



SCAPPOOSE

Oregon

MONDAY, JUNE 5, 2023 - CITY COUNCIL MEETING AGENDA

WORK SESSION - TREE CANOPY STUDY 6:00 PM

REGULAR MEETING 7:00 PM

COUNCIL CHAMBERS

33568 EAST COLUMBIA AVENUE

SCAPPOOSE, OREGON 97056

ITEM AGENDA TOPIC	Action
Call to Order	
Pledge of Allegiance	
Roll Call	
Approval of the Agenda	
Public Comment - Items not on the agenda	
Please sign a speaker request form and turn it in to the City Recorder along with any written testimony	
1. Oath of Office - Lieutenant Chris Fluellen; Officer Frank Basso; Officer Alec Burglin	
Administered by Mayor Backus	
New Business	
2. Outside Water User Consideration (31391 Dutch Canyon Rd.)	Discussion
City Engineer, Chris Negelspace	
3. CEP Allocations	Approval
Assistant to City Manager, Isaac Butman	
4. General Legal Counsel Services	Discussion
City Manager, Alexandra Rains	
Announcements – information only	
5. Calendar	
6. Updates: City Manager; Police Chief; Councilors; and Mayor	
7. Executive Session - ORS 192.660(2)(i) Employee Evaluations	
8. Open Session	
Adjournment	

PLEASE NOTE: IF YOU WOULD LIKE TO SPEAK WITH CITY STAFF ABOUT A PARTICULAR AGENDA ITEM, PLEASE CALL CITY HALL at 503-543-7146, NO LATER THAN 3:00 PM ON THE DAY OF THE MEETING.

This meeting will be conducted in an ADA accessible room. If special accommodations are needed, please contact City Hall at (503) 543-7146 in advance. TTY 1-503-378-5938

**City of Scappoose
Council Action & Status Report**

Date Submitted: May 30, 2023

Agenda Date Requested: June 5, 2023

To: Scappoose City Council

From: Jack Heffernan, MPP Candidate '23, Portland State University
Laurie Oliver Joseph, AICP, CFM, Community Development Director
N.J. Johnson, Associate Planner

Subject: Tree Canopy Assessment

Type of Action Requested:

<input type="checkbox"/>	<input type="checkbox"/>	Resolution	<input type="checkbox"/>	<input type="checkbox"/>	Ordinance
<input type="checkbox"/>	<input type="checkbox"/>	Formal Action	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Report Only

Issue:

The City of Scappoose is developing its 50-Year Plan, which will include recommended alterations to the Scappoose Development Code. The request for proposals to develop the plan states, "The City requests that an urban tree canopy study be completed, with recommendations on needed updates to Chapter 17.104 – Street Trees and 17.140 – Public Land Tree Removal, and/or recommendations on potential new Code sections addressing the tree canopy."

The tree canopy study was included in the 50-Year Plan scope of work at the request of a former City Councilor in order to understand the percentage of tree canopy coverage that the City currently has and to know what benefits an increased canopy coverage might bring. During the Scappoose Bay Watershed Council's June 2022 meeting, they discussed the benefits of a robust tree canopy coverage. The benefits include protecting biodiversity, managing stormwater, street cooling, particle filtering, stress reduction, and increased neighborhood property values.

At that same meeting, arborist Todd Prager, who has conducted tree assessments in cities throughout the Pacific Northwest, outlined three steps when conducting urban forestry planning. Prager recommended that a community take stock of existing conditions, which can

be accomplished through efforts like a tree canopy survey. He then recommended developing goals and desired changes, such as recommended development code alterations; and, finally, specific steps to achieve those goals through tools such as regulatory requirements and grants. This assessment responds to the first step.

The assessment featured i-Tree technology, which was recommended by Prager. The i-Tree tool, offered by the United States Department of Agriculture Forest Service, allows users to define reference areas or use preset boundaries before defining various coverage types such as grass areas, parking lots, water, and tree canopy. After classifying a coverage type, the user adds another location point, and the application then directs the user to another random point within the boundary for the user to classify. Like opinion polls, the application collects the overall sample to provide coverage estimates. If the user classifies 500 points, the expected error rate is 2.2 percent. For 1,000 points, users can expect an error rate of 1.5 percent. This assessment consisted of 1,289 points. In addition to types of areas, the application can provide data points about economic benefits of types of carbon sequestration as well as air pollution benefits and hydrological benefits specific to Scappoose's natural environment.

The Council heard a presentation of the project during a work session on March 6, 2023.

Analysis:

Trees provide 17.05 percent canopy coverage within the 3.42 square miles that encompass the Scappoose City Limits. The project identified 220 of the 1,289 points as trees. **Exhibit A** lists the coverage percentage and total number of points for each coverage class:

shrub/grass/herbaceous (34.42 percent), soil/bare ground (18.22 percent), tree (17.05 percent), impervious buildings (10.39 percent), impervious other (5.35 percent), parking lots (4.11 percent), sidewalks (1.4 percent), and water (.23 percent).

Coverage in Scappoose provides a total of \$2,449,798 in savings (see **Exhibit C**). This includes \$69,449 in carbon sequestered annually in trees and \$2,205,367 stored in trees (non-annual). In the context of carbon, sequestration refers to the process of removing carbon from the air and storing it. Storage is the quantity of carbon stored at a given time. Between the sequestration and storage, trees in Scappoose sequester 391.62 tons of carbon each year and store a total of 12,435.89 tons. For comparison, based on the average carbon footprint of a household in the U.S., as determined by researchers at the University of Michigan, Scappoose's 2,889 households emit roughly 140,000 tons of carbon dioxide each year. Notably, this reference does not account for carbon emissions from other uses such as vehicles, air flight, or agriculture, so a rate of overall carbon offset cannot be calculated at this time.

Not many cities in Oregon or Washington have completed a tree canopy coverage study; however, **Exhibit D** does include a short list of comparables. The largest tree coverage for the cities identified for comparison is Lake Oswego, a 10.78-square-mile city with 47.1 percent tree canopy coverage. The city with the most similar tree canopy to Scappoose is Tacoma, a 49.71-square-mile city with 19 percent coverage. Milwaukie is the identified city that is the most similar to Scappoose in size, with 4.98 square miles covered by a 26-percent tree canopy.

The assessment also includes a change-over-time analysis. This analysis employs the Google Earth application, which allows users to compare past satellite images with the classification in i-Tree and adjust as needed. This assessment compared the city's current coverage with 2013. The tree canopy coverage in 2013, at 17.71 percent, was slightly higher than the current canopy coverage (see **Exhibits A and B**).

The Scappoose tree canopy coverage is well below the typically recommended coverage for a city. American Forests, a national nonprofit conservation organization founded in 1875, set a recommendation in 1997 of 40 percent tree canopy coverage. It was based on a large study and has provided a guide for many cities. But the organization has recently offered a more nuanced approach, advising that cities optimize canopy coverage by weighing desired benefits against associated costs.

Community-specific goals may depend on several circumstances, such as climate, geography, specific environmental concerns, local preferences, desired ecosystem services, land cover and land use patterns, and resources, among other factors. American Forests lists numerous cities nationally, along with their current coverages and coverage goals. On the low end of the goal range are San Francisco and Las Vegas, each of which have canopies under 15 percent at the time of assessments and with goals of 20 percent. On the high end is Fort Bragg, North Carolina, with 67.1 percent coverage and a goal of 70 percent.

Recommendation:

Prior to developing goals and desired changes, the city may wish to conduct a tree inventory analysis, which would identify the quantity of each type of tree located within city limits and optimize the benefits of canopy coverage. Then, after developing goals, the city may identify changes such as development code alterations. The city would then be able to plan specific steps, such as regulatory requirements and grants, to achieve those steps.

Suggested Motion:

N/A (work session)

Exhibits:

- A. Tree Canopy Coverage Breakdown
- B. Ground Coverage by Type (Scappoose)
- C. Tree Benefit Estimates Breakdown
- D. Tree Canopy Coverage of Regional Cities

EXHIBIT A

Tree Canopy Coverage Breakdown

Coverage Class	Points (out of 1,000)	Coverage percentage	More or less coverage than 2013
Tree	220	17.05	
Shrub/Grass/Herbaceous	444	34.42	
Impervious Buildings	134	10.39	
Impervious Other	69	5.35	
Impervious Road	104	8.06	
Parking lots	53	4.11	
Soil/ bare ground	235	18.22	
Sidewalks	18	1.4	
Water	3	.23	Equivalent

Coverage Breakdown (2013)

Coverage Class	Points (out of 1,000)	Coverage percentage
Tree	228	17.71
Shrub/Grass/Herbaceous	456	35.43
Impervious Buildings	129	10.02
Impervious Other	66	5.13
Impervious Road	103	8.00
Parking lots	49	3.81
Soil/ bare ground	236	18.34
Sidewalks	17	1.32
Water	3	.23

EXHIBIT B

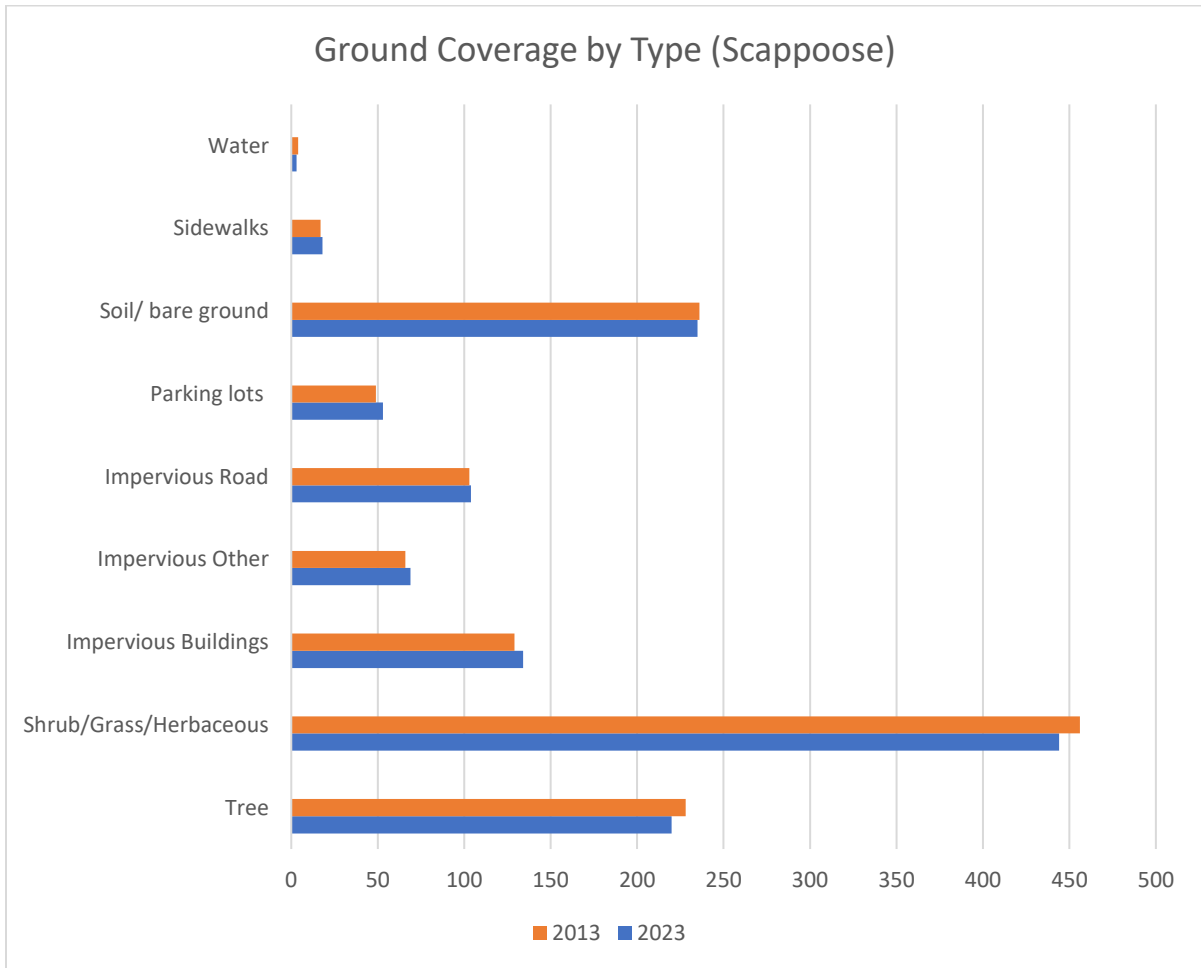


EXHIBIT C

Tree Benefit Estimates Breakdown

1. Carbon

Description	Carbon (Tons)	CO ₂ Equivalent (Tons)	Value
Sequestered Annually in Trees	407.20	1,493.07	\$69,449
Stored in Trees (non-annual)	12,930.86	47,413.14	\$2,205,367

2. Air Pollution

Description	Amount (Lbs.)	Value
Carbon Monoxide Removed Annually	593.43	\$396
Nitrogen Dioxide Removed Annually	2,522.88	\$387
Ozone Removed Annually	11,340	\$14,183
Sulfur Dioxide Removed Annually	853.73	\$35
Particulate Matter less than 2.5 microns removed annually	691.80	\$50,401
Particulate Matter greater than 2.5 microns and less than 10 microns removed annually	4,747.07	\$14,878
Total Air Pollutants Removed	20,748.91	\$80,280

3. Hydrological

Description	Amount (Mgal)	Value
Avoided Runoff	10.60	\$94,702

Total Savings from Trees:

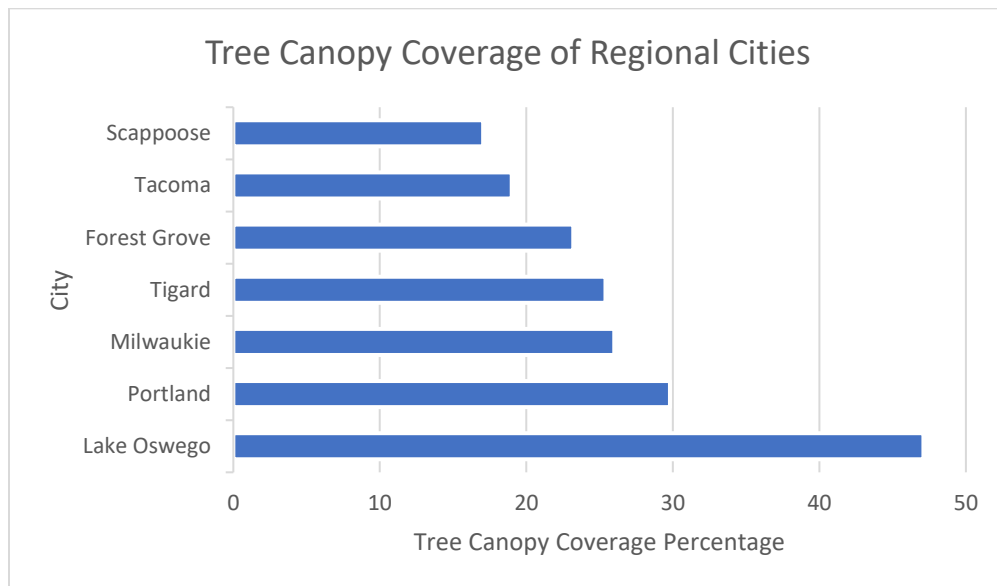
\$2,449

Note: Estimates of air pollution removal, carbon sequestration, and hydrologic impacts are based on the area of tree cover. Estimates of carbon storage and annual sequestration are based on national and state data and methods from the U.S. Department of Agriculture. Estimates of avoided runoff, transpiration, and rainfall interception are based on the area of tree cover and local weather data.

EXHIBIT D

Tree Canopy Coverage of Regional Cities

City	Tree Canopy Coverage (Percent)	Coverage Goal (Percent)	Year Assessed	Target Date	Goal Duration (Years)	Area (Square miles)	Population
Lake Oswego	47.1	40	N/A	N/A	N/A	10.78	40,731
Portland	29.8	33	Ongoing	Ongoing	Ongoing	133.45	652,503
Milwaukie	26.0	40	2014	2040	36	4.98	21,119
Tigard	25.4	40	2009	2047	38	12.67	54,539
Forest Grove	23.2	40	2016	2035	19	5.83	26,784
Tacoma	19.0	30	2010	2030	20	49.71	219,346
Scappoose	17.05	N/A	2023	N/A	N/A	3.43	8,010



Note: The list of comparable cities above is based on a non-exhaustive list of cities in the Pacific Northwest region that have recently completed a survey of their tree canopy.

CITY OF SCAPPOOSE

Council Action & Status Report

Date Submitted: May 30, 2023

Agenda Date Requested: June 5, 2023

To: Scappoose City Council

Through: City Manager

From: Chris Negelspach, P.E., City Engineer

Subject: Outside Water User Consideration (31391 Dutch Canyon Rd.)

TYPE OF ACTION REQUESTED:

☐ Resolution

☐ Ordinance

☐ Formal Action

☒ Report Only

ISSUE:

The City received a request for water service outside of City limits at 31391 Dutch Canyon Road. Per SMC (Scappoose Municipal Code) 13.04.020, Water Service System, Section B, states that outside of city limits, water users may be connected to the city water system upon a two-thirds affirmative vote of approval by the city council. However, it further states under Exception 1 that the City of Scappoose will provide water service to all existing properties including further properties created through partition or subdivision which are associated with the judgement related to the Parish, et al v. City of Scappoose and Alexander et al v. City of Scappoose. It further states that other properties directly abutting the Dutch Canyon waterline extension may also be provided water service at the density permitted by the County as of November 3, 2003. This property was not a part of the original lawsuit but is abutting the treated waterline extension on Dutch Canyon Road and is therefore allowed water by rights. See **Exhibit 1** for SMC 13.04.020.

ANALYSIS:

The City of Scappoose water system operates 3 drinking water diversion dams, Gourley Creek, South Fork Scappoose Creek and Lazy Creek which provide raw (untreated) water to the treatment plant on Keys Road. Water from these diversion dams were granted in 1923 for Gourley Creek, while the South Fork and Lazy Creek water rights were obtained in 1959 (the

total certified water right for all 3 diversion dams is approximately 9 million gallons per day or 6,250 gallons per minute, but in reality, is much less¹).

In the mid 1920's with the completion of Gourley Creek diversion, property owners who granted easement rights for the raw waterline were allowed to draw water from this new line. As the quality and quantity of the raw water fluctuated and concerns regarding potential health hazards grew, homeowners sued the city to obtain treated water.

Lawsuits were filed in Columbia County Circuit Court by property owners connected to the raw water line, including other interested property owners, and a hearing was conveyed on March 21, 1984. The Judge ordered the city to provide (treated) water to the 19 properties with prior connections and determined that they would have the same rights as those within City limits. The judge also determined that the 52 others with lots fronting on Dutch Canyon Road, would be entitled to connect to a treated water line as "Outside Water Users".

A County Comprehensive Plan text amendment was necessary to extend the new treated water line because the properties are in Resource and Rural Residential zones outside the city limits and Urban Growth Boundary, where urban level water service is not allowed. Following public notice, the County Planning Commission held a public hearing on September 9, 2013, and voted to recommend approval of the application to the County Board of Commissioners. Following public notice, the County Board of Commissioners held a public hearing on the application on January 22, 2014. In addition to hearing oral testimony, the Board admitted legal counsel's file into the evidence then closed the hearing, deliberated, and decided by unanimous vote to tentatively approve the application. The Board then directed county staff to prepare an ordinance to reflect their decision.

In support of its decision, the County Board of County Commissioners adopted the findings and conclusions in the Staff Report to the Board of Commissioners. See **Exhibit 2** for a complete package of the lawsuit and all related documents.

PROCEDURE:

The city has created a process whereby the applicant submits an application and documentation describing the location of the property and configuration of their existing water system for City Engineer analysis and any Conditions of Approval to the homeowner, see **Exhibit 3**. If the homeowner decides to proceed based on the provisions of the SMC, the application is reviewed and approved by other department heads and presented to the City Manager for approval or denial who then informs the City Council.

Upon receiving the City Managers approval, the applicant will work with staff to obtain the applicable permits and fees as set out in the current fee resolution and time and materials cost of meter installation.

¹ Based on the 2019 Water Master Plan, the surface water supply is not considered a reliable year-round source but can typically deliver 250 – 450 GPM, i.e., in the fall and spring when the water is clear.

FISCAL IMPACT:

The fiscal impact of adding an additional user to the water system provides a one-time SDC charge based on the meter size, a one-time \$1,000 outside water user admin fee, any applicable connection fees, and finally, the monthly outside water user and consumption fees per the current resolution, which are then allocated to the water SDC and water funds.

EXHIBITS:

1. Scappoose Municipal Code Chapter 13.04.020
2. Columbia County Ordinance 2014-03, 907 with Exhibit A Map of properties
3. Application and Engineer's Conditions of Approval

Exhibit 1

13.04.010

Chapter 13.04

WATER SERVICE SYSTEM

Sections:

- 13.04.010 Administration.
- 13.04.020 Water mains.
- 13.04.030 Expiration of water hookups.
- 13.04.040 Service pipes.
- 13.04.050 Meters.
- 13.04.060 Use of water.
- 13.04.070 Water rates.
- 13.04.080 Notification of shutoff.
- 13.04.090 Compliance with other regulations.
- 13.04.100 Obstruction or contamination of water supply system unlawful.
- 13.04.110 Cross-connection control and backflow prevention.
- 13.04.120 Violation--Penalty.

13.04.010 Administration. A. The operations and business of the water department of the city shall be directed by the city manager or designee.

B. The water department shall have under its direction a water supervisor employed by the city manager.

C. The water supervisor shall have charge of the maintenance and operation of the water supply, treatment plant, pumping equipment, and all other appurtenances of the water treatment system under the supervision and direction of the city manager or designee. He is also authorized to employ the necessary labor for properly carrying out his duties and maintaining the water department facilities.

