of the City Municipal Code, then the cost of such improvement shall be a credit against any applicable transportation system development charge, to the extent a credit is authorized under Section 13.08.100 of the City Municipal Code. This Section 3 of this Agreement, however, does not provide a credit in relation to any local transportation system improvement that the City lawfully requires as a condition of approval of any part of the PUD, to the extent such local transportation system improvement is not an improvement to, or in relation to, Highway 101, but outside the PUD, and is not such a "qualified public improvement."

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4. City agrees to consult with Company before committing funds paid to City pursuant to this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first hereinabove written.

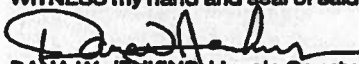
CITY OF LINCOLN CITY, OREGON

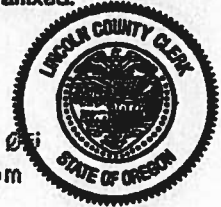
B.A.S.S. CONSTRUCTION CO.

By: _____
Robert Mack
City Manager

By: _____
Stephen L. Stoelk,
President

STATE OF OREGON } ss.
County of Lincoln
I, Dana W. Jenkins, County Clerk, in and for said county, do hereby certify that the within Instrument was received for record, and recorded in the Book of Records of said county at Newport, Oregon.
Book 378 Page 1405
WITNESS my hand and seal of said office affixed.


DANA W. JENKINS, Lincoln County Clerk



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