

Dir. of Public Works

W.A.
GPB

BEFORE THE:

☒ Salem Planning Commission
☐ Marion County Planning Commission
☐ Polk County Planning Commission

Planned Development Conditional Use Case No. 71-5

In the matter of the Planned Development Conditional Use application of)
)
)

Glen M. & E. Mae Southwick and)
Henry C. & Virginia E. Odom)
)

1300 Bl. Orchard Hts Rd

 Outline Plan

NOTICE OF ORDER GRANTING CONDITIONAL USE ON:

☒ Detail Plan
& Final

NOTICE IS HEREBY GIVEN to above-named petitioners that the afore-said application for conditional use is granted subject to any conditions stated in the attached report which, by this reference is made a part hereof.

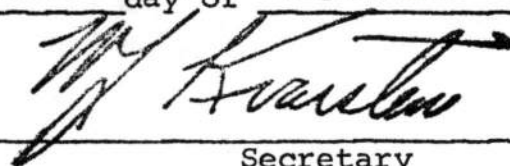
The granting of this conditional use application will not be effective for a period of ten days or until after the next meeting of the Common Council/Governing Body, which ever occurs later, and then not if a greater period is specified by the Planning Commission in the attached report. Nor shall the granting of this application be effective if an appeal is filed or if the Common Council/Governing Body call the matter up for further consideration.

After the application has received approval, the developer has 12 months in which to initiate the filing of the Detail or Final Plan. The plan should be filed at least 20 days prior to the meeting at which the Planning Commission considers the application.

DATED at Salem, Oregon, this 15th day of September, 1971.

EFFECTIVE DATE:
September 28, 1971.

By


Secretary

NOTE: This planned development
expires September 28, 1972.

STAFF REPORT
Salem Planning Commission
September 14, 1971

PLANNED DEVELOPMENT CASE NO. 71-5
Filed: August 20, 1971
Public hearing held August 31, 1971.

1. PETITIONER: Glen M. and E. Mae Southwick and Henry C. and Virginia E. Odom
2. FILED BY: McGrath Corporation (Bellevue, Washington)
3. REQUEST: For Detail and Final Plan approval to construct a planned development for the Housing Authority of the City of Salem, consisting of 30 townhouse units, 7 buildings, on a 7.78 acre site in an RA Residential Agricultural zone
4. LOCATION: On Orchard Heights Road NW (300 feet west of Parkway Drive NW)
5. LEGAL DESCRIPTION: As set forth in the application file.
6. REPORT OF FACTS: The McGrath Corporation proposes to construct, within the framework of the Planned Unit Development Ordinance (Chapter 121, Salem Revised Code) a 30-unit "Turnkey" housing project for the Housing Authority of the City of Salem. The proposed project is of basic two-story townhouse design and will contain 22 three-bedroom, 6 four-bedroom and 2 five-bedroom units.

The project site is gently sloping over a full 75% of its 7.78 acre area. The northwestern portion of the property is steeper, however, gaining eight feet in elevation over an approximate horizontal distance of 80 feet. The subject property is zoned RA (Residential Agriculture). Abutting properties are also zoned RA and are presently vacant or utilized for orchard. In addition, property located northeast of the project site and immediately across Orchard Heights Road is zoned PP (Public Park) and is owned by the City of Salem.

The initial public hearing on this planned unit development was originally held August 10, 1971. It was discovered at that time that the application had been filed incorrectly. The corrected application was subsequently resubmitted and a second public hearing held on August 31, 1971.

7. STAFF CONCLUSIONS: The staff feels that the plans submitted by McGrath Corporation meet in all respects the purpose and intent of the Planned Unit Development Ordinance. The staff further believes that the selected project site is well-suited to the concepts of the planned unit development. McGrath Corporation architects have utilized existing topography and vegetation to achieve an esthetically pleasing project design and have maximized grass and open space areas. The unit-per-acre density of 3.85 is well below the maximum allowed for

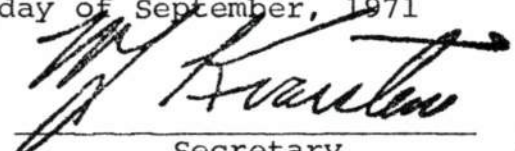
planned unit developments within Residential Agriculture zones (6 units per acre).

