

Appendices for Archaeological Resources Protection Plan For Columbia South Shore



Adopted April 3, 1996
Effective May 3, 1996
Ordinance No. 169953 and 169954

Amended June 5, 1996
Effective September 1, 1996
Ordinance No. 170225

Amended August 4, 2004
Effective September 3, 2004
Ordinance No. 178567

Bureau of Planning
Portland, Oregon

September 2004

Plan Appendices

Appendix A: City Council Directives

- Resolution No. 35229—Directs City employees to limit disclosure of archaeological site records, and to cooperate with affected Tribes with respect to any requests for disclosure of those records. Adopted August 4, 1994.
- Resolution No. 35168--Adopts a Memorandum of Understanding for Interim Voluntary Cultural [Archaeological] Resource Protection Measures. Adopted July 28, 1993.

Appendix B: Adopted Statewide Planning Goal

Appendix C: Goal 5 Administrative Rule

Appendix D: Warm Springs Tribal Ordinance 68

Appendix E: Site Discovery in the Columbia South Shore: A Review of Modeling, Sampling, Survey, and Discovery Techniques

Appendix F: Correspondence

Appendix G: Implementing Ordinances (in reverse chronological order)

- Ordinance No. 178567--Amend Title 33, Planning and Zoning, and the *Cultural Resources Protection Plan for Columbia South Shore* to update and improve land use regulations and procedures. Adopted August 4, 2004.
- Ordinance No. 170225--Amend zoning code to better implement *Cultural Resources Protection Plan for Columbia South Shore*. Adopted June 5, 1996.
- Ordinance No. 169954--Establish new fees for review of cultural resources. Adopted April 3, 1996.
- Ordinance No. 169953--Adopt *Cultural Resources Protection Plan for Columbia South Shore*. Adopted April 3, 1996.

Appendix A

City Council Directives

Resolution No. 35229

Resolution No. 35168

35299



CITY OF
PORTLAND, OREGON
BUREAU OF PLANNING

Charlie Hales, Commissioner
David C. Knowles, Interim Director
1120 S.W. 5th, Room 1002
Portland, Oregon 97204-1966
Telephone: (503) 823-7700
FAX (503) 823-7800

July 29, 1994

TO: Mayor Katz and Members of the Council
FROM: Robert Glascock, ^{RHG} Senior City Planner
SUBJECT: Cultural Resource Site Records

Attached, for your consideration, is a proposed policy statement directing City staff to limit the disclosure of cultural resource site records. The policy statement affirms the City's commitment to protect sensitive cultural site information, pursuant to state law.

The policy statement was prepared for the Bureau of Planning by an ad hoc committee of the Cultural Resources Advisory Committee. Committee members include Tim Simmons, representing the Confederated Tribes of the Grand Ronde Community of Oregon; Larry Watters, Columbia River Gorge Commission; and Kathryn Imperati, City Attorney's Office.

The Bureau of Planning has found broad support for City adoption of the policy statement. The bureau's advisory committee includes business, tribal and neighborhood interests. Participating City bureaus include City Attorney, City Auditor, PDC, BES, Water, PDOT and Planning.

Staff Recommendation

The Bureau of Planning recommends approval of the attached records management policy. If adopted, the Bureau of Planning will work with other bureaus interested in devising records management procedures consistent with this policy.

This item has been scheduled for Thursday, August 4, 1994 at 2:00 p.m. For questions, I can be reached at 823-7845.

attachment

City Government Information TDD (for Hearing & Speech Impaired): (503) 823-6868

RESOLUTION No. **35299**

Adopt a policy statement on the management of cultural resource records (Resolution).

WHEREAS the City has initiated an extensive inventory and evaluation of cultural resources in Columbia South Shore, pursuant to Statewide Planning Goal 5; and

WHEREAS the Cultural Resources Project will result in a land use plan to protect significant cultural resources in the Columbia South Shore area; and

WHEREAS State law limits the disclosure of public records or information concerning the location of archaeological sites or objects; and

WHEREAS the legislative intent of limiting disclosure is to protect sites from damage, destruction and looting; and

WHEREAS the Bureau of Planning holds cultural site records for the Cultural Resource Project and certain land use cases; and

WHEREAS several City bureaus have access to cultural resource records as participants in a Contract Advisory Team which oversees an areawide archaeological inventory of Columbia South Shore; and

WHEREAS several City bureaus have commissioned site-specific archaeological reports in conjunction with certain public works projects in the Columbia Corridor; and

WHEREAS the Confederated Tribes of Warm Springs, Grand Ronde and Siletz participate actively in the Cultural Resources Project, including the representation on the Cultural Resources Advisory Committee; and

WHEREAS Tribal representatives and the Cultural Resources Advisory Committee support the City's adoption of a records management policy consistent with state law; and

WHEREAS the City, development community, affected confederated Tribes and other interested persons have initiated discussion on short-term voluntary measures to protect confirmed cultural sites in the district.

RESOLUTION No.

35299

NOW, THEREFORE, BE IT RESOLVED that the Council approves the following policy statement on cultural resource records:

The City recognizes that cultural resources, including archaeological sites and objects, are an important and dwindling part of the City's heritage. These resources are finite, nonrenewable and irreplaceable. To avoid damage to or destruction of these resources, records specifically identifying and describing those resources merit careful protection to the maximum extent permitted by Oregon law.

It is the policy of the City of Portland to limit disclosure of records which specifically describe the location, contents and other identifying features of cultural resources, including archaeological sites and objects, to the maximum extent permitted by Oregon law. Further, it is the policy of the City of Portland to cooperate with affected Tribes with respect to any requests for disclosure of such records.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the City of Portland will cooperate with affected Tribes with respect to any requests for disclosure of such records.

Adopted by the Council: **AUG 0 4 1994**

Commissioner Charlie Hales
R.H. Glascock, AICP, Senior Planner
July 29, 1994

BARBARA CLARK
Auditor of the City of Portland
By: *Britta Olson* Deputy

Page 2 of 2

1276

Agenda No.

TIME CERTAIN

RESOLUTION NO. 35299

Title

Adopt a policy statement on the management of cultural resource records (Resolution)

<p>INTRODUCED BY Commissioner Charlie Hales</p> <hr/> <p>NOTED BY COMMISSIONER</p> <p>Affairs _____</p> <p>Finance and Administration _____</p> <p>Safety <i>Charlie Hales</i></p> <p>Utilities _____</p> <p>Works _____</p> <p>BUREAU APPROVAL</p> <p>Bureau: Planning _____</p> <p>Prepared by: R. H. Glascock Date: 7/29/94</p> <p>Budget Impact Review: Completed <input type="checkbox"/> Not Required <input checked="" type="checkbox"/></p> <p>Bureau Head: <i>David C. Knowles</i> David C. Knowles, Interim Planning Dir.</p>	<p>Filed: JUL 29 1994</p> <p>Barbara Clark Auditor of the City of Portland</p> <p>By: <i>Cay Kerchner</i> Deputy</p> <p>For Meeting of: _____</p> <p>Action Taken: <input type="checkbox"/> Amended <input type="checkbox"/> Continued to: _____</p>
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AGENDA		FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:		
				YEAS	NAYS
Consent	Regular	Blumenauer	Blumenauer	_____	_____
NOTED BY		Hales	Hales	_____	_____
City Attorney <i>by Peter Keating</i>		Kafoury	Kafoury	✓	
City Auditor		Katz	Katz	✓	
City Engineer		Lindberg	Lindberg	✓	

Agenda No. **HO 9845**

RESOLUTION NO. **35168**

Title

Direct the Bureau of Planning to continue working with interested parties to develop voluntary guidelines for identifying and protecting cultural resources in the Columbia South Shore. (Resolution).

INTRODUCED BY	DATE FILED: JUL 23 1993
Comm. Hales	Barbara Clark Auditor of the City of Portland
NOTED BY COMMISSIONER	By: <u>Joan R. Imperati</u> Deputy For Meeting of: _____ ACTION TAKEN:
Affairs	
Finance and Administration	
Safety <u>Chas. Hales</u>	
Utilities	
Works	
BUREAU APPROVAL	
Bureau: Planning	
Prepared by Date KSBImperati: krl 7/21/93	
Budget Impact Review: <input type="checkbox"/> Completed <input type="checkbox"/> Not Required	
Bureau Head: <u>RS</u> Robert E. Stacey, Jr.	

AGENDA		FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	
			YEAS	NAYS
Consent	Regular	Blumensauer	Blumensauer ✓	
NOTED BY		Hales	Hales ✓	
City Attorney <u>KSBImperati</u>		Kafoury	Kafoury	
City Auditor		Lindberg	Lindberg	
City Engineer		Katz	Katz ✓	

RESOLUTION No. 35168

Direct Bureau of Planning to continue working with interested parties to develop voluntary guidelines for identifying and protecting cultural resources in the Columbia South Shore.
(Resolution)

WHEREAS, the Bureau of Planning will oversee the inventorying, analysis and development of regulations to protect cultural resources in the Columbia South Shore in compliance with Statewide Planning Goal 5 during the 1993-94 fiscal year; and

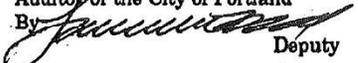
WHEREAS, staff of the Bureau of Planning and the Portland Development Commission have met with representatives of the Confederated Tribes of the Grande Ronde, the Confederated Tribes of Warm Springs, the Columbia Corridor Association and other interested parties to pursue development of cultural resource identification and protection measures that could be applied on a voluntary basis until the Columbia South Shore Cultural Resources Project is completed; and

WHEREAS, the Council desires the effort to develop voluntary interim cultural resource protection measures to continue and is willing to devote staff resources to this effort.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Portland, Oregon, that the Bureau of Planning (Bureau), with the assistance of the Portland Development Commission, is directed to continue participating in discussions with the Confederated Tribes of the Grande Ronde, the Confederated Tribes of Warm Springs, the Columbia Corridor Association and other interested parties concerning the development of voluntary interim cultural resource protection measures for the Columbia South Shore and to report back to Council periodically on the progress of these discussions.

BE IT FURTHER RESOLVED that the Council strongly encourages the Confederated Tribes of the Grande Ronde, the Confederated Tribes of Warm Springs, the Columbia Corridor Association and other interested parties to continue cooperating and participating in these discussions.

Passed by the Council, JUL 2 8 1993
Comm. Hales
KSBImerati:krl
July 21, 1993

BARBARA CLARK
Auditor of the City of Portland
By  Deputy

Appendix B

Adopted Statewide Planning Goal 5

Appendix B

GOAL 5: OPEN SPACES, SCENIC AND HISTORIC AREAS, AND NATURAL RESOURCES

A Summary from the Department of Land Conservation and Development
JANUARY 1994

Throughout our nation, Oregon is known for its bountiful resources—for rich farmland, sparkling streams, and scenic beaches. And Oregon is equally well-known for its commitment to protect those resources. One of its most important tools for protecting them is a strong statewide program for land-use planning.

The heart of that planning program is a set of 19 statewide goals. They are mandatory standards that apply to all of Oregon's cities and counties. Each goal deals with some aspect of land use—urban sprawl, housing, or conservation of farmland, for example.

The goal that deals with natural and cultural resources is Goal 5, *Open Spaces, Scenic and Historic Areas, and Natural Resources*. It's a big goal that covers a variety of resources—twelve in all:

- Land needed or desirable for open space;
- Mineral and aggregate resources;
- Energy sources;
- Fish and wildlife areas and habitats;
- Ecologically and scientifically significant natural areas, including desert areas;
- Outstanding scenic views and sites;
- Water areas, wetlands, watersheds, and groundwater resources;
- Wilderness areas;
- Historic areas, sites, structures, and objects;
- Cultural areas;
- Potential and approved Oregon recreation trails;
- Potential and approved federal wild and scenic waterways and state scenic waterways.

For each of the twelve resources listed in Goal 5, cities and counties must complete a five-step planning process. The goal outlines the general process. A set of administrative rules (OAR Chapter 660, Division 16) spells out the details.

The set of rules is commonly referred to as "the Goal 5 rule."

The main steps in the Goal 5 process are summarized below. Key words from the goal and the Goal 5 rule are shown in italics.

Step 1: Inventory Resources

First, a community takes stock of its natural and cultural resources. Using the best information available, the community determines the *location, quality, and quantity* of its wildlife habitats, aggregate deposits, wetlands, historical buildings, and other resources listed in Goal 5.

The community's research deals with individual resources and sites, not just broad categories of natural resources. For example, a study of one type of resource—wildlife habitat—might describe eight resource sites: five heron rookeries, two bald eagle nesting sites, and one large tract of elk winter range. The study would provide details on the location, quality, and quantity of all eight resource sites.

After the initial research, a community evaluates each resource. Those found to be significant are placed on the plan's *inventory* and taken through the steps described below. The less significant resources and sites need not be put on the plan's inventory. They are exempted from the rest of the Goal 5 process.

In some cases, complete information on the location, quantity, and quality of a resource or site is not available. Without it, a community can't decide whether a certain resource is or is not significant. In such cases, the resource is classified as "1-B." The Goal 5 process is suspended until more detailed information becomes available. When it does, the community completes the process. (You will find an explanation of terms such "1-B resource" at the end of this flyer.)

Appendix B

Step 2: Identify Conflicting Uses

Next, the community identifies *conflicting uses*. A conflicting use is a type of development or land use that could harm or destroy a significant resource. For example, a new subdivision would harm a bald eagle nesting site by destroying the trees needed by the eagle and the cover needed by its prey. A subdivision thus would be considered to be a conflicting use.

A key issue in identifying conflicting uses is the extent of the "impact area." A new house twenty feet from an eagle's nest undoubtedly would interfere with nesting. A new house two miles away probably would not. Deciding whether such houses are a "conflicting use" thus involves some analysis of how far their impacts will be felt by significant resources.

For some resources, almost any form of development might be considered a conflicting use. But that doesn't mean a community has to analyze hundreds of conflicting uses. Rather, it must identify only the main types of conflicting uses allowed under the zoning on a given resource site. For example, suppose that a bald eagle nesting site lies in a rural area zoned Exclusive Farm Use (EFU). The county will identify as conflicting uses only those uses allowed in the EFU zone that might harm the nesting site. The county doesn't have to analyze subdivisions, factories, or shopping malls as conflicting uses: the EFU zoning already prohibits them.

In some cases, a Goal 5 resource itself may be a conflicting use. For example, wildlife habitats and aggregate deposits are both Goal 5 resources. A heron rookery near an aggregate extraction site therefore might be considered both a resource and a conflicting use. In such cases, the community still uses the Goal 5 process described here to decide whether to protect the rookery or allow aggregate extraction.

Step 3: Analyze ESEE Consequences

Next, the community analyzes the *ESEE consequences* of allowing or limiting the conflicting uses at the resource sites. The abbreviation comes from Goal 5's reference to "economic,

social, environmental, and energy consequences of the conflicting uses."

In this analysis, the community weighs the economic, social, environmental and energy costs and benefits of its policy options. This step gives the planners, elected officials, and interested people, agencies, and groups the information needed to make sound policy choices.

The analysis done in this step produces, in effect, a list of possibilities. The list says, "These are different combinations of land use and development that could happen here and the likely effects from each."

Step 4: Choose a Suitable Policy

In step 4, the community decides which combination of land uses should happen and then chooses policies to make them come about. The community's decision must be based on the information derived from the inventory and analysis of ESEE consequences. It also must reflect Goal 5's basic mandate: "To conserve open space and protect natural and scenic resources."

The Goal 5 rule provides three basic policy options for each resource or resource site:

1. Protect the resource by prohibiting conflicting uses (a "3-A decision").
2. Allow the conflicting use or uses fully, which means the resource may be damaged or lost (a "3-B decision").
3. Strike a balance; allow conflicting uses but with limits that give at least some protection to the resource (a "3-C decision").

Step 5: Adopt A Program To Achieve the Goal

In this last step, the community puts its policy choices into effect. For each resource site, it applies suitable zoning or other measures. The combination of measures to carry out the policies chosen in Step 4 is called a "program to achieve the goal" or the "Goal 5 program."

For example, suppose a community decides that a significant heron rookery should be protected

Appendix B

from residential development and aggregate mining. To carry out that policy decision, the community adopts a special "overlay zone" that applies to the rookery and the land near it. The zone requires residential development and mining to be kept a certain distance away from the rookery. The overlay, with its special setback requirement, is the community's "program to achieve the goal."

The Basic Steps in the Process

Goal 5 and the Goal 5 rule contain many legal and technical terms. As a result, the process they describe may seem unusual and difficult to understand. But the basic process required by Goal 5 is not unusual at all. In fact, most people use it often. It's called planning.

Suppose, for example, that you won some money in the Oregon lottery. You probably would plan how to use that money by going through a process like this:

1. Find out how much money you won.
2. List the different ways you could use it.
3. Weigh the pros and cons of those options.
4. Choose the best option.
5. Carry out that option.

The Goal 5 process involves the same basic steps. Translating those steps into the language of the goal and rules, the five-step process is:

1. Inventory resources.
2. Identify conflicting uses.
3. Analyze ESEE consequences of the conflicts.
4. Select appropriate policy on conflicting uses.
5. Adopt a program to achieve the goal.

Goal 5 Terminology

When the original Goal 5 rule was adopted in 1981, it established various categories of resources and procedures. Planners and other people who worked with Goal 5 soon began labeling those categories, using combinations of

numbers and letters from the rule. For example, a resource that had been found to be significant enough to be put on the plan's inventory came to be called a "1-C resource." Later, the Secretary of State's office recodified the administrative rules, thus changing the section numbers in the Goal 5 rule. By then, however, the labels being used by the planners were well established. They continue to be used today (in conversation, at least), even though they do not match the current numbers in the Goal 5 rule.

Here is an outline of the old labels that many planners still use. (Note that the term "resource" is used broadly here, to include natural resources, cultural resources, and resource sites.)

1-A Resource: A resource not significant enough to be placed on the plan's inventory;

1-B Resource: One for which there is not enough information to determine its importance;

1-C Resource: One significant enough to be placed on the plan's inventory.

2-A Resource: One significant enough to be placed on the plan's inventory and that has no conflicting uses.

3-A Decision: A decision to protect a significant resource and not allow the uses that would conflict with it;

3-B Decision: A decision to allow the conflicting uses fully, even though they may harm or destroy the resource;

3-C Decision: A decision to protect the resource to some extent but also to allow conflicting uses, within certain limits.

For More Information . . .

This is a summary. The statements here are not complete expressions of Oregon's laws or policies on natural and cultural resources. For more information about them or about Oregon's statewide planning program, please contact us at the address below. □

Department of Land Conservation and Development
1175 Court Street NE, Salem, Oregon 97310
Telephone 503 373-0050

Appendix B

GOAL 5. OPEN SPACES, SCENIC AND HISTORIC AREAS, AND NATURAL RESOURCES

To conserve open space and protect natural and scenic resources.

Programs shall be provided that will:

- (1) insure open space,
- (2) protect scenic and historic areas and natural resources for future generations, and
- (3) promote healthy and visually attractive environments in harmony with the natural landscape character. The locations, quality and quantity of the following resources shall be inventoried:
 - a. Land needed or desirable for open space;
 - b. Mineral and aggregate resources;
 - c. Energy sources;
 - d. Fish and wildlife areas and habitats;
 - e. Ecologically and scientifically significant natural areas, including desert areas;
 - f. Outstanding scenic views and sites;
 - g. Water areas, wetlands, watersheds and groundwater resources;
 - h. Wilderness areas;
 - i. Historic areas, sites, structures and objects;
 - j. Cultural areas;
 - k. Potential and approved Oregon recreation trails;
 - l. Potential and approved federal wild and scenic waterways and state scenic waterways.

Where no conflicting uses for such resources have been identified, such resources shall be managed so as to preserve their original character. Where conflicting uses have been identified the economic, social, environmental and energy consequences of the conflicting uses shall be determined and programs developed to achieve the goal.

Cultural Area -- refers to an area characterized by evidence of an ethnic, religious or social group with distinctive traits, beliefs and social forms.

Historic Areas -- are lands with sites, structures and objects that have local, regional, statewide or national historical significance.

Natural Area -- includes land and water that has substantially retained its natural character and land and water that, although altered in character, is important as habitats for plant, animal or marine life, for the study of its natural historical, scientific or paleontological features, or for the appreciation of its natural features.

Open Space -- consists of lands used for agricultural or forest uses, and any land area that would, if preserved and continued in its present use:

- (a) Conserve and enhance natural or scenic resources;
- (b) Protect air or streams or water supply;
- (c) Promote conservation of soils, wetlands, beaches or tidal marshes;
- (d) Conserve landscaped areas, such as public or private golf courses, that reduce air pollution and enhance the value of abutting or neighboring property;
- (e) Enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open space;
- (f) Enhance recreation opportunities;
- (g) Preserve historic sites;
- (h) Promote orderly urban development.

Scenic Areas -- are lands that are valued for their aesthetic appearance.

Wilderness Areas -- are areas where the earth and its community of life are untrammelled by man, where man himself is a visitor who does not remain. It is an area of undeveloped land retaining its primeval character and influence, without permanent improvement or human habitation, which is protected and managed so as to preserve its natural conditions and which (1) generally appears to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable; (2) has outstanding opportunities for solitude or a primitive and unconfined type of recreation; (3) may also contain ecological, geological, or other features of scientific, educational, scenic or historic value.

Appendix B

GUIDELINES FOR GOAL 5

A. PLANNING

1. The need for open space in the planning area should be determined, and standards developed for the amount, distribution, and type of open space.
2. Criteria should be developed and utilized to determine what uses are consistent with open space values and to evaluate the effect of converting open space lands to inconsistent uses. The maintenance and development of open space in urban areas should be encouraged.
3. Natural resources and required sites for the generation of energy (i.e. natural gas, oil, coal, hydro, geothermal, uranium, solar and others) should be conserved and protected; reservoir sites should be identified and protected against irreversible loss.
4. Plans providing for open space, scenic and historic areas and natural resources should consider as a major determinant the carrying capacity of the air, land and water resources of the planning area. The land conservation and development actions provided for by such plans should not exceed the carrying capacity of such resources.
5. The National Register of Historic Places and the recommendations of the State Advisory Committee on Historic Preservation should be utilized in designating historic sites.
6. In conjunction with the inventory of mineral and aggregate resources, sites for removal and processing of such resources should be identified and protected.
7. As a general rule, plans should prohibit outdoor advertising signs except in commercial or industrial zones. Plans should not provide for the reclassification of land for the purpose of accommodating an outdoor advertising sign. The term "outdoor advertising sign" has the meaning set forth in ORS 377.710(23).

B. IMPLEMENTATION

1. Development should be planned and directed so as to conserve the needed amount of open space.
2. The conservation of both renewable and non-renewable natural resources and physical limitations of the land should be used as the basis for determining the quantity, quality, location, rate and type of growth in the planning area.
3. The efficient consumption of energy should be considered when utilizing natural resources.
4. Fish and wildlife areas and habitats should be protected and managed in accordance with the Oregon Wildlife Commission's fish and wildlife management plans.
5. Stream flow and water levels should be protected and managed at a level adequate for fish, wildlife, pollution abatement, recreation, aesthetics and agriculture.
6. Significant natural areas that are historically, ecologically or scientifically unique, outstanding or important, including those identified by the State Natural Area Preserves Advisory Committee, should be inventoried and evaluated. Plans should provide for the preservation of natural areas consistent with an inventory of scientific, educational, ecological, and recreational needs for significant natural areas.
7. Local, regional and state governments should be encouraged to investigate and utilize fee acquisition, easements, cluster developments, preferential assessment, development rights acquisition and similar techniques to implement this goal.
8. State and federal agencies should develop statewide natural resource, open space, scenic and historic area plans and provide technical assistance to local and regional agencies. State and federal plans should be reviewed and coordinated with local and regional plans.
9. Areas identified as having non-renewable mineral and aggregate resources should be planned for interim, transitional and "second use" utilization as well as for the primary use. ♦

Appendix C

Goal 5 Administrative Rule

Appendix C

OREGON ADMINISTRATIVE RULES
CHAPTER 660, DIVISION 16 — LAND CONSERVATION AND DEVELOPMENT COMMISSION

DIVISION 16

REQUIREMENTS AND APPLICATION
PROCEDURES FOR COMPLYING WITH
STATEWIDE GOAL 5

Inventory Goal 5 Resources

660-16-000 (1) The inventory process for Statewide Planning Goal 5 begins with the collection of available data from as many sources as possible including experts in the field, local citizens and landowners. The local government then analyzes and refines the data and determines whether there is sufficient information on the location, quality and quantity of each resource site to properly complete the Goal 5 process. This analysis also includes whether a particular natural area is "ecologically and scientifically significant", or an open space area is "needed", or a scenic area is "outstanding", as outlined in the Goal. Based on the evidence and local government's analysis of those data, the local government then determines which resource sites are of significance and includes those sites on the final plan inventory.

(2) A "valid" inventory of a Goal 5 resource under subsection (5)(c) of this rule must include a determination of the location, quality, and quantity of each of the resource sites. Some Goal 5 resources (e.g., natural areas, historic sites, mineral and aggregate sites, scenic waterways) are more site-specific than others (e.g., groundwater, energy sources). For site-specific resources, determination of location must include a description or map of the boundaries of the resource site and of the impact area to be affected, if different. For non-site-specific resources, determination must be as specific as possible.

(3) The determination of quality requires some consideration of the resource site's relative value, as compared to other examples of the same resource in at least the jurisdiction itself. A determination of quantity requires consideration of the relative abundance of the resource (of any given quality). The level of detail that is provided will depend on how much information is available or "obtainable".

(4) The inventory completed at the local level, including options (5)(a), (b), and (c) of this rule, will be adequate for Goal compliance unless it can be shown to be based on inaccurate data, or does not adequately address location, quality or quantity. The issue of adequacy may be raised by the Department or objectors, but final determination is made by the Commission.

(5) Based on data collected, analyzed and refined by the local government, as outlined above, a jurisdiction has three basic options:

(a) Do Not Include on Inventory: Based on information that is available on location, quality and quantity, the local government might determine that a particular resource site is not important enough to warrant inclusion on the plan inventory, or is not required to be included in the inventory based on the specific Goal standards. No further action need be taken with regard to these sites. The local government is not required to justify in its comprehensive plan a decision not to include a particular site in the plan inventory unless challenged by the Department, objectors or the Commission based upon contradictory information.

(b) Delay Goal 5 Process: When some information is available, indicating the possible existence of a resource site, but that information is not adequate to identify with particularity the location, quality and quantity of the resource site, the local government should only include the site on the comprehensive plan inventory as a special category. The local government must express its intent relative to the resource site through a plan policy to address that resource site and proceed

through the Goal 5 process in the future. The plan should include a time-frame for this review. Special implementing measures are not appropriate or required for Goal 5 compliance purposes until adequate information is available to enable further review and adoption of such measures. The statement in the plan commits the local government to address the resource site through the Goal 5 process in the post-acknowledgment period. Such future actions could require a plan amendment.

(c) Include on Plan Inventory: When information is available on location, quality and quantity, and the local government has determined a site to be significant or important as a result of the data collection and analysis process, the local government must include the site on its plan inventory and indicate the location, quality and quantity of the resource site (see above). Items included on this inventory must proceed through the remainder of the Goal 5 process.

Stat. Auth.: ORS Ch. 183 & 197
Hist.: LCD 5-1981(Temp), f. & ef. 5-8-81; LCD 7-1981, f. & ef. 6-29-81

[ED. NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

Identify Conflicting Uses

660-16-005 It is the responsibility of local government to identify conflicts with inventoried Goal 5 resource sites. This is done primarily by examining the uses allowed in broad zoning districts established by the jurisdiction (e.g., forest and agricultural zones). A conflicting use is one which, if allowed, could negatively impact a Goal 5 resource site. Where conflicting uses have been identified, Goal 5 resource sites may impact those uses. These impacts must be considered in analyzing the economic, social, environmental and energy (ESEE) consequences:

(1) Preserve the Resource Site: If there are no conflicting uses for an identified resource site, the jurisdiction must adopt policies and ordinance provisions, as appropriate, which insure preservation of the resource site.

(2) Determine the Economic, Social, Environmental, and Energy Consequences: If conflicting uses are identified, the economic, social, environmental and energy consequences of the conflicting uses must be determined. Both the impacts on the resource site and on the conflicting use must be considered in analyzing the ESEE consequences. The applicability and requirements of other Statewide Planning Goals must also be considered, where appropriate, at this stage of the process. A determination of the ESEE consequences of identified conflicting uses is adequate if it enables a jurisdiction to provide reasons to explain why decisions are made for specific sites.

Stat. Auth.: ORS Ch. 183 & 197
Hist.: LCD 5-1981(Temp), f. & ef. 5-8-81; LCD 7-1981, f. & ef. 6-29-81

[ED. NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

Develop Program to Achieve the Goal

660-16-010 Based on the determination of the economic, social, environmental and energy consequences, a jurisdiction must "develop a program to achieve the Goal". Assuming there is adequate information on the location, quality, and quantity of the resource site as well as on the nature of the conflicting use and ESEE consequences, a jurisdiction is expected to "resolve" conflicts with specific sites in any of the following three ways listed below. Compliance with Goal 5 shall also be based on the plan's overall ability to protect and

Appendix C

OREGON ADMINISTRATIVE RULES

CHAPTER 660, DIVISION 16 — LAND CONSERVATION AND DEVELOPMENT COMMISSION

conserve each Goal 5 resource. The issue of adequacy of the overall program adopted or of decisions made under sections (1), (2) and (3) of this rule may be raised by the Department or objectors, but final determination is made by the Commission, pursuant to usual procedures.

(1) **Protect the Resource Site:** Based on the analysis of the ESEE consequences, a jurisdiction may determine that the resource site is of such importance, relative to the conflicting uses, and the ESEE consequences of allowing conflicting uses are so great that the resource site should be protected and all conflicting uses prohibited on the site and possibly within the impact area identified in OAR 660-16-000(5)(c). Reasons which support this decision must be presented in the comprehensive plan, and plan and zone designations must be consistent with this decision.

(2) **Allow Conflicting Uses Fully:** Based on the analysis of ESEE consequences and other Statewide Goals, a jurisdiction may determine that the conflicting use should be allowed fully, notwithstanding the possible impacts on the resource site. This approach may be used when the conflicting use for a particular site is of sufficient importance, relative to the resource site. Reasons which support this decision must be presented in the comprehensive plan, and plan and zone designations must be consistent with this decision.

(3) **Limit Conflicting Uses:** Based on the analysis of ESEE consequences, a jurisdiction may determine that both the resource site and the conflicting use are important relative to each other, and that the ESEE consequences should be balanced so as to allow the conflicting use but in a limited way so as to protect the resource site to some desired extent. To implement this decision, the jurisdiction must designate with certainty what uses and activities are allowed fully, what uses and activities are not allowed at all and which uses are allowed conditionally, and what specific standards or limitations are placed on the permitted and conditional uses and activities for each resource site. Whatever mechanisms are used, they must be specific enough so that affected property owners are able to determine what uses and activities are allowed, not allowed, or allowed conditionally and under what clear and objective conditions or standards. Reasons which support this decision must be presented in the comprehensive plan, and plan and zone designations must be consistent with this decision.

Stat. Auth.: ORS Ch. 183 & 197
Hist: LCD 5-1981(Temp), f. & cf. 5-8-81; LCD 7-1981, f. & cf. 6-29-81

[ED. NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

Post-Acknowledgment Period

660-16-013 All data, findings, and decisions made by a local government prior to acknowledgment may be reviewed by that local government in its periodic update process. This includes decisions made as a result of OAR 660-16-000(5)(a), 660-16-005(1), and 660-16-010. Any changes, additions, or deletions would be made as a plan amendment, again following all Goal 5 steps.

If the local government has included in its plan items under OAR 660-16-000(5)(b), the local government has committed itself to take certain actions within a certain time frame in the post-acknowledgment period. Within those stated time frames, the local government must address the issue as stated in its plan, and treat the action as a plan amendment.

Stat. Auth.: ORS Ch. 183 & 197
Hist: LCD 5-1981(Temp), f. & cf. 5-8-81; LCD 7-1981, f. & cf. 6-29-81

[ED. NOTE: The text of Temporary Rules is not printed in the

Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

Landowner Involvement

660-16-020 (1) The development of inventory data, identification of conflicting uses and adoption of implementing measures must, under Statewide Planning Goals 1 and 2, provide opportunities for citizen involvement and agency coordination. In addition, the adoption of regulations or plan provisions carries with it basic legal notice requirements. (County or city legal counsel can advise the planning department and governing body of these requirements.) Depending upon the type of action involved, the form and method of landowner notification will vary. State statutes and local charter provisions contain basic notice requirements. Because of the nature of the Goal 5 process as outlined in this paper it is important to provide for notification and involvement of landowners, including public agencies, at the earliest possible opportunity. This will likely avoid problems or disagreements later in the process and improve the local decision-making process in the development of the plan and implementing measures.

(2) As the Goal 5 process progresses and more specificity about the nature of resources, identified conflicting uses, ESEE consequences and implementing measures is known, notice and involvement of affected parties will become more meaningful. Such notice and landowner involvement, although not identified as a Goal 5 requirement is in the opinion of the Commission, imperative.

Stat. Auth.: ORS Ch. 183 & 197
Hist: LCD 5-1981(Temp), f. & cf. 5-8-81; LCD 7-1981, f. & cf. 6-29-81

[ED. NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

Policy Application

660-16-025 OAR 660-16-000 through 660-16-025 are applicable to jurisdictions as specified below:

(1) **Category 1:** Compliance with OAR 660-16-000 through 660-16-025 is required prior to granting acknowledgment of compliance under ORS 197.251 and OAR 660-03-000 through 660-03-040 for those jurisdictions which:

- (a) Have not submitted their comprehensive plan for acknowledgment as of the date of adoption of this rule;
- (b) Are under denial orders as of the date of adoption of this rule;
- (c) Are not scheduled for review prior to or at the June 1981 Commission meeting.

(2) **Category 2:**

(a) Compliance with OAR 660-16-000 through 660-16-025 is required as outlined below for those jurisdictions which:

- (A) Are under continuance orders adopted pursuant to OAR 660-03-040;
- (B) Are scheduled for review at the April 30/May 1, May 29 or June 1981 Commission meetings.

(b) For these jurisdictions a notice will be given to all parties on the original notice list providing a 45-day period to object to the plan based on OAR 660-16-000 through 660-16-025.

(c) OAR 660-16-000 will be applied based on objections alleging violations of specific provisions of the rule on specific resource sites. Objections must be filed following requirements outlined in OAR 660-03-000 through 660-03-040 (Acknowledgment of Compliance Rule). Where no objections are filed or objections are not specific as to which elements of OAR 660-16-000 through 660-16-025 have been violated, and on what resource sites, the plan will be reviewed against Goal 5

Appendix C

OREGON ADMINISTRATIVE RULES

CHAPTER 660, DIVISION 16 — LAND CONSERVATION AND DEVELOPMENT COMMISSION

standards as they existed prior to adoption of OAR 660-16-000 through 660-16-025.

(3) Jurisdictions which receive acknowledgment of compliance (as outlined in ORS 197.251) at the April 30/May 1, 1981 Commission meeting will not be subject to review procedures outlined above, but will be treated as other previously acknowledged jurisdictions.

Stat. Auth.: ORS Ch. 183 & 197
Hist.: LCD 5-1981(Temp), f. & cf. 5-8-81; LCD 7-1981, f. & cf. 6-29-81

[ED. NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

3 - Div. 16

(September, 1981)

Goal 5 Administrative Rule

3

Appendix D

Warm Springs Tribal Ordinance 68

Appendix D

UNITED STATES GOVERNMENT

memorandum

DATE: OCT 28 1987

REPLY TO
ATTN OF: Assistant Area Director, Program Services
Branch of Tribal Government Services

SUBJECT: Warm Springs Tribal Ordinance #68 - Protection & Management of
Archeological, Historical, and Cultural Resources

TO: Superintendent, Warm Springs Agency

The tribe enacted this Ordinance pursuant to Article V, Section 1(L) of their tribal constitution. We agree with your transmittal memorandum of September 1, 1987 that no Bureau approval is necessary.

The Ordinance #68 marked original is hereby returned to your office.



Attachment

OCT 28 1987
SUPERVISOR OF ARCHAEOL. RES.

OPTIONAL FORM NO. 10
(REV. 1-80)
GSA FPMR (41 CFR) 101-11.6
5010-114

U.S. GOVERNMENT PRINTING OFFICE: 1985-461-275/10128

Ordinance No. 68

WHEREAS, the protection, preservation, and encouragement of tribal and Indian history, culture, tradition and heritage is necessary to ensure the survival of the Confederated Tribes; and

WHEREAS, the Confederated Tribes believe that it is appropriate to establish written laws and a statement of policy on this subject; and

WHEREAS, it is recognized that such written statements and policies are only one step needed in the overall effort to protect and preserve our heritage; now, therefore,

BE IT ENACTED, by the Tribal Council of The Confederated Tribes of the Warm Springs Reservation of Oregon, pursuant to Article V, Section 1(1) of the Tribal Constitution, that the attached Warm Springs Tribal Code Chapter 490, "Protection and Management of Archaeological, Historical and Cultural Resources," is hereby adopted as Ordinance No. 68; and

BE IT FURTHER ENACTED, that the following actions are hereby directed:

1. The Land Use Committee shall within six months promulgate procedural rules for the issuance of permits for archaeological, historical and cultural studies pursuant to WSTC 490.200.

2. The Culture and Heritage Committee shall prepare a report to the Tribal Council within one year, setting forth tribal traditions with regard to the exercise of tribal treaty rights for hunting, fishing, pasturing and root and berry gathering. The Committee shall also report on the traditions and customs that apply with respect to cultural materials, as set forth in WSTC 490.520.

3. The Middle Oregon Indian Historical Society, in conjunction with the Culture and Heritage Committee, shall within two years prepare a report to Tribal Council sufficient to enable Tribal Council to designate archaeological, cultural and historic sites pursuant to WSTC 490.010 and to designate sites to appropriate state, county and city officials to effectuate the implementation of LCDC Goal 5 pursuant to WSTC 490.800 to 490.840.

Appendix D

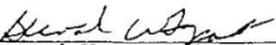
BE IT FURTHER ENACTED, that it is the express finding of the Tribal Council that nothing in this Ordinance should be interpreted to encourage excavation or studies. They are not encouraged because of the interest of the Tribes and their members in protecting the privacy and nondisturbance of their Reservation, persons and property. The intent of this Ordinance is to merely strictly control such activity when it does take place.

CERTIFICATION

The undersigned, as Secretary-Treasurer of The Confederated Tribes of the Warm Springs Reservation of Oregon, hereby certifies that the Tribal Council is composed of 11 members, of whom 7, constituting a quorum, were present at a meeting thereof, duly and regularly called, noticed, convened and held this 29th day of July, 1987; and that the foregoing resolution was passed by the affirmative vote of 6 members, the Chairman not voting; and that the said resolution has not been rescinded or amended in any way.


Larry Calica
Secretary-Treasurer

AUG 13 1987


Bernard W. Topash
Agency Superintendent

cc: Superintendent
Secretary-Treasurer
Administrative Services Center

Appendix D

WARM SPRINGS TRIBAL CODE
CHAPTER 490
PROTECTION AND MANAGEMENT OF ARCHAEOLOGICAL,
HISTORICAL AND CULTURAL RESOURCES

INDEX

490.001 Tribal Policy and Legislative Intent
490.010 Definitions

PROTECTION RULES AND REGULATIONS

490.100 Prohibited Conduct
490.105 Criminal Penalties
490.110 Civil Penalties
490.115 Civil Damages
490.120 Forfeiture of Contraband
490.125 Seizure of Security
490.130 Removal from Reservation

ARCHAEOLOGICAL, HISTORICAL AND CULTURAL STUDIES

490.200 Tribal Council Permission Required
490.205 Violation of Permit Terms

PROTECTION OF TREATY RIGHTS OUTSIDE
THE WARM SPRINGS RESERVATION

490.300 Treaty Terms, Tribal Policy and Legislative Intent
490.310 Tribal Policy with Regard to Management Activities
Outside the Warm Springs Reservation
490.320 Reports of Significant Activity Outside the Warm
Springs Reservation
490.330 Exercise of Treaty Rights Within the Ceded Area
490.340 Revocation of Privilege to Exercise Treaty Right
Outside the Warm Springs Reservation
490.350 Access to Sites for the Exercise of Treaty Rights

AMERICAN INDIAN RELIGIOUS FREEDOM ACT

490.400 Tribal Policy and Legislative Intent
490.410 Protection of Indian Religious Freedom
490.420 Protection of Sacred Sites and Recovery of Sacred
Materials
490.430 Access to Sacred Sites

PROTECTION OF CULTURAL MATERIALS

490.500 Tribal Policy and Legislative Intent
490.510 Designation of Tribal Cultural Materials
490.520 Prohibited Acts

Page 1.

Appendix D

OREGON ACT FOR PROTECTION OF INDIAN GRAVES

- 490.600 Tribal Policy and Legislative Intent
- 490.610 Procedures for Obtaining Consent

TRIBAL PURCHASE OF ARTIFACTS

- 490.700 Purchase of Artifacts by the Middle Oregon Indian Historical Society

OREGON LAND CONSERVATION AND DEVELOPMENT COMMISSION
GOAL 5 IMPLEMENTATION

- 490.800 Tribal Policy and Legislative Intent
- 490.820 Tribal Council Designation of Significant Historical, Cultural and Archaeological Sites
- 490.830 Tribal/State Coordination
- 490.840 Expedited Procedures for Sites in Developing Areas

Page 2.

Appendix D

WARM SPRINGS TRIBAL CODE
CHAPTER 490
PROTECTION AND MANAGEMENT OF ARCHAEOLOGICAL,
HISTORICAL AND CULTURAL RESOURCES

490.001 Tribal Policy and Legislative Intent. The Confederated Tribes of the Warm Springs Reservation of Oregon does affirm its authority and commitment to preserve, protect and promote tribal culture and heritage. This trust includes the management of ancient and contemporary cultural use sites and materials which are fundamental in the recognition of traditional lifeways, values and histories of the Tribes. These cultural sites and materials include those associated with traditional foods and other natural resources, other sacred sites as designated by the Tribes, habitations, and historical events and personalities. It is recognized that these are an invaluable, irreplaceable and endangered tribal resource. It is a basic tribal intent that these resources be protected and preserved within the traditional tribal territorial limits. In keeping with this intent, the following policies are established:

(1) A program shall be established to increase efforts in locating, documenting, and evaluating ancient, cultural, and historic sites. This information will provide a record of the past for future generations, and will be incorporated into land use management planning. Information on sites recorded in the ceded area will also be collected and evaluated.

(2) Tribal laws and policies are established by this Chapter that will protect archaeological, cultural, and historical sites and materials. Other federal and state laws also impact this subject. Those federal and state acts include, but are not limited to, 16 U.S.C. § 461, Historic Sites, Buildings, and Antiquities; 16 U.S.C. § 469, Reservoir Salvage Act of 1960; 16 U.S.C. § 469(a)(1), Archaeological and Historic Preservation; 16 U.S.C. § 4709, National Historic Preservation; 376 C.F.R. 800, Protection of Historic and Cultural Property; 42 U.S.C. § 4321, National Environmental Policy; 42 U.S.C. § 1996, American Indian Religious Freedom Act; ORS 273.705, Removal of Historical and Other Valuable Materials; ORS 358.905, Archaeological Objects and Sites; ORS 97.740, Protection of Indian Graves; ORS 358.605, Historic Preservation Plan; ORS 358.475, Classification of Historic Property; ORS 358.635, Preservation of Property of

Page 1.

Warm Springs Tribal Ordinances 68 and 7776

6

Appendix D

Historic Significance; ORS 390.805, Scenic Waterways; ORS 390.410, Columbia River Gorge; ORS 271.715, Conservation Easements; OAR 345-26, Thermal Power Plants; OAR 345-95, Uranium Mills; ORS Chapter 197, Comprehensive Land Use Planning Coordination; OAR LCDC Goal 5; OAR 660-16, Procedures for Complying With Statewide Goal 5.

(3) All persons knowing the locations of archaeological, historical or cultural sites are urged to report this information to the Tribal Culture and Heritage Committee or the tribal archaeologist.

(4) All land use actions taken pursuant to the tribal Land Use Code shall take into consideration the possible impact of the land use action on archaeological, historical and cultural sites and materials.

(5) The proposed museum and cultural center being developed by the Middle Oregon Indian Historical Society will be the repository of cultural materials from tribal land and will house an information archive of all known ancient, historical and cultural sites on lands under tribal control. The center will also contain cultural site information from ceded lands. Access to the collections and archives for educational and research purposes will be controlled by the Tribal Council.

(6) All tribal members are encouraged to adhere to the above policies with reference to their own properties.

(7) The Tribes encourage all property owners, land managers and developers in the Central Oregon area to adhere to federal, state and tribal laws protecting archaeological, cultural and historical properties.

(8) The Tribes recognize that activities to preserve and maintain the Indian culture of its people is a legitimate and necessary tribal governmental function, and may require the expenditure of tribal funds.

(9) The cultural education of tribal members is of equal or greater importance to the long-term welfare of the Tribes and its members, as is traditional schoolroom education in that it provides the foundation for the continuance of the Tribes as a distinct political and cultural entity perpetually.

Page 2.

Appendix D

(10) It is the policy of the Tribes to recognize, respect and foster the wide range of cultural and traditional diversity present among the three constituent tribes, Reservation families, and individual Indians.

(11) This chapter should be read broadly to effectuate the intent of the Tribes to protect tribal interests on the Reservation, in the ceded area, and outside the ceded area. Nothing in this chapter should be construed to in any way limit Tribal Treaty rights.

(12) This chapter should not be interpreted to encourage excavation or studies. They are not encouraged because of the interest of the Tribes and their members in protecting the privacy and nondisturbance of their Reservation, persons and property. The intent of this chapter is to merely strictly control such activity when it does take place.

490.010 Definitions.

(1) "Archaeological material" means material evidence of cultural activities of the past, at least 50 years in age.

(2) "Archaeological site" means a geographical locality which contains archaeological materials or features in contextual association with each other and the surrounding environment.

(3) "Ceded area" means that area ceded to the United States by the tribes and bands of Middle Oregon in the Treaty with the Tribes of Middle Oregon dated June 25, 1855.

(4) "Cultural material" means materials or objects designated by the Tribal Council as having cultural significance that are obtained from (a) protected lands or (b) outside the Reservation, if associated with treaty rights or other tribal rights. Cultural materials may include such things as eagle feathers, fish, game, roots, berries, cedar bark, Indian medicines and water having special significance.

(5) "Cultural site" means an area designated as such by the Tribal Council which has particular cultural, religious, or traditional value to the Confederated Tribes and which requires the protection of this Chapter to prevent damage, abuse, or deterioration.

Page 3.

Appendix D

(6) "Historic site" means an area designated as such by the Tribal Council which has particular historical value to the Confederated Tribes and which requires the protection of this Chapter to prevent damage, abuse, or deterioration.

(7) "Indian" means, unless otherwise specified, a member of The Confederated Tribes of the Warm Springs Reservation of Oregon, or any other person of Indian blood who is a member of a federally recognized Indian tribe or any other person on the Reservation who is recognized by the community as an Indian, including a Canadian Indian or an Alaska native.

(8) "Protected lands" means:

(a) all lands within the Reservation and

(b) all lands outside the Reservation which are owned by the Tribes or held by the United States in trust for the Tribes or its members.

(9) "Protected objects" means archaeological materials and objects of cultural or historic significance obtained from cultural or historic sites.

(10) "Protected sites" means archaeological, cultural, and historical sites.

(11) "Reservation" means all territory within the external boundaries of the Warm Springs Reservation of Oregon.

(12) "Tribal Council" means the Tribal Council of The Confederated Tribes of the Warm Springs Reservation of Oregon.

(13) "Tribes" means The Confederated Tribes of the Warm Springs Reservation of Oregon.

PROTECTION RULES AND REGULATIONS

490.100 Prohibited Conduct.

(1) No person knowing or having reason to know that a protected site or object is involved shall excavate, injure, remove, damage, destroy, or alter a protected site, or systematically remove a protected object located on protected lands unless that activity is authorized by a permit issued by Tribal Council.

Page 4.

Appendix D

(2) No person knowing or having reason to know that a protected object is involved shall sell, purchase, exchange, transport, receive, or offer to sell, purchase, or exchange any protected object if such object was excavated or removed from protected lands in violation of:

(a) the prohibition contained in subsection (1) of this Section, or

(b) any provision, rule, regulation, ordinance, or permit in effect under any other provision of tribal, federal, or state law.

(3) The prohibitions contained in this Section shall take effect on July 29, 1987. Nothing in subsection (2) of this Section shall be deemed applicable to any person with respect to a protected object which was in the lawful possession of such person prior to July 29, 1987.

490.105 Criminal Penalties. Any Indian who knowingly violates, or counsels, procures, solicits, or employs any other person to violate, any prohibition contained in WSTC 490.100 shall, upon conviction, be fined not more than \$500 or imprisoned not more than six months, or both. Such person may also be subject to the civil penalties provided for in WSTC 490.110.

490.110 Civil Penalties. Any person violating the provisions of this Chapter commits a civil infraction punishable by fine or exclusion from the Reservation pursuant to WSTC Chapter 300. The infraction shall be punishable by a maximum fine of \$500. The trial of any such infraction shall be by the Court without a jury and the prosecution shall have the burden of proving the alleged infraction by a preponderance of the evidence. There shall be no appeal from a judgment involving such an infraction.

490.115 Civil Damages. Any person violating the provisions of this Chapter shall be liable to the Confederated Tribes of the Warm Springs Reservation of Oregon for civil damages to be assessed by the Tribal Court after a hearing without a jury. "Civil damages" shall be interpreted liberally by the Tribal Court to include, but not be limited to, the following:

- (1) Costs of restoration of the protected site.
- (2) Enforcement costs associated with the enforcement of the provisions of this Chapter.

Page 5.

Appendix D

(3) Costs associated with disposition of protected objects, including reburial.

(4) Costs associated with documentation, testing, and evaluation of the protected site in order to assess the characteristics of the site.

490.120 Forfeiture of Contraband. All protected objects obtained in violation of the provisions of this Chapter shall be deemed contraband and forfeited to the Confederated Tribes after a hearing without a jury in Tribal Court.

490.125 Seizure of Security. In the discretion of the citing officer, the officer may seize such property in the possession of the defendant as the officer deems reasonably necessary to secure payment of any fine or civil damages which may be levied upon the defendant upon conviction of the infraction or crime. The officer shall, at the time of seizure, give to the defendant a receipt accurately describing the item seized. The officer shall further advise the defendant of his right to post security pursuant to WSTC 200.725. The seizure and disposition of security pursuant to this Chapter shall be conducted in accordance with the provisions of WSTC 200.700 through WSTC 200.740.

490.130 Removal from Reservation. The citing officer may remove or escort from the Reservation any person committing a violation of this Chapter, other than Reservation residents, employees of the Confederated Tribes, or employees of the federal government assigned to Warm Springs.

ARCHAEOLOGICAL, HISTORICAL AND CULTURAL STUDIES

490.200 Tribal Council Permission Required.

(1) A person knowing or having reason to know that a protected site or protected object is involved may not excavate or alter a protected site on protected lands, conduct a field investigation, or make an exploratory excavation on protected lands to determine the presence of a protected site, or systematically remove from protected lands any protected object, without first obtaining a permit issued by the Tribal Council.

(2) Persons conducting historical or cultural studies on the Warm Springs Reservation shall first obtain a permit issued by the Tribal Council.

(3) The Land Use Committee shall develop procedural rules for the issuance of such permits.

Page 6.

Appendix D

490.205 Violation of Permit Terms. Any person violating the terms of a permit issued pursuant to WSTC 490.200 shall be subject to the provisions of WSTC 490.110 through WSTC 490.130 in connection with such violations.

PROTECTION OF TREATY RIGHTS OUTSIDE
THE WARM SPRINGS RESERVATION

490.300 Treaty Terms, Tribal Policy and Legislative Intent. The Treaty with the Tribes of Middle Oregon entered into on June 25, 1855, between certain tribes and bands of Indians residing in Middle Oregon and the United States reserved to the Indians certain important treaty rights in lands ceded by the Indians to the United States. The exterior boundaries of that ceded area are described as follows:

"Commencing in the middle of the Columbia River, at the Cascade Falls, and running thence southerly to the summit of the Cascade Mountains; thence along said summit to the forty-fourth parallel of north latitude; thence east on that parallel to the summit of the Blue Mountains, or the western boundary of the Sho-sho-ne or Snake country; thence northerly along that summit to a point due east from the head-waters of Willow Creek; thence west to the head-waters of said creek; thence down said stream to its junction with the Columbia River; and thence down the channel of the Columbia River to the place of beginning."

Contained within those boundaries was the Reservation area which was reserved by the Treaty for the exclusive use of the Tribes and whose boundaries are described in the Treaty as follows:

"Commencing in the middle of the channel of the De Chutes River opposite the eastern termination of a range of high lands usually known as the Mutton Mountains; thence westerly to the summit of said range, along the divide to its connection with the Cascade Mountains; thence to the summit of said mountains; thence southerly to Mount Jefferson; thence down the main branch of De Chutes River; heading in this peak, to its junction with Deschutes River; and thence down the middle of the channel of said river to the place of beginning."

Among the important rights reserved by the Indians are those described in the Treaty as follows:

Page 7.

Appendix D

"That the exclusive right of taking fish in the streams running through and bordering said reservation is hereby secured to said Indians; and at all other usual and accustomed stations, in common with citizens of the United States, and of erecting suitable houses for curing the same; also the privilege of hunting, gathering roots and berries, and pasturing their stock on unclaimed lands, in common with citizens, is secured to them."

It is the intent of the Confederated Tribes that the provisions of WSTC 490.300 through 490.340 are to protect the tribal rights of hunting, gathering roots and berries, and pasturing stock on unclaimed lands outside the Warm Springs Reservation. It shall be the right and duty of the Tribal Council to define the nature and scope of such treaty rights. It is also recognized that off-Reservation Treaty rights are not restricted solely to the ceded area. The Treaty tribes historically, both before and after the signing of the Treaty, exercised fishing, hunting and food gathering rights outside the ceded area. The Treaty contains no words limiting the exercise of off-Reservation rights to the ceded area.

490.310 Tribal Policy with Regard to Management Activities Outside the Warm Springs Reservation. It is the policy of the Confederated Tribes to encourage management activity by state and federal agencies outside the Warm Springs Reservation which will enhance, protect and preserve the treaty rights of the Confederated Tribes. It shall also be the policy of the Confederated Tribes to oppose all activity outside the Warm Springs Reservation that adversely affects the treaty rights of the Confederated Tribes. The Tribes encourage the establishment of memoranda of agreement with appropriate persons and agencies to effectuate the policies contained in this section.

490.320 Reports of Significant Activity Outside the Warm Springs Reservation. Members of the Tribes, tribal employees, and others are hereby encouraged to report to the Confederated Tribes all activity outside the Warm Springs Reservation which might adversely affect tribal treaty rights.

490.330 Exercise of Treaty Rights Outside the Warm Springs Reservation. Members of the Confederated Tribes shall exercise treaty rights outside the Warm Springs Reservation as follows:

Page 8.

Appendix D

(1) Hunting Rights. Hunting rights shall be exercised in accordance with the provisions of WSTC 350.510.

(2) Root and Berry Gathering Rights. Root and berry gathering rights shall be exercised in accordance with tribal custom and tradition.

(3) Pasturing Rights. Pasturing rights shall be exercised in accordance with terms of a permit issued by the Tribal Council. Members knowingly violating the terms of the permit shall be deemed guilty of a crime, and if found guilty may be punished by imprisonment for a term not to exceed six (6) months or by imposition of a fine not to exceed \$500.00, or both.

490.340 Revocation of Privilege to Exercise Treaty Right Outside the Warm Springs Reservation. Tribal members exercising treaty hunting, gathering and pasturing rights in violation of the terms of WSTC 490.330 may have those privileges revoked or suspended by the Tribal Council after a hearing. A Tribal Council resolution shall establish the terms and period of suspension or revocation.

490.350 Access to Sites for the Exercise of Treaty Rights. Tribal members exercising treaty rights pursuant to the provisions of WSTC 490.300 to 490.350 shall treat with respect the private property rights of owners of land adjacent to unclaimed lands in which treaty rights are exercised. Tribal members shall endeavor to obtain the consent of the landowner to gain access to the unclaimed lands. Tribal members are encouraged to report to the office of the Secretary-Treasurer instances in which private landowners have denied access to adjoining unclaimed lands.

AMERICAN INDIAN RELIGIOUS FREEDOM ACT

490.400 Tribal Policy and Legislative Intent. On August 11, 1978, the Congress of the United States enacted Public Law 95-41 (92 Stat. 469), known as the "American Indian Religious Freedom Act", which provides "on or after August 11, 1978, it shall be the policy of the United States to protect and preserve for American Indians their inherent right of freedom to believe, express, and exercise the traditional religions of the American Indian, Eskimo, Aleut, and Native Hawaiians, including but not limited to access to sites, use and possession of sacred objects, and the freedom to worship through ceremonials and traditional rites." It is the policy of the Confederated Tribes to support this act.

Page 9.

Appendix D

490.410 Protection of Indian Religious Freedom. The Tribal Council of the Confederated Tribes shall, upon the advice of traditional Indian religious leaders, take such actions as are necessary to implement the provisions of the American Indian Religious Freedom Act. Traditional Indian religious leaders shall be responsible for expression and definition of traditional religious practices on the Warm Springs Indian Reservation. It shall be the prerogative and the duty of the Tribal Council, only, after consultation with traditional Indian religious leaders and the Culture and Heritage Committee to define traditional Indian religious practices insofar as they relate to the exercise of tribal Treaty rights.

490.420 Protection of Sacred Sites and Recovery of Sacred Materials. The Tribal Council shall take such actions as are necessary to protect sacred sites identified as such by traditional Indian religious leaders. The Tribal Council shall disseminate information regarding the nature of tribal sacred objects as identified by traditional Indian religious leaders, and take such actions as are necessary to recover sacred objects that have been illegally obtained.

490.430 Access to Sacred Sites. The Tribal Council shall take such actions as it deems necessary to ensure that tribal members are granted access to sacred sites.

PROTECTION OF CULTURAL MATERIALS

490.500 Tribal Policy and Legislative Intent. It is the intent of this Chapter to protect materials of particular cultural significance to the Confederated Tribes. This regulation is intended to prevent abuse of tribal privileges by individual members, to protect cultural materials so that they may be available for future generations, and to define what are included as cultural materials so that the public may be aware that they have special significance to the Confederated Tribes.

490.510 Designation of Tribal Cultural Materials. The following materials are hereby designated as cultural materials for the purposes of this Chapter. The list is not exhaustive and may be expanded by amendment to this Chapter.

- (1) Pelts.
- (2) Huckleberries.
- (3) Choke cherries.

Page 10.

Appendix D

- (4) Elderberries.
- (5) Deer.
- (6) Elk.
- (7) Otter.
- (8) Salmon.
- (9) Trout.
- (10) Eels.
- (11) Sturgeon.
- (12) Indian herbal medicines.
- (13) Cedar bark.
- (14) Eagles.
- (15) Tule reeds.
- (16) Wild celery.
- (17) Camas.
- (18) Bitterroot.
- (19) Biscuitroot.
- (20) Luksch (desert parsley).
- (21) Wild onion.
- (22) Wild or Indian potatoes.
- (23) Yellow bells.
- (24) Pine nuts.
- (25) Acorns.
- (26) Sunflowers.
- (27) Bear.
- (28) Cougar.

Page 11.

Appendix D

- (29) Water.
- (30) Mistletoe.
- (31) Pine black lichen.
- (32) Wild rose bushes.
- (33) Pine moss.
- (34) Scraping rocks.
- (35) Obsidian.
- (36) River bottom rocks.
- (37) Ochre.
- (38) Willow.
- (39) Red willow.
- (40) Alder.
- (41) Chinkapin.
- (42) Kinnick Kinnick.
- (43) Blackberries.
- (44) Pine needles.
- (45) Juniper.
- (46) Black sagebrush.
- (47) Beaver.
- (48) Mushrooms.

490.520 Prohibited Acts. No tribal member shall gather, collect, possess, sell, barter, exchange, purchase, offer to sell, purchase or exchange, or transport any cultural material in violation of tribal laws, traditions or customs. Any tribal member doing so shall, in addition to any sanctions imposed by any other applicable law, be subject to such traditional sanctions as may be determined by the Tribal Culture and Heritage Committee.

Page 12.

Appendix D

OREGON ACT FOR PROTECTION OF INDIAN GRAVES

490.600 Tribal Policy and Legislative Intent. Oregon Revised Statutes 97.740 through 97.760 provide for the protection of Indian graves. It is the policy of the Confederated Tribes to support enforcement of this Act. ORS 97.750 provides:

"(1) If such action is necessary to protect the burial from imminent destruction, and upon prior notification to the State Historic Preservation Office and to the appropriate Indian tribe in the vicinity of the intended action, a professional archaeologist may excavate a Native Indian cairn or grave and remove material objects and human remains for subsequent reinterment under the supervision of the Indian tribes.

"(2) Except as provided in subsection (1) of this section, any proposed excavation by a professional archaeologist of a Native Indian cairn or grave shall be initiated only after prior written notification to the State Historic Preservation Office and with the prior written consent of the appropriate Indian tribe in the vicinity of the intended action. Failure of a tribe to respond to a request for permission within 30 days of its mailing shall be deemed consent. All material objects and human remains removed during such an excavation shall, following scientific study, be reinterred at the archaeologist's expense under the supervision of the Indian tribe.

"(3) In order to determine the appropriate Indian tribe under this section and ORS 97.745, a professional archaeologist or other person shall consult with the Commission on Indian Services which shall designate the appropriate tribe."

It is the intent of WSTC 490.610 to provide a mechanism for expeditiously determining whether or not written consent for an excavation shall be given pursuant to ORS 97.750(2).

490.610 Procedures for Obtaining Consent. A request for consent to excavate pursuant to ORS 97.750 shall be presented to the Secretary-Treasurer for the Confederated Tribes. The Secretary-Treasurer shall direct appropriate representatives of the Confederated Tribes to conduct an investigation of the matter and make a formal written report to the Tribal Council

Page 13.

Appendix D

within 20 days recommending whether or not consent to the excavation be granted and if any granted, what if any conditions should be imposed on the excavation.

TRIBAL PURCHASE OF ARTIFACTS

490.700 Purchase of Artifacts By the Middle Oregon Indian Historical Society. The Confederated Tribes have chartered the Middle Oregon Indian Historical Society to assist in the protection and preservation of the Tribes' culture. The Middle Oregon Indian Historical Society has an accessions program to purchase or receive donations of artifacts and other materials having significance to the Confederated Tribes. It is the policy of the Confederated Tribes that persons possessing materials with religious, historical, or cultural significance to the Confederated Tribes be encouraged to offer for sale or donate these materials to the Middle Oregon Indian Historical Society in order to prevent the dispersion and loss of materials important to the preservation of the culture of the Confederated Tribes.

OREGON LAND CONSERVATION AND DEVELOPMENT COMMISSION
GOAL 5 IMPLEMENTATION

490.800 Tribal Policy and Legislative Intent. Among other things, Goal 5 adopted by the Oregon Land Conservation and Development Commission provides for inventorying and protecting historical, archaeological and cultural sites. A copy of LCDC Goal 5, "Open Spaces, Scenic and Historic Areas, and Natural Resources", is attached to this Chapter. It is the policy of the Confederated Tribes to support the implementation of Goal 5 and it is the purpose of WSTC 490.800 through 490.840 to establish a tribal mechanism to interact with state and local governments charged with implementing LCDC Goal 5. The Middle Oregon Indian Historical Society, the Tribal Culture and Heritage Committee, and the Tribal Cultural Department, under the overall supervision of the Secretary-Treasurer of the Confederated Tribes, shall develop and present to the Tribal Council for adoption a plan for identifying, inventorying, and reporting significant historic, cultural, and archaeological sites for designation as such by the Tribal Council in areas outside the Reservation boundaries. The inventory plan shall contain objective and subjective criteria to be used in deciding which historic, cultural, and archaeological sites are significant and warrant special protection.

490.820 Tribal Council Designation of Significant Historical, Cultural and Archaeological Sites. The Tribal Council shall designate significant historic, cultural, and

Page 14.

Appendix D

archaeological sites as those terms are defined by WSTC 490.010 outside the Warm Springs Reservation, and shall cause to be prepared a report detailing such sites in appropriate form to be presented to state and local officials to aid in the implementation of LCDC Goal 5.

490.830 Tribal/State Coordination. The Tribal Council of the Confederated Tribes shall have the responsibility for coordination with state and local governments implementing LCDC Goal 5. The tribal point of contact for such coordination shall be the office of the Secretary-Treasurer of the Confederated Tribes.

490.840 Expedited Procedures for Sites in Developing Areas. The Secretary-Treasurer of the Confederated Tribes shall develop expedited procedures for the evaluation of historic, cultural, and archaeological sites located in areas under development. The Confederated Tribes recognize that rapid response to requests for information by state and local governments is necessary for the effective implementation of LCDC Goal 5, and to prevent hardship on the users of land.

Appendix E

Site Discovery in the Columbia South Shore: A Review of Modeling, Sampling, Survey and Discovery Techniques

Appendix E

**SITE DISCOVERY IN THE COLUMBIA SOUTH SHORE:
A REVIEW OF MODELING, SAMPLING, SURVEY,
AND DISCOVERY TECHNIQUES**

by Albert C. Oetting

The role of archaeological survey to discover archaeological sites has increased dramatically in the past 50 years. From a secondary, casual exercise often used only to locate interesting sites that could be excavated, archaeological survey has become a primary tool and focus in modern research designs (Ammerman 1981:63-65; Plog 1974:69-71; Ruppé 1966). This shift has been due in part to increasing archaeological research into questions and models concerning land use patterns and systems on a regional scale rather than in site specific terms. The increased role of survey is also due to the advent and implementation of Federal legislation mandating the identification, evaluation, and protection of cultural resources on Federal lands and in projects requiring Federal funds and permits.

Most of the early systematic surveys were done in the American Southwest or in other arid landscapes where soil deposition was minimal and ground visibility through the sparse vegetation was good (Ammerman 1981:64; Wobst 1983:51). Thus, cultural materials and sites were present on the ground surface and that surface could be seen by the archaeologist. Many of the basic strategies and techniques used in archaeological surveys were developed in these areas, and the excellent results obtained encouraged further development and wider application of archaeological surveys. However, the high expectations for survey data often turned to frustration when similar strategies and techniques were applied in regions with less favorable environmental conditions (Ammerman 1981:64).

Surface visibility was quickly identified and widely recognized as a major problem for archaeological surveying in many regions, especially in densely vegetated areas such as forests and areas of alluvial deposition and aggradation such as floodplains (Chartkoff and Chartkoff 1980:5; McManamon 1984:224; Schiffer et al. 1978:15). By definition, vegetated lands are covered with duff and vegetation, obscuring the ground surface to a lesser or greater extent. Alluvial landforms not only often support substantial vegetation, but the ongoing deposition of sediment buries archaeological sites, so that no evidence of the site is present on the modern ground surface.

SITE DISCOVERY IN THE COLUMBIA SOUTH SHORE: A REVIEW OF MODELING,
SAMPLING, SURVEY AND DISCOVERY TECHNIQUES

1

Appendix E

Traditionally, archaeological survey methodologies have relied on systematic visual inspection of the ground surface to locate and identify cultural remains. Such an approach is ineffective in vegetated and alluvial situations, so approaches focusing on maximizing available exposed ground (Aikens et al. 1980), interviewing knowledgeable local people about potential site locations (Aikens 1976), systematically exposing and examining or excavating sections of the ground surface (Lovis 1976; Krakker et al. 1983), and employing a variety of remote sensing or chemical techniques have been advocated and implemented with varying degrees of success (McManamon 1984; Schiffer et al. 1978). In addition, the efficacy of conducting statistically-based probabilistic surveys in vegetated areas has also been questioned (Connolly and Baxter 1983). Although sample surveys using randomly-generated sample areas provide more statistically reliable samples, the difficulties in implementing such surveys and the poor results of the surveys indicate that other sampling techniques might be more useful.

This appendix provides a brief background on principles underlying site discovery through archaeological survey and the methods and techniques that have been suggested to better discover sites. Approaches to surveys in adverse environmental conditions that have been used or advocated in the northeastern United States and in Canada are briefly summarized, along with survey strategies, especially predictive modeling, that have been developed for wooded areas in Oregon and the Pacific Northwest. Finally, the relative advantages and disadvantages of the various survey methodologies and techniques are discussed.