D. The city recorder-treasurer shall be responsible for the rendering and collection of bills for all rentals, fees, deposits and other charges made for water services. All revenues therefrom shall be accounted for in a manner satisfactory to the city manager or designee and shall be deposited regularly in the city treasury in the same manner approved for other municipal deposits.

E. The city recorder-treasurer is authorized to issue warrants for payment and to issue checks for payment of all labor contracted for by this supervisor upon presentation of time records and bills properly countersigned by the supervisor without approval by the city manager or designee.

F. The city of Scappoose shall also employ a supervisor who shall have charge of the water distribution system, fire hydrants, meters, and all other appurtenances of the water distribution system under the supervision and direction of the city manager or designee. He/she shall also be responsible for the reading of all water meters. He/she is also authorized to employ the necessary labor for properly carrying out his duties and maintaining the water distribution facilities.

(Ord. 879, 2019; Ord. 724 \$1, 2002; Ord. 514 \$1, 1986; Ord. 500 \$1, 1985; Ord. 440 \$1, 1982; Ord. 417 \$1, 1981; Ord. 379 \$1, 1978)

13.04.020 Water mains. A. The water mains of the city shall be under the complete control of the city manager or designee, and no person or persons other than those authorized to do so by the city manager or designee shall tap, change, obstruct, interfere with, or in any way disturb the water system. The only exception shall be development reviewed and approved by the city engineer.

B. Extension of water mains within the corporate limits of the city may be made by the water department, but such extensions will be made only when, in the judgment of the city council, it is economically feasible. Outside users may be connected to the city water system upon a two-thirds affirmative vote of approval by the city council, it being the policy of the city that no outside users will be connected to city water.

1. Except for existing outside users, the City will not provide new water service to unincorporated areas. However, the City of Scappoose will provide water service to all existing properties, including any further properties created by partition or subdivision processes for the properties associated with Parish, et al v. City of Scappoose, and Alexander et al v. City of Scappoose. Other properties directly abutting the Dutch Canyon Water Line Extension may also be provided water service, at the density permitted by Columbia County zoning as of November 3, 2003 for properties without municipal water service. Future zone changes within Columbia County allowing for greater density of properties via partition or subdivision processes do not merit the provision of water service from the City of Scappoose, nor do properties not abutting the Dutch Canyon Water Line Extension but equipped with a private or public easement across an abutting property qualify for water service.

2. Allow the construction of certain public facilities, including water lines, sanitary sewer lines and storm sewer lines outside the Urban Growth Boundary when it is beneficial to the City from an engineering, or operational basis, and in regard to water line extension, in specific scenarios where such extension might provide the potential for recovery of required improvement costs. However, the City will not allow any connections to these facilities except for health and safety reasons, and only when alternative solutions have been proven unviable. This provision does not restrict the ability of the City of Scappoose to contract with a water district or water association to provide water. However, the City of Scappoose will provide water service to all existing properties, including any further properties created by partition or subdivision processes for the properties associated with Parish, et al v. City of Scappoose, and Alexander et al v. City of Scappoose. Other properties directly abutting the Dutch Canyon Water Line Extension may also be provided water service, per the density provisions of underlying zones present within Columbia County as of November 3, 2003. Future zone changes within Columbia County allowing for greater density of properties via partition or subdivision processes do not merit the provision of water service from the City of Scappoose, nor do properties not abutting the Dutch Canyon Water Line Extension but equipped with a private or public easement across an abutting property qualify for water service.

3. Allow the extension of water services, but not sewer services, beyond the Urban Growth Boundary to any water district or water association that wishes to contract with the City for water, and to properties directly abutting the Dutch Canyon Water Line Extension, per the restrictions in Section 2, above.

C. Any person, firm or corporation installing water mains at their own expense shall first submit plans and specifications for such work to the city manager or designee for approval. After such plans and specifications have been approved by the city manager or designee, the work shall be done under the supervision of the city manager or designee, who shall require that such tests be made as may be considered necessary; and no water shall be admitted into such mains, except through an air-gap system or a double detector check assembly, until tests are accepted by the city manager or designee on behalf of the city.

D. Should the water department be hired to construct an extension to the water mains, before construction of such an extension to the water mains will be started, the property owners who signed the original agreement shall deposit with the city recorder- treasurer an amount equal to an estimate of cost of such construction. If the actual cost of construction is less than the estimate, the excess money collected shall be returned to the property owners on a prorated basis the same as was collected; and in the event the costs exceed the moneys deposited, the balance shall be paid by the developer or persons hooked to the system prior to the city turning on the water in the newly installed system. (Ord. 879, 2019; Ord. 739 §1, 2003; Ord. 724 §1, 2002; Ord. 603 §1, 1993; Ord. 379 §2, 1978)

13.04.030 Expiration of water hookups. A. All future acquired water hookups shall expire three years after the date purchased if not used. (Ord. 879, 2019; Ord. 530 §3, 1987; Ord. 379 §11, 1978)

13.04.040 Service pipes. A. All service pipe on either public or private property shall be laid on solid ground not less than thirty- six inches below the established grade of the street. Service pipe shall not be laid in the same trench with a sewer line. Service pipe shall be laid only in an approved trench as defined in the public works design standards or current plumbing code of the city.

B. Service pipe and connections from the city mains to and including a stopcock and meter shall be placed by the water department or city permitted contractor within one foot of the property line, or where the main is in an alley, on the property line, and shall be installed and maintained by the city, and kept within its exclusive control.

C. From the water meter to a point inside the building, all service pipe shall be of galvanized pipe, copper or other materials approved by the building official, not less than three-fourths inch in diameter. The building official may require larger service pipe and fittings for large buildings. This portion is the responsibility of the property owner.

D. Service pipes must be so arranged that the supply to each house or premise may be controlled by the stopcock or gate valve.

E. All service pipe and all water piping in or on all premises shall be installed in accordance with Oregon Plumbing Specialty Code. No person shall interfere in any way with fixtures installed by the water department and shall not turn water on or off at the service cock except for the purpose of testing their work, in which case the service cock shall be left in the same condition and position it is found. Any plumber called upon to shut off water and drain pipes in any premises shall do so inside the building only, except as above provided.

F. Before any connection is made to any water main, application for a permit must be made in writing by the owner of the premises to be served, or by his/her authorized representative at City Hall. Such application shall be made on a form provided by City Hall and shall contain such information as the city may require.

G. At the time a permit is issued, a deposit shall be made estimated to be sufficient to cover the costs of any street repairs made necessary by the installation of the water connection. City Hall shall refund any amounts deposited in excess of such street repair costs.

H. A contractor or other person or persons must apply to City Hall for water for building purposes and water shall be furnished to such contractor or persons at the rates then in effect for service. (Ord. 879, 2019; Ord. 724 §1, 2002; Ord. 379 §3, 1978)

13.04.050 Meters. A. The public works department shall install meters on all service lines installed within city limits or outside city limits and shall charge for the quantity of water measured at meter rates, provided that the charge shall not be less than the minimum for the type of premise metered.

B. The occupant or owner shall be charged SDC's and installation at the current rate set by ordinance or resolution. Upon installation, all meters shall remain the property of the city and may be removed by the public works department in accordance with the provisions of this chapter.

C. For ordinary metered consumption of water, a three-fourths inch meter will be furnished. Where application for a meter connection larger than three-fourths inch is made, the SDC and rate charges shall be at the current rate set by ordinance or resolution.

D. Meters shall be placed in an accessible location and set in a manner satisfactory to the city manager or designee. Meters may be installed in a meter pit at or near the property line, which pit shall be located and constructed, at the owner's expense, as directed by the city manager or designee and to his/her satisfaction.

E. The owner of the premises where a meter and its enclosing structure is installed will be held responsible for its care and protection from freezing and from injury or interference by any person or persons. In case of injury to the meter, or in case of its stoppage or imperfect operation, the owner of the premises shall give immediate notice to the water department. All water

furnished by the city must pass through the meter. No bypass or connection around the meter shall be permitted. If any meter becomes defective, or fails to register, the consumer will be charged at the average monthly consumption rate as shown by the meter over the period of the preceding twelve months when the meter was accurately registering. The owner shall be solely responsible for damage or injury to persons or property in the event the meter or its enclosing structure shall become damaged or otherwise a hazard to third persons or property. It shall be owners' responsibility to repair or correct a meter installation which becomes hazardous.

F. The accuracy of the meter on any premises will be tested by the water department upon written request of the owner or occupant, who shall pay in advance a fee, set by resolution or ordinance, to cover the cost of the test. If, on such test, the meter shall be found to register over ten percent error, another meter will be substituted therefor, the fee will be refunded to the owner, and the water bill may be adjusted in such manner as may be fair and proper.

G. All new services installed shall include a water meter.

H. After the meters are installed for the use of premises, it is unlawful for any householder or any other user of water supplied by the water department to cause or permit water to run or be discharged through pipes or faucets in any house, building or premise owned, controlled or operated by such householder or other water consumer, except water obtained through said meter. Any premises, lot, building, or structure where water derived from any other source other than a public water main (such as a well, cistern, rain barrel, pond, etc.) shall have a backflow prevention device installed at the meter to prevent any possible backflow into the public water system. Purchase, installation, and testing of such a device shall be at the expense of the property owner. (See also Section 13.04.110, Cross-connection control and backflow prevention.)

I. It is unlawful for any person to cut, alter, change, remove, disconnect or in any manner interfere, meddle or tamper with any pipes or meter in such a manner as to prevent said meter registering all water used upon said premises.

J. Upon failure of any water user to comply with the rules and regulations establishing use of water meters, or otherwise, or to pay water rates or installation charges, the water may be shut off to the offending premises and remain so shut off until all fines, penalties and service charges are paid. (Ord. 879, 2019; Ord. 778, 2006; Ord. 724 \$1, 2002; Ord. 430 \$1, 1981; Ord. 400 \$1, 1980; Ord. 379 \$4, 1978)

13.04.060 Use of water. A. When new service pipes are put into any premises, the service cock or gate valve shall be left closed and will thereafter be opened only by an authorized employee of the water department and only upon the request of the owner or his agent; provided, however, that a person authorized by the Oregon Plumbing Specialty Code may open and close a service cock to test his work, as provided in Section 13.04.040(E).

B. In case a permit is issued as provided in Section 13.04.040(F) and a water meter has been installed for the temporary use of water, the owner shall notify the water department upon the completion of his work so that the water meters may be read, and the connection shut off.

C. Where a building originally constructed as a single unit and fitted with one service pipe is thereafter subdivided, or when a parcel of property is so subdivided, by sale or otherwise, each parcel or premise as created must obtain a separate service pipe within thirty days or upon occupancy after such division; provided, however, one service may be permitted in the case of a fee simple tax lot containing multi-family dwellings, residential courts, combined office or business building, manufactured home parks, or trailer courts.

D. No person shall take or use city water from premises other than his own, and no person shall sell or give away water from his own premises for any purpose. No connection through which water may pass from one property to another shall be constructed, though the ownership of both properties may be the same.

E. Where the water has been turned off by the water department for any reason, no person or persons, except authorized employees or agents of the department, may turn it on again. Whenever this rule is violated, a penalty of three times the then-minimum monthly water charge shall be assessed and paid before service is restored. Each time the user turns on the water after being shut off by the department shall be deemed a separate violation and subject to the above penalty. Such penalty is in addition to any other penalty provided by law.

F. No steam boiler or hot water heater shall be directly connected to the service pipe. The owner shall make such provisions, including safety valves, as may be required by the State of Oregon Uniform Plumbing Code and the building official before the water may be supplied to such an installation.

G. The city manager or designee, or any of their authorized agents shall have free access at all reasonable hours to inspect any premises supplied with water. No person shall refuse to admit authorized agents of the City of Scappoose to any premises for such purpose. In case any authorized employee is refused admittance, or is, in any way, hindered in making the necessary inspection or examination, the water may be turned off from such premises after giving twenty-four hours' notice to the owner or occupant thereof.

H. Where pipes are provided for fire protection on any premise or where hose connections for fire apparatus are provided, each such connection or opening of the service pipes shall have not less than twenty-five feet of fire hose constantly attached thereto, and no water shall be taken through such opening or hose for any purpose other than for extinguishing fires, except for the purpose of testing such fire equipment. No such test of fire equipment may be conducted except by the fire department, unless a special permit is first secured from the public works department.

I. Fire hydrants may be opened and used only by the water and fire departments of the city or by such persons as may be specifically authorized by the water department. No person, firm or corporation shall in any manner obstruct or prevent free access to any fire hydrant by placing or storing temporarily or otherwise any object or material of any kind within ten feet of the same.

J. Water supplied through either water department or authorized private mains to consumers outside the corporate limits of the city shall be guaranteed on a day-to-day basis only. Such supply may be

discontinued upon three days' notice. Any rates paid in advance or for unused water shall be equitably refunded in case the water supply is discontinued.

K. Where water service pressure exceeds levels permitted under the Oregon Plumbing Specialty Code, property owners shall install and maintain pressure reducing valves meeting the requirements of the Oregon Plumbing Specialty Code. (Ord. 879, 2019; Ord. 748 \$1, 2004; Ord. 724 \$1, 2002; Ord. 379 \$5, 1978)

13.04.070 Water rates. A. Establishment of Credit. At the time application for service is made, the applicant shall establish credit with the water department. The credit of the applicant will be deemed established:

1. If the applicant makes a cash deposit with the water department to secure payment of bills for service;

2. If the applicant has previously had water service in the city and the bills rendered for that service during the last twelve months it was provided were paid promptly, without additional collection efforts being required.

B. Deposits.

1. At the time the deposit is given to the water department, the applicant will be given a receipt for the deposit. The deposit is not to be considered as a payment on account. In the event the service is discontinued, the deposit will be applied to the closing bill and any amount in excess will be refunded. The water department will not pay interest on any deposit;

2. The deposit or balance of deposit shall be refunded to applicant when water service to applicant is terminated;

3. At any time a customer becomes delinquent and his water is shut off for that reason, customer shall permanently reestablish his credit per subsection A of this section prior to resumption of water service after all delinquencies and penalties have been paid.

C. Deposit Refunds. Deposits will be refunded after twelve months without delinquent payments. The customer can request the refund to be returned to the depositor on the anniversary date of the deposit following the twelve-month prompt payment period defined in subsection (A)(2) of this section. At any time, a customer becomes delinquent and his water is shut off for that reason, customer shall reestablish his credit per subsection A of this section prior to resumption of water service after all delinquencies and penalties have been paid.

D. Special Assessments. No provisions in this chapter shall be deemed to prevent city from collecting a special assessment against the property. All unpaid water bills, penalties and charges are declared to be a lien against the real property served and the lien shall be enforced and collected in accordance with the procedures for collecting any city assessments as are set forth in city ordinances or the statutes of the state then in effect for the enforcement and collection of city assessment liens.

E. Unclaimed Deposits. Any deposit shall be deemed security for the payment of any water charge of the depositor. In the event service is terminated, then the deposit or the balance thereof, after application to any unpaid water bill, shall be returned. Within sixty days after service is terminated for reasons other than a turn-off as a result of a delinquent bill and deposit has not been claimed,

notice of deposit will be mailed to the depositor. In the event that the notice is returned after being addressed to the last known address, the city shall transfer the remaining balance to the water fund within sixty days.

F. Temporary Vacancies. In the case of temporary vacancy of any premises, water will be turned off at the service cock by the department upon written request of the owner of the premises addressed to the water department and will be turned on again when requested. The minimum charge shall be made for any period in which such vacancy occurs.

G. Interest on Unpaid Bills. Interest at the rate of one percent per month per annum shall be added to all delinquent water bills in excess of five hundred dollars, beginning the thirty-second day after the bill is due and payable. This also applies to water bills for customers where the city is unable for legal or health reasons to terminate the water service. (Ord. 879, 2019; Ord. 724 \$1, 2002; Ord. 603 \$2, 1993; Ord. 593 \$2(part), 1993; Ord. 532 \$1, 1987; Ord. 508 \$1, 1986; Ord. 483 \$7(B), 1984; Ord. 472 \$\$1, 2, 1983; Ord. 379 \$6, 1978)

13.04.080 Notification of shutoff. Should it become necessary to shut off the water from any section of the city because of any accident or for the purpose of making repairs or extensions, the water department will endeavor to give timely notice to the consumers affected thereby and will, so far as practical, use its best efforts to prevent inconvenience and damage arising from any such causes; but the failure to give such notice shall not render the city responsible or liable in damages for any inconvenience, injury, or loss which may result there from. (Ord. 724 \$1, 2002; Ord. 379 \$7 (part), 1978)

13.04.090 Compliance with other regulations. All rules, regulations, and requirements of the State Board of Health, of the State of Oregon State Plumbing Code and the United States Environmental Protection Agency shall apply to the water department of the city. (Ord. 379 \$7 (part), 1978)

13.04.100 Obstruction or contamination of water supply system unlawful. It is unlawful for any person to do any act, or to throw, place, or deposit any article or substance in or near the city water supply system, whereby the water therein may be obstructed or rendered impure. (Ord. 379 \$7(part), 1978)

13.04.110 Cross-connection control and backflow prevention.

A. Definitions. For the purposes of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning. If a word or term used in this section is not contained in the following list, its definition, or other technical terms used, shall have the meanings or definitions listed in the Oregon Administrative Rules (OAR) 333-061-0070 to OAR 333-061- 0074, or the current Edition of the Manual of Cross Connection Control published by the Foundation for Cross Connection Control and Hydraulic Research, University of Southern California.

"Approved backflow prevention assembly" (or any abbreviated version thereof) means an assembly designed to counteract back-pressure and/or prevent back-siphonage as approved by the Oregon Department of Human Services-Health Services.

"Auxiliary supply" means any water source or system other than the city water system.

"Backflow" means the flow in the direction opposite to the normal flow or the introduction of any foreign liquids, gases or substances into the city's water system.

"Certified backflow assembly tester" means a person who has successfully completed all requirements as established by the Department of Human Services-Health Services to test backflow assemblies in the state of Oregon.

"Certified cross connection specialist" means a person who has successfully completed all requirements as established by the Department of Human Services-Health Services to survey and inspect cross connection devices in the state of Oregon.

"City water system" means the city of Scappoose water system, which shall include wells, treatment mechanisms or processes, pumping stations, reservoirs, supply trunk or feeder lines, service lines, meters and all other appurtenances, device lines and items necessary to the operation of the system and to supply water service to an individual property or premises and shall include the city's potable water with which the system is supplied.

"Contamination" means the entry into or presence in a public water supply system of any substance which may be deleterious to health and/or quality of the water.

"Cross connection" means any physical arrangement where a potable water supply is connected, directly or indirectly, with any other non-drinkable water system or auxiliary system, sewer, drain conduit, swimming pool, storage reservoir, plumbing fixture, swamp coolers or any other device which contains, or may contain, contaminated water, sewage or other liquid of unknown or unsafe quality which may be capable of imparting contamination to the public water system as a result of backflow. Bypass arrangements, jumper connections, removable sections, swivel or changeover devices or other temporary or permanent devices through which, or because of which, backflow may occur, are considered to be cross connections.

"Degree of hazard" means the non-health hazard, health hazard or high hazard classification that shall be assigned to all actual or potential cross connections.

"DOHS" means Oregon Department of Human Services-Health Services.

"Double check valve backflow prevention assembly" (or any abbreviated version thereof) means an assembly which consists of two independently-operating check valves which are spring-loaded or weighted. The assembly comes complete with a resilient seated shut-off valve on each side of the checks, as well as test cocks to test the checks for tightness.

"Health hazard" means an actual or potential threat of contamination of a physical, chemical or biological nature to the public potable water system or the consumer's potable water system that would be a danger to health.

"Mobile unit" means a temporary unit connected to the water system through a hydrant, hose bib or other permanent appurtenance that is part of the city water system or a permanent water service to a premises. Examples can include, but not be limited to the following-water trucks, pesticide applicator vehicles, chemical mixing units or tanks, waste or septage hauler's trucks or units, sewer cleaning equipment, carpet or steam cleaning equipment for other than homeowner use, rock quarry or asphalt/concrete batch plants or any other mobile equipment or vessel that poses a threat of backflow in the city water system. Uses that are excluded from this definition are recreational vehicles at assigned sites or parked in accordance with city regulations pertaining to recreational vehicles and homeowner devices that are used by the property owner in accordance with this section, or other city regulation pertaining to provision of water service to a premises.

"Non-health hazard" means the classification assigned to an actual or potential cross connection that could allow a substance that may be objectionable, but not hazardous to one's health, to backflow into the potable water supply.

"Point of use isolation" means the appropriate backflow prevention within the consumer's water system at or near the point at which the actual or potential cross connection exists.

"Pollution hazard" means an actual or potential threat to the physical properties of the water system or the potability of the public or the consumer's potable water system, but which would not constitute a health or system hazard, as defined. The maximum intensity of pollution to which the potable water system could be degraded under this definition would cause minor damage to the system or its appurtenances.

"Premises" means any piece of property to which water service is provided, including but not limited to all improvements, mobile structures and other structures located upon it.

"Premises isolation" means the appropriate backflow prevention at the service connection between the public water system and the premises. This location will be at or near the property line and downstream from the service connection meter.

"Reduced pressure principle backflow prevention assembly" (or any abbreviated version thereof) means an assembly containing two independently-acting approved check valves together with a hydraulically-operated, mechanically-independent pressure differential relief valve located between the check valves, and at the same time, below the first check valve. The assembly shall include properly located test cocks and two tightly closing shut-off valves.

"Resident" means a person or persons living within the area(s) served by the city water system.

"Retrofitting" means to furnish a service connection with parts or equipment made available after the time of construction or assembly installation.

"Submerged heads" means irrigation sprinkling or delivery devices that are located below the surface of the landscaped area in which they are installed.

"Thermal expansion" means the pressure created by the expansion of heated water.