The staff feels that the request by McGrath Corporation for Detail and Final Plan approval should be viewed with favor.

8. STAFF RECOMMENDATIONS The staff recommends that Detail and Final Plan approval be given subject to the following conditions:

1. That the developer furnish satisfactory evidence that street improvements-- paving, curbs and sidewalks-- will be constructed to the specifications of the Director of Public Works.
2. The staff also recommends that the Planning Commission, at this time, approve transfer of the planned unit development to the City of Salem at the discretion of the City (SRC 121.800).

APPROVED BY THE COMMISSION on this 14th day of September, 1971
and forwarded to the Common Council.


Secretary

SMELSER/r

NOTICE OF PUBLIC HEARING AFFECTING THIS AREA

PLANNED DEVELOPMENT CASE NO. 71-5 (Second Hearing)

PURPOSE OF HEARING: To construct a planned development for the Housing Authority of the City of Salem consisting of 30 townhouse units in 7 buildings on a 7.78 acre site in an RA Residential Agricultural zone located on Orchard Heights Road NW (300 feet west of Parkway Drive NW) as shown on the map below.

PETITIONER: Glen M. and E. Mae Southwick & Henry C. and Virginia E. Odom

FILED BY: McGrath Corporation (Bellevue, Washington)

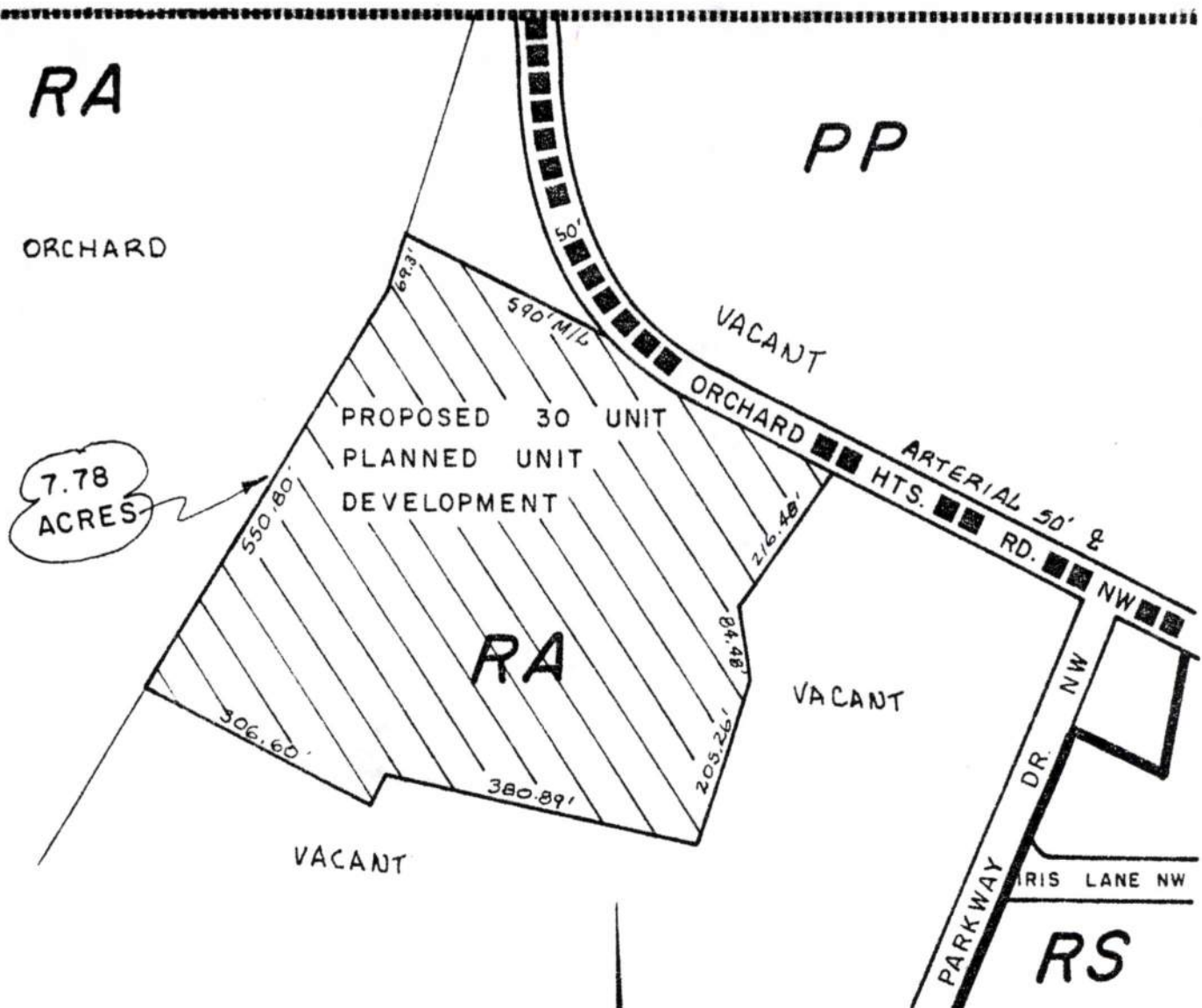
DATE OF HEARING: August 31, 1971 (Tuesday)