SURVEY DESIGN

A survey design is the overall strategy or set of strategies used to investigate a region and to obtain knowledge, in the form of cultural materials (artifacts, ecofacts, features), about the archaeological record of the region. Survey designs should be considered on at least two levels. One is the level of sampling--is the survey intended to physically examine the entire project area, or will only a portion of the area actually be inspected and the resulting *sample* used to generate inferences about the cultural resources of the larger area? Since recovering the entire archaeological record is an unrealistic goal (unless a project area is very small), a seemingly infinite variety of sampling designs, both probabilistic and judgmental, have been promoted and used to conduct archaeological surveys. The second level is that of survey methodology, the discovery of

Appendix E

sites. Once the sampling design and units have been chosen, what methods and techniques are used to actually inspect the area?

These two levels relate to the distinction made by Schiffer et al. (1978:2) and others between "*discovery* of archaeological materials and *estimation* of regional parameters." Parameters are characteristics of the study area or regional archaeological record (Schiffer et al. 1978:3), thus the sampling design for a project will affect estimates made about the parameters. Discovery, or discovery probability, of course focuses on the encounter and identification of the actual archaeological materials (sites and artifacts) that are the essential data needed for parameter estimation (Schiffer et al. 1978:3).

SAMPLING DESIGN

A wide variety of probabilistic sampling designs have been developed and used across North America since the 1960s (Redman 1975; Mueller 1975). While probabilistic designs using statistical sampling methods provide the most reliable means of obtaining representative samples, it has also been found that probability sampling techniques are not efficient or cost-effective in some situations.

To begin with, regional probability sampling is not intended to discover individual sites. Rather, it is an attempt to find the *range* of site types present in the region (Ragir 1967) and to assess the probability, or *likelihood*, of site presence or absence (Warren 1990:202). Beyond this, probabilistic sampling is (1) simply not cost-effective under some adverse field conditions, (2) is not cost-effective for discovering (or estimating) rare or highly-clustered cultural resources, but (3) does provide relatively good estimates, under favorable field conditions, of abundant and evenly distributed cultural resources (Schiffer et al. 1978:2).

Thus, unless substantial amounts of time and financial resources are available, attempting to locate cultural resources in poor field conditions and/or where some of these resources are likely to be uncommon or highly clustered may necessitate the use of purposive or other non-probabilistic sampling techniques, or as Aikens (1976) has termed them, "methodologically unlovely" techniques.

Although "purposive" ("judgmental," "intuitive") techniques were implicitly, or sometimes explicitly, discouraged in much of the early programmatic literature on sampling in archaeology as being biased and non-quantitative (King 1978; Read 1975), many researchers realize that

Appendix E

both probabilistic and purposive techniques have their uses and can be integrated in multi-stage research designs (Plog et al. 1978; Schiffer et al. 1978).

Purposive is not the obverse of probability on the sampling coin. As Plog et al. (1978:405) point out, "the often-voiced opposition of judgment and probability sampling is a poor conceptualization of the circumstances in which most of us operate most of the time." Careful, judgmental use of existing information on the presence, distribution, and co-occurrence of cultural resources *should* guide decisions that are commonly made when designing probability samples. The knowledge gained in each stage of research *should* be incorporated into succeeding stages of work.

The focus of archaeological survey is the *discovery* of cultural resources. This priority suggests that in circumstances where probabilistic sampling is ineffective at locating archaeological remains or the cost is prohibitive, purposive techniques may be most effective. Predictive models are, in essence, judgmental in nature, built from careful consideration of known cultural resources in the region, their relationships with environmental variables, and anthropological theory (Schiffer et al. 1978).

Predictive models can be used to stratify a study area into zones that have greater or lesser likelihoods to contain cultural resources. These zones can then be used to narrow or refine the focus of archaeological investigations. As further knowledge regarding the regional archaeological record is obtained, the predictive model can be modified to incorporate these data. Probability sampling generally still plays a large role in this research, in the selection of strata to sample and in the selection of sample units within strata.

PREDICTIVE MODELING

Models are idealized, usually simplified, representations of observations regarding some portion of the real world. They are structured, selective, and, hopefully, predictive to some degree (Clarke 1972:2). Models can be formed at any level of abstraction and from many different perspectives, and they can be used to help visualize, compare, organize, and explain aspects of the "slice of reality" being modeled. In anthropology and archaeology, models are generally "heuristic devices for structuring observations and thinking about human behavior" (Gibbon 1984:103).

There is a growing body of research and literature exploring the theoretical basis of archaeological predictive modeling and the methodological

Appendix E

procedures and constraints necessary to develop and use effective models (Darsie and Keyser 1985; DeBloois 1985; Kohler and Parker 1986; Judge and Sebastian 1988). Most spatial predictive models incorporate two basic assumptions: (1) that prehistoric settlement choices were influenced or conditioned by certain factors (generally aspects of the natural environment), and (2) these factors can be discerned directly or indirectly in the modern physical environment (Warren 1990:202). An important theoretical distinction has been emphasized by many current researchers between locational and explanatory models (Kohler 1985:14; Kohler and Parker 1986:399; Sebastian and Judge 1988:3-9; Altschul 1988; Ebert and Kohler 1988:98-100).

Locational models (or empiric correlative models) are inductive in nature, relating archaeological site locations with particular environmental variables or suites of variables (Ebert and Kohler 1988:99). These models are typically constructed by examining existing site location data and formalizing (and possibly quantifying) the relationships between the sites and their modern environmental setting. The model is then applied to a project area by identifying particular settings that have high or low probabilities for containing (or not containing) archaeological sites.

In contrast, *explanatory models* are deductively derived, identifying probable archaeological site locations based on some knowledge of human behavior and cultural systems (Bettinger 1980; Sebastian and Judge 1988:4). Pertinent ethnographic data on settlement-subsistence strategies and/or theoretical constructs modeling human behavioral systems are used to develop a formal model and to deduce where cultural remains resulting from these strategies or behavioral systems should (or should not) be located.

Both types of models have advantages and disadvantages (Kohler and Parker 1986:430-432; Sebastian and Judge 1988:4-9; Altschul 1988:63ff), but it should be remembered, and emphasized, that these models are not mutually exclusive (Kohler 1985:17). As defined above, models are constructs which simplify complex sets of data, but which are capable of elucidating, or predicting, the framework structuring these data with some degree of accuracy (after Clarke 1968:32). By definition, then, all models are predictive to some degree. The choice of model (or models), then, is often based on relative effectiveness, both in terms of the knowledge they may generate and their cost in development and implementation.

Locational (correlative) models are useful in that they can be developed in a straightforward manner using existing site and environmental data and they will provide some idea of the distribution of archaeological resources

Appendix E

over particular project areas. However, these models are severely restricted in that they predict site probabilities from knowledge of existing sites. A model will be of limited use if there are only a few known sites that can be used in its development. Likewise, if the existing database is biased toward the location of only selective types of sites, or based on surveys of selective environmental types, then the model will be biased toward these areas as well (Kohler 1985:14, 1988:41; Altschul 1988:65).

These models, of course, are primarily based on correlations between sites and modern environmental variables. In areas that have undergone significant environmental change during the period of human occupation these correlations may have changed and, therefore, sites may occur in areas not presently considered likely to contain sites. Unless such sites were found prior to the development and implementation of the locational model, these sites will probably remain undiscovered or will be considered anomalous when encountered. Likewise, over the 10,000 or so years of human occupancy of western North America, different human groups may have used the same area in different ways, resulting in different patterns of association between the sites and the then-extant environment. Non-environmental variables may also have been important in how sites were located on the landscape; thus, these sites may appear to occur randomly in locational models that use only environmental variables. In short, locational models cannot predict beyond the existing database and they can offer no reasons for why the model does or does not work.

Explanatory models are extremely valuable for precisely this reason, since they predict probable site locations from hypotheses about why humans would have used particular areas. These models can be constructed to address environmental change over time, the presence of differing settlement-subsistence systems in different portions of a given region or at different times in the past, and/or the relative importance of non-environmental variables in the various behavioral systems discerned.

Unfortunately, the complexity that is so desirable in explanatory models makes them extremely difficult to create and validate (Sebastian and Judge 1988:8). Extensive work is required to develop testable models of human behavior and to bridge the gap between the archaeological record (the deteriorated physical remains of past behavioral systems) and the systemic context used to assign meaning to them (the past behavioral system itself). This problem of archaeological explanation using a fragmentary, incomplete, and temporally blurred archaeological record is a central theoretical concern in modern archaeology (e.g., Binford 1983; Schiffer

Appendix E

1988; Trigger 1989) and the development of effective explanatory predictive models may contribute valuable insights to these discussions.

Several survey designs in the Pacific Northwest have been developed using a predictive modeling strategy. Inventory strategies using predictive variables have been developed for lands in the Coast Range administered by the Bureau of Land Management (Toepel and Oetting 1992), and for the Mt Hood (Marvin 1985), Gifford-Pinchot (Hollenbeck 1985), and Deschutes National Forests (Davis 1985). The Mt. Hood National Forest sample survey design provides an example. This design is a locational predictive model, having selected a series of environmental (primarily geomorphic) settings and determined the likelihood of sites occurring in each by reference to the location of known sites (Marvin 1985). This model has recently been updated and refined (Burtchard and Keeler 1991) using a more explanatory approach, focusing more on particular biotic environments that would have been frequented, given ethnographic data on resources used by local Native American groups.

PRINCIPLES AND TECHNIQUES OF SITE DISCOVERY

Curiously, most of the material on survey strategies in western Oregon relate to sampling design or survey *strategy*, while most of the widely published material on forested surveys elsewhere in North America focus on site discovery, or survey *tactics*. There is widespread agreement that sampling designs, generally multi-stage in nature, are necessary to efficiently examine large project areas. But if the discovery techniques employed cannot locate sites, little can come of the larger strategy (unless it can be demonstrated that the negative results reflect the true nature of the regional archaeological record).

There are two main categories of factors that affect discovery probabilities, or the likelihood of discovering a particular archaeological artifact, feature, or site (Chartkoff and Chartkoff 1980; MacManamon 1984; Schiffer et al. 1978). The first category consists of factors that the archaeologist cannot directly control. These include characteristics of the archaeological remains themselves, such as abundance, clustering, and obtrusiveness, as well as the environment of the study area, which controls visibility and accessibility (Schiffer et al. 1978). The second category contains those factors that are controlled by the archaeologist, factors such as survey strategies, survey techniques, surveyor abilities, and, in some situations, funding (Chartkoff and Chartkoff 1980; Schiffer et al. 1978).

Appendix E

Factors Affecting Discovery

Abundance refers to the frequency of archaeological materials overall, as well as the frequency of particular kinds of artifacts and sites, in a study area. **Clustering** concerns the distribution, or spatial aggregation, of archaeological materials. In general, the probabilities for discovery vary directly with the abundance of archaeological remains and inversely with the clustering of remains (Read 1975; Schiffer et al. 1978). Thus, uncommon or highly clustered materials are the least likely to be found and are certainly the most difficult to locate using random, probabilistic techniques.

Obtrusiveness is used as a measure of the degree to which specific archaeological materials can be detected by a particular discovery technique. Obtrusiveness is dependent not only on the characteristics of the archaeological materials but also on the discovery technique employed and conditions of visibility. Small lithic scatters with low artifact densities are less obtrusive to surface pedestrian surveys than are scatters with larger surface areas (which are more likely to be intersected during a transect and cover a larger proportion of a transect) and/or higher artifact densities (providing more artifacts capable of being discovered). For the same reasons, small, thin lithic scatters are less obtrusive to small shovel-test probes than are larger, denser sites.

Differing archaeological constituents at a site may have differing degrees of obtrusiveness as well (MacManamon 1984). The low obtrusiveness of a small, thin lithic scatter occurs because there are few artifacts to discover. However, the soil of this same site may have a high phosphate content and be very obtrusive to soil chemistry tests. Likewise, the soil of this site area may have been altered through human activities to the extent that the site vegetation stands out from the surrounding vegetation and is obtrusive to aerial photography or other remote sensing techniques. The concept of obtrusiveness points out that different archaeological materials in different settings may require different techniques to increase chances of discovery.

Visibility is essentially self-explanatory, referring to environmental variables which may obscure archaeological remains in a particular location. Visibility and obtrusiveness are interrelated, in that remains that are less obtrusive are more easily obscured, but even highly obtrusive sites may be overlooked when visibility is extremely poor. As with obtrusiveness, different techniques may be used to improve visibility. Poor ground visibility may obscure lithic scatters with low obtrusiveness to pedestrian surface survey. The scatter may be more obtrusive to

Appendix E

subsurface testing, to chemical tests, or become more visible using techniques to clear vegetation and improve surface visibility. The collapsed structural remains of an historic cabin may be quite obtrusive despite poor surface visibility, but may, in fact, become less visible (or obtrusive) if vegetation clearing techniques such as bulldozing or burning also remove the wooden structural remains of the cabin.

Accessibility is an important factor constraining site discovery, but one that is rarely made explicit. Accessibility refers to observer mobility--the effort and caution needed to reach a particular location. Schiffer et al. (1978) provide a good discussion of the variables which may influence accessibility, that primarily include climate, terrain, the biotic environment, extent of roads, and land-holding patterns. These variables will constrain discovery probabilities by limiting the area that can be effectively surveyed, either by actual physical barriers, by impediments that can be overcome only at prohibitive expense, by overtaxing crew endurance and morale, or by endangering crew safety.

Examples of accessibility constraints might include attempts to conduct archaeological surveys in adverse weather conditions, encountering topographic features that cannot be traversed within limits of time and safety, dense understory vegetation that inhibits crew mobility and may present unseen hazards, or the presence of annoying or dangerous plants and animals (e.g., poison oak, blackberry thickets, or stinging insects) that could distract a surveyor's attention and could be injurious. Landowners restricting or denying access to particular areas will certainly affect accessibility and site discovery.

Survey **strategies** and **techniques** are the primary means under an archaeologist's control for improving discovery probabilities. Survey strategies have been discussed to some extent above. Survey techniques will be discussed below. The **abilities** or skills of individuals comprising survey crews also affect discovery probabilities, so it behooves archaeologists to employ well-experienced surveyors. Training, experience, and competence are all needed to effectively identify cultural materials when encountered in the field. The physical conditioning needed to conduct such fieldwork must also be considered, since fatigue will affect both the individual's ability and the progress of the crew as a whole.

Funding can certainly affect discovery probabilities, but money is not always under the archaeologist's control. In large projects, funds may be available to implement several discovery techniques, such as chemical soil testing and photogrammetry, in addition to surface survey and shovel-

Appendix E

testing. Likewise, large projects may have the flexibility to incorporate different techniques if those being employed are inadequate or field conditions change. In contrast, small projects are generally budgeted with respect to a particular technique and cannot accommodate many changes during the fieldwork.

Discovery Techniques

A variety of archaeological discovery techniques have been used or at least proposed over the last 25 or so years, ranging from the traditional pedestrian surface survey to the use of satellite infrared (and other wavelength) imagery. Individual techniques have been championed in the literature (Krakker et al. 1983; Spurling 1979; Stein 1986) and the suite of techniques has been reviewed as well (Chartkoff and Chartkoff 1980; McManamon 1984).

Not surprisingly, the techniques are divided into two basic divisions-- surface and subsurface, or pedestrian surface survey and all of the other techniques which attempt to observe more than just the naturally exposed surface of the ground. These will be listed below but not described in detail, since the references cited above do just that and provide several examples of each as well.

Technically, surface exposure for pedestrian survey can be enhanced through several methods of removing duff and vegetation, such as shovel surface scrapes at intervals along transects or raking or hoeing areas at similar intervals. These provide small areas of increased surface exposure, but the basic technique of visual inspection of the ground surface while walking through a project area remains the same. Obviously, visibility problems are a major constraint in the use and effectiveness of surface surveys. Sites without very obtrusive surface remains are difficult to discover using this technique, and buried sites with no surface evidence cannot be detected.

There are four categories of subsurface techniques (McManamon 1984). All are designed to increase the visibility of archaeological remains and/or take advantage of potential site constituents that have higher obtrusiveness.

1. Subsurface probing, that is ground disturbing excavations of any type, is the primary subsurface technique currently in use, and is discussed in more detail below.

Appendix E

2. Instruments. Instruments such as proton magnetometers, electric resistivity meters, and ground penetrating radar employ geophysical methods to detect subsurface site features or particular kinds of soil anomalies. However, these "archaeological prospecting" devices can be employed only in areas where the soil and geologic conditions are appropriate and can only locate sites that have obtrusive features that can be detected by these means (Scollar et al. 1990).
3. Geochemical testing methods comprise the third category of techniques. Anthropically enriched soils, soils which have been disturbed and modified by people, may be obtrusive to chemical soil tests for elements such as phosphorus or calcium. Once again, these tests cannot detect sites that do not have enriched soils or where natural soils have similar chemical signatures. Geophysical and geochemical techniques rely on detecting magnetic, electrical, electromagnetic, seismic, or chemical contrasts in subsurface sediments; if no contrast exists, these methods cannot be successful (Heimmer 1992).
4. Aerial remote sensing. A variety of aerial remote sensing techniques, ranging from oblique-angle air photos to satellite imagery, have been used in particular circumstances.

Unfortunately, remote sensing instrument testing, chemical testing, and aerial remote sensing techniques are still experimental, are not reliable, and can only locate sites that are obtrusive to the technique employed. Many of these techniques were developed and have been used successfully in northern Europe, where the sites being investigated are buried structural remains and large earthen features (Scollar et al. 1990). Buried clusters of artifacts and small features such as hearths or ovens, the most common archaeological site features in North America, generally cannot be detected using these techniques. In addition, these techniques are often too costly and time-consuming to use for large scale site discovery surveys (Weymouth 1986:312). On the other hand, they are often useful in obtaining information from particular sites, where background information on natural soil chemistry and stratigraphy can be developed in detail (to determine which techniques are most likely to be productive), and where intensive testing can be done to locate what may be highly clustered features.

The primary subsurface discovery technique in use in the United States is that of probing--subsurface ground disturbing excavations of various types. Methods include the use of soil cores and augers of varying sizes, shovel test pits ranging from 20 x 20 centimeter (cm) to 1 x 1 meter (m) in size

Appendix E

(with and without screening of the fill), as well as the use of heavy equipment, such as backhoes, for grading, trenching, and discing. A large body of literature has accumulated on which excavation methods should be employed, how unit size and placement affect discovery probabilities, whether screening is necessary, and, in general, how effective subsurface testing is for locating archaeological remains (e.g., Alexander 1983; Chartkoff and Chartkoff 1980; Lightfoot 1986; Krakker et al. 1983; McManamon 1984; Nance and Ball 1986; Schiffer et al. 1978; Shott 1989). The majority of reports and reviews have come to similar conclusions regarding subsurface testing.

Subsurface probes, placed and arranged using probabilistic sampling methods, are effective for discovering archaeological sites and materials. However, the size of the subsurface unit, the frequency and distribution of units, the size of the archaeological sites being encountered, the frequency and distribution of the sites, and the density, distribution, and depth of artifacts within those sites all affect how well subsurface testing works. Of course, only the first two factors, unit size and unit distribution, can be controlled by the archaeologist.

Unit size is inversely correlated with artifact density--larger units are necessary to increase the likelihood of encountering a cultural item as artifact density decreases. Most researchers have found that small bore soil corers and augers (smaller than 20 x 20 cm) do not reliably locate cultural remains, even in known site areas (McManamon 1984). Not surprisingly, screening the excavated fill greatly increased the chances of discovering cultural remains. The number of units, their spacing, and their patterning are all related both to artifact density (increasing the volume excavated by excavating more units), and to site size (since sites smaller than the spacing between units may be missed while those larger should be intersected). Shortening the intervals between test units increases the chances of discovering sites, but a point of diminishing returns is soon reached, especially in terms of labor and time. Nance and Ball (1986:479) concluded that shovel tests (25 x 25 cm or larger) were relatively reliable for discovering large, relatively dense sites that do not show marked spatial aggregations of artifacts, but that shovel testing is biased against and unreliable in trying to discover small, low density sites, especially if artifacts are highly clustered.

Anticipated site depth may also be an important variable in determining the type of subsurface probing unit to use. Shovel test probes averaging 50 x 50 cm in size can generally be excavated no deeper than 70 or 80 cm. Larger shovel-excavated units (1 x 1 m) can attain greater depth, but far fewer units can be excavated per unit of time, and depth is usually still

Appendix E

limited to about 1.5 m. Soil corers and augers are more effective in these situations, since these tools can attain depths in excess of 2 m, given favorable soil conditions. Of course, the correlations of unit size, unit spacing, and artifact density still hold true, so discovery of deeply buried sites may require different sampling strategies than shallowly buried sites.

Heavy equipment excavation can only be used in specific areas and is only appropriate in particular situations. Large scale mechanized excavations generally destroy the archaeological context of the excavated materials, essentially destroying portions of the site being discovered. However, large areas can be tested much more rapidly and deeply buried deposits can be encountered more easily. These factors may outweigh the destructiveness of heavy equipment when time is short or where cultural deposits buried too deeply for manual subsurface probing techniques are suspected.

Virtually every study expressed concern about the cost-effectiveness of systematic subsurface testing. This is not an idle concern, since most cultural resource management projects are conducted under tight budgets. Although excavation speed varies tremendously depending on the size, depth, and screening of a unit, a hypothetical example may be of use. A team of two surveyors might cover 80 acres (323,760 m²) in one day on a pedestrian surface survey. Using a 20 m interval between test units, 809 subsurface probes would be necessary to sample the same area. If the two individuals could excavate and document 20 probes a day, it would take 40.5 days to "survey" the same 80 acres. Remember also that cutting the test unit interval in half would quadruple, not double, the number of units to be investigated!

Thus, the advantages of subsurface tests are that artifact visibility is improved by providing a subsurface, volumetric view of the project area and by providing a very intensive examination of each test unit. The disadvantages of the technique include the following: it is still only sampling very small units spread across a large area (typical sampling fractions are less than 0.001 [Wobst 1983]), the costs can be extremely high, and the technique is not reliable unless the sites being discovered are primarily large, dense sites.

Most researchers concluded that, while subsurface testing was not as effective at discovering sites as surface survey is in good visibility conditions, it was more effective than surface survey in poor visibility conditions and it was much better than any other method of subsurface investigation proposed. Subsurface testing found some sites better than others but was extremely time consuming and labor intensive. Most of

Appendix E

the studies concluded that some prior knowledge of the sites in a region was necessary to determine if the results of these intensive subsurface methods would be worth the costs.

DISCUSSION

The discussions above on sampling design, the principles of discovery, and discovery techniques have several implications for the development of a survey methodology for the Columbia South Shore area. All of the studies cited above emphasize the need to tailor survey strategies and techniques to the area being surveyed and reaffirm that site discovery is always a difficult problem to address. The problem of site discovery is two-fold: (1) is there actually anything to be discovered in a particular project area, and (2) can those remains be found if they are there. A research design incorporating predictive modeling should allow a researcher to make better informed guesses about the first problem by identifying where sites are most likely to be. Differing site discovery techniques attempt to improve one's chances for solving the second problem, but it should be remembered that some kinds of sites are difficult to discover no matter what technique may be employed.

Different discovery techniques are best for discovering certain kinds of sites, thus some knowledge about the kinds of sites present or anticipated in the Columbia South Shore region may aid in choosing techniques. Data developed in the background chapters indicate that most sites appear to have relatively low artifact densities (although this is impressionistic rather than quantitative), site size is variable, and most are located in particular physical settings. Surface visibility conditions are variable but are generally poor because of vegetation and alluvial deposition. In particular, floodplain alluvial deposition may have buried sites completely, leaving no surface evidence. These factors suggest that surface survey should be conducted, but that subsurface probe excavations are needed and will probably be more effective. The development, and refinement through testing, of a predictive model for site location should mitigate the time and labor costs of subsurface testing by focusing these efforts in particular settings.

Finally, with the rapid pace of industrial development in the Columbia South Shore, on-site monitoring of ground disturbing construction activities should be considered as another avenue of site discovery and predictive model testing. Despite the best efforts of archaeological research and researchers, archaeological sampling remains just that—sampling, not full inspection of an area. Although discovering a site during ground

Appendix E

disturbing construction activities will degrade the integrity of the site, the simple fact of discovery may outweigh any disturbance to a portion of the site area. After all, as Chartkoff and Chartkoff (1980) point out, cultural resources that remain undiscovered are resources that are unknown--not only can they not be managed, but they cannot contribute to any understanding of the past.

SITE DISCOVERY IN THE COLUMBIA SOUTH SHORE: A REVIEW OF MODELING,
SAMPLING, SURVEY AND DISCOVERY TECHNIQUES

15

Appendix E

REFERENCES CITED

- Aikens, C. Melvin
1976 Some Archaeological Concerns of the Bureau of Land Management in Oregon: Observations and Recommendations. Manuscript, on file at the Department of Anthropology, University of Oregon.
- Aikens, C. Melvin, William G. Loy, Michael D. Southard, and Richard C. Hanes
1980 *Remote Sensing: A Handbook for Archeologists and Cultural Resource Managers; Basic Manual Supplement: Oregon*. Cultural Resources Management Division, National Park Service, Washington, D.C.
- Alexander, Diana
1983 The Limitations of Traditional Surveying Techniques in a Forested Environment. *Journal of Field Archaeology* 10:177-186.
- Altschul, Jeffrey H.
1988 Models and the Modeling Process. In *Quantifying the Present and Predicting the Past: Theory, Method, and Application of Archaeological Predictive Modeling*, edited by W. J. Judge and L. Sebastian, pp. 61-96. U.S. Department of the Interior, Bureau of Land Management. Denver.
- Ammerman, Albert J.
1981 Surveys and Archaeological Research. *Annual Review of Anthropology* 10:63-88.
- Bettinger, Robert L.
1980 Explanatory/Predictive Models of Hunter-Gatherer Adaptation. In *Advances in Archaeological Method and Theory, Volume 3*, edited by M. B. Schiffer, pp. 189-255. Academic Press, Orlando.
- Binford, Lewis R.
1983 *Working at Archaeology*. Academic Press, Orlando.
- Burchard, Greg C., and Robert W. Keeler
1991 *Mt. Hood Cultural Resource Reevaluation Project*. Laboratory of Archaeology and Anthropology, Department of Anthropology, Portland State University. Submitted to U.S. D.A. Forest Service, Mt. Hood National Forest, Gresham, Oregon.

Appendix E

- Chartkoff, Joseph L., and Kerry K. Chartkoff
1980 *The Discovery of Archaeological Sites, A Review of Methods and Techniques*. Submitted to U.S.D.A. Forest Service, PSW Grant No. 35, Pacific Southwest Forest and Range Experiment Station, Berkeley, California.
- Clarke, David L.
1968 *Analytical Archaeology*. Methuen, London.

1972 Models and Paradigms in Contemporary Archaeology. In *Models in Archaeology*, edited by David L. Clarke, pp. 1-60. Methuen and Company, London.
- Connolly, Thomas J., and Paul W. Baxter
1983 The Problem with Probability: Alternative Methods for Forest Survey. *Tebiwa* 20:22-34.
- Darsie, R. F., and James D. Keyser, editors
1985 *Archaeological Inventory and Predictive Modelling in the Pacific Northwest*. Studies in Cultural Resource Management No. 6. USDA Forest Service, Pacific Northwest Region. Portland.
- Davis, Carl M.
1985 A Practical Approach to Cultural Resource Inventory in a Forested Environment. In *Archaeological Inventory and Predictive Modelling in the Pacific Northwest*, edited by R. F. Darsie and J. D. Keyser, pp 65-70. Studies in Cultural Resource Management No. 6. USDA Forest Service, Pacific Northwest Region. Portland.
- DeBloois, Evan I.
1985 Predictive Modeling in the Forest Service. In *Archaeological Inventory and Predictive Modelling in the Pacific Northwest*, edited by R. F. Darsie and J. D. Keyser, pp 5-11. Studies in Cultural Resource Management No. 6. USDA Forest Service, Pacific Northwest Region. Portland.

Appendix E

- Ebert, James I., and Timothy A. Kohler
1988 The Theoretical Basis of Archaeological Predictive Modeling and a Consideration of Appropriate Data-Collection Methods. In *Quantifying the Present and Predicting the Past: Theory, Method, and Application of Archaeological Predictive Modeling*, edited by W. J. Judge and L. Sebastian, pp. 97-171. U.S. Department of the Interior, Bureau of Land Management. Denver.
- Gibbon, Guy
1984 *Anthropological Archaeology*. Columbia University Press, New York.
- Heimmer, Don H.
1992 *Near-Surface, High Resolution Geophysical Methods for Cultural Resource Management and Archaeological Investigations*. Geo-Recovery Systems, Inc., Golden, Colorado. Submitted to Interagency Archeological Services, Rocky Mountain Regional Office, National Park Service, Denver.
- Hollenbeck, Barbara J.
1985 Boundaries of Prediction in the Gifford Pinchot National Forest. In *Archaeological Inventory and Predictive Modelling in the Pacific Northwest*, edited by R. F. Darsie and J. D. Keyser, pp 71-75. Studies in Cultural Resource Management No. 6. USDA Forest Service, Pacific Northwest Region. Portland.
- Judge, W. James, and Lynne Sebastian, editors
1988 *Quantifying the Present and Predicting the Past: Theory, Method, and Application of Archaeological Predictive Modeling*. U.S. Department of the Interior, Bureau of Land Management. Denver.
- King, Thomas F.
1978 *The Archaeological Survey: Methods and Uses*. Heritage Conservation and Recreation Service, U.S. Department of Interior, Washington, D.C.
- Kohler, Timothy A.
1985 Predictive Models in Archaeology: What They Are and How They Are Being Used. In *Archaeological Inventory and Predictive Modelling in the Pacific Northwest*, edited by R. F. Darsie and J. D. Keyser, pp 13-19. Studies in Cultural Resource Management No. 6. USDA Forest Service, Pacific Northwest Region. Portland.

Appendix E

- 1988 Predictive Locational Modeling: History and Current Practice. In *Quantifying the Present and Predicting the Past: Theory, Method, and Application of Archaeological Predictive Modeling*, edited by W. J. Judge and L. Sebastian, pp. 19-59. U.S. Department of the Interior, Bureau of Land Management. Denver.
- Kohler, Timothy A., and S. C. Parker
1986 Predictive Models for Archaeological Resource Location. In *Advances in Archaeological Method and Theory, Volume 9*, edited by M. B. Schiffer, pp. 397-452. Academic Press, Orlando.
- Kraker, James J., Michael J. Shott, and Paul D. Welch
1983 Design and Evaluation of Shovel-Test Sampling in Regional Archaeological Survey. *Journal of Field Archaeology* 10:469-480.
- Lightfoot, Kent G.
1986 Regional Surveys in the Eastern United States: The Strengths and Weaknesses of Implementing Subsurface Testing Programs. *American Antiquity* 51(3):484-504.
- Lovis, William A.
1976 Quarter Sections and Forests: An Example of Probability Sampling in the Northeastern Woodlands. *American Antiquity* 41(3):364-372.
- McManamon, Francis P.
1984 Discovering Sites Unseen. In *Advances in Archaeological Method and Theory, Volume 7*, edited by M.B. Schiffer, pp. 223-292. Academic Press, Orlando.
- Marvin, Susan H.
1985 Surveying in Westside Forested Environments: Problems and Potentials. In *Archaeological Inventory and Predictive Modelling in the Pacific Northwest*, edited by R. F. Darsie and J. D. Keyser, pp 49-55. Studies in Cultural Resource Management No. 6. USDA Forest Service, Pacific Northwest Region. Portland.
- Mueller, James W., editor
1975 *Sampling in Archaeology*. University of Arizona Press, Tucson.

Appendix E

- Nance, Jack D.
1979 Regional Subsampling and Statistical Inference in Forested Habitats. *American Antiquity* 44(1):172-176.
- Nance, Jack D., and Bruce F. Ball
1986 No Surprises? The Reliability and Validity of Test Pit Sampling. *American Antiquity* 51(3):457-483.
- Plog, Fred
1974 Settlement Patterns and Social History. In *Frontiers in Anthropology*, edited by Murray J. Leaf, pp. 68-91. D. Von Nostrand Company, New York.
- Plog, Stephen, Fred Plog, and Walter Wait
1978 Decision Making in Modern Survey. In *Advances in Archaeological Method and Theory, Volume 1*, edited by M.B. Schiffer, pp. 384-420. Academic Press, Orlando.
- Ragir, Sonia
1967 A Review of Techniques for Archaeological Sampling. In *A Guide to Field Methods in Archaeology*, by Robert F. Heizer, and John A. Graham, pp. 181-197. National Press, Palo Alto, California.
- Read, Dwight W.
1975 Regional Sampling. In *Sampling in Archaeology*, edited by James W. Mueller, pp. 45-60. University of Arizona Press, Tucson.
- Redman, Charles L.
1975 Productive Sampling Strategies for Archaeological Sites. In *Sampling in Archaeology*, edited by James W. Mueller, pp. 147-154. University of Arizona Press, Tucson.
- Ruppé, Reynold J.
1966 The Archaeological Survey: A Defense. *American Antiquity* 31(3):313-333.
- Schiffer, Michael B.
1988 The Structure of Archaeological Theory. *American Antiquity* 53(3):461-485.

Appendix E

- Schiffer, Michael B., Alan P. Sullivan, and Timothy C. Klinger
1978 The Design of Archaeological Surveys. *World Archaeology* 10(1):1-29.
- Scollar, Irwin, A. Tabbagh, A. Hesse, and I. Herzog
1990 *Archaeological Prospecting and Remote Sensing*. Cambridge University Press, Cambridge.
- Sebastian, Lynne and W. James Judge
1988 Predicting the Past: Correlation, Explanation, and the Use of Archaeological Models. In *Quantifying the Present and Predicting the Past: Theory, Method, and Application of Archaeological Predictive Modeling*, edited by W. J. Judge and L. Sebastian, pp. 1-18. U.S. Department of the Interior, Bureau of Land Management. Denver.
- Shott, Michael J.
1989 Shovel-Test Sampling in Archaeological Survey: Comments on Nance and Ball, and Lightfoot. *American Antiquity* 54(2):396-404.
- Spurling, Brian E.
1979 Site Discovery and Assessment Techniques for Forested Survey Regimes. Manuscript, on file at Heritage Research Associates, Inc., Eugene, Oregon.
- Southard, Michael D.
1989 Cultural Resource Site Record for Site 35LA876 (Wolf Head). On file at Eugene District Office, Bureau of Land Management, Eugene, Oregon.
- Stein, Julie K.
1986 Coring Archaeological Sites. *American Antiquity* 51(3):505-527.
- Toepel, Kathryn A., and Albert C. Oetting
1992 *An Inventory Strategy Plan for BLM Lands in the Oregon Coast Range*. Heritage Research Associates Report 135. Submitted to USDI Bureau of Land Management, Oregon State Office, Portland, Oregon.
- Trigger, Bruce G.
1989 *A History of Archaeological Thought*. Cambridge University Press, Cambridge.

Appendix E

Warren, Robert E.

- 1990 Predictive Modelling of Archaeological Site Location: A Case Study in the Midwest. In *Interpreting Space: GIS and Archaeology*, edited by Kathleen M.S. Allen, Stanton W. Green, and Ezra B.W. Zubrow, pp.210-215.

Weymouth, John W.

- 1986 Geophysical Methods of Archaeological Site Surveying. In *Advances in Archaeological Method and Theory, Volume 9*, edited by M. B. Schiffer, pp. 311-395. Academic Press, Orlando.

Wobst, H. Martin

- 1983 We Can't See the Forest for the Trees: Sampling and the Shapes of Archaeological Distributions. In *Archaeological Hammers and Theories*, edited by James Moore and Arthur Keene, pp. 37-85. Academic Press, New York.

Appendix F

Correspondence

*Comments on Cultural Resource
Protection Plan for Columbia
South Shore - Planning
Commission Recommendation
(2/13/96)*

*Comments on Cultural Resource
Protection Plan for Columbia
South Shore - Recommended Draft
(Staff Report, 12/12/95)*

*Comments on Cultural Resource
Protection Plan for Columbia
South Shore - Discussion Draft
(11/14/95)*

*Comments Prior to Plan Discussion
Draft of 11/14/95*

*Comments Prior to Draft Inventory
of 3/31/95*

Appendix F

Correspondence on Cultural Resources Protection Plan for Columbia South Shore

(Received through April 3, 1996)

Title	Date Written
Comments on Cultural Resource Protection Plan for Columbia South Shore - Planning Commission Recommendation (2/13/96)	
Bob Glascock (BOP) to Mayor Katz and City Commissioners	3/27/96
Joe Howe (BES) and Douglas MacCourt (PDOT) to Mayor Katz and City Commissioners	3/26/96
Judith Basehore Alef (Basehore and Associates), Lawrence Watters, and Dr. Kenneth Ames (Archaeologist) to Mayor Katz and City Commissioners	3/25/96
Bob Glascock (BOP) to members of the Cultural Resources Advisory Committee (CRAC)	3/15/96
Dr. Leland Gilson (SHPO Archaeologist) to BOP	3/14/96
Dr. Leland Gilson (SHPO Archaeologist) to BOP	3/12/96
BOP response to Arthur Spada	3/7/96
Dorothy Cofield (for Arthur Spada) to BOP	3/4/96
BOP response to Arthur Spada	2/29/96
Bob Glascock (BOP) to members of the Cultural Resources Advisory Committee (CRAC)	2/29/96
BOP response to Tim Warren	2/29/96
BOP response to Tim Warren	2/27/96
Ann Nickel (Columbia Corridor Association) to BOP	2/27/96
Dorothy Cofield (for Arthur Spada) to BOP	2/20/96
BOP response to Stark Ackerman	2/8/96
Bob Glascock (BOP) to Susan Feldman (BOP)	2/1/96

Appendix F

Title	Date Written
Comments on Cultural Resource Protection Plan for Columbia South Shore - Recommended Draft (12/12/95)	
Bruce Brunoe, Sr. (Tribal Council Chair, Confederated Tribes of the Warm Springs Reservation of Oregon)	2/5/96
Kathryn Harrison (Confederated Tribes of the Grand Ronde Community)	2/2/96
Stark Ackerman (Columbia Corridor Assn.)	2/2/96
Dorothy Cofield (for Arthur Spada)	2/2/96
Judith Basehore Alef (Basehore and Associates)	2/1/96
Bob Glascock (BOP) to BOP staff and case files	2/1/96
Kathryn Harrison (Confederated Tribes of the Grand Ronde Community)	2/1/96
Michael P. Jones (Cascade Geographic Society)	2/1/96
Allen Lee to Planning Commission	1/28/96
Lawrence Watters to BOP	1/26/96
Ed Goodman (Confederated Tribes of the Grand Ronde Community)	1/26/96
Kermit Robinson (Bureau of Buildings) to BOP	1/18/96
Jeff Miller to BOP	1/16/96
Arthur Spada	1/9/96
Louie Pitt, Jr. (Confederated Tribes of the Warm Springs Reservation of Oregon)	1/8/96
Lynn Dunbar (The Archaeological Conservancy)	1/9/96
Kathryn Harrison and Ed Goodman (Confederated Tribes of the Grand Ronde Community)	1/9/96
Stark Ackerman (Columbia Corridor Assn.)	1/9/96
Dorothy S. Cofield (for Art Spada)	1/9/96
Douglas Wilson (Association of Oregon Archaeologists) to Planning Commission	1/8/96
Jeff Miller to BOP	1/8/96
BOP response to Stark Ackerman	1/4/96
Allen Lee to BOP	1/4/96
BOP response to Kathryn Toepel (Heritage Research Associates)	1/3/96
BOP response to John Buckinger	12/21/95
Margaret Mahoney (Bureau of Buildings) to BOP	12/19/95
John Buckinger (Miller Paint Company) to BOP	12/15/95

Correspondence

Appendix F

Title	Date Written
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Comments on Cultural Resource Protection Plan for Columbia South Shore - Discussion Draft (11/14/95)

Michael Holstun (City Attorney)	12/13/95
BOP to City Planning Commission	12/1/95
Kathryn Toepel, HRA to BOP	11/30/95
Doug MacCourt (PDOT) to BOP	11/28/95
Michael Mason and Janis Searles (Confederated Tribes of the Grand Ronde Community) to BOP	11/22/95
Bureau of Planning to Cultural Resources Advisory Cmte. and Cultural Resources Technical Cmte.	11/22/95
Leland Gilson (State Parks and Recreation) to BOP	11/21/95

Comments Prior to Plan Discussion Draft of 11/14/95

BOP to Nancy Gronowski and Connie Lively	10/18/95
Dr. Leland Gilson (State Parks and Recreation) to BOP	6/19/95
Judith Basehore Alef (Basehore and Associates) to BOP	4/25/95
Jim Hinman (Oregon Department of Land Conservation and Development) to BOP	4/24/95
David V. Ellis (Association of Oregon Archeologists) to BOP	4/24/95
Anne Nickel (Columbia Corridor Association) to BOP	4/21/95

Comments Prior to Draft Inventory of 3/31/95

Lewis E. Pitt, Jr. (Confederated Tribes of the Warm Springs Reservation of Oregon) to BOP	2/14/95
Lyn Mattei (Oregon Natural Resources Council)	8/17/93
Katherine Martin (Featherstone Films)	6/1/93
Judith Basehore Alef (Basehore and Associates)	6/4/93
Dr. Kenneth Ames (Portland State University)	5/28/93
Judith Basehore Alef, Susanna Santos and David Ellis	5/6/93
Paul Shirey (PDC) to BOP	4/2/93
Kathleen McCann to Commissioner Hales	3/23/93
Kathryn Harrison (Confederated Tribes of the Grand Ronde Community of Oregon) to Commissioner Hales	3/16/93
Dr. Kenneth Ames (Archaeologist)	3/9/93
David V. Ellis (Association of Oregon Archaeologists)	3/7/93
Lyn Mattei (Sierra Club and NRDC)	3/4/93
Lyn Mattei (Oregon Natural Resources Council)	10/26/92
BOP to David V. Ellis	2/3/92
David V. Ellis (Association of Oregon Archaeologists) to BOP	1/6/92
Lyn Mattei (Northwest Environmental Defense Center)	4/23/91
Notice of City Planning Commission Hearing	3/22/91
John Fagan (Archaeologist)	2/18/88
BOP to Kenneth Ames	3/22/85
Dr. Kenneth Ames to BOP	3/7/85
Charles Cieko (Multnomah County Parks) to BOP	12/5/84

Correspondence

*Comments on Cultural Resources
Protection Plan for Columbia South
Shore - Planning Commission
Recommendation
(2/13/96)*

RHG



CITY OF
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BUREAU OF PLANNING

Charlie Hales, Commissioner
David C. Knowles, Director
1120 S.W. 5th, Room 1002
Portland, Oregon 97204-1966
Telephone: (503) 823-7700
FAX (503) 823-7800

March 27, 1996

TO: Mayor Katz and City Commissioners
FROM: Bob Glascock, ^{RHG} Senior Planner
SUBJECT: *Testimony for Council Items 458 and 459
Cultural Resources Protection Plan for Columbia South Shore*

The Bureau of Planning requests that public testimony begin with participating Tribal governments and other members of the Cultural Resources Advisory Committee (CRAC), followed by members of the technical committee and general public. The names follow:

1. Kathryn Harrison, Vice-Chair of Grand Ronde Tribal Council
2. Ed Goodman, CRAC member for Grand Ronde Tribes
3. Grant Waheneka, Chair of Cultural and Heritage Committee, Warm Springs Tribes
4. Olivia Wallulatum, for Louie Pitt, Jr. (CRAC member for Warm Springs Tribes)
5. Stark Ackerman or designee, Columbia Corridor Association (CRAC member)
6. Other CRAC members
7. General public
8. Members of the Cultural Resources Technical Committee

Copies of the Planning Commission recommended plan will be placed at the testimony table. For questions, I am available at 823-7845.

cc: Contract Advisory Team



CITY OF
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OFFICE OF TRANSPORTATION

Earl Blumenauer, Commissioner
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1120 S.W. Fifth Avenue
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March 26, 1996

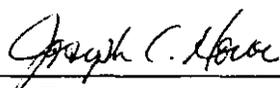
Dear Mayor Vera Katz and City Commissioners:

The City of Portland bureau members of the Cultural Resources Technical Committee and the Contract Advisory Team extend our support to the Cultural Resources Protection Plan for the Columbia South Shore.

Before the Technical Committee and the Contract Advisory Team were formed, City bureaus providing services requiring ground disturbing activities in the South Shore typically included cultural resource investigation and protection as a part of those services. When the tribes approached City Council to request formal protection measures adopted under Goal 5 of the state land use laws, the City bureaus worked closely with the citizen and tribal members of the Technical Committee and the Contract Advisory Team to provide expertise and guidance on cultural resource issues in public works improvements, building and planning.

Affected City bureaus have begun discussions about crafting a Memorandum of Understanding to clarify procedures which public works bureaus can follow to implement the laws before you. In addition, City bureaus will continue to apply the Standard Construction Specification drafted by member bureaus and affected tribes to protect cultural resources discovered during construction. In conclusion, we support the Protection Plan and implementing ordinances because they increase certainty for tribes, property owners, developers, and the City that every effort will be made to protect the priceless heritage which these resources represent.

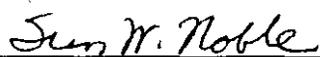
We sincerely request that you adopt the Protection Plan.



Joe Howe
Bureau of Environmental Services

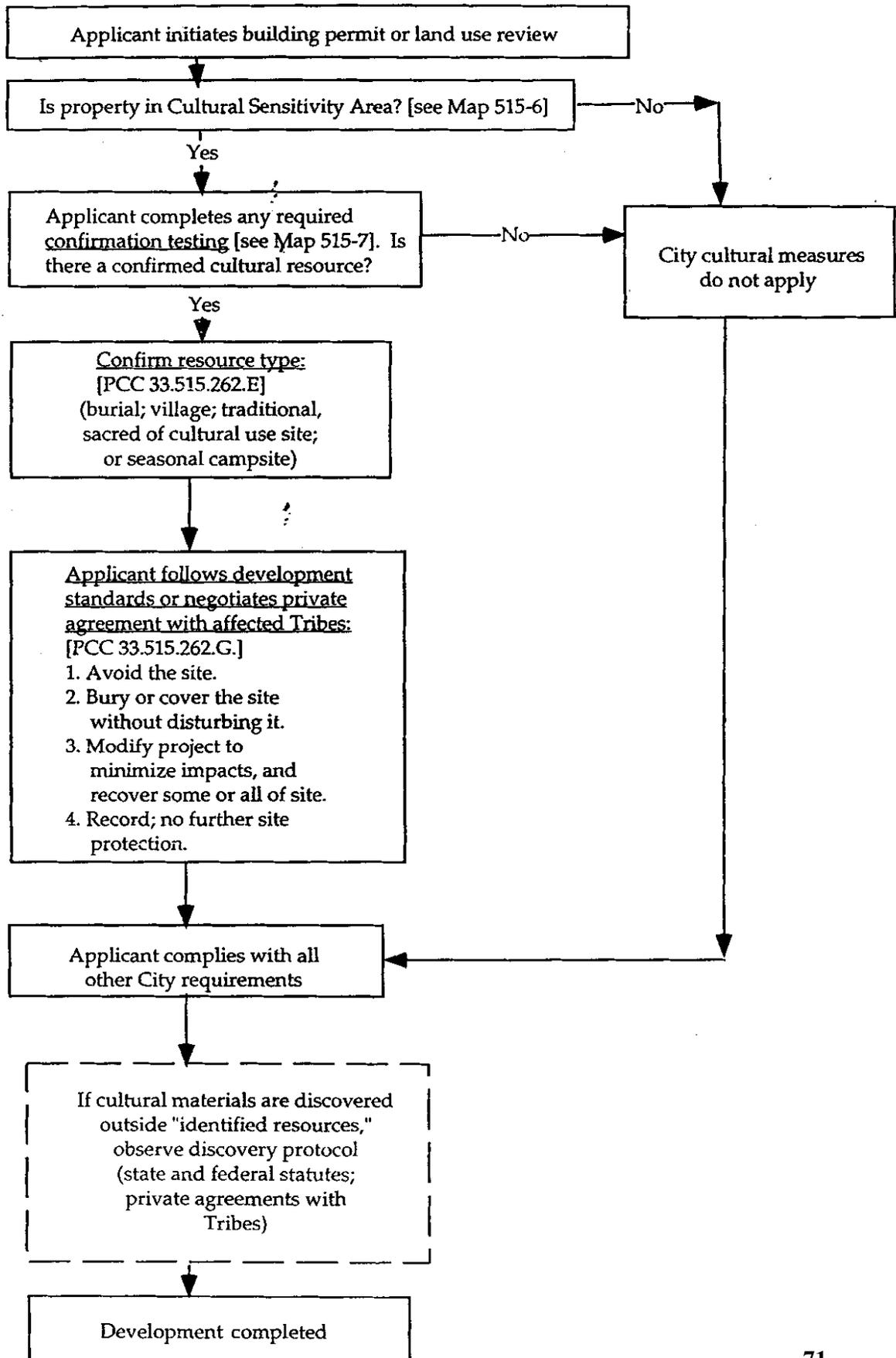


Douglas C. MacCourt
Office of Transportation



Sun Noble
Water Bureau

Figure 25: Decision Steps on City Cultural Resource Measures



Cultural crossroads lie ahead

■ City councilors will deal with a plan for the Columbia South Shore and new proposals on historic buildings

By JANET CHRIST

of The Oregonian staff

While the Portland schools crisis may be taking a big chunk of the City Council's time lately, commissioners also will face two other significant cultural issues at council hearings this week.

The council will consider the cultural resources protection plan for the Columbia South Shore at 2 p.m. Wednesday and historic resource protection amendments to the city's zoning code at 2 p.m. Thursday. Both hearings will be in the council chamber.

Both plans, recommended by the Portland Planning Commission, and accompanying reports are the result of years of research, review and public testimony concerning protection of valued archaeological sites and historic properties. The plans also are responses to evaluations required under statewide goals for land-use planning.

The south shore protection plan requires archaeological testing and mapping of American Indian village, burial and sacred sites — kept confidential to ward off possible looting — that date to before the arrival of Lewis and Clark in the early 1800s.

It also is intended to allow industrial growth by giving developers a high degree of certainty with clear and objective standards

for future development.

"The commission felt it important to alert developers early in the process that certain areas were more likely to yield a cultural resource during project construction," said Richard Michaelson, planning commission president, in a letter of recommendation to the council. The commission is advocating zoning confirmation letters to developers.

The historic resources amendments, which also were approved by the Historic Landmarks Commission, include recommending that the city seek a new designation of Certified Local Government. This would allow the city to administer the Oregon and national historic preservation program, giving local control over which applications for the National Register of Historic Places are appropriate and eligible to receive tax benefits.

One zoning amendment that drew a lot of attention concerns demolition of structures with historic status.

The commissions' recommendation is to limit demolition review and potential denial for those landmarks whose owners use one or more preservation incentives offered by the new code. One condition for use of incentives would be that owners enter an agreement with the city not to modify or demolish the structure without city approval.

Demolition delay periods would be 120 days, as required by state law passed by the 1995 Legislature, starting on the day an application for razing is received by the city.

3/20/95



CITY OF
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March 25, 1996

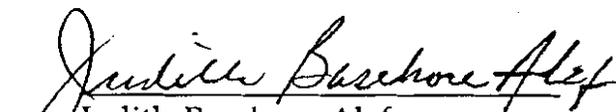
Dear Mayor Vera Katz and City Commissioners:

We, the citizen members of the Cultural Resources Technical Committee, extend our support to the *Cultural Resources Protection Plan for the Columbia South Shore*. Representatives of City bureaus and federal agencies also participated on the Technical Committee, and may present separate testimony to City Council. The entire Committee provided technical expertise to the Bureau of Planning and the Cultural Resources Advisory Committee for the development of the Protection Plan.

The Technical Committee was formally created over two years ago to benefit the process of crafting a balanced treatment of protection for the historic cultural materials and continuing heritage of the Confederated Tribes' of Warm Springs, Grand Ronde and Siletz. People from several disciplines provided expertise in areas of archaeology, cultural resource management, land use planning, policy and law. A few members have been involved for over three years, voluntarily working to bring the issue to the forefront, thereby establishing a comprehensive approach to development planning of sensitive landforms within the Columbia South Shore.

We conclude that the combined involvement of all concerned parties granted better understanding of the issues and interests, increased communication and introduction of new ideas and produced beneficial resolutions in the form of the Protection Plan now before you. We wish to extend our appreciation to the Planning staff and Bob Glascock in particular, for their steadfast efforts in the coordination and production of this Plan.

We sincerely request that you adopt the Protection Plan.


Judith Basehore Alef
Basehore/Alef Consulting


Dr. Kenneth Ames
Portland State University


Lawrence Watters *by R.H. Glascock*



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March 15, 1996

Sent by FAX (2 pages)

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Allen Lee, East Portland District Coalition FAX: 331-2646
Louie Pitt, Jr., Confed. Tribes of Warm Springs FAX: 541-553-1924
Ed Goodman, for Grand Ronde Tribes FAX: 294-1429
Dennis Sivers, T & W Equipment FAX: 223-2750
Stark Ackerman, for CCA FAX: 224-6148

Kenneth Ames, Portland State Univ. FAX: 725-3905
Judith Basehore Alef FAX: 249-1884
Richard Hanes, BLM FAX: 541-683-6981
Lynda Waski-Walker, U. S. COE FAX: 326-6401
Larry Watters, Columbia River Gorge Commission FAX: 509-493-2229

FROM: Bob Glascock, Senior Planner

SUBJECT: *Cultural Resources Protection Plan for Columbia South Shore*

Stark Ackerman has drafted a support letter from the Cultural Resources Advisory Committee (CRAC) for the Planning Commission recommendation. I have formatted the draft letter on bureau letterhead and left a place for committee members to sign it, if they so choose. Please let me know ASAP if you would like to see any changes to the CRAC letter. I am not sure the best way to circulate the original for signature, but I will mail the original to Rick Holt, and hope that each committee member down the list will sign and send the original letter off to the next CRAC person listed above. Stark Ackerman is out of town next week, and wants to sign the letter on Monday, March 25th. Please sign and date the original letter, then send it to the next CRAC person listed above.

For technical committee members, a similar letter may be prepared. Judith Basehore Alef offered to draft up the CRTC letter, once she has seen the draft CRAC letter (enclosed). I am available to convert a draft CRTC letter onto bureau letterhead and circulate it for review and signature by CRTC members.

Under separate cover, I have mailed out to you the full Planning Commission report and recommendations. It has been a pleasure to work with you on this project. I look forward to seeing you at the City Council hearing of March 27, 1996. The hearing will take place from 2:00 to 3:30 p.m. My phone number is 823-7845.

cc: Contract Advisory Team



CITY OF
PORTLAND, OREGON
BUREAU OF PLANNING

DRAFT

Charlie Hales, Commissioner
David C. Knowles, Director
1120 S.W. 5th, Room 1002
Portland, Oregon 97204-1966
Telephone: (503) 823-7700
FAX (503) 823-7800

Dear Mayor Katz and City Commissioners:

We, the members of the Cultural Resources Advisory Committee, wish to express our support of the *Cultural Resources Protection Plan for the Columbia South Shore*. The cultural plan has been forwarded to you by the Planning Commission.

For over two years, we have been working individually, with the groups we represent, and as a committee to assist the Bureau of Planning in its efforts to develop a balanced protection plan for cultural resources in the Columbia South Shore plan district. Many of us have worked together on this issue even longer, in the development of the Memorandum of Understanding between the Tribes and the Columbia Corridor Association which is providing interim protection until the City's plan is complete.

We believe that our involvement and joint participation has given all the parties a better understanding of each other's interests and concerns, and a solid basis of communication and respect, that will serve us all well in the future. This involvement and joint participation has also resulted in our support for the plan before you. While we may not be totally satisfied with each element of the plan, we all, and the groups we represent, see this as a significant and positive step forward in addressing this important issue, and endorse the process and the product. We particularly wish to thank Bob Glascock and the staff of the Bureau of Planning for the efforts they have made in coordinating this project.

We urge you to adopt the plan.

Sincerely,

Stark Ackerman
for Columbia Corridor Association

Allen Lee
for East Portland District Coalition

Ed Goodman
for Confederated Tribes of Grand Ronde

Louie Pitt, Jr.
Confederated Tribes of Warm Springs

Rick Holt
Holt & Haugh

Dennis Sivers
T & W Equipment

Robert Kentta
Confederated Tribes of Siletz

PARKS AND
RECREATION
DEPARTMENT

STATE HISTORIC
PRESERVATION OFFICE

March 14, 1996

Bob Glascock
Bureau of Planning
1120 SW 5th, Room 1002
Portland, OR 97204-1966

RE: Atlas of Cultural Resources
Multnomah County

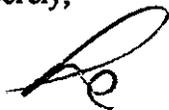
Dear Bob:

You have requested a review of this draft document. Since the SHPO uses USGS quad maps and 15" maps for this area, our scales are so different, that it is not possible to comment from our database. It is not readable from our standpoint, as we do not use this scale for any of our work. If anything is missing ... is hard to tell, as again, our scales are so different and I am not certain where the township, range and section lines are.

I am the SHPO archaeologist, not the "state" archaeologist. There is no "state" archaeologist by law or regulation in Oregon. As I have noted before, SHPO pays dues to the National Association of State Archaeologists in my name, as I am as close to this position as anyone in Oregon ... I do the duties without the title.

If you need further information you can contact me at (503) 378-6508 ext 232.

Sincerely,



Dr Leland Gilson
SHPO Archaeologist



1115 Commercial St. NE
Salem, OR 97310-1001
(503) 378-5001
FAX (503) 378-6447
73410-807

March 12, 1996

Bob Glascock
Portland Planning
1120 SW 5th, Room 1002
Portland, OR 97204-1966

RE: Columbia South Shore
CR Protection Plan
Multnomah County

Dear Bob:

James has requested that I drop my review & compliance workload and review the recommended draft. I have a dental appointment scheduled for the afternoon of your meeting of the 27th.

Page "i": While the City may use the term "cultural resources" to "mean the evidence of American Indian use in the Columbia South Shore from the pre-contact period" ... The term within the preservation community mean **all** resources, prehistoric and historic of all types and varieties from all periods. There are two sub-sets of archaeological resources: 1) prehistoric archaeological (prior to actual Euro-American contact); and 2) historic archaeological (post Euro-American contact sites). Historic (non-archaeological) resources as a sub-set includes the built and human modified environment (buildings, structures, monuments, roads, trails, landscapes, etc). Traditional cultural properties is another sub-set that includes both modified and non-modified places important in the maintenance of a traditional culture through the generations (mythological places, event places, etc).

While any member of these sub-sets is a "cultural resource", any resource form any set is also a "cultural resource". While some publications may be about one of the sub-sets, this does not mean that other sub-sets are not included under the term (Page iii definitions).

Page iv "Prehistoric Site"s can have oral traditions and still be "prehistoric". If their period of occupation falls within the pre Euro-American contact period, the are prehistoric, but there may be oral traditions within the Indian community



relating to the site. Prehistoric/historic is a heuristic term used to divide data into two categories.

"Significance" as used by the SHPO relates to National Register criteria. Tribes have the ability to declare "significance" based on whatever process they want as a "government".

Page 7, line 12, "state archaeologist" There is no position in state law or statute for a "state" archaeologist. I am the SHPO staff archaeologist. While the SHPO pays dues to the Association of State Archaeologists in my name, Oregon is one of 6 states or territories without an official "state" archaeologist.

I would drop the references to the state laws on **page 15**, and leave them to the discussion on state laws in the following section. **Line 2** under FEDERAL should be changed ... delete "American Indian" as the laws cited protect all cultural resources, not just archaeological sites and not just sites related to the past and present of Indians. Archaeological resources are not "American Indian cultural resources", they are resources, and have many advocates and interested parties beyond Indians. The professional archaeological community is one, and the key sponsors of the legislation you have cited. **Line 2** in the next paragraph should drop "in other areas"

Page 16 ... The section about state laws from the previous page should be moved here. You should include ORS 390.235 (permits). **Line 3** in the second paragraph of the STATE section should change "state archaeologist" to "staff archaeologist". The first paragraph on the PERMITS subsection should perhaps be moved up as the first paragraph after the laws are cited in the STATE section. Then there should be a short paragraph about the permits:

The Parks and Recreation Department, through the SHPO, issues permits to do archaeology on state public lands and private lands in Oregon. This includes testing to find sites on public lands, site testing and removal of artifacts from both public and private land.

Page 17 should include reference to the requirements to have the written permission of the landowner and written curation agreement from the landowner on private lands. The cited materials appear to be a mixture of law and rule, not just RULE ... as indicated above the list of items.

Page 26 ... perhaps the first two paragraphs under GEOLOGY AND GEOMORPHOLOGY should be switched ... the second looks more like an introduction and explanation as to why the soils were studied and the flow of logic seems better.

Page 28 The soil order for the Willamette Valley are: Eola; Dolph; Quad;

Calapooia; Senecal; Champoeg; Winkle; Ingram; and Horseshoe. Ingram is generally less than 5250 years old and the Winkle is generally less than 12,000 years old ... so they are post Missoula. On page 29 (second paragraph), don't you mean that the Winkle, Ingram and Horseshoe are ABOVE or FORMED ON TOP OF the Calapooia and Senecal surfaces. While they lie near the valley floor, because they are later surfaces, they are above stratigraphically the older surfaces. The first three words of the 3rd paragraph "The oldest surface" should be dropped as you have talked about older surfaces. I would substitute "next" for "lower" or "lowest" in the 4th paragraph.

Page 31, the Horseshoe is the youngest, not the Ingram ... but the Ingram is the youngest major occupational surface, as Horseshoe is and was pretty much reworked every winter as an active floodplain surface... as noted on page 32.

This entire section suffers from up/down in the physical sense and up/down in the stratigraphic sense. I think you should use the stratigraphic version only.

I guess I can live with the "state SHPO archaeologist" on page 90.... but dropping the "state" would be best.

Pages 93-94 could be more inclusive. Attached is a listing of measures we have used on significance.

I assume that the tribes were given the chance to locate any sacred places during the development of the planning process for the South Shore that have values outside the archaeological process? I know about a sacred stone near Oregon City and a water monster at Lake Oswego from legends and stories ... but have no data for the Portland Basin.

If you need further information you can contact me at (503) 378-6508 ext 232.

Sincerely,



Dr Leland Gilson
SHPO Archaeologist

Checklist of Criteria for Prehistoric Site Evaluation

Scientific Significance

- (a) Does the site contain evidence which may substantively enhance understanding of culture, history, culture process, or other aspects of local and regional prehistory? What specific research questions can this site answer?
- internal stratification and depth
 - chronologically sensitive cultural items
 - materials for absolute dating
 - association with ancient landforms
 - quantity and variety of tool types
 - distinct intra-site activity areas
 - tool types indicative of specific socioeconomic or religious activity
 - cultural features such as burials, dwellings, hearths, etc.
 - diagnostic faunal and floral remains
 - exotic cultural items and materials
 - uniqueness or representativeness of the site
 - integrity of the site
- (b) Does the site contain evidence which may be used for experimentation aimed at improving archaeological methods and techniques?
- monitoring impacts from artificial or natural agents
 - site preservation or conservation experiments
 - data recovery experiments
 - sampling experiments
 - intra-site spatial analysis
- (c) Does the site contain evidence which can make important contributions to paleo-environmental studies?
- topographical, geomorphological context
 - depositional character
 - diagnostic faunal, floral data
- (d) Does the site contain evidence which can contribute to other specific disciplines such as hydrology, geomorphology, pedology, meteorology, zoology, botany, forensic medicine, and environmental hazards research, or to industry including forestry and commercial fisheries?

Public Significance

- (a) Does the site have potential for public use in an interpretive, educational or recreational capacity?
- integrity of the site
 - technical and economic feasibility of restoration and development for public use
 - visibility of cultural features and their ability to be easily interpreted
 - accessibility to the public
 - opportunities for protection against vandalism
 - representativeness and uniqueness of the site
 - aesthetics of the local setting
 - proximity to established recreation areas
 - present and potential land use
 - land ownership and administration
 - legal and jurisdictional status
 - local community attitude toward development
- (b) Does the site receive visitation or use by tourists, local residents or school groups?

Ethnic Significance

- (a) Does the site or site locality presently have traditional, social or religious importance to a particular group of community?
- ethnographic or ethnohistoric reference
 - local community recognition of, and concern for, the site

Economic Significance

- (a) What value or user-benefits may be placed on the site?
- visitors' willingness-to-pay
 - visitors' travel costs

Indicators for Assessing Impacts on Archaeological Sites

Magnitude	The amount of physical alteration or destruction which can be expected. The resultant loss of archaeological value is measured either in amount or degree of disturbance.
Severity	The irreversibility of an impact. Adverse impacts which result in a totally irreversible and irretrievable loss of archaeological value are of the highest severity.
Duration	The length of time and adverse impact persists. Impacts may have short-term or temporary effects, or conversely, more persistent, long-term effects on archaeological sites.
Range	The spatial distribution, whether widespread or site-specific, of an adverse impact.
Frequency	The number of times an impact can be expected. For example, an adverse impact of variable magnitude and severity may occur only once. An impact such as that resulting from cultivation may be of recurring or ongoing nature.
Diversity	The number of different kinds of project-related actions expected to affect an archaeological site.
Cumulative Effect	A progressive alteration or destruction of a site owing to the repetitive nature of one or more impacts.
Rate of Change	The rate at which an impact will effectively alter the integrity or physical condition of an archaeological site. Although an important level-of-effect indicator, it is often difficult to estimate in Stage 2. Rate of change is normally assessed during or following project construction.



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Charlie Hales, Commissioner
David C. Knowles, Director
1120 S.W. 5th, Room 1002
Portland, Oregon 97204-1966
Telephone: (503) 823-7700
FAX (503) 823-7800

March 7, 1996

Arthur Spada
13635 NE Clackamas Street
Portland, OR 97230

RE: Update on Cultural Resources

Dear Mr. Spada:

This letter responds to Ms. Cofield's letter dated March 4, 1996 and encloses information I offered to send in my letter dated February 29, 1996. I will briefly describe the status of two plan district maps and the decision flow chart.

The Planning Commission recommends code language to amend the Columbia South Shore plan district. The commission recommends two new maps for the end of the plan district chapter (Maps 515-6 and 515-7).

Map 515-6

As I described in my letter dated February 29, 1996, the Planning Commission chose to highlight cultural sensitivity areas, and there was a specific directive not to remove properties from cultural sensitivity areas in the staff report dated December 12, 1995. The commission's intent was to reflect the relative probability of encountering a cultural resource during project construction, for information purposes. All of the properties contained in the cultural sensitivity areas contain historic landform features that place them in the higher probability category. In the Historic Lakes area, those historic landform features included a direct slough connection to the Columbia River, two large lakes and adjacent uplands that were suitable for Indian use. The Planning Commission concurred with the version of Map 515-6 that I enclosed with the letter dated February 29, 1996.

Commissioner Webb addressed your concern about the legend. She stated that the testing method (augering, usually 30 meters or 100 feet apart) was only a sampling technique, and that cultural resources still may exist between the tested auger holes. Only through more extensive excavation may those resources be brought to the surface and identified. The City has limited its regulatory focus to identified cultural resources and specified confirmation testing areas (if the testing identifies those resources). But the commission felt it important to give the development community an early "heads-up" about the potential for encountering a cultural

Mr. Art Spada
March 7, 1996
Page 2

resource during project construction. As for zoning maps, the plan removes an existing overlay zone (and associated discretionary review).

I do not believe it accurate to state that the Spada property "is known not to contain cultural resources." I have yet to talk to an archaeologist who will guarantee that a cultural resource does not exist on a tested property.

Map 515-7

Staff and the commission supported your request to remove any further testing requirement on your property. The commission's recommendation is shown on the enclosed Map 515-7, "Areas Where Confirmation Testing is Required."

Decision Steps Flowchart

Enclose is the revised decision flowchart, which reflects the commission's recommendation. The flowchart will substitute the earlier flowchart (page 224 of the staff report dated December 12, 1995).

I will mail to Ms. Cofield and you the Council hearing notice and Planning Commission report. Please feel free to call me at 823-7845.