B. Purpose. The purpose of this section is to protect the city's water supply and distribution system from contamination or pollution due to any existing or potential cross connections and to comply with the Oregon Administrative Rules 333-061-0070 to 333-061-0074.

C. Application and Responsibilities. The regulations set forth in this section apply throughout the city to every owner, occupant or person in control of any premises or property served by the city water system, regardless of date of connection to the city water system.

D. Cross Connections Regulated.

1. No cross connection shall be created, installed, used or maintained within the area(s) served by the city water system, except in accordance with this section.

2. The city manager or designee shall carry out or cause inspections to be carried out to determine if any actual or potential cross connection exists. If found necessary, an assembly commensurate with the degree of hazard will be installed at the service connection.

3. The owner, occupant or person in control of any given premises shall be responsible for all cross connection control within the premises.

4. All premises found on Table 42 of OAR 333-061-0070 shall install a reduced pressure assembly at the service connection.

E. Backflow Prevention Assembly Requirements. A certified cross connection inspector employed by or under contract with the city shall determine the type of backflow assembly to be installed within the city's water system. Every assembly shall be installed at the service connection unless it is determined by the inspector and approved by the city manager or designee, that it should be installed at the point of use. An approved assembly shall be required in each of the following circumstances, but the inspector may require an assembly under other circumstances:

1. When the nature and extent of any activity at a premises, or the materials used in connection with any activity at a premises, or materials stored at a premises, could contaminate or pollute the potable water supply.

2. When internal cross connections are present that are not correctable.

3. When intricate plumbing arrangements are present making it impractical to ascertain whether cross connections exist.

4. When the premises has a repeated history of cross connections being established or re-established.

5. When entry to the premises is restricted so that surveys for cross connections cannot be made with sufficient frequency to assure cross connections do not exist.

6. When an appropriate cross connection inspection report form has not been filed with the city manager or designee.

7. If a point-of-use assembly has not been tested or repaired as required by this section, the installation of a reduced pressure principle assembly will be required at the service connection.

8. When there is a premises with an auxiliary water supply which is or can be connected to the city water service or supply

system, a reduced pressure backflow assembly will be required. The city will immediately discontinue water service to any premises or customer where such a condition occurs until such time as the cross connection is eliminated or the required backflow prevention assembly is installed. Customers using the city's water supply and any other water supply at the same premises shall install and maintain a separate plumbing system for the city's water supply, which shall be separated by an air gap of not less than one foot from any other supply, unless such reduced pressure principle backflow assembly is installed and maintained at the meter for the premises.

9. The city manager, or designee, shall make the final determination on the type of device needed when there is a disagreement between a cross connection specialist and the owner, occupant or person in control of the premises.

F. New Construction. Where possible, a plan check shall be made prior to construction to determine the degree of hazard and the class of backflow prevention device, if any, required at the point of delivery from the public water system to the premises. Where adequate plans and specifications are not available, and no realistic evaluation of the proposed water uses can be determined, the applicant, customer, architect, engineer or other authorized person shall be advised that eventually circumstances may require the installation of maximum backflow protection at the water service connection.

G. Retrofitting. Retrofitting shall be required at all service connections where an actual or potential cross connection exists, and wherever else the city deems retrofitting necessary to comply with state law and this section.

H. Landscape Irrigation Systems. All landscape irrigation systems shall be protected according to plumbing code regulations. In the event any system is equipped with an injector system, a reduced pressure principle assembly will be required.

I. Thermal Expansion. It is the responsibility of the property owner, the occupant or person in control of the property to eliminate the possibility of damage from thermal expansion, if a closed system has been created by the installation of a backflow prevention assembly, or other appurtenances.

J. Mobile Units. Any mobile unit or apparatus as defined in subsection A. of this section, which uses the water from any premises within the city water system shall first obtain a permit from the city and be inspected to assure an approved air gap or reduced pressure principle assembly is installed on the unit.

K. Installation Requirements and Pressure Loss. All backflow prevention assembly installations shall follow the requirements as stipulated by OAR 333-061-0070. The type of backflow prevention assembly required shall be commensurate with the degree of hazard that exists and must, at all times, meet the standards of the Department of Human Services-Health Services. All backflow prevention assemblies required under this section shall be of a type and model approved by the DOHS. Any decrease in water pressure caused by the installation of a backflow assembly shall not be the responsibility of the city.

L. Fire Systems. An approved double check detector assembly shall be the minimum protection on fire sprinkler systems using piping material that is not approved for potable water use and/or does not provide for periodic flow through during each 24 hour period. A reduced pressure principle detector assembly must be installed if any solution other than the potable water can be introduced into the fire sprinkler system.

M. Plumbing Code. As a condition of water service, customers shall install, maintain and operate their piping and plumbing systems in accordance with the Oregon Plumbing Specialty Code ("Plumbing Code"). If there is a conflict between this section and the Plumbing Code, the city manager or designee, will determine which shall provide the most appropriate protection of the city water system.

N. Access Allowed. Authorized personnel of the city, with proper identification and sufficient notice, shall have access during reasonable hours to all parts of a premises and within the structure to which water is supplied. However, if any owner, occupant or person in control refuses authorized personnel access to a premises, or to the interior of a structure, during these hours for inspection, a reduced pressure principle assembly must be installed at the service connection to that premises.

O. Assembly Permits. When it is found that a customer needs a backflow prevention assembly, the city will issue a permit for such an assembly. This permit will identify the type, size, model, etc., of the backflow prevention assembly and also assign each an assembly number. This number and permit will enable the city to ensure that testing and other requirements of this section are met. The permit number should be used in all correspondence in reference to each installation to eliminate confusion of devices.

P. Annual Testing and Repairs. All backflow assemblies installed within the area served by the city shall be tested immediately upon installation, and at least annually thereafter by a certified backflow assembly tester. All assemblies found not functioning properly shall be promptly repaired or replaced at the expense of the owner, occupant or person in control of the premises. In the event an assembly is moved, repaired or replaced, it must be retested immediately. If any such assembly is not promptly repaired or replaced, the city shall deny or discontinue water service to the premises. It is the responsibility of the persons who own the assembly to have the assembly tested by a certified backflow assembly tester as required.

Q. Responsibilities of Backflow Prevention Assembly Testers.

1. All backflow assembly testers operating within the city water system service area shall be certified in accordance with all applicable regulations of the DOHS.

2. Persons certified as backflow assembly testers shall agree to abide by all requirements of the United States Occupational Safety and Health Administration (OSHA) and the Oregon Occupational Safety and Health Administration (OR-OSHA); and have completed confined space entry training to enter any confined spaces within the city.

3. It is the responsibility of the backflow assembly tester to submit records of all backflow assembly test repairs to the city within ten days of completing the test.

R. Costs of Compliance. All costs associated with the purchase, installation, inspection, testing, replacement, maintenance, parts and repairs of backflow prevention assemblies, and all costs associated with enforcements of this section, are the financial responsibility of the owner, occupant or other person in control of the premises.

S. Termination of Service. Failure on the part of any owner, occupant or person in control of the premises to install a required assembly, have it tested annually and/or to discontinue the use of all cross connections and to physically separate cross connections in accordance with this section shall serve as sufficient cause for the discontinuance of city water service to the premises pursuant to Oregon Administrative Rule Chapter 333.061.0070. In the case of an extreme emergency or where an immediate threat to life or public health is found to exist, discontinuance or termination of city water service to the premises shall cease immediately.

T. Appeal Process.

1. Any property owner or service customer who receives a notice of possible termination of water service due to noncompliance with cross-connection requirements may appeal the notice to the city manager. Such appeal must be filed in writing, fully explaining the basis for the appeal within thirty days after the date of such notice and be accompanied by an appeal filing and processing fee as set by council resolution. The appeal fee shall be refunded if the city manager revokes the notice.

2. The city manager shall fix the time and place of the hearing on a date no more than thirty days after the city manager's receipt of the written appeal. The city manager shall give the appellant, and any other persons requesting the same, at least five day's notice of the time and place of such hearing.

3. After reviewing the appeal, at the time and place set for the hearing, the city manager shall give the appellant, and any other interested party, a reasonable opportunity to be heard. In all such cases, the burden of proof shall be upon the appellant. During the hearing, new evidence may be presented to and considered by the city manager. The city manager may also receive such evidence from city staff as the city manager deems appropriate. The hearing shall be informal and follow such procedures as the city manager deems appropriate to resolve the questions presented by the appeal.

4. Within fifteen days of the date of the hearing, the city manager shall issue a written decision which contains findings of fact and a determination of the issues presented. The city manager shall uphold, or modify and uphold the notice as issued, or revoke the notice and render a new decision on the matter consistent with the requirements of this section. If the notice is upheld, the city shall not terminate the appellant's water service any sooner than fifteen calendar days following the city manager's decision. The city manager's decision shall be final.

U. Suspension of Service.

1. Emergency Suspension. The city manager or designee, may, without prior notice, suspend water service to any premises when such suspension is necessary to stop the imminent threat of any actual or potential cross connections as defined in this section.

2. Non-Emergency Suspension. The city manager or designee, may suspend, with thirty days notice, the water supply to any premises where the conditions of this section have been violated. (Ord. 879, 2019; Ord. 798 §1, 2008; Ord. 724 §1, 2002; Ord. 399, 1980)

13.04.120 Violation--Penalty. Each person convicted of a violation of this chapter shall, upon conviction thereof, be punished by a fine of not more than five hundred dollars, or imprisonment in the county jail for not more than thirty days. (Ord. 379 §10, 1978)

Exhibit 2

BEFORE THE BOARD OF COUNTY COMMISSIONERS FOR COLUMBIA COUNTY, OREGON

In the Matter of the a Comprehensive Plan Text)
Amendment to Allow a City of Scappoose Water)
Line Extension on Certain Resource-Zoned Land) ORDINANCE NO. 2014-3
and to Adopt the Service Area Map for Dutch)
Canyon Water Line (Application No. TA 13-01))

The Board of County Commissioners for Columbia County, Oregon, ordains as follows:

SECTION 1. TITLE.

This Ordinance shall be known as Ordinance No. 2014-3.

SECTION 2. AUTHORITY.

This Ordinance is adopted pursuant to ORS 203.035, 197.175, 197.610 and 197.615

SECTION 3. PURPOSE.

The purpose of this Ordinance is to amend the Comprehensive Plan to adopt the Dutch Canyon Water Line Service Area Map and to allow for the extension of the City of Scappoose water line on Resource-zoned land outside of the city's Urban Growth Boundary.

SECTION 4. HISTORY.

In 1984 and 1995, the Columbia County Circuit Court ordered the City of Scappoose to provide water service to nineteen (19) properties in the rural Dutch Canyon area. (Court Case Nos. 25683 and 27310 (May 18, 1984) and 88-2112 (April 14, 1995)). In addition to the 19 properties that have secured water rights through the court orders, 52 other tax lots front on Dutch Canyon Road and would also have access to the extended water line. A Comprehensive Plan text amendment is necessary to extend the water line because the properties are in Resource and Rural Residential zones outside the city limits and Urban Growth Boundary, where urban level water service is not allowed.

Following public notice, the Planning Commission held a public hearing on September 9, 2013. The Planning Commission deliberated and voted to recommend approval of the application to the Board of Commissioners.

Following public notice, the Board of Commissioners held a public hearing on the application on January 22, 2014. In addition to hearing oral testimony, the Board admitted legal counsel's file into evidence, the contents of which are listed in Exhibit 1, attached hereto and incorporated herein by this reference. The Board then closed the hearing, deliberated, and decided by unanimous vote to tentatively approve the application. The Board then directed staff to prepare an ordinance to reflect their decision.

SECTION 5. FINDINGS AND CONCLUSIONS.

In support of its decision, the Board of County Commissioners adopts the findings and conclusions in the Staff Report to the Board of Commissioners, attached hereto as Exhibit 2 and incorporated herein by this reference.

SECTION 6. DECISION, AMENDMENT AND AUTHORIZATION.

- A. TA 13-01 is hereby approved.
- B. The Dutch Canyon Water Line Service Area Map, attached hereto as Exhibit 3 and incorporated herein by this reference, is hereby adopted and made part of the Comprehensive Plan as Map 42.1.
- C. The Columbia County Comprehensive Plan is hereby amended, as follows (with additions shown in underline and deletions shown in ~~striketrough~~):
 - 1. **Part V. Agriculture, Policy 9** shall be amended as follows:
 - “9. Avoid extension of urban facilities and services into agricultural areas whenever possible. No water or sewer facility shall be designed to provide domestic service to agricultural areas with the exception of the service area for the Dutch Canyon Water Line operated by the City of Scappoose, constructed in response to court judgments in 1984 and 1995.”
 - 2. **Part VI. Rural Residential, Policy 4.A** shall be amended as follows:
 - “4. Establish a Rural Residential Zone with a 2-acre minimum lot or parcel size, where such lands will not create ‘spot zoning’ (a relative small area with different zoning that its surroundings) and, as determined by the County:
 - A. Are within an existing public or community water district providing adequate domestic and fire flow water, with the exception of the service area for the Dutch Canyon Water Line operated by the City of Scappoose, constructed in response to court judgments in 1984 and 1995.”

3. **Part XIV. Public Facilities and Services, Policy 2** shall be amended as follows:

“2. Require that the level of facilities ~~and~~ provided be appropriate for, but limited to, the needs and requirements of the area(s) to be served. The types and level of public facilities allowed within Rural Residential, Rural Center, Existing Commercial, and Rural Industrial areas are:

- A. Public or community water systems.
- B. Public or community sewage systems.
- C. Collector and/or arterial street systems.
- D. Fire protection by a rural fire protection district, or an equivalent level of service.

Development of public or community water and sewer facilities is not appropriate within forestry or agricultural areas unless needed to alleviate a demonstrated health hazard or where required by court judgments, and where such facilities are the minimum level to accomplish the task in accordance with Oregon administrative rules regarding water service to rural lands (OAR 660-011-0065). Urban levels of streets and fire protection are also inappropriate within forestry and agricultural resource areas.”

4. **Part XIV. Public Facilities and Services** shall be amended to add Policy 22, as follows:

“22. Allow provision of potable water service outside the Scappoose Urban Growth Boundary within the Dutch Canyon Water Line Service Area, illustrated on Map 42.1. The properties directly abutting Dutch Canyon Road illustrated on Map 42.1 shall be eligible for municipal water service, while properties with an easement but no frontage on Dutch Canyon Road shall not qualify for water service. The presence of the Dutch Canyon Water Line shall not be grounds for zone changes or other density increases beyond the density allowed by the zoning in effect as of November 3, 2003.”

SECTION 7. SEVERABILITY.

If any portion of this Ordinance is for any reason held invalid by any court of competent jurisdiction, such portion shall be deemed as a separate, distinct, and independent portion, and such holdings shall not affect the validity of the remaining portion of this ordinance.

SECTION 8.

SCRIVENER'S ERRORS.

Any scrivener's errors in this Ordinance may be corrected by order of the Board of County Commissioners.

DATED this 19th day of February, 2014.

Approved as to Form

By: _____

Office of County Counsel

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

By: _____

Anthony Hyde, Chair

Recording Secretary

By: _____

Jan Greenhalgh, Recording Secretary

By: _____

Henry Heimuller, Commissioner

First Reading: _____

Second Reading: _____

Effective Date: _____

2-5-14

2-19-14

5-20-14

By: _____

Earl Fisher, Commissioner

EXHIBIT 1 - Legal Counsel's File
City of Scappoose Application for Comprehensive Plan Amendment
(TA 13-01)

1. Board Communication from Todd Dugdale, January 15, 2014;
2. Staff Report to the Board of County Commissioners dated January 15, 2014 with the following attachments:
 - A. Exhibit A- 3 maps of Dutch Canyon Water Line Service Area and Zoning map
 - B. Exhibit B- Proposed Text Amendment
 - C. Exhibit C- Columbia County Circuit Court Judgment dated May 17, 1984
 - D. Exhibit D- Columbia County Circuit Court Judgment dated April 14, 1995;
3. Planning Commission Recommendation to the Board of Commissioners dated 10-3-13;
4. Application for Comprehensive Plan amendment TA 13-01;
5. Board Communication from Todd Dugdale dated October 3, 2013 with the following attachments:
 - A. Notice of Planning Commission public hearing
 - B. Referral Contact List
 - C. List of Property Owners
 - D. Recommendation from Planning Commission;
6. Staff Report to the Columbia County Planning Commission dated September 9, 2013
7. Notice of Public Hearing (Publication)
8. Notice of Public Hearing (Property Owner Notice)
9. Affidavit of Mailing
10. Affidavit of Publication
11. Minutes of Planning Commission Hearing

COLUMBIA COUNTY BOARD OF COMMISSIONERS

Staff Report

January 15, 2014

Comprehensive Plan Text Amendment

For

City of Scappoose Waterline Extension - Dutch Canyon

HEARING DATE: January 22, 2014

FILE NUMBER: TA 13-01

APPLICANT: City of Scappoose

REQUEST: The City of Scappoose is serving municipal water to properties that are outside the Urban Growth Area, due to court judgements. The City requests that the County Adopt the Service Area Map for Dutch Canyon Water Line, and a Comprehensive Plan Text Amendment to revise portions of Part V (Agriculture), Policy 9, and Part XIV (Public Facilities), Policy 2 and 22.

ADOPT: *1) Dutch Canyon Water Line Service Area Map* Attached as "Exhibit A"
Into the Comprehensive Plan, Part XIV Public Facilities and Services, Water
2) Plan Text Amendments Attached as Exhibit "B"
These amendments are shown and reviewed under Applicable Review Criteria

APPLICABLE REVIEW CRITERIA:

Page

Columbia County Comprehensive Plan

3

Part I. Administrative Procedures: Goals and Policies

Policy #5 Comprehensive Plan Reviews, Revisions and Amendments

Columbia County Zoning Ordinance

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BACKGROUND:

The City of Scappoose is required by court order to serve domestic water to nine properties on Dutch Canyon Road, outside of the Urban Growth Area. In 2009 and 2010 the City constructed a booster pump station and 3.2 miles of water distribution line to the nine properties with court ordered rights to City water. The new water main along the Dutch Canyon Road passes in front of several other properties, the owners of which would like to connect to City water. The City is willing to serve other customers in addition to the nine with water rights.

Generally, cities do not extend water or sewer services to customers outside their city limits or Urban Growth Boundary. In this instance, a court order requires the City to provide water service that extends beyond the city's jurisdiction and into the County's jurisdiction. The City and the County must therefore cooperate and agree on the extent of City water service. The City has asked Columbia County to acknowledge this water line extension in the County Comprehensive Plan by adopting the Dutch Canyon Water Line Service Area map, showing all properties affected. The City has also requested that the County amend Policies in its Comprehensive Plan to be compliant with this extraterritorial water line extension to these rural lands.

The County lands included in the Dutch Canyon Waterline Extension are split between those lands zoned Rural Residential (RR-5) and some larger parcels south of Dutch Canyon Road that are zoned for Primary Agriculture (PA-80) and Forest-Agriculture (FA-80). (See zoning map attached as part of the application) To be approved, the application and its proposed extension of public water service to rural areas must comply with the Comprehensive Plan Policies for Agriculture, Forest and Rural Residential as well as the Public Service Policies dealing with public or community water systems.

REVIEW CRITERIA:

Comprehensive Plan Part 1: Administrative Procedures, Goals and Policies

5. Provide a framework by which the Comprehensive Plan may be reviewed, revised and amended. Amendments to the Comprehensive Plan and its implementing ordinance(s) shall be in accordance with the following procedures and guidelines:
 - A. Amendments may be initiated by the Board of Commissioners, the Planning Commission, the Planning Director or the owner(s) of the affected property.
 - B. A Citizen Planning Advisory Committee may, upon a majority vote of its members, formally request either the Board of Commissioners or the Planning Commission initiate an amendment.
 - C. Revisions or amendments will follow the same process as initial adoption - CPAC review, Planning Commission public hearing and recommendation, and Board hearing and adoption of revisions or amendments.
 - D. For quasi-judicial amendments, all property owners within two hundred and fifty (250) feet of the affected area shall be notified of the hearing date and the requested amendment at least ten (10) days prior to the first scheduled public hearing.
 - E. For legislative amendments, notice of the public hearing and a copy of the proposed amendment, will be mailed to all Citizen Planning Advisory Committees and interested parties at least ten (10) days prior to the first scheduled public hearing.

Finding 1: This Plan Amendment was initiated by the County Planning Director at the request of the City of Scappoose. For quite some time, the City has been planning how to provide water service to a qualified group of property owners along Dutch Canyon Road. Since 2006, the Planning Departments of the City, the County and the State DLCD have been discussing which properties were to be allowed to connect to this 3.2 mile City water line extension. The new water line on Dutch Canyon Road fronts 52 tax lots, 19 of which have secured a domestic water right through the court order. Although the Oregon state land use administrative rule prohibits extensions of water service into rural areas, the DLCD, City and County agreed that in addition to the properties granted a City Water Right, parcel with physical frontage on Dutch Canyon Road should be able to connect to the City water line in Dutch Canyon Road. In addition, those properties qualified for City water would be eligible to serve city water to the divisions of its property, but only to the present density of county zoning. The County Board of Commissioners wrote a letter dated January 31, 2007 to the City of Scappoose confirming that the County would not increase development density based on the installation of the proposed 8" Dutch Canyon Waterline.

The process for adopting these amendments shall: follow a review and recommendation from the

area Citizen Planning Advisory Committee (CPAC) and the Planning Commission. On July 31, 2013 Notice of the initial Planning Commission hearing was sent to all property owners within 250 feet of the affected area, to affected agencies and to the Scappoose Citizen Planning Advisory Committee (CPAC). The Planning Commission held a public hearing on September 9, 2013 and made recommendation, Final Order No. TA 13-01 signed by Chairman on October 3, 2013, to approve the Text Amendments and adopt the Dutch Canyon Water Line Service Area.