TIME OF HEARING: 7:30 p.m.

LOCATION OF HEARING: MARION COUNTY COURTHOUSE, BOARD HEARING ROOM (Main Floor)

ANY PERSON wishing to speak either for or against the proposed planned development may do so in person or by attorney at the public hearing. Also, written objections may be filed with the secretary of the Commission by persons in the affected area.

FOR FURTHER INFORMATION, contact the Housing Authority (1235 Woodrow Street NE, Salem - Phone: 585-5271) or Salem Planning Commission (Room 19, Courthouse, Basement - Phone 581-1574).



DATED at Salem, Oregon, this 20th day of August, 1971.

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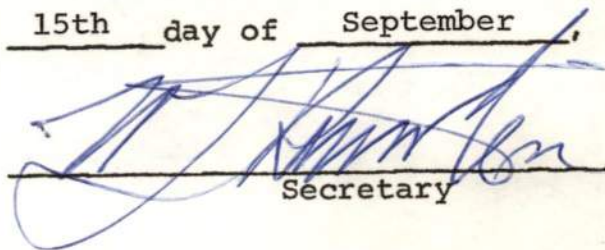
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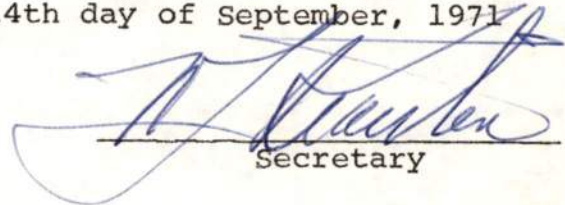
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Secretary

SMELSER/r

AUG 20 1971

of
X City of Salem
 Marion County, Oregon

APPLICATION OF A CONDITIONAL USE FOR
A PLANNED DEVELOPMENT

X OUTLINE PLAN
X DETAIL PLAN (as the initial plan)

WE, THE UNDERSIGNED PROPERTY OWNERS DO HEREBY make application to construct the following planned development as a conditional use under the provisions of the ~~SALEM CITY CODE FOR THE CITY OF SALEM, proposed Marion County, Oregon, Planning Ordinance~~, as amended, (See Ordinance No. 149-70):

(See Chapter 121 of The SALEM ZONING ORDINANCE.)

1. Briefly describe the nature of the proposed planned development:

A planned development for the Housing Authority of the City of Salem
consisting of 30 townhouse units in 7 buildings on a 7.78 acre site.
Roadways, common areas and play areas are incorporated.

2. The address or general location of the property (use intersecting streets if an address is not available):

Orchard Heights Road 300 feet West of Parkway Drive.