Sincerely,

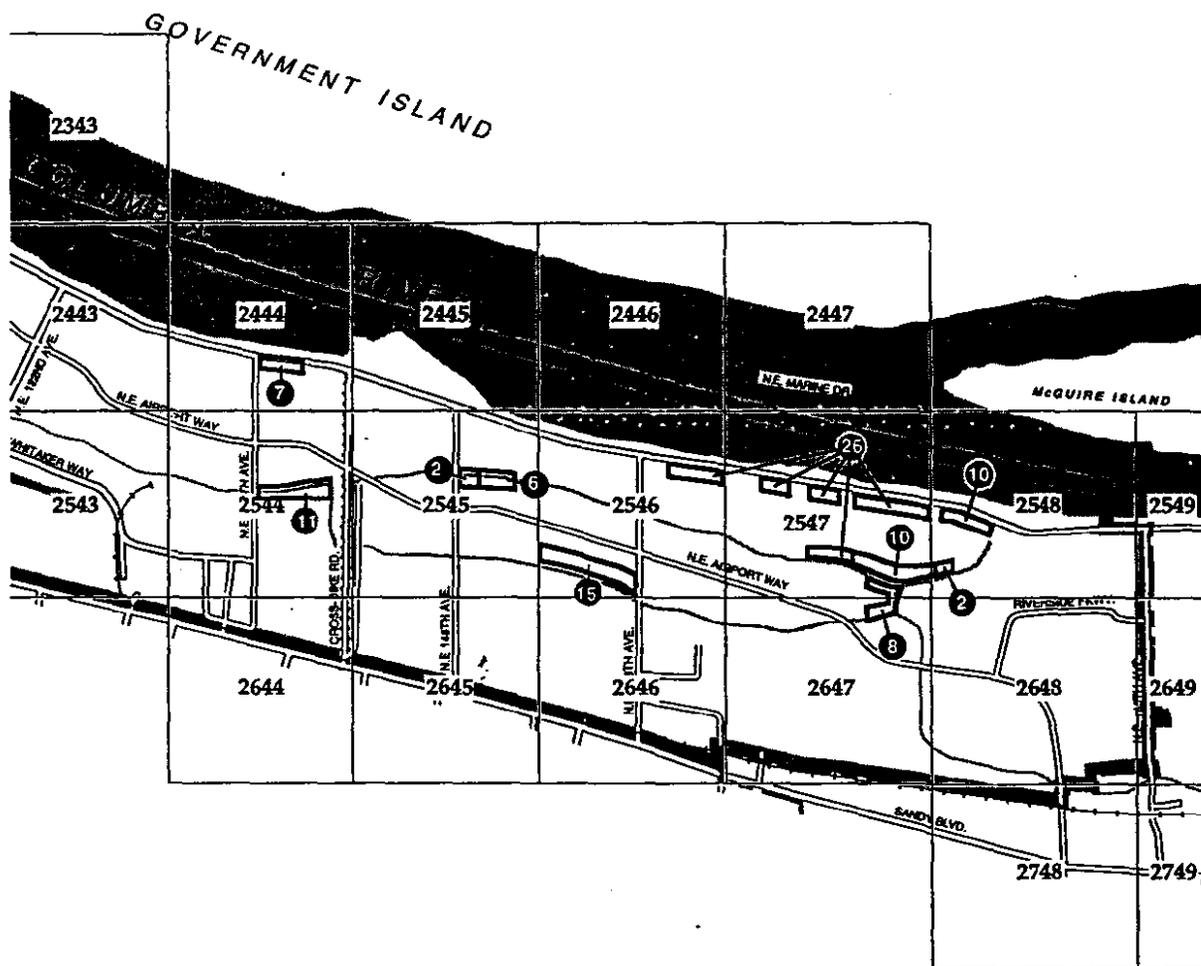


Robert H. Glascock
Senior Planner

enclosure

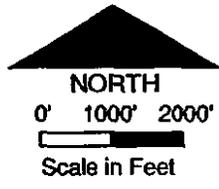
cc: Dorothy Cofield
Michael Holstun
Susan Feldman, Miriam Hecht, Bob Clay

Sent by FAX: 598-7758



Legend:

-  Confirmation Testing Required
-  Number of Auger Probes Required
-  Columbia South Shore Plan District

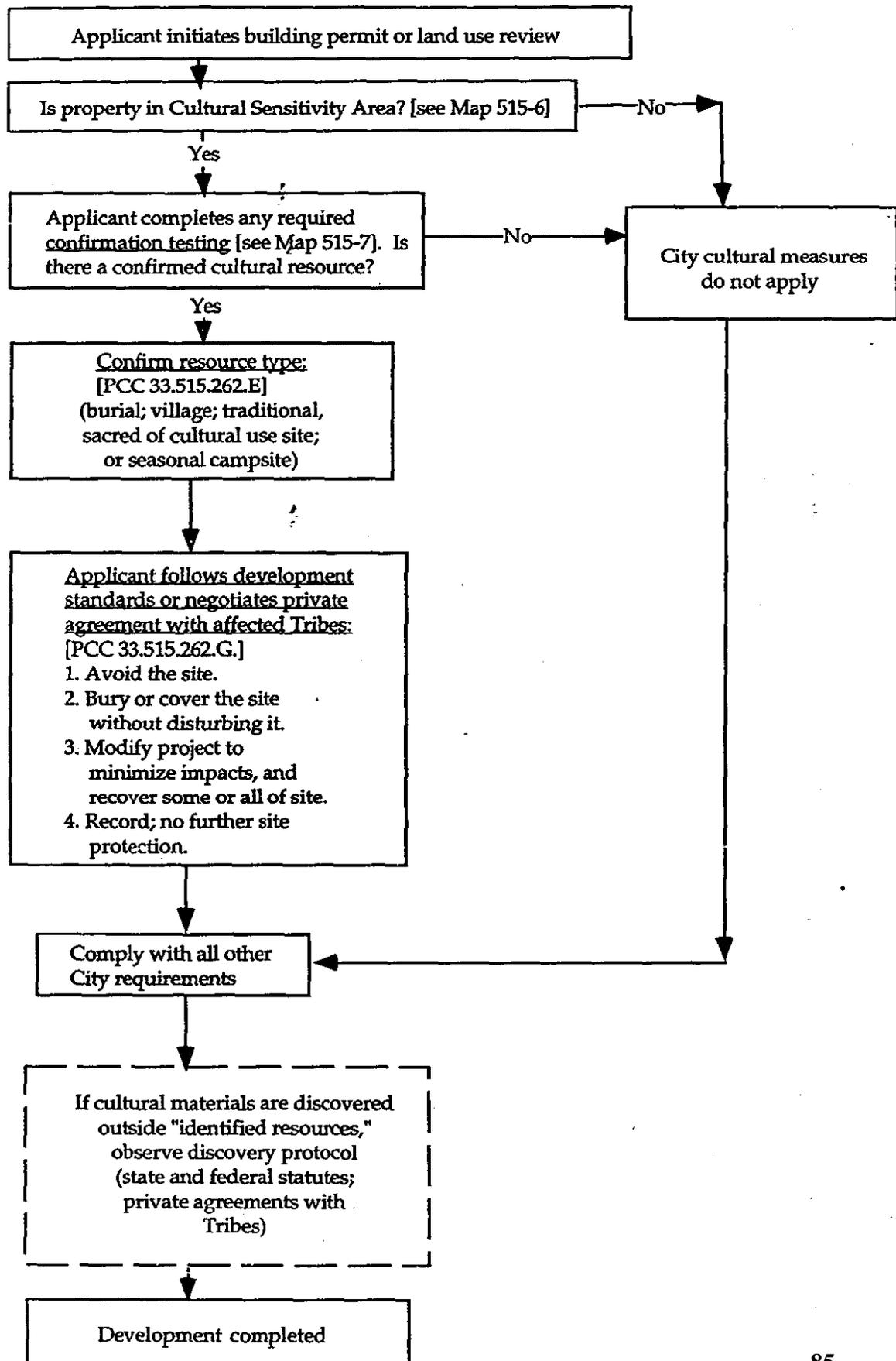


Map 515-7

Areas Where Confirmation Testing Is Required

Map 2 of 2

Figure 25: Decision Steps on City Cultural Resource Measures



Dorothy S. Cofield
Attorney at Law

RECEIVED
PLANNING
COMMISSION
MARCH 10 1996

March 4, 1996

Mr. Robert H. Glascock, AICP
Room 1002
1120 S.W. Fifth Ave.
Portland, OR 97204-1966

Sent By Fax: 823-7700

RE: Spada Property & Cultural Resources Protection Plan

Dear Bob;

Thank you for your detailed response to my letter of February 3, 1996, requesting the revised maps and amended code language. The new code language at 33.515.262.C is acceptable.

Revised map 515-6 is problematic for the Spada property. Map 515-6 shows the Spada property within the cross-hatched area. The new legend text explains that cross-hatching identifies property that are in high probability areas or known to contain identified cultural resources and areas where confirmation testing is required. Footnotes explain that cultural resources mean "confirmed archaeological sites" and Map 515-7 shows areas subject to confirmation testing.

This legend language as written indicates that the Spada property is 1) in a high probability area or (2) known to contain identified cultural resources and (3) confirmation testing is required. This language does not accurately describe the Spada property because the property is known **not** to contain cultural resources. In contrast, the legend language for the areas mapped in white accurately describes the Spada property: Areas not subject to city cultural Resource Measures (built, **tested negative**, or low probability area).

Despite the code language in 33.515.262.C (3), anyone looking at Map 515-6 would conclude that the Spada property contains cultural resources and is subject to the city's cultural resources measures.

Clearly, the Spada property should be shown in white because it tested negative and is thus not subject to the city's cultural resources measures. I know that you proposed several alternative maps and that the Planning Commission did not want to exempt the Spada property from the cross-hatching because of potential discovery situations. The Planning Commission's decision is wrong as regards the Spada property and Mr. Spada intends to make his removal request to the City Council.

In the meantime, I would like to request that the following underlined legend language be added to clarify that properties that have tested negative are not subject to the regulations.

Mr. Robert Glascock

Page 2

March 4, 1994

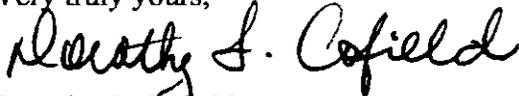
Legend:

Cultural Sensitivity Areas (high probability areas or known to contain identified cultural resources or areas where confirmation testing is required.) Sites or portions of sites where no cultural resources have been confirmed and no additional confirmation testing is required are not subject to city cultural Resource Measures (tested negative).

Mr. Spada, at great costs, has had his property tested for cultural resources. Map 515-6 does not correctly reflect that the Spada property has testing negative and is not subject to the protection plan measures. As you are aware, the property is currently being market and the map may jeopardize future offers on the property, resulting in a devaluation of the property.

Please get back to me as soon as possible to let me know if our proposed legend language can get concurrence from the Commissioners. As you indicated in your letter of February 29, you will be sending me revised map 516-7. Also, please send me any amendments to the flow chart on p. 224 of the plan.

Very truly yours,



Dorothy S. Coffield

Attorney for Arthur Spada

cc: Arthur Spada



CITY OF
PORTLAND, OREGON
BUREAU OF PLANNING

Charlie Hales, Commissioner
David C. Knowles, Director
1120 S.W. 5th, Room 1002
Portland, Oregon 97204-1966
Telephone: (503) 823-7700
FAX (503) 823-7800

February 29, 1996

Arthur Spada
13635 NE Clackamas Street
Portland, OR 97230

RE: Update on Cultural Resources

Dear Mr. Spada:

Thank you for your interest in the *Cultural Resources Protection Plan for Columbia South Shore*. This letter summarizes actions of the Planning Commission at its hearing of February 13, 1996 as it relates to your property.

On February 13, 1996, the Planning Commission reviewed 29 amendment requests, including requests from yourself and Dorothy Cofield (on your behalf). At the end of that hearing, the Planning Commission voted to recommend a plan to City Council. On March 27, 1996, City Council will hold a public hearing on the Planning Commission recommendation. We will send you a notice of that City Council hearing.

The commission discussed, at length, the contents of Figure 515-6, a map to be placed at the end of the Columbia South Shore plan district chapter. Staff presented several alternative maps, including maps that highlighted either cultural sensitivity areas or areas not subject to City cultural resources measures. The commission chose to highlight the cultural sensitivity areas to inform the development community of potential discovery situations (that may involve state and federal requirements). The commission directed staff to revise the map legend, and get concurrence on the revised map and legend from Commissioners Webb and Michaelson. Staff has received such concurrence; the recommended map is enclosed.

Next, I address amendment requests stated in your letter dated February 20, 1996.

1. Amendment A: Removal of cross-hatching from the Spada property and designation in the legend as "Exempt from the protection plan regulations".

Planning Commission action

Retain the Spada property in the cultural sensitivity areas. The commission discussed such mapping issues as the potential stigma value of identifying a

property as part of a cultural sensitivity area, the need to keep cultural resource locations confidential, and the benefits of alerting developers to potential discovery situations. The commission believed that zoning confirmation letters provide adequate certainty to the development community.

2. Amendment B: Revision of the flow chart on p. 224 of the Plan.

Planning Commission action

No specific response to this request. The purpose of the flow chart is to show decision steps of the recommended code amendments. The flow chart will reflect the Planning Commission's recommended code language, and show that certain properties are not subject to comprehensive plan and zoning requirements for cultural resource protection.

3. Amendment C: Proposed code language showing the property is exempt from Plan regulations.

Planning Commission action

Accept staff's revised code language dated February 13, 1996, which provides exemption language in "Where the Regulations Apply", as shown below.

33.515.262.C. Where the regulations apply. ~~The regulations of this Section apply to sites in the Interim Resource Protection Overlay Zone.~~ The requirements of this section apply to:

1. Confirmed cultural resources identified in the *Cultural Resources Protection Plan for Columbia South Shore* within the Cultural Sensitivity Areas shown on Map 515-6 at the end of this chapter; and
2. Properties for which additional confirmation testing is required, as shown on Map 515-7. When confirmation testing has been completed, this section only applies to cultural resources confirmed as part of that testing.
3. The requirements of this section do not apply to sites or portions of sites where no cultural resources have been confirmed and no additional confirmation testing is required.

A copy of the recommended code language is found in Chapter 10 of the Planning Commission's recommended plan. I will send you a copy of that plan when it becomes available.

4. Amendment D: Zoning confirmation letter that the property is exempt from plan regulations.

Planning Commission action

The Planning Commission supported a procedure to issue zoning confirmation letters for properties that have completed confirmation testing and where no cultural resources were found. A zoning confirmation letter could be sent after City Council's action on the zoning provisions to be addressed in that letter. The zoning confirmation letter will likely assess items 1 through 3 of 33.515.262.C (see above).

5. Amendment E: Removal of cross-hatching from Spada property showing priority confirmation testing is needed.

Planning Commission action

Staff supported this amendment request, and the Planning Commission accepted the amendment. The recommended Figure 515-7 of the plan district, entitled "Where Confirmation Testing is Required," shows no further testing requirement on your property.

Again, we will send you and Ms. Cofield copies of the Planning Commission report (with recommended code language) and notice of the City Council hearing. Please feel free to call me at 823-7845.

Sincerely,

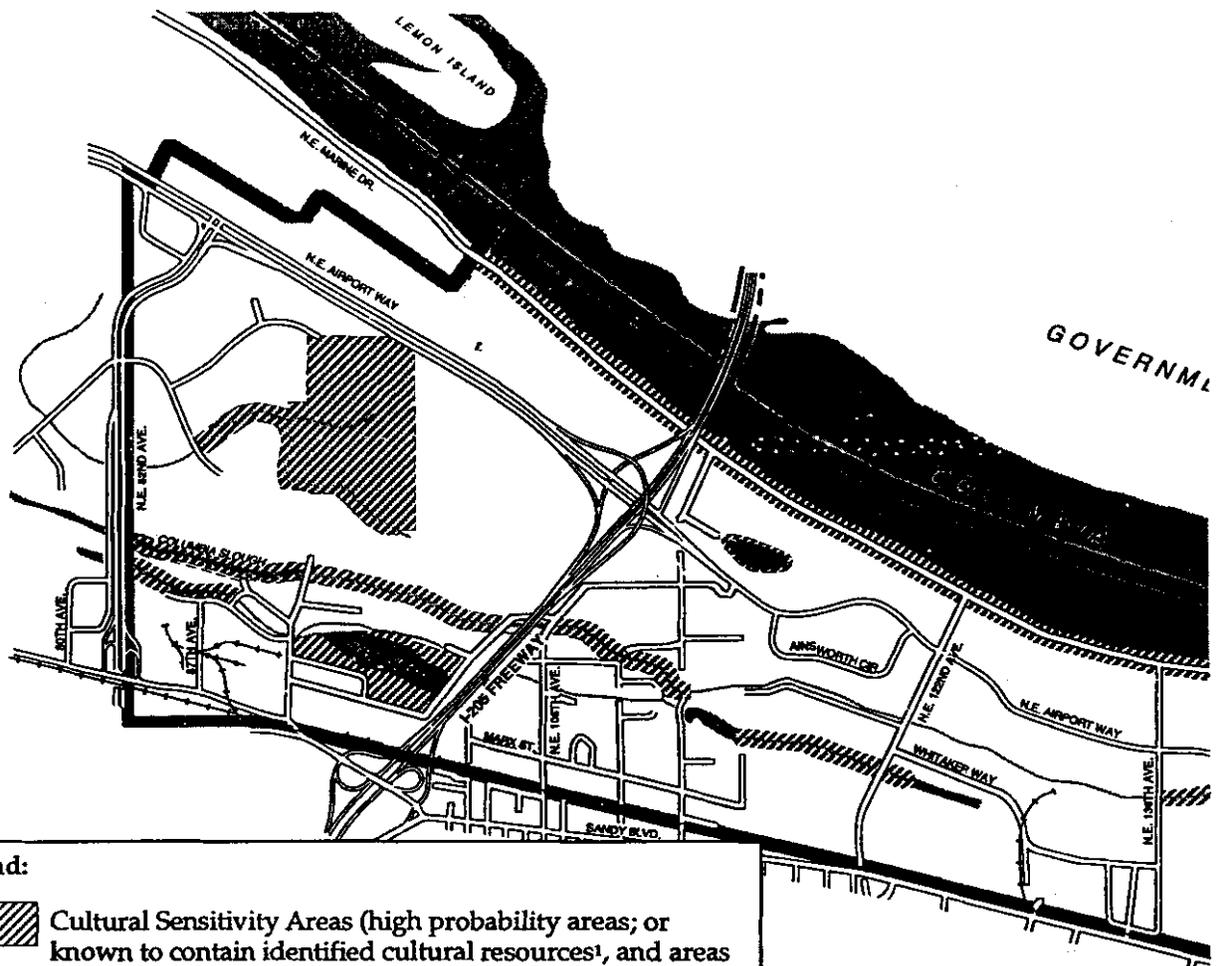


Robert H. Glascock
Senior Planner

enclosure

cc: Dorothy Cofield
Michael Holstun
Susan Feldman, Miriam Hecht, Bob Clay

Sent by FAX: 598-7758



Legend:

 Cultural Sensitivity Areas (high probability areas; or known to contain identified cultural resources¹, and areas where confirmation testing is required²)

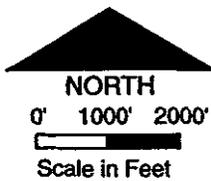
 Areas Not Subject to City Cultural Resource Measures (built, tested negative, or low probability area)

 Columbia South Shore Plan District

¹ "Cultural resources" are based on confirmed archaeological sites. To protect resource locations from destruction or looting, individual resources are not mapped.

² Areas subject to confirmation testing are shown on Map 515-7 of this chapter.

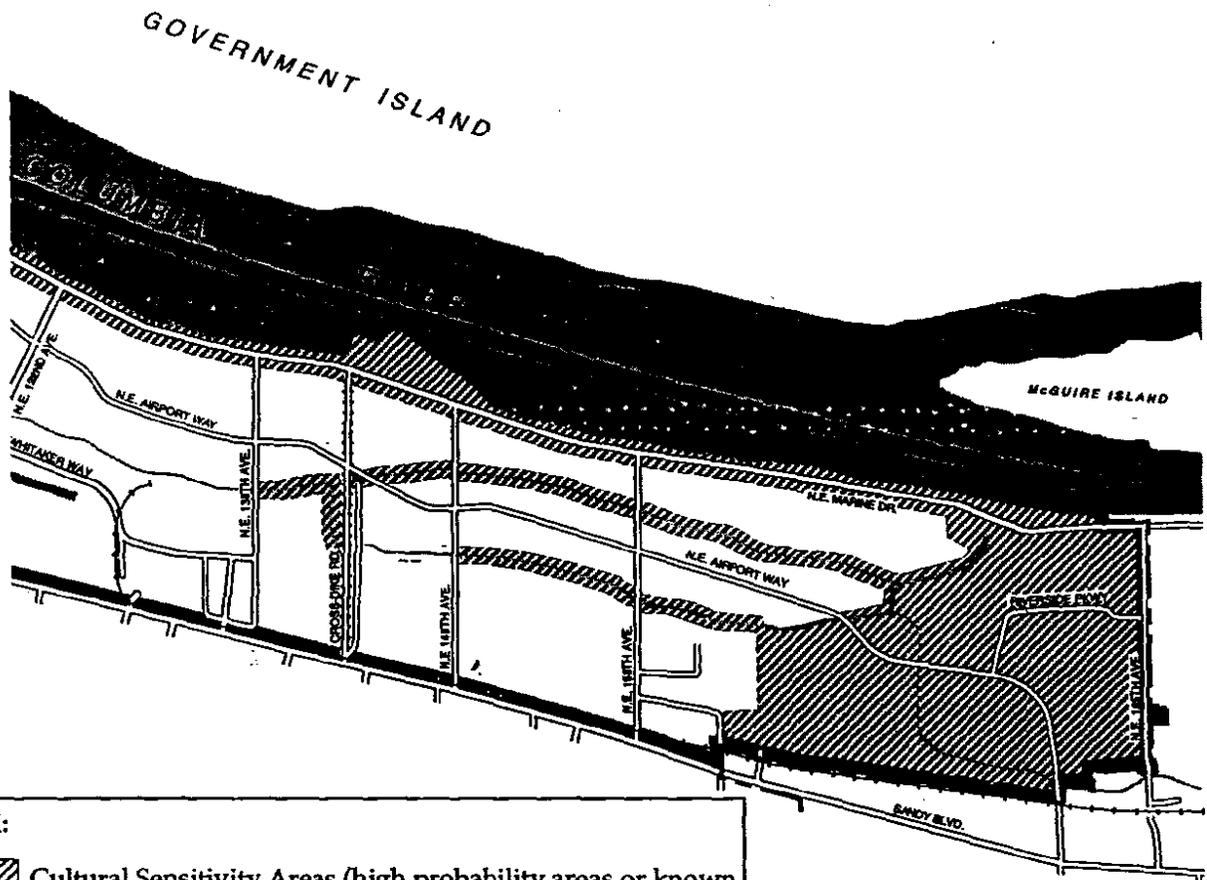
Note: If cultural resources are encountered during project construction, state and federal regulations may apply.



Map 515-6

Areas of Cultural Interest in Columbia South Shore

Map 1 of 2



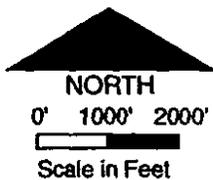
Legend:

-  Cultural Sensitivity Areas (high probability areas or known to contain identified cultural resources¹ and areas where confirmation testing is required²)
-  Areas Not Subject to city Cultural Resource Measures (built, tested negative, or low probability area)
-  Columbia South Shore Plan District

¹ "Cultural resources" are based on confirmed archaeological sites. To protect resource locations from destruction or looting, individual resources are not mapped.

² Areas subject to confirmation testing are shown on Map 515-7 of this chapter.

Note: If cultural resources are encountered during project construction, state and federal regulations may apply.



Map 515-6

Areas of Cultural Interest in Columbia South Shore

Map 2 of 2



CITY OF
PORTLAND, OREGON
BUREAU OF PLANNING

Charlie Hales, Commissioner
David C. Knowles, Director
1120 S.W. 5th, Room 1002
Portland, Oregon 97204-1966
Telephone: (503) 823-7700
FAX (503) 823-7800

February 29, 1996

Sent by FAX (2 pages)

TO: Stark Ackerman, for CCA FAX: 224-6148 ✓
Rick Holt, Holt & Haugh FAX: 222-6649 ✓
Robert Kentta, Confed. Tribes of Siletz FAX: 541-444-2307 ✓
Allen Lee, East Portland District Coalition FAX: 331-2646 ✓
Louie Pitt, Jr., Confed. Tribes of Warm Springs FAX: 541-553-1924 ✓
Ed Goodman, for Grand Ronde Tribes FAX: 294-1429 ✓
Dennis Sivers, T & W Equipment FAX: 223-2750 ✓
Kenneth Ames, Portland State Univ. FAX: 725-3905 ✓
Judith Basehore Alef FAX: 249-1884 ✓
David V. Ellis, Archaeological Investigations NW FAX: 761-6620 ✓
Richard Hanes, BLM FAX: 541-683-6981 ✓
Scott Stuemke, Confed. Tribes of Warm Springs FAX: 541-553-1996 ✓
Kathryn Toepel, Heritage Research Associates FAX: 541-485-1364 ✓
Lynda Waski-Walker, U. S. COE FAX: 326-6401 ✓
Larry Watters, Columbia River Gorge Commission FAX: 509-493-2229 ✓

FROM: Bob Glascock, Senior Planner ^{RHG}

SUBJECT: Update on Cultural Resource

On Thursday, February 22nd, the Cultural Resources Advisory Committee (CRAC) met to review the Planning Commission's final action on the *Cultural Resources Protection Plan for Columbia South Shore*, and discuss next steps. I describe three discussion items below.

1. Adjustments for building setbacks, parking and landscaping

I told the committee that I was not entirely satisfied with code language intended to give more site flexibility for sites with confirmed cultural resources. The concept is to allow adjustments to base zone standards for minimum building setbacks, the minimum number of parking spaces and certain landscape requirements on sites with confirmed cultural resources. I have prepared new code language that provides site flexibility without modifying the adjustment review. The new code language follows:

33.515.262.G.2. For sites with confirmed cultural resources, the base zone development standards are modified as follows:

- a. Minimum building setbacks are reduced to zero;
- b. Minimum number of off-street parking spaces is reduced to zero; and
- c. For purposes of meeting the minimum landscaping requirements, the applicant may exclude the area occupied by the cultural resource from the total site area.
- d. The area occupied by the cultural resource is exempt from the standards of 33.515.215. Marine Drive Streetscape.

These provisions would be available without a land use review.

2. Fourth resource type

The Planning Commission supported the Tribes' request to add "traditional, sacred or cultural use sites" into the code language as well as in the inventory and ESEE chapters of the report. To date, no such resources have been identified in the tested parts of the Columbia South Shore. I believe the Planning Commission intended this code provision to apply to future areas to be tested ("confirmation testing areas"). To implement this new feature, the City would review any Tribal comments along with the archaeological report associated with confirmation testing. This means that the Tribes should identify any traditional, sacred or cultural use sites on confirmation testing areas through the SHPO permit process. The federal process for "traditional cultural properties" may serve as a guide to the appropriate information to be contained in a Tribal letter affirming the existence of a traditional, sacred or cultural use site. If any committee member has an idea on this topic, please give me a call.

3. Joint letters of project committees

I asked what role the committees would like to take in the City Council hearing. Those in attendance expressed interest in signing onto letters of general support for the Planning Commission's recommended plan. Stark Ackerman agreed to draft up a letter for review and signature by members of the CRAC. Larry Watters agreed to draft up a letter on behalf of the technical committee. I offered to help circulate the letters and place the completed letters onto the record before City Council.

Please let me know if you have any comments on the above items. If possible, I would like the joint committee letters by Monday, March 11th (for filing with the recommended plan and ordinance). My phone number is 823-7845.

cc: Contract Advisory Team



CITY OF
PORTLAND, OREGON
BUREAU OF PLANNING

Charlie Hales, Commissioner
David C. Knowles, Director
1120 S.W. 5th, Room 1002
Portland, Oregon 97204-1966
Telephone: (503) 823-7700
FAX (503) 823-7800

February 29, 1996

Mr. Tim Warren, President
Three Oaks Development
12031 NE Marx Street
P. O. Box 30929
Portland, OR 97294-3999

Sent by FAX: 254-2796

SUBJECT: Cultural Resources Followup

Dear Tim:

This letter serves as a followup to our phone conversation and my letter of February 27, 1996. We discussed your interest in completing confirmation testing before the City Council hearing, so that recommended Map 515-7 does not show your property as needing further archaeological testing. In the letter, I suggested use of the notice of SHPO permit application as evidence that an owner will complete confirmation testing. The city attorney recommends, instead, that the bureau remove properties from the confirmation testing map (Map 515-7) at the first opportunity to update zoning code pages. Several times a year, we update the zoning code to correct typos and respond to adopted code amendments.

I also spoke briefly with two archaeological firms (Heritage Research Associates and Archaeological Investigations Northwest) about their timelines. Both firms seemed to think that the confirmation testing and letter report could be accomplished before March 27th (City Council hearing). I recommend that the archaeological firm inform the SHPO archaeologist and appropriate Tribes of this exploratory testing as soon as possible.

Again, thank you for your interest in the cultural resources plan. If you have questions, please call me at 823-7845.

Sincerely,

Robert H. Glascock, AICP
Senior Planner

cc: Michael Holstun, Bob Clay



CITY OF
PORTLAND, OREGON
BUREAU OF PLANNING

Charlie Hales, Commissioner
David C. Knowles, Director
1120 S.W. 5th, Room 1002
Portland, Oregon 97204-1966
Telephone: (503) 823-7700
FAX (503) 823-7800

February 27, 1996

Mr. Tim Warren, President
Three Oaks Development
12031 NE Marx Street
P. O. Box 30929
Portland, OR 97294-3999

Sent by FAX: 254-2796

(2 pages)

Dear Tim:

Thank you for your interest in the *Cultural Resources Protection Plan for Columbia South Shore*. On February 13, 1996, the Planning Commission reviewed 29 amendment requests, including your request that confirmation testing be dropped from Interstate Crossroads. The Planning Commission voted to retain the testing requirement on your property. On March 27, 1996, City Council will hold a public hearing on the Planning Commission recommendation.

As we discussed by phone, the recommended plan calls for 26 auger probes on the Interstate Crossroads property. The enclosed map shows 21 auger probes are needed along NE Marine Drive. The map shows 5 auger probes along the north bank of Columbia Slough, but testing is only needed if "p" zone protection is removed from Tract B.

In case you wish to address Lot 10 separate from the other lots, I have broken out the testing requirement as follows:

<u>Lot</u>	<u># of Auger Probes</u>
Lots 3 - 5	7
Lots 7 - 9	5
Lot 10	9

I understand that you wish to complete confirmation testing prior to City Council action on the recommended plan, but are concerned the fieldwork may not be completed in time for the March 27th hearing. I think it is reasonable to use the notice of SHPO permit application as evidence that confirmation testing will be completed prior to the effective date of the cultural resources plan. The SHPO permit application should clearly indicate that the auger testing specified in the recommended plan will be carried out. At the City Council hearing of March 27th, I will support removal of the "confirmation testing required" designation from those areas included in such SHPO permit applications.

Thank you for your interest in the cultural resources plan. If you have questions, please call me at 823-7845.

Sincerely,

Robert H. Glascock, AICP
Senior Planner



COLUMBIA CORRIDOR
ASSOCIATION

TO : Bob Glascock, Portland Planning Bureau

FROM : Anne Nickel, Executive Director

RE : Economic Analysis in the Goal 5 , - Cultural Resources ESEE

DATE : February 27, 1996

The Columbia Corridor Association (CCA) appreciates the City's significant efforts in preparing the ESEE analysis for the Goal 5 Cultural Resources Protection Plan for the Columbia South Shore Plan District. We particularly appreciated the fact that the City has used an economist in conducting the analysis, and has made an obvious attempt to address many of our concerns. Although we believe there are still shortcomings in the economic analysis, we do not believe that they warrant additional efforts or delay in the current cultural resources protection plan process. We do, however, want to make several comments about the current economics analysis with the goal of improving future city efforts and products.

1. Economic Analysis Should Recognize Practical, On-The-Ground Development Considerations. Organizations Like CCA Can Help the City With This if Given a Meaningful Chance To Do So.

CCA received the draft ESEE analysis very late in the process and could only do a cursory review. If CCA had been involved earlier, it could have submitted relevant, current, "on the ground" economic data that could have been used to draft a more comprehensive analysis and to help determine the final recommendations.

We do appreciate the fact that the final draft addresses some of the concerns raised by CCA. Most notably, the analysis identified most of the developmental constraints found in the Columbia South Shore area. It did, however, leave out some significant information and seemed to rely more on theory in several areas. We believe the end product could be a better tool for the Planning Commission and the City Council if it reflected more hard facts about cost, time, and market impacts. See comment # 3.

2. Economic Analysis Should Not Rely Too Much on Theory

Economic theory does not always tell the real story of what is happening in an area. To get a realistic picture, the City should call on the expertise of brokers, developers, and construction companies. They see the end result of all land use policy decisions and are in a better position to help define the real economic impact. For example, the analysis relies heavily on the theory that the tourism industry and local businesses will be significantly aided by the protection of cultural resources in the area (Theory application, pages 18-20, Diminished Tourism Opportunities, pages 21, 24, 29). Those

Page two
CCA ESEE comments

who deal with the market feel there is very little credibility to that theory. The resource is not visible to do "hiking, sightseeing and visiting historical sites", nor does tourism lend itself well to privately owned, industrial property. These resources will have marginal, if any, impact on attracting and hiring staff. Brokers say that a "campus setting" project is theory and not realistic for this area.

3. Specific Economic Impacts Should Be Better Addressed.

For example :

The cumulative effects of all constraints placed on the development process impact the marketability and competitive position of the area and impact carrying and development costs. These costs and impacts are not well covered .

What are recovery costs if something is found ? How are these costs considered in the analysis ?

Is the impact of loss of flexibility (limited site design) considered ? Where is the cost and time for planning for redoing infrastructure plans considered? There is a dollar loss for land taken out of use (site and transition area) purchased at \$2.00 - \$ 3.00 a square foot. This loss should be considered ?

How does the analysis impact the larger regional issues ? For example, lost jobs may put pressure on expanding the UGB to provide for more industrial land for job creation.

How many jobs does Portland need inside City limits? What is the impact of jobs lost ?

New requirements can add significant costs to a project, e.g. , the cost of having an archaeologist on site all during process can be prohibitive. What is the economic impact ?

CCA does not necessarily believe that the end result, in this case, would or should be different. The whole Goal 5 process in the CSS area has produced a greater level of certainty for property owners because of the testing done by the City and the closure which will result from the City's decision. CCA and its members appreciate this. However, there is concern about future decisions because of the weaknesses in the way this ESEE analysis was conducted. Hopefully, in the future, the city will give greater consideration to the specific, real economic impacts, and take better advantage of the stakeholders, like CCA, who have the experience and desire to help.

Dorothy S. Cofield
Attorney at Law

RECEIVED
PLANNING DEPARTMENT
196 FEB 21 10:11:15

February 20, 1996

Mr. Robert H. Glascock, AICP
Room 1002
1120 S.W. Fifth Ave.
Portland, OR 97204-1966

RE: *February 3, 1996 Planning Commission Hearing on the Cultural Resources Protection Plan*

Dear Bob,

Thank you for taking the time to explain the results of the February 13, 1996 planning commission hearing to me. I understand that the planning commission dealt with approximately 29 requested amendments and adopted a number of them. I would like to know which of the following Spada requested amendments were adopted by the planning commission:

Amendment A. Removal of the cross-hatching from the Property and designation in the legend as "Exempt From The Protection Plan Regulations".

Amendment B. Revision of the flow chart on p. 224 of the Plan.

Amendment C. Proposed code language showing the Property is exempt from the plan regulations.

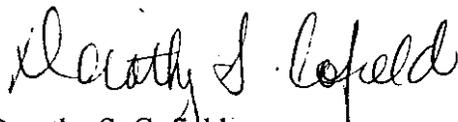
Amendment D. Zoning Confirmation Letter that the Property is exempt from Plan regulations.

Amendment E. Removal of the cross-hatching from the Property showing priority confirmation testing is needed.

Please send me copies of the proposed amendments that the commission accepted, as well as the corrected map that you are revising. Also, please keep me advised of the next planning commission meeting on this matter and any planned City Council hearings.

Again, thank you very much for your assistance in this matter.

Very truly yours,



Dorothy S. Cofield

cc: Art Spada
CAWPWL\CLIENT\SPADA\APRESPEC.LTR



CITY OF
PORTLAND, OREGON
BUREAU OF PLANNING

Charlie Hales, Commissioner
David C. Knowles, Director
1120 S.W. 5th, Room 1002
Portland, Oregon 97204-1966
Telephone: (503) 823-7700
FAX (503) 823-7800

February 8, 1996

Stark Ackerman
Columbia Corridor Association
c/o Black Helterline
707 SW Washington Street - Suite 1200
Portland, OR 97205

Sent by FAX: 224-6148

SUBJECT: Economic Analysis of Cultural Resources Protection Plan

As I mentioned by phone today, I am interested in any comments you have on the staff revisions to the economic analysis section of the recommended plan. I understand that you already have a copy of the "List of Issues" (staff responses to requested amendments). The economic analysis is attached to Amendment #8, which begins on page 18 of the "List of Issues" document.

Though the Planning Commission has closed the formal record on the recommended plan, I would still like your feedback prior to the Planning Commission hearing of Tuesday, February 13, 1996.

Thank you for the consideration.

Sincerely,

Bob Glascock, Senior Planner

cc: Bob Clay, David Knowles



CITY OF
PORTLAND, OREGON

BUREAU OF PLANNING

Charlie Hales, Commissioner
David C. Knowles, Director
1120 S.W. 5th, Room 1002
Portland, Oregon 97204-1966
Telephone: (503) 823-7700
FAX (503) 823-7800

February 1, 1996

TO: Susan Feldman, Steve Gerber and Bob Haley
LUR 95-00537 IR and LUR 95-00594 SU ZC EN

FROM: Bob Glascock, Senior Planner

SUBJECT: Correction of Record on Cultural Resources

Recently, I reviewed case file LUR 95-00537 IR, and discovered some factual errors in the applicant's submittal. I believe the factual errors may have been a factor in responses from interested Oregon tribes and in subsequent conditions of approval applied by planning staff. I understand that the interim resource review was approved, accepted and recorded (9/15/95). I do not question the validity of the IR approval. I submit corrected information so that future land use decisions and related legislative projects, may rely on more accurate information.

The subject property is Tax Lot 173 of Section 24 1N 2E; Tax Lot 200 of Section 19 1N 3E; and Blocks 1 and 2, Columbia 205 Commercial Park. The interim resource review (shown on zoning maps with "sec" overlay) applies to the northerly portion of the subject property, including the area directly south of NE Marine Drive.

The entire subject property fits into the plan area of the legislative State Goal 5 Cultural Resources Project. The recommended draft of the *Cultural Resources Protection Plan for Columbia South Shore* calls for additional subsurface archaeological testing (augering) along certain portions of Mr. Warren's frontage of NE Marine Drive.

The purpose of the IR review is to protect significant cultural resources on an interim basis until permanent cultural resource protection measures are enacted. There are three approval criteria. Criterion 1 states that "Archaeological areas must be preserved for their historic, scientific, cultural value, and protected from vandalism or unauthorized entry." I take issue with the applicant's submittal for this approval criterion.

The applicant stated that Mr. Warren "has commissioned separate studies of the northerly portion of the site...", and that an archaeological consultant

recommends "... no further archaeological investigations are recommended for the project area." The applicant materials are inaccurate as follows:

1. Who commissioned archaeological studies. To date, the City and Mr. Warren have shared in testing responsibilities on the subject property. The City paid for 53 probes on the northern project area (the area subject to IR review and proposed for additional augers ("confirmation testing") through the legislative project. Mr. Warren paid for 44 probes on the southern project area. The City did not test the southern project area because the prior owner declined to participate in the City's archaeological investigation.
2. Archaeological recommendations for Marine Drive. The applicant's IR submittal misdirects a written statement from Heritage Research Associates (HRA), an archaeological consultant that tested both northern and southern project areas. The IR submittal omits a key statement from HRA relating to the northern project area and uses, instead, a statement from HRA relating to the southern project area. The impression this leaves is that no further testing is needed, instead of HRA's statement that "... there are still portions of the property (though not many) that have not been probed, particularly along the slough and Marine Drive." HRA states that the City may recommend further testing.

I have reviewed the situation with HRA's Kathryn Toepel and Robert Musil, the two archaeologists quoted in the applicant's submittal. They stand by the HRA report of February 21, 1995, which states that the northern project area may warrant further testing. They never stated, nor do they now state, that no further testing is needed in the northern project area. Further, they stand by their recommendation for the plan area that high probability areas receive additional auger testing. One of those high probability areas ("cultural sensitivity areas") is the area directly south of Marine Drive. The legislative proposal identifies this cultural sensitivity area as the River's Edge.

cc: Michael Holstun, Bob Clay

recommends "... no further archaeological investigations are recommended for the project area." The applicant materials are inaccurate as follows:

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cc: Michael Holstun, Bob Clay

***Comments on Cultural Resources
Protection Plan for Columbia South
Shore - Recommended Draft
(Staff Report, 12/12/95)***

RECEIVED
PLANNING BUREAU

1996 FEB -8 P 12:30 Warm Springs, Oregon 97781 / 503 553-1161



February 5, 1996

Portland Planning Commission
Bureau of Planning
City of Portland
1120 SW Fifth Avenue
Portland, OR 97204

Re: Draft of Cultural Resources Protection Plan for
Columbia South Shore

Dear Members of the Planning Commission:

The Confederated Tribes of the Warm Springs Reservation of Oregon is vitally interested in the development of a plan to protect important tribal cultural resources located in the Columbia south shore development area. The Confederated Tribes of the Warm Springs Reservation of Oregon is the legal successor in interest to the seven bands of Wasco and Sahaptian speaking Indians who were signatory to the Treaty with the Tribes of Middle Oregon of June 25, 1855. Among the treaty signing tribes and bands were three bands of Wasco speaking Indians whose aboriginal territory occupied the south shore of the Columbia River from roughly the present day location of The Dalles, Oregon, downstream and westward toward Portland to the Cascade Falls, which is the present day location of Bonneville Dam. These Wasco speaking Indians were the eastern most bands of Indians belonging to the Chinookan language group. The Wasco treaty signing bands were closely related to the Chinookan speaking Indians of the lower Columbia River and the Willamette Valley. The Wasco treaty signing bands, as well as Sahaptian speaking treaty signing bands, were frequent travelers to the lower Columbia River, both the north and south shores, including the south shore covered by the proposed plan, and occupied the lower Columbia River from time to time for trade, hunting and fishing, and intermarriage with other bands.

Based on this well-documented pre-treaty history of involvement of the Warm Springs Confederated Tribes in the Columbia south shore area, Warm Springs is one of the interested and involved tribal governments relative to the Columbia south shore development

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Portland Planning Commission
February 5, 1996
Page 2

project and the recommended plan for protection of tribal cultural resources in the development area. Put another way, the cultural resources that are acknowledged by all parties to exist in great abundance in the Columbia south shore area are in many instances those of our ancestors. Accordingly, based on our history, culture and religion, we have a very strong interest in the development of the Columbia River south shore area to the extent that it may affect the cultural resources of our ancestors that remain in the area. Based on this background, the Warm Springs Tribe offers the following comments on the "recommended draft of the Cultural Resources Protection Plan for Columbia South Shore."

1. The comments on the recommended draft plan set out in the testimony of Katherine Harrison and Ed Goodman on behalf of the Confederated Tribes of the Grand Ronde community of Oregon before the Portland Planning Commission on January 9, 1996, are supported by the Confederated Tribes of the Warm Springs Reservation of Oregon and are hereby incorporated as part of the Warm Springs Tribal comments.

2. The Warm Springs Tribe believes that Code Section 33.515.262(F) (Recommended Plan, page 233) should be amended to formalize the requirement of consultation with the appropriate tribal governments in connection with the City of Portland planning and development procedures. We agree with the January 9, 1996, testimony of the Grand Ronde Tribe that the language "in consultation with the appropriate Tribe[s]" should be added to this Code Section in three separate places: At the end of the first sentence, under F, I "Confirmation Testing", and under F, II, "Classification of Site Types".

3. The Warm Springs Tribe agrees with all the additional recommended changes to the code offered by the Grand Ronde Tribe in its' testimony at the January 9, 1996, Planning Commission hearing. These recommended changes, which relate to Code Section 33.515.262(F)(2), "Classification of Site Types", Code Section 33.515.262(F), "Protection of Archeological Sites", Code Section 33.515.262(F)(9), "Protection of Archeological Sites", concerning the discretionary debt of recovery plan or seasonal campsites and activity areas, Code Section 33.515.262(F)(9)(E), "Protection of Archeological Sites", referring to consultation with "at least one associated Oregon tribe", and Code Section 33.515.262(G), "Additional Application Requirements", are supported by the Warm Springs Tribe and we urge you to incorporate these changes in the final Code provisions.

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Portland Planning Commission
February 5, 1996
Page 3

We join with the Grand Ronde Tribe in generally supporting the recommended plan. We hope that the Portland City Council adopts the plan after making the changes suggested by the tribes. While the plan is not perfect from the Warm Springs Tribe's standpoint, in that it does not provide the highest possible level of protection of cultural resources, we recognize that development of the Columbia south shore is inevitable. A practical and workable plan that allows for appropriate, planned development while providing the highest possible level of cultural resources protection is the desired outcome of this process. We believe that with the relatively minor modifications to the recommended draft plan that we have suggested, the draft plan is by and large a positive document and will provide considerable assistance to Warm Springs and other affected tribes in protecting their vital cultural resources in the Columbia south shore area.

Sincerely,

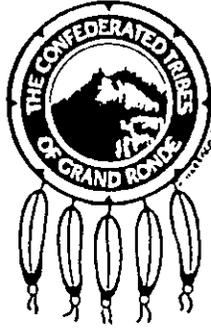


BRUCE BRUNOE, SR.
Tribal Council Chairman

HGA:cmm

cc: Confederated Tribes of Grand Ronde Community of Oregon
Warm Springs Culture and Heritage Committee
Warm Springs Culture and Heritage Department
Louie Pitt, Sr.
Howard G. Arnett, Tribal Attorney

THE CONFEDERATED TRIBES
OF THE GRAND RONDE COMMUNITY
OF OREGON



TRIBAL COUNCIL

February 2, 1996

Bob Glascock
Portland Planning Bureau
1120 SW Fifth Avenue
Portland, OR 97204

RE: Amendment #14: Confirmation testing on Cameron Warren property

Dear Bob,

This letter contains supplemental comments to the Confederated Tribes of the Grand Ronde Community's written comments on the Columbia South Shore plan. These comments are directed to Amendment #14 which relates to confirmation testing on the Cameron Warren property.

The use of confirmation testing is important to further identify and protect sites that are within areas identified as high probability-sensitivity areas in which there has been insufficient archeological work to identify such sites. The Tribes believe that the use of confirmation testing is appropriate for areas that lack sufficient information.

There has been a request to remove the confirmation testing requirement from Mr. Warren's property. The Tribes have previously submitted comments on this specific property because of concerns about the sites. We have now learned that there was some confusion regarding the archeologist recommendations for the property which warrants additional comments.

The landowners' application did not clearly identify that there were two areas of concern on the property: one on the north portion of the property and one on the south portion of the property. The archeologist report on the property did state that no further testing was necessary on the southern portion of the property. However, further confirmation testing remains necessary to the northern portion of the property.

UMPQUA
MOLALLA
ROGUE RIVER
KALAPUYA
CHASTA

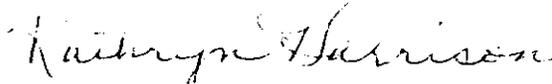
9615 GRAND RONDE RD.
GRAND RONDE, OREGON 97347

THE CONFEDERATED TRIBES
OF THE GRAND RONDE COMMUNITY
OF OREGON

Page 2

The Tribes do not believe that adequate confirmation testing has been done at this particular property. Thus, we request that the testing requirement remain on this property.

Sincerely,

A handwritten signature in cursive script that reads "Kathryn Harrison".

Kathryn Harrison
Vice Chair

KH:fh



COLUMBIA CORRIDOR
ASSOCIATION

RECEIVED
PLANNING COMMISSION

FEB 02 1996

February 2, 1996

HAND-DELIVERED

Portland Planning Commission
1120 SW Fifth Avenue, Room 1002
Portland, OR 97204

Reference: Cultural Resources Protection Plan for
Columbia South Shore/Supplemental Comments

Dear President and Planning Commission Members:

As Co-Chairman of the Environment and Land Use Committee of the Columbia Corridor Association, I would like to offer the following comments on the recommended Cultural Resources Protection Plan to supplement those I submitted at your hearing on January 9, 1996. My current comments focus on the designation of Sensitivity Areas (particularly on maps) and on the Intermediate Revised Draft Code language.

A. Sensitivity Areas and Maps. We continue to be concerned that the references to Sensitivity Areas in the Plan text and on the Plan maps include too much property and misrepresent what is actually being regulated by the City. The plan only regulates 9 confirmed sites and an additional 14 properties where additional testing is required. Yet the Plan places three large Sensitivity Areas on its cultural resources inventory--containing over 600 acres and including much more area than is actually regulated. We believe this is not only grossly misleading, but beyond the City's authority under Goal 5. We recognize the City's concern with retaining the confidentiality of the sites actually regulated, but we believe there should be a balance between keeping the location of confirmed sites secret and creating the impression that much larger areas are regulated than actually are.

We believe that our concerns would be reduced if the Code language implementing the Plan provided for the following:

1. Giving individual property owners letters confirming that individual properties or specific portions of properties do not contain confirmed sites and are, therefore, not subject to cultural resource regulation by the City.

2. Disclosing the locations of confirmed sites to property owners and others for whom that information is necessary to make management or development decisions about a property.

Such disclosure could be subject to a confidentiality agreement that acknowledged that City requirements would have to be met for any confirmed sites.

3. A legend on the maps in the Code which states more clearly and specifically the limited applicability of the cultural resources protection requirements. We offer the following options for such a legend:

Option 1: The requirements of this Section apply only to (number) sites within the Sensitivity Areas. These sites range in size from (acres) to (acres) and covering a total area of (acres).

Option 2: Only percent of the area within the Sensitivity Areas is subject to requirements of this Section (see Section , ("Where the Regulations Apply")).

4. Limiting the depiction of the Sensitivity Areas to the maps in the Code and, because of the limited area actually regulated, not including Sensitivity Areas on general zoning maps.

We would still like to see additional consideration given to shrinking the size of the area identified as Sensitivity Areas, possibly using some other designation to show that these broader areas have higher probabilities for future resource discovery.

B. Intermediate Revised Draft Code Language (dated January 23, 1996)--Comments and Proposed Changes. We have the following comments and proposed changes to the January 23, 1996 Intermediate Revised Draft Code language we received from Bob Glascock.

1. Subsection C. This Subsection ("Where the Regulations Apply") is confusing and does not reflect the intent of the Plan. We suggest the following as a substitute for that entire Subsection (subject to our review of the referenced maps):

"C. Where the Regulations Apply. The requirements of this Section apply only for development (1) to confirmed archeological sites identified in the Cultural Resources

Protection Plan within the Sensitivity Areas shown on Maps 515-6 and 515-7 at the end of this chapter, and (2) to properties for which additional confirmation testing is required, as identified on Map 515-7, until such testing has been completed, and then only to archeological sites confirmed as part of that testing. The requirements of this Section do not apply to sites or portions of sites where no archeological sites have been confirmed and no additional confirmation testing is required."

2. Subsection D.4. In light of our proposed revision to Subsection C, we believe that Subsection D.4. is no longer needed.

3. Subsection D.5.

(a) The reference in Subsection D.5.b to "at least 100 feet apart" should be revised to prevent probes being significantly greater than 100 feet apart. Perhaps "on average" would be a better phrase.

(b) A Subsection D.5.c should be added to specify that if no archeological site is confirmed as part of confirmation testing, then the requirements of this Section no longer apply.

4. Subsection D.6. This Subsection should provide for a release from additional requirements of the Section for sites which are no longer considered to be archeological sites.

5. Subsection F.2. We would like some explanation in the Code or in the Plan of the basis for the size of the transition areas around confirmed sites.

6. Table 515-1. We would like the table to be modified to allow the use of memoranda of understanding in all situations.

7. Subsection G.2. Subsections G.2.a and G.2.b should be made consistent with Subsection G.2.k and expanded to allow new as well as existing uses where the impact is limited (such as new lawns). We also do not believe that Subsection G.2.g creates an impact that should be regulated under this Section.

Portland Planning Commission
February 2, 1996 - Page 4

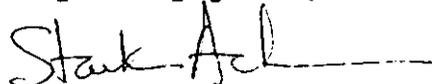
8. Subsection G.5. This Subsection should be modified to allow for memoranda of understanding for not only resource recovery, but also for data recovery and mitigation.

9. Subsection H.1. This Subsection should be revised to make clear that the supplemental application requirements apply to sites requiring confirmation testing only until such testing has been done (see particularly Subsection H.1.a), and for building or development permits only where the proposal impacts confirmed sites (see particularly Subsection H.1.b).

10. Subsections H.2.e and H.3. It is not clear to us why additional fees must be charged for archeological inspections. We particularly object to the broad requirement in Subsection H.3 for a qualified archeologist to be present on the site. This creates a significant cost, on the order of \$600 per day, when the archeological site itself may not even be affected by the activities. We believe a better alternative would be to establish a penalty for failure to comply with the City's requirements that would be steep enough to inhibit unwanted behavior.

We appreciate your consideration of these comments.

Very truly yours,



Stark Ackerman

SA:jlc
SAISA293

cc: Ms. Anne Nickel
Mr. Bob Glascock

FC ✓

Dorothy S. Cofield
Attorney at Law

February 2, 1996

Mr. Robert H. Glascock, AICP
Room 1002
1120 S.W. Fifth Ave.
Portland, OR 97204-1966
Sent By Fax: 823-7700

RE: Spada Property & Cultural Resources Protection Plan

Dear Bob,

Thank you for taking the time to meet with Arthur Spada and me on January 30, 1996. It was helpful to get your responses to our proposals regarding the Plan.

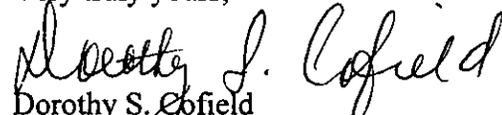
As you suggested, I have proposed specific amendments to the proposed code language amending Chapter 33.315, in the attached letter to Mr. Michaelson and the Planning Commission. Please add the attached letter into the record, along with the January 29, 1996 Heritage Report.

I have also proposed amending the Sensitivity Areas Map 516-6, Map 2 of 2, by either deleting the Spada property from the map, or in the alternative, shading the Spada property in gray to show that it has received all necessary testing and is not subject to the code provisions. I have also proposed amending Figure 25: Decision Steps To Determine Levels of Protection (Management Measures) for Archaeological Sites by adding a new box: "Has property received all needed confirmation testing and received a zoning confirmation letter? If yes, a box to the right of the dialog box would read "No Survey required".

I will be calling you next week to discuss the Spada proposed amendments after you have had a chance to review the attached letter to the Planning Commission.

Again, thank you for all the time you have spent in finding solutions for the Spada property.

Very truly yours,


Dorothy S. Cofield
Attorney for the Spada Family

Encls. As Stated
cc: Arthur Spada

C:\WPWL\CLIENT\SPADA\GLASCOC.TRS

Dorothy S. Cofield
Attorney at Law

February 2, 1996

President Rick Michaelson
Portland Planning Commission
c/o City of Portland Bureau of Planning
1120 SW 5th, Room 1002
Portland, OR 97204-1966

Transmitted by Facsimile: (503) 823-7800
Original Sent By First Class Mail

Re: Cultural Resources Protection Plan for the Columbia South Shore

Dear Mr. Michaelson and Commissioners:

This is a follow-up letter to my letter and oral testimony presented to the Planning Commission on January 9, 1996 on behalf of the Spada family. As a preliminary matter, since the January 9 hearing, the Spada family had Heritage Research Associates, Inc. complete the necessary confirmation testing on the northern portion of the Spada Property (hereinafter "Property"). The January 25, 1996 report shows conclusively that no archeological sites were encountered on the property and that no further archaeological investigations are recommended for the Property. The Heritage Report has been submitted to Staff under separate cover to be made a part of the record.

On behalf of the Spada family, I would like to request that the Planning Commission require the Recommended Draft of the Cultural Resources Protection Plan (hereinafter "Plan") be amended as follows.

I. The Spada Family is prepared to bring a legal challenge against the Plan if the Property is not removed from the Historic Lakes Complex map.

As explained in my letter of January 9, the Plan identifies the Property as part of Resource Site #1. This resource site is identified as a "significant" cultural resource. However, there is no data to support a determination of significance on the Property as explained in depth in my January 9 letter.

Under Goal 5, when information does not support the determination of significance for an identified Goal 5 resource, the resource cannot be protected under the goal. In the case of the Plan, keeping the Property in Resource Site #1, but exempting the Property from the protection plan when it shows no confirmed sites is a quasi-judicial action of an alleged Goal 5 resource and

violates Goal 5.

The Property does not warrant a determination of significance and cannot be included in the Goal 5 process. Even though Staff has indicated that the proposed code regulations will not regulate the Property because of its demonstration of the absence of archeological sites, the Spada family feels it is a stigma to be included in the map and that inclusion on the map will negatively affect the sales potential of the Property. The Spada family requests that the Planning Commission remove the cross-hatching from its property to reflect that the Property is not part of the Historic Lakes Complex sensitivity area.

II. The Spada family requests that the Plan and code provisions clearly reflect that the Property is exempt from the protection plan regulations.

Amendment A. If the Planning Commission is unwilling to remove the Property from the Historic Lakes Complex map, the Spada family may alternatively accept removal of the cross-hatching from the property, and designation of the Property in the legend as "Exempt From The Protection Plan Regulations" and shown in gray, much the way the map treats developed properties/properties under 5 acres in black.

Amendment B. Revise the flow chart on p. 224 of the Plan by adding a new box under the box reading: "Is Property in Sensitivity Area". The new box would read: "Has property received all needed confirmation testing and received a zoning confirmation letter?" If the answer is yes, the flow chart would direct the applicant to the box reading "No survey needed".

Amendment C. In addition to Amendment B, the Spada family proposes adding an item number 10 to the proposed code language on p. 231 of the Plan. (Additions are underlined, deletions are in brackets).

E. Items exempt from these regulations. The following [ground disturbance] activities are allowed subject to the development standards of Item F below.

10. Development of properties that have received a zoning confirmation letter from the Bureau of Planning indicating that they do not include confirmed archeological sites and are not designated for confirmation testing.

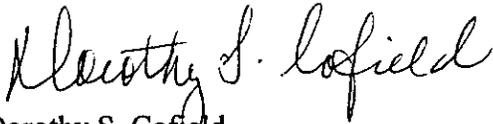
Amendment D. The Spada family asks that prior to passage of the ordinance implementing the Plan, it receive a Zoning Confirmation Letter from the Bureau of Planning indicating that all necessary confirmation testing on the property has been done and that the property is exempt from the regulations that implement the Cultural Resources Protection Plan for the Columbia South Shore.

Page 3
Planning Commission Letter
February 2, 1996

Amendment E. Remove the cross-hatching from the Property on the Archeological Testing Status Map: Figure, p. 85 of the Plan showing priority confirmation testing is needed. The necessary confirmation testing was completed on January 29, 1996, and submitted to Staff.

Thank you in advance for your thoughtful consideration of our requested amendments.

Very truly yours,

A handwritten signature in cursive script that reads "Dorothy S. Cofield". The signature is written in black ink and is positioned above the printed name.

Dorothy S. Cofield
Attorney for the Spada family.

cc: Bob Glascock
Arthur Spada



**HERITAGE
RESEARCH**
ASSOCIATES, INC.

ARCHAEOLOGY
AND HISTORY

TO: Mr. Art Spada
13635 NE Clackamas Street
Portland, OR 97230

FROM: Robert R. Musil, PhD
Heritage Research Associates Inc.
1997 Garden Avenue
Eugene, Oregon 97403

DATE: January 25, 1996

HRA Letter Report 96-3: Archaeological Probing along the Marine Drive dike, within the Spada Property on the Columbia South Shore, Multnomah County, Oregon

This letter report summarizes the results of auger probing carried out on a small portion the Spada property. The Spada property is located within the Columbia South Shore Cultural Resources Protection Plan Area, an area that is known to contain significant cultural resources. The northern portion of the Spada property, along the Marine Drive dike, also lies within the River's Edge Sensitivity Area, which prompted the need for subsurface probing in that portion of the property.

Field investigations were conducted on January 12, 1996 by a fieldcrew from Heritage Research Associates Inc. (HRA). The fieldwork was directed by Robert R. Musil, who was assisted by Alec Craig.

Project Location

The project area consists of a linear strip of ground situated along the southern edge of the Marine Drive dike. The western boundary of the property is located approximately 245 m (800 feet) east of the Columbia Slough. The eastern boundary is about 180 m (600 feet) west of NE 185th Avenue. The project area is located along the northern edge of the Columbia South Shore floodplain in the SE¼ of the NE¼ of Section 19, T1N, R3E, W.M., at an elevation of 8 m (25 feet) above mean sea level (Figure 1).

The Spada property has been under cultivation for a number of years, producing a variety of vegetable crops. During the present augering project the portion of the field next to the dike was planted to turnips, and the toe of the dike was covered by a thick carpet of grass. An access road to the property from Marine Drive angles down the south side of the dike, extending the toe of the dike out farther from the dike slope in that area. An old slough channel, that is now filled in, used to flow through the Spada property just south of the dike. A shallow remnant depression that marks the course of the slough is still visible in the field.

1997 Garden Avenue
Eugene, Oregon 97403
Phone 503/485-0454
FAX 503/485-1364

Spada Property - p. 2
HRA Letter Report 96-3
January 25, 1996

Previous Research

In 1989 Portland State University (PSU), under contract with the Portland Development Commission, conducted a surface reconnaissance of portions of the Columbia South Shore floodplain. Transect 8 of this survey covered the northern portion of the Spada Property from north of the present access road for Riverside Drive to the Marine Drive dike (Burtchard 1990:19). No evidence of cultural material was reported along the Marine Drive dike, but archaeological site 35MU77 was recorded south of the dike, near the present Riverside Drive access road. Later surface and subsurface investigations by HRA of the southern portions of the Spada Property in 1993 were unable to relocate any evidence of this site (Musil and Toepel 1993).

Auger probing was conducted by HRA in 1992 along the western edge of the Spada property as part of a wetlands mitigation project undertaken by the City of Portland, Office of Transportation Engineering. Three auger probes were excavated along the west edge of the property from the old slough channel to the Marine Drive dike, and an additional six augers were placed along the toe of the dike from the northwest corner of the Spada Property to the Columbia Slough. No cultural materials or deposits were encountered in any of those auger probes (Musil 1992).

In 1994 HRA, under contract with the City of Portland, Bureau of Planning, conducted a cultural resources inventory of the Columbia South Shore. This inventory included a resurvey of the Spada property from the Riverside Drive access road to the Marine Drive dike (Minor, Musil, and Toepel 1994). A projectile point, a small grinding stone, a piece of fire-cracked rock, and a chert flake were found scattered across the surface of the property. The chert flake was found nearest the Marine Drive dike, with the other artifacts scattered south of the old filled-in slough channel (Minor, Musil, and Toepel 1994:95-96). During the same project 12 auger probes were placed along the edge of the old slough channel. No cultural materials or deposits were encountered in any of those augers (Minor, Musil, and Toepel 1994:110).

Field Methods and Results

Historical and archaeological research in the Columbia South Shore has indicated that the natural levee along the Columbia River is among the most likely locations for buried archaeological sites to be encountered, in particular village sites (Minor, Musil, and Toepel 1994). Although a number of augers had been previously excavated on the Spada Property, none had been placed along the foot of the Marine Drive dike. The present project was designed to augment the previous investigations by systematically probing along the toe of the dike in an effort to locate buried cultural deposits.

Five auger probes spaced at 30 m intervals were placed at the toe of the dike running from the eastern to the western boundaries of the property (Figure 2). The augers were excavated manually using a heavy-duty bucket auger with a 25 cm (8 inch) bore and a maximum reach of 250 cm (8.2 feet). Fill removed from the auger holes was screened through 3 mm (1/8 inch) mesh, and each auger hole was backfilled upon completion.

Spada Property - p. 3
HRA Letter Report 96-3
January 25, 1996

The five augers placed at the foot of the dike encountered an upper layer of sandy dike fill that was underlain by light brown or gray brown sandy silts. The sediments generally became sandier as depth increased. These sediments, aside from the upper fill material, are consistent with other floodplain deposits encountered elsewhere on the South Shore. The water table was reached as high as 185 cm in AH 5, with auger holes 2-4 encountering water between 190 and 240 cm. AH 1 reached the maximum depth of the auger before reaching the water table (Table 1).

Only two items were recovered from the auger probe excavations. A single tooth was collected in the upper 10 cm of fill material in AH3, and a chert projectile point was recovered from the fill in AH2. The tooth is from a modern cow. The projectile point is a small thin corner-notched specimen, with a short contracting stem. Flaking on this point is restricted to the blade edges and the notches, with both faces retaining unmodified remnants of the original flake blank (Figure 3).

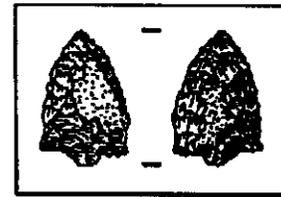


Figure 3

Auger Hole 2 was placed on the toe of the dike next to the access road; the dike fill in this section reached a depth of 50 cm below the ground surface. The projectile point was recovered in the sandy sediments of this fill material, and no other cultural items were recovered in association with it. In order to determine if this was just an isolated artifact that had been mixed into the dike fill, three additional auger holes (AH6-8) were placed around AH2 at 5 m intervals (Figure 2). The two auger probes placed to the east and west of AH2 encountered the upper fill material, but AH6, which was placed out in the field, 5 m south of AH2, did not encounter the fill sediments. All three of these auger probes were excavated to a depth of 100 cm, and no additional artifacts or cultural deposits were encountered in these probes (Table 1). Based on the negative evidence from the three augers surrounding AH2, it appears that the projectile point was in fact an isolated artifact that has been mixed into the dike fill and is not associated with an archaeological site in this area.

Summary and Recommendations

In view of these results, no further archaeological investigations are recommended for the Spada Property. However, it is always possible that undetected cultural deposits may be found during development of the property. In the event that buried prehistoric or historic deposits are encountered, earth disturbing activities in the vicinity of the finds should be halted, in accordance with Oregon state law (ORS 97.745 and 358.920). The State Historic Preservation Office and the appropriate Tribes must be notified, and a qualified archaeologist should be called in to evaluate the discovery and to recommend a course of action in consultation with the Tribes and SHPO.

Spada Property - p. 4
HRA Letter Report 96-3
January 25, 1996

References Cited

Burchard, Greg C.

1990 *The Columbia South Shore Project: A Sample Archaeological Reconnaissance of the Airport Way Urban Renewal Area, Portland, Oregon.* Portland State University, Laboratory of Archaeology and Anthropology, Cultural Resource Investigations Series No. 2.

Minor, Rick, Robert R. Musil, and Kathryn Anne Toepel

1994 *An Inventory and Assessment of Archaeological Resources in the Columbia South Shore for the City of Portland, Oregon.* Heritage Research Associates Report No. 165.

Musil, Robert R.

1992 *Archaeological Testing in the Airport Way Wetland Mitigation Project Area, Multnomah County, Oregon.* Heritage Research Associates Report No. 115.

Musil, Robert R. and Kathryn Anne Toepel

1993 *Cultural Resource Survey of the Spada Property on the Columbia South Shore, Multnomah County, Oregon.* Heritage Research Associates Report No. 150.