Following with the Columbia County Zoning Ordinance:

Section 1606 Legislative Hearing: Requests to amend the text of the Zoning Ordinance or to change a large area of the Zoning Map of Columbia County in order to bring it into compliance with the Comprehensive Plan are legislative hearings. Legislative hearings shall be conducted in accordance with the following procedures.

- .1 A legislative amendment to the Zoning Ordinance Text or Map may be initiated at the request of the Board of Commissioners, a majority of the Commission, or the Director, or any citizen of the County may petition the Commission for such a change.
- .2 Notice of a Legislative Hearing shall be published at least twice, one week apart in newspapers of general circulation in Columbia County. The last of these notices shall be published no less than 10 calendar days prior to the Legislative Hearing. The mailing of notice to individual property owners is not required but shall be done if ordered by the Board of Commissioners.

Finding 2: Although this request was brought before the County by a single applicant that affects discrete parcels of land, the notifications sent out by the county for review and hearing has been directed to accommodate both legislative hearing and quasi-judicial hearing. (See Finding #1 above) Notice of the Planning Commission hearing was published twice in the area papers, on August 21, 2013 and August 28, 2013. Notice of the Board of Commissioners public hearing was published on January 8, 2014.

1607 Consistency with the Comprehensive Plan: All amendments to the Zoning Ordinance Text and Map shall be consistent with the Comprehensive Plan Text and Maps.

- .1 The Commission shall hold a hearing to consider the proposed amendments and shall make a recommendation to the Board of Commissioners with regard to the proposed amendments. The Board of Commissioners shall hold at least one hearing to consider the proposed amendments. Both the Commission and the Board of Commissioners hearings will require notice

in the manner outlined in Section 1611.

Finding 3: The proposed amendments to the Comprehensive Plan must be consistent with all elements of the Plan. These elements of the Comprehensive Plan are reviewed later in this Report. Notices for the hearings contain the items required in Section 1611. The Planning Commission held a public hearing on September 9, 2013 and forwarded their recommendation to the Board of Commissioners. A hearing date for the Board is scheduled for January 22, 2014.

1611 **Notice of Legislative Hearing:** The notice of a legislative hearing shall contain the following items:

- .1 Date, time and place of the hearing;
- .2 A description of the area to be rezoned or the changes to the text;
- .3 Copies of the statement for the proposed changes are available in the Planning Department. These proposed changes may be amended at the public hearing;
- .4 Interested parties may appear and be heard;
- .5 Hearings will be held in accordance with the provisions of the Zoning Ordinance.

Finding 4: The above information was included in the mailed and published notices. Notices were mailed to affected agencies on July 31, 2013 and were published in the local news media on August 21 and August 28, 2013. Notice for the hearing before the Board was published on January 8, 2014. Staff finds that the criterion is met.

Continuing with the Columbia County Comprehensive Plan

The Following Parts of the Comprehensive Plan apply to this application; Parts not listed do not apply.

PART III. PLANNING COORDINATION

PURPOSE

Successful integration of all parts of the plan is one of the most important features of a comprehensive plan. Primary coordination occurs by involving all affected people and agencies during the development of the plan. Plan coordination activities include:

1. The county and the seven incorporated cities in the county are each responsible for the preparation of the plan for their own jurisdiction. The cities and the county work together in the preparation of urban growth boundaries.
2. The county, under ORS Chapter 197, is given the responsibility of coordinating the plans of cities and special districts.

Finding 5: The City of Scappoose is required by order of the Columbia County Circuit Court (See judgments dated May 17, 1984 and April 14, 1995, attached hereto as Exhibits C and D respectively) to provide domestic water outside of their service area, exterritorial to City limits and Urban Growth Boundary. The City has been working and coordinating with the County on how to plan for the water extension problem since at least 2006. The City has now developed and proposed a set of amendments to the County Comprehensive Plan. It is the County's responsibility to plan for the land use in these unexpected public water system changes in the Dutch Canyon Area near Scappoose.

Continuing with Columbia County Comprehensive Plan

Part IV Forest Lands Goals and Policies

10. Any changes in the minimum lot sizes for forest lands will be reviewed against the requirements of statewide land use planning Goal 4 and implementing standards and rules.

Finding 6: A portion of the Dutch Canyon Water Service Area is zoned Forest Agriculture FA-80. There are three tax lots totaling 40.89 acres, on both sides of Dutch Canyon Road, just west of Raymond Creek Road, that are in the Dutch Canyon water service area. With current zoning none of these units of land could be further divided. Any changes in minimum lot size of less than 80 acres would require the applicant to take an Exception to Statewide Goal 4, showing why these lands should not be protected for forest purposes. This criteria is met. This application does not seek to increase densities or change the zoning.

Continuing with Columbia County Comprehensive Plan

Part V Agriculture Goals and Policies

2. If the County proposes to convert agricultural lands (as defined by Statewide Land Use Goal 3) to urbanizable land, the County shall follow the procedures and requirements for exceptions to the Agricultural Lands goal, pursuant to Goal 2. Those uses which are permitted by ORS 215.283(1) or (2) shall not require an exception to the Agricultural Lands goal. [Amended by Ordinance No. 98-01 eff. 6/29/98].

8. Establish minimum lot sizes to assure that productive agricultural land will not be divided into parcels that are too small for commercial farm use.
9. Avoid extension of urban facilities and services into agricultural areas whenever possible. No water or sewer facility shall be designed to provide domestic service to agricultural areas.
13. Allow the division of lands placed in the Primary Agriculture District in accordance with the following:
 - A. The lot area is consistent with the agriculture land use policy for the State of Oregon as expressed in ORS 215.243 and consistent with ORS 215.263 and ORS 215.780;
 - B. The lot area is of a similar size to existing commercial agricultural operations in the surrounding area;
 - C. In those instances where it is proposed to locate a farm-related dwelling, the proposed lot area is of sufficient size to support commercial production of food or fiber using accepted farm practices as defined in ORS 215.203 (2) ©;
 - D. Approval of the partitioning will not seriously interfere with the preservation of wildlife or fish habitat areas as identified in the Columbia County Comprehensive Plan, or interference will be mitigated; and,
 - E. Any additional criteria as set forth in the County Primary Agriculture District.
18. In order to provide additional protection to the existing commercial agricultural economy of the County, the division of land in the primary agriculture zone into lots smaller than 80 acres will be allowed only if consistent with ORS 215.263, ORS 215.284 and ORS 215.780.

Finding 7: A portion of the Dutch Canyon Water Service Area is zoned Primary Agriculture PA-80, approximately 265 acres. Any proposed conversion of these lands to an urban use or to a zone to increase the density of dwellings would require an Exception to Statewide Goal 3 Agricultural lands. The County designated a minimum lot size of 80 acres to Agricultural lands to protect commercial farming from encroachment of incompatible uses. The City of Scappoose application is in direct conflict with Policy #9 above that prohibits water or sewer facilities for domestic use in agricultural designated areas. To alleviate this conflict the City of Scappoose proposes to amend the Plan by adding the following to Policy 9: Avoid extension of urban facilities and services into agricultural areas whenever possible. No water or sewer facility shall be designed to provide domestic service to agricultural areas. “with the exception of the service area for Dutch Canyon Water Line operated by the City of Scappoose, constructed in response to court judgments in 1984 and 1995.”

Any divisions of land in this Primary Agriculture Designation shall only be done if in compliance

with Policies 13 and 18 above. The application does not seek to divide land or increase density of residential uses in this agricultural area. The applicant wants to make sure the new water line is not an invitation for owners to divide their land for more housing units. Any regulation about divisions of lands must be made by the County. With the above mentioned amendment and further county policy revisions discussed below, as submitted by the applicant, the application is in compliance with the above policies with proposed changes.

Continuing with Columbia County Comprehensive Plan

PART VI. Rural Residential: Goals and Policies

3. Establish a Rural Residential Zone with a 5-acre minimum lot or parcel size where such lands: *[Amended by Ordinance No. 98-4 eff. November 1998].*
 - A. Must rely on a private water system to serve the property.
 - B. Must rely on a private sewage disposal system to serve the property.
 - C. Have access onto a public or private right-of-way meeting applicable County Road Standards. *[Amended by Ordinance No. 98-4 eff. November 1998].*
 - D. May or may not be within a rural fire protection district. *[Amended by Ordinance No. 98-4 eff. November 1998].*
4. Establish a Rural Residential Zone with a 2-acre minimum lot or parcel size, where such lands will not create "spot zoning" (a relatively small area with different zoning than its surroundings) and, as determined by the County: *[Amended by Ordinance No. 98-4 eff. November 1998].*
 - A. Are within an existing public or community water district providing adequate domestic and fire flow water. *[Amended by Ordinance No. 98-4 eff. November 1998].*
 - B. Have soils capable of accommodating a subsurface septic system. *[Amended by Ordinance No. 98-4 eff. November 1998].*
 - C. Have access onto a public right-of-way meeting applicable County Road Standards. *[Amended by Ordinance No. 98-4 eff. November 1998].*
 - D. Are within, and can be served by a rural fire protection district. *[Amended by Ordinance No. 98-4 eff. November 1998].*
 - E. A 2-acre minimum parcel size is appropriate to maintain the rural character of the area. *[Amended by Ordinance No. 98-4 eff. November 1998].*
 - F. The conversion complies with the Oregon Administrative Rule requirements for an exception to Goal 14. *[Added by Ordinance No. 98-4 eff. November 1998; Amended by Ordinance No. 00-05, eff. 11/13/00].*

Finding 8: A portion of the Dutch Canyon Water Service Area is zoned Rural Residential (RR-5), approximately 250 acres. The County zoned this area RR-5 in compliance with the above policy 3. In particular, this residential exception area had no community or public water system, therefore each residential lot had to rely on a private well or source of water. A change has taken place, and a public water system is now available to RR-5 zoned properties that was not available when the current zoning was applied.

Although not requested by the applicant, staff recommends amending Rural Residential Policy 4A, similar to the Agriculture Policy 9 discussed above. The State DLCD, the City and Columbia County planning staff concur that the introduction of a City water line to the area should not result in more densely developed land in Dutch Canyon. This application is simply to allow certain properties outside the City limits and UGB to connect to a water line that the City was required to install. The application does not meet the criteria for a zone change to higher density. Public Facility policies of the Comprehensive Plan (discussed later) also restrict density increase because of facility extensions. Many developers, owners, appraisers and real-estate agents use the Comprehensive Plan as a guide to possible development on properties. To avoid confusion about future application of the RR-2 zone and retain plan consistency, staff recommends Policy 4A be revised as follows:

- A. Are within an existing public or community water district providing adequate domestic and fire flow water, "with the exception of the service area for Dutch Canyon Water Line operated by the City of Scappoose, constructed in response to court judgments in 1984 and 1995."

Continuing with Columbia County Comprehensive Plan

PART XI. URBANIZATION: GOALS AND POLICIES

POLICIES: It shall be a policy of the County to:

- 20. Limit development outside of urban growth boundaries to densities which do not require an urban level of public facilities or services and are consistent with Goal 14 and OAR 660, Division 4.

Finding 9: The City water line extended to the Dutch Canyon Area is part of an urban service provided; but, the presence of the water line by itself does not constitute provision of urban services, especially when increased densities are prohibited from the extension. The intent of the proposed Plan Amendment is to allow the water line extension without changing development densities in effect prior to the water line extension. Any increase in density, under the present zoning of the Dutch canyon Waterline Extension Area would require an Exception to either Statewide Goals 3, 4 or 14. This

criteria is met if the proposed amendments are adopted.

Continuing with Columbia County Comprehensive Plan

PART XIV. PUBLIC FACILITIES AND SERVICES: GOALS AND POLICIES

GOAL:

To plan and develop a timely, orderly, and efficient arrangement of public facilities as a framework for urban and rural development.

POLICIES: It shall be County policy to:

2. Require that the level of facilities and provided be appropriate for, but limited to, the needs and requirements of the area(s) to be served. The types and level of public facilities allowed within Rural Residential, Rural Center, Existing Commercial, and Rural Industrial areas are:

- A. Public or community water systems.
- B. Public or community sewage systems.
- C. Collector and/or arterial street systems.
- D. Fire protection by a rural fire protection district, or an equivalent level of service.

Development of public or community water and sewer facilities is not appropriate within forestry or agricultural areas unless needed to alleviate a demonstrated health hazard, and where such facilities are the minimum level to accomplish the task. Urban levels of streets and fire protection are also inappropriate within forestry and agricultural resource areas.

5. Coordinate public facilities and planning with affected service districts and/or agencies.

Finding 10: The County has been cooperating with the City of Scappoose on the Court imposed water line extension into Dutch Canyon, and with this proposed amendment would make County Plan amendments, following through with that coordination. Extensions of the City water line into the County designated Rural Residential areas is appropriate with the above policies; however, other policies in the Plan restrict increases in densities because of the introduction of a water line extension. Policy #2 above restricts public water in Agriculture or Forest areas except for a demonstrated health hazard. The City proposes to add an except for: "or where required by court judgements", and an Oregon Administrative Rule regarding water service to rural lands, OAR 660-011-0065. The proposed Text Amendment in Policy #2, last sentence: is as follows:

Development of public or community water and sewer facilities is not appropriate within forestry or agricultural areas unless needed to alleviate a demonstrated health hazard, or where required by court judgments, and where such facilities are the minimum level to accomplish the task in accordance with Oregon administrative rules regarding water service to rural lands (OAR 660-011-0065). Urban levels of streets and fire protection are also inappropriate within forestry and agricultural resource areas.

The City of Scappoose also proposes to add a new Policy #22 to Part XIV Public Facilities & Services as follows:

22. Allow provision of potable water service outside the Scappoose Growth Boundary within the Dutch Canyon Water Line Service Area illustrated on Map # _____. The properties directly abutting Dutch Canyon Road illustrated on the Map shall be eligible for municipal service, while properties with an easement but no frontage on Dutch Canyon Road shall not qualify for water service. The presence of Dutch Canyon Water Line shall not be grounds for zone changes or other density increases beyond the density allowed by the zoning in effect as of November 3, 2003.

Staff regards an amendment for this new policy #22 as essential for the County to administer development in the area. The County needs to know which parcels are eligible for water service. The county requires a source of water prior to platting and building permit releases. Good quality ground water through private wells is somewhat elusive for many properties in the area. Some dwellings rely on cisterns or purchased water and are accustomed to a lack of domestic water, sometimes a hardship. The three agencies agreed on allowing water service to those properties abutting the water line on Dutch Canyon Road and to any divisions of the qualified parcel down to the density of the present zoning.

Continuing with Oregon Administrative Rule

Division 11 Pubic Facilities and Services

OAR 660-011-0065 Water Service to Rural Areas

(1) As used in this rule, unless the context requires otherwise:

(a) "Establishment" means the creation of a new water system and all associated physical components, including systems provided by public or private entities;

(b) "Extension of a water system" means the extension of a pipe, conduit, pipeline, main, or other physical component from or to an existing water system in order to provide service to a use that was not served by the system on the applicable date of this rule, regardless of whether the use is inside the service boundaries of the public or private service provider.

© "Water system" shall have the same meaning as provided in Goal 11, and includes all pipe, conduit, pipeline, mains, or other physical components of such a system.

(2) Consistent with Goal 11, local land use regulations applicable to lands that are outside urban growth boundaries and unincorporated community boundaries shall not:

(a) Allow an increase in a base density in a residential zone due to the availability of service from a water system;

(b) Allow a higher density for residential development served by a water system than would be authorized without such service; or

© Allow an increase in the allowable density of residential development due to the presence, establishment, or extension of a water system.

(3) Applicable provisions of this rule, rather than conflicting provisions of local acknowledged zoning ordinances, shall immediately apply to local land use decisions filed subsequent to the effective date of this rule.

Finding 11: This rule is directly applicable to this application or to any water extensions in the rural areas of Columbia County. The County has not updated the Public Facilities section of the Comprehensive Plan to be compatible with this Administrative Rule, so the Rule applies directly, as if incorporated in the county ordinances. The extended water system in Dutch Canyon, with proposed amendments, does not allow an increase in base density in residential areas or allow for an increase in allowable density in residential areas due to the availability of service from a water system. The wording in proposed Policy # 22 in Public Facilities and Services (above) reflects the above verbiage. The State DLCD was provided a copy of the City of Scappoose's application, 35 days prior to the initial hearing, and has provided no response that the language is not consistent with this Rule. Staff finds that this criteria is met.

Continuing with Oregon Administrative Rule

Division 04 - Interpretation of Goal 2 Exception Process

OAR 660-004-0040 Application of Goal 14 to Rural Residential Areas

(6) After the effective date of this rule, a local government's requirements for minimum lot or parcel sizes in rural residential areas shall not be amended to allow a smaller minimum for any individual lot or parcel without taking an exception to Goal 14 (Urbanization).

Finding 12: This rule has not been incorporated into Columbia County Comprehensive Plan or implementing ordinances, so, it applies directly. If a property owner or the City applied to the County to increase residential densities in any residential part of Dutch Canyon Waterline Area, an exception to urbanization Goal 14 would be required and reviewed by the State DLCD. This is a very high standard to meet in any application. The County has no plans to increase densities in this area.

COMMENTS:

Oregon Department of Land Conservation and Development (DLCD): No Comment received.

City of Scappoose: No comment received.

Scappoose CPAC: Recommend approval of the application with two conditions.

First, that on those lands other than the nine parcels controlled by the judgements in the Parish and Alexander cases, if in the future any those parcels are partitioned such that any of the newly partitioned parcels do not have frontage on Dutch Canyon Road, they will not be allowed access to the City's water line unless they comply with the "base density" provision of OAR 660-011-0065(2)(a). And,

Second, other than for the nine parcels controlled by the judgements in Parish and Alexander cases, water service will only be provided to any parcels in the area at issue here which are in compliance with the City's municipal Code dealing with the extension of water service (now set forth in Scappoose Municipal Code 13.04.020(1) and (2)) in effect at the time of the application.

Soil and Water Conservation: No Objection

County Roadmaster: No Objection

County Sanitarian: No Objection

Scappoose Fire District: No Objection

State WRD Watermaster: No comment received

No other comments have been received from citizen groups, government agencies or the general public as of the date of this staff report.

STAFF COMMENTS, CONCLUSIONS AND RECOMMENDATIONS:

Based on the findings of this report, Columbia County has a responsibility to coordinate public and community water systems in the unincorporated County. The County is further required to collaborate with each water provider as to the zoning and allowed density of development within a water service area. Columbia County's Comprehensive Plan supports revisions to its contents to include up-to-date information related to the public services provisions in Columbia County. The staff of County Planning Division, the City of Scappoose and the State DLCD coordinated to present revisions to the Plan as presented by the City in this application. The proposed amendments in conjunction with this application are consistent with Oregon State law and the goals and policies of Columbia County's Comprehensive Plan.

Based on the facts, findings and comments herein, the Planning Director and the Planning Commission **RECOMMEND APPROVAL** of the proposed text amendments to the County's Comprehensive Plan to Adopt the Dutch Canyon Water Service Area map and clarify eligible properties for service giving guidance to future properties' eligibility to connect to City water.