3. Legal description of the property contained in the Planned Development:

Lot(s) _____, Block(s) _____, Addition _____

X If a metes and bounds description is attached to this application, please check.

4. The property is presently zoned RA. A zone change (is not being petitioned). ~~(is being petitioned)~~. Please strike out one.

5. Variance(s) from the provisions of the ordinance ~~(are)~~ (are not) requested. Please strike out one.

6. X The plans and information set forth in the ordinance for a Planned Development are attached to this application.

ATTACHMENTS: The following plans and information are attached to this application and are, by this reference, incorporated into the application as if they were fully set forth herein:

ATTACHMENT A: Written Statement.

- (1) Setting forth the nature and character of the Planned Development and the design elements used to take advantage of the Planned Development concept.
- (2) The manner of financing proposed;
- (3) The name, address and zip code of EACH OWNER of property included within the Planned Development;
- (4) The method proposed to maintain the private common open areas, buildings, private thoroughfares or other facilities; and
- (5) The proposed time schedule of development.

ATTACHMENT B: Reproducible Maps showing:

- (1) the property boundary lines;
- (2) topography;
- (3) proposed buildings and uses;
- (4) existing buildings which are to be retained;
- (5) existing structures and uses on property adjacent to or abutting the Planned Development site;
- (6) the nature, character and a density of dwellings;
- (7) the location of all thoroughfares, walks and parking facilities and the nature of their improvement, and whether they are public or private;
- (8) public uses;
- (9) open spaces; and
- (10) utilities.

ATTACHMENT C - If a public hearing on the Outline Plan is to be held: EITHER

- (1) A certified list and map showing the name, address and zip code of each owner of property in the Planned Development and in the affected area,
OR
- (2) A zone change petition (with the certified list and map)

ATTACHMENT D: Variances requested setting forth the unusual conditions applying to the land, building or use which is different than other land, buildings or uses in the same zone and how the variance would further the Planned Development concept.

7. The applicants hereby certify that all of the above statements and the statements in the attachments and exhibits transmitted herewith are true, and the applicants acknowledge that any permit issued on the application may be revoked if it develops that any such statements are false.

DATED this 18 day of August, 1971.

Signatures of each owner of the property containing the proposed planned development:

<u>SIGNATURE</u>	<u>NAME</u> (Printed or Typed)	<u>MAILING ADDRESS</u> City, Zip Code
<u>Glen M. Southwick</u>	Glen M. Southwick	2916 Orchard Heights Rd. NW
<u>E. Mae Southwick</u>	E. Mae Southwick	Salem, Oregon 97304
<u>Henry C. Odom</u>	Henry C. Odom	1168 2nd NW
<u>Virginia E. Odom</u>	Virginia E. Odom	Salem, Oregon 97304

8. This application is filed by:

<u>T. A. McGrath</u>		
Name	Address, Zip Code	Telephone
T. A. McGrath, President	2255 116th Avenue Northeast	2-6-455-0790
McGrath Corporation	Bellevue, WA 98004	

9. If questions arise regarding this application, to whom should they be directed if other than the person filing the application?

G. L. Irvine

2255 116th Avenue Northeast
Bellevue, WA 98004

206-455-0790

Name	Address, Zip Code	Telephone
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NOTE: Two copies of the application form are to be filed.

The following filing fees must accompany this application at the time of filing:

OUTLINE PLAN or DETAIL PLAN (whichever is filed first:

- \$25.00, plus \$1.00 per dwelling unit
- Maximum Fee: \$100.00

DETAIL PLAN, as second stage - No additional filing fee

ZONE CHANGE PETITIONS - \$50.00 in addition to the above

VARIANCES - No fee when included in the public hearing for either Outline or Detail Plan application.



2255 - 116th Avenue Northeast, Bellevue, Washington 98004

Area (206) 455-0790

August 18, 1971

A PLANNED UNIT DEVELOPMENT
FOR THE
HOUSING AUTHORITY OF THE
CITY OF SALEM, OREGON

SITE #1 ORCHARD HEIGHTS ROAD
GLENN CREEK PARK

I. CHARACTER AND CONCEPT

Basic to the precepts of a planned unit development are the attributes of well conceived housing design and the method of incorporating that design into a community within a community. To blend the necessary bulk of a multi-family development into an area of single family residences, without insult to either, requires empathy for old and new neighbors, and the skills of many talented people.