Spada Property - p. 5
 HRA Letter Report 96-3
 January 25, 1996

Table 1. Summary of the auger probes

Auger Hole	Depth Below Surface	Stratum	Fill Description	Cultural Material
1	0-20 cm	1	sandy fill, with gravels	none
	20-50 cm	2	gray sandy silt	none
	60-250 cm	3	light gray brown silty sand	none
2	0-30 cm	1	sandy fill	none
	30-40 cm	1	sandy fill	projectile point
	40-50 cm	1	sandy fill	none
	50-130 cm	2	light brown sandy silt	none
	130-240 cm	3	light brown silty sand; water at 240 cm	none
3	0-40 cm	1	gray brown sandy fill	cow tooth
	40-190 cm	2	gray brown sandy silt; water at 190 cm	none
4	0-40 cm	1	sandy fill	none
	40-230 cm	2	light brown silty sand; water at 230 cm	none
5	0-30 cm	1	sandy fill	none
	30-180 cm	2	light brown sandy silt	none
	180-185 cm	3	light brown sandy silt, with reddish mottling; water at 185 cm	none
6	0-100 cm	1	medium brown sandy silt	none
7	0-30 cm	1	sandy fill	none
	30-100 cm	2	grey brown sandy silt	none
8	0-30 cm	1	sandy fill	none
	30-100 cm	2	grey brown sandy silt	none

Spada Property - p. 6
HRA Letter Report 96-3
January 25, 1996

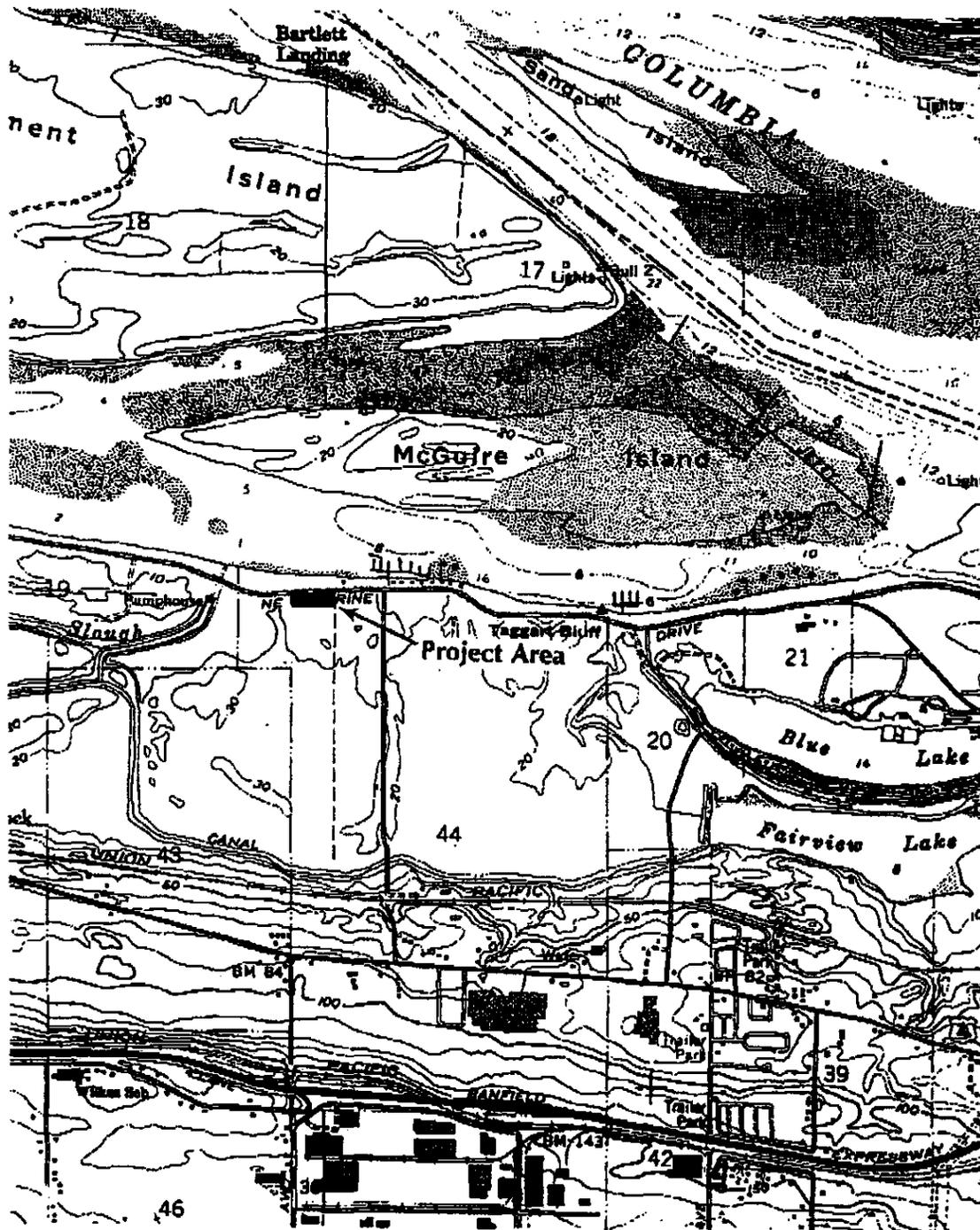


Figure 1. Location of the project area in T1N, R3E, Section 19 (USGS Camas, Washington 7.5' quadrangle, 1961, photorevised 1970 and 1975).

Spada Property - p. 7
HRA Letter Report 96-3
January 25, 1996

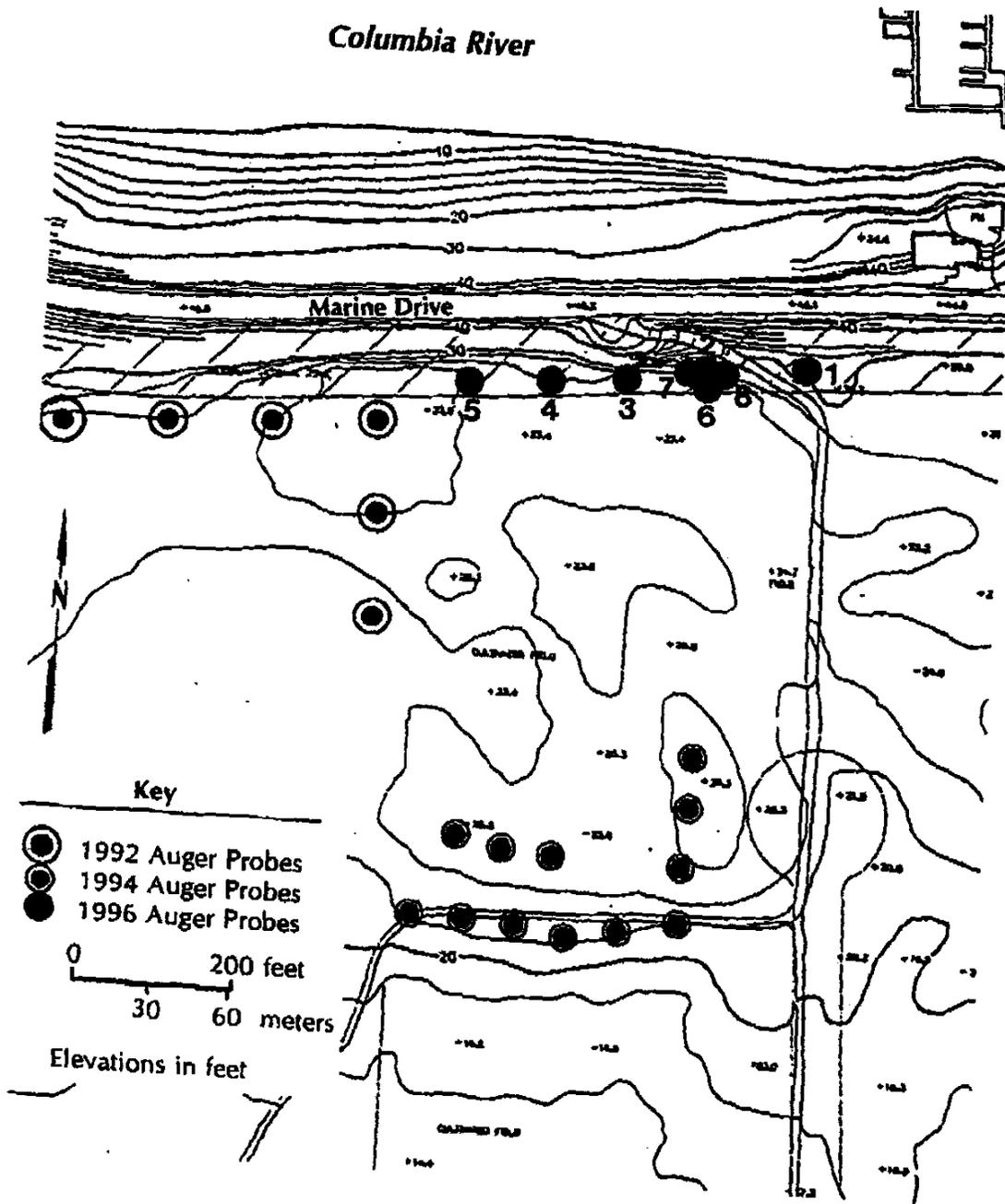


Figure 2. Location of the auger probes within the project area.

change future

Planning for the Generations to Come

Rick Michaelson, President
Portland Planning Commission
1120 S.W. 5th, Room 1002
Portland, OR 97204-1966

February 1, 1995

**RE: CULTURAL RESOURCES PROTECTION PLAN
FOR COLUMBIA SOUTH SHORE**

Dear Mr. Michaelson,

I would like to add my written comments to the testimony begun during the public hearing on January 9, 1995. My comments will address the contents of the Recommended Draft and the amendments requests presented by participants during the hearing.

I will begin by expressing my deep appreciation for the quality work produced by Bob Glascock, specifically, during this arduous process of almost three years. His unfailing dedication to not only getting the work done, but doing it with sensitivity and fairness is something the city should be most proud of. His willingness to take extensive personal time to learn the basics of cultural resource management and educate himself to the Native peoples of the area and their lifeways, speaks volumes to the character of this individual. As a professional planner for twenty five years, I can say without hesitation that it gave me the greatest pleasure of my career to work with a fellow planner who, under great pressure, was willing to step outside the conventional, monochromatic town-planning mainstream and bring to balance, through active listening and professional education, the needs and perspectives of all the project's participants.

I would also like to thank the members of the Advisory and Technical Committees for the fine work they have contributed to the efforts, with particular appreciation to those who, despite their own full schedules, stayed active in the process throughout the years in spite of its difficulty. The learning curve, at times, appeared to reach the stars, but for those who stayed the path, much was gained toward a better understanding of the true issues.

Comments on the Recommended Draft

I am generally in support of the Draft Plan. It demonstrates a better understanding of the planning methodologies for resource protection and a willingness to do so. There are two areas I would like to discuss: system and language. These areas dictate the potential effectiveness of the Plan and set the standards for future planning for cultural resource protection.

As I stated in my written testimony dated, April 25, 1995, the first step in the process of resource protection is the identification of the land forms that make up the area.

The land characteristics that existed at the time of Native inhabitants constitute the "System" for organization because of the direct relationship of cultural resources and cultural importance to the land types. This is a planning principle that states the system is the set of facts, rules, principles, etc. classified in an orderly form so as to show a logical plan linking the various parts. There are two sets in this system, which when naturally combined form an undeniable union set. They are the set of land forms including topography and vegetation and, the set of land-associated cultural resources including physical materials as well as identified areas of cultural, spiritual, and other sacred use. The limits of the system are defined by these sets, not by artificial designation such as individual property lines or by arbitrary designation such as acreage allocation and ground disturbance exemptions.

The language for defining the elements in the system must unite meanings from both the dominant culture and the Native culture into a comprehensive, respectful body of text. Two of the best examples of a lack of "shared" meaning are the words *artifact* and *sensitivity-area*. Artifact is strictly a scientific classification and does not reflect any cultural meaning for the materials or the people whose activities are related to the materials. Sensitivity area is acknowledged by the Native peoples to be a location having cultural importance to their history and lifeways. It is critical to acknowledge that the Plan is speaking about cultural protection of materials and lifeways of Native people, and so the language used must be appropriate to this context. In some instances it will require others to step outside their own cultural perspective or frame of reference to learn the true meaning of a word in its context to the subject. Given the legal and professional necessity for the City and the property owners to work with associated Tribe(s), people outside the American Indian culture may need to learn and appreciate differences in word values and meanings. This is not about being politically correct; it is about the need to learn a new language in order to function properly.

Comments on Amendment Requests During Testimony

My comments are ordered by amendment number.

1. Development of less than five acres. I also request removal of all references to the five-acre exclusion.
2. Term "artifact." I also request change to "cultural material."
3. Term "cultural material." I also request inclusion of various kinds of use "traces."
4. Sensitivity areas - text. I oppose the change to archaeological sites. Sensitivity area is the correct terminology for land areas having cultural importance to the Tribe(s).
5. Sensitivity area-map. I oppose removing properties from the area. The intent is to describe a land area having cultural importance to the Tribe(s). It is not a matter of artificial lines; it is about the system of organization.
6. Sensitivity areas. I oppose shrinking the areas for the same reason as above.
7. ESEE framework to present consequences. It is there, albeit difficult to take in, if outside the planning profession.

balance attempted by a comprehensive ESEE analysis.

9. ESEE -marketing. Include marketing in economic analysis section.

12. Program -term-"village." I also request the deletion of the term "yearround" from Section F.2.a.

13. Cultural/spiritual use areas. I request the addition of another type, "Cultural/spiritual use sites," defined as those sites which the Tribe(s) have identified as involving cultural, spiritual or other sacred uses. Also track changes through rest of Plan, including code language.

14. Confirmation testing - Cameron Warren (Three Oaks). I request clarification by the Tribe(s) as to the appropriateness of this removal of the requirement for additional testing.

15. Confirmation testing - Port of Portland. I request clarification by the Tribe(s) as to the appropriateness of this removal of the requirement for additional testing.

16. Program - Future discoveries. I also request amending code language to provide that archaeological sites discovered after this Plan is adopted are added to the *Cultural Resources Protection Plan*, including the City's cultural resources inventory.

17. Program-Transition areas. I oppose the reduction in size of these areas. The size now allocated is conservative at best to handle the ground disturbance activities resulting from heavy equipment crossing into the area during construction occurring close to the transition line.

18. Program - Tribal consultation. I support the request as offered by the Tribes.

19. Program - Resource recovery process. I support the request as offered by the Tribes.

20. Program - Appropriate tribe. I support the request offered by the Tribes.

21. Program - City expertise to implement Plan. I propose clear and instructive language be used when delineating what expertise will be expected and who will be responsible and accountable for inspection and compliance.

22. Program - capping over a resource. I request Tribe(s) to have final decision on appropriateness of methodology of capping and material used, uses allowed.

Thank you for allowing me the opportunity to comment on the Draft Plan and the changes proposed.

Sincerely,



Judith Basehore Alef



CITY OF
PORTLAND, OREGON
BUREAU OF PLANNING

Charlie Hales, Commissioner
David C. Knowles, Director
1120 S.W. 5th, Room 1002
Portland, Oregon 97204-1966
Telephone: (503) 823-7700
FAX (503) 823-7800

February 1, 1996

TO: Susan Feldman, Steve Gerber and Bob Haley
LUR 95-00537 IR and LUR 95-00594 SU ZC EN
FROM: Bob Glascock, Senior Planner
SUBJECT: Correction of Record on Cultural Resources

Recently, I reviewed case file LUR 95-00537 IR, and discovered some factual errors in the applicant's submittal. I believe the factual errors may have been a factor in responses from interested Oregon tribes and in subsequent conditions of approval applied by planning staff. I understand that the interim resource review was approved, accepted and recorded (9/15/95). I do not question the validity of the IR approval. I submit corrected information so that future land use decisions and related legislative projects, may rely on more accurate information.

The subject property is Tax Lot 173 of Section 24 1N 2E; Tax Lot 200 of Section 19 1N 3E; and Blocks 1 and 2, Columbia 205 Commercial Park. The interim resource review (shown on zoning maps with "sec" overlay) applies to the northerly portion of the subject property, including the area directly south of NE Marine Drive.

The entire subject property fits into the plan area of the legislative State Goal 5 Cultural Resources Project. The recommended draft of the *Cultural Resources Protection Plan for Columbia South Shore* calls for additional subsurface archaeological testing (augering) along certain portions of Mr. Warren's frontage of NE Marine Drive.

The purpose of the IR review is to protect significant cultural resources on an interim basis until permanent cultural resource protection measures are enacted. There are three approval criteria. Criterion 1 states that "Archaeological areas must be preserved for their historic, scientific, cultural value, and protected from vandalism or unauthorized entry." I take issue with the applicant's submittal for this approval criterion.

The applicant stated that Mr. Warren "has commissioned separate studies of the northerly portion of the site...", and that an archaeological consultant

recommends "... no further archaeological investigations are recommended for the project area." The applicant materials are inaccurate as follows:

1. Who commissioned archaeological studies. To date, the City and Mr. Warren have shared in testing responsibilities on the subject property. The City paid for 53 probes on the northern project area (the area subject to IR review and proposed for additional augers ("confirmation testing") through the legislative project. Mr. Warren paid for 44 probes on the southern project area. The City did not test the southern project area because the prior owner declined to participate in the City's archaeological investigation.
2. Archaeological recommendations for Marine Drive. The applicant's IR submittal misdirects a written statement from Heritage Research Associates (HRA), an archaeological consultant that tested both northern and southern project areas. The IR submittal omits a key statement from HRA relating to the northern project area and uses, instead, a statement from HRA relating to the southern project area. The impression this leaves is that no further testing is needed, instead of HRA's statement that "... there are still portions of the property (though not many) that have not been probed, particularly along the slough and Marine Drive." HRA states that the City may recommend further testing.

I have reviewed the situation with HRA's Kathryn Toepel and Robert Musil, the two archaeologists quoted in the applicant's submittal. They stand by the HRA report of February 21, 1995, which states that the northern project area may warrant further testing. They never stated, nor do they now state, that no further testing is needed in the northern project area. Further, they stand by their recommendation for the plan area that high probability areas receive additional auger testing. One of those high probability areas ("cultural sensitivity areas") is the area directly south of Marine Drive. The legislative proposal identifies this cultural sensitivity area as the River's Edge.

cc: Michael Holstun, Bob Clay

THE CONFEDERATED TRIBES
OF THE GRAND RONDE COMMUNITY
OF OREGON



February 1, 1996

TRIBAL COUNCIL

Rick Michaelson, President
Portland Planning Commission
1120 S.W. Fifth Ave., Room 1002
Portland, OR 97204

RE: Supplemental Comments on the Columbia South Shore Plan

Dear President and Planning Commission Members:

The Grand Ronde Tribe wishes to thank the Commission for this opportunity to submit comments on the proposed cultural resources plan. The Tribe wishes to supplement the record with further information from the Tribal Vice-Chairperson, Kathryn Harrison. I regret that I was unable to attend the January 9, 1996, hearing. A respected elder of the Tribe had passed away, and I was paying my respects at the funeral. I have since had the opportunity to discuss this issue with other Tribal members, and to review the written and oral testimony presented at the January 9 hearing. I respectfully submit the following remarks on behalf of the Grand Ronde Tribe.

First, the Tribe expresses its strong dismay over the sudden opposition by the developer and landowner representatives to critical aspects of the draft plan. The Tribes had been very cooperative with the developers, landowners and Planning Bureau staff, and thought that all parties had worked long and hard to develop a plan that tried to balance all the interests in the Columbia South Shore area. The draft plan itself is a hard compromise; it is far from what we would have desired, but it is an honest balancing of interests.

UMPQUA
MOLALLA
ROGUE RIVER
KALAPUYA
CHASTA

9615 GRAND RONDE RD.
GRAND RONDE, OREGON 97347
(503) 879-2301

THE CONFEDERATED TRIBES
OF THE GRAND RONDE COMMUNITY
OF OREGON

There is much in this draft plan that is painful to Tribal elders. It covers only a third of the property in the South Shore Area. It is not as comprehensive in its protection as Tribal people would desire. It does permit activities that may harm the cultural heritage of the Tribe. The Tribe has worked through these issues, both externally and internally, and accepted that the situation was imperfect. The Tribe acknowledged that the best route, overall, was to work for a compromise. We support the draft plan as an honest and carefully considered middle ground. And through this process, it was represented to the Tribe that the developers and landowners were on board with the principles of the draft plan.

Now, at the eleventh hour, the developers and landowners have come before the Commission and are attacking the general principles which lie at the heart of the draft plan, in particular: the designation of sensitivity areas and the use of transition zones around the discovered cultural materials.

We strongly urge the Commission to recommend the draft plan with these components intact. Without these fundamental protections, all the work that has been put into this draft plan will have been for nothing. Without these fundamental protections, the Tribe would be forced to withdraw its support of the plan. I address the specifics below.

1. Sensitivity Areas are Critical to the Plan and are Consistent with Goal 5

Many parties have stated through this process that "cultural resources" do not fit easily into the Goal 5 matrix. The reason is that inventorying resources that are often underground and out of sight is difficult. Yet Goal 5 does recognize the importance of protecting such resources, and the process contains the necessary flexibility to develop a plan such as the draft put together by planning bureau staff.

The approach in the draft plan is a sound one, and is based not only on archaeological science but also the wisdom and history of the tribal peoples who have lived in and used this area since time immemorial. The concept of "sensitivity areas" is based on an examination of the topography, vegetation and configuration of the landscape in order to determine which areas have the highest

THE CONFEDERATED TRIBES
OF THE GRAND RONDE COMMUNITY
OF OREGON

likelihood of containing cultural materials. This perspective grows out of the knowledge that the tribal peoples lived among and used these areas in a certain and specific way, which was intimately related to these landform features. It is this knowledge of how an area was used by Tribal ancestors that makes these areas so important.

As Tribal elders explain it, these whole areas are important cultural resources. It was the whole areas that were used by the Tribal people for hunting, fishing, gathering, raising families, living and dying. Because of these interrelated uses, these areas have a lasting historical, cultural and sacred value. There are many tribal people who still trace their history to this area, for whom there is a critical cultural connection and cultural continuity flowing from the historical use of these "sensitivity" areas. Tribal elders express the concern that the Tribe must look into the future for its grandchildren and great-grandchildren, and in order to do so, we must preserve some trace of how their ancestors once used the land, water and vegetation in these areas as an interrelated whole. What Tribal elders see when they contemplate these sensitivity areas are the last few remaining vestiges of a spiritual and sustainable way of life that had lasted tens of thousands of years.

The whole of each sensitivity area, from the Tribal perspective, is the cultural resource that Goal 5 seeks to protect. The draft plan strikes a hard compromise regarding these areas: while it designates these sensitivity areas as the cultural resource and requires a heightened scrutiny and care in these areas, it only requires the protection of cultural materials -- actual archaeological and cultural sites -- in those areas. These materials provide critical insight into specific uses of these areas, and their preservation is critical to provide continuity for an older way of life into the present. But it must be remembered, that it is the complete way of life that ultimately gives meaning to the area as a cultural resource, not simply the material remains. The Historic Lakes Complex, the River's Edge, and the Columbia Slough Complex are the cultural resources; preservation of the individual sites and materials within these areas is the compromise method of preserving some degree of integrity for the overall resource.

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The likelihood of finding such materials in these areas arises from the fact that, as functional complexes, these areas themselves are the resource, and are identified as such in the draft plan. The middle ground reached by the plan is not to preserve the whole of these sensitivity areas intact (as the Tribal people would prefer), but to preserve only certain, specified elements within these areas, and permit development of the rest.

Some of the comments by the landowner and development community suggest that the "sensitivity areas" designation is not consistent with Goal 5 and its implementing regulations. This interpretation of Goal 5 is impermissibly narrow. Goal 5 and its regulations acknowledge as critical resources "cultural areas," defined as "areas characterized by evidence of an ethnic, religious or social group with distinctive traits." The "evidence" is the cultural materials that require protection under the draft plan, but the resource is the entire area. These resource sites -- the sensitivity areas -- are mapped with the precision necessary to meet Goal 5. The plan squarely fits under Goal 5 by inventorying the areas as the resource, and balancing competing interests by requiring protection only of the materials (the actual "sites" themselves). The integrity of these cultural areas is protected by requiring certain protection measures for material deposits within the areas (which recognizes the interconnected functional values of the sites), but in a way that still permits development and sale of these properties.

Finally, the sensitivity area approach provides the certainty and stability that the developer and landowner community desires. While their comments attacking the sensitivity areas refer to existing protections under state and federal law for cultural resources, these protections will kick in only once certain artifacts are uncovered and disturbed during the process of development. Such protection, however, is incomplete, as it often involves partial destruction of a resource before the protection is effected. Further, it requires the halting of development activities mid-project, adding cost and uncertainty to the project. The sensitivity area approach, which seeks to front-load the critical information into the process, in fact provides protection against such costs and uncertainty.

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For these reasons, the Grand Ronde Tribe urges the Planning Commission to recommend the draft plan with the sensitivity areas as is.

2. The Transition Zones are Essential to the Protection of the Resources

The transition zones around the cultural materials are necessary, and these figures (100 feet for burials and villages, 50 feet for seasonal sites and activity areas) should be viewed as the minimum necessary to protect these resources. Archaeology is not a precise science, particularly in determining the boundaries of subsurface resources. The idea of a transition zone is to provide a buffer for protection of these discovered sites, and to increase the care used around these sites. The size of these zones is relatively small, especially compared to the overall size of the sensitivity areas.

Further, the construction and other development activities themselves are far from precise. The use of earth moving equipment and other heavy machinery increases significantly the potential for disturbance and destruction of cultural sites. The transition zones provide the necessary protection for these sites from the unpredictable impact of such activities.

The transition zones are critical for the protection of the integrity of the cultural materials in this area. Again, the Tribe notes that the plan is a compromise, a middle-ground. The transition zones do not provide the full protection desired by Tribal people. But they do provide some minimal protections against the uncertainty of both archaeological prediction and development activities.

The Tribe strongly supports the concept of transition zones, and urges the Commission to keep these zones intact as part of the recommended plan.

3. Need for a Fourth Classification for Sites: Traditional, Sacred or Cultural Use Sites

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In our January 9, 1996, written testimony, the Tribe requested the Commission and Planning Bureau staff to consider adding the category of "cultural/spiritual use sites" to the three classifications already in the draft plan under Code Section 33.515.262(F)(2). We would like to add some specific information (which was shared by some of the Tribal elders) about what kind of sites we were speaking about and how they could be identified.

Some of the sites that could be identified in this category would include vision quest sites, sites for other sacred ceremonies, and sweat lodge sites. Vision quest sites are identified by rock cairns, the remainders of offerings made, and trough-like depressions made by the participants, who would spend the night lying in such depressions. Other sacred ceremonial sites would be recognized by remains of offerings, remains of broken pipes, regalia, utensils, tools. The sweat lodge sites would be indicated by remains of the lodges themselves, and scorched or fire-cracked rocks used in the lodge.

These sacred and ceremonial sites are an integral part of the cultural connection and continuity between the living members of the Grand Ronde Tribe and their ancestors who used this area. It is therefore critical to recognize and protect these resources at the same level as the more traditional "archaeological" artifacts (villages, seasonal areas and burials).

We would suggest calling this category "Traditional, Sacred or Cultural Use Sites."

4. Conclusion

In conclusion, the Tribe would once again like to iterate the importance of the draft plan as a compromise developed out of much hard work. The draft plan provides some level of protection for the Tribe's cultural heritage, even if that protection is far from perfect. The Tribal elders emphasize that all the land in the Columbia South Shore area is sacred: it is the land where their ancestors hunted, fished, raised their families, lived and died. Not much of this heritage remains: the construction of the airport, the construction of I-205, the existing developments and infrastructure in the Columbia South Shore have already destroyed much of what had remained on lands from which the United States

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forcibly removed the Grand Ronde people. The draft plan is a belated, but nonetheless worthy effort to protect some vestige of the heritage that connects the Grand Ronde people with their past and points their way into the future.

The protections in the draft plan are necessary because the perspective of developers and current landowners do not take into account the value of these resources. This commercial perspective converts the value of this land into dollars, a price per square foot. This is not the Tribal perspective. For our people, this land can never be reduced to a dollar value. There is no price that can be placed upon our heritage, our culture, our spirituality. This heritage belongs to all of us, and cannot be owned or purchased. But it can be destroyed, and much of it already has.

For far too long developers and landowners have used the language of the dollar and of commercial valuation to reduce tribal input and obscure the need to protect lands that are sacred to tribal people. It is the tribes that are always put on the defensive, always asked to give, to be "reasonable," to pull back. The tribes have already given enough. All this land once belonged to our people. All this land was our homeland. Everything on the land was connected to our way of life, a way of life that recognized the interconnectedness of all things: the fish, the animals, the plants, the rocks, the water, and the people. All the land was a "sensitivity area." If you look at what we have lost already, what we have already been asked to give up because of dollar valuation, you can see that even this draft plan, this compromise, requires the tribes to give far more than they receive.

The tribes have already given enough. It is time for the developers and landowners to be "reasonable," it is time for the landowners and developers to make some small accommodation. It is time, in short, to step up and accept the legal and moral responsibility embodied in this plan.

We urge that the Commission accept the draft plan, with its sensitivity areas, transition zones, and protection of cultural/sacred sites.

THE CONFEDERATED TRIBES
OF THE GRAND RONDE COMMUNITY
OF OREGON

Thank you for your attention and your time.

Respectfully submitted,

Kathryn Harrison

Kathryn Harrison, Vice-Chair
The Confederated Tribes of the
Grand Ronde Community of Oregon

c: Bob Glascock, Portland Planning Bureau

Cascade Geographic Society

P.O. Box 398
Rhododendron, Oregon 97049
(503) 622-4798



COMMENTS TO THE PORTLAND PLANNING COMMISSION PERTAINING TO THE "CULTURAL RESOURCES PROTECTION PLAN FOR THE COLUMBIA SOUTH SHORE"

By Michael P. Jones

(February 1st, 1998)

We appreciate the efforts of the Portland Bureau of Planning in the study of the protection of the cultural resources of the **Columbia South Shore** and the **Smith-Bybee Lakes** area. We also commend the Portland Planning Commission for bringing this issue into a public forum to discuss the merits of such protection for such a historic area.

Approximately three years ago we assisted in bringing the issues of the destruction of cultural resources in the vicinity of **Columbia South Shore** and the **Smith-Bybee Lakes** area by the industrialization of natural areas and farm land to the attention of the City. At that particular time, the importance of these areas was met with skepticism on the part of the bureaucracy, if not doubt.

The publication of the "recommended draft" document, entitled Cultural Resources Protection Plan For Columbia South Shore, illustrates just how important the lands along the Columbia River in this vicinity were to indigenous people. No longer can there be skepticism or doubt concerning what resources once were there or still remains. And, with the acceptance of this knowledge, it is only proper and respectful to attempt to correct some serious oversights that have not be adequately addressed -- at least up to this time -- through the planning process.

Post-It® Fax Note	7671	Date	2-2	# of pages	3
To	ROBERT GYRASPOCK	From	MICHAEL JONES		
Co./Dept.		Co.			
Phone #		Phone #	503 622-4798		

ucate



Promote

(page 2)

The **Columbia South Shore** and the **Smith-Bybee Lakes** areas are recognized in the City of Portland's zoning code as the **Columbia South Shore Plan District**. It is bounded on the west by N.E. 82nd Avenue, the east by N.E. 185th Avenue, the north by the Columbia River, and the south by N.E. Sandy Boulevard. Historically, this acreage is a cultural resource area as defined by Oregon's **Statewide Planning Goal 5**:

"Cultural area refers to an area characterized by evidence of an ethnic, religious or social group with distinctive traits, beliefs and social forms."

At this late date, any protection for the cultural resources of the **Columbia South Shore** and the **Smith-Bybee Lakes** areas by the City of Portland, private industry and individual property owners, or by any entity is welcomed. It is critical that protection measures are implemented immediately because the industrialization that has been occurring the past few years are adversely impacting critical indigenous sites that are important not only to American Indians, but to the heritage of everyone in the Northwest. Unfortunately, the protection measures are years too late. The losses have been great, and the resources cannot be replaced.

Today, when we talk about reasonable mitigation measures in the **Columbia South Shore** and the **Smith-Bybee Lakes** areas, we must remember that our efforts should focus on both the immediate and long-term benefits. This is why we are recommending the following two mitigation components in respect to cultural resources:

1. Protect the remaining traditional cultural sites left in the **Columbia South Shore** and the **Smith-Bybee Lakes** areas.
2. Provide access to traditional food-gathering areas (such as Wapato sites) in the **Columbia South Shore** and the **Smith-Bybee Lakes** areas to indigenous people.

To accomplish both of these mitigation measures for the **Columbia South Shore** and the **Smith-Bybee Lakes** areas, land not owned by government entities may have to be purchased. This should be accomplished immediately and should be acquired at current market value. In addition, to be fair, all costs incurred by the property owner up to this point -- for such things as permits -- should be covered in the purchase price.

Finally, the mitigation of the **Columbia South Shore** and the **Smith-Bybee Lakes** areas would not be complete, nor fair, if restoration of cultural/natural resources is not part of the package. Clearly, the **Cultural Resources Protection Plan For Columbia South Shore** leaves little if no doubt to the relationship of natural resources to cultural resources. Thus,

(page 3)

we've added this third mitigation measure:

3. To restore traditional food-gathering areas (such as Wapato sites) in the **Columbia South Shore** and the **Smith-Bybee Lakes** areas.

The restoration of traditional food-gathering sites in the **Columbia South Shore** and the **Smith-Bybee Lakes** areas should occur, if possible, with the assistance of indigenous people who utilized the affected land. In addition, government entities could also help, along with private organizations.

In respect to restoring Wapato sites, the Cascade Geographic Society will be soon undertaking some experimentation and develop a working model to accomplish this. Known as "Project Wapato", a site has been selected along the Columbia River on government land, and the purpose of this endeavor is to restore the habitat of this food source, and develop a system of replanting when necessary.

The Cascade Geographic Society feels confident that a system to restore Wapato sites can be developed. And, when it is, the **Columbia South Shore** and the **Smith-Bybee Lakes** areas would have future potential habitat sites for this food source. The Cascade Geographic Society would love to work with the City of Portland.

Respectfully Submitted,

Michael P. Jones
Cultural & Natural Resource Consultant

RECEIVED
PLANNING COMMISSION
JAN 29 1996

3640 NE 141st
Portland, Oregon 97230

January 28, 1996

Mr. Rick Michaelson
President
Portland Planning Commission
1120 SW 5th
Portland, Oregon 97204-1966

Dear Mr. Michaelson,

I am a member of the Cultural Resources Advisory Committee (CRAC) selected to represent the East Portland District Coalition. I am providing these comments on the *Cultural Resources Protection Plan for Columbia South Shore* (the Plan) to you and the other Planning Commission members. My comments relate to the December 1995 Recommended Draft and the Intermediate Revised Draft of code language provided by Mr. Bob Glascock on January 23, 1996.

Being the representative of the public-at-large, I have no direct personal connection with the cultural resources in the Columbia South Shore. I do not have any business interests and have no direct financial interests at stake. Not being a member of the affected tribes, I also cannot represent their interests.

My involvement with activities in the Columbia South Shore has extended over several years, however, as an active participant in the development of the Natural Resources Protection Plan for the area. One of the clear gaps in that plan was the lack of protection of Native American cultural resources and it was that gap, in part, that set the process of developing a cultural resources protection plan in motion. The intent of the *Cultural Resources Protection Plan* is to meet the state's Goal 5 planning requirements. I believe that the Plan meets those requirements and is an important precedent for future planning in Portland and throughout the state.

As the public representative on the CRAC, I have seen my role as speaking on behalf of the general public's interest. In that capacity, I have hoped to bring a broader set of public values into the development of the Plan. I believe that there are some benefits to the public of allowing development in the Columbia South Shore area, but that development should not be at undue expense to broader public goods including the environment and cultural resources.

Mr. Michaelson
p. 2

At numerous CRAC meetings, I have heard tribal representatives articulate the significant cultural value to them of the area as a whole. This area was used for many purposes by Native Americans in the pre-contact period. It was a key site for ceremonies, trade, transportation, settlements, hunting and collection of natural vegetation. In many ways, the entire area is sacred and has attached to it the concept of "place," making it very difficult to assign specific value to a few selected "sites" that can still be identified.

Because of my heritage and experiences, it has been easier to understand the perspective of developers, who have financial gains and losses at stake, than fully comprehend the perspective of Native Americans. Because there are so few things that are considered sacred in modern American culture, I have found it hard to put the tribal view into a context to which most of the public can relate. The strong feelings that American flag burnings engender, however, suggest that there are some things that do not have an economic value but do arouse strong feelings related to cultural ethics and values.

It is my belief that one American value is to respect the heritage and views of other people and cultures. I believe that the process used to develop the Plan exemplified this value. Tribal representatives and development representatives were able to express their views at meetings of the CRAC. Bob Glascock and his colleagues in the Planning Bureau should be commended for doing an excellent job of allowing the various interests to present their views and reflecting them in the Plan.

Developing the Plan was a difficult task because the Goal 5 process does not fit well with the characteristics of cultural resources. Most other resources are directly observable. Cultural resources, however, may not be encountered until site excavation begins during development. Cultural resources also are difficult to classify because they reflect concepts such as "place," which do not lend themselves to analysis and scientific study. The intent of the Plan was to both protect cultural resources and provide clear standards and increased certainty to developers. Within the constraints of the process, I think that the Plan has succeeded.

Overall, I support the Plan with the January 23, 1996, draft code language presented to the CRAC by Mr. Glascock. It balances the interests expressed by the members of the CRAC. It seems to me to acknowledge and take into account the views of the Native Americans who traditionally occupied the Columbia South Shore. It gives certainty to the development community and minimizes the impacts of protecting cultural resources. The January 23rd draft code language makes two crucial improvements to the Plan. First, it eliminates language exempting properties of less than 5 acres from coverage. Second, it more clearly specifies that tribal representatives will be consulted at key decision points. This ensures that the heritage

Mr. Michaelson

p. 3

and views of Native Americans will be more fully respected during development activities.

Before closing, I would like to respond to two comments made at the Commission's January 9th hearing on the Plan.

A couple of speakers referred to the "burden" that was placed on their property by designating it as being included in the specified sensitivity areas. I think that this view is misplaced and results from a misunderstanding of what the Plan does. One of the major goals of developing the Plan was to give property owners more certainty about the likelihood of encountering cultural resources during development. The City invested in an archaeological study to develop a cultural resources inventory. The resource mapping was able to identify a few specific sites where resources have been confirmed and indicate areas where the likelihood of encountering resources is higher than other areas. I believe the resulting maps can be used by property owners to give them a better idea of the likelihood of discovering resources during development and allow them to take necessary steps in advance. This can reduce the eventual development costs if resources are discovered unexpectedly. The maps should be viewed as a tool for providing information rather than a regulation placing a burden on property owners.

One other comment at the hearing suggested that the complete economic costs to property owners and developers were not included in the ESEE analysis and that property owner estimates should have been included. I would like to point out that if such cost impacts are analyzed more fully in the future, the economic value to the public of protecting cultural resources should be estimated also. Willingness-to-pay and contingent value methods have been developed that could be used to put a dollar value on the public benefits of preserving these, and other, resources. A comprehensive study should include an estimate of the monetary value of these public benefits as well.

I recommend Planning Commission approval of the Plan with the revised code language and commend the City for conducting an open and equitable process.

Sincerely,



Allen D. Lee
CRAC Member

cc: Bob Glascock
EPDC

100-100000-100000
100-100000-100000
100-100000-100000

January 26, 1996
1616 SW Elizabeth St.
Portland, Oregon
97201

Robert Glasscock
City of Portland
Bureau of Planning
1120 SW 5th
Portland, Oregon
97204

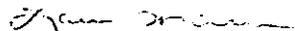
Dear Bob:

You will find enclosed my written comments in support of the City's adoption of the ordinance for protecting cultural resources in the South Shore area.

The City has used a thoughtful approach to the issues with broad public participation and it has been a pleasure to take part in the work of the Cultural Resources Technical Advisory Committee over the past several years.

Now, after all of this effort, the time has come for implementation. I am confident the ordinance represents the best interests of the entire community while carrying out the legal mandate to protect cultural resources. The ordinance is essential to safeguard this legacy.

Sincerely,



Lawrence Watters

INTRODUCTION

These comments are submitted to the Planning Commission and the City Council in support of the proposed ordinance for protecting the cultural resources of the South Shore area of Portland.

While I had the opportunity to serve as a member of the Technical Advisory Committee that assisted in the preparation of the ordinance over the past two and a half years, these comments are my own. I believe the Committee shares in them but this is simply my analysis of why adoption of the ordinance is essential.

BACKGROUND

The work with the Technical Advisory Committee arose out of an early meeting convened by Mayor Katz and Commissioner Hales to address this subject. Through discussion with two colleagues, Kristine Olson and Louie Pitt, the Committee was appointed.

My perspective is based primarily on the experience acquired as legal counsel for the Columbia River Gorge Commission and teaching in the environmental law program at Northwestern School of Law, Lewis and Clark College, where Native American issues are a central theme in several courses and in my focus.

In the Gorge, we work closely with four Indian tribes and pursuant to federal law, actively protect cultural resources that date from time immemorial. In the last several years, we have dealt with cultural resource issues through an emphasis on clear standards and cooperation. We have implemented an innovative approach to protecting this heritage that encourages cooperation, backing it up with effective enforcement.

OBJECTIVES

The Technical Advisory Committee was charged with assisting the Cultural Resources Advisory Committee and providing information to the staff of the City.

PROCESS AND PUBLIC PARTICIPATION

The Technical Advisory Committee was broad based and included representation from business, government, academia, citizen groups and the tribes. The Committee convened on a regular basis and set aside several hours for virtually every meeting. Each session was designed by Bob Glasscock to focus on a particular problem or issue. Quite often, special guests met with the Committee to create a better understanding of the subject. With a high level of cooperation and genuine interest on the part of the participants, the discussions were thoughtful.

ARCHAEOLOGICAL ELEMENT

For archaeological expertise, the Committee was fortunate to have several of its own members, special guests and the analysis of the consultants who conducted research and testing in the South Shore area.

The range of data and depth of knowledge was extensive. While the subject cannot be dealt with by science alone, this element was vital.

LAND USE PLANNING ELEMENT

For the land use planning element, the staff of the City provided sophisticated analysis of the issues and drew on other resources wherever deemed useful. In addition, members of the Committee brought their own expertise and perspective.

LEGAL ELEMENT

For legal analysis, the Committee relied on several participants as well as relevant staff where necessary (City Attorney, LCDC, state Historic Preservation Office ect.)

Equally important, the field of Indian law, an area of specialization in the law, was addressed by members of the Committee with direct participation by tribal members.

NATIVE AMERICAN ELEMENT

Through membership on the Committee and consultation with the tribes, the Committee had the benefit of Native American perspectives. This included the viewpoint of several different tribes and their experience as well as the results of other plans for protecting cultural resorces, including the Columbia River Gorge.

RESULT

The result is an ordinance that builds on cooperation, provides guidance to decision-makers and protects cultural resources while allowing the reasonable use of property. Moreover, the process and standards provided in the ordinance create a positive approach to protecting resources that is the best alternative to conflict - conflict contrary to the public interest. The ordinance provides a well-crafted response to a very important aspect of our legacy. All citizens share in the need to protect and enhance this legacy.

RECOMMENDATION

I urge the Planning Commission to approve the ordinance and forward it to the City Council for adoption. The ordinance represents a significant investment in the heritage of the region and advances the protection of cultural resources while respecting the rights and interests of citizens.

The energy, commitment and knowledge resulting in the ordinance reveal the vision of the City in safeguarding the broad interests at stake through a cooperative approach. This is a model for the future and an essential change from the tragic pattern in this country that resulted in the destruction of cultural resources and the heritage of the tribes.

NOTE OF APPRECIATION

It is appropriate to commend the Mayor and the members of the City Council, as well as the staff of all the participating agencies, who have supported a cooperative, broad-based approach to the South Shore. In addition, Bob Glasscock deserves a special note of appreciation. Without his patience, professionalism and tireless efforts, we would not be where we are.

CONCLUSION

Thank you very much for your consideration of these comments as well as the opportunity to work with a very fine group of people who contributed to this ordinance.

In adopting the ordinance, the City embraces cooperation and clarity in its standards and approach. This is the only reasonable way to proceed. The alternative, conflict and litigation, will simply frustrate the goals of sound public policy, creating an expensive, unnecessary stalemate.

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PLANNING BUREAU
JAN 21 1996



Native American Program

OREGON LEGAL SERVICES CORPORATION

917 SW Oak, Suite 410
Portland, Oregon 97205-2807

tel. 503-223-9483 Oregon toll free 1-800-546-0534 fax 503-294-1429

January 26, 1996

Bob Glascock, Portland Planning Bureau
1120 S.W. Fifth
Portland, OR 97204

RE: Comments on Intermediate Draft
Comments on Testimony Tally

Dear Bob:

I have reviewed the intermediate draft, and offer these comments on behalf of the Grand Ronde Tribe. We appreciate the work you have put into this project so far. The Tribe does have some concerns with the changes embodied in the intermediate draft, and request that you address these concerns as set out below.

Intermediate Draft

33.515.262 Cultural Resource Protection

Parts A and B have dropped their prior references to cultural sensitivity areas. This deletion creates serious concern for the Tribe. It appears that the concept of the sensitivity areas will still apply as in the initial draft, but we are concerned with this deletion in this critical overview section. As we discussed at the meeting today, the language in the initial draft provided clarity as to the importance of the sensitivity areas and also provided clarity to developers who are going through the process.

Part D, subpart 2, a, is not consistent with Oregon law. ORS 97.750 states that the Commission on Indian Services (CIS), not the SHPO, is the state agency that is responsible for identifying the "appropriate Indian tribes" in these situations. The section should be amended. In addition, the SHPO procedures for consultation with Indian tribes are not the appropriate vehicle. The Tribal procedure for consultation should be the required standard, or a standard developed specifically for these code provisions.

Part D, subpart 2, b, needs to incorporate the appropriate tribes into the process of fulfilling the requirements of this section. The way this section is currently worded, it keeps the tribes out

of the process.

Part D, Subpart 4, would appear to create a disincentive for applicants to report information regarding the existence of cultural resources. The section ought to be reworded to require applicant to affirm and demonstrate that there is no resource requiring protection on the property.

Part D, subpart 5, still does not incorporate the provisions necessary for the implementation of tribal consultation. The requirement of tribal consultation should be included in the overview paragraph in the following sentence:

*** * * Confirmation testing, consisting of subsurface auger probes and consultation with the appropriate Indian tribes, must meet all the standards of this paragraph.**

We would also request adding a sentence to the end of **subsection b** that reads as follows:

All confirmation testing should be done in consultation with the appropriate Indian tribes.

Part E. The overview paragraph should require that classification of a site be done in consultation with the appropriate Indian tribes.

Part E, subpart 4. The previous draft of the plan had seasonal campsites and activity areas listed as one resource site. We had requested, and again request a new fourth classification: **"Traditional, sacred or cultural sites."**

Some of the sites that could be identified in this category would include vision quest sites, sites for other sacred ceremonies, and sweat lodge sites. Vision quest sites are identified by rock cairns, the remainders of offerings made, and trough-like depressions made by the participants, who would spend the night lying in such depressions. Other sacred ceremonial sites would be recognized by remains of offerings, remains of broken pipes, regalia, utensils, tools. The sweat lodge sites would be indicated by remains of the lodges themselves, and scorched or fire-cracked rocks used in the lodge. These sacred and ceremonial sites are an integral part of the cultural connection and continuity between the living members of the Grand Ronde Tribe and their ancestors who used this area. It is therefore critical to recognize and protect these resources at the same level as the more traditional "archaeological" artifacts (villages, seasonal areas and burials).

Part E, subpart 5, is confusing and doesn't seem to add to the protections of this plan. We would suggest that it be deleted.

Part F, subpart 1. The Tribe strongly urges keeping the five foot

buffers as part of the definition of a cultural resource.

Part F, subpart 2. The Tribe feels that the 100 foot and 50 foot transition areas are absolute minimums, and should not be reduced. The Tribe would like the new classification, "Traditional, Sacred or Cultural sites," protected with a 100 foot transition area.

Part G, subpart 5, c, (2). This section requires consultation with Indian tribes, but, as noted above, it is the Commission on Indian Services that maintains the list of appropriate tribes for such consultation, not the SHPO. This section should be revised accordingly.

Part G, subpart 5, c, (3), states that an applicant can develop an MOU with "at least one appropriate Oregon tribe." This section should be clarified to read that if there is more than one tribe with an interest in a cultural resource, the MOU must involve every interested tribe. Because of the history of the tribes in this area, more than one tribe may have an interest in a cultural site. The current language is inadequate to address this clearly and should be revised.

Part G, subpart 6, is inappropriately numbered "3." This section should be clarified to state that archaeological permits require both SHPO and tribal approval. ORS 390.235(c).

Part H, subpart 1, b, (3), requires the applicant to do the overlays for cultural resources. This approach raises confidentiality concerns, and we would request it be revised to require that such overlays be done by the City.

Part H, subpart 2, d, should be revised to include the appropriate tribes in determining the appropriate archaeologists.

Testimony Tally

I have also had the opportunity to review the testimony tally that you handed out at the C.R.A.C. meeting today. As we discussed, you were going to reference those proposed amendments to which the Grand Ronde Tribe had voiced its opposition. Here is a list of the amendment proposals that Grand Ronde opposes (in addition to the ones already noted):

5 and 6 (request shrinking sensitivity areas);

8 (requests that more weight be given to economic analysis);

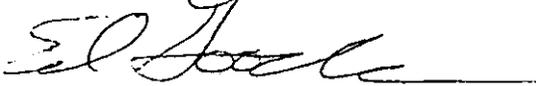
14 and 15 (requests removal testing requirement on certain properties; however, if adequate confirmation testing has been done to determine an absence of cultural resources, the Tribe will not oppose);

17 (requests reduction in the size of transition areas).

The Planning Commission will be receiving supplemental testimony from Kathryn Harrison, in which the Vice-Chair explains in detail the Tribe's reasons for opposition to these points.

Thank you for the opportunity to submit these comments.

Very Truly Yours,



Ed Goodman
Of Attorneys for
The Grand Ronde Tribe

c: Michael Mason
Kathryn Harrison
Louie Pitt

PCV



CITY OF
PORTLAND, OREGON
BUREAU OF BUILDINGS

1120 S.W. 5th Avenue
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Mailing Address: P.O. Box 8120
Portland, Oregon 97207-8120
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January 18, 1996

TO: Bob Glascock
Bureau of Planning

FROM: Kermit Robinson *KCR*
Code Development Specialist

SUBJECT: Cultural Resources:
Comments/suggestions on In-House Revised Draft of January 8th

Sec. 33.515.262 E.2

Change as follows:

- 2. Continued maintenance of existing lawns and landscape ~~perimeters~~ areas, including the installation of new irrigation and drainage facilities and new erosion control features.

Reason: Perimeter is a misleading term and may be construed by future staff or others to only mean the perimeter of the property. Any existing landscape area should be exempt under this provision.

Sec. F.1 - Last sentence

Change as follows:

This section ~~selectively~~ requires the applicants to fill gaps in archaeological testing.

Reason: This word implies inconsistent, unequal treatment under the code.

2KG Inc.

General Contractors P.O. Box 42565 Portland OR 97242

667-5537
fax 661-7063

January 16, 1996

Mr. Robert H. Glascock, AICP
Room 1002
1120 S.W. Fifth Ave.
Portland, OR 97204-1966

Re: Cultural Resources Protection Plan

Dear Mr. Glascock,

I would like to add to the testimony presented January 9, 1996 regarding the draft Cultural Resources Protection Plan.

The two central issues seem to be protecting significant archaeological artifacts found or to be found in the Columbia South Shore District while allowing development of the area as an industrial zone. The key element in removing conflict between these objectives is discovery of the location of items of cultural significance.

A substantial amount of archaeological field survey work has already been done. Certain parcels have been identified as containing significant artifacts. Others yielded no positive results. Other parcels remain to be surveyed. I suggest the following guidelines:

1. Require field survey by a qualified archaeologist for all sites applying for development permits.
2. For those sites yielding no positive indication of cultural artifacts, allow removal from any further compliance requirements including removal from any overlay zone boundaries.
3. Provide for the creation of a transferable lot defining the area containing cultural resources.
4. For those sites yielding positive indications of cultural artifacts, require further archaeological survey work designed to set boundaries for a restricted use or mitigation area.
5. Once boundaries are identified, remove the balance of the site from any further constraints.
6. Do not require transition zones. These zones serve no purpose once the field survey work has been done.
7. Within the boundaries of an area containing cultural artifacts, require either managed removal of the artifacts or preservation of the area.
8. Provide the financial resources necessary to do any mitigation work or to purchase an area to be preserved.
9. Consider the possibility that no cultural overlay zone boundaries be created. By broadly requiring investigation, the entire undeveloped Columbia South Shore would eventually be examined and only those discrete sites deserving protection would be listed. Creation of stigma on properties not containing cultural resources could be avoided. Public divulgence of location of artifacts could also be avoided.

Development becomes difficult when no identifiable path through the process is outlined at the beginning of the process. Leaving discovery of artifacts to random exposure by a bulldozer operator during construction isn't an effective way to protect resources. By defining a discovery process, the needs of both sets of stakeholders can be met.

The financial burden of mitigation or preservation should fall to the public. Public resources are being protected. Land owners and developers would be absorbing the burden of the discovery process in terms of both time and expense. As a result of the field survey work already done, it is now known that there are few sites with significant cultural resources. The dollar amounts associated with preservation of these few areas would be very small as compared to the investment in infrastructure in the Columbia South Shore already made by the City. However, requiring an individual land owner or developer to pay for preservation or mitigation would result in substantial burden to that owner.

The State has laws in place that will protect those areas outside of any identified cultural resource area created under this approach should chance discovery occur during construction. The protection process, implemented as outlined above, would be comprehensive while allowing a land owner to proceed with development and fulfill the stated purpose of the Columbia South Shore Plan District.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jeff Miller', with a long horizontal flourish extending to the right.

Jeff Miller
2KG Contractors, Inc.

RECEIVED
PLANNING DEPARTMENT
JAN 10 1996 11:25

ARTHUR SPADA
Portland, Oregon

TO: Chairman Richard Michaelson and members of the
Planning Commission

January 9, 1996

I am Arthur Spada representing the Spada Family property located between 181st and 185th Avenues in the City of Portland.

I feel that our property has been unfairly targeted with the sensitivity designation without the consideration that all of our property has been explored for artifacts.

This will scare away potential buyers whom may be interested in purchasing our property.

This sensitivity designation puts a stigma on our property that will kill buyers interest and also have a depressing effect of the value on the property.

The sensitivity designation should be completely removed from our property in the sense of fair play.

I feel it is an injustice for our property to be not afforded the same treatment given to other developing properties in the area.

We have cooperated fully for what we were asked to do on our property and more, and I feel it is very unfair for the planning department to map us as they have and in view of all this, they should remove all of the constraints from our property.

Sincerely,

Arthur Spada
Arthur Spada

**TESTIMONY
CITY OF PORTLAND
PLANNING COMMISSION**

January 9, 1996

Good Afternoon: My name is Louie Pitt, Jr., I am Director of Government Affairs and Planning for the Confederated Tribes of Warm Springs Indian Reservation of Oregon.

I am a tribal government official, with authority to work with off-reservation governmental entities to maximize the opportunities that protect our legal interests. The Middle Oregon Treaty of 1855 reserved certain rights for us to utilize lands off reservation. We have always used this area, presently known as Portland, other tribes resided here but some of our people from our aboriginal residence traveled through this area, fished. Our people picked berries, dug roots, hunted, traded, camped, practiced ceremonies, generally just carried our way of life. Doing so since what we call time immemorial.

Our tribal Ordinance 68 states:

"It is the policy of the Confederated Tribes to encourage management activity by state and federal agencies outside the Warm Springs Reservation which will enhance, protect and preserve the treaty rights of the Confederated Tribes.

It shall also be the policy of the Confederated Tribes to oppose all activity outside the Warm Springs Reservation that adversely affects the treaty rights of the Confederated Tribes. The Tribes encourage the establishment of memoranda of agreement with appropriate persons and agencies to effectuate the policies contained in this section."

Furthermore in Ordinance 68: under Expedited Procedures for Sites in Developing Areas. "The Secretary-Treasurer of the Confederated Tribes shall develop expedited procedures for the evaluation of historic, cultural, and archaeological sites located in areas under development. The Confederated Tribes recognize that rapid response to requests for information by state and local governments is necessary for the effective implementation of LCDC Goal 5, and to prevent hardship on the users of land."

The above laying the groundwork for a government to government relationship, which in this case would be Tribal Council to City of Portland City Council.

I am strongly recommending that the recommended draft for the Cultural Resources Protection Plan for Columbia South Shore be moved through our political process, with the following concerns:

1. Clarification is needed on why "...Development sites in the plan district with less than five acres of undeveloped land are exempt from the ESEE analysis because they are less likely to have undisturbed land than are larger, undeveloped sites." also of concern is the statement that "...This decision removes a substantial number of development sites within the plan district from further consideration for cultural resources protection through State Goal 5." Our feeling is that all acres need to be under some governmental land use authority, so the city still has the authority to work with us, at least that is our reading.

2. Those peoples who are not working with the City under this plan must clearly understand they are still responsible for protecting cultural resources on their properties. State and Federal laws still apply, with discovery demanding immediate project stoppage. The Warm Springs Tribes are available to work out agreements where needed but would still request the presence of the City of Portland to assist such meetings.

3. Minor language changes need to occur in the document, specifically artifact should be changed to "artifact or cultural material."

4. Full Tribal Consultation is what will make this different from the old process. We believe that meaningful participation in the planning phase can greatly assist in avoiding collisions later that can cost us a lot in monies and loss of resources. See wordage inclusions.

5. Limitation of "Burial site, Village, Seasonal campsite." as a classification. These are adequate for now but as an indian government we already have the right reserved to label something other than these significant, under our own authorities.

6. Please keep the record open on this matter as tribal governmental mechanisms take time and meaningful input is on the way from our various tribal departments.

I thank you for the opportunity to work with your planning staff, private landowner representatives, and other tribal representatives.

I think the time is well spent and must move on the best we can, it is appreciated that the almighty dollar did not run us over one more time. These resources are precious to our people today and these activities happened because of the place. They were chosen for many reasons, so that place must be honored and protected.

Our tribe plans to broaden it's impact to areas outside the Columbia South Shore, so no one get's left out. Other areas within the City of Portland, Metro, and begin working with other cities and counties. THANK YOU

Page 2, Testimony

WORK INCLUSIONS AND RECOMMENDED CHANGES

Page 227 Cultural Resource Protection, A Purpose (3rd bullet) change to: *Encourage coordination and consultation between City, state and federal agencies and appropriate tribal governments concerned with cultural resources;...

(6th bullet) change to: *Provide a process for developers, City, and appropriate tribes to explore alternatives to full protection of archaeological sites, such as conservation easements.

Page 233 Add In consultation with the appropriate tribe(s) before Protection methods include performing (line 2)

Page 233 under A confirmation testing. (last sentence) add In consultation with the appropriate tribe(s) between archaeologist and consistent with previouschange to: The minimum test standard is measured in a line as determined by a qualified archaeologist in consultation with the appropriate tribe(s), consistent with previous confirmation testing in the vicinity.

Page 233 under Classification of site types. (3rd line) add In consultation with the appropriate tribe(s) at end of first sentence. To read: From the cumulative archaeological test results for that development site, each confirmed archaeological site is classified into one of three site types by a qualified archaeologist in consultation with the appropriate tribe(s).

Page 237 under Refinement of sit boundaries: change to read: The Oregon State Historic Preservation Office (SHPO) in consultation with the appropriate tribe(s) implements a program of state archaeological permits.

Page 239 Change Artifact to read artifact or cultural material. in this section, dealing with standards.

Page 243 e. (3rd line) change associated Oregon tribe to the appropriate tribe(s).



The Archaeological Conservancy

Western Regional Office
1217 23rd Street
Sacramento CA 95816-4917

Telephone: (916) 448-1892
Facsimile: (916) 448-2484

Mr. Rick Michaelson
President
Portland Planning Commission
c/o City of Portland Bureau of Planning
1120 SW 5th, Room 1002
Portland OR 97204-1966
TELEPHONE: 503-823-7700
FAXED TO: 503-823-7800

January 9, 1996

RE: Draft Cultural Resources Protection Plan

Dear Mr. Michaelson and Commissioners:

This letter is to commend the City of Portland for the progress the City has made in preparing the Cultural Resources Protection Plan. The draft plan provides a clear and concise process for consideration of cultural resources in the planning process, and appropriately addresses both tribal/cultural and archaeological/scientific concerns.

The Archaeological Conservancy is a nationwide non-profit organization dedicated to preserving the nation's most significant remaining archaeological sites. We have 12,000 members nationwide, and have established more than 100 archaeological preserves, including two in Oregon. We are concerned about the preservation of Oregon's remaining archaeological resources, which are threatened by destruction through development, agriculture, and public works projects. Archaeological resources are nonrenewable; once destroyed, they can not be recreated or replaced, and the information they contained is lost to us forever.

We are in support of the draft as it stands now. If the Conservancy may be of assistance in the implementation of the Plan, or in other ways, such as discovery situations as discussed in Bob Glascock's 12/1/95 memorandum, we would like to help.

Thank you for your consideration.

Sincerely,

Lynn Dunbar
WESTERN REGIONAL DIRECTOR

TESTIMONY BEFORE THE PORTLAND PLANNING COMMISSION
ON BEHALF OF THE CONFEDERATED TRIBES OF THE
GRAND RONDE COMMUNITY OF OREGON

Submitted by

Kathryn Harrison, Vice-Chair, Grand Ronde Tribal Council,

and

Ed Goodman, Of Attorneys for the Grand Ronde Tribe.
917 S.W. Oak, Suite 410
Portland, OR 97205
(503) 223-9483

January 9, 1996

RECOMMENDED DRAFT OF THE CULTURAL RESOURCES PROTECTION PLAN FOR
COLUMBIA SOUTH SHORE

Summary

This testimony is submitted to the Portland Planning Commission by Kathryn Harrison, Vice-Chair, Tribal Council of the Confederated Tribes of the Grand Ronde Community of Oregon, and Ed Goodman, of attorneys for the Grand Ronde Tribe, Native American Program Oregon Legal Services, 917 SW Oak, Suite 410, Portland, Oregon, 97205, on behalf of the Confederated Tribes of Grand Ronde. The testimony addresses the City of Portland's Bureau of Planning's staff Recommended Draft of the Cultural Resources Protection Plan for Columbia South Shore ("Draft Plan").

The Grand Ronde Tribe generally supports the Draft Plan. The Plan has been developed over the past year through the hard work of the Portland Planning Bureau, interested developers and representatives of the affected Tribal governments. We would like to commend the spirit of cooperation in which the Draft Plan was developed. The Draft Plan, while not going as far as the Tribe would desire in the protection of important cultural resources, does represent an important compromise of various interests, a compromise that permits commercial development in the Columbia South Shore while at the same time providing protection for cultural resources. The Draft Plan represents a balancing of interests that, while not meeting 100% of any one party's desires, meets the overall goals expressed by all involved in the process.

We offer the following comments in the same spirit of cooperation and compromise that has marked the development of this Draft Plan. There are certain areas of the plan, particularly in the revised zoning code language, that could be clarified, and these are described below. We also point out some of the specifics in the

Draft Plan and draw attention to their importance. Finally, we would like to commend the hard and thoughtful work of the Portland Planning Bureau staff in developing this Draft Plan.

Background

The aboriginal territory of the Confederated Tribes of the Grand Ronde Community of Oregon includes land in the South Shore of the Columbia River. Our ancestors lived on and used the lands of the South Shore of the Columbia River since time immemorial, and have left many traces of that use. Those remaining sites are of critical importance to our people today as a living culture. Protection of and reverence for these sites is central to our continued existence and growth as a Tribe. As a Tribal people, our present is inextricably linked to our past, and our past provides the direction and lifeline to our future.

Because of the particular circumstances of Euro-American movement into this part of the country, the Grand Ronde Tribe does not have the same degree of its history preserved as many other Tribes do. The Grand Ronde Tribe is in fact a confederation of numerous tribes who were forcibly removed from their aboriginal territory and relocated to a distant reservation. Even the small land base of that reservation was whittled away through federal policy, and was eventually terminated in the 1950's. Thus, the Tribe has little land base of its own through which it can learn and remember how its people lived for thousands of years. It is all the more critical for our people, therefore, that what traces remain of our ancestors be protected and preserved. If we do not protect what is left, we stand the serious risk of losing all connection with our past as a people who lived on and used this land since time immemorial.

Our people are very concerned with activities that have the potential to disturb cultural resources, including archaeological sites and human remains. Much of our cultural heritage has already been lost through commercial, industrial, residential and agricultural development. The Columbia South Shore area has been significantly altered, and much of our heritage sites in that area have been lost or damaged. However, unlike much of the rest of urban Portland, there are still significant intact resources remaining here. It is in recognition of the importance of protecting what is left that the Goal 5 process was undertaken in regards to this critical area.

The Grand Ronde Tribe has identified preservation of our culture as one of four key principles to guide the Tribe's future. The Tribe has created the Kwelth Talkhie (Proud Past) Cultural Board and plans to hire a full time Cultural Resources Expert in the very near future. The Tribe has been actively involved in the development of the Draft Plan, and has been working with developers

and property owners in the Columbia South Shore for the protection of culture resources through the development of interim protection measures. In short, the Tribe is committed to preserving its cultural resources and willing to devote the time and resources necessary to ensure that cultural resources still in existence today will exist for Tribal members in the future.

Over the past two years, the Grand Ronde Tribe and the City of Portland have developed a solid government-to-government working relationship. The Tribe has also developed a cooperative relationship with a number of the developers and property owners in this district. It is in the spirit of these cooperative relationships and in recognition of all of the time and effort devoted to this project by the Bureau of Planning's staff, particularly Bob Glascock, that the Grand Ronde Tribes generally support the Draft Plan.

The Impact of the Draft Plan

The Draft Plan incorporates a number of provisions that protect cultural resources. Overall, the Draft Plan will result in greater protection for these critical resources than there would be in the absence of such a plan. By doing so, the Draft Plan recognizes the importance of these resources to the Native people of Oregon.

We would first like to highlight some of the Draft Plan's protective measures that are of critical importance. First, the Draft Plan takes the significant step of identifying sensitive areas based on landforms, topography and vegetation. The Draft Plan recognizes that it was the relationship with the landscape that defined the importance of the Columbia South Shore to our people, and that the most efficient and effective means of recognizing cultural resource areas is to rely on the landscape itself. The protection measures set out in the Draft Plan are a significant and necessary step for the protection of cultural resources, while still permitting efficient development of the area. The Tribe also supports the concept of transition zones to protect the resources (although these zones ought to be considered minimums, rather than sufficient in and of themselves).

The Draft Plan, however, does not offer the blanket protection that the Grand Ronde Tribe would prefer. It is a plan which recognizes the need for compromise. The Grand Ronde Tribe, in working with the Planning Bureau staff, recognized that commercial development of the South Shore area is important to the economic future of Portland. The Tribe, in its support for the provisions of the Draft Plan, has made some significant compromises in its desire for complete protection.

The limits of the protection embodied within the Draft Plan begin with the territorial limitations on which areas will receive

protection under the plan. The Draft Plan covers only lots:

- 1) within a Sensitivity Area,
- 2) with five or more acres of
- 3) undeveloped land.

These three restrictions greatly reduce the acreage covered by the plan from roughly 1,700 acres to approximately 600 acres. In addition to the exempted acreage, the ground disturbance activities covered by the Plan are further limited by the long list of exemptions set out on page 231 of the Draft Plan. In the Tribe's view, exempting properties with less than five undeveloped acres may in fact result in destruction of sites located in such areas. The Tribe would prefer that there be no such minimum limit. However, the Tribe recognizes the City's need to place some limits on its spending and while the Tribe cannot support the under five acres exemption, the Tribe will not actively oppose it. Instead, the Tribe supports the archaeologist's Management Recommendation Number 4 (Draft Plan, p. 88), that any parcels excluded from the survey requirement by having less than five acres of undeveloped land should be monitored during ground disturbance activities by either a qualified archaeologist, or by tribal monitors.

According to the Draft Plan, less than 600 of the 1,700 undeveloped acres within the project area have not been subject to a pedestrian archaeological survey (Draft Plan, p. 86). These numbers greatly reduce the impact of the Draft Plan on property owners in the Draft Plan area. The Tribe supports the archaeologist's Management Recommendation that the unsurveyed parcels be surveyed on a lot-by-lot basis as part of either a property transaction or the City's permit review process. Recognizing that archaeology is an imperfect science and that many cultural resources are not susceptible to detection via pedestrian surveys, the Tribe also supports the Management Recommendation that archaeologists or tribal monitors be present during ground disturbance activities on unsurveyed land that exceed depths of eight feet (the depth of commonly-used auger and coring instruments).

The inventory established that only four confirmed potentially significant sites are located within undeveloped tracts (Draft Plan, p. 88). Thus, while the importance of protecting these resources is vast, the impact on landowners in the Columbia South Shore as a group is minimal. The number of cultural resources sites that was confirmed by the City of Portland's inventory was small; only nine previously recorded sites were confirmed. This small number further underscores the importance of protecting the remaining sites from harm and the limited impact that protection will have on Columbia South Shore property owners.

The Tribe wishes to note that the areas to be protected by the Draft Plan already represent a significant compromise on behalf of the Tribe. The Tribe could not justifiably support any further

reductions in the size of the area proposed for protection in the Draft Plan.

Deferring the Goal 5 process

A decision to defer the Goal 5 process is unnecessary and may result in the destruction of the precious few remaining confirmed cultural resources sites. This Plan is the result of a cooperative process involving property owners, the Tribes and the City. Deferring the Goal 5 process would invalidate that cooperative process and deny the benefits of the Plan to all of the parties that participated in its formulation. Deferring the process would leave property owners and developers without the certainty and clarity of process that the Plan provides. The Plan also reduces the possibility of incurring financial liability for violating state and/or federal law.

Recommended Changes to the Plan

Although the Grand Ronde Tribe is generally supportive of the Draft Plan, the Tribe would like to suggest the following changes. These changes are aimed at either clarifying or making the noted sections consistent with the overall goal of the Draft Plan.