Attachments:

Exhibit "A" Maps of Dutch Canyon Water Line Service Area, Zoning Map

Exhibit "B" Proposed Text Amendments

Exhibit "C" Columbia County Circuit Court Judgment, dated May 17, 1984

Exhibit "D" Columbia County Circuit Court Judgment, dated April 14, 1995

Application TA 13-01 by the City of Scappoose

Exhibit A

Dutch Canyon Water Line Service Area Aerial Photograph
Columbia County, Oregon

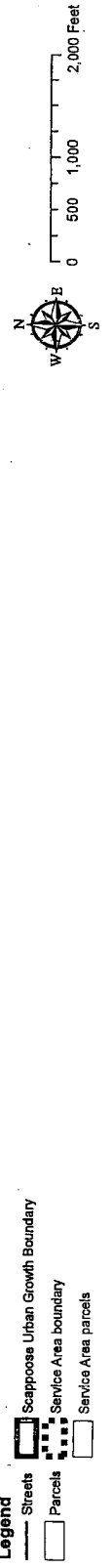


Exhibit A

Dutch Canyon Water Line Service Area Columbia County, Oregon

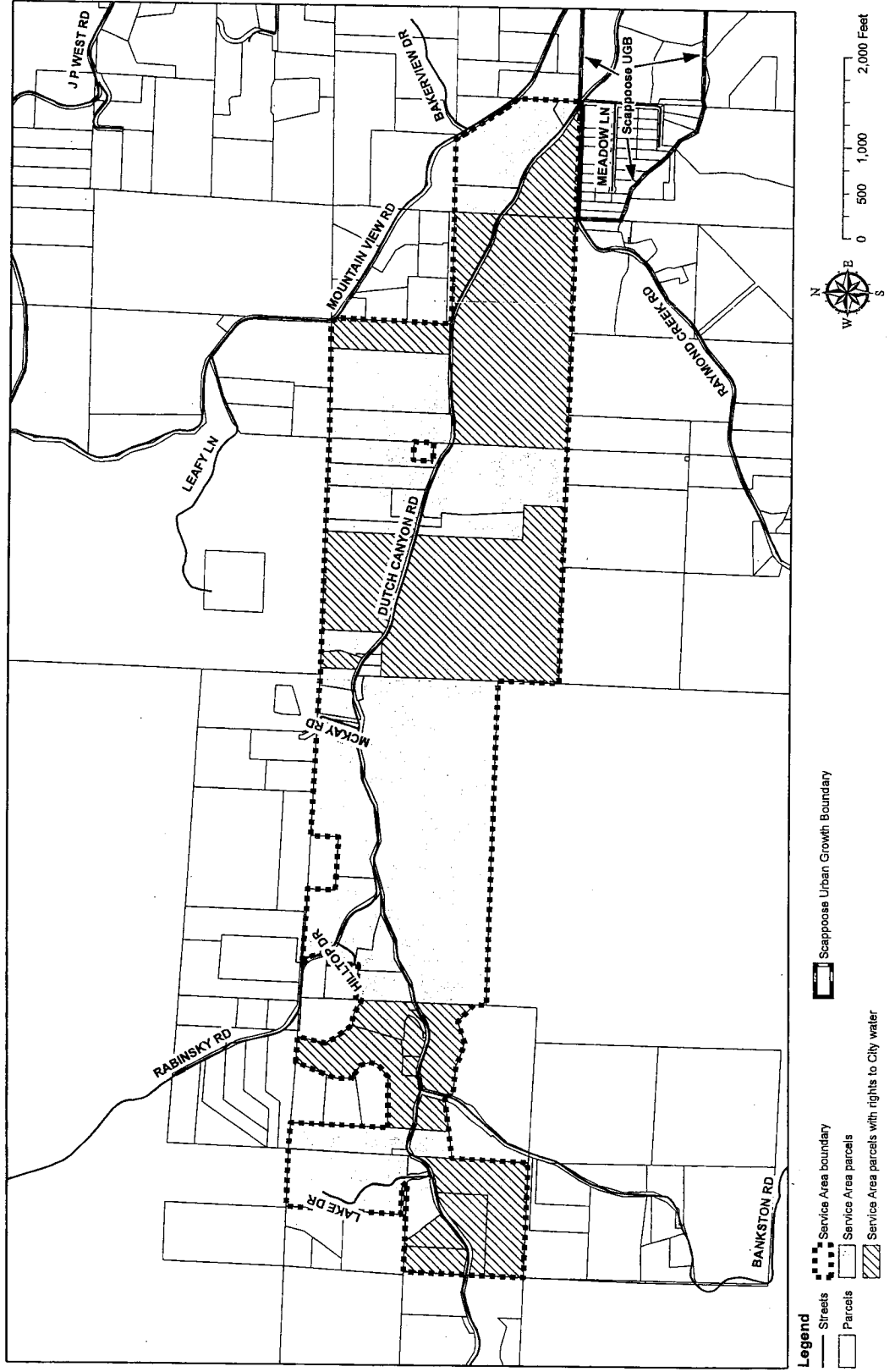
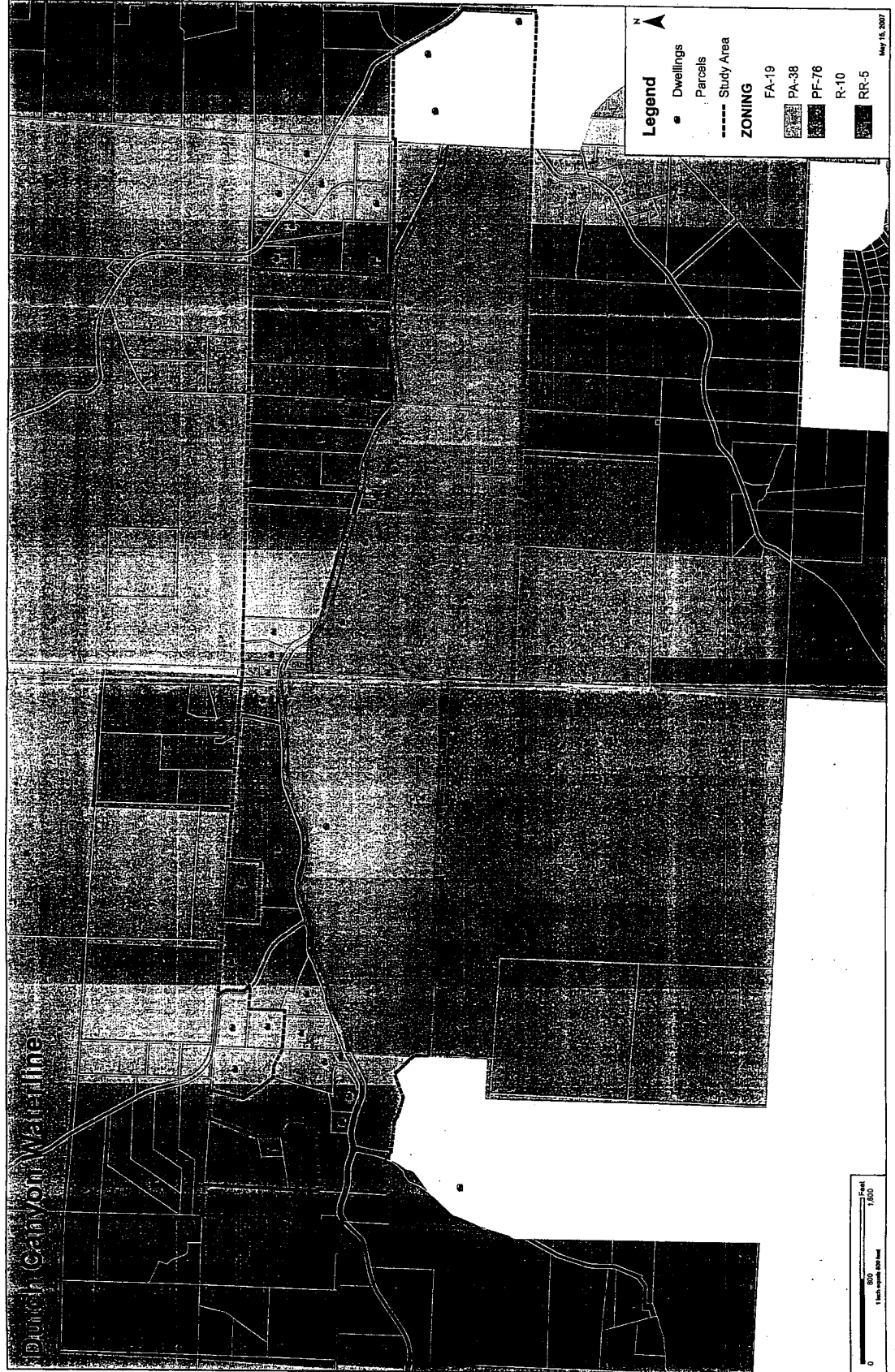


Exhibit A



**Proposed amendments to the Comprehensive Plan (Staff Draft)
Dutch Canyon Water Line (TA 13-01)**

(Proposed language additions are underlined)

PART V. AGRICULTURE

POLICIES: It shall be a policy of the County to:

9. Avoid extension of urban facilities and services into agricultural areas whenever possible. No water or sewer facility shall be designed to provide domestic service to agricultural areas with the exception of the service area for the Dutch Canyon Water Line operated by the City of Scappoose, constructed in response to court judgments in 1984 and 1995.

PART VI. Rural Residential

Policies: It shall be a policy of the County to:

4. Establish a Rural Residential Zone with a 2-acre minimum lot or parcel size, where such lands will not create "spot zoning" (a relative small area with different zoning than its surroundings) and, as determined by the County:

A. Are within an existing public or community water district providing adequate domestic and fire flow water, with the exception of the service area for the Dutch Canyon Water Line operated by the City of Scappoose, constructed in response to court judgments in 1984 and 1995.

PART XIV. PUBLIC FACILITIES & SERVICES

POLICIES: It shall be County policy to:

2. Require that the level of facilities and provided be appropriate for, but limited to, the needs and requirements of the area(s) to be served. The types and level of public facilities allowed within Rural Residential, Rural Center, Existing Commercial, and Rural Industrial areas are:

- A. Public or community water systems.
- B. Public or community sewage systems.
- C. Collector and/or arterial street systems.
- D. Fire protection by a rural fire protection district, or an equivalent level of service.

Development of public or community water and sewer facilities is not appropriate within forestry or agricultural areas unless needed to alleviate a demonstrated health hazard or where

required by court judgments, and where such facilities are the minimum level to accomplish the task in accordance with Oregon administrative rules regarding water service to rural lands (OAR 660-011-0065). Urban levels of streets and fire protection are also inappropriate within forestry and agricultural resource areas.

Add a new policy:

22. Allow provision of potable water service outside the Scappoose Urban Growth Boundary within the Dutch Canyon Water Line Service Area illustrated on Map # _____. The properties directly abutting Dutch Canyon Road illustrated on the Map shall be eligible for municipal water service, while properties with an easement but no frontage on Dutch Canyon Road shall not qualify for water service. The presence of the Dutch Canyon Water Line shall not be grounds for zone changes or other density increases beyond the density allowed by the zoning in effect as of November 3, 2003.

1 MRS. WILLIAM HONEYMAN, R.J. HONEYMAN, H.H.)
 2 HONEYMAN, HENRY HUGHES, V.J. HUGHES, ALFRED)
 3 JENSEN, FLORENCE G. JENSEN, JACOB T. JONES,)
 4 LILLIAN JONES, GERALD JONES, NANCY A. JONES,)
 5 WALTER JONES, BARBARA G. JONES, THOMAS E.)
 6 KIRTLAND, JANICE A. KRAMER, FRED J. KUIPER,)
 7 SARA A. KUIPER, HERMAN LAUBE, HELEN L. LAUBE,)
 8 ELBERT MANLEY, LAWRENCE McCONNELL, ANN P.)
 9 McCONNELL, E. L. McJUNKIN, VIVIAN E. McJUNKIN,)
 10 ROBERT L. McKEE, MARY J. McKEE, DOUGLAS D.)
 11 MARTIN, Verna L. MARTIN, EDMUND G. MELTON,)
 12 MARY K. MELTON, MARETH J. MERRILL, ANNA G.)
 13 MERRILL, ARTHUR D. MILLER, DORA E. MILLER,)
 14 WOLFRAM G. MULLER, LUZIA MULLER, ROBERT PARISH,)
 15 JR., LOUISE M. PARISH, RICHARD SAHAGIAN,)
 16 MARIAN SAHAGIAN, EDWARD SALVENSEN, DEBBIE M.)
 17 SALVENSEN, ANTON SCHLOSSER, AMELIA C. SCHLOSSER,)
 18 LeROY L. SLABY, CAROL A. SLABY, THEO S.)
 19 STANSBIE, BLANCHE STANSBIE, HAROLD STRAND,)
 20 DOROTHY E. STRAND, MATILDA TETZ, OTTO A. TETZ,)
 21 VIOLA M. TETZ, CURTIS G. TETZ, ROWENA ANN TETZ,)
 22 ELSIE VANLANDINGHAM, GARY L. WILSON, PATRICIA)
 23 K. WILSON, ERNEST A. WINTERFELD, ADELINE)
 24 WINTERFELD,)

Plaintiffs

vs.

13 CITY OF SCAPPOOSE, OREGON,)
 14 A Municipal Corporation)

Defendant

JUDGMENT

15 THIS MATTER was set for hearing on March 21, 1984. Plaintiffs
 16 were present and represented by Agnes M. Petersen
 17 and Robert McKee. Defendant City of Scappoose was present and
 18 represented by David B. Williamson. The parties negotiated for
 19 in excess of 8 hours with the assistance of the court and arrived
 20 at and agreed upon the following judgment by sworn testimony in
 21 open court. Pursuant to the negotiations and agreements it
 22 appeared to the Court:

23 1. Plaintiffs and defendants are residents or own property
 24 within the area described in the December 5, 1975, water rights
 25 certificate of City of Scappoose, recorded in Volume 15, Page
 26 895, Miscellaneous Records.
 Page - 2 - JUDGMENT ORDER

1 2. The Scappoose water system has run through the area
2 known as Dutch Canyon since the 1920's and has served water users
3 in the area including some of the parties to these two lawsuits.

4 3. The two lawsuits have been filed to determine the re-
5 spective rights of all parties and the suits should be amicably
6 settled and a judgment entered settling these issues. It is,
7 therefore,

8 ORDERED and ADJUDGED:

9 1. All parties plaintiffs to the above lawsuit shall continue
10 to receive City of Scappoose water as a matter of right.

11 2. There will be no termination or threat of termination
12 of water services to plaintiffs receiving water so long as they
13 pay all water bills when due. Failure to pay water bills shall
14 produce the same result as non-payment within the City limits.

15 3. All prior water agreements and water contracts executed
16 by these plaintiffs are superceded by this judgment insofar as
17 the agreements are inconsistent with this judgment.

18 4. Water Charges: The above plaintiffs shall pay the
19 same rate for water service as users within the City plus four
20 dollars (\$4.00) per month per user until the year 2019 when the
21 1979 General Obligation Bond is paid in full. The \$4.00 per
22 month charge is the outside users contribution toward the amorti-
23 zation of the 1979 General Obligation Water Bond. Plaintiffs
24 shall also pay their prorated share of any future general obli-
25 gation bonds issued to enlarge or improve City's water system.

26 * * *

1 5. Sewer Charges: No sewer charges shall be made to these
2 plaintiffs unless plaintiffs are served by City sewer. City
3 shall never attempt to force these plaintiffs to involuntarily
4 form a separate water district.

5 6. All parties plaintiff shall be entitled to the same
6 rights and privileges and be bound by the same rules as all other
7 persons being served water by the City of Scappoose within the
8 City limits in that additional hookups shall be given for existing
9 homesteads, lots and parcels approved for building permits provided
10 the hooking up and serving of water complies with all state and
11 federal laws and regulations in existence on the date of appli-
12 cation for the hookup.

13 7. In the event an application is filed by a party outside
14 the present urban growth boundary to be included within the boundary
15 and for a water hookup for good cause, the hookup shall be approved
16 and granted upon approval of the amendment of the UGB by inclusion
17 of applicants property within the boundary by action of Scappoose
18 City Council. Once the water service is received it cannot be
19 terminated except for cause, eg non-payment of water bill.

20 8. City shall pass no ordinances nor attempt to enforce
21 any ordinances which are inconsistent with this judgment.

22 9. This judgment shall have no effect on these plaintiffs'
23 rights and City's water rights certificate dated December 5,
24 1975, recorded in Volume 15, Page 895, Miscellaneous Records,
25 Columbia County, Oregon.

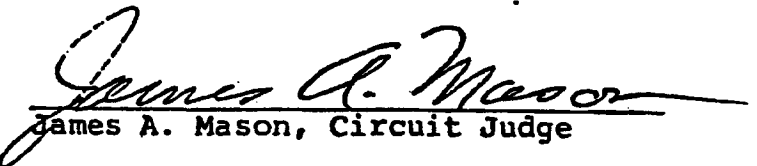
26 * * *

1 10. This judgment binds all parties hereto, their heirs,
2 successors or assigns and plaintiffs' rights hereunder shall
3 run with their land.

4 11. The effective date of this judgment is April 1, 1984,
5 as to water rates.

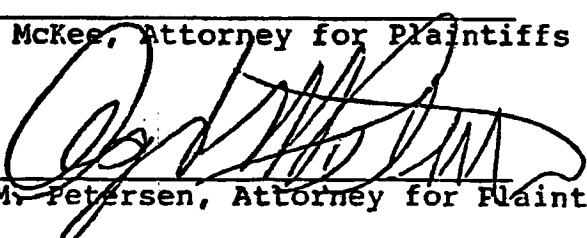
6 12. Neither party nor parties shall be awarded costs or
7 disbursements.

8 DATED this 17th day of ^{May}~~March~~, 1984, nunc pro tunc to
9 March 21, 1984.

10 
11 James A. Mason, Circuit Judge

12 APPROVED AS TO FORM:

13
14 Robert McKee, Attorney for Plaintiffs

15 
16
17 Agnes M. Petersen, Attorney for Plaintiffs


18 
19
20 David B. Williamson, Attorney for
21 City of Scappoose, Oregon
22
23
24
25
26

Exhibit DFILED
STATE OF OREGON
COLUMBIA COUNTY COURTS

IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR COLUMBIA COUNTY

CITY OF SCAPPOOSE, OREGON,
an Oregon Municipal Corporation,

Case No. 88-2112 TRIAL COURT ADMINISTRATOR

Plaintiff,

vs.

JUDGMENT

ERVIN ASHLEY, RUSSELL COWLES,
HELEN LAUBE, ROGER STRAND,
ALFRED TETZ, ERNEST WINTERFELD,
LUZIA MULLER, JAMIE WILLIAMS,
WYNETTE WILLIAMS, ALLAN STRAND,
OTTO TETZ, VIOLA TETZ, JOHANNA
TETZ, DUANE SMITH, AND RUTH SMITH

Defendants.

THE ABOVE ENTITLED MATTER came on for trial on February 22, 1995. David F. Bartz, Jr., appeared on behalf of the plaintiff, Robert P. VanNatta appeared on behalf of defendants, Ashley, Cowles, Laube, Strand, Winterfeld, Muller, Jamie Williams, Wynette Williams and Allan Strand. Joseph David McDonald appeared on behalf of defendant Ruth Smith. Duane Smith died in February of 1994 and Ruth Smith is his successor in interest. Otto Tetz, Viola Tetz and Johanna Tetz did not appear at trial. The case was tried to conclusion.

NOW, THEREFORE, IT'S HEREBY ADJUDGED:

1. That certain judgment heretofore entered by the Circuit Court of Columbia County in Case No. 25683 styled Parish v. City of Scappoose, et al and in Case No. 27310 styled Alexander et al v. City of Scappoose which was entered on May 18, 1984 and dated May 17, 1984 nunc pro tunc to March 21, 1984 is a valid and subsisting judgment which is determinative of the rights of the parties in this case. A portion of that prior judgment provides

1 JUDGMENT

D:\RI\REA\OUTCH.JMT

VAN NATTA & PETERSEN
ATTORNEYS AT LAW
P.O. BOX 748
ST. HELENS OREGON
503/367-4001

65
104

as follows:

"1. All parties plaintiff to the above lawsuit shall continue to receive City of Scappoose water as a matter of right.

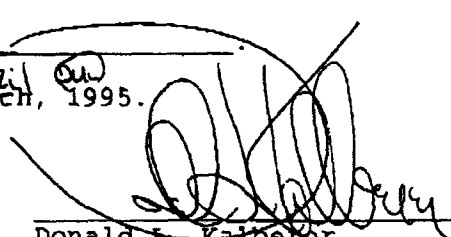
2. There will be no termination or threat of termination of water services to plaintiffs receiving water so long as they pay all water bills when due.

3. All prior water agreements and water contracts executed by these plaintiffs are superseded by this judgment insofar as the agreements are inconsistent with this judgment."

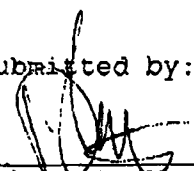
2. The City of Scappoose (the "City") shall not discontinue domestic water service to the defendants, and their successors in interest, as a method of resolving any water quality issues relating to the water which the City is required under said prior judgment to provide to the defendants and their successors in interest, under and the obligation of compliance with regulatory water quality standards is upon the City; such "compliance obligation," however, shall arise only upon the order of a regulatory agency with authority over Oregon drinking water quality standards which requires the City to take remedial action, and

3. The defendants shall have and recover their costs to be taxed and allowed in the sum of \$ _____.

Dated this 14 day of April, 1995.


Donald L. Kaibeler
Circuit Judge

Submitted by:


Robert P. VanNatta, OSB# 70-115

2 JUDGMENT
D:\RI\REA\JMT

VAN NATTA & PETERSEN
ATTORNEYS AT LAW
P.O. BOX 718
ST. HELENS, OREGON
503-325-2000

1 STATE OF OREGON)
2 County of Columbia) ss.

3 I hereby certify that I have prepared the foregoing copy
4 Judgment, and have carefully compared the same with the original
5 thereof; and that it is a correct copy therefrom and of the whole
6 thereof.

7 Dated this 29 day of March, 1995.

8 Robert P. Van Natta; OSB #70155
9 Of Attorneys for Defendants
10 Ervin Ashley, Russell Cowles,
11 Helen Laube, Luzia Muller,
12 Jamie Williams, Wynette Williams,
13 Roger Strand, Allan Strand and
14 Ernest Winterfeld

15 I hereby certify that I served the foregoing Judgment on
16 David F. Bartz, Jr., Attorney for Plaintiff and Joseph D. McDon-
17 ald, Attorney for Defendants, on the 29 day of March, 1995,
18 by mailing to them a true and correct copy thereof, certified by
19 me as such. I further certify that said copy was placed in a
20 sealed envelope address to said attorneys as follows:

21 David F. Bartz, Jr.
22 SCHWABE, WILLIAMSON & WYATT
23 Suites 1600-1950 Pacwest Center
24 1211 S.W. Fifth Avenue
25 Portland, Oregon 97204-3795

26 Joseph D. McDonald
27 PALMER, FELTZ, SMITH & McDONALD
28 Pacwest Center, Suite 593
29 1211 S.W. Fifth Avenue
30 Portland, Oregon 97204-3705

31 their last known address, and deposited in the Post Office at St.
32 Helens, Oregon, on the 29 day of March, 1995, and that the
33 postage thereon was prepaid.

34 Robert P. Van Natta; OSB #70155

35 VAN NATTA & PETERSEN
36 Attorneys at Law
37 P. O. Box 748
38 St. Helens, Oregon 97051
39 Telephone: (503)-397-4091
40 3 JUDGMENT

41 D:\RI\REA\OUTCH.JMT

42 VAN NATTA & PETERSEN
43 ATTORNEYS AT LAW
44 P.O. BOX 748
45 ST. HELENS OREGON

**BEFORE THE
COLUMBIA COUNTY PLANNING COMMISSION
ST. HELENS, OREGON**

In the Matter of the Application of the)
City of Scappoose for a Comprehensive)
Plan Text Amendment to add language)
to allow a City water line extension in)
resource designations if required by)
Court Order and to Adopt the Service)
Area Map for Dutch Canyon Water Line)

**RECOMMENDATION TO THE
BOARD OF COMMISSIONERS
FOR TA 13-01**

This matter came before the Columbia County Planning Commission on the application of the City of Scappoose to adopt the Dutch Canyon Water Line Service Area Map and obtain land use approval for extending a City water service outside of the City's Urban Growth Area. For county land use approval the text of the Comprehensive Plan needs to be amended in Part XIV Public Facilities & Services, in Part V Agriculture and Part VI Rural Residential. Due to court judgments, the City of Scappoose has extended municipal water service to nine properties on Dutch Canyon Road, some 3.2 miles beyond their normal service area. The City, the State DLCD and County Planning Division have agreed that other properties abutting Dutch Canyon Road should be eligible to hook up to City water service if the water extension will not increase densities beyond existing zoning. This amendment would make that possible.