The Planned Unit Development presented here--for Orchard Heights Road is a refinement of an existing development by the McGrath Corporation at Auburn, Washington. It is rare when a Contractor/Developer has the opportunity to instruct its architect, site engineers, landscape architect, to 'do it again, but do it even better'. But that has been done--and the results show the talent and concern of those who have contributed.

The site has several factors of importance; the suburban, almost rural, setting; the assets of nature, i.e., trees or rolling terrain; and the lack of adjacent multi-family developments. Thus, the opportunity to plan a community of taste and beauty without hint of urban sprawl could not be ignored. The random, but well thought, placement of unit clusters retains the feel of individual homes, and provides visual interest. This variety of siting also allows free traffic flow totally separated from children's play areas and the 'living' side of all units.

Density, or unit count per acre, while a function of local requirements, is tempered by economic considerations for utility runs, roadways and effective use of terrain. The Orchard Heights site, at 4 units per acre, has its plan controlled by terrain. A gentle slope to the creek at the east boundary called for units in clusters of 4 and 5 per building to be placed high and adjacent to the west property line. The single entry road, guarded by a landscaped berm,

August 18, 1971

Page 2

winds to the rear of the property past parking areas convenient to each unit. The easterly half of this site is left in its natural state, available for future park development. The density at the Orchard Heights Road site, no greater than normal single family, is perhaps wasteful; but the obvious resulting advantages to occupants and children more than justify such planning.

Architectural design of the living units and the ability to blend with adjacent single family homes is emphasized at the Orchard Heights Road. Here, the two storey town house design must meld to the variety of surrounding residential style without conflict. The use of warm tone stains for exteriors, the low unit count per building, generous open areas and a tastefully basic Northwest architectural design all contribute to accomplish this goal.

We take pride in both the concept and character of the Planned Unit Development for Orchard Heights Road. We hope the City of Salem and those who live near this mini-community will appreciate the planning and thought devoted to the end results shown.

II. LAND--CURRENT OWNERSHIP

Sites for the planned unit development are under control of the McGrath Corporation through earnest money agreement options. The Orchard Heights Road site consists of two plots owned by Mr. Henry E. Odom and Mr. Glen M. Southwick.

III. PROPOSED METHOD OF FINANCING

The planned unit development is to be constructed under the Turnkey III method for the Department of Housing and Urban Development and the Housing Authority of the City of Salem, Oregon. The McGrath Corporation has been assured interim financing for construction through Firstbank Mortgage Corporation of Seattle, Washington.

IV. COMMON AREA MAINTENANCE

McGrath Corporation defers to the Housing Authority of the City of Salem with regard to responsibility for maintaining any facet of the project. Satisfactory completion of the Turnkey contract, excluding warranty responsibility, concludes maintenance of buildings, equipment or site by the Contractor Developer.

V. COMPLETION SCHEDULE

Barring unforeseen problem with weather, strikes, etc., the completion date for Orchard Heights planned unit development is scheduled for six months after contractual agreement. The approximate date for contract signing is September 15 to September 27--to be fixed by HUD and the Housing Authority.

VI. LEGAL DESCRIPTIONS

Orchard Heights Road

PARCEL I:

Beginning in the center of Orchard Heights Road in Township 7 South, Range 3 West of the Willamette Meridian in Polk County, Oregon, at a point which is 5.370 chains North 63° West from a point where the center line of Parkway Drive intersects the center line of said Orchard Heights Road; thence North 63° West along the center of said Orchard Heights Road 4.776 chains; thence South 27° West 8.806 chains to the center of Glen Creek; thence South $77^{\circ} 47'$ East along the center of said Creek 5.771 chains; thence North $18^{\circ} 01'$ East along the center of said Creek 3.110 chains; thence North $10^{\circ} 40'$ West along the center of said Creek 1.280 chains; thence North $35^{\circ} 11'$ East along the center of said Creek 3.280 chains to the place of beginning.