Code Section 33.515.262 (F) "Protection of Archaeological Sites", (p. 233).

The Tribe requests that, in recognition of the primary role that tribes must play in the protection of their archaeological resources and in recognition of the government-to-government relationship between the Tribes and the City of Portland, additional language requiring consultation with the appropriate tribe be included in this section. While the Draft Plan appears to require consultation with Indian tribes from the earliest phases of development activities, adding the language suggested below clarifies the intent of the Draft Plan that consultation with the tribes begin at the beginning of the process of protection. Therefore, we suggest revising the first sentence of this section to read "The applicant must comply with one or more protection methods listed below in consultation with the appropriate Tribe(s). Under F. 1. Confirmation testing, the Tribe suggests that the last sentence be amended to read "The minimum test standard is measured in a line as determined by a qualified archaeologist, consistent with previous confirmation testing in the vicinity, and in consultation with the appropriate Tribe(s). Finally, under F. 2. Classification of site types, the Tribe suggests that the first sentence be altered to read "From the cumulative archaeological test results for that development site, each confirmed archaeological site is classified into one of three site types by a qualified archaeologist, in consultation with the appropriate

Tribe(s). Clarifying the tribal consultation role in this way will harmonize the City's code language with State law and aid in continuing the dialogue that has developed among Tribes, the City, private developers and property-owners and the archaeological community. Addition of this language would acknowledge and affirm the paramount role that Tribes must take in protecting their cultural resources.

Code Section 33.515.262 (F) (2) "Classification of Site Types", (p. 233).

This section of the Draft Plan identifies three site types. The Draft Plan requires that each confirmed archaeological site be classified as one of these site types. While this listing mechanism appears comprehensive (because any confirmed site must be typed as one of these three categories), we are concerned that there are certain sites in the Columbia South Shore area which may not be easily typed as any one of these site types. Sites, for example, that are identified by the tribes as cultural/spiritual use sites may not fall easily within one of these three categories. We are concerned that such sites would be then classified as "seasonal campsites," which, under the terms of the Draft Plan, would receive lesser protection than the other site types. We would suggest one of the following options. First, this section could be amended to add another site type, "cultural/spiritual use sites," defined as those sites which the tribes have identified as involving cultural, spiritual, or other sacred uses. This definition would then be tracked through the rest of the Code, requiring the same protection as that afforded to burial and village sites. The other option would be to expand the definition of either burial sites or village sites to include these kind of sites. In either case, involved consultation with the tribes would be critical for the determination of the site type and the kind of protection afforded.

Finally, the requirement that a village site show evidence of having been occupied yearround in order to be identified as a village is not consistent with how such sites were used by our ancestors. We would suggest that the term "yearround" be deleted from section F.2.b.

Code Section 33.515.262 (F) "Protection of Archaeological Sites"

6. Burial sites and village sites (p. 237), subparts a and b.

8. Development standards for seasonal campsites and activity areas (p.239), subpart a.

In the above-referenced code sections, the Draft Plan uses the term "artifact" to provide guidance for protecting the areas around

known sites. The term "artifact" is not defined anywhere in the Draft Plan, nor does it provide sufficient guidance. Further, a number of sites are identified by materials some might not understand to be an "artifact," such as ash or fire-cracked rock. In order to clarify these sections, the Tribe would request that the reference to artifact be replaced with the term "cultural material." Further, it would be useful to provide a definition of this term in the Draft Plan itself, a definition which would highlight the various kinds of use "traces" that would identify a site as a cultural resource. The term cultural material, while broader in scope than "artifact," still maintains sufficient specificity in order to guide commercial developers and property owners.

Code Section 33.515.262 (F) (9) "Protection of Archaeological Sites"

This section describes the discretionary data recovery plan for seasonal campsites and activity areas. The introductory paragraph describes three separate steps: data recovery, consultation with tribes, and development of MOU's for data recovery. The way the paragraph is currently written, it sounds as if data recovery (i.e., removal of cultural materials) takes place first, and only then is consultation with the tribes undertaken. Since this ordering of steps is not the intent of the Planning Bureau (nor is it consistent with state law), we would suggest a clarification of the language to recognize that consultation with tribes must take place before any items are removed from their location.

Code Section 33.515.262 (F) (9) (E) "Protection of Archaeological Sites," (p. 243).

This section includes a reference to "at least one associated Oregon tribe." This language is ambiguous and does not track with the other references to tribal consultation in the Draft Plan or in Oregon state law. The Tribe requests that the quoted language be replaced with "the appropriate Tribe(s)." The underlined language conforms with language used throughout the Draft Plan (page 241, 9.b. for example) and Oregon state law.

Code Section 33.515.262 (G) "Additional Application Requirements", (p. 243).

The Tribe requests that the last sentence of part G be altered to read "Table 515-1 lists the additional information that must be submitted to the Bureau of Planning and to the appropriate Tribe(s) for development projects within each sensitivity area." Once again, this minor revision would better capture the spirit and intent of the Draft Plan, and would conform with Oregon state law.

CONCLUSION

This Recommended Plan offers the City a unique opportunity to embrace the government-to-government relationship between the Tribes and the City and to endorse a Plan that provides benefits to all interested parties. The City can and should endorse the Plan because it honors the Nation's first citizens, helps to protect and foster a culture that is important to Oregon's identity as a state, and fosters Portland's identity as a progressive and well-planned city. While what will be protected is priceless and of inestimable value, the tools used to protect cultural resources are few and simple, and the impact on adverse interests is minimal. The Confederated Tribes of Grand Ronde request that the Planning Commission recommend adoption of the Recommended Draft of the Cultural Resources Protection Plan for Columbia South Shore that incorporates the Tribes comments above.



COLUMBIA CORRIDOR
ASSOCIATION

January 9, 1995

Portland Planning Commission
1120 SW Fifth Avenue, Room 1002
Portland, OR 97204

Reference: Cultural Resources Protection Plan for the
Columbia South Shore

Dear President and Planning Commission Members:

I am the representative of the Columbia Corridor Association ("CCA") on the City's Cultural Resources Advisory Committee. I was also closely involved in the CCA's successful efforts to reach agreement with the Tribes on a memorandum of understanding and process for protecting cultural resources prior to the completion of this current effort by the City. In these capacities, I have spent the last several years working with the City planning staff, other City bureaus, Tribal representatives and other interested parties to better understand each others' interests. I think that all the parties share a common and sincere desire to seek a reasonable means of protecting cultural resources valued by the Tribes, while at the same time recognizing the rights and expectations of property owners. I believe that this current planning effort has opened up a dialogue between the parties and led to a better mutual understanding that creates a foundation for future cooperation. I know it has for me.

As I believe all participants in the City's effort to develop a cultural resources plan for the Columbia South Shore have come to realize, the Goal 5 process under which the City has conducted this planning effort is a complicated process that was not designed for resources such as cultural resources, which are not readily identifiable and whose location cannot be freely disclosed. For CCA, and I suspect other interested parties, the primary goal of this planning effort was to achieve certainty as to the areas to be protected, and protection measures for those areas, that fairly balanced Tribal and public interests in preserving cultural sites and values with private property owners' interests in reasonable use of their land. We at CCA believe that the recommended plan before you today largely meets this goal. Consequently, we support the proposal, subject to certain changes we would like to see made prior to its final

adoption, as outlined below. We have discussed our concerns with Bob Glascock of the Bureau of Planning, and are optimistic that they can be resolved.

I have organized our concerns into three categories, corresponding to elements of the Goal 5 process that the plan addresses: (1) delineation of the "sensitivity" areas identified as significant and, thus, subject to regulation under the plan; (2) content of the Economic, Social, Environmental and Energy ("ESEE") analysis that evaluates the impact of potential regulation or nonregulation; and (3) code language proposed to regulate the significant resources.

1. Delineation of Sensitivity Areas. The key goal of CCA for this process was to achieve closure and certainty regarding what resources merited protection. Absent that, property owners and potential purchasers and users cannot realistically assess what uses can be made of property and what time and costs are required to achieve such uses. The recommended plan proposes an inventory of significant sites, based upon investigations throughout the Columbia South Shore conducted by the City and by private property owners, and the recommendations of professional archaeologists. This inventory provides most of the closure and certainty CCA has sought.

As we understand the plan, the significant sites that have been identified for protection as part of this process are only those on which cultural resource sites have been confirmed (9 in number). In addition, a number of properties (14) that have not had sufficient testing will be required to complete that testing, and protection will be required for any cultural resource sites confirmed as a result of that testing. For property with no confirmed sites, as determined now or after any required confirmation testing, no cultural resources requirements apply. (We do recognize that later discoveries during construction may trigger requirements under federal or state requirements.)

If the above understanding is correct, we have the following remaining concerns about the designation of sensitivity areas and the proposed inventory of significant sites:

a. Does the recommended plan designate the sensitivity areas, or the confirmed sites, as the significant sites being protected under Goal 5? It is unclear to us why properties are included within sensitivity areas if the City admits that the

properties have been thoroughly surveyed and nothing has been found. What is the legal basis under Goal 5 for designating properties as significant if there is no resource present?

b. If the confirmed sites are so few in number, why do the maps (e.g., Map 516-6) indicate that all the property within these areas is subject to regulation? While we recognize a need for confidentiality of confirmed sites, the current maps create the impression that many more properties are regulated than those with confirmed sites. This false impression is extremely disturbing to property owners because it creates uncertainty about whether any further requirements must be met, and because it has a chilling effect on potential purchasers and users of the property, who are fearful of the possible time and money requirements. Although we have been discussing this concern with the planning staff, and are working on ways to modify the legend on maps and provide for a clearance letter to offset this impression, we believe the maps should not be so broad in their reference to regulated areas.

c. The plan should have a process for removing sites from the list of confirmed sites (and freeing them from further regulation), e.g., where artifacts have been removed from a site and given to a Tribe.

2. **ESEE.** We are very disappointed in the economic portion of the ESEE analysis. The analysis appears strongly skewed to support protection of cultural resources. This can be seen clearly in Table 6 on page 151, which summarizes the economic consequences, and indicates that only positive economic consequences would result from protecting sites and prohibiting conflicting development. Much attention was given to assessing benefits of resource protection, but little effort appeared to go into assessing the negative economic impacts of protection (e.g., there was little or no discussion about costs of developing property, impacts on marketability, job creation, tax revenues generated/lost, or footprint flexibility). We had hoped to be able to review an early draft of this chapter so that we could make constructive and timely suggestions from the point of view of property owners. We never had a real opportunity to do so. What is here appears to misquote the CCA and Anne Nickel (pages 131 and 140), rely on unproven assumptions (payment of market value by the Archeological Conservancy for lands containing cultural resources; value of protected sites in attracting tourists and businesses, even though the sites may not be identified or visible), and fail to recognize other legitimate

economic impacts. Our concerns are reduced, however, by the fact that the limited number of regulated sites may make the shortcomings of the analysis less important. We would like to see the Planning Commission send a clear message to the Planning Bureau to in the future cooperate early and meaningfully with those economically affected by planning efforts.

3. Proposed Code Language. We believe that the proposed code language in the recommended plan needs additional review for clarity and consistency with the intent of the decisions made in the plan. Mr. Glascock has told me that he intends to revise that language and give additional opportunity for testimony on those revisions. We will work with the Bureau of Planning in their efforts to improve the language. Among the concerns we have about the existing language are the following:

a. The section on "Where the regulations apply" says the requirements apply to all properties within sensitivity areas, not just those with confirmed sites or needing testing.

b. The section on "Items exempt from the regulations" is unclear and covers more than exemptions.

c. The confirmation testing mapping reference and requirements are unclear.

d. Why are the transition areas so large? What is the basis for 100 feet and 50 feet?

e. Why is capping a site not included as a possible mitigation measure?

f. Why is data recovery and discretionary agreement with Tribes not an option for villages and burial sites?

g. Why is supplemental building permit application information required for all properties within sensitivity areas?

Portland Planning Commission
January 9, 1995 - Page 5

We have appreciated the willingness of the Bureau of Planning to work with us on these matters in the past, and are hopeful that we can continue to work with them to resolve these remaining issues.

Very truly yours,

A handwritten signature in black ink, appearing to read "Stark Ackerman", with a long horizontal flourish extending to the right.

Stark Ackerman

cc: Ms. Anne Nickel

Dorothy S. Coffield
Attorney at Law
Executive Centre, Suite 107
12725 S.W. 66th Avenue
Portland, Oregon 97223
(503) 639-5566

January 9, 1996

Portland Planning Commission
Meeting Room A, 10th Floor
The Fifth Avenue Building: 1400 SW Fifth Avenue
Portland, OR

Re: Cultural Resources Protection Plan for Columbia South Shore

Dear Planning Commission:

I represent Arthur Spada and the Spada family in the above-referenced matter. The Spada family, along with Arthur Spada and his wife, own 62.61 acres located along the Columbia South Shore (hereinafter "Property"). The Property is located on the south shore floodplain of the Columbia River in the eastern portion of the Airport Way Urban Renewal Area in the E ½ of Section 19 and W ½ of Section 20, TIN, R3E, W.M. The Property is an L-shaped parcel, abutting 185th to the west, N.E. Marine Drive to the north, the railroad tracks to the south, and Riverside Parkway/Airport Way to the east. Plan at p. 2, Figure 1.

Under the Cultural Resources Protection Plan for Columbia south Shore (hereinafter "Plan"), the Property is within the city's proposed Goal 5 Sensitivity Area 1: Historic Lakes Complex (hereinafter "Resource Site 1") as shown by the cross-hatching on Map 516-6 at page 249 of the Plan. The Spada family objects to the inclusion of its Property in Site 1 for the following reasons.

The Plan's Inventory Analysis On The Property Fails Under Goal 5.

To comply with Goal 5, staff must first inventory the location, quality and quantity of Goal 5 resources located within its jurisdiction. *Columbia Steel Castings Co. v. City of Portland*, 314 Or 424, 426 n.1, 840 P2d 71 (1992). For site-specific resources such as wildlife habitat, natural areas, mineral sites, historic sites and scenic waterways, the determination of the location of the resource must include a description or map of the boundaries of the resource site and affected

area. OAR 660-16-000(2).

The inventory must unambiguously describe, by either written descriptions or relevant maps, the precise location and extent of inventoried resource sites. *Davenport v. City of Tigard*, 23 Or LUBA 565, 569-570 (1992) (city may prepare maps to resolve ambiguities over precise location and extent of inventoried Goal 5 resource sites).

Based on the inventory data, the local jurisdiction has three options: do not include on the inventory; delay the Goal 5 process because of inadequate information; or include on the plan inventory if the resource is shown to be significant. OAR 660-16-000(5).

The Spada Property Contains No Cultural Resources

The Property has been exhaustively studied by Heritage Research Associates Inc. (hereinafter "HRA") which is the city's own consultant used to develop the Plan. HRA conducted two on-site investigations on approximately 42 acres (hereinafter "Project Area") of the Property. As the attached September 30, 1993 letter indicates, the Project Area was investigated in HRA Report No. 150, Cultural Resource Survey of the Spada Property on the Columbia South Shore, Multnomah County, Oregon by Robert R. Musil and Kathryn Toepel.¹ At that time, several augers were placed in areas indicative of potential cultural deposits. Responding to a concern by Greg Burchard, project director for the 1989-90 survey conducted by Portland State University, HRA placed an additional eight auger holes on the Project Area. In all, sixteen augers were placed around the Project Area. After the two on-site searches for 35MU35, 35MU77, and 35MU82, HRA concluded that no evidence of prehistoric site deposits were encountered within the Project Area. Therefore, the inventory analysis should conclude that there are no cultural resources on approximately 42 acres of the Property and the Property should not be included in the Resource Site 1 map.

Staff concurs in that conclusion by stating that its consultant (HRA) found little or no evidence of subsurface cultural materials on previously recorded sites 35MU35 and 35MU77. Plan at p.100. The Plan also notes that "The Historic Lakes Complex has received the most archaeological testing in terms of participating properties and extent of testing detail. As shown on Figure 9 of the draft, all vacant properties in the Historic Lakes have been tested. For purposes of this analysis, no further confirmation testing is needed in Sensitivity Area 1." Plan at p. 180.

The Plan states that the previously recorded site, 35MU82 was not tested as part of the 1994 investigation because it is already protected by a environmental "p" designation. Therefore, the Property cannot be placed in the Historic Lakes Complex Resource Site 1 because there is not

¹ The complete HRA report is available upon request of the Planning Commission.

enough data to identify the remainder of the Property (the acreage north of Riverside Parkway) as a Goal 5 resource.

When available information indicates the possible existence of a resource site, but the information is inadequate to identify with particularity the location, quantity and quality of the site, the planning body can place the site in a special category in its comprehensive plan as a "1B" site and delay the Goal 5 process. *Larson v. Wallowa County*, 23 Or LUBA 527, 540, *aff'd in part, rev'd and remanded in part on other grounds*, 116 Or App 96 (1992)(where county inventories resource site but delays the Goal 5 process, goal 5 contemplates completion of process in legislative, not quasi-judicial proceeding).

Therefore, under the Goal 5 rule, the norther portion of the Property must be classified as a "1B" resource and the Goal 5 process must delay the Goal 5 process. OAR 660-16-000(5)(b). The Plan must include a policy to address that "1B" resource site and proceed through the Goal 5 process in the future. It should be pointed out that the northeast part of the northern portion of the property is already protected by a "p" designation. Plan at p. 25, Figure 4.

The Historic Lakes Complex Has Been Incorrectly Mapped As A Goal 5 Resource

It is evident from reading the Plan that staff is using two different methodologies for determining the boundaries of the resource site. First, the Plan indicates that individual confirmed archaeological sites are "* * * just one component of a web of interconnected activities that are tied directly to the natural environment." Plan at p. 100. Based on interconnected functional values, the Plan determined that the entire Historic Lakes Complex is the significant resource site. Plan at p. 92-96.

The Plan uses an entirely different treatment of the resource site when its "program to implement the goal". The protection plan focuses on confirmed archeological sites such as burial site, village or seasonal campsite. Plan at p. 224, figure 25. If no "site" is found, development may proceed. If a confirmed site is found, the site must be protected.

Under Goal 5, mapping of the resource site must be specific as to location. The Plan violates that rule by mapping the entire Historic Lakes Complex as the resource site. It is clear from reading the Amendments to the Title 33 that the Plan seeks to protect actual archeological sites that may be found within the Historic Lakes Complex. Therefore, each individual archeological site is the resource site, not the entire Historic Lakes Complex. The city's imprecise mapping as to location does not meet the standards in the Goal 5 rule and should be not approved by the Planning Commission.

The Case-by-Case Approach In The Plan Violates Statewide Goal 5

As explained above, the Goal 5 process cannot be completed quasi-judicially for "1B" resources, but must be done legislatively. Programs must be adopted before Goal 5 resources may be

protected. *Ramsey v. City of Portland*, 23 OR LUBA 291, *aff'd*, 115 Or App 20, 23 (1992)(court of appeals agreed with LUBA holding that "Goal 5 and the implementing rule are not satisfied by a case-by-case implementation approach, but require a jurisdiction-wide planning program selection and regulatory process. The Plan's method of dealing with its "1B" resources is an attempt to protect the resource by a case-by-case determination of significance. The Plan violates Goal 5 by protecting cultural resources before the Goal 5 process is complete.

Furthermore, the reasons for making certain program decisions to achieve compliance with Goal 5 must exist at the time those decisions are made. *Columbia Steel Castings Co. v. City of Portland*, 314 Or 424, 840 P2d 71 (1992), *aff'g* 104 Or App 244 (1990). Here, the Plan is attempting to protecting cultural resources that may not exist by placing land within the resource site and subjecting the site a the protection plan. If it turns out that there is no resource site, landowners such as the Spada family have been subject to a Goal 5 protection plan that should not apply to their property.

The Plan justifies its approach by pointing out the difficulty in obtaining information about cultural resources because such resources are buried. It supports its decision to defer the Goal 5 process for these "1B" resources because the city's next opportunity to complete the Goal 5 process is at the next periodic review, approximately in five years. However, the Department of Land Conservation and Development (DLCD) is in the process of amending the Goal 5 rules and allowing resources to be protected in between periodic review, upon a showing by any citizen that a Goal 5 resource exists and a plan amendment. The amended rules are due for public hearing in January 1996. The amended rules would allow the city to finish the Goal 5 process for the "1B" resources when actual data supporting the location, quantity, and quality of the resource are brought forth.

The Spada Property Is Already Adequately Protected Under State Law

The Plan suggests that a deferral of the city's Plan for the "1B" resources would cause uncertainty for landowners and could result in development of many properties. The way the Plan is now drafted will cause the most uncertainty for landowners such as Mr. Spada. By placing the Property in Resource Site 1, potential buyers of the property will be unduly alarmed, perceiving that cultural resources exist on the Property that have clearly been shown not to exist.

The Spada family has been an extremely protective of cultural resources. Arthur Spada was the first landowner in the Columbia Slough area to enter into a Memorandum of Understanding (MOU) with the Grande Ronde Indians. Mr. Spada, at his own expense, has done extensive testing on the Property and has allowed the city full entry onto the Property to conduct its own investigation. At this point, experts agree that no archeological sites exist on much of the property. The northern portion of the property that has received less testing is a portion is already protected by a "p" designation.

State law already regulates cultural resources on private land. It requires a permit and addresses

consequences for archeological site disturbances, including increased penalties and requirements for tribal notification. It offers compensation for private landowners who lose use of their property due to removal of an archeological resource.

In sum, no resources have been found on the Property after extensive site investigation and testing and the possibility of finding archeological sites on the Property is remote. However, in the remote case of a site discovery, state law would protect such sites if they were unearthed during development. For these reasons alone, the Property should be removed from the Resource Site 1 map.

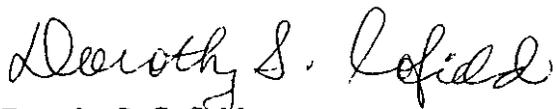
Conclusion

The Spada family respectfully requests that the Planning Commission remove the Property from the Resource Site 1 map. The Property has been improperly included in the city's Goal 5 inventory for cultural resources. The Property has been extensively investigated for archeological sites by HRA (both the Spada's and the City's expert) and no cultural resources have been found.

Leaving the Property mapped as a Goal 5 resources violates Goal 5 and its associated rule. There is no data to support a determination of significance on 42 acres of the Property. There is inadequate information for the balance of the property to place it on the inventory and the Goal 5 process must be deferred until such information exists. However, the north east portion of the Property is already protected with a "p" designation, prohibiting development that may cause destruction of an archeological site.

Finally, state law ensures that the Property is protected from any archeological destruction. The Spada family is well-informed about the permitting process and will takes all steps necessary to comply with state law and advise any future owners of the property of the state requirements.

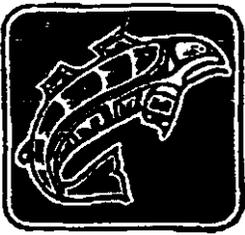
Respectfully submitted into the record of these proceedings,



Dorothy S. Cofield

Attorney for Arthur Spada and the Spada family.

Encls. As Stated



**HERITAGE
RESEARCH**
ASSOCIATES, INC.

ARCHAEOLOGY
AND HISTORY

TO: Western Planning Associates
204 SW First Avenue
Portland, OR 97204

FROM: Robert R. Musil and Kathryn Anne Toepel
Heritage Research Associates, Inc.
1997 Garden Avenue
Eugene, OR 97403

DATE: September 30, 1993

HRA Letter Report 93-21: Further Investigations at 35MU35, Spada Property, Columbia South Shore, Multnomah County, Oregon

This letter report is intended as a clarification of HRA's search for 35MU35 as reported in HRA Report No. 150, *Cultural Resource Survey of the Spada Property on the Columbia South Shore, Multnomah County, Oregon*, by Robert R. Musil and Kathryn Anne Toepel. Specifically, at the time of HRA's survey in August 1993, several auger probes (Probes 30-33) were placed in the immediate area of approximately a half dozen broken cobbles that *may* have been thermally altered. Although these auger locations (as indicated in Figure 1) were approximately 45 meters west of the fence line by NE 185th Avenue and 10-15 meters west of site 35MU35 as rerecorded by Fleming et al. (1990:45-48), they were within the only discernible area of possible cultural material (broken rock) such as that described on the 1990 site form. The northern HRA auger locations were placed in accordance with the scant surface evidence rather than according to recorded site boundaries. The southern auger locations were placed to sample the higher elevations of the landform on which 35MU35 is recorded.

It should be noted that the surface around the area defined as 35MU35 contains a fair amount of both broken and unbroken cobbles with no evidence of thermal altering. *All* rock in the field, whether whole or broken, exhibits extensive evidence of scraping and battering by farm machinery. The possible thermally-altered rock was widely scattered over more than a 80 by 40 meter area; no clustering was observed. The field has not been subjected to field burning for more than a decade, but it is likely that fire was used to some extent when the field was initially cleared for cultivation.

In response to a concern expressed by Greg Burtchard, project director for the 1989-90 survey conducted by Portland State University, that HRA had not

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Western Planning Associates - p. 2
HRA Letter Report 93-21
September 30, 1993

investigated specifically within the 1990 boundaries of 35MU35 as defined by PSU (considered by Burtchard to be the most accurate recording of the site to date). HRA returned on September 27, 1993. The survey team placed an additional eight auger holes within the recorded boundaries of 35MU35 (Augers A-H as indicated in Figure 1) at 20-30 meter intervals midway between the previous auger line and the roadway. As with the previous auger excavations, augers A-H yielded no cultural evidence.

In sum, sixteen auger probes have now been placed at and around the western portion of 35MU35. Approximately eight of the auger probes sampled the lower elevations of the site where broken rock was reported on the surface by PSU and observed by HRA. In addition, eight of the auger probes sampled areas greater than 18 feet in elevation where evidence of prehistoric occupation was anticipated on topographic grounds. None of these auger probes produced evidence of prehistoric deposits. These results underscore the investigators' previous assessment of 35MU35—that the present project results, in conjunction with an earlier investigation by Archaeological Investigations Northwest (Ellis and Fagan 1991), indicate that 35MU35 should no longer be considered an extant site.

The project results as reported earlier remain the same. No evidence of prehistoric site deposits was encountered within the project area at 35MU35, 35MU77, or 35MU82. Although there are prehistoric resources in the project vicinity that are demonstrably significant, no such resources were located within the project area that will be affected by the proposed fill project.

The investigators would also like to clarify that the previous project report on investigations at the Spada Property was not intended to diminish the importance of the prehistoric record of the Columbia South Shore. Instead, the results of this project and others in the area underscore the need for intensive investigations to locate and define sites in the Columbia South Shore.

Western Planning Associates - p. 3
HRA Letter Report 93-21
September 30, 1993

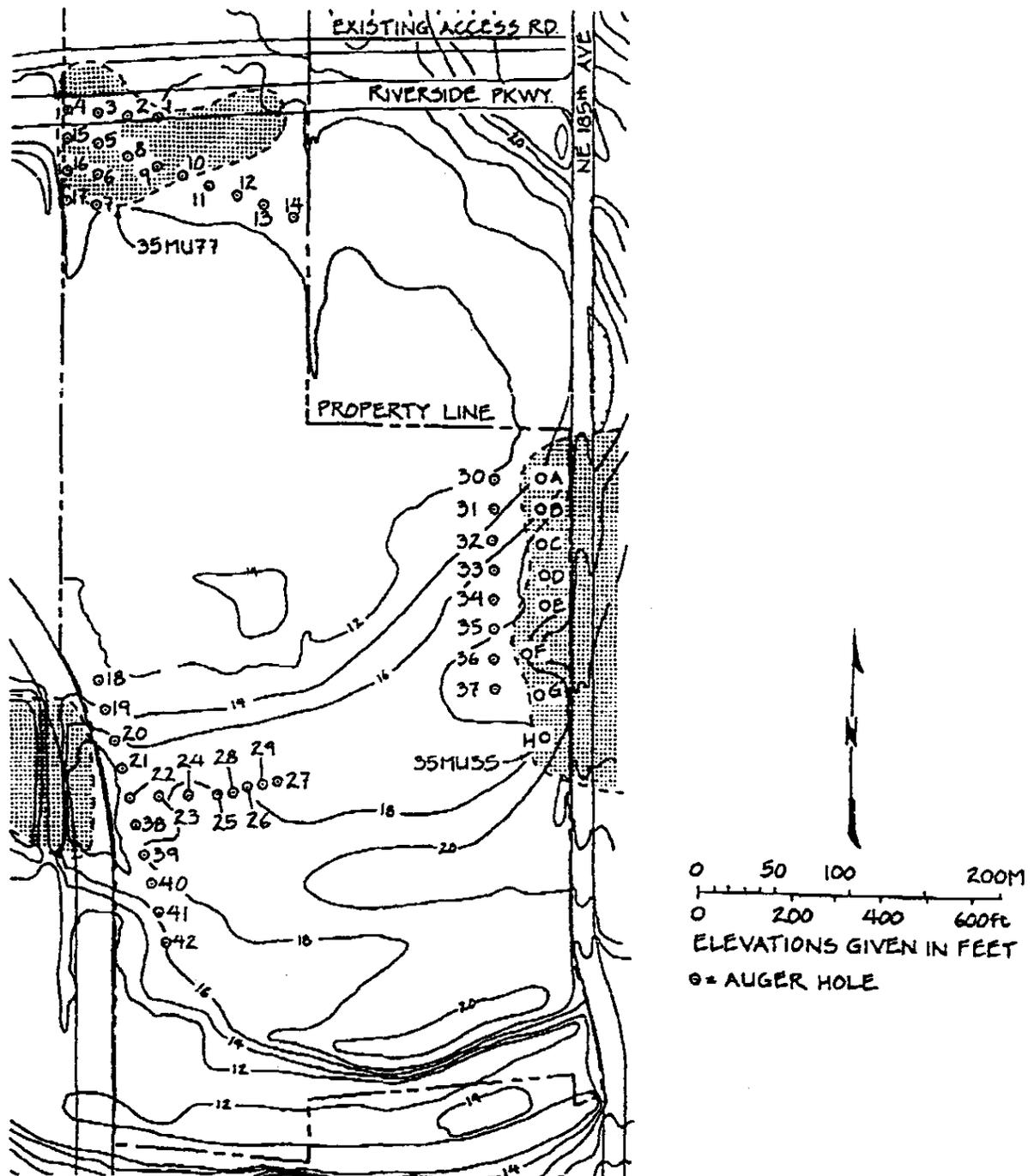


Figure 1. Location of auger holes within the project area, showing Auger Holes A-H within the boundaries of 35MU35.



Dedicated to the protection and enhancement of prehistoric and historic archaeological resources.

State Museum of Anthropology
1224 University of Oregon
Eugene, Oregon 97403-1224

January 8, 1996

Portland Planning Commission
City of Portland
Bureau of Planning
1120 S.W. Fifth, Room 1002
Portland, Oregon 97204-1966

Dear President Michaelson and Members of the Commission:

We are pleased that years of planning and discussion have culminated in the City's plan to protect the cultural resources of the Columbia South Shore. The Columbia South Shore area holds some of the last archaeological vestiges of the City's rich past. The proposed cultural resources plan will help preserve this past for both present and future generations of Portlanders. More importantly, it will protect the heritage of the Native peoples who were here before us and who continue to value their traditional ties to this land.

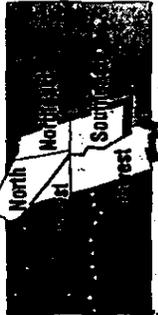
We are concerned that the plan exempts parcels of 5 acres or less, some of which have the potential to contain cultural resources, and we urge staff and the Commission to reconsider this exemption. We also believe that some minor changes may be necessary in the plan as it is implemented, to insure that future archaeological discoveries receive responsible protection. The strengths of the plan far outweigh its weaknesses, however. We are especially pleased by the flexibility the plan offers to landowners who must address the presence of cultural resources on their properties. The central role that the tribes will play in implementation of the plan is also one of its greatest strengths.

The AOA is therefore pleased to endorse the proposed plan and urges its adoption. As always, we will continue to offer our assistance to the City as it moves forward to preserve and manage its cultural resources.

Yours truly,

Douglas C. Wilson, Ph.D.
President





PORTLAND

Community news and features

Artifacts plan balances desires of Indians, developers

But even after listening to hours of testimony Tuesday, the Portland Planning Commission delayed a decision on the Columbia south shore

By JOE FITZGIBBON

The Oregonian
It's a reasonable compromise.
An attempt to correct history.
The best of a bad situation.
And for property owners and tribal members who support a comprehensive land-use plan for the Columbia south shore, it means protecting Indian cultural resources, while giving developers a green light to continue millions of dollars in construction projects.

On Tuesday, the Portland Planning Commission listened to several hours of testimony from tribal elders, attorneys, property owners, government officials and activists without making a decision on the 350-page Cultural Resources Protection Plan.

The commission gave supporters and opponents of the plan until Feb. 3 to submit additional written testimony to be considered at its Feb. 13 meeting.
Those testifying said they supported the idea of preserving artifacts, former villages and Indian burial grounds, but developers clashed with advocates of native rights over the extent of that protection.
In short, those with tracts of land between Northeast 82nd and 165th avenues between the Columbia River and Sandy Boulevard

complained of excessive property restrictions.

For years, Bernard Gallitzki, owner of Bik-Tel Investment Co., has fought zoning regulations placed on his 60 acres just off Airport Way. He told commission members that designating his property as culturally "sensitive" limited its salability.
"Put the designation close to an artifact if you find one, not over an entire area," said Gallitzki. "How many overlays do you need anyway?"

Al Spada said that potential buyers for his 50-year-old farm were being scared off because of archaeological testing on his and neighboring properties.
"In all this time, I've never seen anything resembling an artifact," said Spada. "But

it's put a stigma that may kill potential buyers."

For the Confederated Tribes of Warm Springs, the Grand Ronde and Siletz Indians, ancestral ties to the land make unrestricted development akin to plowing up a graveyard.

Representatives of the tribe applauded the plan but argued that portions of it were incomplete.

Louis Pitt Jr., speaking for the Confederated Tribes of Warm Springs, said that tribal members opposed the plan's exclusion of parcels of land smaller than five acres from archaeological testing. He also said that Indians wanted a broader definition of an artifact and periodic inspection of confirmed archaeological sites.

Nevertheless, Pitt said, he would throw his support behind implementation of the document.

"Overall, we're pleased that the almighty dollar didn't run us over this time," Pitt said.

Robert Glascock, city project director, said that the Cultural Resources Protection Plan is in line with State Goal 5, requiring Portland to protect its cultural resources. Because of these unresolved issues between developers and tribal members, he asked the commission to delay final decision on the plan until next month.

Grant Waheneka, a Warm Springs tribal elder offered a succinct solution.
"If the plan cannot be resolved, then throw up your hands and give the land back to the Indians."

2KG Inc.

General Contractors

P.O. Box 42565

Portland

OR

97242

667-5537

fax 661-7063

Mr. Robert H. Glascock, AICP
Room 1002
1120 S.W. Fifth Ave.
Portland, OR 97204-1966

Re: Cultural Resources Protection Plan

Dear Mr. Glascock,

Thank you for taking the time to meet with me on Jan. 3. It was helpful to get clarification from you on issues raised in the draft plan for protection of the cultural resources existing in the Columbia South Shore Planning District.

As you know, 2KG intends to purchase and develop the parcel identified as 35MU70. The seller's agents, ERA Pounder, had made us aware that there were cultural resources on the site and identified a particular area of the site that might have development restrictions beyond those imposed by current zoning regulations. After reading the draft CRPP, it is clear that significant archaeological artifacts have been discovered on 35MU70. The nature of the discovery suggests preservation of the area containing those artifacts rather than development as an industrial site.

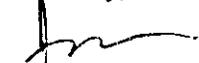
With that in mind, 2KG has prepared a site development plan (attachment A) that we think provides for both the protection of the cultural resources and development of the balance of the site in an economically feasible way. The key aspects of the plan are:

1. The area identified as containing artifacts is set aside and not developed. Identification is based on the field survey done under the auspices of your office.
2. The boundaries of the preserved area are similar to those proposed by an earlier candidate for development of the site. The west and south limits are set at those augers farthest west and south that produced no positive results other than 2 instances of charcoal flecks. A prior negotiation for sale of the resource area was based on those boundaries as the limits for both preservation and development.
3. A transition zone of 100 feet is established as proposed in the CRPP.
4. Work in the transition zone is limited to relatively shallow excavation and capping.
5. Implementation of this plan would require the sale of any preserved area to an interested party (perhaps The Archaeological Conservancy as mentioned in the CRPP). Sale of a portion of the site implies a partition of the site.
6. The CRPP as written does not allow work in the transition zone. Language would have to be incorporated in the CRPP final document that allows and defines construction in the transition zone consistent with our site development plan.

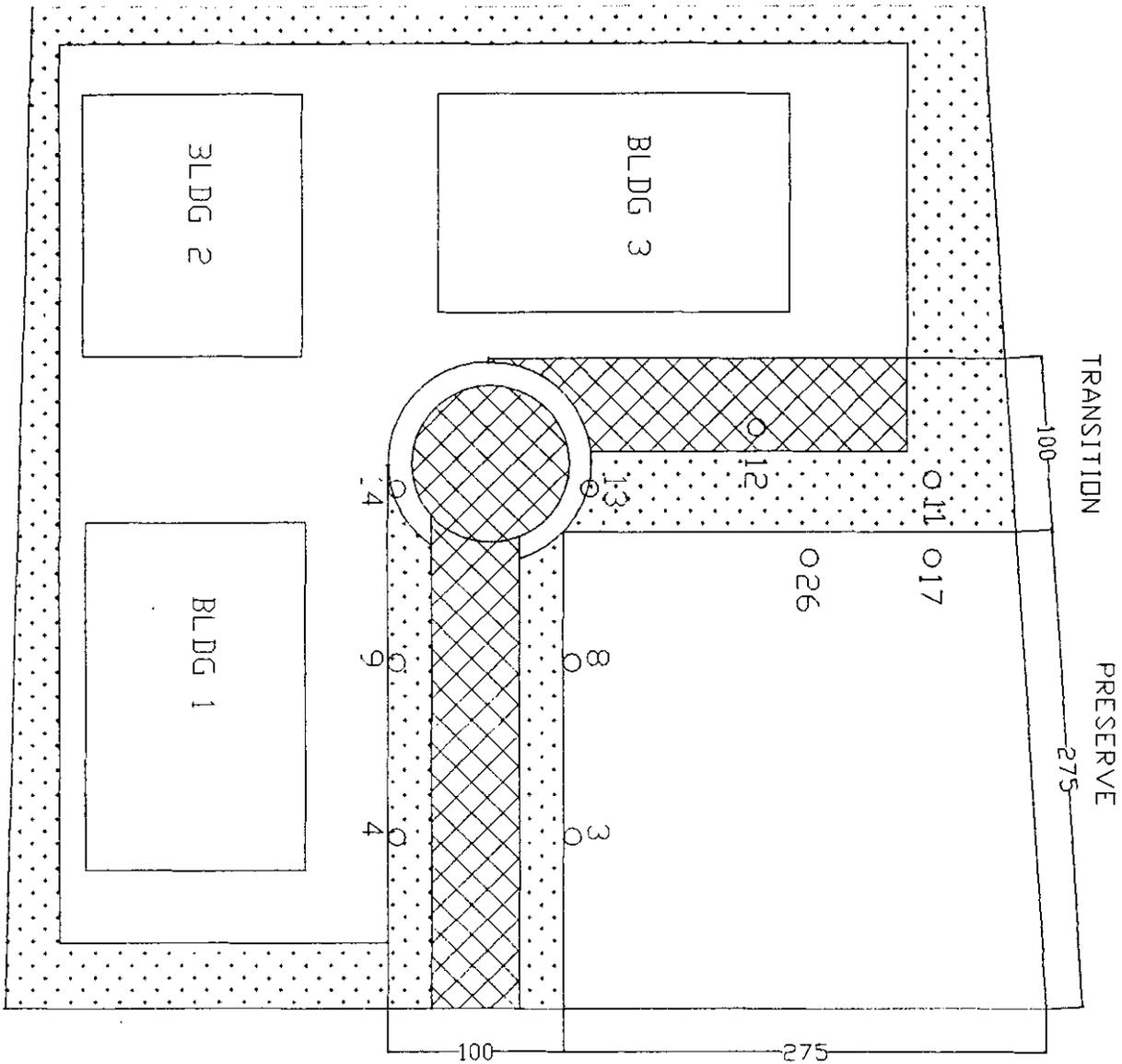
Given the extensive field work already done, it seems plausible that the intended function of the transition zone has been substantially accomplished. The physical constraints of the site require the proposed level of construction in the transition zone.

Please review and comment on the attached site plan and the issues listed above. It may be helpful to copy other interested parties with whom you have been working to develop the CRPP. We are hopeful that the interests of all parties can be addressed.

Sincerely,



Jeff Miller
2KG Contractors, Inc.



- LEGEND
-  PAVING IN TRANSITION ZONE
 -  LANDSCAPING
 -  AUGER LOCATION

SITE PLAN
 PRESERVATION AND DEVELOPMENT 35MU70
 BY: Jeff Miller
 January 5, 1996

Allen Lee
3640 NE 141st
Portland, OR 97230

January 4, 1996

Bob Glascock
Project Manager
Bureau of Planning
City of Portland
1120 S.W. 5th
Portland, Oregon 97204

Dear Bob:

I felt that I had better provide you some written comments on the draft "Cultural Resources Protection Plan for Columbia South Shore" because we often are unable to cover all comments at the Cultural Resources Advisory Committee meetings. My comments focus on Chapters 9 and 10 because we have discussed the other materials extensively at our meetings.

Overall, I think that Chapter 9 strays some from its intended purpose. As I read the intent, it should present the analysis of the ESEE consequences associated with three activities: allowing, limiting, and prohibiting conflicting uses. Instead of carrying this theme through the discussion, it tends to focus on various approaches for protecting the cultural resources and the impacts of these approaches. It shifts the perspective to the consequences of various levels of protection for the resources, rather than the consequences of allowing conflicting uses. As a result, there are sections in each impact category that trace through the consequences created by the *cultural resources* on the conflicting uses. I believe that is confusing and not consistent with the intent of the Goal 5 analysis. I would suggest instead presenting the discussion by presenting the consequences of allowing, limiting, and prohibiting conflicting uses. That would be more in line with the intent of the Goal 5 analysis and would make the discussion easier to follow and clearer. Tables such as Table 6 are more in line with this approach, but the text is not. It seems to me that the final product of Chapter 9 should be a table summarizing the consequences of these three levels of control on the conflicting uses (a combination of tables like Table 6). That would give the audience an overall view of the outcomes of allowing, limiting, and prohibiting conflicting uses.

As it is now written, Chapter 9 gets into policies and procedures for protecting the cultural resources. That seems to me to be the subject of Chapter 10. Discussing

Bob Glascock
p. 2

policies in Chapter 9 confuses the discussion, presenting the proposed protection approaches before the Goal 5 consequences are summarized.

In each impact discussion in Chapter 9, there is a summary of the "factors" considered. For example, the economic factors include development potential, property values, public investments and employment, tourism and open space, and site acquisition. It is unclear where these factors originate. Are they a complete set of impacts? Are any redundant? Are they all in the proper category? For example, the section on social consequences discussing "consequences on the conflicting use" (which seems to be the wrong perspective anyway, as I noted earlier) (p. 159) talks about "marketing opportunities" under "loss of heritage and scientific values." Marketing opportunities seem more appropriate as economic impacts.

Figure 17 in Chapter 9 doesn't seem to fit in this chapter. It's unclear what it has to do with measuring the ESEE impacts.

I also question the exclusion of development sites with less than five acres of undeveloped land (p. 110). What is the basis for this exclusion? Another part of the report notes that some cultural resource sites are as small as one-tenth of an acre so there could be several sites on a five acre plot.

I also noticed a couple of typos in this chapter. On p. 109, the third paragraph refers to a page number but doesn't give the number. On p. 148, the first sentence in the third paragraph seems to have a word missing.

In Chapter 10, the term "archaeological site" is often substituted for "cultural resource." The definitions of these terms suggest that an archaeological site may exclude some cultural resources. As it stands, the plan provides little explicit protection for other cultural resources such as native species, inanimate materials, and landforms. This may be an intended result of the narrower definition of "cultural resources" used by the Bureau of Planning compared with the Interior Columbia Basin Ecosystem Management Project definition (p. iii). I would like to know the position taken by the Native American community on this issue.

My big remaining concern is what happens in discovery situations. Chapter 10 (p. 216) says that the Goal 5 administrative rule constrains this plan from addressing discovery situations. What is the specific limitation? It would be helpful to clarify this and lay out what the state archaeological permit program requires. What are the probable changes that will come out of pending Goal 5 revisions? It seems to me that this plan should not bypass this issue. Because of the risk of losing sites and resources during the development of sites that have been excluded from the plan, I

Bob Glascock
p. 3

think we should discuss establishing a requirement in the permitting process to monitor and report any discovery situations.

I hope that these comments are useful. Overall, I think that you and the Bureau have done a good job of working with the various interests to arrive at a common understanding and make strides in tackling a new and important planning issue. I believe this plan does a good job of delineating and categorizing the different land areas covered and documenting the inventory information available. I think it reflects the areas of agreement reached by the CRAC. My suggestions are intended to improve the document and raise issues that I feel need resolution or, at least, input by the CRAC.

Sincerely,

A handwritten signature in black ink, appearing to read 'A. Lee', with a long horizontal flourish extending to the right.

Allen D. Lee
CRAC Member



CITY OF
PORTLAND, OREGON
BUREAU OF PLANNING

Charlie Hales, Commissioner
David C. Knowles, Director
1120 S.W. 5th, Room 1002
Portland, Oregon 97204-1966
Telephone: (503) 823-7700
FAX (503) 823-7800

January 4, 1996

Stark Ackerman
Columbia Corridor Association
c/o Black Helterline
707 SW Washington Street - Suite 1200
Portland, OR 97205

Sent by FAX: 224-6148

3 pages

SUBJECT: Cultural Resources Protection Plan for Columbia South Shore

Dear Stark:

Before the holidays, you suggested that we place a disclaimer on certain maps found in the above recommended draft (dated 12/12/95). You were concerned that maps that showed proposed cultural resource sensitivity areas might be construed to imply that all proposed cultural resource measures apply throughout those sensitivity areas.

Enclosed are sample maps intended to address your concern. The revised sample maps include Figure 10 (page 97 of the recommended draft) and the cover sheet for Appendix I (proposed zoning maps of the Appendices document).

Sensitivity areas serve as a discrete planning tool to identify the higher probability areas for Indian use sites, while not disclosing archaeological site locations. The sensitivity areas are drawn using archaeological evidence and reconstructed environmental features. The recommended draft selectively applies 1) requirements for archaeological testing and 2) protection measures for identified archaeological sites.

For confirmation testing, affected areas are shown as "priority locations" on Figure 9, page 85. We have not mapped confirmed archaeological sites, but have described them in Chapters 7 - 9 of the recommended draft. Individual owners have access to archaeological site records from the SHPO archaeologist. Upon request, I have also shared site records with owners.

Please let me know what you think of these sample maps. I am available to meet with you Friday and Monday. My phone number is 823-7845.

Sincerely,

Robert H. Glascock, Senior Planner

enclosure

cc: correspondence file

DRAFT 1/4/96

Cultural Resources Protection Plan for Columbia South Shore Sensitivity Areas Map with Developed Areas

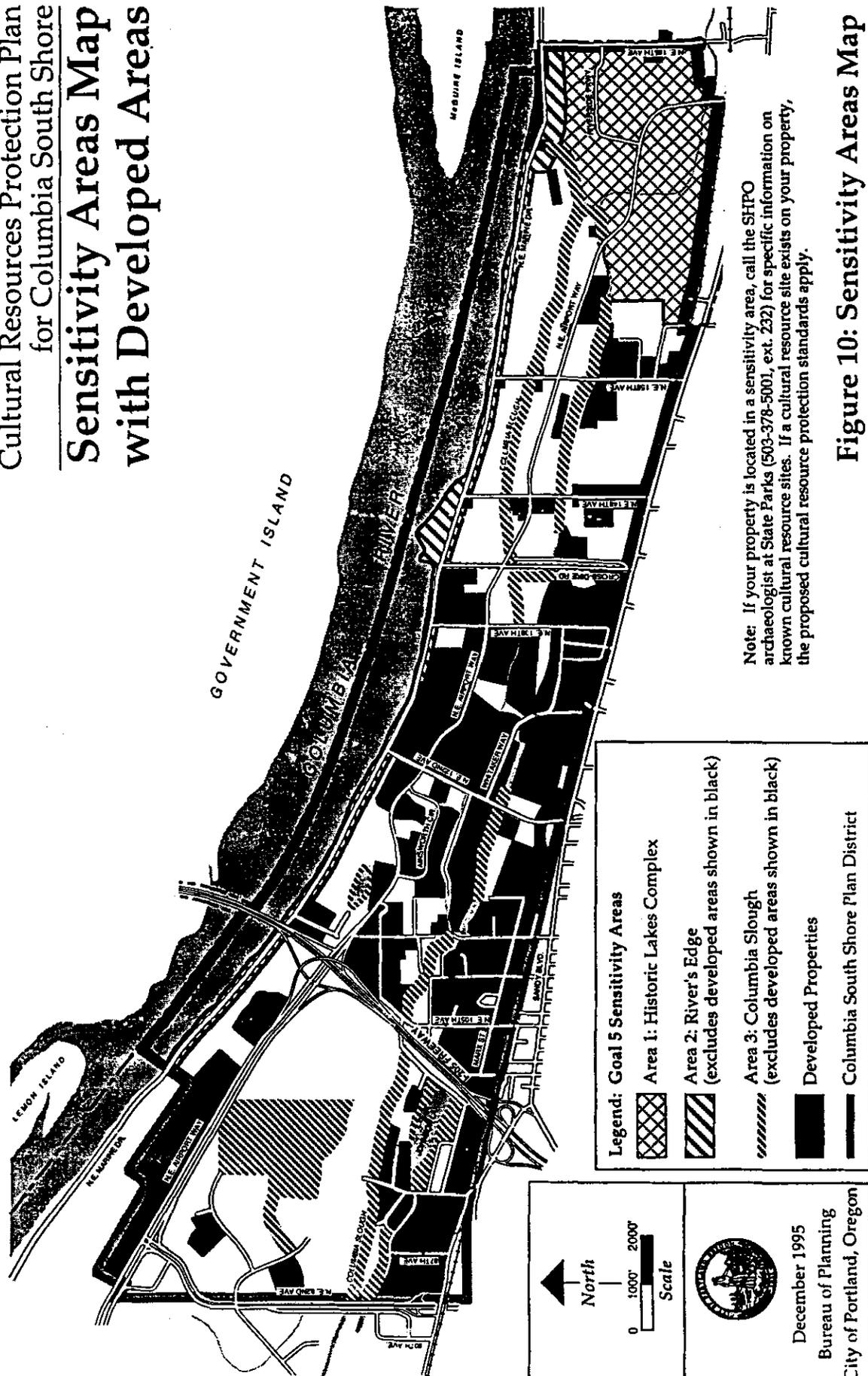


Figure 10: Sensitivity Areas Map



CITY OF
PORTLAND, OREGON
BUREAU OF PLANNING

Charlie Hales, Commissioner
David C. Knowles, Director
1120 S.W. 5th, Room 1002
Portland, Oregon 97204-1966
Telephone: (503) 823-7700
FAX (503) 823-7800

DATE: January 3, 1996
TO: Kathryn Toepel, Heritage Research Associates Fax: 503-485-1364
FROM: Bob Glascock, Senior Planner *BHG*
Portland Bureau of Planning
SUBJECT: Cultural Resources Protection Plan for the Columbia South Shore

Thank you for your memo of November 30, 1995 regarding draft code language contained in the plan dated November 14, 1995. We have since issued a recommended draft report and appendices report. The purpose of this memo is twofold.

First, I need to verify areas that still need to be tested. Figure 9 (page 85) shows those areas as "priority locations for confirmation testing." I understand that two affected property owners feel adequate testing has been conducted on their properties, which are adjacent to Marine Drive (see attached map for circled areas). Have these areas received adequate testing, or is further confirmation testing necessary for each of the circled areas?

Second, your memo posed several questions and provided comments specific to archaeological matters addressed in the proposed code language. This memo also responds to your questions and comments in the order in which they were posed.

1. I understand that the term "complex" has a specific archaeological meaning that differs from our use of that term for sensitivity areas. We can drop the term "complex" without adverse effect to the plan.
2. You point out that not all auger probes extend to a full depth of eight feet, given underlying bedrock or compact soils. In response, I suggest two word changes to the proposed code. First, we can delete the following sentence in F.1. on page 233, "Subsurface auger probes will examine a minimum of 8 feet of ground depth." Second, we can modify F.1.a. to read "The spacing and depth of auger probes is measured in lineal distance along a line as determined by a qualified archaeologist..."
3. You suggested that we drop "yearround" from the proposed definition of "village." Your request misses several issues. First, is there a temporal measurement that can be used to define a village site? Second, how should this Plan classify residential sites for a single family?
4. The Bureau of Planning proposes full protection of burials and villages (see page 217 for definition of "full protection."). Tribal representatives from Warm Springs and Grand Ronde have told us that burial sites should receive full protection. Our evaluation (see Chapter 9, Analysis of ESEE Consequences) concluded that burials

and villages strongly support heritage and scientific values and should receive the highest protection level.

To date, no burials and one village have been identified in the plan district. The proposed code language gives affected owners several courses of action, found on page 237 of the recommended draft. First, the owner can hire a qualified archaeologist to conduct a site evaluation to reconsider site boundaries (provision F.5., page 237). Second, the adjustment process is given more prominence to adjust building setbacks, minimum off-street parking spaces and the location of on-site landscaping.

The *Cultural Resources Protection Plan for the Columbia South Shore* responds to state land use requirements. The purpose of State Goal 5 and the land use program is to provide a process for local governments to determine what resources are significant and what level of protection is appropriate for resources determined to be significant. We seek to dovetail with state requirements and processes relating to archaeological site protection, while giving more certainty of development potential and resource protection than is provided with state requirements and processes.

5. Pages 241-243 contain a data recovery option for identified seasonal campsites/activity areas. The intent of the proposed code language is to use the state archaeological permitting process, including State requirements for Tribal consultation. It is our understanding that the SHPO permitting process is intended to assess the presence of archaeological resources but does not specify protection measures once they are found. Through this plan we seek to bridge a gap between the SHPO permitting process and project development in terms of how a project is built once archaeological testing is complete.

Please pass along any suggested code language that could address this issue. Incidentally, a decision flowchart is provided on page 224 of the recommended draft.

6. You asked about reference to confirmed archaeological sites in Figure 22, page 214 of the *Cultural Resources Protection Plan Recommended Draft*. In Figure 22, we identified all identified significant archaeological sites for Historic Lakes because we have a full list of archaeological sites and we are not requiring additional pre-development confirmation testing. In contrast, some properties in the River's Edge and Columbia Slough sensitivity areas still need testing. For this reason, a list of identified archaeological sites may not be complete for those areas. Please note, Figure 24 on page 222 breaks out the number of properties affected by confirmation testing, confirmed archaeological sites and environmental "p" zoning.

You also asked whether several confirmed archaeological sites are located within environmental "p" zoning, which would provide site protection. Both confirmed sites within the River's Edge (35 MU 70 and 35 MU 78) lie outside of the "p" zone and are currently subject to the interim cultural resource review (shown on zoning maps as "sec"). That interim review will be deleted with adoption of this plan. If no new zoning requirements are enacted to protect these sites, the City will have no role in protecting them. We believe that some level of protection is warranted, especially for 35 MU 70 (the village site). Similarly, the confirmed site 35 MU 103, within the Columbia Slough sensitivity area, is located outside of the "p" zone and would receive no City protection unless new zoning protective measures are

Kathryn Toepel
January 3, 1996
Page 3

enacted. As for site 35 MU 57, this proposal provides no protection because the site was destroyed prior to adoption of this Plan.

7. Sites not located in the "p" zone would only receive City protection measures if those measures are contained in the final adopted version of the *Cultural Resources Protection Plan for Columbia South Shore*. The proposed code language contains a provision for situations involving removal of the "p" zone on archaeological sites.

Again, thank you for your input. I hope my responses satisfactorily address your questions and concerns. I appreciate any feedback you can provide me with regard to confirmation testing along Marine Drive, the definition of village and possible language to clarify the data recovery option.

cc: David V. Ellis, AINW
Bob Clay, Catherine Lawson

Fax: 761-6620

Enclosure

Cultural Resources Protection Plan
for Columbia South Shore
Archaeological Testing Status Map

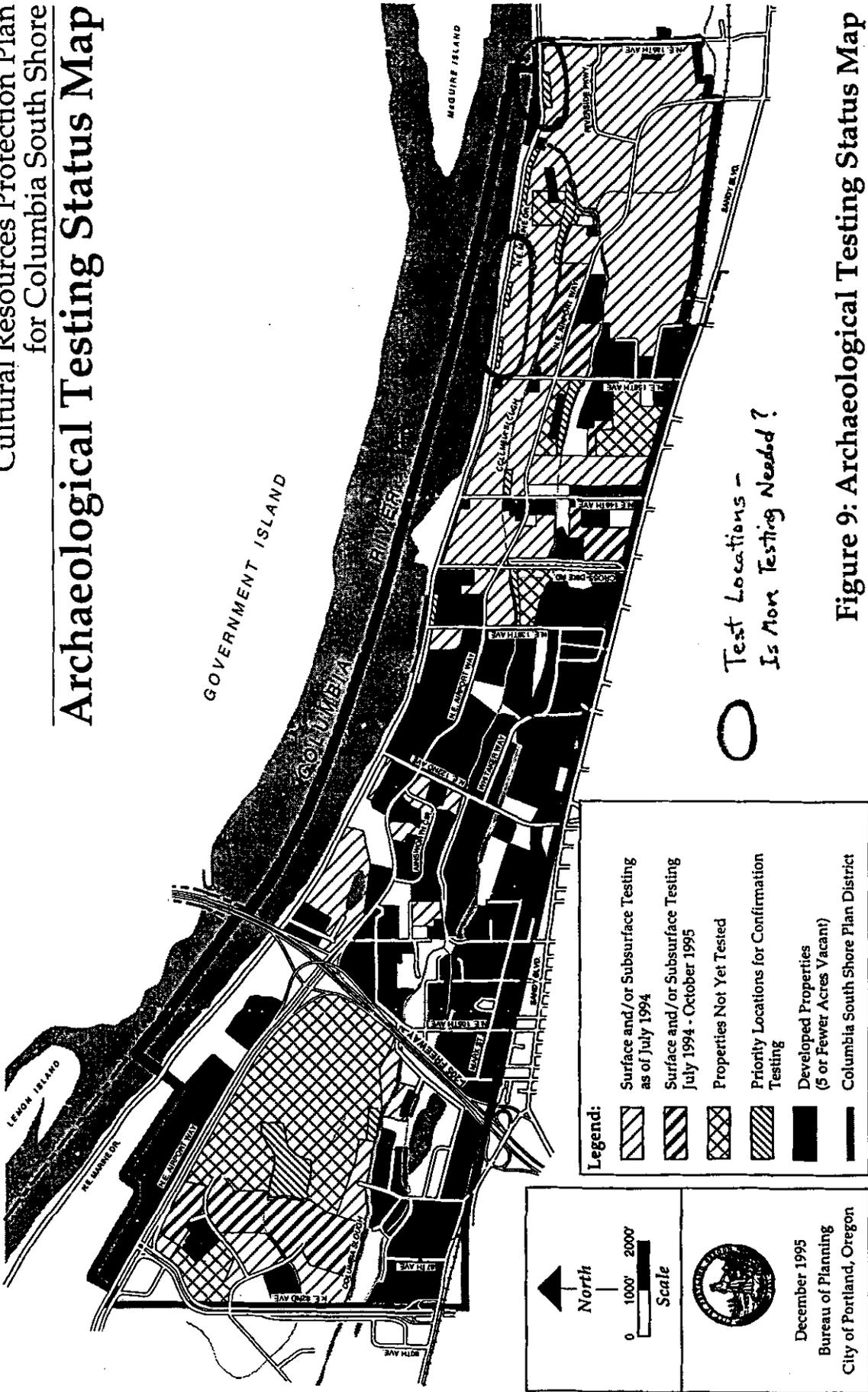


Figure 9: Archaeological Testing Status Map



CITY OF
PORTLAND, OREGON
BUREAU OF PLANNING

Charlie Hales, Commissioner
David C. Knowles, Director
1120 S.W. 5th, Room 1002
Portland, Oregon 97204-1966
Telephone: (503) 823-7700
FAX (503) 823-7800

December 21, 1995

John P. Buckinger, President
Miller Paint Company, Inc.
12812 NE Whitaker Way
Portland, OR 97230

SUBJECT: Cultural Resources Protection Plan for Columbia South Shore

Dear Mr. Buckinger:

This letter responds to your request of December 15, 1995 for more information on how the above plan may affect your property. The legal description of your property at 12730 NE Whitaker Way is Lot 2 Block 2 of Space Industrial Park, and is found on zoning map 2543. The property is currently zoned IG2 and IG2p (general industrial with portions also designated for environmental protection).

The above plan responds to a State Goal 5 requirement that the City protect significant archaeological sites within the Columbia South Shore plan district. The proposed code amendments are intended to provide more certainty of archaeological site locations and the resulting development process. The proposal dovetails with the existing state archaeological permit program, which the Oregon State Historic Preservation Office (SHPO) operates.

The recommended draft plan identifies your property as a "developed property" (see Figure 9, Archaeological Testing Status Map, attached). All properties within the plan district with 5 or fewer acres of vacant land were defined as developed and are excluded from the City's Goal 5/cultural resources inventory. We directed our consultant, Heritage Research Associates, to place subsurface augers on undeveloped properties and in the vicinity of recorded archaeological sites. To our knowledge, your property has not been tested for the presence of archaeological sites. As a result, we have no data on your property.

Staff proposes no local protective measures for "developed properties." This should not be construed as a guarantee that an archaeological site does not exist on your property. We simply did not place developed sites as our highest priority for advance ("confirmation") testing.

In summary, our staff proposes no special cultural resource measures on your property. This proposal is subject to public hearings and City Council adoption. State and federal

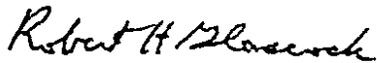
An Equal Opportunity Employer
City Government Information TDD (for Hearing & Speech Impaired): (503) 823-1968

Mr. John P. Buckinger
Page 2
December 21, 1995

statutes are not affected by this proposal. I suggest that you report any discovery of an archaeological site during project construction to Dr. Leland Gilson, the SHPO archaeologist. His phone number is (503) 378-5001 extension 232.

Thank you for your interest in the above proposal. A full staff report ("recommended draft") is available from our receptionist (823-7700). Please let me know you have additional questions.

Sincerely,



Robert H. Glascock, Senior Planner

attachment

cc: Anne Nickel, CCA
Cultural Resources Advisory Committee
Bob Clay, Kim White

Cultural Resources Protection Plan
for Columbia South Shore
Archaeological Testing Status Map

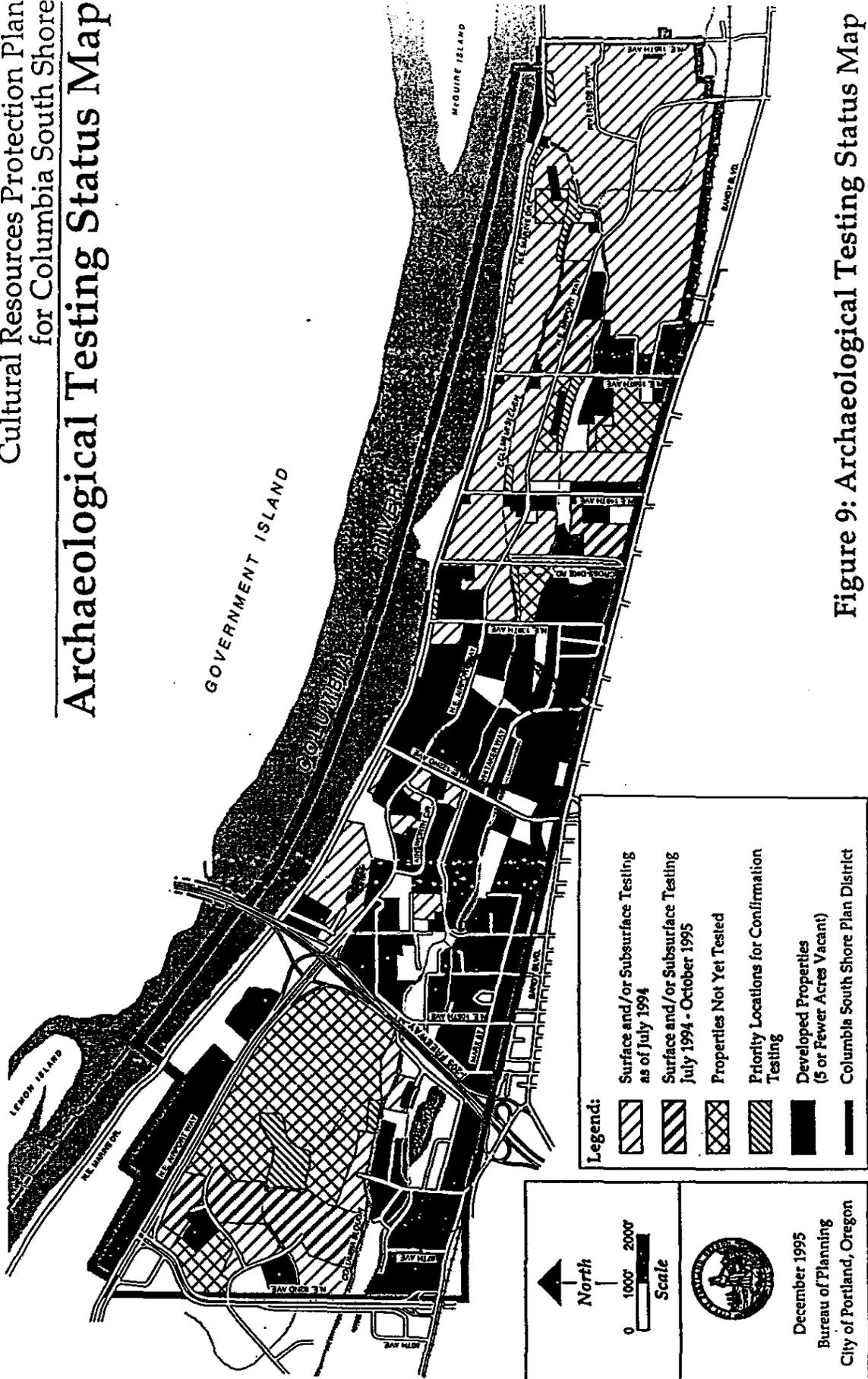


Figure 9: Archaeological Testing Status Map



CITY OF
PORTLAND, OREGON
BUREAU OF BUILDINGS

1120 S.W. 5th Avenue
Portland, Oregon 97204-1992
Mailing Address: P.O. Box 8120
Portland, Oregon 97207-8120
(503) 823-7300
FAX: (503) 823-6983
TDD: (503) 823-6868

December 19, 1995

To: David Knowles, Director
Planning Bureau

From: Margaret M. Mahoney
Director

Re: Cultural Resources Protection Plan

We have been following and participating in the development of the Cultural Resources Protection Plan over the past few months. Bob Glascock, the project manager, is being very attentive to questions and concerns raised. However we remain concerned that this proposal remains fatally flawed. The primary concern is implementation.

We wonder whether or not any one on city staff, in any bureau, will have the needed expertise to judge compliance with these provisions. Further, if someone violates these provisions, there is no one on staff who could competently say that a violation has occurred.

The inter-bureau team looking at this plan has explored a variety of concepts for implementation and enforcement. Almost always they come down to a conclusion that this can only be "self-enforced" by use of agreements between developers and the interested tribes. Also considered is the use of "contract" staff, specifically archaeologists who would monitor, inspect, and review for the city. In any scenario, if these systems break down, then city staff must be available to take the appropriate action. We are not sure it is feasible.

A related, but no less important issue is the extremely limited nature of the "resource" to be protected. It is so limited, that it seems to be an inappropriate application of city resources to devote specialized code provisions and administrative procedures. There might be one or two applications a year, frequently none.