Notice of the Hearing was published twice in the Daily News, Spotlight, and Chronicle on August 21, 2013 and August 28, 2013, at least 10 calendar days prior to the September 9, 2013 public hearing date. Notice of this application was mailed to the owners of the affected subject properties and applicable agencies on July 31, 2013. The 35-day notice was mailed to the Department of Land Conservation and Development (DLCD) on July 30, 2013.

This matter was scheduled for Planning Commission hearing on September 9. The Planning Commission heard testimony from the applicant and interested parties and those who were opposed to the application. After hearing all oral and written testimony the Planning Commission closed the record. The Planning Commission deliberated on the matter on September 9, 2013. It is recommended that Exhibit B be added to the record showing the exception of the service area for the Dutch Canyon Water Line operated by the City of Scappoose, constructed in response to court judgments in 1984 and 1995.

After discussion and due consideration the Columbia County Planning Commission **recommends** that the Board of County Commissioners **APPROVE** this Comprehensive Plan Text Amendment and adopt the Dutch Canyon Water Line Service Area map as presented in the Application and the Planning Department Staff Report.

COLUMBIA COUNTY PLANNING COMMISSION


TERRY LUTTRELL, CHAIRMAN PRO-TEM

10-3-13
DATE

COURTHOUSE
230 STRAND
ST. HELENS, OREGON 97051
(503) 397-1501

Updated
6/18/08

II. DECISION CRITERIA FOR TEXT AMENDMENTS

TA 13-01

- A. Please present, in as much detail as necessary, evidence to show that the proposed text is consistent with applicable Oregon Revised Statutes and Administrative Rules. Include your written testimony showing the proposal complies with this criterion in an attachment labeled "Exhibit 1, Compliance with the applicable Oregon Revised Statutes and Administrative Rules."
- B. Please present, in as much detail as necessary, evidence to show that the proposed text amendment is consistent with the intent and policies within applicable sections of the Comprehensive Plan text and maps. Include your written testimony showing the proposal complies with this criterion in an attachment labeled "Exhibit 2, Compliance with the Comprehensive Plan."
- C. Please present, in as much detail as necessary, evidence to show that the proposed text amendment is consistent with the intent and purpose statement of the affected Chapter or sub-chapter of the Ordinance to be amended. Include your written testimony showing the proposal complies with this criterion in an attachment labeled "Exhibit 3, Compliance with the Ordinance Statement of Purpose."

III. CERTIFICATION:

I hereby certify that all of the above statements, and all other documents submitted, are accurate and true to the best of my knowledge and belief.

Applicant Signature: _____

Date: 6/19/13

Applicant Signature: _____

Date: _____

+++++

Planning Department Use Only

Date Rec'd.: 6-19-13

Hearing Date: _____

Fee Paid: 1/2 1744.50

Receipt No. 16631 48783

Staff Member: _____

Other Related Applications: _____ Zoning Map Amendment _____ Plan Text Amendment

_____ Plan Text Amendment

+++++

Attachment 1:

Background information on the City of Scappoose Dutch Canyon Water Line

The City of Scappoose is obligated to provide domestic water service to nine properties on Dutch Canyon Road due to court judgments issued in 1984 and 1995. These nine properties are outside the Scappoose City Limits and outside the Scappoose Urban Growth Boundary (UGB). The City provided untreated water to these residents for many years but constructed a booster pump station and 3.2 miles of water distribution piping in 2009 and 2010 to deliver potable water to the nine properties with rights to City water.

The new water main passes in front of several properties along Dutch Canyon Road. As a result, the City is willing to serve other customers in addition to the nine with water rights. Based on the direction of Oregon Department of Land Conservation and Development (DLCD) staff, the City has adopted policies in its Municipal Code affirming that the water would be provided only at the densities allowed by Columbia County zoning as of November 3, 2003 for properties with direct frontage on Dutch Canyon Road (Scappoose Municipal Code section 13.04.020(B)).

Zoning in the Service Area includes FA-80 (Forest Agriculture with a minimum lot size of 80 acres), PA-80 (Primary Agriculture with a minimum lot size of 80 acres), and RR-5 (Rural Residential with a minimum lot size of 5 acres). Based on the zoning, the nine properties with water rights could be divided into lots allowing for approximately 26 residences, and the remaining properties without water rights could be divided into lots allowing for approximately 38 residences. These figures include the existing residences.

DLCD staff has indicated that Columbia County needs to formally adopt a service area map in its Comprehensive Plan to clearly identify the affected parcels. This action would be consistent with Oregon administrative rules regarding water service to rural lands (OAR 660-011-0065).

Attachment 2 – Proposed amendments to the Comprehensive Plan

(Proposed language additions are double underlined)

PART V. AGRICULTURE

POLICIES: It shall be a policy of the County to:

9. Avoid extension of urban facilities and services into agricultural areas whenever possible. No water or sewer facility shall be designed to provide domestic service to agricultural areas with the exception of the service area for the Dutch Canyon Water Line operated by the City of Scappoose, constructed in response to court judgments in 1984 and 1995.

PART XIV. PUBLIC FACILITIES & SERVICES

POLICIES: It shall be County policy to:

2. Require that the level of facilities and provided be appropriate for, but limited to, the needs and requirements of the area(s) to be served. The types and level of public facilities allowed within Rural Residential, Rural Center, Existing Commercial, and Rural Industrial areas are:

- A. Public or community water systems.
- B. Public or community sewage systems.
- C. Collector and/or arterial street systems.
- D. Fire protection by a rural fire protection district, or an equivalent level of service.

Development of public or community water and sewer facilities is not appropriate within forestry or agricultural areas unless needed to alleviate a demonstrated health hazard or where required by court judgments, and where such facilities are the minimum level to accomplish the task in accordance with Oregon administrative rules regarding water service to rural lands (OAR 660-011-0065). Urban levels of streets and fire protection are also inappropriate within forestry and agricultural resource areas.

22. Allow provision of potable water service outside the Scappoose Urban Growth Boundary within the Dutch Canyon Water Line Service Area illustrated on Map # _____. The properties directly abutting Dutch Canyon Road illustrated on the Map shall be eligible for municipal water service, while properties with an easement but no frontage on Dutch Canyon Road shall not qualify for water service. The presence of the Dutch Canyon Water Line shall not be grounds for zone changes or other density increases beyond the density allowed by the zoning in effect as of November 3, 2003.

Attachment 3 – Draft findings in support of the Comprehensive Plan amendment

Statewide Planning Goals & Guidelines

GOAL 11: PUBLIC FACILITIES AND SERVICES

[...]

Local governments shall not rely upon the presence, establishment, or extension of a water or sewer system to allow residential development of land outside urban growth boundaries or unincorporated community boundaries at a density higher than authorized without service from such a system.

[...]

GUIDELINES

A. PLANNING

[...]

2. Public facilities and services for rural areas should be provided at levels appropriate for rural use only and should not support urban uses.

Response:

The City of Scappoose is obligated by 1984 and 1995 court judgments to provide potable water to nine properties along Dutch Canyon Road outside the Scappoose Urban Growth Boundary (UGB). The City is willing to serve other customers along Dutch Canyon Road in addition to the nine with water rights. To clearly define eligibility for water, the County is adopting the Dutch Canyon Water Line Service Area illustrated on Map _____. The properties within this service area have rural zoning, namely FA-80 (Forest Agriculture with a minimum lot size of 80 acres), PA-80 (Primary Agriculture with a minimum lot size of 80 acres), and RR-5 (Rural Residential with a minimum lot size of 5 acres).

The County has proposed a specific policy within the Public Facilities & Services section of the Comprehensive Plan to ensure that the City's 2009-2010 extension of water service into the affected area will not lead to higher densities than those allowed prior to the water main construction extension. Similarly, Scappoose Municipal Code Section 13.04.020(B) states that the City will only provide water at densities allowed by the County zoning in effect on November 3, 2003 (see Appendix).

Oregon Administrative Rules

DIVISION 11 PUBLIC FACILITIES PLANNING

OAR 660-011-0065 [Water Service to Rural Lands]

(1) As used in this rule, unless the context requires otherwise:

(a) "Establishment" means the creation of a new water system and all associated physical components, including systems provided by public or private entities;

(b) "Extension of a water system" means the extension of a pipe, conduit, pipeline, main, or other physical component from or to an existing water system in order to provide service to a

use that was not served by the system on the applicable date of this rule, regardless of whether the use is inside the service boundaries of the public or private service provider.

(c) "Water system" shall have the same meaning as provided in Goal 11, and includes all pipe, conduit, pipeline, mains, or other physical components of such a system.

(2) Consistent with Goal 11, local land use regulations applicable to lands that are outside urban growth boundaries and unincorporated community boundaries shall not:

(a) Allow an increase in a base density in a residential zone due to the availability of service from a water system;

(b) Allow a higher density for residential development served by a water system than would be authorized without such service; or

(c) Allow an increase in the allowable density of residential development due to the presence, establishment, or extension of a water system.

(3) Applicable provisions of this rule, rather than conflicting provisions of local acknowledged zoning ordinances, shall immediately apply to local land use decisions filed subsequent to the effective date of this rule.

Response:

The proposed amendments to the Comprehensive Plan would allow for the provision of municipal water to the designated Dutch Canyon Water Line Service Area outside the City of Scappoose Urban Growth Boundary (UGB), as illustrated on Map _____. The water line was constructed in 2009-2010 to satisfy 1984 and 1995 court judgments mandating water service to nine properties (see Map _____). The City of Scappoose is willing to provide water to the intervening properties which abut Dutch Canyon Road. The Appendix contains a list of the properties with and without rights to City water from the court judgments.

The proposed Public Facilities & Services new Policy #22 states within the Comprehensive Plan that the presence of the Dutch Canyon Water Line shall not be the grounds density increases beyond the density allowed by the zoning which predated the extension of the Dutch Canyon Water Line. The proposed policy ensures that the water line is not used as the basis to increase residential density, and the proposed service area map limits the potential water customers to a specific set of authorized properties.

Columbia County Comprehensive Plan

PART IV. FOREST LANDS

FOREST LANDS: GOALS AND POLICIES

POLICIES: It shall be the policy of Columbia County to:

10. Any changes in the minimum lot sizes for forest lands will be reviewed against the requirements of statewide land use planning Goal 4 and implementing standards and rules.

Response:

A portion of the property within the Dutch Canyon Water Line Service Area (approximately 34 acres) is zoned FA-80, Forest / Agriculture Use. Statewide Planning Goal 11 and OAR 660-011-

0065 limit the ability of jurisdictions to increase residential density due to the provision of water service. The proposed Comprehensive Plan amendment acknowledges that the Dutch Canyon Water Line cannot be used as the reason to increase residential density. As a result, any proposed changes to lot size for parcels zoned FA-80 in the Dutch Canyon Water Line Service Area would need to comply with Forest Lands Policy #10, Statewide Planning Goal 4, and applicable standards and rules.

PART V. AGRICULTURE

AGRICULTURE: GOALS AND POLICIES

POLICIES: *It shall be a policy of the County to:*

2. If the County proposes to convert agricultural lands (as defined by Statewide Land Use Goal 3) to urbanizable land, the County shall follow the procedures and requirements for exceptions to the Agricultural Lands goal, pursuant to Goal 2. Those uses which are permitted by ORS 215.283(1) or (2) shall not require an exception to the Agricultural Lands goal.

3. Designate Agricultural lands as Agricultural Resource in the Comprehensive Plan and implement this plan designation through the use of one (1) exclusive farm use zone:

Primary Agriculture - PA-80

Minimum lot size of 80 acres in that zone is appropriate for the continuation of the existing commercial agricultural enterprise in the area.

[...]

8. Establish minimum lot sizes to assure that productive agricultural land will not be divided into parcels that are too small for commercial farm use.

9. Avoid extension of urban facilities and services into agricultural areas whenever possible. No water or sewer facility shall be designed to provide domestic service to agricultural areas.

[...]

12. Require that conversion of rural land to urbanizable land be based on the criteria set out in Goals 3 and 14.

13. Allow the division of lands placed in the Primary Agriculture District in accordance with the following:

A. The lot area is consistent with the agriculture land use policy for the State of Oregon as expressed in ORS 215.243 and consistent with ORS 215.263 and ORS 215.780;

B. The lot area is of a similar size to existing commercial agricultural operations in the surrounding area;

C. In those instances where it is proposed to locate a farm-related dwelling, the proposed lot area is of sufficient size to support commercial production of food or fiber using accepted farm practices as defined in ORS 215.203 (2) (c);

D. Approval of the partitioning will not seriously interfere with the preservation of wildlife or fish habitat areas as identified in the Columbia County Comprehensive Plan, or interference will be mitigated; and,

E. Any additional criteria as set forth in the County Primary Agriculture District.

[...]

18. In order to provide additional protection to the existing commercial agricultural economy of the County, the division of land in the primary agriculture zone into lots smaller than 80 acres will be allowed only if consistent with ORS 215.263, ORS 215.284 and ORS 215.780.

Response:

A portion of the property within the Dutch Canyon Water Line Service Area (approximately 265 acres) is zoned PA-80, Primary Agriculture Use. Statewide Planning Goal 11 and OAR 660-011-0065 limit the ability of jurisdictions to increase residential density due to the provision of water service. The proposed Comprehensive Plan amendment acknowledges that the Dutch Canyon Water Line cannot be used as the reason to increase residential density. As a result, any proposed changes to lot size for parcels zoned PA-80 in the Dutch Canyon Water Line Service Area would need to comply with the Agriculture Policies, Statewide Planning Goal 3, and applicable standards and rules. The proposed Comprehensive Plan amendment would alter the language of Agriculture Policy #9 to provide an exception for the Dutch Canyon Water Line Service Area since the water line construction was mandated by court judgment. The Dutch Canyon Water Line Service Area includes the nine properties with rights to City water, together with the intervening properties as illustrated on Map ____.

PART VII. RURAL RESIDENTIAL

RURAL RESIDENTIAL: GOALS AND POLICIES

POLICIES: It shall be a policy of the County to:

3. *Establish a Rural Residential Zone with a 5-acre minimum lot or parcel size where such lands:*
 - A. *Must rely on a private water system to serve the property.*
 - B. *Must rely on a private sewage disposal system to serve the property.*
 - C. *Have access onto a public or private right-of-way meeting applicable County Road Standards.*
 - D. *May or may not be within a rural fire protection district.*

Response:

A portion of the property within the Dutch Canyon Water Line Service Area (approximately 250 acres) is zoned RR-5, Rural Residential - 5. This zoning designation acknowledges that private drinking water systems were required for residential development when the zoning was applied. Now that the Dutch Canyon Water Line has been constructed under court order to serve nine properties, existing and future residents along Dutch Canyon Road may choose to become water customers of the City of Scappoose. However, based on the proposed Comprehensive Plan amendment, Statewide Planning Goal 11, and OAR 660-011-0065, the presence of the Dutch Canyon Water Line may not be used as justification to increase the density of residential development in this area.

PART IX. URBANIZATION

URBANIZATION: GOALS AND POLICIES

POLICIES: It shall be a policy of the County to:

[...]

20. *Limit development outside of urban growth boundaries to densities which do not require an urban level of public facilities or services and are consistent with Goal 14 and OAR 660, Division 4.*

Response:

The Dutch Canyon Water Line Service Area is located outside the Scappoose UGB. The presence of the new water line may accelerate a change in the number of housing units within the service area, but does not in itself lead to a change in development density. The maximum density is regulated by the Comprehensive Plan and zoning standards, which have minimum parcel sizes ranging from 5 acres to 80 acres within the Dutch Canyon Water Line Service Area. The proposed Comprehensive Plan amendment states that the presence of the water line may not be used as justification for the County to increase residential dwelling density.

The presence of the water line does not lead to additional development since groundwater is available to property owners already. A review of the Oregon Water Resources Department's well log database identified 42 drinking water wells within and near the Dutch Canyon Water Line service area drilled from 1966 to 2007. The output for these wells is as high as 50 gallons per minute (gpm), with a median value of 12 gpm. This flow rate is adequate for single-family residential development. The Oregon State University Extension Service indicates that

A country well should produce at least 5 to 6 gallons per minute continuous flow for a family with a three-bedroom, two-bathroom home. This is a minimum amount. A flow of 10 gallons per minute is highly desirable. A well producing 5 gallons per minute may require additional storage capacity and may restrict simultaneous activities.

(see *Rural Domestic Water Supply*, Publication EC 1374, Oregon State University Extension Service, reprinted January 1993).

The Oregon Water Resources Department recommends a flow rate of 50-75 gallons per day per person for domestic use plus any additional volumes for lawn & garden purposes. Based on this information, development within the Dutch Canyon Water Line Service Area would have occurred even without the water line construction since water is available.

Appropriate measures, consisting of a service area map and Plan policies, have been implemented to ensure that the Dutch Canyon Water Line does not lead to increased density in the designated rural areas. As illustrated on the aerial photograph (see Appendix), there are existing residences within the Dutch Canyon Water Line Service Area. A review of the zoning, included in the Appendix, indicates that the maximum number of allowable residences would be approximately 64, which includes the existing houses. This density is appropriate for rural areas and would remain unaffected by the construction of the Dutch Canyon Water Line due to the protections of Statewide Planning Goal 11, OAR 660-011-0065, and the proposed Public Facilities & Services new Policy #22.

PART XIV. PUBLIC FACILITIES AND SERVICES

PUBLIC FACILITIES AND SERVICES: GOALS AND POLICIES

POLICIES: *It shall be County policy to:*

[...]

2. Require that the level of facilities and services provided be appropriate for, but limited to, the needs and requirements of the area(s) to be served. The types and level of public facilities allowed within Rural Residential, Rural Center, Existing Commercial, and Rural Industrial areas are:

- A. Public or community water systems.*
- B. Public or community sewage systems.*
- C. Collector and/or arterial street systems.*
- D. Fire protection by a rural fire protection district, or an equivalent level of service.*

Development of public or community water and sewer facilities is not appropriate within forestry or agricultural areas unless needed to alleviate a demonstrated health hazard, and where such facilities are the minimum level to accomplish the task. Urban levels of streets and fire protection are also inappropriate within forestry and agricultural resource areas.

[...]

5. Coordinate public facilities and services planning with affected service districts and/or agencies.

Response:

One of the components of the proposed Comprehensive Plan amendment is a modification to the text of Public Facilities and Services Policy #2 since construction of the Dutch Canyon Water Line was required by court judgments mandating provision of water service by the City of Scappoose to specific rural properties outside the UGB. The City is willing to provide water service to other abutting properties within the defined Dutch Canyon Water Line Service Area, and has previously codified its policy to only provide water at densities allowed by the County zoning in effect on November 3, 2003 (see Scappoose Municipal Code Section 13.04.020(B) in the Appendix). The City's actions were coordinated with the Oregon Department of Land Conservation and Development and Columbia County planning staff.

Appendix

Scappoose Municipal Code Section 13.04.020(B)

13.04.020 Water mains.

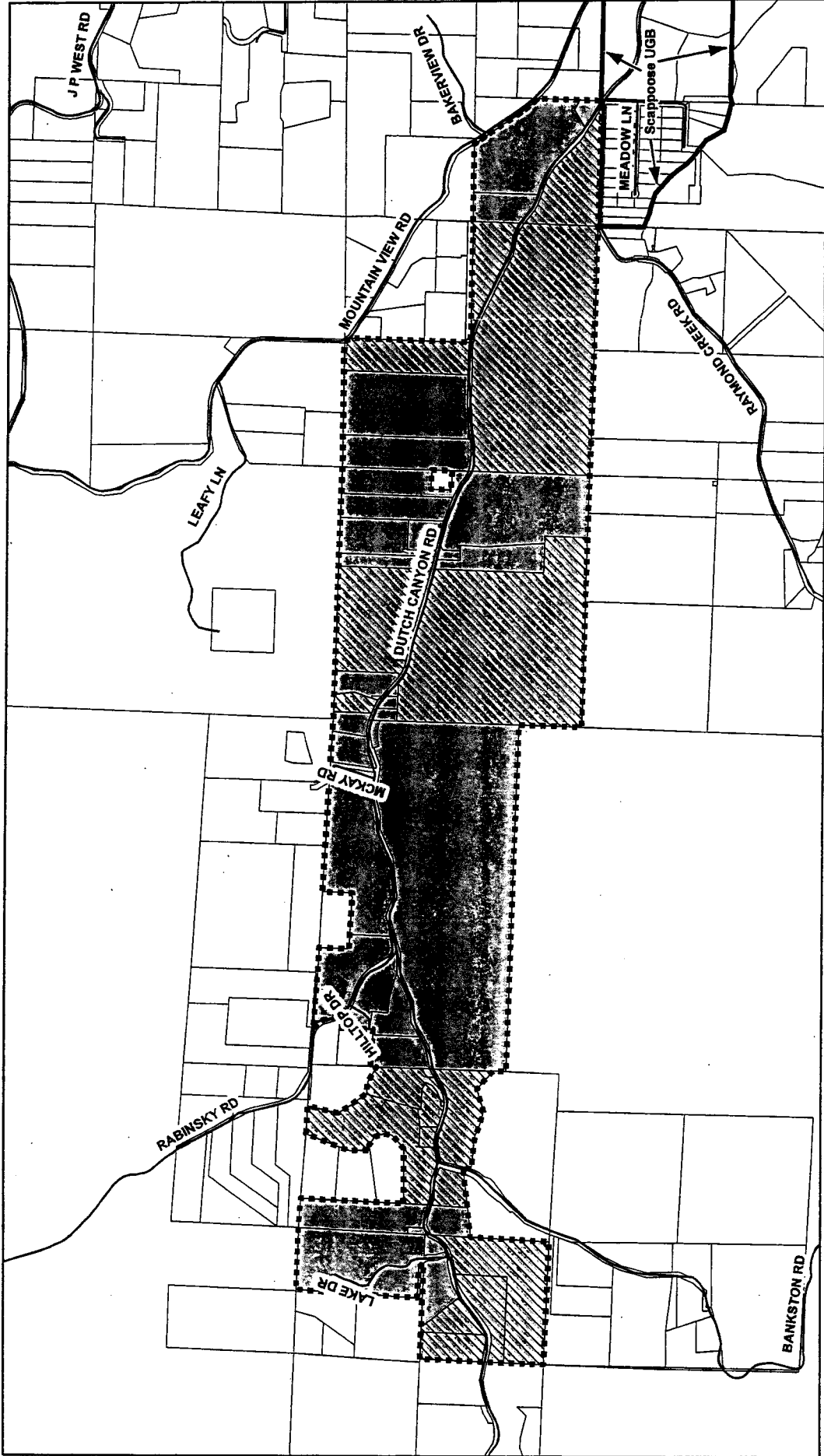
B. Extension of water mains within the corporate limits of the city may be made by the water department, but such extensions will be made only when, in the judgment of the city council, it is economically feasible. Outside users may be connected to the city water system upon a two-thirds affirmative vote of approval by the city council, it being the policy of the city that no outside users will be connected to city water.

1. Except for existing outside users the City will not provide new water service to unincorporated areas. However, the City of Scappoose will provide water service to all existing properties, including any further properties created by partition or subdivision processes for the properties associated with Parish, et al v. City of Scappoose, and Alexander et al v. City of Scappoose. Other properties directly abutting the Dutch Canyon Water Line Extension may also be provided water service, at the density permitted by Columbia County zoning as of November 3, 2003 for properties without municipal water service. Future zone changes within Columbia County allowing for greater density of properties via partition or subdivision processes do not merit the provision of water service from the City of Scappoose, nor do properties not abutting the Dutch Canyon Water Line Extension but equipped with a private or public easement across an abutting property qualify for water service.

2. Allow the construction of certain public facilities, including water lines, sanitary sewer lines and storm sewer lines outside the Urban Growth Boundary when it is beneficial to the City from an engineering, or operational basis, and in regard to water line extension, in specific scenarios where such extension might provide the potential for recovery of required improvement costs. However, the City will not allow any connections to these facilities except for health and safety reasons, and only when alternative solutions have been proven unviable. This provision does not restrict the ability of the City of Scappoose to contract with a water district or water association to provide water. However, the City of Scappoose will provide water service to all existing properties, including any further properties created by partition or subdivision processes for the properties associated with Parish, et al v. City of Scappoose, and Alexander et al v. City of Scappoose. Other properties directly abutting the Dutch Canyon Water Line Extension may also be provided water service, per the density provisions of underlying zones present within Columbia County as of November 3, 2003. Future zone changes within Columbia County allowing for greater density of properties via partition or subdivision processes do not merit the provision of water service from the City of Scappoose, nor do properties not abutting the Dutch Canyon Water Line Extension but equipped with a private or public easement across an abutting property qualify for water service.

3. Allow the extension of water services, but not sewer services, beyond the Urban Growth Boundary to any water district or water association that wishes to contract with the City for water, and to properties directly abutting the Dutch Canyon Water Line Extension, per the restrictions in Section 2, above.

Dutch Canyon Water Line Service Area
Columbia County, Oregon



Legend

- Service Area boundary
- Streets
- Scappoose Urban Growth Boundary

CITY OF SCAPPOOSE

33568 EAST COLUMBIA AVENUE
SCAPPOOSE, OREGON 97056
(503) 543-7146
FAX: (503) 543-7182

RECEIVED

SEP 06 2011

LAND DEVELOPMENT SERVICES

August 31, 2011

Glen Higgins, Planning Division Manager
Columbia County Department of Land Development Services
230 Strand St.
St. Helens, OR 97051

Subject: Dutch Canyon Water Line service area

Dear Glen:

As requested, City staff has produced draft maps and text for the County to incorporate into its Comprehensive Plan to identify the service area for the City's Dutch Canyon Water Line. Enclosed you will find a package of information as follows:

- (1) Background information that summarizes the water line history and rationale for the updates to the Comprehensive Plan. This information may be useful in your staff report.
- (2) Draft text and map for incorporation into the Comprehensive Plan.
- (3) Draft findings in support of the Comprehensive Plan amendment.

This material has been prepared following the direction of former Department of Land Conservation (DLCD) staff at project meetings and discussions with the City and County. We would recommend that the County discuss the draft Comprehensive Plan amendment with current DLCD staff prior to adoption to ensure that the amendment is satisfactory. I have provided a CD with electronic versions of the documents so that you may edit as needed (e.g., I have made the assumption that the properties previously zoned FA-19 and PA-38 have now been rezoned to FA-80 and PA-80 as part of the County's recent updates; if that is incorrect then those text references would need to be changed).

Please advise the City on the County's timing for adoption of the amendments. We would also appreciate receiving copies of materials such as public notice, adopted ordinances, and so on.

If you have any questions, feel free to contact me by phone at (503) 543-7184 or by my email address at brianvarricchione@ci.scappoose.or.us.

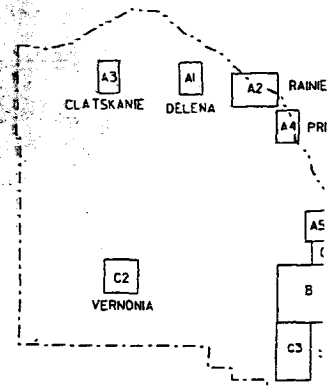
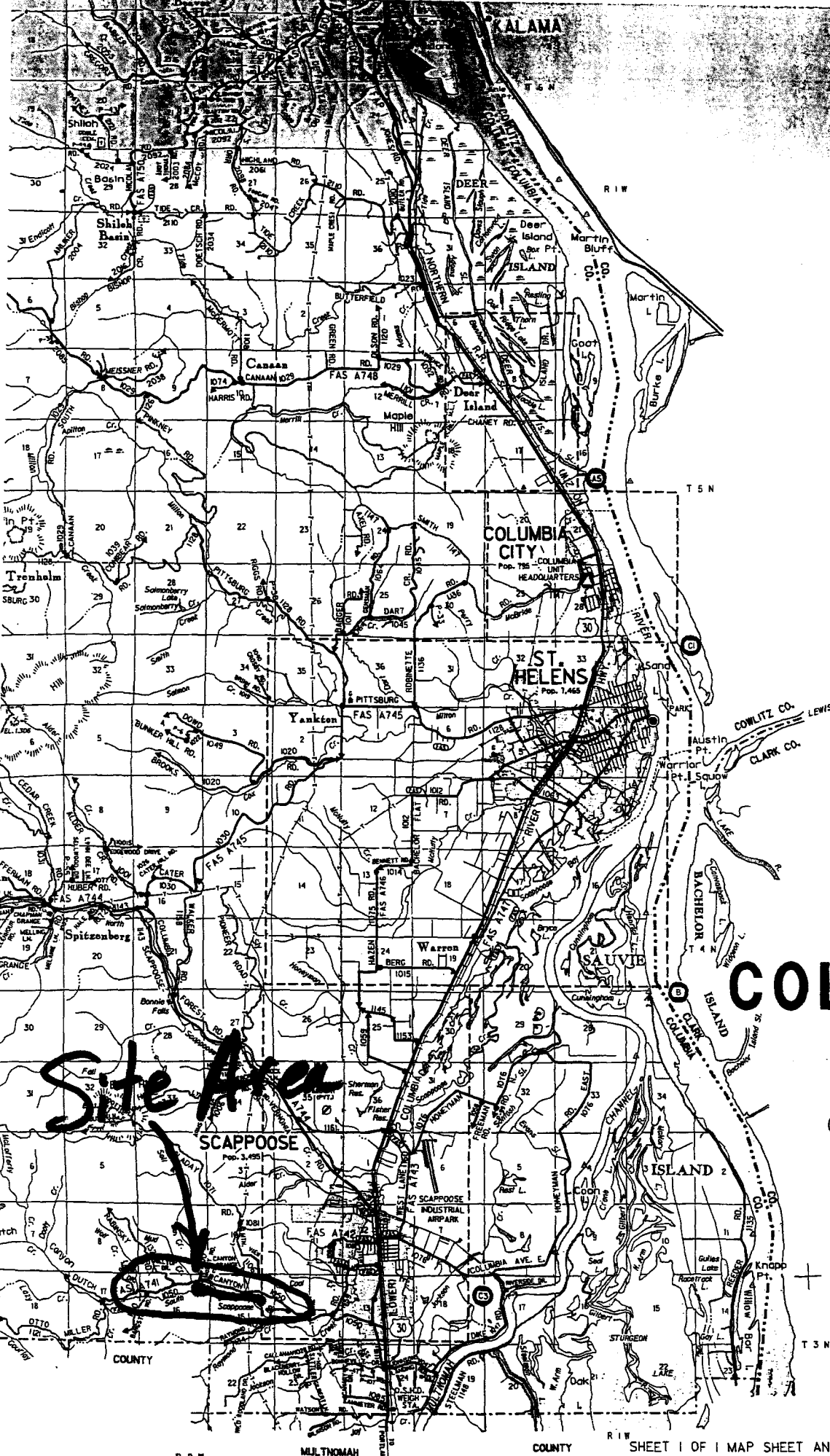
Sincerely,



Brian Varricchione
City Planner

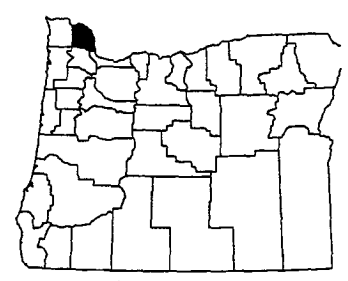
cc. Janet Hillock, Business Oregon

Our goal is to provide courteous, efficient service with team leadership and community involvement, in order to enhance the livability and well being of our citizens.



Population of Columbia County 1986 E

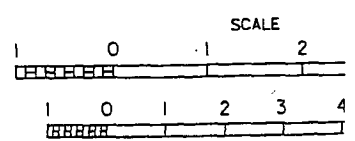
KEY TO COUNTIES



ROAD INDEX COLUMBIA C OREGOI

PREPARED BY THE
OREGON DEPARTMENT OF TR
IN COOPERATION WITH THE
U.S. DEPARTMENT OF TRANS
FEDERAL HIGHWAY ADMINIS

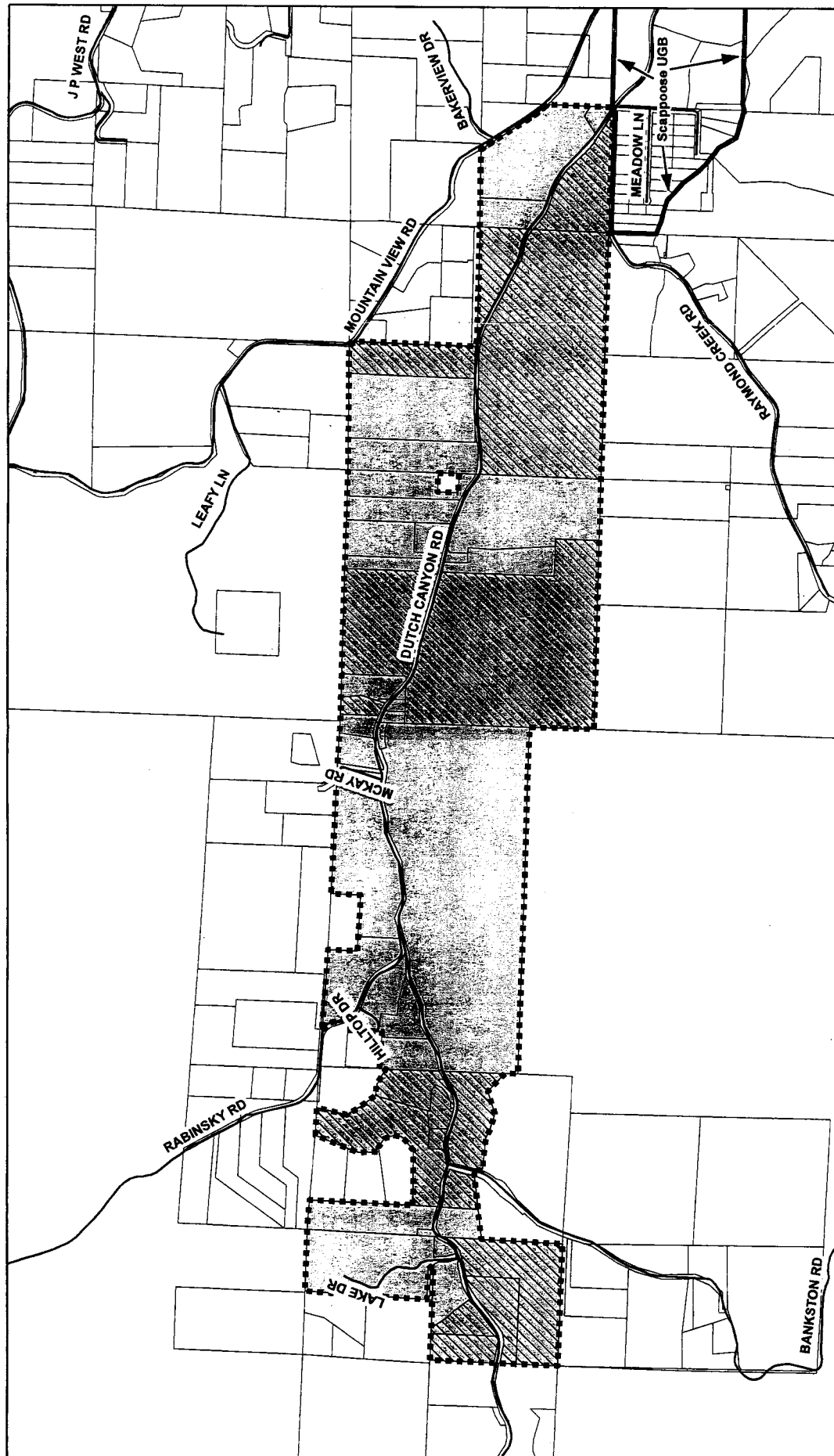
1987



State Plane Coordinate on Lamb
Oregon North Zone in Thousa

Dutch Canyon Water Line Service Area Columbia County, Oregon

EXHIBIT 3



- Legend**
- Streets
 - ▤ Service Area boundary
 - ▨ Service Area parcels
 - ▧ Service Area parcels with rights to City water
 - ▭ Scappoose Urban Growth Boundary



SCAPPOOSE Oregon

Exhibit 3 Application

Request to establish an outside hookup connection to the City water system by individual lands outside the City limits as defined by SMC 13.04.020

Prior to request, please review the terms and conditions outlined in SMC13.04 located on our website at: <http://www.ci.scappoose.or.us/municipalcode> which includes the following key provisions;

- 1) No cross connections without approved backflow assembly
- 2) No auxiliary water supply without approved backflow assembly
- 3) Any required backflow assembly shall be maintained and inspected annually, at no cost to the City, with results provided to the City.
- 4) Backflow device may need to be installed at the point of use (house) with access allowed for inspection, as required.
- 5) Any auxiliary water systems which are no longer required, after receiving City services shall be decommissioned in accordance with Oregon Water Resources at; www.wrd.state.or.us, or by calling District 18 Northwest Region Water Master at (503) 846-7780.
- 6) Decrease in water pressure as a result of the required backflow and subsequent need to install a pressure pump will not be the responsibility of the City.
- 7) All costs for compliance with the SMC 13.04 shall be the financial responsibility of the owner, occupant or other person in control of the premises.
- 8) Service shall be terminated for failure to adhere to all of the requirements for testing, cross connections, use of auxiliary services as further outlined in SMC 13.04.

I have read and agree to the requirements, terms and conditions as outlined in SMC 13.04 Water Service System;

PROPERTY OWNER INFORMATION;

Date: May 8, 2023

Name: Kathleen Bishop

Signature: Kath Bishop

Address: 31391 Dutch Canyon Road

Map & Tax Lot#: 3N2W15-B0-00101

Phone Number: 503-543-5957

Email address: knbishop@centurylink.net

Application information to Community Development Center for review prior to approval:

- 1) Provide a map with the following information for determination of the type of connection required;
 - a) Property location and approximate elevation at the proposed use, i.e., finished floor elevation of house.
 - b) Location and configuration of any auxiliary water sources (non-city water systems).
 - c) Location and configuration of any cross-connection systems as outlined in SMC 13.04, i.e., non-drinkable water system or auxiliary systems capable of imparting contamination to the public system as a result of backflow.
- 2) Provide a statement below explaining why you would like to connect to the City Water Services for City Manager review and approval;

My well is not producing adequate water for normal household use.

Staff Review and Approval;

City Engineer: Chris Negelspach

Building Official: _____

Finance Administrator: _____

Public Works Director: _____

City review comments;

See attached conditions of approval.

If application is approved by City Manager for City Council approval:

The applicant shall attend City Council hearing to express desire to connect to the water line.

Upon a 2/3 affirmative vote by Council, connection can be made subject to the conditions outlined in SMC 13.04.

☐ Approved by City Manager

☐ Denied by City Manager

City Manager's Signature

Date

If denied, reason: _____

If approved, date & time of City Council meeting: _____

☐ Approved by City Council

☐ Denied by City Council

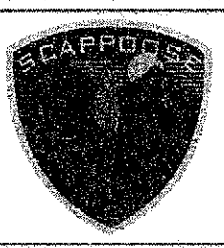
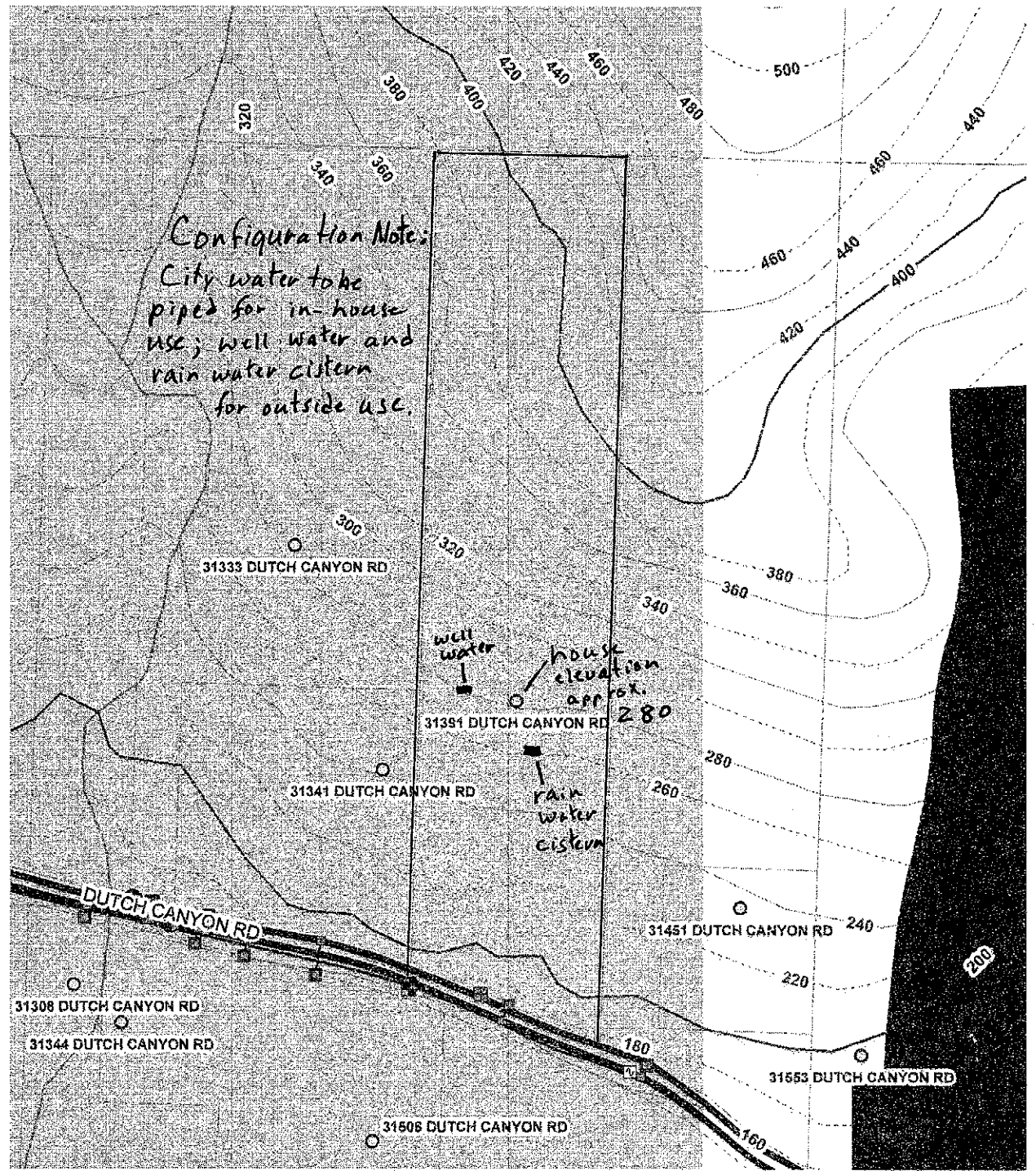
Once approved by City Council:

The applicant shall complete the following;

- 1) Obtain a Columbia County Plumbing Permit (submit copy to City)
- 2) Pay City Water System Development Charge (call city for current rate)
- 3) Pay City Water Hookup Fees (flat rate for meter set if existing lateral or T/M if tap needed)
- 4) Pay \$1,000 outside City user fee
- 5) Contact City Utility Billing Clerk to set up new account (call for current utility rates & deposit fee)

CITY STAFF TO SEND COPY OF APPROVAL TO;

- ☐ Property Owner
- ☐ CDC
- ☐ Utility Billing Department
- ☐ Columbia County Land Development



Legend

- Streets
- Water
- Sanitary Sewer
- Storm Drainage
- Rivers
- City Limits Boundary
- Taxlots Boundary

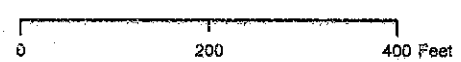


Exhibit 3 Conditions of Approval



SCAPPOOSE
Oregon

Outside Water User Request

Property Owner/Applicant: Kathleen Bishop

Location/TL #: 31391 Dutch Canyon Rd /TL101

Approximate Elevation:

Meter box: ~170-ft

Home: 280-ft

Elevation Diff: 110-ft

System Pressure:

Pressure at meter stop valve: 125 psi

Pressure loss due to change in elev ($\Delta = 110\text{-ft} \times 0.433 \text{ psi/ft}$): 48 psi

Net pressure at House¹ 77 psi

Note 1: Elevation values from GIS and/or applicant and do not account for head loss in piping, meter, reducing valve or backflow device

Conditions of Approval:

1. Pressure reducing valve required due to static pressure at the meter exceeding 80 psi
2. Backflow device required due to elevation difference between home and meter
3. Pipe and backflow device sizing as required by County Building Official
4. New meter vault may be required to accommodate meter with reducing valve
5. Separate vault required to accommodate backflow device
6. Disconnect existing well from domestic system to prevent cross connection with new City service, verify configuration with County Building Official
7. Permits required: Columbia County plumbing

Recommendation:

Approve: X Deny:

Signature:

City Engineer: Chris Negelspack

Date: May 18, 2023

Enc: GIS exhibit of property
Oregon Plumbing Specialty Code section 608
Photos of the driveway and meter box



WATER SUPPLY AND DISTRIBUTION

606.5 Control Valve. A control valve shall be installed immediately ahead of each water-supplied appliance and immediately ahead of each slip joint or appliance supply.