We are not, in any way, finding fault with Bob Glascock's work. We feel that he is just as frustrated and concerned regarding these issues. The purpose of this memorandum is to make sure you were fully aware of our concerns before this proposal moves into the public arena. If they remain unanswered when this is sent to the Planning Commission, we will have to testify against the proposal. Perhaps a meeting between us would be helpful toward figuring a way out of this dilemma.

cc: Bob Glascock - Planning
Kermit Robinson - Buildings

12812 N.E. WHITAKER WAY
PORTLAND, OREGON 97230



(503) 255-0190 • Fax: (503) 255-0192
MANUFACTURERS • Wholesale - Retail

SINCE 1890

December 15, 1995

Mr. Bob Glascock
City of Portland
Bureau of Planning
1120 SW 5th Ave. Room 1002
Portland, OR 97204

Dear Mr. Glascock:

In order to properly prepare for your January 9, 1996 meeting, we need to know what the Heritages Research Associates report contains about our site. We also need a copy of those parts of your proposal to the South Shore Plan that affect our property rights. We are defined as Lot 2 Block 2 of Space Industrial Park on map 2543, otherwise known as 12730 NE Whitaker Way.

Thank you,

John P. Buckinger
President
MILLER PAINT COMPANY, INC.

cc: Ann Nickel, Columbia Corridor Association

***Comments on Cultural Resources
Protection Plan for Columbia South
Shore - Discussion Draft
(11/14/95)***



CITY OF
PORTLAND, OREGON
OFFICE OF CITY ATTORNEY

RECEIVED
Jeffrey L. Rogers, City Attorney
1220 S.W. 5th Avenue
Portland, Oregon 97204
(503) 823-4047
DEC 13 11 03 59

December 13, 1995

INTEROFFICE MEMORANDUM

TO: Bob Glascock
Bureau of Planning

FROM: Michael A. Holstun *MAH*
Sr. Deputy City Attorney

SUBJ: Columbia South Shore Cultural Resources

The numbered comments below correspond to the numbers marked on the most recent draft of the Cultural Resources document. As I mentioned to you before, the ESEE analysis portion of the document repeats the same very general information a number of times. In view of time constraints I am limiting my comments to the Chapter 10 protection measures.

1. Page 229. C identifies the only lands to which these regulations apply. The regulations apply only to properties (with 5 or more acres of undeveloped land) which are located in the three sensitivity areas. Is that correct?
2. Page 229. The reference in "D" to "(on all lots or sites with 5 or more acres of undeveloped land)" is unnecessary and could be deleted.
3. Page 231. As we discussed earlier this week, the regulatory distinction between the items in "D" (Page 229) and the items in "E" is unclear. It looks like to me that all the items in "D" and "E" are subject to the requirements in "F" (the last sentence in E says the requirements of F apply). If that is true, in what sense are the items in "E" exempt? As written, it's confusing to me.

BOB GLASCOCK

December 13, 1995

Page 2

4. Page 234. There have been questions raised about the justification of the transition areas and the distances picked. The commentary at F.3 might be a good place to identify the documents or other evidence you relied on in picking the transition area distances.
5. Page 237. I am not sure what you mean to say here in the first sentence. If you only want to allow those ground disturbance activities exempted under "E," consider rewording the first sentence to say:

"Within burial sites and village sites, only those ground disturbance activities exempted under Item E above are allowed."

Does the second sentence apply to ground disturbance activity "exempted" under E? If so is it really accurate to say they are exempted from these regulations? As a practical matter how are those activities going to know whether they are within 5 feet of an artifact unless they do confirmation testing?

6. Page 237. I assume you are talking about an "upper level transition area" here. It would be less confusing to the uninitiated if you said that. Also what is the vertical depth limit?
7. Page 237. It is not clear to me what the conservation easement would be designed to "protect" and how that would be accomplished with a conservation easement. Under ORS 271.725, I have some question whether the city could "require" that a property owner give the city a conservation easement. Even if the city can require that a property owner give such an easement, the Dolan analysis (rough proportionality and individualized findings) might be required on a case-by-case basis.

BOB GLASCOCK

December 13, 1995

Page 3

If the use of conservation easements is to be retained, consider allowing such easements to be used as one way to protect the site, rather than making them a requirement. In any event, more direction on how the easement is to protect the site is needed.

8. Page 237. Are you talking about "resource mitigation" in the Environmental Review sense? Or do you want to encourage approval of such adjustments by specifying some way in which the avoidance of burial or village sites can be considered in whether to grant the adjustment? Cary Pinard might have some ideas about how to reword this to accomplish your purpose.
9. Page 239. Same comment as number 5 above.
10. Page 239. Same comment as number 7 above.
11. How will the Bureau make sure that the zoning map continues to show that a property which has the E Zone removed continues to be subject to protection measures for cultural resources? How will that work?

MAH/krl

g:\plng\misc.mah\csscrmem.d13



CITY OF
PORTLAND, OREGON
BUREAU OF PLANNING

Charlie Hales, Commissioner
David C. Knowles, Director
1120 S.W. 5th, Room 1002
Portland, Oregon 97204-1966
Telephone: (503) 823-7700
FAX (503) 823-7800

December 1, 1995

TO: Members of the Planning Commission
FROM: Bob Glascock, Senior Planner ^{R166}
SUBJECT: Recommended Draft of Cultural Resources Protection Plan

On December 12, 1995, the Planning Commission will hold a public hearing on the staff report entitled *Cultural Resources Protection Plan for Columbia South Shore: Recommended Draft*. A copy of that report is enclosed under separate cover.

This memorandum answers two questions commissioners raised at the November 14th Planning Commission briefing. First, how will the cultural plan (City's role) add value to the existing regulatory framework of cultural resource policies, statutes and programs? Second, what does this mean to the development community, associated tribes and other stakeholders? I will answer each question in turn.

City's Role

Chapter 2 of the staff report discusses federal, state, tribal and local policies and programs that relate to cultural resources. A state archaeological permit (pages 16 - 18) is required before an archaeological site is altered or otherwise disturbed. Recent changes to the archaeological permit allow appropriate tribes to deny a permit request, and there are penalties for violations.

The current process blurs responsibilities, timelines and requirements to protect archaeological sites. The local role is undefined, and there is no direct tie between the City's land use/building process and the state archaeological permit process. Though City bureaus and the Columbia Corridor Association have informally attempted to alert owners and prospective developers of the state permit, not all applicants get that information in a timely manner. As a result, the City may issue land use and building permits not consistent with any state requirements.

Staff proposes zoning code amendments that dovetail with the state archaeological permit process. The amendments make use of the SHPO archaeological inventory and reporting requirements, and provide a process to remove cultural materials (known as data recovery). The cultural plan deletes one discretionary land use review (the interim "sec" overlay zone) without adding another discretionary review. Instead, the proposal adds development standards targeted to the type of archaeological site (burial, village or seasonal campsite).

Stakeholder Analysis

Attached is a decision flowchart from initial land use/building permit application to issuance of building permit. This chart is somewhat more comprehensive than Figure 25 of the report (page 224), and staff suggests that the attachment replace Figure 25 in the staff report. At the public hearing, staff will use this figure to explain the proposal in more detail.

The staff proposal responds to the developer interest for certainty in requirements and timelines. Figure 24 (page 222) shows that ten development sites need further "confirmation

testing" and six known archaeological sites are presently unprotected. Properties with fewer than 5 acres of vacant property are excluded from any testing requirement. Since development is not expected in the environmental protection ("p") zone, those properties will not likely be affected by the presence of an archaeological site fully located in that zone.

The cultural plan is not able to address discovery situations on private land (see page 216 for current state Goal 5 rule). Discovery situations occur when, during project construction, a backhoe or other piece of equipment hits a possible archaeological site. For City-initiated construction projects, the City's standard construction specifications manual guides the contractor on what to do, and several City bureaus have archaeological consultants on retainer to evaluate the suspected cultural materials in a timely manner. The developer may face costly downtime if left to the state archaeological permit system and little available assistance with tribal consultation.

Staff has discussed with the Columbia Corridor Association (CCA) and other stakeholders potential benefits of a private agreement, also known as a Memorandum of Understanding (MOU). For the past year, an interim MOU, signed by the CCA and the Grand Ronde Tribes, has been in effect. That MOU expires with the adoption of this cultural plan. Staff has encouraged key stakeholders to consider a new private agreement that defines steps and timelines for discovery situations. Another idea to break down communication barriers is for the Bureau of Planning to offer optional pre-application conferences for applicants interested in meeting with other stakeholders (including tribal representatives) to discuss resource management and development issues for a specific property. The staff report does not contain the discovery agreement or the optional pre-application conference, so the Planning Commission may wish to solicit comments on them at the public hearing.

For participating tribes, the cultural plan recognizes heritage values (pages 75 and 92) and includes them in data recovery plans (consistent with state permitting). The plan also keeps site locations confidential by describing archaeological sites within sensitivity areas.

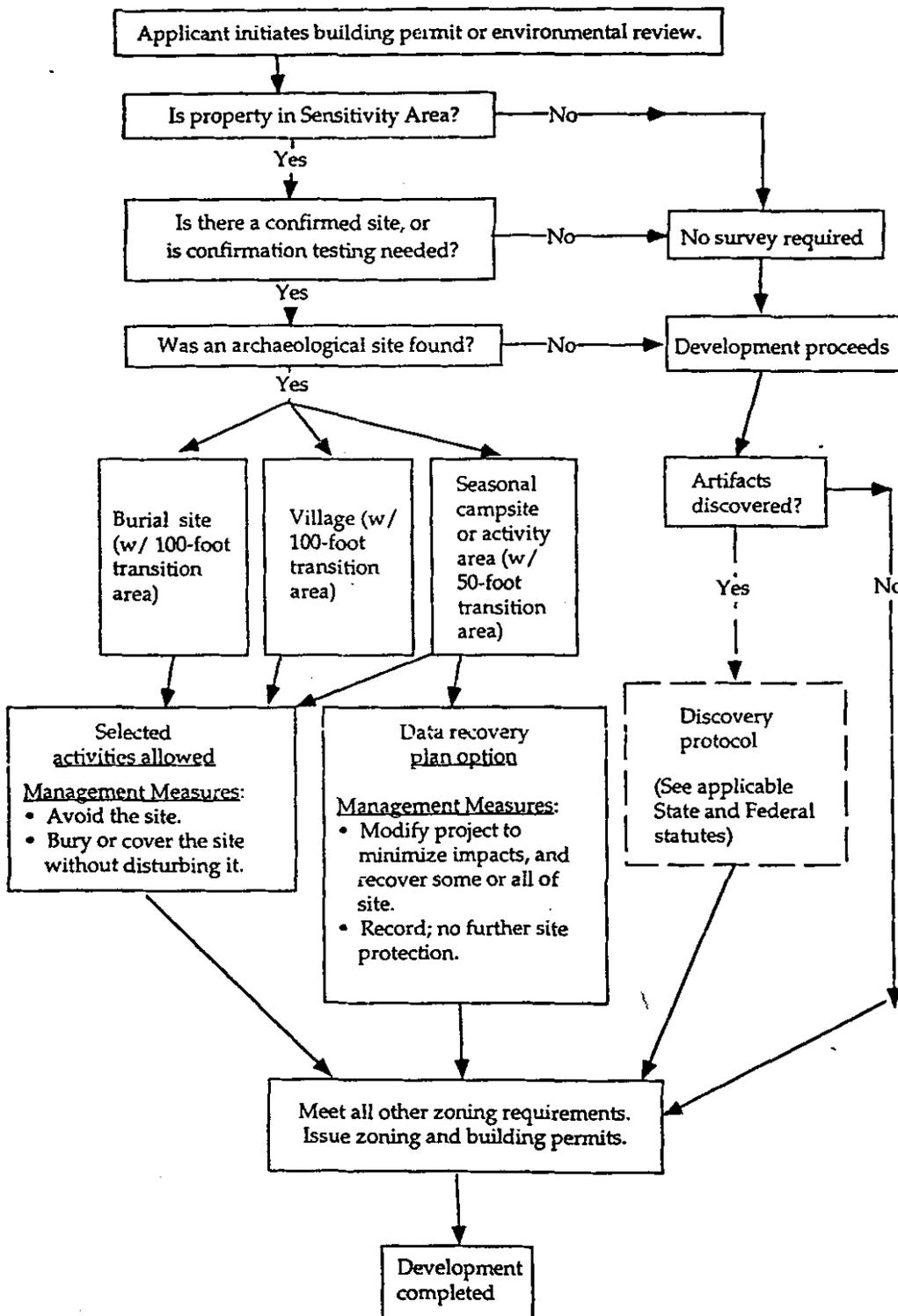
Planning staff engaged the policy and technical advisory committees in review of a discussion draft report. Comments on that discussion draft from the committee members (business, tribal, archaeologist and City staff) have strengthened the proposal. For questions or comments, please call me at 823-7845.

cc: Cultural Resources Advisory Committee
Cultural Resources Technical Committee

attachment
enclosure

DRAFT

Figure 25: Decision Steps To Determine Levels of Protection (Management Measures) for Archaeological Sites





**HERITAGE
RESEARCH**
ASSOCIATES, INC.

1997 Garden Avenue
Eugene, Oregon 97403
Phone 503/485-0454
FAX 503/485-1364

FAX TRANSMISSION

Date: 11-30-95

Time: _____

To: Bob Glascock 503-823-7800

From: Kathryn Toepel

Number of Pages (including this one) 2

Comments: Bob: Bob Musil and I have reviewed the revised draft code for
cultural resources; our comments follow. Please call if I can clarify anything. Thank
you for the review opportunity.

Kathryn

Please call 503-485-0454 or FAX 503-485-1364 if you have any questions or problems with this transmission.



**HERITAGE
RESEARCH
ASSOCIATES, INC.**

**ARCHAEOLOGY
AND HISTORY**

MEMO TO: Bob Glascock
Bureau of Planning
City of Portland

FROM: Kathryn Toepel 

DATE: November 30, 1995

RE: Revised Draft Code for Cultural Resources Protection Plan

The draft code for cultural resources is an ambitious undertaking and is to be commended for its overall objectives. It appears to do a effective job of connecting the protection of cultural resources with the nuts and bolts framework for zoning, permitting, etc. under which the City and citizens operate. The plan is well operationalized.

Our only comments are small ones, pertaining wholly to archaeological matters, not to the planning aspects of the draft code. Please accept them as such and determine for yourself whether they might be useful to the Bureau in any way.

1. The three sensitivity areas are well defined, but the use of the term "complex" (pp. 228-229ff) has an archaeological meaning that is at odds with its use in the draft code. Would it be possible to drop that word without adverse affect to the document?

2. On page 233, excavation of augers to a depth of 8 feet may not be feasible or necessary, particularly if underlying rock (such as a cobble bar) or compact soils are encountered. Both phenomena would most likely predate human occupation. Many of the auger holes excavated on the CSS would not meet this definition.

3. On page 233, the definition of a village would become more inclusive if the word "yearround" were dropped. Villages can be defined as sites containing evidence indicative of sedentary settlement (most usually in the form of structural evidence). Along the Columbia, many villages were occupied only seasonally but that does not lessen their import.

4. On page 237, does the City really wish to exclude any discretionary review process for burials and villages? If so, are there other avenues of review available for property owners or any recourse? Is the City taking a separate stand from the requirements and processes already set forth by the State?

5. Between page 241-243, I am not entirely clear as to the procedures that may follow the discovery of a site within a proposed development, in terms of testing and data recovery. Perhaps a flow chart would help. On page 241-3 (item 9), the consultation process seems to duplicate that for the state permitting process. Is there a way to streamline or merge these processes? The motivating factor for the applicant in any case is that no state archaeological permit will be issued without the approval of the tribes. Even if the applicant adheres to the City's process, that has no real effect as to whether a permit will be issued (9b-e).

6. Page 246: are only three sites known for the "p" zone? I notice on Figure 22 (page 214) that sites 35MU70 and 35MU78 are not noted for River's Edge, and 35MU103 is not noted under Columbia Slough. 35MU57, a likely village which is now destroyed, would have been under Historic Lakes. Would any of these sites also be within the "p" zone?

7. For my own clarification: are sites not in the "p" zone still protected? If so, what is the purpose of the "p" zone?

1997 Garden Avenue
Eugene, Oregon 97403
Phone 503/485-0454
FAX 503/485-1004

RECEIVED
PLANNING BUREAU
1:55 NOV 28 P 1:39

MEMORANDUM

To: Bob Glascock, Planning
From: Doug MacCourt, PDOT 
Re: Recommended Edits to Draft Report/Regulations
Cultural Resource Protection
Columbia South Shore
Date: November 28, 1995

Set forth below are my proposed draft additions for a "Tribal" policy section and revisions to the "Federal" policy section. I am fax'ing copies of this to Tim Simmons, Louie Pitt, Jr. and Janice Searles. This memo does not include my other comments on the November 14 Discussion Draft, which I am in the process of completing. Please contact me immediately if you have questions, recommendations for changes or other issues. My pager # is 323-8763. PS: I am also checking my cites and will replace the dates on the citations to statutes since I have not had a chance to shepardize and a few of my sources are getting a little dated.

Chapter 2: Policy Framework

Tribal

Underlying the policies which affect the *Cultural Resources Protection Plan* and corresponding regulations are a blend of elements which make cultural resources and their protection critically important to the participating Oregon tribes of American Indians. While Chapter 6 discusses specific interests expressed by various tribal members and others, it is important to recognize that broader spiritual, cultural, political and legal forces within the tribes shape the policy framework of the project and give it a distinct form.

The tribal representatives have enriched and strengthened the project and the process by describing these sources of tribal policy and their meaning to this effort. For example, Louie Pitt Jr. continually focused the City on the spiritual and Indian law basis for resource protection in the Columbia South Shore. Ranging from buried artifacts to wetlands, camas bulbs and wapato, Louie also gave a clear illustration of the interconnection between the land, its resources and tribal power. Kathryn Harrison further explained the spiritual and historical elements of resource protection, including the painful forced removal from these ancestral lands and the importance of the City's effort to tribal elders like herself. Louie, Kathryn, Tim Simmons and

Barbara Creel expertly helped guide the process on a distinct but consistent path from other tribal rights, including the role of treaties, federal law, tribal sovereignty and tribal government in shaping tribal policy.

This document reflects a wide range and complexity of tribal policy influences on the non-Indian legal institution of state land use law. Yet neither this document, the Plan or the rules adopted under state Goal 5 can articulate a *tribal* policy for cultural resource protection. Indeed, tribal policy is the exclusive domain of the tribes, and among tribes specific policies will vary. While non-tribal governments such as the City of Portland can create and implement complimentary policies, the City cannot speak for the tribes. Perhaps the best way to describe the tribal element of the project's policy framework is to state the limitations of this project with respect to tribal rights:

The City's Plan and ordinances for protecting cultural resources do not affect or modify any treaty or other right of any Indian tribe, including aboriginal rights.

Viewed from this perspective, the whole of tribal, federal, state and local policies which allow Portland to develop the Plan and regulations to protect cultural resources in the Columbia South Shore are much greater than the sum of each policy area.

Federal

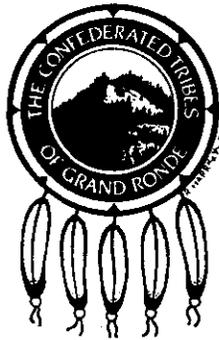
(Replace the first paragraph on p.15 with the following):

There are a myriad of federal and state statutes which provide varying degrees of protection for American Indian cultural resources. The majority of federal law codifies a national commitment to archeological conservation, beginning with the Antiquities Act of 1906, 16 U.S.C. sec. 431-433 (1979), and includes the Historic Sites Act of 1935, 16 U.S.C. sec. 461-467 (1979); the Reservoir Salvage Act of 1960, 16 U.S.C. sec. 469-469(c) (1979); the National Historic Preservation Act of 1966, 16 U.S.C. sec. 470-470w-6 (1979 & Supp. ____); the National Environmental Policy Act of 1969, 42 U.S.C. sec. 4321-4347 (1979); Executive Order 11,593, 3 C.F.R. 154 (1971); and the Archeological Resources Preservation Act, 16 U.S.C. sec. 470aa-470ll (1979 & Supp. ____). More recently, Congress has provided for additional protection and return of American Indian remains under the Native American Grave Protection and Repatriation Act of 1990, 25 U.S.C. sec. 3001-3013 (Supp. 1991) and the National Museum of the American Indian Act, 20 U.S.C. sec. 80q-80q-15 (Supp. 1990). Complimentary Oregon laws include Protection of Indian Graves, ORS 97.740-.760 (1985); Public Records Exempt from Disclosure, ORS 192.500(1)(L) (1985); Removal of Historical and Other Valuable Materials, ORS 273.705-.711 (1985); and Archeological Objects and Sites, ORS 358.905-.955 (1985).

Federal statutes designed to protect and promote the rights of American Indians in other areas also affect tribes' cultural resources, including the American Indian Religious Freedom Act of 1978 (AIRFA), 42 U.S.C. sec. 1996 et.seq. (1978) (protection and access to sites, use and

possession of sacred objects, and freedom to worship through ceremonies and traditional rights); the Native American Language Act, 25 U.S.C. sec. 2901-2906 (1990) (unique status of American Indian cultures and languages); the Indian Arts and Crafts Act, 18 U.S.C. sec. 1158-1159, 25 U.S.C. sec. 305 et.seq. (Supp. 1992) and even the Indian Child Welfare Act, 25 U.S.C. sec. 1901(3)(1978) (Congressional finding that "there is no resource that is more vital to the continued existence and integrity of Indian tribes than their children"). For additional information, see Getches, et.al., **Federal Indian Law 768-73** (1993); and Fish, *Federal Policy and Legislation for Archeological Conservation*, 22 Arizona Law Review 681 (1980).

THE CONFEDERATED TRIBES
OF THE GRAND RONDE COMMUNITY
OF OREGON



RECEIVED
PLANNING BUREAU
1995 NOV 20 A 11:41

November 22, 1995

Bob Glascock, City Planner
City of Portland Bureau of Planning
112 SW Fifth Ave. Room 1002
Portland, OR 97204-1996

Dear Bob,

I have read with great interest the draft Cultural Resources Protection Plan for the Columbia South Shore and I applaud your years long effort to balance the competing interests in this important cultural area.

Despite the high quality of your work on this draft, there are some areas that need improvement. This is particularly true of the explanation and consideration of the spiritual value of tribal activities as to plants in the Columbia South Shore. It is my understanding based on my long work with the Confederated Tribes of the Grand Ronde that it is unusual to gather traditional plants in their fruits without engaging in spiritual/ceremonial activity. The attached letter from Janis Searles includes proposed language for the Plan that covers this and other gaps in the draft language.

We look forward to working with you and the Bureau of Planning on completion of a Plan that gives balance to the cultural values of both Native Americans and their successors in interest in the Columbia South Shore.

Sincerely,

Michael D. Mason

UMPQUA
MOLALLA
ROGUE RIVER
KALAPUYA
CHASTA

P.O. BOX 38
GRAND RONDE, OREGON 97347



Native American Program

OREGON LEGAL SERVICES CORPORATION

917 SW Oak, Suite 410
Portland, Oregon 97205-2807

tel. 503-223-9483 Oregon toll free 1-800-546-0534 fax. 503-294-1429

November 22, 1995

Via fax and mail

Bob Glascock, City Planner
City of Portland Bureau of Planning
112 SW Fifth Ave. Room 1002
Portland, OR 97204-1966

Dear Bob,

Enclosed please find the Grand Ronde Tribes' comments on the Discussion Draft of the City of Portland's Cultural Resources Protection Plan for the Columbia South Shore. I hope that I have conveyed my comments in a way that is easily understandable. In most instances, I have drafted language to agument or replace language currently in the draft.

Doug left me a message saying that he will fax me the sections he drafted on Tribal Policy and Federal Policy on Monday. I will let you know if I have any additional comments on those sections after I receive them.

Call me if you have any questions.

Sincerely,



Janis Searles

**NOTES ON DISCUSSION DRAFT OF
CULTURAL RESOURCES PROTECTION PLAN FOR COLUMBIA SOUTH SHORE**

Bob, the language I suggest is in bold and underlined. Please call me at 223-9483 if the fax doesn't clearly reflect the difference between bold language and non-bold language.

PAGE

15 Bob, Doug is faxing the tribal policy framework language to me on Monday, so I have not yet reviewed it.

15 Please add this or similar language as the second sentence of the first paragraph under the Federal Policy section: **The following discussion mentions some, but not all of the federal statutes that may impact decisions concerning cultural resources. In addition to statutes governing protection of cultural resources, statutes concerning religious freedom, such as the American Indian Religious Freedom Act (AIRFA) and the Religious Freedom Restoration Act (RFRA) may also be relevant.**

In the second sentence of the first paragraph under the Federal Policy section as it is written in the draft, please add the following language in bold and underlined **...graves, require that museums offer to repatriate certain cultural materials, and criminalize illegal removal, trafficking in and sale of certain cultural resources.** Doug left me a message saying he was redrafting this language. I may have additional suggestions after receiving the redrafted language.

24 Please add the following language in bold and underlined to the first sentence of the Summary section: **Most of the requirements and public policy statements intended to protect Indian use sites (cultural resources) are found in the aboriginal rights of affected Tribes, federal statutes and regulations, federal treaties and Executive Orders, and state statutes and regulations.**

40 Please add the following language in bold and underlined after the first sentence under the Plant Use by American Indians section: **..., most recently by Upper Chinookan groups. Members of currently existing tribes still collect plants and their fruits in the Columbia South Shore area.**

64 Please add the following language in bold and underlined to the first sentence of the second paragraph under Ongoing Tribal Interests: **From the outset of the Cultural Resources Project, tribal representatives have drawn the City of Portland's attention to their rights on the land, ranging from treaty rights to aboriginal rights to rights protected by federal and state statutes.**

65

Please replace the first paragraph under the Grand Ronde section with the following language in bold and underlined: The Confederated Tribes of the Grand Ronde Community of Oregon have had an illuminating struggle for survival. Ancestors of present day members of the Confederated Tribes of the Grand Ronde Community of Oregon lived in the Willamette Valley, the surrounding mountains, and the northern portion of the Oregon coast. By 2,500 years ago, tribes who became part of the Grand Ronde Tribes had a fully-developed Northwest coast fishing culture in the vicinity of the mouth of the Columbia River. Pursuant to treaties and Executive Orders in 1854, 1855 and 1857, the United States removed over 20 Indian bands from their homelands and relocated them on the Grand Ronde Indian Reservation. In 1954, the federal government "terminated" the Grand Ronde Tribe. During the termination period, the Grand Ronde Tribe was virtually a landless people on their own land. To most of the Tribe, and especially the Tribal elders, the termination was a loss of home and identity.

In 1983, through the efforts of the Grand Ronde Tribe, Congress reestablished the federal relationship with the Tribe by enacting the Grand Ronde Restoration Act. The Act provided that the Tribe be considered as one tribal unit for purposes of federal recognition, that the Tribe reestablish self-government, that a reservation be established and, most relevant to the Plan, the Act required that all rights of Tribes be recognized as rights of the Grand Ronde. Since restoration, the Grand Ronde Tribes have initiated a number of economic development activities, including constructing and operating a casino. In the twelve short years since restoration, the Grand Ronde Tribes have leveraged themselves into the position of being the largest employer in the West Valley (Polk and Yamhill counties).

As the Grand Ronde Tribes diversify their timber-based economy, they also seek to preserve tribal cultures and traditions for all generations. A 1993 vision statement identified the preservation of culture as one of four key principles. The Tribe has created the Kwelth Talkhie (proud past) Cultural Board which will be active in the preservation of cultural resources. The Tribe also plans to hire in the near future at least one full-time Cultural Resources Expert with casino revenues. In conjunction with the Tribal Attorney, the Cultural Resources Expert will be responsible for responding to notices to the Tribe relating to archaeological site discoveries and permits and developing and maintaining effective working relationships between the Tribe and government agencies and archaeological organizations in matters relating to tribal cultural resources.

66 Please include the paragraph discussing the MOAs (the paragraph beginning The Grand Ronde Tribes have signed two....) At the end of that paragraph, please add the following language in bold and underlined: **The Grand Ronde Tribes are interested in continuing to develop cooperative agreements with developers, associations and local governments.**

68 In the Heritage Values of Indigenous People, number 1), second line, please delete the following language in bold: **state that they.**

Number 4): After the first sentence, please add the following language in bold and underlined: **Often gathering is performed in a ceremonial manner that is necessary to the success of the spiritual practice in which the materials will be used.**

Please add an additional Heritage Value using the following language in bold and underlined: **#). The connection between Native Americans living and dead cannot be overemphasized. Traditional beliefs regarding the dead include the understanding that the well-being of the living is tied to the well-being of the dead. For example, the disturbance of Native American remains that have not been allowed to go back completely to the earth is considered by many to make every significant effort of the Tribe tinged with failure.**

69 In the second line under Tribal Identity and Place, replace the word "to" with "of" so that the phrase reads **"a profound reverence of and connection with, the land."**

In the paragraph following the Places of the Navajo quotation, please add the following language in bold and underlined: **"Having access to these sites makes it possible to practice traditional activities such as gathering plants and their fruits for spiritual/ceremonial uses and remembering the history of their people."**

71 In the second paragraph under Site Preservation Today, please replace the first word in the third sentence **"They"** with **"Tribes"** so that the sentence reads **"Tribes would like access to the site ..."**

72 Please add the following language in bold and underlined to the last sentence under #1: **"The dead are believed to be alive and to influence the lives of the living in profound ways."**

- 88 In the first sentence of the first paragraph under Heritage Values, replace "depict" with "reflect" so that the sentence reads "Participating Oregon Tribes have stated that they value cultural resource sites that reflect traditional religious practices..."

Under Native Religious Practices, you state that the traditional beliefs about the dead were discussed in Chapter 5. They were discussed in Chapter 6.

In the second paragraph under Native Community Lifeways, delete the last sentence ("To date, only a few resource use rights have been tested in the court, most notably fisheries."). The statement is inaccurate.

- 95 Please add the following language in bold and underlined to the first sentence under Functional Values: "The Historic Lakes Complex retains heritage values for traditional community lifeways and native religious practices." Please note that on page 88, where you defined the three heritage values, you called the lifeways value NATIVE community lifeways instead of TRADITIONAL community lifeways. Since we have added language referring to the ceremonial and spiritual element of gathering plants, finding the heritage value of native religious practices in each of the three sensitivity areas is warranted. Please let me (Janis) know if you feel otherwise, or if you need more information. Your own draft supports finding native religious practices heritage values in all three sensitivity areas: please see page 150, the last two sentences of the second paragraph ("This connection is evident in the value American Indian descendants assign to such activities as hunting, fishing, digging roots, gathering native plants for medicinal uses and picking berries. Each activity represents a spiritual and social component that is viewed as essential to maintain cultural identity and continuity.") and the second and third sentences of the third paragraph ("These important environmental features form the basis for unique aspects of traditional American Indian Culture, and as such are revered. This reverence extends from an attachment of place that serves as a sacred connection to the past.") Note also that any gathering of plant materials for medicinal use is inherently religious, as is gathering plants for use in sweat lodge and other ceremonies.
- 97 Please add the following language in bold and underlined to the first sentence under Functional Values: "The River's Edge, with its immediate proximity of land to the Columbia River, retains heritage values for traditional community lifeways and native religious practices." Please change the last sentence of the same paragraph to read: "Depending on the findings of cultural resource sites encountered in the River's Edge, unique cultural practices may also be found."

- 99 Please add the following language in bold and underlined to the first sentence under Functional Values: **"The Columbia Slough has been confirmed for datable material and heritage values for traditional community lifeways and native religious practices."**
- 100 In the first line under Inventory Decisions, you say **"three sensitivity areas"** but in the second sentence of the same paragraph, you refer to **"four resource sites."**
- 103 In the Resource Values Chart (Figure 12), in the column under Religious Practices, please replace the **"--"** and the **"Cs"** with **"Ps."**
- Please replace the second sentence under footnote #2 with the following language in bold and underlined: **"It does not affect treaty, aboriginal, or any other rights that tribes may hold with the federal government or the State of Oregon."**
- 108 Please add the following language in bold and underlined after the first sentence of the third paragraph: **"Eight feet in depth is the limit of hand-held augers."**
- 211 In the third sentence under Purpose, please add to the recommended new language the following language in bold and underlined so that the sentence reads **"Archaeological sites have historic, cultural and scientific value to the general public and heritage value to affected tribes, whose ancestors lived in the District area and harvested local natural resources for subsistence and spiritual/ceremonial uses."**



CITY OF
PORTLAND, OREGON
BUREAU OF PLANNING

Charlie Hales, Commissioner
David C. Knowles, Director
1120 S.W. 5th, Room 1002
Portland, Oregon 97204-1966
Telephone: (503) 823-7700
FAX (503) 823-7800

November 22, 1995

TO:	Stark Ackerman, for CCA	FAX: 224-6148
	Janis Searles, for Grand Ronde Tribes	FAX: 294-1429
	Rick Holt, Holt & Haugh	FAX: 222-6649
	Robert Kentta, Confed. Tribes of Siletz	FAX: 541-444-2307
	Allen Lee, East Portland District Coalition	FAX: 331-2646
	Louie Pitt, Jr., Confed. Tribes of Warm Springs	FAX: 541-553-1924
	Dennis Sivers, T & W Equipment	FAX: 223-2750
	Scott Stuemke, Confed. Tribes of Warm Springs	FAX: 541-553-1996
	Kathryn Toepel, HRA	FAX: 541-485-1364
	David Ellis, AINW	FAX: 761-6620

FROM: Bob Glascock, Portland Bureau of Planning

SUBJECT: Summary of Properties Affected by Cultural Resources Protection Plan

This memorandum addresses the issue of overlap between environmental zones and properties subject to proposed cultural resource protection measures. Protection measures include confirmation testing to fill in gaps in subsurface probes and protection measures for confirmed archaeological sites. Figure 9 (page 80) of the discussion draft shows priority locations for confirmation testing. The proposal affects the following properties, by sensitivity area.

Sensitivity Area	Properties ¹ Needing Further Confirmation Testing			Properties With Confirmed Archaeological Sites ²		
	All "p" zone ³	Partial "p" zone	No "p" zone	All "p" zone	Partial "p" zone	No "p" zone
Area #1 Historic Lakes	0	0	0	3	0	4
Area #2 River's Edge	0	0	5	0	0	1
Area #3 Columbia Slough	4	4	1	0	0	1
Totals	4	4	6	3	0	6

- 1 "Properties" means development sites, or platted parcels with 5 or more acres of undeveloped area.
- 2 "Confirmed archaeological sites" means sites identified by Heritage Research Associates as containing evidence of Indian use and having potential National Register status.
- 3 "P" zone refers to the environmental protection zone, as shown on official zoning maps.

For purposes of confidentiality, I have not mapped out locations of confirmed archaeological sites. **Please send comments on the discussion draft by Monday, November 27, 1995.** My phone number is 823-7845 and my FAX is 823-7800. Thanks for your help.

cc: Cultural Resources Technical Committee



CITY OF
PORTLAND, OREGON

BUREAU OF PLANNING

Charlie Hales, Commissioner
David C. Knowles, Director
1120 S.W. 5th, Room 1002
Portland, Oregon 97204-1966
Telephone: (503) 823-7700
FAX (503) 823-7800

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STATE PARKS AND
RECREATION DEPARTMENT

November 21, 1995

Leland Glisen, SHPO Archaeologist
1115 Commercial Street, NE
Salem, Oregon 97310

Fax: 1-378-6447
3 pages

Dear Leland,

As you know, the Bureau of Planning is preparing a staff recommendation to the Planning Commission, which holds its hearing on December 12th, 1995. By next Tuesday, I will need to complete the staff report. This letter solicits information from you for that recommended plan.

First, I appreciate your call informing us of the change in definition for archaeological objects (from 50 years to 75 years). We would also like the citation in ORS and/or OAR for that change.

In Chapter 2 (pages 16 and 17) we describe the state archaeological permit process. The discussion draft language did not fully reflect the permit process changes made by the 1995 legislature. Attached are revisions made to the discussion draft which incorporate the 1995 amendments to the permit process. Please review them for accuracy and add any additional clarification language.

Third, I would like further clarification on what triggers a state archaeological permit for private lands. At a recent briefing of the Portland City Planning Commission, I was asked to provide this information. The bottom line is that the Planning Commission wants a realistic picture of the current regulatory framework before considering local measures under State Goal 5.

I would greatly appreciate receiving your comments by Monday morning (November 27th). Thank you for your assistance with this project. I can be reached at 823-7845; our fax number is 823-7800.

Sincerely,

Robert H. Glascock

Robert Glascock, AICP
Senior Planner

Attachment

cc: Michael Holstun, City Attorney's Office
Kathryn Toepel, HRA

unknown
presence = automatic trigger
no requirement to
survey or test to determine
if sites present.
new legislation narrows
"knowingly & intentionally"
language from ORS 358.920

**Comments Prior to Plan
Discussion Draft of 11/14/95**

October 18, 1995

Memorandum

TO: Nancy Gronowski, Portland Parks and Recreation
Connie Lively, Portland Development Commission

FROM: Bob Glascock, Senior Planner

RE: **Columbia South Shore Trail**

This memo addresses the question: Does recreational trail construction in the Columbia South Shore plan district require an archaeological survey? The answer, in general, is "no," but I have to add a few disclaimers.

Low Impact Activity

I view the designated trail as a relatively low impact on cultural resources in Columbia South Shore. Most of the recreational trail in the district will be soft surface and built along existing grade. Hard surface segments may have slightly higher impact than soft surface segments, but not substantially more.

Typically, other ground disturbance activities dig deeper and have a greater impact on those buried resources. Examples of higher impact activities include underground utilities, buildings and road construction.

To determine potential impact on cultural resources, we look at the project's proximity to known archaeological sites and historic landforms, the status of archaeological testing and the extent of native soil disturbance by the project. I assume that trail construction typically involves ground excavation within the plow zone (top 18 to 24 inches).

Background

The Bureau of Planning is preparing a Cultural Resources Protection Plan for the Columbia South Shore. We expect City Council to consider the plan in January 1996, following public hearings before the Planning Commission.

One component of that plan is an archaeological inventory of the district. The inventory has confirmed archaeological sites and identified sensitivity areas (high probability areas). The inventory will not completely eliminate the need for advance survey work and discovery provisions.

Nancy Gronowski and Connie Lively
October 18, 1995
Page 2

Until that time, interim measures apply (some of which are voluntary). Archaeological surveys are required in the Interim Resources Protection zone (shown on zoning maps as "SEC"). City Council has also made it clear that it wishes to see a minimum of cultural site disturbance in the interim period. A private Memorandum of Understanding (MOU) has been signed between the Columbia Corridor Association and the Confederated Tribes of Grand Ronde (MOU is attached). That agreement calls for surveys prior to development, consultation with the Tribe, and protocols for discovery during construction.

As an interim guideline, I would like to see archaeological surveys prior to trail construction for two situations:

1. Ground disturbance is greater than 24 inches in depth. Most developable sites in the district have been extensively farmed, and a 24-inch plow depth is common. If it appears that substantial fill material has been deposited on the trail alignment, a soils engineer may be consulted to evaluate the potential for the trail project to disturb native soils; or
2. Ground disturbance will occur within 100 feet of a known cultural site. Please contact me to check on the latest information on known cultural sites. The Oregon State Historic Preservation Office (SHPO) also has on file a copy of the HRA inventory report is complete, a copy will be sent to the State Archaeologist.

Given that most trail segments in the district will not likely involve such excavation, the Parks Bureau may wish to eliminate the trust fund cost element for cultural surveys. Please be aware that these are interim measures, and that City Council will likely give us more specific direction in January 1996.

The bureau encourages consultation with participating Tribes. We meet with tribal representatives on a regular basis, and can arrange for you to discuss trail construction with them. For more information, please contact me at 823-7845.

cc: Gail Curtis
Cultural Resources Advisory Committee
Cultural Resources Technical Committee

attachment: private Memorandum of Understanding

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1995 JUN 20 P 1:35

PARKS AND
RECREATION
DEPARTMENT

STATE HISTORIC
PRESERVATION OFFICE

June 19, 1995

Bob Glascock
Portland Bureau of Planning
1120 SW 5th, Room 1002
Portland, OR 97204-1966

RE: CRM Strategies

Dear Bob:

I like the concept that we get all reports, positive or negative. That is the goal of our system. But the idea of having the SHPO review every building permit is beyond staff capabilities. As it is, I review around 1900 projects every year under Federal law and regulations. I am usually behind my legal time limits because there is just 1 of me. Adding state responsibilities just will not make it, unless the city is willing to fund the time with a temp position here? Enclosed is a comparison between Oregon and the national average SHPO staff! Also attached is a summary of projects I have looked at over the last 16 years ... note the totals and averages.

If you need further information you can contact me at (503) 378-6508 ext 232.

Sincerely,



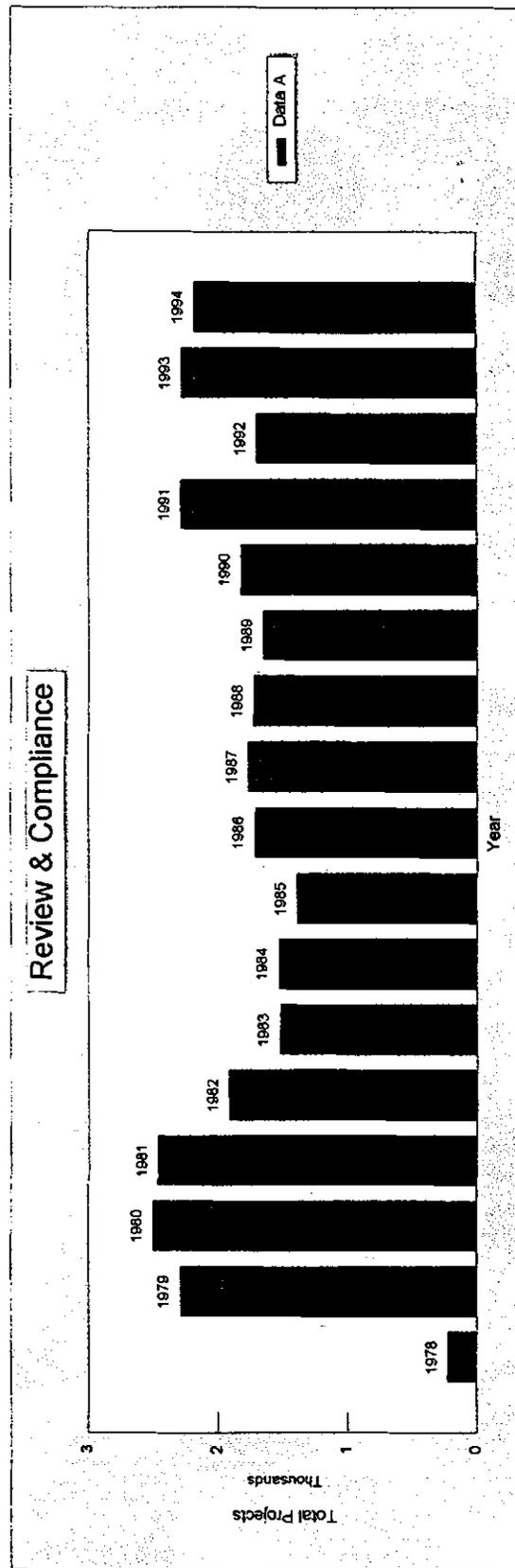
Dr Leland Gilson
SHPO Archaeologist



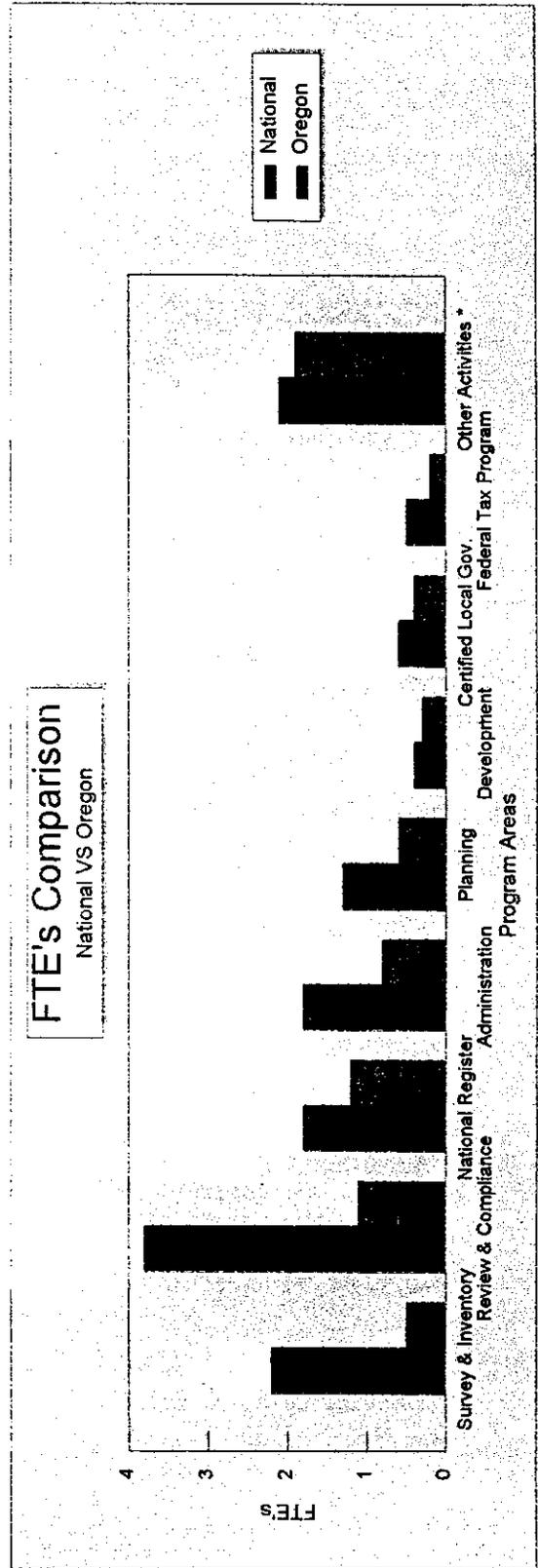
1115 Commercial St. NE
Salem, OR 97310-1001
(503) 378-5001
FAX (503) 378-6447

Review & Compliance: Oregon SHPO

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total	Average
1978	180	155	212	170	218	120	193	383	186	172	127	96	223	112
1979	298	173	120	222	168	209	196	274	234	183	176	125	2290	191
1980	114	215	163	290	221	184	224	252	205	271	260	201	2498	208
1981	160	151	219	224	213	159	87	210	136	138	91	122	2459	205
1982	191	47	135	169	138	167	108	90	129	127	113	104	1910	159
1983	128	129	110	98	127	104	123	138	139	124	214	94	1518	127
1984	85	114	127	184	114	56	119	164	98	105	93	129	1528	127
1985	198	111	132	162	126	157	140	191	121	118	126	127	1388	116
1986	165	188	143	160	120	164	124	161	141	102	115	178	1709	142
1987	101	190	119	127	173	155	127	230	154	84	159	101	1761	147
1988	115	160	111	101	146	170	138	152	128	118	170	136	1720	143
1989	167	142	131	141	170	161	171	188	161	137	146	102	1645	137
1990	195	156	170	223	236	140	101	324	228	177	137	196	1817	151
1991	122	77	135	136	132	166	170	159	179	107	128	186	2283	190
1992	73	110	207	144	110	258	350	239	247	178	182	179	1697	141
1993	159	165	172	164	100	130	288	259	264	165	160	151	2277	190
1994	2411	2283	2406	2715	2512	2500	2659	3414	2750	2306	2415	2306	30677	181
Total	142	134	142	160	148	147	156	201	162	136	142	136	1805	



National Statistics:	Oregon Statistics:	Difference:
Total FY 1994 HP Fund: 28,905,000		
Ave. State HP Fund: 516000	Oregon HP Fund: 523147	7147
Ave. HPF Staff: 14.5	Oregon HPF Staff: 6	-8.5
Ave. State Staff: 20.2	Oregon State Staff: 7	-13.2
	Ave. FTE's	
Survey & Inventory	2.2	-1.7
Review & Compliance	3.8	-2.7
National Register	1.8	-0.6
Administration	1.8	-1
Planning	1.3	-0.7
Development	0.4	-0.1
Certified Local Gov.	0.6	-0.2
Federal Tax Program	0.5	-0.3
Other Activities *	2.1	-0.2
Ave. Total:	14.5	-7.5



* (Includes Grants Admin & State Special Assessment)

STATE HISTORIC PRESERVATION OFFICE
STAFF FUNCTIONS

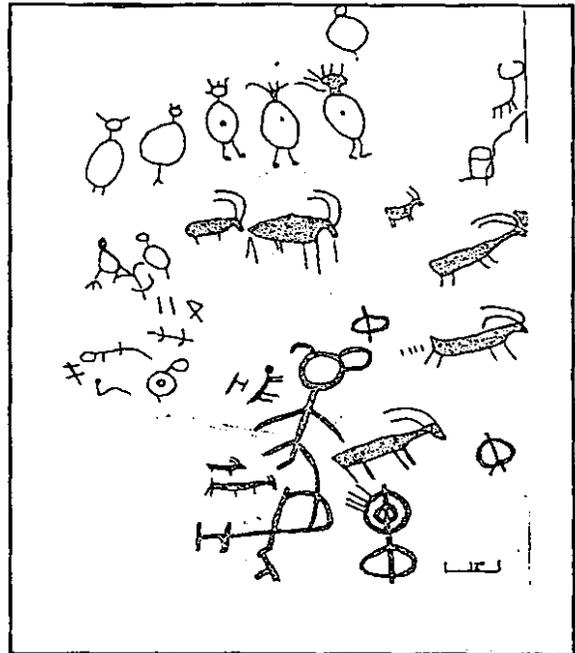
FEDERAL PROGRAM AREA

ARCHAEOLOGICAL REVIEW AND COMPLIANCE - Dr. Leland Gilson

Normal Work Activities

Reviews federal projects and federally funded, licensed, permitted, or approved projects for potential impacts on cultural resources under Section 106 and 36 CFR 800 (Protection of Historic Properties) and determines the adequacy of the information provided under the Secretary of Interior's Standards and Guidelines for Archaeology and Historic Preservation.

It is the SHPO's responsibility to represent the interests of the State and its citizens, and to work to insure the preservation of the State's cultural history.



SECTION 106 PROCESS:

A) The Federal agency responsible for an undertaking begins by identifying potential historic properties the undertaking may affect. The agency consults with the public and the SHPO for background information and the need for and methods of a survey to locate historic properties. The SHPO is required to develop and maintain an inventory of historic and archaeological resources that contains "*all information in the State historic preservation office resulting from Federal, State, and local historic property surveys*". This database must contain:

Data on all properties listed in the National Register or determined eligible by the Secretary for listing in the National Register;

Data on properties nominated to the National Register or approved by the State Review Board for nomination;

Data on properties that may potentially meet the National Register criteria, as determined by the State Historic Preservation Officer with the advice of his staff or Review Board. The last category will normally include historic properties in State and local registers;

Data that indicate after evaluation by the Secretary or by the State Historic Preservation Officer with the advice of his staff or Review Board, that specific properties are ineligible for listing in the National Register, or specific geographical areas that have been surveyed do not contain significant historic properties other than those already identified;

Predictive statements concerning the probable distribution of historic properties in different parts of the State, different environmental zones, etc, based on systematic background research and sample fieldwork;

Specification of those areas of the State for which inadequate survey data are available and about which no reliable predictions can be made;

The data shall be maintained by the SHPO in an accessible location and shall be kept up-to-date so that the information is available to Federal, State and local planners during the decision making process. The State Survey Data need not be published but shall be physically organized and/or indexed in a manner to provide for easy access (36 CFR 60).

The archaeological database in Oregon consists of USGS quad maps with the project areas drawn on them in color as well as all cultural resources (including isolates); and a set of archaeological site forms in county and Smithsonian number order; and copies of all survey, testing, excavation, and research reports tied to the maps with a report number; and a master 1:500,000 map showing the statewide distribution and density of sites. The quad maps and master map can be used for predictive statements. All negative and positive reports are plotted as an aid for modeling land use.

B) The agency submits the results of its research and surveys to the SHPO for comment and for its database files. If properties are not found, the agency submits the documentation to the SHPO for the database, and the undertaking can proceed.

C) If properties are found, the agency evaluates them against National Register criteria in consultation with the SHPO. The SHPO evaluates the determinations of eligibility against their statewide perspective. If questions arise, the Secretary of the Interior through the keeper of the Register makes a final decision.

D) If the properties are found to be not eligible, the undertaking can proceed. If the properties are determined eligible, then the agency then assesses what effect its undertaking will have on those qualities that make the properties eligible.

E) If the finding is "*no effect*", the agency consults the SHPO for concurrence. If the SHPO concurs, the undertaking proceeds. If the SHPO objects, the agency goes to the Advisory Council on Historic Preservation for comment.

F) If the finding is "*no adverse*" or "*adverse*", the agency consults with the SHPO to find ways to make the undertaking less harmful (mitigation). The SHPO reviews the mitigation proposals. Consultation is designed to result in a Memorandum of Agreement (MOA) which outline measures agreed upon to reduce, avoid, or mitigate the effects. The SHPO staff reviews and recommends State Historic Preservation Officer's signature of concurrence on Memoranda of Agreement and amendments. In large complex projects, a Programmatic MOA (PMOA) is developed to cover all aspects of the undertaking, often before any survey, testing, evaluation of finding of effects, so that it can specify the process for the specific undertaking. A PMOA speeds up consultation, as automatic pre-authorized decisions are built into it.

G) The SHPO reviews the resulting testing, excavation or research (final) reports to insure that they meet the Secretary's Standards and that they fulfill the requirements of the MOA or PMOA. Then the undertaking proceeds.

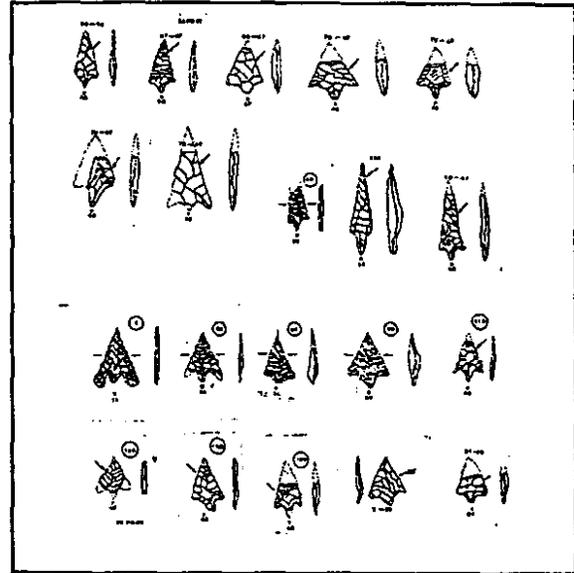
As part of the Section 106 process, the staff consults with agencies, professionals, and the public regarding the program's requirements, guidelines and policies. The staff archaeologist provides technical assistance as needed. Some of this data is summarized on the attached "Oregon SHPO Data" sheets. Note that the current staff archaeologist had reviewed 30,677 projects since 1978. About half resulted in reports placed into the database (14,880+).

Because the staff archaeologist maintains the archaeological data, and reads all of the published and unpublished literature relating to actions in the state, he develops the review and compliance aspect of the statewide comprehensive plan.

***ARCHAEOLOGICAL SURVEY* - Dr. Leland Gilson**

Normal Work Activities:

Maintenance of the archaeological inventory database is integrated into the Section 106 review process as noted above. The structure and process of the file has already been described. In addition to maintaining the federally mandated statewide prehistoric and historic archeological inventory files, staff maintains computer databases and develops databases structures, and database programs. Staff maintains review & compliance logs mandated by NPS audits. Staff maintains logs of researchers using the database and maintains the integrity of the database when in use. The ultimate goal of the database is to have every published and unpublished (gray literature) survey, testing, excavation and research report mapped into the system. Currently over 19,100 prehistoric archaeological sites and over 14,800 reports are on the 1,950 quad maps. Some of this data is summarized on the attached "Oregon SHPO Data" sheets. He maintains a radio-carbon database for researchers in Oregon. He maintains a list of private consulting firms in archaeology. He maintains mailing lists for cultural resource managers (CRM) and tribal CRM contacts in Oregon.



He regularly reviews archaeological research proposals for agencies and private consulting firms as well as reviewing archaeological grant proposals for Kimberly Dunn and archaeological nominations for Elisabeth Potter. He reviews grant results in archaeology against contract requirements.

STATE PROGRAM AREA

***ARCHEOLOGY* - Leland Gilson**

Normal Work Activities:

Reviews and issue archeological permits (ORS 359.905 & ORS 390.235) for activities on state public lands and private lands in consultation with the landowner, Indian Tribes, the Oregon State

Museum of Anthropology (OSMA) and local planning departments. Provides consultation to State Parks staff regarding archaeological properties in the State Parks system and recommends interpretive, mitigation and conservation measures as needed. He helped research materials for the reconstruction of the replica cedar longhouse at Fort Stevens with Ray Hoth. Recently, he worked with Mark Stenberg on the Viento archaeological survey and evaluation of the historic archaeological sites under the requirements of the Gorge Scenic Act.

The staff archaeologist started Oregon's first "Archaeology Week" in 1993, and has been on the committees for 1994 and 1995. He also has displayed his replica NW Indian artifacts at parks events.

Works with the State Police, the Commission on Indian Services and tribes when human remains are discovered, and helps to coordinate activities under ORS 97.740. Helps State Police find professional archaeologists for crime scene evaluations and court testimony.

R&CPROD.WRD
Revised 06/07/95



April 25, 1995

City of Portland
Planning Commission

RE: Columbia South Shore Cultural Resource Inventory Process Testimony

I serve on the Cultural Resource Technical Committee for the Columbia South Shore Cultural Resource Advisory Committee. I have been actively involved from the beginning of this work process. In fact, my participation began over two years ago when I helped create the first formal coordination between the City and tribal nation governments and the subsequent advisory committee.

As a planning consultant working in land-based resource issues and a member of the Portland Indian community, I am deeply concerned with the significant lack of recognition of the heritage resources of this city's first inhabitants. I know from both an oral tradition and academic study, that the history of the Columbia South Shore areas was one of continuous residence for thousands of years. I count as my friends several direct descendants whose ancestors lived on these lands and plied the once intricate, water system of the Columbia River slough. They had an intimate living relationship with their surroundings and were people who were *of* this land, not merely *on* it. In addition to their villages, later recorded by Lewis and Clark, there were hundreds of seasonal campsites, second homes if you will, where they worked the lowland fields, marshes, and streams and, the upland woodlands and grasslands. And, like all people everywhere, they left behind a rich and valuable record of their lives and cultural knowledge. This is important, not only to Indian people as a witness to their continuing culture, but also as a reminder to others.

Now buried, often under many, many feet of heavy dredge spoils and backwater sediment, these submerged cultural records remain as valuable today as if they sat on the surface. This country has a long and privileged history of honoring its historic settlements, buildings, and battlefields, but has shown itself, until recently, to have a short memory when it comes to acknowledging and honoring the same cultural resources of the Indian people who have lived here for tens of thousands of years. This is slowly changing and it is a good thing, but it is not easy.

The first step in our process for identifying cultural resources at Columbia South Shore is the identification of the land forms that make up the area. These characteristics are significant in that they provide clues to how the land may have been used by early inhabitants. I say clues because the land's surface has been altered. Rarely do we have resource visibility as is customary for historic structures and settlements, thereby allowing for a ready determination of significance. After determining the characteristic site areas those persons with specific cultural knowledge can begin to recreate the relationship

between the land forms' resources and their uses by the people. This is not an exacting science as many would desire, but it is, nonetheless, the basis for establishing baseline information. The archaeological information we have available further assists in this process, understanding that most investigations have at best, been able to peer beneath the surface only 8 feet or so.

The Inventory that now sits before you is that established baseline from which the next step in the process, the ESEE analysis, will use. As a planner with over two decades of experience I can say with assurance that without an inventory of the land, no analysis for determining conflict, resolution opportunities, or regulatory protection measures can be performed adequately. To ask that these be determined before the inventory is accepted is more than putting the cart before the horse. It is asking that the cart be designed without ever seeing the horse.

I therefore urge the Planning Commission to accept this Inventory as the document that will allow us to continue the process of producing an appropriate analysis of the land within the Columbia South Shore District.

Sincerely,

 —
Judith Basehore Alef,
Principal Planner

Post-it Fax Note	7671	Date	4/24	# of pages	2
To	Bob Glascock	From	Jim Hinman		
Co./Dept.	Planning	Co.	DLCD		
Phone #		Phone #	373-0088		
Fax #	823-17800	Fax #			

Oregon

DEPARTMENT OF
LAND
CONSERVATION
AND
DEVELOPMENT

April 24, 1995

Robert H. Glascock, Senior Planner
Portland Planning Bureau
1120 S. W. 5th, Room 1002
Portland, Oregon 97204-1966

Dear Bob:

Thank you for sending me a copy of the draft cultural resources inventory report for the Columbia South Shore. The city has done a thorough job on this inventory, but more work needs to be done to clearly state why each of the sites is significant.

Specifically, the conclusions for sites 2 and 4 are not worded strongly enough to support the decision that these are significant sites. The conclusion for site 2 states:

"No significant cultural resources have been confirmed in Area 2. . . The potential to encounter a cultural resource site, thereby supporting heritage and scientific resource values, makes it worth placing on the goal 5 inventory for purposes of further analysis."

The conclusion for site 4 states:

"More testing may clarify the scientific and heritage resource values of Area 4."

These conclusions would justify a decision that there is not enough information to designate these as significant sites. To justify the a decision that the sites are significant, these findings need to state: "This is a significant cultural and archaeological site because . . ." The reasons could relate to a variety of factors, including information from historical records or tribal governments, landforms, and artifacts found on a site. I do not believe that any single factor is a necessary prerequisite for concluding that a site is significant.

Barbara Roberts
Governor



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

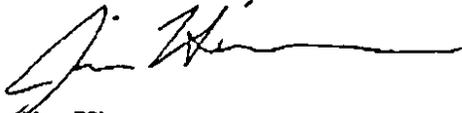
Robert H. Glascock

-2-

April 24, 1995

I hope these comments will be helpful to you in completing this project. If you have any questions or comments, please call me at 373-0088.

Sincerely



Jim Hinman
Program Coordinator

JH/
j:\pr\city\portland\arch495.jh



Dedicated to the protection and enhancement of prehistoric and historic archaeological resources.

c/o State Museum of Anthropology
Eugene, Oregon 97403
April 24, 1995

Portland Planning Commission
Portland Bureau of Planning
1120 SW Fifth, Room 1002
Portland, Oregon 97204-1966

Dear Commissioners:

The Association of Oregon Archaeologists is the statewide organization for professional archaeologists. Since our establishment in 1974, we have been committed to responsible management of archaeological resources throughout Oregon. The AOA has been on record with the Planning Commission and the Portland City Council since 1987 calling for an active program to recognize and protect the archaeological resources of the Columbia South Shore. In this year, when we celebrate the 150th anniversary of the white settlement of Portland, it's important that we act to protect the record of the 10,000 years that came before, the first chapter in the city's history.

Given our eight-year attention to the City's actions in the Columbia South Shore, we are happy to endorse the archaeological inventory of this area. AOA has long urged that such an inventory be conducted, and are we are pleased that this long-overdue task has been undertaken. It represents a major step forward in addressing the archaeological resources of the Columbia South Shore, probably the most important action the City has taken to date. There are still challenges ahead as the City decides how to manage these resources. But that challenge cannot be faced until this inventory is adopted, an action we urge the Commission to do now. This could be your last opportunity to act while the archaeological heritage of the Columbia South Shore is still relatively intact.

As always, the Association is ready to offer its assistance in taking the next step.

Yours truly,

David V. Ellis
Public Issues Coordinator

Portland Planning Commission
Public Hearing

Name: Alice P. Blatt

Organization Represented (if any): _____

Address: 15231 NE Holladay

City: Portland Zip Code: 97230 Phone: 253-6247

Agenda item you wish to comment on: Cultural Resources / Columbia

Do you wish to make a statement? ___ Yes No South Shore

If testifying in person, a written copy of your testimony is encouraged.

If you do not wish to testify but would like to make a comment on the agenda item you are interested in, use the space below and your comments will be made a part of the record:

FROM LONG ASSOCIATION WITH THE COLUMBIA SOUTH SHORE A STRONG VOTE IN SUPPORT OF THE CULTURAL RESOURCES PROTECTION PLAN INVENTORY



COLUMBIA CORRIDOR
PLANNING COMMISSION
ASSOCIATION

1995 APR 24 A 11:36

April 21, 1995

Planning Commission
City of Portland
1120 SW 5th
Portland, Or 97204

RE : Cultural Resources Protection Plan for the Columbia South Shore

The Columbia Corridor Association is very concerned with the Staff recommendations regarding the Cultural Resources Inventory. The Inventory results state that " the likelihood of encountering a previously unrecorded site on any particular parcel in the south shore would appear to be significantly less than 1 %." . Under such circumstances, to have the Staff recommend 100% of the study area be considered "significant" makes no sense, especially given the requirements of Goal 5 to determine relative importance of each resource. This determination is both wrong and unsupported. And what implications does this have in other areas of the City where there might be a chance of finding cultural resources ?

The Columbia Corridor Association (CCA) has been very supportive of the City's process to identify cultural resources within the Columbia South Shore Plan District. It was anticipated that, once completed, the Heritage Research Associates' investigation would give direction to the property owners and the City by identifying the most important sites, and if necessary, some "high probability" sites where more work was needed. It was also expected that the study would identify a large area where no further examination was required, thereby relieving the property owner of added costs and delay. If the entire study area is now listed as "significant", what was gained by this process ?

Because of the concerns expressed for protection of the cultural resources during development and until the City's process was completed, the CCA worked with the affected Associated Tribes for over a year on a Memorandum of Understanding, The MOU established temporary protection measures acceptable to property owners and the Tribes. It was jointly presented to the City Council in November 1994. It was an INTERIM AGREEMENT because all parties expected the City inventory process to determine, in accordance with Goal 5, the relative importance of sites and protection measures for the most significant sites.

In addition to objecting to what the CCA sees as an overbroad determination of significant sites and a lack of findings to support that determination, CCA is also strongly opposed to the inventory being accepted without seeing the plan to protect "significant"

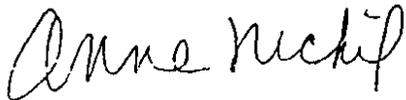
Page two
CCA- Cultural Resources

resources. Since the recommendations state all property is "significant", what will the property owner with less than 1% chance of finding anything be subjected to in terms of development process, time, and costs ?

We request that the Planning Commission reject the Planning Staff recommendation of significance for the downstream lowlands sensitivity area where there is less than 1% chance of sites being found. In the alternative, we ask that a decision on the inventory be deferred until completion of both the ESEE and staff recommendations for a program to balance cultural resource protection and conflicting uses. Such a delay would allow property owners and the Planning Commission to comment on the inventory with an understanding of the consequences of approving the inventory.

If there is concern for protection of cultural resources during development; we urge the Planning Commission to consider that the state and federal law on discovery are still applicable.

Sincerely,



Anne Nickel
Executive Director

**Comments Prior to
Draft Inventory of 3/31/95**

THE CONFEDERATED TRIBES OF THE WARM SPRINGS RESERVATION OF OREGON



P.O. Box C, Warm Springs, Oregon 97761

February 14, 1995

Post#	Fax Note	7671	Date	2-14-95	# of pages	1
To	Bob Glascock		From	Lewis Pitt Jr		
Co./Dept.	City of POX		Co.	CTWS		
Phone #			Phone #	553-3214		
Fax #	823-7800		Fax #	553-1924		

Bob Glascock
 Bureau of Planning
 City of Portland, Oregon
 1120 S. W. 5th, Rm 1002
 Portland, Oregon 97204-19.

Dear Bob:

I have recently received the draft inventory report on Columbia South Shore and greatly appreciate the coordinated efforts in protecting our mutual interests in this area.

As you know, we have legal rights in the Portland area through the Middle Oregon Treaty of 1855, pre-project planning has been key in understanding how we protect these valuable resources today.

The Confederated Tribes of Warm Springs Tribal Council has stated to your representatives that we will work with you to work out solutions to the Columbia South Shore situation.

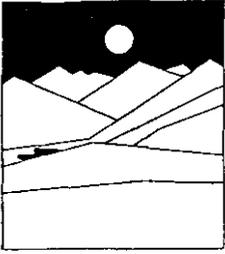
The Tribal staff will review the draft inventory report, again realizing more collaborative work is needed to define significance. Full and effective consultation with our tribe is demanded and the tribal staff is directed by Tribal Council to assist this effort.

We realize more work is necessary and appreciate the work your planning staff has done with our Tribal staff, including myself.

With respect,

Lewis E. Pitt, Jr.
 Director
 Government Affairs
 553-3212

xc: Ray Calica, Sr.
 Ken Smith



**OREGON
NATURAL
RESOURCES
COUNCIL**

MAIN OFFICE

YEON BUILDING, SUITE 1050
522 SOUTHWEST FIFTH AVENUE
PORTLAND, OREGON 97204
503-223-9001

*Protecting Oregon's lands,
waters and natural resources*

Bob Glascock
RECEIVED
SEP 17 1993
CITY OF PORTLAND

TO: Land Use Hearing Officer Grillo and Applicants
FR: Lyn Mattei for Appellant ONRC
DT: September 17, 1993
RE: Appellant's Rebuttal to Issues Raised by Applicant Before the City of Portland Land Use Hearings Officer on September 7, and in Written Form September 14, 1993.