Parallel water distribution systems shall provide a control valve either immediately ahead of each fixture being supplied or installed at the manifold, and shall be identified with the fixture being supplied. Where parallel water distribution system manifolds are located in attics, crawl spaces, or other locations not readily accessible, a separate shutoff valve shall be required immediately ahead of each individual fixture or appliance served.

606.6 Accessible. Required shutoff or control valves shall be accessible.

606.7 Multiple Fixtures. A single control valve shall be installed on a water supply line ahead of an automatic metering valve that supplies a battery of fixtures.

607.0 Potable Water Supply Tanks.

607.1 General. Potable water supply tanks shall be installed in accordance with the manufacturer's installation instructions, and supported in accordance with the building code.

607.2 Potable Water Tanks. Potable water supply tanks, interior tank coatings, or tank liners intended to supply drinking water shall be in accordance with NSF 61.

607.3 Venting. Tanks used for potable water shall be tightly covered and vented in accordance with the manufacturer's installation instructions. Such vent shall be screened with a corrosion-resistant material of not less than number 24 mesh.

607.4 Overflow. Tanks shall have not less than a 16 square inch (0.01 m²) overflow that is screened with a corrosion-resistant material of not less than number 24 mesh.

607.5 Valves. Pressurized tanks shall be provided with a listed pressure-relief valve installed in accordance with the manufacturer's installation instructions. The relief valve shall be discharged in accordance with Section 608.5. Where a potable water supply tank is located above the fixtures, appliances, or system components it serves it shall be equipped with a vacuum relief valve that is in accordance with CSA Z21.22.

608.0 Water Pressure, Pressure Regulators, Pressure Relief Valves, and Vacuum Relief Valves.

608.1 Inadequate Water Pressure. Where the water pressure in the main or other source of supply will not provide a residual water pressure of not less than 15 pounds force per square inch (psi) (103 kPa), after allowing for friction and other pressure losses, a tank and a pump or other means that will provide said 15 psi (103 kPa) pressure shall be installed. Where fixtures, fixture fittings, or both are installed that require residual pressure exceeding 15 psi (103 kPa), that minimum residual pressure shall be provided.

608.2 Excessive Water Pressure. Where static water pressure in the water supply piping is exceeding 80 psi (552 kPa), an approved-type pressure regulator preceded by an adequate strainer shall be installed and the static pressure

reduced to 80 psi (552 kPa) or less. Such regulator(s) shall control the pressure to water outlets in the building unless otherwise approved by the Building Official. Each such regulator and strainer shall be accessibly located above-ground or in a vault equipped with adequate means to provide drainage and shall be protected from freezing, and shall have the strainer readily accessible for cleaning without removing the regulator or strainer body or disconnecting the supply piping. Pipe size determinations shall be based on 80 percent of the reduced pressure where using Table 610.4. An approved expansion tank shall be installed in the cold water distribution piping downstream of each such regulator to prevent excessive pressure from developing due to thermal expansion and to maintain the pressure setting of the regulator. Expansion tanks used in potable water systems intended to supply drinking water shall be in accordance with NSF 61. The expansion tank shall be properly sized and installed in accordance with the manufacturer's installation instructions and listing. Systems designed by registered design professionals shall be permitted to use approved pressure relief valves in lieu of expansion tanks provided such relief valves have a maximum pressure relief setting of 100 psi (689 kPa) or less.

608.3 Expansion Tanks, and Combination Temperature and Pressure-Relief Valves. A water system provided with a check valve, backflow preventer, or other normally closed device that prevents dissipation of building pressure back into the water main, independent of the type of water heater used, shall be provided with an approved, listed, and adequately sized expansion tank or other approved device having a similar function to control thermal expansion. Such expansion tank or other approved device shall be installed on the building side of the check valve, backflow preventer, or other device and shall be sized and installed in accordance with the manufacturer's installation instructions. No shutoff valve shall be installed between the expansion tank and the system.

A water system containing storage water heating equipment shall be provided with an approved, listed, adequately sized combination temperature and pressure-relief valve, except for listed nonstorage instantaneous heaters having an inside diameter of not more than 3 inches (80 mm). Each such approved combination temperature and pressure-relief valve shall be installed on the water-heating device in an approved location based on its listing requirements and the manufacturer's installation instructions. Each such combination temperature and pressure-relief valve shall be provided with a drain in accordance with Section 608.5.

608.4 Pressure Relief Valves. Each pressure relief valve shall be an approved automatic type with drain, and each such relief valve shall be set at a pressure of not more than 150 psi (1034 kPa). No shutoff valve shall be installed between the relief valve and the system.

608.5 Drains. Relief valves shall be provided with a full-sized drain; not smaller than the relief valve outlet; of galvanized steel, hard-drawn copper, or CPVC piping and fittings and shall extend from the valve to a discharge location that will avoid the hazard to persons or damage to property. Discharge locations outside of the building shall be not less



Driveway for 31391 from Dutch Canyon Road - looking north



Meter box on the westside of driveway – looking south



CITY OF SCAPPOOSE

Council Action & Status Report

Date Submitted: May 31, 2023

Agenda Date Requested: June 6, 2023

To: Scappoose City Council

From: Isaac Butman, Assistant to the City Manager

Subject: Community Enhancement Program Allocations for the 2023 Grant Cycle

TYPE OF ACTION REQUESTED:

☐ Resolution

☐ Ordinance

☒ Formal Action

☐ Report Only

ISSUE: The 2023 Cycle of the Community Enhancement Program closed on May 10, 2023, with a total of 15 applications submitted. Council now needs to allocate CEP funds to eligible applicants.

ANALYSIS: After the May 15, 2023 Council Meeting Staff tallied the funding eligibility sheets from Council, **Exhibit A**, giving a count for eligible applicants (applicants receiving support from four or more Councilors) and sent funding allocation sheets to Council. Each Councilor is allowed to allocate 1/7th the total CEP allocation of \$40,400 in whatever way they each choose, to eligible applicants. Applicants can receive no more than \$5,000.

A tabulation of the 2023 CEP allocations can be seen in **Exhibit B**.

Staff would like direction from Council about approval criteria for future CEP Grant Cycles, specifically about whether Council would like presentations to be required as a criterion for funding eligibility. When Council reviewed and revised the CEP Program in 2022, they intentionally did not write in many approval criteria, and specifically did not require presentations of applicants. Staff wants to check in with Council to see if this is still the direction that they want to take with the CEP Program for future years, and to see if they would like any other criteria be added to the program.

Request for Council Action

RECOMMENDATION: Staff recommends that Council allocate the 2023 CEP funds to eligible applicants, as determined and allocated by Council, as seen in **Exhibit B** [Exhibit B will be available before the June 5, 2023 Council Meeting, but is not available as of the submission of this Staff Report].

SUGGESTED MOTION: I move that Council allocate the 2023 CEP Grant Cycle funds as described in **Exhibit B**.

Request for Council Action

EXHIBIT A

Organization			Do you want to fund this organization?		
	Yes Count	No Count	Yes	No	Abstain
Amani Center	7		McHugh, Holmes, Greisen, Santiago, Backus, LaFrenz, Miller		
CASA for Children	7		McHugh, Holmes, Greisen, Santiago, Backus, LaFrenz, Miller		
Columbia Chorale of Oregon	3	4	McHugh, Santiago, Backus	Holmes, Greisen, LaFrenz, Miller	
Scappoose Farmers Market	6	1	McHugh, Holmes, Greisen, Santiago, Backus, LaFrenz	Miller	
Scappoose Historical Society	6	1	McHugh, Holmes, Greisen, Santiago, Backus, Miller	LaFrenz	
Scappoose Kiwanis Club	7		McHugh, Holmes, Greisen, Santiago, Backus, LaFrenz, Miller		
Scappoose Library	6	1	McHugh, Holmes, Greisen, Santiago, Backus, LaFrenz	Miller	
Scappoose Little League	6		McHugh, Holmes, Greisen, Santiago, LaFrenz, Miller		Backus
Riverside Community Outreach	6	1	McHugh, Holmes, Greisen, Santiago, Backus, Miller	LaFrenz	
Run With Neil	7		McHugh, Holmes, Greisen, Santiago, Backus, LaFrenz, Miller		
Scappoose High School Basketball – High School Basketball Tournament	3	4	Holmes, Backus, McHugh	Greisen, Santiago, LaFrenz, Miller	
Scappoose High School Basketball – Youth Basketball Tournament	3	4	Holmes, Backus, McHugh	Greisen, Santiago, LaFrenz, Miller	
Scappoose Senior Center	5	2	McHugh, Holmes, Santiago, Backus, LaFrenz	Greisen, Miller	
St. Vincent de Paul	6	1	McHugh, Holmes, Greisen, Santiago, Backus, LaFrenz	Miller	
United Way	7		Backus, LaFrenz, Santiago, Holmes, Greisen, McHugh, Miller		

Beery, Elsner & Hammond, LLP

General Counsel Services

Beery, Elsner & Hammond, LLP

Yen Huynh

Office Manager

1804 NE 45th Ave

Portland, OR 97213-1416

Tel. 503.226.7191

Fax. 503.226.2348

yen@gov-law.com

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I. Firm Background and Qualifications

Beery, Elsner & Hammond, LLP (BEH) is a Martindale-Hubbell AV-rated law firm which has exclusively represented public bodies in Oregon and Washington since its inception in 1998. Our attorneys have over 100 years of combined experience serving both as general and special counsel to local governments. Our expertise covers all aspects of government concern, including general municipal law, procurement and public contracting, real estate transactions, land use and zoning, labor and employment, urban renewal, development agreements, annexation and withdrawals, intergovernmental relations, water and utility law, public works, budget and finance, public meetings and public records, litigation, code enforcement, regulatory matters, ethics, and elections. This depth of local government experience is unmatched by any other law firm in the state and has earned BEH an unparalleled reputation as municipal lawyers of the highest caliber in both legal skill and ethical behavior. Our commitment to representing only local governments uniquely allows us to provide tailored, cost-effective legal services, completely free of conflicts of interest from non-public clients.

BEH is designed as a full-service law firm for local governments; we approach our work as an outside general counsel's office for local governments. We are a group of attorneys who individually possess expertise in various areas of municipal law, which when combined allows us to assist local governments with the myriad of issues they face on a daily basis. In this manner, we find that our clients receive the best and most cost-effective legal advice possible.

To accomplish this goal, BEH assigns an attorney to serve as the primary contact for a client. However, all of our attorneys are available to work with each of our clients. The primary attorney would delegate any work to the appropriate attorney with the greatest level of expertise and is best fitted to address the issue.

The firm is proud to have a growing list of clients from all over the state. We serve as general counsel to 22 cities and 19 other local governments and as special counsel in land use, labor and employment law and many other areas for approximately 50 additional clients.

II. General Counsel Services

Our firm is widely recognized for its expertise on the full range of topics fundamental to the operation of local governments. Examples include:

Council / Board Packets and Meetings

We are prepared to have an attorney from our firm in attendance at city council / board meetings, either in person or via remote technology such as Zoom, Teams or over the phone, if necessary. We are flexible in our approach and tailor our services to the unique needs of each of our clients. Additionally, we are prepared to be available for all other special meetings, work sessions, and executive sessions or to simply meet with staff as needed.

When necessary, the attorneys in our office dedicate time to review the meeting agendas and regularly advise on the matters to be considered. We typically contact the client prior to each meeting to confirm whether our attendance is needed and to discuss any potential issues noted on the agenda. Our goal is that meetings run smoothly and to the extent possible, issues are worked out with staff in advance.

Ordinance/Resolution Drafting, Review, and Approval

As our many years of practice in municipal law likely makes evident, we have significant experience with ordinance drafting and codification. We understand the differences between the various kinds of municipal enactments—such as resolutions, ordinances and orders—and are accustomed to assisting staff at whatever level is needed. Because we specialize in this field and limit our practice to representing local governments, we remain abreast of developments in the law and best practices for drafting codes, ordinances, resolutions and administrative policies, and ensure that ordinances comply with state statutes.

Public Records and Meetings Law

Questions regarding public records and meeting law are a nearly daily experience in our office. Our attorneys regularly conduct training and presentations in these topic areas and often provide newly elected officials with initial training. We are accustomed to assisting with public records requests and are well-versed in the lawful conduct of public meetings, hearings and executive sessions. We have decades of experience advising elected and appointed officials in public meeting matters, including parliamentary procedure. We are recognized as experts in this area of law and are often asked to speak at statewide conferences and trainings on public records and meetings.

Oregon Budget Law

BEH possesses the necessary knowledge and skill to advise our clients on local budget law matters, including public participation and notice, statutory deadlines, document and publication requirements, and budget adjustments. We routinely advise our clients on management of dedicated funds, fund transfers, and the intricacies of tax increment financing and special levies.

Code Enforcement

Several of our attorneys have significant experience in this area. Our firm routinely writes and assists our clients in the enforcement of codes, including nuisance abatement, dangerous buildings and permit and land use code violations.

Human Resources and Labor Negotiations

Several of our attorneys are accomplished in human resource and employment law matters, including advising public bodies on discipline and discharge, wage and hour compliance, reductions in force, military leave, medical leave and accommodations, harassment investigations and complaints, whistleblowing and retaliation complaints, and deferred compensation plans. We also routinely update personnel handbooks, policies and forms, and draft employment contracts as well as separation and settlement agreements for our clients.

Our experience with labor law matters includes handling labor negotiations, labor arbitrations, representation and unit clarification, defending unfair labor practice complaints, and settling grievances.

Contracts and Agreements

Negotiation, review and drafting a wide array of contracts and other transactional documents for our municipal clients constitutes a significant portion of our practice. This includes extensive experience in drafting, negotiating and implementing intergovernmental agreements to create entities and provide a wide range of public services including water, sewer and related utility services, police services, storm water management, planning and population forecasting, and service delivery (including building permit and other shared services).

Litigation

All of our attorneys are experienced in multiple aspects of litigation and administrative law and appeals. We are admitted to practice in federal court including at the Ninth Circuit Court of Appeals and routinely practice in Oregon's circuit courts where inverse condemnation, writ of review proceedings, contract disputes and other litigation of importance to our clients is most often filed. We routinely handle appeals at the Oregon Land Use Board of Appeals, the Oregon Court of Appeals and various other state and federal courts.

Property Acquisitions / Dispositions

As general counsel for numerous clients, BEH has negotiated, advised on and completed a broad range of real estate transactions, including the establishment of new parks, public buildings and other public facilities. BEH has advised on all aspects of the land acquisition, including preparing transactional documents (primarily purchase and sale agreements, deeds, easements, amendments, closing date extensions and escrow instructions), the internal mechanisms for prioritizing acquisitions, monitoring and accounting for bond revenues and assisting with due diligence, appraisal and title report exception issues. The firm has also assisted numerous clients with transactions related to the disposition of real property, ranging from standard purchase and sale agreements to complex public/private partnerships established through disposition and development agreements (DDAs). We pride ourselves in working creatively with our clients to achieve desired development goals.

III. Special Areas of Expertise in Oregon Government Law

Over the course of our careers, we have handled hundreds of complex municipal issues on a wide range of subjects. Some additional special areas of expertise that may be of interest to local governments are outlined below.

Land Use

BEH is recognized as one of the premier law firms practicing land use law in Oregon. We have several highly experienced land use attorneys with expertise in growth management and legislative matters; development review, hearings and appeals; and land use appellate experience. We also serve by appointment as Land Use Hearings Officer for Washington

County, and serve as special land use counsel for various jurisdictions, including Clatsop County and Hood River County.

Our attorneys regularly conduct training for the Oregon State Bar on land use issues and have authored a new chapter in the state Bar's treatise, "Land Use." One of our attorneys has served for many years as a legislative advisor to the State Bar's Land Use and Real Estate Section and was a member of that body's executive committee. We also routinely provide comprehensive land use training for many planning commissions and city councils.

Public Purchasing and Public Contracting

Our firm advises all clients regarding all aspects of the Oregon Public Contracting Code and the requirements it imposes on their procurement of personal services, construction services, and goods and trade services.

Over the years, we have developed a comprehensive set of local procurement rules and have adapted them for many of our clients. This has enabled each of these clients to establish extensive new regulations at a very reasonable cost. We stay current on all legal requirements in this area. We routinely assist clients with developing complex solicitation documents and advise our clients on the competitive bidding process, design-build alternatives, and CM/GC approach to larger public construction projects. In addition, we assist our clients in the handling of bid protests, bidding irregularities, and litigation arising out of the award or performance of public contracts. We also assist contract managers with the negotiation of requested revisions to standard contract language and in evaluating the risks related to proposed deviations from the requirements in those contracts.

Franchising and Franchise Fees

Our firm has a long history of working on franchise matters for our clients. Currently, we assist clients on various franchise matters, especially those dealing with solid waste haulers. While we also work with clients on other franchise related matters, such as with telecom and cable companies, we find that it is much more cost-effective for our clients for our firm to subcontract much of this work with attorneys who specialize in this area of law. One of our former colleagues, Nancy Werner, is a nationally known expert in this area, and subcontracts with us for several of our clients to ensure the best work product possible. In conjunction with our work with Nancy, we also remain abreast of current topics in this area and often assist with various negotiation and compliance matters, including drafting ordinances addressing right-of-way management and compensation from utilities, and advising clients on issues of authority and preemption under the many state and federal laws and regulations that impact franchising. The firm's franchising experience also includes working with gas and electric providers.

Taxes, Fees and Charges

We have litigated matters in a wide range of municipal law topics, including system development charges (SDCs), municipal financing of improvements, and governmental authority to charge fees and taxes. We have advised clients about the relationship between various user and utility fees and Measures 5 and 50. We also have significant experience providing day-to-day assistance with these matters, including establishing and amending

SDCs for a wide variety of capital improvements, successfully defending clients against SDC challenges brought by home builders, as well as SDC alternatives such as establishing local improvement districts, advance financing/reimbursement districts, and economic improvement districts.

Urban Renewal

Our firm is one of a very few actively practicing and experienced in urban renewal law. We currently serve as general counsel to several urban renewal agencies, including the Hillsboro Economic Development Commission, the Corvallis Urban Renewal Agency, and the Canby Urban Renewal Board, and have advised the Portland Development Commission—Oregon’s largest urban renewal agency—on a variety of topics, including public/private partnerships. We have a keen understanding of the politics that inform urban renewal, particularly the establishment of new urban renewal areas in the wake of recent legislative changes granting other taxing authorities more input into the process.

Election Laws

We are experienced in representing our municipal clients on election law matters. Our work covers the full spectrum of election law issues, from creation of local election codes, to assisting with ballot titles, explanatory statements, initiative and referendum petitions and petition circulating, to post-election requirements. We have been retained to defend cities in election law challenges and ballot title challenges and frequently advise in matters under review by the Secretary of State.

IV. Fee Schedule

Our hourly billing rates are:

Partners and Of Counsel	\$285.00
Senior Associates	\$275.00
Associates	\$265.00
Paralegals	\$175.00
Legal Assistants	\$150.00
Attendance at meetings	Billed at hourly rate
Travel time	Billed at hourly rate

Out-of-pocket costs are billed at cost without markup and include postage, copies, conference calls, delivery fees, outside consulting, Westlaw research, lodging/airfare/car rental/parking, etc. Mileage is billed at IRS standard mileage rate.

V. Conclusion

BEH attorneys focus solely on municipal law in order to help our clients achieve the results they desire for their communities. We care strongly for our clients and their communities and believe this is demonstrated through the high-quality work product we provide. It would be our honor to help your community thrive! For more information about our firm and the professionals who work here, please visit our web site at <http://behllp.com/>.