LUR 93-00167 EN, EF. IR

The issue numbers relate to our August 17 restatement of the appeal and correspond with the numbering used by Applicant's September 14, 1993 rebuttal and Staff comments submitted at the hearing.

ISSUES

10. Standing.

We have raised the issue of our standing to appeal under the existing City Code, as an organization that is not "recognized" by as a neighborhood or community organization. After additional research of this issue, we find that applicant's analysis fails to address several key issues and changes in the law. Appellant believes that recent changes in Oregon law leave the Hearings Officer with no alternative but to rule against both the applicant's argument here and the City Code in order to allow appellant standing.

A. § 33.730.020.G and 33.370.070 (1)

Applicant states that § 33.730.020.G implements and complies with ORS 227.175 (10)(a). We assert that although it may presume to implement ORS 227.175(10)(a), it does not comply.

33.730.020.G states that the decision may be appealed by the applicant, the owner, and those entitled to notice.

§§ 33.730.020. C & F provide that only nearby property owners and the "recognized organization(s)," as specified in the most recent list published by the Office of Neighborhood Associations, are entitled to notice.

7. § 33.455.060: Cultural Resources

A. Our Claim

Our claim is really against subsection F, which requires the City to preserve archaeological areas, and subsection I to the extent that subsection I has also been narrowed by Staff's reinterpretation of subsection F.

In narrowing protection of cultural and archaeological resources to only previously identified sites, the City is violating 33.455.060 F, which requires that "[a]rchaeological areas be preserved for their historic, scientific, and cultural value, and protected from vandalism or unauthorized entry." This narrowing in application is similar to a situation two years ago, when the Planning Bureau argued that the SEC only applied to scenic resources. In that situation, the hearings officer stated:

Staff contends that Goal 5 protection plan established the sec overlay only for the purpose of reviewing the impact of new development on views from Marine Drive:

Although I am inclined to take Staff at their word regarding the intent of Council in applying the sec overlay on this site (i.e., to protect scenic views from Marine Drive), the intent of Council in applying the sec overlay zone on this site only becomes relevant if the approval criteria themselves are ambiguous. . . . Therefore I can not consider Staff's assumption that the sec overlay was applied to this property only for the purpose of protecting views from Marine Drive. In my view, the criteria in 33.455.060 must be applied as they are written.

Report and Decision of the Hearing Officer, File No. 91-00468 SP IR, at 4 (T & W Equipment, October 28, 1991). In addition, the hearings officer applied his ruling on criteria F to the land use action at issue, as follows:

There is evidence in the record, supplied by Lyn Mattei, that suggests that there may be archaeological significance on this property. . . . [I]t is therefore appropriate to condition approval on the preparation of an archaeological survey of the specific portion of the applicant's property that is proposed for new development that is in the sec zone.

Id., at 6. We have also submitted evidence in the record that suggests that there may be archaeological significance on applicant's property. It is therefore appropriate to condition

approval on the preparation of an archaeological survey of the specific portion of applicant's property that is exposed to new development or alterations to existing development that is in the SEC zone.

As contrary to the express language of SEC, Planning has narrowed its interpretation of criteria F to now assert that it only applies to previously identified cultural resource sites. We disagree with Planning's interpretation and respectfully remind the City of the October 1991 ruling which found that criteria in 33.455.060 must be applied as it is written.

In addition, we dispute the assertion raised in testimony that the status of cultural resource protection in the Columbia South Shore and the SEC, has been narrowed since the above cited ruling. To our knowledge, the City has not adopted any known cultural resource sites into its Goal 5 inventory. In fact, the City stated that they were unable to do so because of the decisions in Columbia Steel Castings and Ramsey v City of Portland, which the City interprets to bar new interim resource protection until a through ESEE analysis has been performed. (These cases do not change protection under the SEC because SEC protection is not new). The City has also recognized that only 20 percent of the Columbia South Shore has been surveyed and that other cultural resources are likely to exist. The City passed 2 resolutions on July 28, 1993, authorizing initial funding for a comprehensive cultural resource survey of the CSS to begin at the close of 1994. If these actions have changed anything, they have evinced a stronger commitment to recognize and protect the CSS as the potentially significant "archaeological area" that it is.

In the alternative, if any new actions taken by the City would narrow cultural resource protection, such actions taken on or after April 27, 1993, do not apply to this land use decision. Under ORS 227.178 (3), if an application was complete when first submitted or the applicant submits the requested additional information within 180 days of the date the application was first submitted, approval or denial of the application is based on the standards and criteria applicable when the application was first submitted. Applicant submitted his application April 27, 1993. Applicant's last revision is dated July 13, 1993, 77 days later. On August 3, 1993, after passing the two resolutions to authorize the comprehensive survey, the City Council amended the SEC but retained criteria F, I, and L in their entirety. Ordinance # 166834 (effective September 4, 1993). With or without ORS 227.178(3), Planning has erred in narrowing the application of 33.455.060 (F) and (I).

As applied to this land use action, application of subsections F and I are qualified by section 33.455.030, which restricts cultural resource reconnaissance to only that portion of the property in the SEC which would be impacted by new development or alterations to existing development. All activities associated with dredging, including disturbance to the Dike on Marine Drive,

must be conducted to minimize adverse effects on archaeological features. Although little reconnaissance would be required here because most of applicant's SEC property will not be impacted by dredging for new or altered development, it is critical to clarify that 33.455.060 F must be applied as written in order to assure consistent and correct application to this and future land use actions.

B. Other Cultural Resource Rebuttal

We disagree with applicant's assertion that applicant has done "far more than required in studying all the potential impact areas" because applicant's only archaeological commitment was a small area of the SEC. Applicant has agreed to voluntarily perform a cultural resource survey and is required under the Corps' dredging permit to conduct a thorough cultural resource investigation prior to placing any dredged fill. Under the terms of the Corps permit, applicant is also required to coordinate the results of the investigation with the State Historic Preservation Officer (SHPO) and Corps archaeologists and receive clearance prior to any fill. The scope and adequacy of applicant's cultural resource investigation is governed not only by applicant's good will and personal contract, but also by section 106 of the National Historic Preservation Act and its implementing regulations. Applicant chose to be bound by those federal regulations when he chose to fill his property under the Shields and Obletz dredging permit, and applicant's narrow view of his responsibilities is misplaced.

We object to applicant's statement that his experts did an exhaustive study and that no archaeological sites exist within the subject property. According to Figure 2 of the cultural resource report, applicant's experts did not perform an exhaustive reconnaissance of "all land affected by the application," as applicant claims. Applicant's experts, HRA, did not auger any upland portions of the property to be filled that were not already classified as known sites. HRA writes that 35MU77 "should be sought farther north at a more likely, higher elevation." (Spada Cultural Resource Survey at 15) (Report) Yet HRA made no attempt to perform subsurface testing at higher elevations on Spada property to the north of the site. HRA writes of the need to document using subsurface means, (Report at 15) but fails to perform subsurface testing on large portions of 35MU77 and 35MU 35. (See Report, Figure 2). Applicant's prepared inventory does not show that there are "no archaeological and cultural resources within the fill area" on this property.

Applicant's consultant testified at the hearing that HRA's Report shows that there is no evidence that any archaeological sites ever existed in the area and that they were erroneously mapped. He also stated that HRA employs the only ethical archaeologists and that the other archaeologists who surveyed the area previously merely fabricated site locations to guarantee employment. We are deeply offended by these remarks and

strenuously deny them. In addition, HRA attributed the lack of findings to different factors than those applicant reported.

Perhaps one reason for multiple locations of a single site or a significant change in a site's character is the tentative nature of survey data in general, which is always subject to more definitive future investigations. It is also likely that extensive disturbances relating to land-use activities in the past 100 years, such as large scale filling, fill removal, and installation of drainage tile, have had a much greater effect on the archaeological record than previously realized.

Report at 15. HRA's findings underscore the need for a comprehensive survey with subsurface testing, like the one the Corps archaeologist urged in 1988. (See Memo to Corps from John Fagan). Piecemeal surveys are inadequate and known sites get collected and destroyed. For example, 35MU82 existed on the Spada property but the Spada portion was destroyed by the construction of Airport Way. HRA and the applicant also fail to acknowledge that the surface artifacts marking these sites are likely now in the possession of private collectors. Enclosed as an exhibit are photos of a few of the artifacts in Ron Spada's private collection from the Columbia South Shore. Included are photos of artifacts from sites 35MU35, 35MU36, 35MU70 and 35MU82 which applicant's consultants claim do not exist. We object to this strange situation where applicant's family can collect the artifacts and then turn around and claim that no cultural resource sites exist. Applicant's inventory fails to show that there are "no cultural and archaeological resources within the fill area on this property."

Applicant testified that "the fact the Tribes didn't appeal is proof that they are happy with the process." This statement is erroneous and negotiations with the Tribes are not complete. If the Confederated Tribes of the Grand Ronde and the Warm Springs have problems with negotiations or applicant's archaeological report, they will address them with the Mayor, the SHPO, and the Corps as consistent with their recognized status as sovereign nations.

8. This issue will be addressed in periodic review.

9. This issue will be addressed through other forums.

11. Site 22.

If Planning Staff had addressed our comments in its permit decision, we would not have raised the sad issue of losing the 150 year old cottonwoods which are still identified and protected as Site 22.

Project Development Services
Urban Design
Planning
Analysis
Policy
Management

BOB
GLASCOCK

Basehore & Associates

5022 N.E. 23 Avenue
Portland, OR 97211
(503) 249-1884
June 4, 1993

Commissioner Charlie Hales
City of Portland
1220 SW Fifth
Portland, OR 97204

RE: COLUMBIA SOUTH SHORE CULTURAL RESOURCE PROTECTION PLANNING

As I continue the coordination efforts between the city, tribal nation governments and others, it is apparent there is a need to form a working coalition of the various bureaus who have responsibility within the CSS district, including but not limited to Planning, Transportation Engineering, Environmental Services, and PDC. I cannot stress this point too emphatically. Without an orchestrated comprehensive approach the City runs the risk of costly delays and potentially lengthy court proceedings. The CSS land base and its associated resources dictate the need to implement a "whole system" planning approach.

It is my understanding that you are choosing Option 4 as the procedure for dealing with the resource issues. If you will recall during the hearing of May 27, all who testified clearly indicated Option 4 was unacceptable. Option 4 is nothing more than a blending of Options 1 and 3 which were concluded to be invalid approaches.

I think at this juncture the most cost effective approach is to immediately:

Halt transportation engineering work on the "Airport Way Wetland Mitigation Project" (four corners area) which lies within the resource protection area until the Confederated Tribes' of Grand Ronde and Warm Springs have had adequate time to respond to the resource issues surrounding the proposed mitigation area.

Provide interim cultural resource protection district-wide to cover those known sites and the high probability of other sites thought to lay scattered over the entire district. To do otherwise would be a far more costly case-by-case approach with serious potential for resource site destruction.

Begin a comprehensive cultural resource inventory of the area. Again, to do otherwise would be a very costly case-by-case approach certain to tie up properties in the courts for years.

I hope what I offer you is helpful. Extending our time to do this correctly will save money and time in the long run.

Sincerely,

Judith Basehore Alef

cc: Jessica Marlitt for Mayor Vera Katz
Austin Raglione for Commissioner Blumenauer
Elise Anfield for Commissioner Lindberg
Nancy Biasi for Commissioner Kafoury
Bob Glascock, Planning Bureau



FEATHERSTONE

Bob Glascock # 7845 ✓
Lang Range Planning

FILMS

11401 SW Northgate Avenue • Portland, Oregon 97219
503/697-2947 OR • 310/459-8149 L.A. • 503/697-2948 FAX

1 June 93

RECEIVED

JUN 7 1993

MAYORS OFFICE

OFFICE
BUILDING

Vera Katz
Mayor
1220 SW Fifth Ave.
Room 303
Portland, OR 97204

Dear Vera,

I attended the City Council meeting last week to hear the testimony and discussion about the preservation of Indian artifacts along the Columbia River South Shore. I'm heartened that you're giving sincere consideration to this issue and want to add my voice to those who are asking for a thorough archaeological dig of the site before any construction is begun. It is the only right and honorable thing to do. The knowledge held in that land is far too precious and irreplaceable to ignore or disregard.

Even the scope of the site, I wonder if the dig couldn't be turned into a film project, if it couldn't be documented in some way that could be utilized in a museum show, in schools, in film festivals. How wonderful it would be if the camping grounds could be authentically reconstructed on site and the future industry relocated to some other corridor of land.

I also wonder if the archaeological dig couldn't be assisted by volunteers who could do much of the grunt work. I'd help out in a minute and, to the person, friends I talk with about the idea feel the same way. It would not only help financially, but would give people the tremendous satisfaction of becoming involved and giving to something they care about but don't know quite how or what to do.

I'll be in Los Angeles June 23rd and am sorry that I'll miss the next round of Council discussions about preserving what's held in that Columbia South Shore land. Please take good care of it.

Warm Regards,

Katherine Martin

Portland State University

P. O. Box 751, Portland, OR 97207-0751

Bob G...
RECEIVED

JUN 01 1993

CITY OF PORTLAND
BUREAU OF PLANNING

May 28, 1993

The Honorable Vera Katz
1120 S.W. Fifth Avenue, Room 1002
Portland, Oregon 97204-1996

RE: Task Force and inventory on Archaeological Protection in Columbia South Shore.

Dear Mayor Katz:

If protecting cultural resources in the Columbia South Shore Development area is to involve setting up a task force, and conducting an archaeological inventory, as I believe it should, than I offer the following comments and suggestions. There are several aspects of the work of the task force that I want to discuss in this letter. Attending to the following matters will greatly simplify the work of the task force, while increasing its chances for success.

1) The success of whatever plan is ultimately developed depends upon the quality of the archaeological work that is done. Any inventory, and any subsequent decisions to set certain localities aside, or to excavate certain sites, will be subject to intense oversight by a large number of constituencies. It will be essential that they are all at least reasonably satisfied with the scientific results. Debates and disagreements will inevitably arise. It is important that these debates are about how best to use the inventory's results, rather than over the quality of the inventory itself. At their heart, the issues to be addressed by the task force and the inventory are cultural heritage issues, but how best to locate unknown sites and investigate them is a technical matter.

2) The inventory will need to be based on a scope of work that will provide the framework within which the archaeologists conducting the work will operate. The scope of work will establish the bases for evaluating the completed inventory's technical adequacy, as well being one of the reference points for determining the cultural and scientific significance of the sites that are discovered. For these reasons, the scope of work must be designed in consultation and in association with Native Americans. Any archaeological investigations must involve Indian people at every step. This merely reinforces the need for the science to be impeccable. The scope of work must therefore reflect current standards for scientific adequacy.

3) There are significant fiscal issues involved. There is a perception -- unfounded, but there -- that archaeologists take money, go on archaeological fishing expeditions, and then when we find something, come back and ask for more money. Federal agency archaeologists have had extensive experience with contracting for archaeological services over the last twenty years -- experience that includes balancing fiscal parameters with scientific needs. These individuals are knowledgeable about designing scopes of work, evaluating how much a study will cost, as well how well the results of a study meet the standards established by the scope of work. The presence of a respected archaeologist with that expertise on the task force will go a long way

to ensuring that the inventory is both fiscally and scientifically sound.

One archaeologist is not enough to provide the range of archaeological expertise the task force requires to be successful. Given point 1 above, the task force should include at least two archaeologists who are respected, and who are capable of evaluating the plans for an inventory and for any subsequent archaeological work. One of these archaeologists should be a federal archaeologist with the expertise described in point 3 above. It is also essential that the task force include a representative of SHPO.

These comments are not intended to be exhaustive, but only to highlight some of the issues surrounding the scientific aspects of protecting the cultural heritage of the Columbia South Shore.

Yours truly,

A handwritten signature in cursive script, appearing to read "Kenneth M. Ames".

Kenneth M. Ames
Professor

cc:

Robert E. Stacey, Portland City Planning Bureau
Bob Glascock, Portland City Planning Bureau
Paul Shirey, Portland Development Commission

Suggested Rewrite of Proposed Draft of the Natural Resource Management Plan
for the Columbia South Shore, Appendix F, Archaeological Requirements,
submitted by the Bureau of Planning, City of Portland,
October 26, 1992.

ARCHAEOLOGICAL REQUIREMENTS

Property owners must submit an archaeological report which includes the following:

1. A statement that the report was prepared by an archaeologist meeting professional qualification standards of the National Park Service Secretary of the Interior Standards and Guidelines (48 Fed. Reg. No. 190, 44,738-44,739 (1983)).
2. A report, based on existing literature and surface reconnaissance of archaeological resources, which includes all fill and mitigation sites, all known archaeological sites, and at all development sites containing known archaeological sites or protected resources. ~~for which the review is being conducted.~~ It must meet the standards, identification, evaluation, registration and treatment standards of the National Park Service, Secretary of the Interior Standards and Guidelines (48 Fed. Reg. No. 190, 44,738-44,739 (1983)).
3. A conclusion that:
 - a. There are no known or recently discovered resources at the proposed development site; or
 - b. There are resources, but are deemed not significant by the archaeologist's report, and State Historic Preservation Office and affected Tribe(s); or
 - c. There are resources deemed significant by the archaeologists's report, or State Historic Preservation Office or affected Tribe(s).
4. Where archaeological resources found at the site are deemed significant by the archaeologist's report, or State Historic Preservation Office or affected Tribe(s) and if the resource is potentially eligible for the National Register, the report shall include a mitigation plan for the protection or recovery of archaeological information prior to issuance of a building or development permit which may require modification to protect the archaeological resource site(s).

The report shall be reviewed by the State Historic Preservation Office and affected Tribe(s) prior to the Plan review process. Surface reconnaissance shall be supplemented by appropriate subsurface testing where deemed necessary by the qualified archaeologist, tribal archaeologist or State Historic Preservation Office prior to issuance of a building or development permit.

* * * * *

Submitted to the Portland City Council 5-27-1993, by Lyn Mattei, Oregon Natural Resources Council.

Caveat: This proposal intends to supplement other more long term options, stress the importance of interim protection and suggest a way to accomplish this protection as soon as possible. This proposal has not been circulated and does not necessarily reflect the views of other interested parties.

RECEIVED

MAY 7 1993

CITY OF PORTLAND
BUREAU OF PLANNING

P.O. Box 1341
Portland, Oregon 97207
May 6, 1993

Commissioner Charlie Hales
City of Portland
1220 SW Fifth
Portland, Oregon 97204

Dear Commissioner Hales:

At the March 10 City Council hearing on Columbia South Shore development standards, two of us spoke on the importance of protecting the archaeological resources of the Columbia South Shore area. Since that hearing, we have considered ways in which we could assist the City in responding to these concerns. We believe that the following proposal offers the opportunity to allow all interested parties to participate in developing mechanisms that help the City address its Goal 5 responsibilities.

We recommend the appointment of a cultural resource task force with the following objectives:

1. Development of procedures for addressing archaeological resources in City land-use actions.
2. Development of guidelines for all City agencies to address archaeological resources in agency plans and activities.
3. Recommendation of a process for addressing the cultural values of archaeological resources.

We recommend that the task force be composed of representatives from the City Council, the development community, the Portland Development Commission, the Planning Bureau, the Native American community, the professional archaeological community, and non-agency planners.

We recognize that the task force would have limited time in which to complete its work and that it would entail staff and resource commitments from the City. These limits and staff and resource commitments are similar, however, even if the City proceeds on its own.

If the City decides to draft a response without a task force, we assume that interested parties will be active participants in preparing the response. We also believe that it is crucial that whatever is prepared minimally address the following points.

1. The City must formally acknowledge all of the archaeological resources currently recorded with the State Historic Preservation Office as constituting its basic Goal 5 inventory for archaeological resources. The available information on the characters and locations of these resources must be integrated into Planning Bureau records as soon as possible. Given the

sensitivity of this information (which the City may withhold from the public record under federal and state law), access to the information should be limited to Planning Bureau staff, other City agencies on a need to know basis, and landowners applying for City land-use permits.

2. Procedures need to be developed and implemented that consider effects to archaeological resources of proposed land-use actions permitted by the City. The procedures need to consider effects on known resources and must also define a regular process for identifying resources not presently known.

3. Planning and actions by City agencies can affect archaeological resources. There needs to be a mechanism for agencies, especially the Bureau of Environmental Services and the Office of Transportation, to consider the impacts of their activities to archaeological resources.

4. The City needs to determine how it will address the cultural values of archaeological resources. Some archaeological resources may also be Goal 5 "cultural areas," and there may be Native American cultural areas that are not archaeological resources.

5. The procedures that are developed need to address archaeological resources and cultural areas as early as possible in the planning process.

We believe that a sincere determination by the City to responsibly treat these Goal 5 resources will resolve many of the concerns we have raised. We hope that the City will act soon, and we are ready to assist in the process.

Thank you for your attention to this matter.

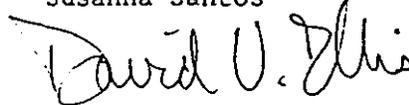
Yours truly,



Judith Basehore Alef



Susanna Santos



David V. Ellis

cc: Mayor Vera Katz
Robert Stacey

PORTLAND DEVELOPMENT COMMISSION

MEMORANDUM

DATE: April 2, 1993

TO: Bob Glascock, Bureau of Planning

FROM: Paul F. Shirey, Project Coordinator 

SUBJECT: Airport Way (Columbia South Shore) projects

In response to your memorandum of March 30, 1993, I offer the following to the questions you have raised.

1. It is not entirely clear to me why the archeological provisions contained in the earlier versions of the Natural Resources Management Plan (NRMP) for Columbia South Shore (CSS) have been dropped. As you know, the City and Alice Blatt were involved in year-long negotiations and have recently reached an agreement. Subsequent discussions with development interests then resulted in a decision by the Bureau of Planning (BOP) to incorporate the primary elements of the NRMP into the E-Zone and CSS Plan District. At some point along the way the archeological provisions were dropped by Bureau of Planning. I would refer you to Duncan Brown for further explanation on this subject.
2. The questions you raised regarding the planned training facility to be operated by Mt. Hood Community College (MHCC) proposed for location in the Airport Way area need to be referred to Russ Bloyer at MHCC. I have forwarded the questions raised to Russ today and expect a response very soon.
3. You will recall that the Planning Commission, at the time it considered the proposed Fourth Amendment to the Airport Way Urban Renewal Plan, asked PDC to defer action on the amendment until after the state-wide vote on urban renewal financing. The sole purpose in removing PDC's acquisition authority from the Holman District was to avoid potential legal liabilities. Since the vote is now scheduled for late June, we have decided to wait until early July to schedule City Council hearing on the matter pending the outcome of the election.

1120 S.W. Fifth Avenue
Suite 1100
Portland, OR 97204
503/823-3200
FAX 503/823-3368

Eastside Office
1425 N.E. Irving Street
Suite 200
Portland, OR 97232
503/823-3400
FAX 503/823-3435

TDD 503/823-6868



Bob Glascock Memo Cont.

April 2, 1993

Page 2

The Fourth Amendment has no bearing one way or the other on PDC's flexibility to spend remaining tax increment funds in the Airport Way Urban Renewal Area. All remaining tax increment funds in the Airport Way area are budgeted for infrastructure planning and construction, development assistance loans and trail construction activities. There is no money budgeted to undertake further archeological investigations.

It is important that the Airport Way area, the subject of significant public investment as well as extensive existing regulation, remain competitive with similarly zoned land in the region. We urge the City to reduce, where possible, costs incurred by the private sector to obtain land use approvals for development projects in Airport Way. The private sector should not be further burdened with front-end artifact discovery, probable delays and the resulting impact on development costs.

To this end, we might suggest that archeological protection in the Airport Way Area be accomplished by relying on the Portland State University study commissioned by PDC and completed in late 1989. We would encourage the Bureau to focus on those previously identified cultural resource sites in the PSU report that are designated "probable residential" and apply appropriate protection to ensure the collection and preservation of any discovered artifacts. Other "task specific" sites, of necessarily lesser significance, should be treated differently. I expect that we will have an opportunity to discuss how the code might treat those sites.

Let me know if I can be of further assistance.

PFS:cw

cc: Bruce Allen, PDC
Commissioner Hales
Commissioner Kafoury
Anne Nickel, Exective Director, Columbia Corridor Assoc.

Commissioner Charlie Hales
1120 SW 5th
Portland, OR 97201

RECEIVED
MAR 23 1993

March 22, 1993

Dear Commissioner Hales,

While attending the Oregon Trail festivities in the Park blocks on March 20, I was handed a flyer that discussed the proposed development of Columbia South Shore.

In talking with some of the people passing out the flyers, I learned that Native Americans and many other people are deeply concerned that this industrial development would annihilate precious archeological sites of the First Americans, thereby losing the opportunity to study this important part of our cultural legacy.

I would have to agree with them that this development would be a terrible mistake in light of these archeological sites, and urge you to permanently set aside plans for the proposed development and concentrate instead on finding the resources to study and protect this historic area. In the long run, this will be a far greater boon to the county than another commercial development could be.

Sincerely,

Kathleen McCann

Kathleen McCann

4048 SE Long
Portland OR 97202

THE CONFEDERATED TRIBES
OF THE GRAND RONDE COMMUNITY
OF OREGON



TRIBAL COUNCIL

RECEIVED
MAR 17 1993

March 16, 1993

Mr. Charlie Hales
City Commissioner
1120 SW Fifth Ave - RM 1002
Portland, OR 97204-1966

RE: Development Standards For Columbia South Shore

Dear Commissioner Hales;

The Confederated Tribes of the Grand Ronde Community of Oregon is very concerned about the City of Portland's recent treatment of archaeological and cultural sites on the Columbia South Shore. This area is rich in ancient sites once inhabited by ancestors of some of today's Confederated Tribes of Grand Ronde. After 150 years of city growth, some tribal members still live in this area. In the rush to develop around Portland International Airport, the City has destroyed some sites (35MU30 and 35MU84) and has damaged others.

The destruction would only increase under the proposed Columbia South Shore Plan District Development Standards. These Standards are inadequate to protect priceless archaeological and cultural sites on the South Shore. The Standards would eliminate the Significant Environmental Concern zone, and violate Land Use Goal 5. They would allow the destruction of the physical record of the First People of the Columbia.

For more than a century, Portland developed land with little attention to the cultural treasures it ground up in the process. Now, the City, at minimal expense to developers, has the opportunity to preserve and protect treasures that illuminate the thousands of years of life here before the City was dreamed of. Still, the City throws away the heritage of all Oregonians.

If the City considers the Lower Columbia's vibrant past too expensive to protect, it should reconsider the value of development.

The Confederated Tribes of Grand Ronde urges you to reject the proposed Development Standards and to adopt comprehensive archaeological and cultural protection regulations.

UMPQUA
MOLALLA
ROGUE RIVER
KALAPUYA
CHASTA

9615 GRAND RONDE RD.
GRAND RONDE, OREGON 97347

258

THE CONFEDERATED TRIBES
OF THE GRAND RONDE COMMUNITY
OF OREGON

Please do not hesitate to contact Michael Mason, Tribal Attorney,
at 879-2326 to discuss this matter.

Sincerely,


Kathryn Harrison
Council Vice-Chair

cc:
Greg C. Burchard
Sierra Club
John Fagan, AIN
File

Kenneth M. Ames Ph.D.
Professor of Anthropology
Department of Anthropology, Portland State University
Portland, Oregon. 97207. 503-725-3318

GOALS -
ARCHAEOLOGICAL RESOURCES

March 9, 1993

The Honorable Vera Katz
Members of the Portland City Council
1120 S.W. Fifth Avenue, Room 1002
Portland, Oregon 97204-1996

RECEIVED
MAR 9 - 1993
MAYORS OFFICE

Re: Development Standards in the Columbia South Shore Plan District.

Dear Mayor Katz and City Commissioners:

These comments represent my views as a professional archaeologist with 25 years of research experience in the Pacific Northwest, including the Portland area. At the risk of immodesty, I am an internationally recognized authority on the subject. The views expressed in this letter are mine, and do not represent the official or unofficial positions of either Portland State University, or the Department of Anthropology at PSU -- my place of employment.

The proposed Columbia South Shore Plan District Development Standards, as presently written, represent a significant abandonment of what little protection cultural resources on the Columbia South Shore currently have. The City of Portland has a very poor record in dealing with archaeological resources within its boundaries, unlike San Francisco and Seattle, whose efforts in this regard are better and show what can be done without harming overall economic development goals despite their more rapid urbanization and larger sizes.

Prior to European expansion into the region, what is now the Portland Metropolitan Area was home to one of the densest Native American populations in western North America, if not on the entire continent. These Chinookan speaking peoples lived along the Columbia from its mouth to the Dalles when Lewis and Clark entered the area. At the risk of seeming to exaggerate, the size of the pre-contact Chinookan population in the Portland area may have been without parallel among hunter-gathering peoples world-wide. These peoples were decimated by epidemics beginning sometime in the eighteenth century. They are now represented by their descendants and an extraordinarily rich, complex, extensive and perhaps unique archaeological record, which is rapidly being eroded by vandalism, unauthorized excavations and urban development.

The surviving archaeological record in adjacent regions clearly indicates that we can eventually expect to find archaeological deposits in the Portland Metropolitan Area extending back to at least 11,500 years ago, if not much earlier. The regional record also suggests that we can expect the Portland area to have supported very large numbers of people for at least the last 3,000 years, if not more.

The Columbia South Shore was one of the more densely populated areas within what is now the City of Portland. The archaeological record in the South Shore can be expected to contain the remnants of permanent Chinookan towns¹, seasonal residences, and special use localities, including places devoted to plant food collection and processing, hunting, and probably social and ceremonial activities. While some of these localities are on the present ground surface, others will be deeply buried, as a result of Columbia River flooding.

Destruction of the archaeological and cultural resources on the South Shore is proceeding rapidly. The location of a major Chinookan town observed by Lewis and Clark was destroyed by the construction of the airport. Other sites are regularly being destroyed by ongoing activities by residents, developers and, quite astonishingly, city agencies.

Archaeological sites are irreplaceable. Once gone, they are gone, like extinct species or destroyed works of art. It is ironic that a city that is internationally known for its efforts in protecting, preserving and integrating historically and architecturally significant Euro-american buildings into its downtown development plans is prepared to destroy its less visible but no less significant and considerably more ancient and unique Native American heritage.

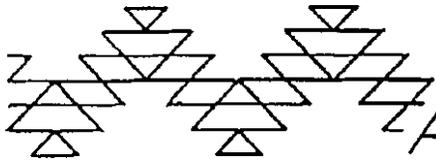
I strongly urge that the council reject the proposed standards and insist that new ones be written that comply with Oregon's Planning Goal 5. The city has available to it sufficient archaeological information to proceed in that direction now.

Yours truly



Kenneth M. Ames
Professor of Anthropology/Archaeology
Portland State University
Portland OR 97207
503-725-3318

¹ Chinookan towns in the Portland area ranged in size from 40 to 80 people up to 1200 to 1800 people.



Association of
Oregon
Archaeologists

RECEIVED

MAR 08 1993

RE: DOW ST. 11-11-92

CITY OF PORTLAND
BUREAU OF PLANNING

Dedicated to the protection and enhancement of prehistoric and historic archaeological resources.

March 7, 1993

Portland City Council
1220 SW Fifth
Portland, Oregon 97204

Dear Mayor Katz and Council Members:

The Association of Oregon Archaeologists and other organizations have been working for several years in educating the Planning Bureau staff, the Planning Commission, and the Council on the irreplaceable heritage of archaeological resources within the City. Within the City, 35 to 40 archaeological sites have been recorded over the past 15-20 years with the Oregon State Historic Preservation Office, and many more are likely to be discovered in the future. These resources represent an important chapter in the history of Portland and are critical resources in the heritage of the Native peoples of Oregon.

Much of our concern has focused on the Columbia South Shore area, which contains the most intact group of archaeological resources within the City. Since annexation of this area by the City and creation of the Airport Way Urban Renewal District, we have worked hard to try to assure that development in the South Shore area would not lead to the destruction of important archaeological resources. The efforts were initially successful and some basic archaeological requirements were incorporated into the 1990 Natural Resource Management Plan. The resurrected and revised draft plan developed this past year, however, first included similar archaeological requirements and then eliminated all archaeological requirements. We are back to where we started almost ten years ago.

These developments with the new proposed NRMP raise serious questions about whether the City is either capable or willing to address its Goal 5 responsibilities regarding archaeological resources. In January 1992, after learning that a known archaeological site in the South Shore area had been destroyed through a City-permitted activity, I raised this question in a letter to Bob Stacey. In his reply, Mr. Stacey assured me that the Planning Bureau was working to assure that archaeological resources were accorded proper consideration in land-use decision-making. The Bureau's record since then offers little assurance.

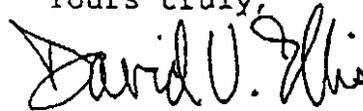
Portland City Council
S Shore development standards
March 7, 1993

Page 2

The formulation of development standards for the South Shore area offers almost the last opportunity at this time for archaeological resources to be brought back into the planning process. It also offers an important opportunity for the City to demonstrate that it intends to systematically implement its Comprehensive Plan policy protecting South Shore archaeological resources. The City enters the periodic review process this summer and the Association plans to play an active role in that process in regard to City policies and procedures regarding archaeological resources. We would much rather see the City adopt a pro-active and positive position regarding these resources than find itself in a reactive and defensive position. We hope that the Council sees the merits as well.

Thank you.

Yours truly,



David V. Ellis
Public Issues Coordinator



March 4, 1993

RECEIVED

MAR 05 1993

DIV OF PORTLAND
BUREAU OF PLANNING

The Honorable Mayor Katz
 Members of the Portland City Council
 1120 S.W. Fifth Avenue, Room 1002
 Portland, Oregon 97204-1966

RE: Comments for Hearing
 2:00 p.m., March 10, 1993
 Development Standards in the
 Columbia South Shore Plan District

Dear Mayor Katz and City Commissioners;

These comments represent the views of the Columbia Group Sierra Club, a local subdivision of the Oregon Chapter and National Sierra Club. We are joined by the Northwest Environmental Defense Center (NEDC), with offices located at 10015 S.W. Terwilliger Blvd., Portland, Oregon 97219. The Columbia Group and NEDC together represent in excess of 6,000 local members, many of whom live near, use and benefit from the resources in the Columbia South Shore.

The Columbia Group and NEDC strongly object to passage of the Columbia South Shore Plan District Development Standards as presently written. Without simultaneous adoption of comprehensive regulations to protect the area's cultural and archaeological resources, the Standards are inadequate and violate existing land use laws, Portland's Comprehensive Plan and Oregon's State Land Use Goal 5.

1. City Business as Usual Destroys Cultural Resources in the Columbia South Shore

In spite of well documented information about the importance of cultural resources in the Columbia South Shore (CSS), City bureaus and agencies continue to undertake or permit new development and infrastructure in known archaeological sites with out regard for the effects on these resources. The Planning and Transportation Bureaus permitted the complete destruction of cultural resource site 35MU30 in 1990, in order to stockpile dredged river sand to construct Airport Way. Planning continues to process land use applications affecting known sites without even informing the applicant that these sites exist. The Bureau of Environmental Services recently built a water quality pond on the northern two thirds of site 35MU84, apparently destroying it. As of this writing, BES has not responded to our Public Records Act Request submitted in October 1992 and again in January 1993 for documentation of whether any reconnaissance measures were

taken. In the Spring of 1991, we discovered that BES had deleted the "stop work clause" from its Airport Way sewer bidding contracts. Twenty hours and sixty dollars in phone calls later, the clause was quietly reinstated. In 1991, the Bureau of Transportation contracted out the construction of a secondary access road to facilitate excavation for sewer lines on Airport Way. Known sites 35MU26 and 35MU77 were consequently disturbed and possibly destroyed. In spite of Goal 5's ESEE requirement and with the exception of 35MU57, 35MU97, 35MU99 and a portion of 35MU84, none of the 19 known sites in the CSS have ever been evaluated and none are protected.

2. The SEC Overlay Zone Protects Cultural Resources

The stated purpose of the proposed Development Standards is to promote high quality development and to protect scenic resources in the Columbia South Shore Plan District. The City proposes to replace the existing Significant Environmental Concern (SEC) overlay zone as applied to scenic resources. However, adoption of these Standards would also amend Title 33 (the zoning codes) to eliminate the sec in its entirety from application in the Columbia South Shore. We assert that the City lacks authority to eliminate the SEC until all its criteria have been fully met.

The City inherited the SEC overlay zone when it annexed the Columbia South Shore from the County in 1986. The sec, which was enacted in the early 1980's to comply with Oregon's Land Use Goal 5, is Multnomah County's primary form of environmental and resource protection. The regulations clearly require cultural and archaeological resource protection. As an annexing jurisdiction, the City is required to retain and apply the SEC criteria on an interim basis until the City replaces each SEC protection with equal or better Goal 5 regulations of its own. Thus, the zone may not be deleted from Title 33 until the City has completed its Goal 5 update process and adopted appropriate protective measures for each criteria in the SEC.¹

The City has argued that although the SEC protects cultural and archaeological resources, this protection does not actually apply to the CSS. The Planning staff acknowledges that a land use application will only be approved if the reviewing body finds that the applicant has shown that all the SEC interim resource protection criteria have been met.² However, in the same breath, Planning has argued that since the SEC overlay was established only to review the scenic impacts of new development along Marine Drive, that many of the interim resource protection review criteria are inapplicable. Thus, the City has methodically ignored SEC approval criteria "F" which requires that "[a]rchaeological areas must be preserved for their historic, scientific, and cultural value and protected from vandalism or unauthorized entry;" and has similarly disregarded approval

¹ See Title 33, § 33.455.010 (1991)

² Staff Report and Recommendation to the Land Use Hearing Officer, Case File LUR 91-00468 SP IR, 4 & 5 (T & W Equipment) (September 23, 1991)

criteria "L" which states that "[b]uildings, structures, and sites of historic significance must be preserved, restored, and maintained."³ § 33.455.060.

In October 1991, the Sierra Club, NEDC and the East Portland District Coalition challenged the City's miserly interpretation of its responsibilities under the SEC. We argued that under Goal 5, the plain meaning rule and the basic tenants of statutory construction, SEC regulations must be applied as written to protect cultural and archaeological resources. We showed that the applicant's proposed land use action would potentially impact significant cultural resources which had never been evaluated, and requested that reconnaissance be required. The Hearings Officer affirmed our interpretation of the SEC and held that it must be applied as written to protect cultural resources. The Hearings Officer stated:

Staff contends that the Goal 5 protection plan established the sec overlay, only for the purpose of reviewing the impact of new development on views from Marine Drive. . . . Although I am inclined to take Staff at their word regarding the intent of Council in applying the sec overlay to this site (i.e. to protect views from Marine Drive), the intent of council in applying the sec overlay zone . . . only becomes relevant if the approval criteria themselves are ambiguous. Neither Staff, nor the applicant have alleged any ambiguity in the applicable sec zone approval criteria which would permit me to look behind the criteria in order to discern legislative intent. . . . Therefore, I can not consider Staff's assumption that the sec overlay was applied to this property only for the purpose of protecting views from Marine Drive of Mt. Hood. In my view, the criteria in 33.455.060 must be applied as they are written. . . . Therefore, in this case, legislative intent is not relevant.⁴

Hearing Officer Grillo's findings on the scope and application of the SEC constitute a final action which the City did not challenge. The City is therefore estopped from deleting the SEC upon a mere showing of substitute scenic resource regulations. Rather, the City must apply the SEC criteria as written to protect cultural and archaeological resources until enactment of equal or better archaeological protections of its own. Because the Development Standards are neither equal nor better, they may not be used to eliminate the SEC.

3. Cultural Resource Protections under Goal 5

The City has a independent and broader duty under Goal 5 to inventory, analyze and protect significant cultural and

³ § 33.455.060

⁴ Hearing Officer's Decision, Case File # 91-00468 SP IR, 4 & 6 (T & W Equipment) (October 8, 1991)

archaeological resources in its jurisdiction. Until recently, the City demonstrated an affirmative intent to recognize and protect these resources, particularly in the South Shore. However, all efforts collapsed in or around November 1992, when the City abandoned its CSS Natural Resource Management Plan (NRMP). In consequence, archaeological resources are no longer regulated or protected. However, "one stop shopping" for wetland fills is not a condition precedent to cultural resource protection and failure of the CSS/NRMP does not excuse the City from protecting these archaeological resources. The City's responsibilities arise under Goal 5, not the NRMP, and these responsibilities continue independently. They are triggered anew with a Plan amendment such as the Development Standards at issue today. If the City has identified the Columbia South Shore as containing significant cultural and archaeological resources, under Goal 5, the City may not now omit those resources from Goal 5 protection.⁵

a. The City's 1988 E-Zone regulations identified cultural resources for Goal 5 purposes

In 1988, the City adopted environmental regulations (the E-Zone regulations) as part of its periodic review process to comply with Oregon's Planning Goal 5.⁶ These regulations acknowledge the existence of archaeological resources and evidence an strong intent to address them in the future to comply with Goal 5. The regulations state:

Archaeological resources are the only known cultural resources in the City of Portland. Known archaeological sites are located in existing wetlands or wildlife habitat areas. LCDC is presently developing specific guidelines for resource protection. Upon state adoption, they can be incorporated into Title 33 where appropriate.⁷

Unfortunately, the Land Conservation and Development Commission (LCDC) never adopted the guidelines. In consequence, the City has argued that it need no longer address cultural resources under Goal 5. The City's reasoning is faulty. Under the Goal 5 statutes and LCDC's own administrative regulations, it is the Goal 5 rules than are binding, not the guidelines.⁸ Goal 5 rules require protecting certain resources, including historic and cultural resources, for future generations. LCDC's failure to enact guidelines may make the City's job harder, but does not excuse or alter the requirements of Goal 5 compliance.

⁵ OAR 660-16-000 (5) (a); Friends of Columbia Gorge v. LCDC, 85 Or App 249 (1987).

⁶ See Ordinance No. 160890, at 1 (June 15, 1988).

⁷ Id. at 6

⁸ See OAR 660-16-000 et seq; see also LCDC Commentary to the Guidelines, Goal 2.

b. Burtchard's 1989-90 study identified significant cultural resources in the Columbia South Shore

Since enacting its E-Zone regulations in 1988, the City has continued to acquire more information about the quality, quantity and location of its cultural resources. In 1989 and early 1990, archaeologist Greg Burtchard completed an extensive preliminary reconnaissance survey of cultural resources in the CSS under contract with the Portland Development Commission (PDC), a City agency. Burtchard found that important cultural resources exist on the Columbia South Shore floodplain which have the potential to document thousands of years of complex prehistoric culture.⁹ Burtchard found that the lower Columbia probably supported one of the highest Native American populations in North America and that the archaeological record of the Columbia South Shore is unique.¹⁰ He listed 54 known prehistoric cultural resource sites within the larger flood plain area, with seventeen in the South Shore itself.¹¹ Burtchard stressed that this figure represents "only a fraction of the total number of archaeological localities in the area."¹² He also warned that continuing archaeological research and evaluation is needed because

Development in the study area . . . will necessarily damage prehistoric materials. Terrain modification involved with construction physically removes sediments containing these items. . . I urge that as the area is developed, steps be taken to conserve the area's prehistoric cultural heritage as outlined in the management section of this report. . . Particular care should be taken to extend protection to localities near wetlands. Additional efforts should be made to conserve cultural remains over the broader floodplain as appropriate.¹³

In the absence of a completed comprehensive evaluation, Burtchard recommended that prehistoric sites in the Columbia South Shore be considered potentially eligible for inclusion in the National Registrar of Historic Places.¹⁴

c. Further studies have identified potential cultural resource

⁹ Greg Burtchard, Sample Archaeological Reconnaissance of the Airport Renewal Area 44 (Portland State University, February 1990).

¹⁰ Id., at 39-40

¹¹ At least two additional sites have since been located in the CSS.

¹² Id., at 28-9.

¹³ Id., at 44.

¹⁴ Id., at 41. Burtchard intended that his survey be used to increase public awareness of the area's rich prehistoric heritage so that a full range of alternatives would be considered in the decision making process. Instead, the report was withheld from public and City agencies alike. In consequence, the public has virtually no knowledge of the importance of cultural resources in the Columbia South Shore. The public will therefore not likely complain that these resources are currently being destroyed.

sites throughout the City of Portland

In March 1992, archaeologist David Ellis completed a detailed predictive model outlining where additional cultural resources are likely to be within the City's overall boundaries. Ellis, a leading spokesperson for the Association of Oregon Archaeologists, completed the model for the Portland Planning Bureau in order to assist the City in addressing archaeological resources for its upcoming periodic review. Using the Ellis model, Planning applied to the State Historic Preservation Office (SHPO) for a grant to conduct archaeological studies in Portland's urban areas. Although funding was not available for 1992-93, Planning is free to reapply at any time.

In addition to the predictive model, the record contains a letter Ellis wrote to Planning Director Robert Stacey, Jr. on January 6, 1992. Written in response to the irresponsible destruction of Site 35MU30,¹⁵ Ellis' letter notifies the City that objections will be made if the City's periodic review process fails to address (1) all known sites listed in Ellis's attachment and (2) development of goals, objectives, and procedures for protecting all of Portland's archaeological resources. Both the predictive model and notification letter are relevant to the City's duty to acknowledge responsibility for cultural resource protection under Goal 5. This applies to the Development Standards at issue today and for purposes of periodic review.

d. Failure to inventory cultural resources and perform an ESEE analysis violates Goal 5

In spite of the City's acknowledgement that Goal 5 includes archaeological resources which are known to exist in existing wetland and wildlife areas, the City has abandoned its commitment to obtain the necessary information to locate and protect these resources now and in the future. The City's treatment of cultural resources violates Goal 5. The City has identified the Columbia South Shore as containing significant cultural and archaeological resources. Under Goal 5, the City may not now omit those resources from Goal 5 protection.¹⁶ To implement Goal 5, Oregon's land use laws require that local planning jurisdictions provide sufficient implementation measures to put their Goal 5 programs into effect.¹⁷ The jurisdiction must also require that an ESEE analysis of a potential conflicting use be performed before the use is allowed, and must provide a process for determining whether the conflicting use should be allowed, and if so, under what, if

¹⁵ 35MU30 has been recognized as a known site since at least 1979.

¹⁶ Friends of the Columbia Gorge, supra, note 5.

¹⁷ OAR 660-010; OAR 660-16-005; ORS 197.640)3) (d) (periodic review violation).

any conditions.¹⁸

Burtchard's sample reconnaissance report supplies enough information for the City to determine the importance of many cultural resource sites in the CSS. For areas not surveyed, Burtchard spells out where they ought to be. Ellis' predictive model establishes the likely location of other cultural sites throughout the City, and his letter puts the City on notice that its treatment of cultural resources must change. A comprehensive list of known resource sites within City boundaries is also available to every City agency and bureau through the Oregon SHPO. Armed with this information, any new Development Standards or purported ESEE analysis of the CSS that fails to affirmatively address and protect its cultural resources, stands as a mockery of the Goal 5 process and the resources it must protect.

The City's current treatment of cultural and archaeological resources in its jurisdiction is unacceptable. Cultural resources in the South Shore Plan District are significant and deserve protection. These resources help explain the heritage and traditions of the Clackamas Chinook and other indigenous people who inhabited this area for thousands of years. Their legacy, and the legacy we are supposed to preserve for our grandchildren under Goal 5, mandate respect and protection.

Sincerely Yours,



Lyn Mattei
S.C.C.G. Conservation Chair, and
NEDC CSS Project Coordinator

236-8716

✓ Bob Glascock
✓ DB

¹⁸ Coats v. LCDC, 67 Or App 504, 510 (1984). See also City of Stanton Continuance Order, Staff Rept. at 9 (LCDC, August 22, 1979) (failure to identify conflicting uses will result in Goal 5 violation); Leonard v. Union County, 115 Or LUBA 135 (1986) (failure to provide an ESEE analysis with uses that conflict with Planning Goal 5 is grounds for remand).

APPENDIX

RE: Hearing March 10, 1993 2:pm,
Development Standards in the
Columbia South Shore Plan District

1. Sierra Club Public Records Act Request to the City of Portland, October 9, 1992; resubmitted January 7, 1993
2. Sierra Club, NEDC & EPDC Comments to the Bureau of Planning and Hearing Officer. PC File # 91-00468 SP IR. T & W Equipment: Application for Major Partition at NE Airport Way. October 8, 1991.
3. Greg C. Burtchard, THE COLUMBIA SOUTH SHORE PROJECT: A Sample Archaeological Reconnaissance of the Airport Way Urban Renewal Area (Portland State Univ. Dept. of Anthropology) (February, 1990)
4. David Ellis, An archaeological Predictive Model for the City of Portland: Management Summary (March 1992)
5. David Ellis for the Association of Oregon Archaeologists, Letter to Robert E. Stacey, Jr., Director, Bureau of Planning (January 6, 1992).
6. City of Portland Bureau of Planning, Draft SHPO Grant Application to Conduct Oral History and Identify Areas of High Probability for Significant Archaeological Sites in the City of Portland Based on David Ellis' Archaeological Predictive Model for the City of Portland (May 1992).
7. Proposed CSS Settlement Agreement between City of Portland and Alice Blatt, August 7, 1992. See Draft Archaeological Resources Regulations at pages 12-13, which City intended to supplement original NRMP at page 7-5.
8. Proposed Appendix F, Archaeological Requirements, in new CSS/NRMP Draft of October 26, 1992.



CITY OF
PORTLAND, OREGON
BUREAU OF PLANNING

Gretchen Kafoury, Commissioner
Robert E. Stacey, Jr., Director
1120 S.W. 5th, Room 1002
Portland, Oregon 97204-1966
Telephone: (503) 796-7700
FAX: (503) 796-3156

February 3, 1992

David V. Ellis, Public Issues Coordinator
Association of Oregon Archaeologists
PO Box 40327
Portland, OR 97240-0327

Dear Mr. Ellis:

Thank you for your letter of January 6, 1992, regarding archaeological resources within the City of Portland. In your letter you raised two basic questions. First, you inquired about the filling which has been occurring on the site at the southeast corner of NE 158th Avenue and Marine Drive. Second, you asked about the long-term strategy that the Bureau of Planning is intending on following in regards to archaeological resources within the city. This letter responds to both of these important points.

On November 29, 1989, the Bureau of Planning issued an administrative approval of a Site Review and Environmental Concern application for interim stockpiling of topsoil on property legally described as Tax lot 5, Section 19 T1N R3E and Tax lot 44, Section 24, T1N R2E associated with the NE Airport Way project (SRZ 60-89 and SRZ 61-89). This approval predates the publication of the the archaeological resources report by Portland State University (February, 1990). It is unfortunate that archaeological resources may have been damaged, but at the time that SRZ 60-89 and SRZ 61-89 were approved, this information was not available.

As for your second point, we are in the process of examining alternative approaches to the preservation of archaeological resources within the city. After the completion of our preliminary in-house discussions, Duncan Brown of the Long-Range Planning Section will contact you for your input into the decision-making process.

Thank you very much for your interest in these issues. Please call Duncan Brown at 796-7700 with questions or comments.

Very truly yours,

Robert E. Stacey, Jr.

cc: Commissioner Gretchen Kafoury
Duncan Brown, Senior Planner



Dedicated to the protection and enhancement of prehistoric and historic archaeological resources.

January 6, 1992

Robert E. Stacey, Jr.
Director
Portland Bureau of Planning
1120 S.W. 5th
Portland, Oregon 97204-1966

Dear Mr. Stacey:

On December 30, I was informed that fill was being placed on property immediately east of N.E. 158th, south of Marine Drive, and along the north side of Columbia Slough. In addition, a small pit (possibly a borrow pit) had been excavated at the west end of this property, just east of 158th. The information was passed on to me because the fill has been placed on top of a known archaeological site, 35MU30. I visited the location on January 1 and confirmed that about six feet of fill (some or all of which may consist of dredged material) has been deposited over most, if not all, of 35MU30. As a result, this site has been badly disturbed or destroyed by deposition of the fill and the operation of heavy equipment across the site during placement of the fill.

This property is one of seven parcels owned by Portland Airport Way Associates (PAWA) in the vicinity of the intersection of 158th and Marine Drive. PAWA has proposed development of four of the parcels for commercial and industrial use (Case File LUR 91-00240-SU-IP-EN). The parcel on which 35MU30 is located was not proposed for development, however, as it was designated a Resource Protection Area in the City's Natural Resource Management Plan (NRMP) for the Columbia South Shore. In a previous action (SRZ 60-89), the City approved a request for use of the PAWA property for interim stockpiling of fill for Airport Way.

I have made some preliminary inquiries in an attempt to find out who is placing the fill on 35MU30. Unless the fill is being deposited illegally, it would appear that it is related to the permitted land-use activities outlined in the previous paragraph. No PAWA development was planned for the 35MU30 parcel, and a representative of David Evans and Associates (PAWA's consultant for this development) has stated the fill has nothing to do with their development. I've also spoken with officials at the ODOT Region 1 office and the Bureau of Transportation Engineering. They've stated

Robert Stacey
Planning Bureau
January 6, 1992

Page 2

that the 35MU30 property is not a designated stockpiling location for Airport Way but are investigating further. I am also pursuing inquiries with other agencies possibly involved (e.g., the Corps of Engineers).

My primary concern is that no land-disturbing use of the property should have been permitted by the City without an evaluation of the archaeological site's character and importance. As you're aware, archaeological resources have been designated a Goal 5 resource by the state and are protected under Goal 5. In addition, the City's Comprehensive Plan has as one of its objectives that archaeological resources in the Columbia South Shore area are to be protected and enhanced. This objective is exemplified in the NRMP, which laid out procedures for evaluation of archaeological resources for any proposed development in resource areas.

It is our contention that the Planning Bureau should have conducted an ESEE analysis at 35MU30 as required by OAR 660-16-005 prior to issuing any permits for that property. I recognize that the City has never formally identified its archaeological resources as required by OAR 660-16-000, but 35MU30 was recorded with the state in 1978 and was included in Portland State University's 1989 archaeological study conducted for the Columbia South Shore area on behalf of PDC. The PSU study has been available to City planners since early 1990 and is in fact cited in the NRMP as the archaeological data base for the NRMP. In addition, the likely presence of archaeological resources on the PAWA property was raised in public testimony on the proposed development. The presence of 35MU30 has thus been known to the Planning Bureau for some time, and we therefore consider the site an identified archaeological resource in the context of Goal 5 requirements.

I wish to emphasize that Planning Bureau staff were aware of some of these concerns. Staff findings on the PAWA application included a recommendation that an "archaeological reconnaissance" of the development site be conducted by the applicant prior to issuance of any permits. There is no evidence that this recommendation has ever been implemented. There are, furthermore, no specific references to 35MU30 in the record for this application.

The loss of this archaeological resource, probably through the City's mismanagement, raises serious questions about the City's ability its Goal 5 responsibilities. We believe that prompt action is necessary to rectify these problems. First,

Robert Stacey
Planning Bureau
January 6, 1992

Page 3

the City needs to inventory its archaeological resources. As an aid in this process, I have attached a list of the known archaeological sites within the city limits according to SHPO records. Additional information on the locations and other attributes of these sites can be obtained from the SHPO. This list is only a beginning, however. The list is based on limited archaeological studies over the past 25 years and in no way constitutes a thorough listing of the City's archaeological resources. Work needs to be initiated for a comprehensive inventory.

Second, in the policies, goals, and objectives in the Portland Comprehensive Plan, only the archaeological resources of the Columbia South Shore are recognized. This leaves all of the archaeological sites outside the Columbia South Shore area unprotected. We question whether this addresses either the spirit or the letter of Goal 5 requirements.

The City is presently in the periodic review process. We anticipate objecting in that process if it fails to address (1) the known sites listed in the attachment and (2) development of goals, objectives, and procedures for protecting all of Portland's archaeological resources.

We would appreciate your attention to this matter. If I can be of further assistance, please feel free to contact me at 252-5140.

Yours truly,

David V. Ellis
Public Issues Coordinator

Enc.

cc: Commissioner Gretchen Kafoury
DLCD
SHPO

Robert Stacey
Planning Bureau
January 6, 1992

Attachment

KNOWN ARCHAEOLOGICAL SITES IN THE CITY OF PORTLAND
(from SHPO records)

35MU15	35MU44	35MU60
35MU16	35MU45	35MU70
35MU17	35MU46	35MU77
35MU18	35MU47	35MU78
35MU19	35MU48	35MU79
35MU20	35MU49	35MU80
35MU21	35MU50	35MU81
35MU22	35MU51	35MU82
35MU26	35MU52	35MU83
35MU30	35MU57	35MU84
35MU31	35MU58	35MU85
35MU35	35MU59	



Duncan **RECEIVED**

APR 25 1991

CITY OF PORTLAND
BUREAU OF PLANNING

Northwest Environmental Defense Center

10015 S.W. Terwilliger Blvd.; Portland, Oregon 97219
(503) 244-1181 ext.707

TO: City of Portland Planning Commission
FR: Lyn Mattei *LM* for the Northwest Environmental Defense Center
DT: April 23, 1991
RE: Public Comments regarding proposed amendment to the NRMP to allow sewer construction that will impact known cultural resources in the Columbia South Shore.

Thank you for this opportunity to comment on the proposed amendments to the Natural Resource Management Plan (NRMP), for the Columbia South Shore (CSS).

Amendment 3 involves the installation of sewer lines along Airport Way, S.E. 122nd, S.E. 135th, and S.E. 148th Avenues. This amendment raises important issues regarding the responsibility of the NRMP to identify, protect, and manage cultural resources in the CSS. NEDC would like to address these issues at this time. As the sewer implementation process exemplifies, the NRMP is not protecting cultural resources as vigorously as its regulations require. The fact that State and federal permits have already been issued for sewage construction is irrelevant to this discussion. We believe that under Goal 5, Title 33 of the City Code, and the NRMP, the City has an independent duty to protect significant cultural resources as affected by the proposed sewer installation. This duty exists irrespective of State and federal permitting.

1. Duty to Inform the Public of CSS's Cultural Resource History

Portland State Anthropologist Gregg Burtchard has completed an archaeological reconnaissance report of cultural resources in the CSS. This report is dated February 1990 and was commissioned by

the Portland Development Commission (PDC) for the City of Portland and at the request of the Portland District Army Corps of Engineers (the Corps). NEDC obtained a copy of this report from Mr. Burtchard, who assured us that it was not privileged but was available to the public. This report contains important information on the cultural history of the CSS and address the unique significance of its cultural resources in terms of their potential contribution to the study of our prehistory. Although Burtchard wrote this study in part to inform the public of this significant historical area which lies at Portland's doorstep, none of Burtchard's wonderful report has ever been made available to either the public in general or to interested parties from the public who have attempted to participate in the NRMP's planning process. We feel strongly that the public should have had access this report (in whole or in large part), and should have been given the opportunity to participate in an informed manner in deciding management alternatives, including the option of protecting the CSS as an historic district.

2. Importance of Cultural Resources in the South Shore

Burtchard writes that important cultural resources exist on the Columbia South Shore floodplain which have the potential to document thousands of years of complex and unique prehistoric culture and to address significant current archaeological research issues. G. Burtchard, Cultural Resource Investigation Number 2, The Columbia South Shore Project, Department of Anthropology, Portland State University, at 41 (February, 1990). Burtchard states that it is plausible that the lower Columbia supported one of the highest population densities in North America and that there is little reason to expect that the archaeological record of the South Shore to be duplicated elsewhere. Id., at 39-40. He also finds no reason to exclude the possibility that humans would have used nearly all parts of the floodplain throughout its 3000 to 6000 year history. Id., at 43.

Burtchard states that no complete reconnaissance of the entire

urban renewal area has ever been done and that there is a continuing need for archaeological research within the study area boundaries. In the absence of a complete evaluation, Burtchard recommends that "prehistoric sites located within the urban renewal boundaries be considered potentially eligible for inclusion in the National Register of Historic Places." Id., at 41.

In recognition of its uniqueness to North American archaeological history and research, Burtchard recommends a 100% survey of the urban renewal area, supplemented with appropriate sub-surface augering. He states that results could then be used to assist managers in establishing continuing cultural resource guidelines as the region is developed. Burchard also emphasizes that agency management obligations additionally include allowing the public to decide on the basic management alternative of treating the South Shore as an archaeological district. "Public interpretation of the Portland Basin prehistory is a clear management option involving south shore resources.Id. at 41 (emphasis added). "It is the obligation of government agencies, with public input, to weigh competing interests and establish appropriate conservation guidelines for the region's prehistoric cultural heritage." Id., at 43 (emphasis added). In conclusion, Burtchard states that

[d]ata presented here suggest that the greatest number of archaeological localities would be impacted by construction involving wetlands or physical redesign of the shape of existing wetlands to mitigate loss of such areas elsewhere. I urge that as the area is developed, steps be taken to conserve the area's prehistoric cultural heritage as outlined in the management section of this report. Particular care should be taken to extend protection to localities near wetlands. Additional efforts should be made to conserve cultural remains over the broader floodplain as appropriate.

Id., at 44.

2. Available Protection of Cultural Resources in the CSS

a. Cultural Resource Protection Under Goal 5

Oregon's Land Conservation and Development Comm'n, (LCDC) (Department of Land Conservation) promulgated State Land Use Planning Goal 5 (1985), which states that programs shall be provided that will protect scenic, historic, cultural and natural resources for future generations. OAR 660-16-000 et seq. (emphasis added). In compliance with LCDC's Goal 5, the City of Portland included cultural resources in its June 15, 1988, Environmental Regulations that apply to the south shore and that became the basis for the City's Natural Resource Management Plan (NRMP). These regulation state:

Archaeological resources are the only known cultural resource in the City of Portland. Known archaeological sites are located in existing wetlands or wildlife habitat areas. LCDC is presently developing specific guidelines for resource protection. Upon state adoption, they can be incorporated into Title 33 where appropriate.

The City of Portland's Environmental Regulations, amended to the Comprehensive Plan and City Code Title 33, at 6 (6-15-1988).

b. Existing Protection Under the NRMP

The City's present regulations under the NRMP provide that the cultural resources in the CSS will be protected as follows:

"Any development or land use action on any parcel containing a natural resource included in the Natural Resource Management Plan . . . must submit an archaeologist's report, including: [a] An assessment of site parameters, content, and significance of known archaeological resources, based upon both existing literature and surface reconnaissance; [b] A mitigation plan, including data recovery, if applicable; and [c] work is to be done by a qualified/professional archaeologist."

NRMP, at 7-3, 7-5 (Ordinance 163069, adopted 11-7-1990).

Protection under the NRMP is uncertain in several respects. First, as contrary to Gregg Burtchard's recommendation as well as David Ellis's recommendation on behalf of the Association of Oregon Archaeologists (AOA) and found in the NRMP record, an archaeological survey appears to be limited to surface reconnaissance, and appears to require no subsurface augering.

Second, it covers only known resources and apparently has no provision for protecting cultural resources discovered after development/excavation has begun. Third, the NRMP appears to exclude protection of any cultural resources not already identified, as natural resource areas and included as such in the Management Plan. Fourth, although Goal 5 requires the identification of significant historic and cultural resources, and although the E-Zone regs specifically state that "known archaeological sites" are located in the CSS, the NRMP fails to mention a single known cultural resource site in the entire Columbia South Shore. Is this because these sites are listed on a separate, privileged list, or is it because the NRMP recognizes no known cultural resource sites? Is this information withheld to protect the CSS cultural sites from pot hunters and vandals, or is this veil of secrecy a smokescreen to allow the City to abdicate its regulatory responsibility otherwise required under the NRMP and Goal 5? The City's veil of silence gives rise to such suspicions.

According to maps in Gregg Burtchard's reconnaissance report as published in February 1990, the proposed CSS sewer system will directly impact four known cultural resource sites. These sites are marked on the enclosed maps as 35MU80, 35MU84, 35MU57, and 35M82. These sites are impacted not at the Slough crossings, but in relation to Airport Way. (This is not to say that other cultural resource sites may be affected, at the Slough crossings or otherwise). The City of Portland has a responsibility under the NRMP to survey these four sites and to protect them to the full extent of the law.

The fact that these sites have already been, or will be, impacted by the construction of Airport Way is not dispositive. When the required studies for Airport Way were performed, these sites were not included. When Federal Highway Department issued its Final Environmental Impact Statement (FEIS) for Airport Way, these sites had not yet been discovered. Completed in 1987 or 1988 by the Federal Highway Administration in conjunction with EPA,

ODOT, and the City of Portland, the FEIS found that the construction of the Airport Way extension would not adversely effect identified cultural resources in the projected path of the road. Actually, the Airport Way FEIS found only the following as regards cultural resources in the CSS:

A cultural resource survey has been carried out within the project area and the projects original designed (sic) involved an archaeological site, the Spada site, located on alternative 1. Since Alternative A-2 has been selected as the alternative for this project, we feel that no cultural resources of National Register potential have been identified which are likely to be impacted by this project. We therefore feel that your agency is in compliance with section 800.4(d) of 36 CFR 800 for archaeological sites and a project may go forward as planned.

Letter from D.W. Powers & Dr. Leland Glisen, State Historic Preservation Officer, June 22, 1987, Airport Way EIS at Appendix B.

The Airport Way FEIS also includes a letter from the Dept. of the Interior criticizing the Highway Department for not following up on the four locations with subsurface potential for prehistoric material identified by surface indicators and slated for subsurface surveys planned for fall, 1985. FEIS, at 17. This may have been in consequence of the Airport Way detour as mentioned above. On the other hand, these four sites may have been found then overlooked in the Airport Way study, and thus may be the same four sites now known to be threatened by the NRMP sewer construction. At any rate, the all these sites are now directly threatened by development and/or mitigation and/or sewer construction under NRMP and the Regional permit. This is all the more true as the sewer right of way extends fifty feet beyond existing Airport Way boundaries, and possibly 50 feet on both sides. Thus, Airport Way FEIS findings regarding cultural resources can not be used to justify the view that no further protection of these sites is required under the NRMP. Because these sites have already been identified, they are "known" sites within the meaning and protection of the NRMP regulations. A complete survey should be accomplished before this sewer construction is implimented - both

at the six slough crossings and along the existing and proposed roads to include the wider boundaries now to be impacted.

NEDC also has problems with the statement on page five of the Public Notice regarding uses allowed in the Resource Protection Areas including "surface water drainage and treatment facilities." The meaning of this sentence is very unclear. However, if this means that the City is proposing to slip surface water drainage and treatment facilities into the RPA's, NEDC strongly objects. We strongly recommend that you do nothing of the sort at this time, that you clarify what you mean and notify the resource agencies, including DEQ, before you do anything that would entail using the buffers for treatment facilities.

The color photograph/plan text discrepancy of 200 feet as described at page 2 is also very confusing. Surely the City is not planning to substitute a correct 400 foot wetland delineation to make it correspond to an incorrect 200 foot plan text delineation. Surely the City means to make the correct, actual footage delineation the one that is to be used in the NRMP paperwork from now on.

We agree with deferring discussion on all other topics until later in the summer, as Mr. Burns has suggested.

CC:

Ken Berts, DSC

Gregg Burthard

David Ellis

Karl Anwar, NEDC

Michael Blumm, Professor of Law

David White, L.E.D.C.



CITY OF
PORTLAND, OREGON

BUREAU OF PLANNING

Gretchen Kafoury, Commissioner
Robert E. Stacey, Jr., Director
1120 S.W. 5th, Room 1002
Portland, Oregon 97204-1966
Telephone: (503) 796-7700
FAX: (503) 796-3156

March 22, 1991

NOTICE OF CITY PLANNING COMMISSION HEARING

Amendment of the Columbia South Shore Natural Resources Management Plan

DATE: Tuesday, April 23, 1991

TIME: 7:00 P.M.

PLACE: Saint Francis Hall
330 SE 11th Avenue (in the church basement)
Portland, Oregon

The Portland Planning Commission will hold a public hearing to consider proposed amendments to the Columbia South Shore Natural Resource Management Plan. Oral and written testimony will be taken at the hearing.

The proposed amendments are designed to:

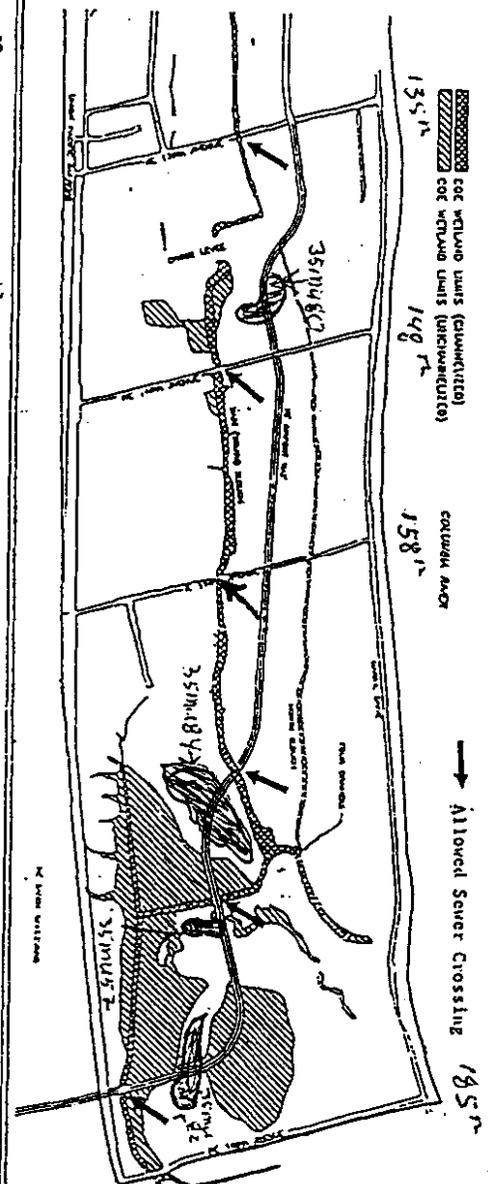
1. Clarify existing City Council intent as to what activities are, and are not, allowed in resource areas;
2. Resolve discrepancies between Management Plan illustrations and Management Plan text as to the exact boundaries of the resource areas; and
3. Establish new policy to allow to allow buried sewer lines in resource areas, but only within or adjacent to existing bridges and rights-of-way which cross the Columbia Slough.

Copies of the proposed amendments and the Planning Bureau's staff recommendation will be available for public examination on and after April 8, 1991, at the following location:

15

Portland Bureau of Planning
Portland Building, Room 1002
1120 SW 5th Avenue
Portland, Oregon 97204

Written comments may also be submitted to the above address before the hearing date. For additional information call Al Burns, at 796-7700.



DISPOSITION FORM

Routed for comment
2-18-88

For use of this form, see AR 340-15; the proponent agency is TAGO.

REFERENCE OR OFFICE SYMBOL	SUBJECT
CENPP-PL-RM	Region Permit for South Shore Development Area, Portland

TO	FROM	DATE	CMT 1
Memo to the Files	John Fagan	18 Feb 88	

1. On February 9, 1988, Frank Flynn and I met with Dr. Leland Gilson at the State Historic Preservation Office to discuss cultural resources within the area of the proposed regional permit.
2. We examined the cultural resources files and maps of the project area noting the locations of previously recorded prehistoric sites in adjacent areas which had been surveyed for cultural resources. The proposed permit area has not been inventoried, but it is expected to contain numerous sites. Site density is likely to be as high as for adjacent tracts with prehistoric sites expected to lie on high ground at elevation 14 feet and higher. Known sites in the general area are often found on the current and two previous river terraces, along natural levees and along present shorelines of sloughs and other drainages.
3. Due to the high density of sites in adjacent tracts, I recommend that an inventory be done after a predictive model has been developed using existing information, detailed mapping and aerial photographs. Such an inventory would best be done by the Corps with financial assistance from the City of Portland and the Oregon Division of State Lands. The purpose of such an investigation would be to provide information about potential for cultural resources impacts; design approaches for developing mitigation plans and cultural resources coordination required under the National Historic Preservation Act so that individual permit applicants can be provided with appropriate guidance in planning future development.
4. Completion of such a predictive model and cultural resources inventory would resolve cultural resource issues before problems occurred and would reduce the overall costs for cultural resources compliance work within the area of the regional permit.
5. Solution of such a potential coordination problem offers the following opportunities:
 - a. resolve cultural resources issues by a joint effort between the Corps, the City of Portland and the State of Oregon,
 - b. develop cooperative agreements with Portland State University to conduct cultural resources studies in the area; and develop agreements with the Oregon SHPO.
 - c. for in-house coordination of cultural resource investigations using available expertise and contracting capability,
 - d. to improve the overall final product by focusing on the solution of potential cultural resource problems before they occur.

e. to provide a comprehensive plan with a better balanced Special Area Management Program,

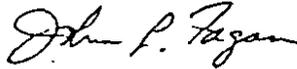
f. for national and regional recognition for problem solving and comprehensive planning and coordination,

g. for recognition of quality work on complex regional permit issues and recognition of Portland District as a leader in this field.

h. for development of a specialized area of expertise for Portland District,

i. to provide guidance and leadership to north Pacific Division.

6. I remain available to discuss these ideas and to develop the concept for a cultural resources predictive model and inventory for the South Shore Development Area.



JOHN L. FAGAN
Archeologist



CITY OF
PORTLAND, OREGON
BUREAU OF PLANNING

Margaret D. Strachan, Commissioner
Michael Harrison, AICP, Acting Director
Room 1002, 1120 S.W. Fifth Avenue
Portland, Oregon 97204-1966
(503) 796-7700

Annexation

Land Development

Land Use

Urban Design

March 22, 1985

Kenneth M. Ames
Department of Anthropology
Portland State University
PO Box 751
Portland, OR 97207

Dear Mr. Ames:

In response to your letter of March 7, the following is an update on the status of preparation of a City Environmental Concerns overlay zone and of an annexation zoning study for the Columbia South Shore and other recently annexed areas.

As you know, Robin McArthur-Phillips left the Bureau a few months ago. Jessica Richman has taken her position and will be working on the Environmental Concerns overlay zone as part of her assignment with the Land Use Planning Section. Your offer of assistance in locating ordinances from other cities is appreciated, and I will pass it on to Jessica.

Our annexation zoning studies for the newly annexed areas, including Columbia South Shore are currently on hold pending completion of our revisions to the industrial zoning classifications and establishment of the Environmental Concerns overlay zone. The timing of these annexation zoning studies is also dependent on City Council's decisions on the Bureau's budget for FY 85-86. As soon as the budget is finalized in mid-May, I can give you a better ideas as to when the annexation zoning studies will be initiated.

If I can be of further assistance, please call me at 796-7701.

Sincerely,


Michael Harrison, AICP
Acting Planning Director

MH:jc

cc: Jan Childs, AICP, Acting Chief Planner, Land Use Planning
Jessica Richman

DEPARTMENT OF
ANTHROPOLOGY



PORTLAND
STATE
UNIVERSITY
P.O. BOX 751
PORTLAND, OREGON
97207
503/229-3914

7 March 1985

Mr. Michael Harrison
Active Director
Portland Planning Bureau
1120 S.W. 5th, 10th Floor
Portland, Oregon 97204

Dear Mr. Harrison:

As a professional archaeologist, I would like to express my interest and concern about two issues facing both the City of Portland and the State's archaeological community, both professional and avocational. I am writing as an archaeologist, not a spokesperson for Portland State University.

First, I would like to inquire about the status of the Special Environmental Concerns Ordinance. I am aware that Ms. MacArthur-Phillips, who was writing the ordinance, has left her position, which is being filled. I have verbally offered to give her replacement any assistance that I can, particularly in finding other city ordinances which could serve as a model. I believe that with the pace of development and annexation, it is urgent that such an ordinance be in place.

Secondly, I am concerned about developments in North Portland between the Columbia and Sandy Boulevard. That area contains a number of known archaeological sites and probably a greater number of unknown sites. These sites are among the few, surviving prehistoric sites in the Portland Basin, which was home to one of the largest populations of Native Americans on the West Coast until they were decimated by malaria in the early 1830's. We know virtually nothing about them. Therefore, these surviving sites are highly significant. There is also the potential for many earlier sites buried by the river alluvium.

The presence of these sites, coupled with federal legislation and regulations concerning the identification and properties can make planning for development more complex and frustrating, if it is done on a piecemeal basis.

Mr. Michael Harrison
7 March 1985
Page 2 of 2 pages

Let me recommend, therefore, that the city, perhaps with Multnomah County, undertake a single, thorough archaeological study of the entire area in question. Such a study would be designed to locate and evaluate as many archaeological sites as possible in terms of their significance and make recommendations as to their treatment, preservation, excavation or destruction.

I believe such a study would ease your planning by giving you advance information and a working plan for handling archaeological sites as they are encountered.

I would be glad to discuss this recommendation with you and look forward to hearing from you soon.

Yours truly,



Kenneth M. Ames
Assistant Professor
Anthropology Department

KMA:med

Laboratory of Archaeology and Anthropology

Cultural Resource Investigation Series
Number 2

THE COLUMBIA SOUTH SHORE PROJECT

A Sample Archaeological Reconnaissance
of the Airport Way Urban Renewal Area
Portland, Oregon

by
Greg C. Burtchard

Department of Anthropology

Portland State University



MULTNOMAH COUNTY OREGON

DIVISION OF OPERATIONS AND MAINTENANCE
1620 SE 190TH AVENUE
PORTLAND, OREGON 97233
(503) 667-0100

DENNIS BUCHANAN
COUNTY EXECUTIVE

December 5, 1984

DEC 06 1984

Mr. Bruce Halperin
City of Portland, Planning Department
B106/R1002

Dear Mr. Halperin:

The Multnomah County Parks Department is currently involved in a survey and management plan for archaeological sites in Blue Lake Park. As part of this project we have been coordinating with archaeologists, local residents and the State Historical Preservation Office.

A common theme in our discussions with them has been concern over the numerous archaeologically sensitive sites in the South Shore area. Since the South Shore area is now under the jurisdiction of the City of Portland and the City of Gresham, our department is proposing to host a meeting to better explain this cultural resource, its management and the legal ramifications.

Currently these sites are protected by Multnomah County Comprehensive Framework Policy 15 and the S.E.C. ordinance. New legislation should contain similar protections.

A meeting to relay this information to Portland and Gresham staffs has been scheduled for Friday, December 14, 1984 at 10:00 a.m. at 2115 S.E. Morrison Street, first floor conference room.

Please call me to confirm attendance at this meeting.

Very truly yours,

Charles Ciecko
Parks Superintendent

CC/jb

cc: Paul Yarborough
Bob Hall

Appendix G

Implementing Ordinances

Ordinance No. 178567--Amend Title 33, Planning and Zoning, and the Cultural Resources Protection Plan for Columbia South Shore to update and improve land use regulations and procedures. Adopted August 4, 2004.

Ordinance No. 170225--Amend zoning code to better implement Cultural Resources Protection Plan for Columbia South Shore. Adopted June 5, 1996.

Ordinance No. 169954--Establish new fees for review of cultural resources. Adopted April 3, 1996.

Ordinance No. 169953--Adopt Cultural Resources Protection Plan for Columbia South Shore. Adopted April 3, 1996.

APPENDIX C: ORDINANCE

Appendix C: Ordinance

ORDINANCE No. 178567 AS AMENDED

Amend Title 33, Planning and Zoning, and the Cultural Resources Protection Plan for Columbia South Shore to update and improve land use regulations and procedures (Ordinance; amend Title 33)

The City of Portland Ordains:

Section 1. The Council finds:

General Findings

1. On June 26th, 2002, the City Council adopted Resolution 36080, which authorized the Mayor to develop a process to streamline and update the City's building and land use regulations and to improve regulatory-related procedures and customer services.
2. This process, the Regulatory Improvement Workplan, includes several phases, and a number of projects assigned to several bureaus.
3. On August 13, 2003, Council adopted the FY 2003-2004 Regulatory Improvement Work Plan.
4. This workplan has been divided into several projects. The current proposal is named Policy Package 3 and includes items from the 2003-2004 Regulatory Improvement Workplan. It also includes two small projects not included in the Regulatory Improvement Workplan that the Bureau of Planning has added to allow for combined public involvement. The small projects are the changes to the *Cultural Resources Protection Plan* and Zoning Code for Columbia South Shore Plan District, and the change to clarify the Historic Design Review approval criteria.
5. The changes proposed affect Title 33, Planning and Zoning and the *Cultural Resources Protection Plan for Columbia South Shore*.
6. *The Cultural Resources Protection Plan for Columbia South Shore* was adopted by the City Council on April 3, 1996. The plan's purpose is to protect evidence of Indian use from the pre-contact era in the Columbia South Shore. The plan was implemented as part of a work task for periodic review of the Comprehensive Plan relating to Statewide Planning Goal 5.
7. *The Cultural Resources Protection Plan* and related Zoning Code pages are intended to be updated as new information and/or confirmation testing results of potential archeologically significant sites are completed. From 1996 through the end of 2003, six sites have undergone confirmation testing and two sites have undergone voluntary testing, resulting in updated findings to be added to the plan.
8. On April 2, 2004, notice of the proposed action was mailed to the Department of Land Conservation and Development in compliance with the post-acknowledgement review process required by OAR 660-18-020.
9. On May 25, 2004, the Planning Commission held a hearing on the proposal. Staff from the Bureau of Planning presented the proposal and an addendum, and public testimony was received.

APPENDIX C: ORDINANCE

10. On June 8, 2004 the Planning Commission held a work session to discuss the proposal and consider public testimony. The Commission voted to forward Policy Package 3 to City Council.
11. On July 28, 2004, City Council held a hearing on the Planning Commission recommendation for Policy Package 3. Staff from the Bureau of Planning presented the proposal, and public testimony was received.
12. On August 4, 2004 City Council voted to adopt the changes in Policy Package 3.

Statewide Planning Goals Findings

13. State planning statutes require cities to adopt and amend comprehensive plans and land use regulations in compliance with the state land use goals. The following goals and policies are relevant and applicable to Policy Package 3.
14. **Goal 1, Citizen Involvement**, requires provision of opportunities for citizens to be involved in all phases of the planning process. The preparation of these amendments has provided numerous opportunities for public involvement:
 - On August 13, 2003, the City Council voted to adopt the 2003-2004 Regulatory Improvement Workplan. This workplan included proposals to investigate potential issues related to Land Division Monitoring and to review current Bed and Breakfast regulations. Establishment of the list of items involved public outreach during the spring and summer of 2003.
 - On March 16, 2004, the Bureau of Planning published the *2003-2004 Regulatory Improvement Workplan: Policy Package 3 Discussion Draft*. The report was available to City bureaus and the public and mailed to all those requesting a copy. An electronic copy was posted to the Bureau's website.
 - On March 18, 2004, the Bureau of Planning sent notice to all neighborhood associations and coalitions, and business associations in the City of Portland, as well as owners of historic properties, owners and neighbors of bed and breakfast facilities and other interested persons, to inform them of publication of the *Discussion Draft* and a Community Open House.
 - On March 22, 2004, staff from the Bureau of Planning attended the City-Wide Land Use Group meeting to inform them of Policy Package 3, provide them with copies of the *Discussion Draft*, and invite them to the Community Open House.
 - On March 22, 2004, Planning staff presented the proposed changes to the Historic Design Review approval criteria to the Historic Landmarks Commission at their meeting.
 - On March 31, 2004, the Bureau of Planning held a Community Open House at which Planning staff were available to answer questions and copies of the Discussion Draft were available. The purpose of the open house was to allow the public the opportunity to review the proposed recommendations, and ask questions of staff. Ten citizens attended the open house.
 - On April 12, 2004, Planning staff discussed the proposed changes to the Historic Design Review approval criteria with the Historic Landmarks Commission.

APPENDIX C: ORDINANCE

- On April 15, 2004, Bureau of Planning staff discussed some of the Land Division-related amendments with the Urban Forestry Commission.
 - On April 20, 2004, the Bureau of Planning published the *2003-2004 Regulatory Improvement Workplan: Policy Package 3 Proposed Draft*. The report was available to City bureaus and the public, and mailed to all those requesting a copy. An electronic copy was posted to the Bureau's website.
 - On April 22, 2004, the Bureau of Planning sent a notice to all neighborhood associations and coalitions, and business associations in the City of Portland, as well as other interested persons, to inform them of a second Community Open House scheduled for May 5, 2004, and to notify them of the Planning Commission Hearing scheduled for May 25, 2004. The hearing was also advertised in the Oregonian.
 - On May 5, 2004, the Bureau of Planning held the second Community Open House on this project. Bureau of Planning staff were available to answer questions and copies of the Proposed Draft were available. Four citizens attended the open house.
 - On May 5, 2004, notice of the proposal was provided via e-mail to the Bosco-Milligan Foundation and the Historic Preservation League.
 - On May 10, 2004, Planning staff met again with the Historic Landmarks Commission to discuss the proposed changes to the Historic Design Review approval criteria.
 - On May 25, 2004, the Planning Commission held a public hearing during which citizens testified. The public record for written testimony was held open until June 1st.
 - On July 28, 2004, the City Council held a public hearing on this proposal, during which citizens provided oral and written testimony.
15. **Goal 2, Land Use Planning**, requires the development of a process and policy framework that acts as a basis for all land use decisions, and ensures that decisions and actions are based on an understanding of the facts relevant to the decision. The amendments are supportive of this goal because development of the recommendations followed established city procedures for legislative actions, while also improving the clarity and understandability of Title 33, Planning and Zoning.
16. **Goal 5, Open Space, Scenic and Historic Areas, and Natural Resources**, requires the conservation of open space and the protection of natural and scenic resources. In general, the amendments are supportive of this goal because they provide clarification to existing regulations pertaining to open space, scenic and historic areas, and natural resources, without changing policy or intent.

The following amendments are directly supportive of Goal 5:

- Land division-related amendments in the Environmental Zones. The amendments within the Environmental Zone section allow applicants to request modifications to lot sizes and dimensions as part of an Environmental Review. This specifically furthers Goal 5 by allowing an applicant to reduce lot sizes for development in order to set aside larger tracts to protect resource areas.
- Changes to Cultural Plan. The proposed changes to the Cultural Plan and related Zoning sections specifically further this goal by updating the plans and the related Zoning Code provisions to match recent archaeological studies and confirmation testing. The Cultural

APPENDIX C: ORDINANCE

Plan is an adopted Goal 5 project and the update makes the plan consistent with current plans on file with the State Historic Preservation Office.

- Historic Design Review Approval Criteria. The change to the Historic Design Review Approval Criteria specifically furthers this goal by clarifying the intent of historic design review criteria used on projects proposing alterations to historic structures throughout the city. These approval criteria are used to protect sites with local, state, regional or national historical significance.

17. **Goal 8, Recreational Needs**, requires satisfaction of the recreational needs of both citizens and visitors to the state. The amendments are consistent with this goal because they do not change policy or intent of any of the existing regulations pertaining to recreational needs.

One amendment specifically supports Goal 8 by clarifying the timing for the installation of required recreational areas for land divisions creating at least 40 dwelling units. The amendment alters the timing so that the recreation area improvements are installed prior to the occupancy of the first dwelling unit on the site.

18. **Goal 9, Economic Development**, requires provision of adequate opportunities for a variety of economic activities vital to public health, welfare, and prosperity.

All of the amendments support Goal 9 because they update and improve City land use regulations and procedures that hinder desirable development. Improving land use regulations to make them clear and easily implemented has positive effects on economic development.

The following amendments are directly supportive of Goal 9:

- Land Division-Related Amendments. The amendments clarify and simplify land division provisions. This group of amendments removes unwanted barriers to the effective division of land, while better achieving public goals such as access and connectivity.
- Bed and Breakfast Regulations. These amendments provide additional flexibility to the operators of Bed and Breakfast facilities in residential zones. This flexibility gives the operators the potential to serve more guests, and in certain situations, rent the facility out for special events.
- Changes to the Cultural Resources Plan. The archaeological amendments facilitate economic opportunities by recognizing and codifying the archaeological testing made between 1996 and 2003. The results of this testing clarifies the development opportunities on specific sites.

19. **Goal 10, Housing**, requires provision for the housing needs of citizens of the state. The amendments are consistent with this goal as they foster the provision of housing in the City of Portland and therefore support Goal 10 and its policies.

APPENDIX C: ORDINANCE

The following amendments are directly supportive of Goal 10:

- **Land Division-Related Amendments.** The amendments to the Land Division-related items directly support Goal 10 by clarifying and simplifying land division provisions. This group of amendments removes unwanted barriers to the effective division of land, while better achieving public goals such as access and connectivity. The majority of land divisions in the City are for residential development. As a result, these amendments will foster the provision of housing in the City of Portland.
- **Bed and Breakfast Regulations.** These amendments provide additional flexibility to the operators of Bed and Breakfast facilities in residential zones. This flexibility gives the operators the potential to serve more guests, and in certain situations, rent the facility out for special events. This flexibility helps provide the economic incentive to maintain an alternative housing situation and home occupation in larger, older houses in established neighborhoods.

20. **Goal 12, Transportation,** requires provision of a safe, convenient and economic transportation system. In general the amendments are consistent with this goal, because they do not change policy or intent of any of the existing regulations pertaining to transportation.

The Land Division-related amendments are directly supportive of this goal because they clarify and simplify land division provisions. This group of amendments will clarify the approval criteria for rights-of-way, including the provision of Common Greens and Pedestrian Connections, and the ownership of the rights-of-way.

Metro Urban Growth Management Functional Plan Findings

21. The following elements of the Metro Urban Growth Management Functional Plan are relevant and applicable to Policy Package 3.
22. **Title 1, Requirements for Housing and Employment Accommodation,** requires that each jurisdiction contribute its fair share to increasing the development capacity of land within the Urban Growth Boundary. This requirement is to be generally implemented through city-wide analysis based on calculated capacities from land use designations. As detailed above in addressing compliance with Statewide Goal 9 (Economic Development) and Goal 10 (Housing), several of the amendments in Policy Package 3 foster economic growth, and facilitate the development of housing within the City, in compliance with this Title.
23. **Title 3, Water Quality and Flood Management Conservation,** calls for the protection of the beneficial uses and functional values of resources within Metro-defined Water Quality and Flood Management Areas by limiting or mitigating the impact of development in these areas. The amendments are consistent with this Title because they do not change policy or intent of existing regulations relating to water quality and flood management conservation.

One amendment directly supports Title 3. The Land Division-related amendments within the Environmental Zone section allow applicants to request modifications to lot sizes and dimensions as part of an Environmental Review. This specifically supports Title 3 by allowing an applicant to reduce lot sizes for development in order to set aside larger tracts to protect functional resource areas.

24. **Title 7, Affordable Housing,** recommends that local jurisdictions implement tools to facilitate development of affordable housing. Generally the proposed amendments are consistent with this Title because they do not change policy or intent of existing regulations

APPENDIX C: ORDINANCE

relating to affordable housing. The Land Division-related amendments specifically support this Title by clarifying and simplifying land division provisions. This group of amendments removes unwanted barriers to the effective division of land, in conformance with the provision 3.07.730.D.6 of Title 7 addressing Local Regulatory Constraints.

Portland Comprehensive Plan Goals Findings

25. The City's Comprehensive Plan was adopted by the Portland City Council on October 16, 1980, and was acknowledged as being in conformance with the statewide planning goals by the Land Conservation and Development Commission on May 1, 1981. On May 26, 1995, the LCDC completed its review of the City's final local periodic review order and periodic review work program, and reaffirmed the plan's compliance with statewide planning goals.
26. The following goals, policies, and objectives of the Portland Comprehensive Plan are relevant and applicable to Policy Package 3.
27. **Goal 1, Metropolitan Coordination**, calls for the Comprehensive Plan to be coordinated with federal and state law and to support regional goals, objectives and plans. The amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to metropolitan coordination and regional goals.
28. **Goal 2, Urban Development**, calls for maintenance of Portland's role as the major regional employment and population center by expanding opportunities for housing and jobs, while retaining the character of established residential neighborhoods and business centers.

The amendments support this goal because they are aimed at updating and improving the City's land use regulations and procedures that hinder desirable development. By improving regulations, the City will better facilitate the development of housing and employment uses. The following amendments specifically support Goal 2 and its relevant policies by facilitating the development of housing and employment uses at appropriate locations and intensities:

- Land Division-Related Amendments. The amendments clarify and simplify land division provisions. This group of amendments removes unwanted barriers to the effective division of land, while better achieving public goals such as access and connectivity. The effective division of land aids in the development of housing and employment uses.
 - Bed and Breakfast Regulations. These amendments provide additional flexibility to the operators of Bed and Breakfast facilities in residential zones. This flexibility gives the operators the potential to serve more guests, and in certain situations, rent the facility out for special events.
 - Changes to the Cultural Resources Plan. The archaeological amendments facilitate urban development opportunities by recognizing and codifying the archaeological testing made between 1996 and 2003. The results of this testing clarifies the development opportunities on specific sites.
29. **Goal 3, Neighborhoods**, calls for preservation and reinforcement of the stability and diversity of the city's neighborhoods while allowing for increased density. In general, the amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to the stability and diversity of neighborhoods.

APPENDIX C: ORDINANCE

The following items are directly supportive of Goal 3.

- **Land Division-Related Amendments.** The amendments clarify and simplify land division provisions. This group of amendments removes unwanted barriers to the effective division of land, enabling the potential to increase density while still addressing the needs of the neighborhood, including compatibility.
- **Bed and Breakfast Regulations.** These amendments provide additional flexibility to the operators of Bed and Breakfast facilities in residential zones. This flexibility gives the residents the potential to serve more guests, and in certain situations, rent the facility out for special events. This flexibility helps provide the economic incentive to maintain the bed & breakfast facilities, which are often in larger, older houses in established neighborhoods.
- **Historic Design Review Approval Criteria.** The change to the Historic Design Review Approval Criteria specifically furthers this goal by clarifying the intent of historic design review criteria used on projects proposing alterations to historic structures throughout the city. These approval criteria are used to protect sites with local, state, regional or national historical significance, and are often an integral part of their neighborhood.

30. **Goal 4, Housing,** calls for enhancing Portland's vitality as a community at the center of the region's housing market by providing housing of different types, tenures, density, sizes, costs and locations that accommodates the needs, preferences, and financial capabilities of current and future households. The following amendments are consistent with this goal since they foster the provision of housing in the City of Portland and therefore support Goal 4 and its relevant policies.

The following amendments are directly supportive of Goal 4:

- **Land Division-Related Amendments** The amendments to the Land Division-related items support Goal 4 by clarifying and simplifying land division provisions. This group of amendments removes unwanted barriers to the effective division of land, while better achieving public goals such as access and connectivity. The majority of land divisions in the City are for residential development. As a result, these amendments encourage the provision of housing in the City of Portland, and address the Regulatory Costs of Goal 4.15.
- **Bed and Breakfast Regulations.** These amendments provide additional flexibility to the operators of Bed and Breakfast facilities in residential zones. This flexibility gives the operators the potential to serve more guests, and in certain situations, rent the facility out for special events. This flexibility helps provide the economic incentive to maintain an alternative housing situation and home occupation in larger, older house in established neighborhoods.

31. **Goal 5, Economic Development,** calls for promotion of a strong and diverse economy that provides a full range of employment and economic choices for individuals and families in all parts of the City. The amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to economic development.

In general, all of the amendments support Goal 5 because they update and improve City land use regulations and procedures that hinder desirable development. Improving land use regulations to make them clear and easily implemented has positive effects on economic development.

APPENDIX C: ORDINANCE

Specifically, the following amendments support of Goal 5:

- Land Division-Related Amendments. These amendments clarify and simplify land division provisions. This group of amendments removes unwanted barriers to the effective division of land, while better achieving public goals such as access and connectivity.
- Bed and Breakfast Regulations. These amendments provide additional flexibility to the operators of Bed and Breakfast facilities in residential zones. This flexibility gives the operators the potential to serve more guests, and in certain situations, rent the facility out for special events.
- Changes to the Cultural Resources Plan. The archaeological amendments facilitate urban development opportunities by recognizing and codifying the archaeological testing made between 1996 and 2003. The results of this testing clarifies the development opportunities on specific sites.

32. **Goal 6, Transportation**, calls for the development of a balanced, equitable, and efficient transportation system that provides a range or transportation choices; reinforces the livability of neighborhoods; supports a strong and diverse economy; reduces air, noise and water pollution; and lessens reliance on the automobile while maintaining accessibility. The amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to transportation.

The Land Division-related amendments are directly supportive of this goal because they clarify and simplify land division provisions. This group of amendments includes provisions to clarify the approval criteria for rights-of-way, including the provision of Common Greens and Pedestrian Connections, and the ownership of the resulting rights-of-way.

33. **Goal 8, Environment**, calls for maintenance and improvement of the quality of Portland's air, water, and land resources, as well as protection of neighborhoods and business centers from noise pollution. Generally, the amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to environment.

One of the Land Division-related amendments directly furthers Goal 8. The change to the Environment Zone section allows applicants to request modifications to lot size and dimensions as part of an Environmental Review. This specifically furthers Goal 8 by allowing an applicant to reduce lot sizes in order to set aside larger tracts to protect resource areas.

34. **Goal 9, Citizen Involvement**, calls for improved methods and ongoing opportunities for citizen involvement in the land use decision-making process. The amendments are consistent with this goal because the process provided opportunities for public input and followed adopted procedures for notification and involvement of citizens in the planning process as described under Statewide Planning Goal 1.

35. **Goal 10, Plan Review and Administration**, is broken down into several policies and objectives. Policy 10.9, Land Use Approval Criteria and Decisions, directs that approval criteria with specific land use reviews reflect the findings that must be made to approve the request. Policy 10.10, Amendments to the Zoning and Subdivision Regulations, directs that amendments to the zoning and subdivision regulations should be clear, concise, and applicable to the broad range of development situations faced by a growing, urban city.

APPENDIX C: ORDINANCE

These amendments are supportive of Policies 10.9 and 10.10 because they clarify the application of approval criteria for Historic Design Review and elements of Land Divisions, and because they clarify and streamline many of the regulations in the Zoning Code. They also respond to identified current and anticipated problems, including barriers to desirable development, and will help ensure that Portland remains competitive with other jurisdictions as a location in which to live, invest, and do business.

36. **Goal 11, Public Facilities** calls for a timely, orderly and efficient arrangement of public facilities and services to support existing and planned land use patterns and densities.

The Land Division-related amendments are directly supportive of this goal because they clarify and simplify land division provisions that affect the arrangement of public facilities. This group of amendments includes provisions to clarify the approval criteria for rights-of-way, including the provision of Common Greens and Pedestrian Connections, and the ownership of the resulting rights-of-way. These provisions also support Policy 11.10, Street Design and Right-of-Way Improvements.

37. **Goal 12, Urban Design**, calls for the enhancement of Portland as a livable city, attractive in its setting and dynamic in its urban character by preserving its history and building a substantial legacy of quality private developments and public improvements for future generations. Generally, the amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to urban design.

The following amendments support Goal 12.

- Land Division-related amendments. The Land Division-related amendments affecting Planned Developments directly support this goal by clarifying the design criteria required for new Planned Developments as they relate to the surrounding area.
- Bed and Breakfast Regulations. These amendments provide additional flexibility to the operators of Bed and Breakfast facilities in residential zones. This flexibility gives the operators the potential to serve more guests, and in certain situations, rent the facility out for special events. This flexibility helps provide the economic incentive to maintain the bed & breakfast facilities, which are often in larger, older houses in established neighborhoods, supporting the goals for maintaining Portland's character, variety and the preservation of existing structures.
- Historic Design Review Approval Criteria. The change to the Historic Design Review Approval Criteria specifically furthers this goal by clarifying the intent of historic design review criteria used on proposed alterations to historic structures throughout the city. These approval criteria are used to protect sites with local, state, regional or national historical significance, and ensure that the integrity of their design is maintained.

APPENDIX C: ORDINANCE

NOW, THEREFORE, the Council directs:

- a. Exhibit A, *2003-2004 Regulatory Improvement Workplan: Policy Package 3 Recommended Draft*, dated July 6, 2004 is hereby adopted, as amended;
- b. Title 33, Planning and Zoning, is hereby amended as shown in Exhibit A, *2003-2004 Regulatory Improvement Workplan: Policy Package 3 Recommended Draft*, dated July 6, 2004, as amended;
- c. The *Cultural Resources Protection Plan for Columbia South Shore* is hereby amended as shown in Exhibit A, *2003-2004 Regulatory Improvement Workplan: Policy Package 3 Recommended Draft*, dated July 6, 2004;
- d. In addition to the changes identified in Exhibit A, the term “cultural” will be replaced with “archaeological” throughout the City’s adopted *Cultural (Archaeological) Resources Protection Plan for Columbia South Shore*, including in the report title; and
- e. The commentary and discussion in Exhibit A, *2003-2004 Regulatory Improvement Workplan: Policy Package 3 Recommended Draft*, dated July 6, 2004 are hereby adopted as legislative intent and further findings, as amended.

ORDINANCE No. **170225**

Amend zoning code to better implement *Cultural Resources Protection Plan for Columbia South Shore*. (Ordinance; amend Title 33)

The City of Portland Ordains:

Section 1. The Council finds:

General Findings

1. On April 3, 1996, City Council adopted the *Cultural Resources Protection Plan for Columbia South Shore* (hereafter, cultural plan). The purpose of the cultural plan is to protect evidence of Indian use in the Columbia South Shore from the pre-contact era. The pre-contact era is the time period before EuroAmericans settled in the Portland area.
2. The cultural plan fulfills a work task for the City's periodic review of the Comprehensive Plan relating to Statewide Planning Goal 5.
3. The cultural plan contains two main elements: sample testing and protection of identified cultural resources. This ordinance affects only the sample testing requirement. No changes are made to protection measures of the cultural plan.
4. In adopting the cultural plan, City Council directed that zoning code Map 515-7, *Areas Requiring Confirmation Testing*, be updated periodically to recognize archaeological sample testing, called "confirmation testing," that is completed after adoption of the cultural plan. If the confirmation testing requirements are met for a certain property, the Bureau of Planning issues a zoning confirmation letter to the property owner. Next, the Bureau of Planning initiates a legislative amendment to remove sample-tested properties from Map 515-7.
5. During public review of the cultural plan, two owners (Three Oaks Development and the Port of Portland) began confirmation testing, as required under the plan. Soon after the Council's adoption of the cultural plan, the tribal consultation requirement was met. The Bureau of Planning has certified that confirmation testing has been completed on the subject areas, and has prepared zoning confirmation letters to that effect. To better implement the cultural plan, these tested areas should be removed from zoning code Map 515-7.
6. In preparing replacement zoning code pages for the cultural plan, the Bureau of Planning identified the need to change punctuation, cross-references and word choices in the Columbia South Shore plan district. The format changes do not affect the content or process of plan district provisions, including cultural resource measures.
7. It is in the public interest to periodically update the Columbia South Shore plan district chapter of the zoning code to improve readability and reflect new information.

170225

8. Legislative procedure requirements have been met because 30-day notice of the Planning Commission hearing of May 14, 1996 was provided to recognized organizations; affected property owners, tribal governments and bureaus; members of Cultural Resources Advisory Committee; and other interested persons. The notice was published in the Oregonian. At least 10 days prior to each of the Commission hearings, a staff report and recommendation was filed with the Commission and made available for public review.
9. The City Council hearing (originally scheduled for May 22, 1996 and rescheduled for May 29, 1996) was mailed to interested and participating persons at least 14 days prior to the hearing. The Council ordinance was filed on May 22, 1996.
10. It is in the public interest to amend the zoning code to better implement the Columbia South Shore plan district, including an update of areas requiring confirmation testing and assorted format changes.

State Goal Findings:

11. Goal 1. Citizen Involvement, requires opportunities for citizens to be involved in all phases of the planning process. Development of these amendments meets this goal because the Bureau of Planning solicited comments from the affected owners and tribes to assess the status of confirmation testing for the subject properties. The Bureau of Planning staff report and recommendation was available May 3, 1996.

The Planning Commission held a public hearing on May 14, 1996 to receive comment on the staff proposal. The Planning Commission received one letter in support of the staff proposal and no oral testimony. The Planning Commission approved the staff proposal unanimously, with no amendments. The City Council held a public hearing on May 29, 1996 to receive the Planning Commission recommendation and take public testimony. On June 5, 1996 the City Council held a second public hearing and adopted the amendments. Public notices of Planning Commission and City Council hearings were mailed and published in local newspapers as described under Finding 8.

12. Goal 2. Land Use Planning, requires the development of a process and policy framework which acts as a basis for all land use decisions and assures that decisions and actions are based on an understanding of the facts relevant to the decision. The amendments conform to this goal by updating area specific implementation measures for Columbia South Shore. No changes are made to the Comprehensive Plan, which is the policy framework for the City. Preparation of the amendments to the Columbia South Shore Plan District followed established city procedures for legislative actions.
13. Goal 3. Agricultural Lands, provides for the preservation and maintenance of the State's agricultural land, generally located outside of urban areas. These amendments do not affect the ability of normal farming practices to continue in the Columbia South Shore plan district.
14. Goal 4. Forest Lands, provides for the preservation and maintenance of the State's forest lands, generally located outside of urban areas. This goal does not apply, since no forest lands are affected.

170225

15. Goal 5, Open Space, Scenic and Historic Areas, and Natural Resources, provides for the conservation of open space and the protection of natural and scenic resources. The amendments are consistent with this goal by updating a zoning code map to better implement the cultural plan, an adopted Goal 5 project.
16. Goal 6, Air, Water and Land Resource Quality, provides for the maintenance and improvement of these resources. These amendments do not directly affect this goal and associated resources.
17. Goal 7, Areas Subject to Natural Disasters and Hazards, provides for the protection of life and property from natural disasters and hazards. The amendments are consistent with this goal because they allow ongoing maintenance of man-built levees in the plan area.
18. Goal 8, Recreational Needs, provides for satisfying the recreational needs of both citizens of and visitors to the State. The amendments do not directly affect this goal because the City will maintain the confidentiality of cultural resource locations.
19. Goal 9, Economy of the State, provides for diversification and improvement of the economy of the State. These amendments facilitate economic opportunities by recognizing confirmation testing recently completed on two private properties.
20. Goal 10, Housing, provides for meeting the housing needs of the State. The two properties affected by these amendments are not part of the City's inventory of lands needed for housing. Thus, the amendments result in no loss of potential housing units.
21. Goal 11, Public Facilities and Services, provides for planning and development of timely, orderly and efficient public service facilities that can serve as a framework for the urban development of the City. These amendments are consistent with this goal because they do not affect the provision of public facilities in Columbia South Shore.
22. Goal 12, Transportation, provides for the development of a safe, convenient and economic transportation system. These amendments are consistent with this goal by allowing needed transportation facilities through certain cultural resource areas if adverse impacts on resources can be mitigated.

Transportation Planning Rule (TPR) requires that amendments to the Comprehensive Plan that significantly affect a transportation facility ensure that allowed land uses are consistent with the identified function, capacity and level of service of that facility. These amendments are consistent with this requirement because they will not likely reduce opportunities to design and construct pedestrian and bicycle facilities that promote alternative modes of transportation and reduction of vehicle miles travelled.
23. Goal 13, Energy Conservation, provides for the distribution of land uses in a pattern that maximizes the conservation of energy. These amendments conform with this goal by better implementing the cultural plan, which was found to affect so few development sites and to a minimal extent that energy consumption should not be affected.

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24. Goal 14, Urbanization, provides for the orderly and efficient transition of rural lands to urban uses. These amendments conform to this goal by allowing continued development in the Columbia South Shore in an orderly and efficient manner.
25. Goals 15, 16, 17, 18 and 19 deal with the Willamette River Greenway, Estuarine Resources, Coastal Shorelines, Beaches and Dunes, and Ocean Resources, respectively. These goals are not applicable to these amendments because they do not affect the Willamette River Greenway and no ocean resources are present within Portland.

Comprehensive Plan Findings:

26. All of the goals, policies, and objectives of the Comprehensive Plan have been reviewed against these amendments. Only those policies which are directly relevant to the amendments are discussed in the following section.
27. Goal 1, Metropolitan Coordination, provides for planning activities to be coordinated with federal, state and regional plans. These amendments implement the adopted cultural plan, which is part of the State-required periodic review of the City's Comprehensive Plan.
28. Goal 2, Urban Development, provides for maintaining Portland's role as the region's major employment, population and cultural center through expanding opportunities for housing and jobs while retaining the character of established areas. These amendments conform with this goal by implementing a cultural plan that has been found to minimize impacts on employment areas while preserving cultural resources which enhance the City as a place to live, work and recreate.
29. Goal 5, Economic Development, provides for increasing the quantity and quality of job opportunities through the creation of an attractive business and industrial environment. These amendments are consistent with this goal because they make a chapter of the zoning code more readable and up-to-date.
30. Goal 6, Transportation, provides for and protects the public's interest and investment in the transportation system by encouraging the development of a balanced, affordable and efficient system consistent with the Arterial Streets Classifications and Policies. These amendments are consistent with this goal by helping to implement the cultural plan. The cultural plan provides more certainty of the presence of cultural resources along potential roadway alignments by conducting archaeological testing along those alignments.
31. Goal 7, Energy, provides for increasing the energy efficiency of existing structures and the transportation systems of the City. These amendments are consistent with this goal because they better implement the cultural plan, which considered the energy impacts of protecting cultural resources in the ESEE analysis for each resource.

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32. Goal 8, Environment, provides for maintaining and improving the quality of Portland's air, water and land resources and protecting neighborhoods and business centers from noise pollution. These amendments are supportive of this goal by making the cultural plan more readable. The cultural plan has been found to protect significant cultural resources, some of which are located in or near an environmental feature such as the Columbia Slough. The plan balances the conservation of cultural resources with the need for other urban uses in the accompanying ESEE analysis.
33. Goal 9, Citizen Involvement, provides for improving the method for citizen involvement in the on-going land use decision-making process and providing opportunities for citizen participation in the implementation, review and amendment of the Comprehensive Plan. The cultural plan and implementing measures are consistent with this goal for the reasons stated in the finding for Statewide Planning Goal 1.
34. Goal 11, Public Facilities, provides for a timely, orderly and efficient arrangement of public facilities that support existing and planned land use patterns and densities. The plan conforms with this goal for the reasons stated in the finding for Statewide Planning Goal 11.
35. During deliberations on these amendments, the Planning Commission affirmed its interest in keeping the site locations of cultural resources confidential. These amendments provide important information to the development community without disclosing those site locations.

NOW, THEREFORE, the Council directs:

- a. Adopt the the report and recommendation of the Planning Commission on the *First Amendment to Cultural Resources Protection Plan for Columbia South Shore*, as shown in the attached Exhibit A.
- b. This ordinance shall be in full force and effect beginning September 1, 1996.

Passed by the Council,

JUN 05 1996

CHARLIE HALES
Commissioner
May 22, 1996
R. H. Glascock/rhg

BARBARA CLARK
Auditor of the City of Portland

By *Betta Olson*
Deputy

169954

ORDINANCE No.

* Establish new fees for review of cultural resources. (Ordinance; amend the fee schedule for land use reviews, planning services and hearings officer).

The City of Portland ordains:

Section 1. The Council finds:

1. On April 3, 1996, City Council adopted the *Cultural Resources Protection Plan for Columbia South Shore*. The cultural plan requires archaeological testing of certain areas in Columbia South Shore and sets development standards for ground disturbance activities near identified cultural resources. To avoid possible looting and destruction of cultural resource sites, the cultural plan relies on a confidential zoning atlas of identified cultural resources. The Bureau of Planning needs the services of a contract archaeologist with expertise to review and evaluate archaeological reports and development plans submitted by applicants of certain properties regulated by the cultural plan.
2. A supplemental plan check is needed to review and evaluate an applicant's archaeological test results. The fee is estimated to recover 100 percent of the estimated cost of processing the test results and issuing a zoning confirmation letter.
3. A supplemental plan check is also needed for grading and building permits on sites with identified cultural resources. The Bureau estimates the supplemental plan check will collect 50 percent of the processing costs of reviewing site plans for such situations. This is consistent with the City's overall intent for cost recovery for planning services.
4. This ordinance does not change fees for land use reviews or the Hearings Officer.

NOW THEREFORE, the Council directs:

- a. Amend the FY 1995-96 fee schedule for land use reviews for land use reviews, planning services and Hearings Officer, as presented in Appendix A and incorporated by reference. Specific fee amendments follow:
 1. Change the title of "environmental plan check" to a more generic "supplemental plan check", with no change to the fee; and
 2. Assign supplemental plan check to administrative review of confirmation testing and site plan review on sites with identified cultural resources, as specified in the *Cultural Resources Protection Plan for Columbia South Shore*.
 3. Add an expert consulting fee to the planning services list, with a \$60 per hour fee for planning services that exceed the base fee for that planning service.

Section 2.

The Council declares an emergency exists, because the new fees are needed to implement the new cultural plan. Therefore, this ordinance shall be in full force and effect from the date of passage.

Passed by the Council' **APR 03 1996**

Commissioner Charlie Hales
R. H. Glascock, AICP
March 20, 1996

BARBARA CLARK
Auditor of the City of Portland
By

Barbara Olson Deputy

ORDINANCE No. **169953**

Adopt *Cultural Resources Protection Plan for Columbia South Shore*. (Ordinance; amend Comprehensive Plan, Title 33 and zoning maps)

The City of Portland Ordains:

Section 1. The Council finds:

General Findings

1. In 1974, the State of Oregon adopted Statewide Planning Goal 5, Open Spaces, Scenic and Historic Areas, and Natural Resources. Goal 5 requires jurisdictions to conserve open space and protect natural, scenic and cultural resources.
2. The City of Portland adopted its Comprehensive Plan on October 16, 1980 (effective date, January 1, 1981). The plan was acknowledged as being in conformance with Statewide Goals for Land Use Planning by the Land Conservation and Development Commission on May 1, 1981. At the time of its adoption the plan complied with Goal 5.
3. The Land Conservation and Development Commission's (LCDC) administrative rules for Goal 5 (OAR 660-16-000 through 660-16-025) outline the process to be followed in identifying and evaluating resources and achieving compliance with Goal 5. LCDC adopted these administrative rules in September 1981.
4. In 1989, the Portland City Council defined its intent to consider protection of certain archaeological resources in the Columbia Corridor areas as its response to Goal 5 requirements related to cultural areas. In its Local Periodic Review Order (Resolution 34523), City Council found that Columbia South Shore and the vicinity of Smith and Bybee Lakes were the most likely potential sources of archaeological resources within the City.
5. In July 1993, City Council directed the Planning Commission, with assistance from the Bureau of Planning, to prepare the *Cultural Resources Protection Plan for Columbia South Shore* (hereafter, cultural plan). Resolution No. 35167 states that the cultural plan will amend the Columbia South Shore plan district, and include four components: (a) expand the archaeological inventory of the plan area; (b) invite interested tribes and persons to submit oral histories and any other relevant cultural information; (c) identify conflicting uses and evaluate the economic, social, environmental and energy consequences of protection; and (d) prepare implementation measures and take code amendments through the public review process.
6. Also in July 1993, City Council directed the Bureau of Planning to continue working with interested parties to develop voluntary guidelines to identify and protect cultural resources in Columbia South Shore. Resolution No. 35168 strongly urges interested tribal governments and the Columbia Corridor Association and other interested parties to continue cooperating for interim resource protection.

169953

7. In fall 1993, the Bureau of Planning formed a policy advisory committee (Cultural Resources Advisory Committee) and a technical committee (Cultural Resources Technical Committee) to serve as a sounding board to the bureau on the cultural resources project. The bureau invited three tribal governments, three business persons and a neighborhood person to serve on the policy committee. The policy committee met monthly throughout the project. The technical committee includes professional archaeologists, resource advisers and city bureau representatives.
8. In August 1994, City Council adopted a policy statement on the management of cultural resource records. Resolution No. 35229 recognizes that cultural resources, including archaeological sites and objects, are an important and dwindling part of the City's heritage. The City will limit disclosure of cultural resource site records to the maximum extent permitted by Oregon law, and cooperate with affected tribes on disclosure requests.
9. The purpose of the cultural plan is to protect evidence of Indian use in the Columbia South Shore from the pre-contact era. The pre-contact era is the time period before EuroAmericans settled in the Portland area.
10. The City has reviewed its Comprehensive Plan as part of Periodic Review to bring the Plan into compliance with the State Goals, particularly Goal 5. The cultural plan updates the city's Comprehensive Plan inventory and analysis of cultural resources within the Columbia South Shore planning area and addresses State Goal 5 Administrative Rule requirements. Specifically, the Cultural Resources Plan updates Comprehensive Plan Policy 5.10, Columbia South Shore, and its implementing regulations fulfill State Goal 5 requirements to protect significant cultural areas. As such, the cultural plan brings the City into compliance with the terms of its Local Review Order (Resolutions 34523 and 34653) concerning Goal 5 cultural areas.
11. The Bureau of Planning, working in conjunction with other City bureaus, conducted an extensive inventory of cultural resources in the Columbia South Shore, beginning in January 1994. The Bureau of Planning held a request for proposals (RFP) process to select an archaeological consultant to conduct the areawide inventory. The bureau selected a consultant team led by Heritage Research Associates (HRA). The consultant team submitted an inventory report to the Bureau of Planning. The draft report synthesizes the available archaeological data from this area, including recent archaeological investigations funded by specific development projects. The draft report also serves as basis for the City's cultural areas inventory of the Columbia South Shore. The areawide inventory was reviewed by associated tribes, citizens, land owners, developers, city bureaus and other interested groups and organizations during the planning process.
12. On April 25, 1995, the Planning Commission held a public hearing on a preliminary inventory report, prepared by the Bureau of Planning. Eleven persons testified at the hearing. The preliminary inventory report made use of substantial archaeological (scientific) work and numerous discussions (on heritage values) with three Oregon tribes. The basis for scientific findings was the areawide archaeological inventory performed by HRA in 1994.
13. Between April 1995 and January 1996, Bureau of Planning staff refined the cultural resources inventory with assistance from the Cultural Resources Advisory Committee, Cultural Resources Technical Committee, and outside archaeologists.

169953

Staff also considered new resource information from archaeological testing initiated during this time.

14. The revised inventory identifies three cultural sensitivity areas within the plan area. The cultural sensitivity areas represent areas that are most likely or known to contain cultural resources in the plan area. Cultural sensitivity areas are intentionally drawn large enough to group historic landform areas associated with certain Indian activities. The sensitivity areas make use of archaeological site information without revealing site locations. For purposes of OAR 660-16-000 (5)(c), only nine identified cultural resources and thirteen properties subject to the requirement for confirmation testing are considered to be significant "sites" included on the the "plan inventory."
15. Two of three sensitivity areas have not been adequately tested to complete the baseline sampling of archaeological testing in the Columbia South Shore. The cultural plan identifies thirteen properties that require further testing to achieve the baseline sampling method used throughout the plan area.
16. The cultural plan classifies cultural resources into four categories. Three resource types (burials, villages and seasonal campsites/activity areas) are based on archaeological sites that meet current SHPO guidelines. A fourth resource type (traditional, sacred or cultural use sites) may be identified from archaeological or tribal sources. The ESEE analysis and program make use of these site types.
17. The cultural resources included in the inventory were further examined through the Economic, Social, Environmental and Energy (ESEE) analysis process outlined in the Goal 5 administrative rule to determine the appropriate level of protection. The ESEE analysis determined that burials warrant full protection, and the three other cultural resource types warrant limited protection.
18. Certain cultural resources within the plan area are significant because they provide a broad range of functional values, including three heritage values and two scientific values. Heritage values include evidence of traditional religious practices, traditional community lifeways and unique events in tribal history and, as such, American history. Scientific values relate to material remains of human life or activities that are capable of providing an understanding of past human behavior and adaptations to the natural environment. These resource values benefit associated tribes, local residents, businesses and visitors throughout the Portland metropolitan area.
19. The cultural plan is the result of a two-year planning effort with the involvement of and input from many tribal representatives, citizens, land owners, developers, local interest groups, economic consultants, neighborhood organizations, as well as Bureau of Planning staff, other city bureaus, the Planning Commissioners and City Council.

Participating Tribal governments are the Confederated Tribes of the Grand Ronde Community of Oregon (hereafter, Grand Ronde), the Confederated Tribes of the Warm Springs Reservation of Oregon (Warm Springs), and the Confederated Tribes of the Siletz Indians of Oregon (Siletz). Tribal representatives from Grand Ronde, Warm Springs and Siletz have actively contributed to discussions of the Cultural Resources Advisory Committee.

169953

In addition, Planning staff worked with the Grand Ronde Tribes and the Columbia Corridor Association to negotiate a private agreement, or Memorandum of Understanding (MOU), over interim procedures before permanent measures are adopted for the cultural plan. Planning staff also attended a workshop on graves protection (Keepers of the Treasures) and heard Grand Ronde elders speak Chinookan jargon.

20. The cultural plan is a local resource plan intended to complement the state archaeological program and provide more certainty of cultural resource protection in the Columbia South Shore than occurs with the state archaeological process. The cultural plan provides a decision making framework for levels of cultural resource protection and balances the impacts of protecting a cultural resource site with the impacts of allowing a conflicting use. The City's plan and ordinances for protecting cultural resources do not affect or modify any treaty or other right of any Indian tribe, including aboriginal rights.
21. Due to constraints imposed by the current Goal 5 administrative rule, this plan does not address discovery situations. A discovery situation occurs when cultural materials are encountered during project construction. For example, a backhoe operator might unearth bones or a band of charcoal with stone flakes. The cultural sensitivity areas map serves to alert the development community that cultural resources may be encountered during project construction, and they should be aware of state and federal requirements that apply to such discoveries.
22. The Oregon archaeological permit program has undergone changes through the last few years such that private lands are now subject to the permit process. During the last legislative session, the program was further modified to apply the permit process upon disturbance of an archaeological site, whether intentional or not. Given the context of the changing regulatory permit process, the cultural plan adds value by:
 - a) bringing together disparate stakeholders to increase understanding and forging work relationships;
 - b) adding to the knowledge base of archaeological sites and past Indian use; and
 - c) providing more certainty of cultural resource locations and their management because the City is a source of site records and this plan sets out clear and objective standards.
23. The ESEE analysis considers the appropriate protection level for identified cultural resources that fall entirely within the environmental protection ("p") zone.
24. "Full protection" means (a) completing archaeological "confirmation testing" for that development site, (b) no ground disturbance of identified cultural resources, and (c) some level of protection for adjacent transition areas.
25. "Partial (limited) protection" means (a) completing archaeological "confirmation testing" for that development site, (b) partial ground disturbance of identified cultural resources and/or recovery of associated cultural materials, and (c) some level of protection for adjacent transition areas.
26. "No protection" means (a) no further archaeological testing for that development site through State Goal 5, (b) no special restrictions on ground disturbance activities, and (c) no special restrictions on adjacent transition areas.

169953

27. The ESEE analysis states that full and partial protection levels are needed for the cultural resources program. From the conflicting use analysis, it is clear that the City cannot rely on acquisition to protect all archaeological sites. Since this plan is limited to the Columbia South Shore plan district, the most direct way to tailor zoning regulations is to amend the plan district zoning regulations. Plan district amendments address the environmental zones, particularly the effect of "p" zone boundary changes that would remove current protection to cultural resources.
28. The Bureau of Planning recommendation on the cultural resources inventory, ESEE analysis, and implementing regulations was amended in response to public testimony and adopted by the Planning Commission on February 13, 1996.
29. Legislative procedure requirements have been met because 30-day notice of the Planning Commission hearings of April 25, 1995 and January 9, 1996 were provided to recognized organizations, affected bureaus, interested persons and was published in the Oregonian. Notice was also mailed to more than 500 owners of record, affected bureaus and neighborhoods, associated tribes and was published in the Oregonian, for this and the January 9, 1996 Planning Commission hearing. At least 10 days prior to each of the Commission hearings, a staff report and recommendation was filed with the Commission and made available for public review.
30. Notice of the March 27, 1996 City Council hearing was mailed to interested and participating persons at least 14 days prior to the hearing. The Council ordinance was filed on March 22, 1996.
31. It is in the public interest to adopt and implement the cultural plan, including amendments to the Comprehensive Plan, amendments to Title 33, and amendments to the Official Zoning Maps.

State Goal Findings:

32. Goal 1, Citizen Involvement, requires opportunities for citizens to be involved in all phases of the planning process. Development of the cultural plan meets this goal because it included opportunities for citizen review of all phases of the project, including information on the location, quantity and quality of resources, the analysis of conflicting uses, and the proposals for resource protection. Due to the sensitive nature of archaeological sites, the staff report will not show exact locations or specific artifacts found.

Meetings with neighborhood representatives, land owners, developers and other interested citizens to discuss the planning process, inventory and analysis began in fall 1993. The Planning Commission held a public hearing on April 25, 1995 to receive comment on the preliminary inventory and on the project scope and direction. During the following year, meetings with land owners, developers and other interested parties continued. On November 14, 1995, discussion draft of plan recommendations were presented to the Planning Commission. The plan was distributed to the neighborhood association, persons requesting copies, and was made available at the Portland Building, or by mail. Public comments received on the draft plan were incorporated into the Recommended Draft which was presented to the Planning Commission on January 9, 1996. On February 13, 1996 a second public hearing was held on the Recommended Draft. After reviewing

169953

public testimony received at the previous hearing and during the written comment period, the Commission approved the plan with several amendments in response to testimony. The City Council held a public hearing on March 27, 1996 to receive the staff recommendation and public testimony. On April 3, 1996 the City Council held a second public hearing and also made amendments to the plan in response to testimony prior to final adoption. Public notices of Planning Commission and City Council hearings were mailed and published in local newspapers as described under Finding 29.

33. Goal 2, Land Use Planning, requires the development of a process and policy framework which acts as a basis for all land use decisions and assures that decisions and actions are based on an understanding of the facts relevant to the decision. The cultural resources project conforms to this goal because development of the cultural plan has been accomplished consistent with the procedures of the Portland Comprehensive Plan, which have been found to be consistent with the Statewide Planning Goal 2. The cultural plan adopts policies to amend the Comprehensive Plan and implement zoning regulations that assures conformance with the Plan's policies and objectives. Development of the inventory, ESEE analysis, and protection measures for the planning area followed established city procedures for legislative actions.
34. Goal 3, Agricultural Lands, provides for the preservation and maintenance of the State's agricultural land, generally located outside of urban areas. Agricultural uses are allowed in the plan area, although there is a stronger market demand for industrial uses in the plan area. The cultural plan allows normal farming practices to continue, except where a burial is encountered.
35. Goal 4, Forest Lands, provides for the preservation and maintenance of the State's forest lands, generally located outside of urban areas. Since the cultural plan applies to an urbanized area generally unfit for commercial forest use, this goal does not apply.
36. Goal 5, Open Space, Scenic and Historic Areas, and Natural Resources, provides for the conservation of open space and the protection of natural and scenic resources. The cultural plan implements this goal for cultural areas within northeast Portland because the process identified in the Goal 5 Administrative Rule (ORS 660-16-000 to 660-16-025) for resource identification and conflicting use analysis was followed in developing this plan. Specifically, the City inventoried cultural resources and identified conflicting uses in the plan area; analyzed the economic, social, environmental, and energy consequences of resource protection; and developed a program to protect Goal 5 resources in the plan area, as detailed in Exhibit A and incorporated herein.

The cultural plan will be the controlling document in the protection of cultural resources in the plan area, and will ensure and enhance the City's compliance with this goal by requiring that a baseline sample of archaeological testing is performed in cultural sensitivity areas and by creating development standards for identified cultural resources.

37. Goal 6, Air, Water and Land Resource Quality, provides for the maintenance and improvement of these resources. The cultural plan is limited to protection of identified cultural resources, some of which are located in or near the Columbia Slough and adjacent uplands. The cultural plan will help the City comply with

169953

this goal through the protection of significant cultural resources that overlap with water and forest resources within the study area.

38. Goal 7, Areas Subject to Natural Disasters and Hazards, provides for the protection of life and property from natural disasters and hazards. The cultural plan is consistent with this goal because it allows ongoing maintenance of man-built levees in the plan area.
39. Goal 8, Recreational Needs, provides for satisfying the recreational needs of both citizens of and visitors to the State. The cultural plan does not directly affect this goal because the City will keep cultural site locations confidential. However, the cultural plan adds historical interest to use of the recreational trail and bicycle networks that bisect the plan area, including the Columbia Slough Recreational Trail. The cultural plan describes subsistence practices of American Indians and protects identified cultural resources in the plan area.
40. Goal 9, Economy of the State, provides for diversification and improvement of the economy of the State. The cultural resources ESEE analysis has balanced the impact on economic development with the protection of each identified cultural resource. Protection of resources identified in the plan will have limited impacts on development in the City because plan conservation measures have been structured to allow reasonable economic development opportunities on privately-owned parcels containing significant cultural resources. The plan is in conformance with this goal because where economic impacts outweigh the value of the cultural resource, new regulations limiting economic development are not recommended.
41. Goal 10, Housing, provides for meeting the housing needs of the State. Lands containing steep slopes and flood plains or lands designated for farm and forest use (FF) were not part of the City's inventory of lands needed for housing. Within Columbia South Shore, only a few properties along the Columbia River are designated for housing, and are not part of the City's inventory of lands needed for housing. Thus, the cultural plan results in no loss of potential housing units.
42. Goal 11, Public Facilities and Services, provides for planning and development of timely, orderly and efficient public service facilities that can serve as a framework for the urban development of the City. The cultural plan conforms with this goal because potential roadway alignments identified in the Airport Way Secondary Infrastructure Plan were tested as part of the City's archaeological inventory conducted for the cultural plan. This pretesting of roadway alignments will provide more timely, orderly service extensions to individual development sites. The City has also established communication with interested tribes so that any key stakeholders can be contacted to report the discovery of a cultural resource or to negotiate a resource recovery plan.
43. Goal 12, Transportation, provides for the development of a safe, convenient and economic transportation system. The cultural plan is supportive of this goal by allowing needed transportation facilities through certain cultural resource areas if adverse impacts on resources can be mitigated.

Transportation Planning Rule (TPR) requires that amendments to the Comprehensive Plan that significantly affect a transportation facility ensure that allowed land uses are consistent with the identified function, capacity and level of service of that facility. The cultural plan is consistent with this requirement

because it resource protection will not likely reduce opportunities to design and construct pedestrian and bicycle facilities that promote alternative modes of transportation and reduction of vehicle miles travelled.

44. Goal 13, Energy Conservation, provides for the distribution of land uses in a pattern that maximizes the conservation of energy. The cultural plan conforms with this goal because the cultural resources ESEE analysis addresses the impact on energy conservation. Overall, the cultural plan will affect so few development sites and to a minimal extent that energy consumption should not be affected.
45. Goal 14, Urbanization, provides for the orderly and efficient transition of rural lands to urban uses. The cultural plan conforms to this goal by allowing continued development in the Columbia South Shore an orderly and efficient manner. The cultural plan provides affected owners an opportunity to negotiate a private agreement with the appropriate tribes to recover the cultural resource. Otherwise, an identified cultural resource can be integrated into on-site landscaping.
46. Goals 15, 16, 17, 18 and 19 deal with the Willamette River Greenway, Estuarine Resources, Coastal Shorelines, Beaches and Dunes, and Ocean Resources, respectively. These goals are not applicable to the cultural plan because the plan does not affect the Willamette River Greenway and no ocean resources are present within Portland.

Comprehensive Plan Findings:

47. All of the goals, policies, and objectives of the Comprehensive Plan have been reviewed against the cultural plan, including its implementing measures. Only those policies which area directly relevant to the cultural plan are discussed in the following section.
48. Goal 1, Metropolitan Coordination, provides for planning activities to be coordinated with federal, state and regional plans. The cultural plan is part of the State-required periodic review of the City's Comprehensive Plan. The plan is consistent with Policy 1.2, Urban Planning Area Boundary, because it inventories and evaluates cultural resources within a planning area inside the existing City limits in Northeast Portland.
49. Goal 2, Urban Development, provides for maintaining Portland's role as the region's major employment, population and cultural center through expanding opportunities for housing and jobs while retaining the character of established areas. The cultural plan conforms with this goal by minimizing impacts on employment areas and preserving cultural resources which enhance the City as a place to live, work and recreate.
 - a. The plan is consistent with Policy 2.1, Population Growth, because the plan does not reduce needed housing opportunities and minimizes the impact of preserving cultural resources on existing and future land uses within the City.
 - b. The plan is consistent with Policy 2.5, Natural Resource Area, because it does not affect environmental zone protection of wetlands, water bodies, open spaces, wildlife habitat areas and other natural resources which overlap with cultural resources in the plan area.

169953

- c. The plan is supportive of Policy 2.6, Open Space, because it will enhance enjoyment of designated open space areas by providing an historical context for natural resources in the plan area.
 - d. The plan is consistent with Policy 2.18, Utilization of Vacant Land, because it protects significant cultural resources while allowing continued infill development of vacant land.
50. Goal 5, Economic Development, provides for increasing the quantity and quality of job opportunities through the creation of an attractive business and industrial environment. The cultural plan is consistent with this goal because it has evaluated the economic impact of protecting inventoried cultural resources in the ESEE analysis. Where the negative economic impact of protecting the resource outweighed the value of the resource, limited or no protection measures were included.
51. Goal 6, Transportation, provides for and protects the public's interest and investment in the transportation system by encouraging the development of a balanced, affordable and efficient system consistent with the Arterial Streets Classifications and Policies. The cultural plan provides more certainty of the presence of cultural resources along potential roadway alignments by conducting archaeological testing along those alignments. Where there is a cultural resource other than a burial, a private agreement can be negotiated with the appropriate tribes to recover some or all of the identified resource.
52. Goal 7, Energy, provides for increasing the energy efficiency of existing structures and the transportation systems of the City. The cultural plan is consistent with this goal because it has considered the energy impacts of protecting cultural resources in the ESEE analysis for each resource. Given the limited number of affected development sites, relatively small size of identified cultural resources and opportunity for a negotiated resource recovery plan, the cultural plan will not affect energy consumption.
53. Goal 8, Environment, provides for maintaining and improving the quality of Portland's air, water and land resources and protecting neighborhoods and business centers from noise pollution. The cultural plan is supportive of this goal by protecting significant cultural resources, some of which are located in or near an environmental feature such as the Columbia Slough. The plan balances the conservation of cultural resources with the need for other urban uses in the accompanying ESEE analysis.
54. Goal 9, Citizen Involvement, provides for improving the method for citizen involvement in the on-going land use decision-making process and providing opportunities for citizen participation in the implementation, review and amendment of the Comprehensive Plan. The cultural plan and implementing measures are consistent with this goal for the reasons stated in the finding for Statewide Planning Goal 1.
- a. The plan is consistent with Policy 9.1, Citizen Involvement Coordination, because citizens and tribal governments were represented on the project advisory committee, staff met with interested parties including property owners, the Columbia Corridor Association and tribal governments. Staff reports were available to the public within the required time frames and were provided free of charge. Notice of meetings and hearings were sent to the

169951

- most appropriate tribes (as identified by the Legislative Commission on Indian Services), neighborhood associations, property owners and to all other interested citizens.
- b. The plan is consistent with Policy 9.2, Comprehensive Plan Review, because the cultural plan is part of the periodic review of the Plan called for in this policy.
55. Goal 11, Public Facilities, provides for a timely, orderly and efficient arrangement of public facilities that support existing and planned land use patterns and densities. The plan conforms with this goal for the reasons stated in the finding for Statewide Planning Goal 11.

Section 2.

This ordinance shall apply to permits, limited land use decisions and zone changes in the manner prescribed by Oregon Revised Statutes 227.178(3).

Section 3.

If any portion of the Comprehensive Plan, Zoning Code or Official Zoning Maps amended by this ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, that portion is to be deemed severed, and in no way affects the remaining portions.

NOW, THEREFORE, the Council directs:

- a. Adopt the *Cultural Resources Protection Plan for Columbia South Shore* as the City's response to periodic review requirements for State Goal 5 / cultural areas;
- b. Adopt the inventory, ESEE analysis and program of the Planning Commission Recommendation on the *Cultural Resources Protection Plan for Columbia South Shore* ;
- c. Amend Policy 5.10 of the Comprehensive Plan, as shown in the attached Exhibit A;
- d. Amend the Zoning Code as shown in Chapter 10 of the Planning Commission Recommendation on *Cultural Resources Protection Plan for Columbia South Shore*;
- e. Adopt the commentary in the Planning Commission Recommendation on *Cultural Resources Protection Plan for Columbia South Shore* as legislative intent, as further findings, and as a partial expression of purpose for use in implementing that plan;
- f. Adopt, by reference, the Heritage Research Associates Report No. 165, entitled *An Inventory and Assessment of Archaeological Resources in the Columbia South Shore for the City of Portland, Oregon*, dated December 30, 1994. The HRA report is adopted by reference as Exhibit B, but not attached to avoid disclosure of sensitive site locations of the cultural resources;

169953

- g. Amend fifteen Official Zoning Maps, as shown in Chapter 10 of the *Cultural Resources Protection Plan for Columbia South Shore*, to remove the Interim Resource Protection zone ("sec" overlay) from the Columbia South Shore area; and
- h. Zoning code Map 515-7, Areas Requiring Confirmation Testing, is adopted by this ordinance, and will be periodically updated by removing areas designated for "confirmation testing required" once the Bureau of Planning has certified, through a zoning confirmation letter, that adequate confirmation testing has occurred as specified in this ordinance.

Passed by the Council, APR 03 1996

CHARLIE HALES
Commissioner
March 20, 1996
R. H. Glascock/rhg

BARBARA CLARK
Auditor of the City of Portland

By *Bonita Olson*
Deputy