Reserving for road and right-of-way purposes a strip of land 25.00 feet in width off the Northerly side of the above described tract of land, same being a portion of Orchard Heights Road.

PARCEL II:

Beginning in the center of Orchard Heights Road at a point which is 256.84 feet North $23^{\circ} 32'$ East and 887.51 feet North $22^{\circ} 43'$ East and 694.73 feet North $63^{\circ} 00'$ West from the most Easterly Northeast corner of the W. D. Cole Donation Land Claim in Township 7 South, Range 3 West of the Willamette Meridian in Polk County, Oregon; thence South $27^{\circ} 00'$ West a distance of 617.00 feet; thence North $63^{\circ} 00'$ West a distance of 306.60 feet to the Westerly line of a tract of land conveyed to James A. Rowland, et al, by deed recorded in Volume 99, Page 169, Deed Records for said County and State; thence North $31^{\circ} 40'$ East along the Westerly line of said Rowland tract a distance of 550.80 feet to an angle in said Westerly line; thence North $17^{\circ} 30'$ East along the Westerly line of said Rowland tract a distance of 69.30 feet to the Westerly extension of the center of said Orchard Heights Road; thence South $63^{\circ} 00'$ East a distance of 273.23 feet to the place of beginning.

ABSTRACTER'S CERTIFICATE

JUL 26 1971

Re: Zone Change on the following described premises:

Beginning in the center of Orchard Heights Road in Township 7 South, Range 3 West of the Willamette Meridian in Polk County, Oregon, at a point which is 5.370 chains North 63° West from a point where the center line of Parkway Drive intersects the center line of said Orchard Heights Road; thence North 63° West along the center of said Orchard Heights Road 4.776 chains; thence South 27° West 8.806 chains to the center of Glen Creek; thence South 77° 47' East along the center of said Creek 5.771 chains; thence North 18° 01' East along the center of said Creek 3.110 chains; thence North 10° 40' West along the center of said Creek 1.280 chains; thence North 35° 11' East along the center of said Creek 3.280 chains to the place of beginning.

Reserving for road and right-of-way purposes a strip of land 25.00 feet in width off the Northerly side of the above described tract of land, same being a portion of Orchard Heights Road.

Also:

Beginning in the center of Orchard Heights Road at a point which is 256.84 feet North 23° 32' East and 887.51 feet North 22° 43' East and 694.73 feet North 63° 00' West from the most Easterly Northeast corner of the W. D. Cole Donation Land Claim in Township 7 South, Range 3 West of the Willamette Meridian in Polk County, Oregon; thence South 27° 00' West a distance of 617.00 feet; thence North 63° 00' West a distance of 306.60 feet to the Westerly line of a tract of land conveyed to James A. Rowland, et al, by deed recorded in Volume 99, page 169, Deed Records for said County and State; thence North 31° 40' East along the Westerly line of said Rowland tract a distance of 550.80 feet to an angle in said Westerly line; thence North 17° 30' East along the Westerly line of said Rowland tract a distance of 69.30 feet to the Westerly extension of the center of said Orchard Heights Road; thence South 63° 00' East a distance of 273.23 feet to the place of beginning.

TRANSAMERICA TITLE INSURANCE COMPANY, does certify as follows:

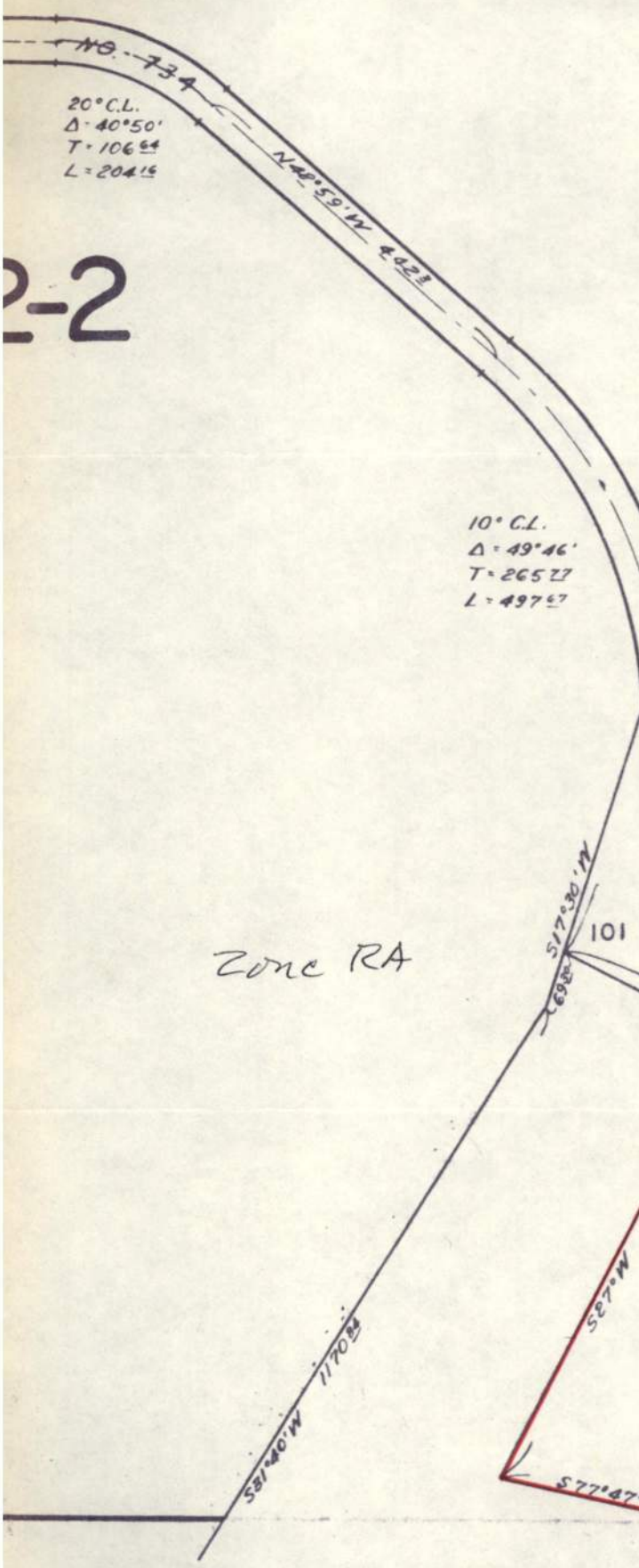
That TRANSAMERICA TITLE INSURANCE COMPANY is an incorporated Title Company, organized and existing under and by virtue of the laws of the State of Oregon.

The attached plat of the property, and of the affected area was prepared by the TRANSAMERICA TITLE INSURANCE COMPANY, and accurately and clearly shows the said property and the affected area.

The attached list is a complete list of names and addresses of parties holding interest in the property in the affected area as evidenced by the last tax and assessment roll and said list is amended to include the names of the last grantees of record as evidenced by the Deed Records for Marion County, Oregon and said addresses are within the Marion County, Oregon, unless otherwise indicated.

Dated this 21st day of July, 1971 at 5:00 P.M.

TRANSAMERICA TITLE INSURANCE CO.



2-2

Glen M & Mae
Southwick Property



TRANSAMERICA TITLE
INSURANCE COMPANY
DALLAS, OREGON

THE SKETCH BELOW IS MADE
SOLELY FOR THE PURPOSE
OF ASSISTING IN LOCATING
SAID PREMISES AND THE
COMPANY ASSUMES NO LIA-
BILITY FOR VARIATIONS, IF
ANY, IN DIMENSIONS AND
LOCATIONS ASCERTAINED BY
ACTUAL SURVEY.

This point is 192.78' and
412.26.04' north of the
most Ely NE Cor. of the
Wm. D. Cole DLC No 72

Zone RA

16C-7-3-700

NW SEC. 21 T7SR3WW

POLK COUNTY

SCALE 1" = 200'

Henry E. Odum & Virginia E. Odum

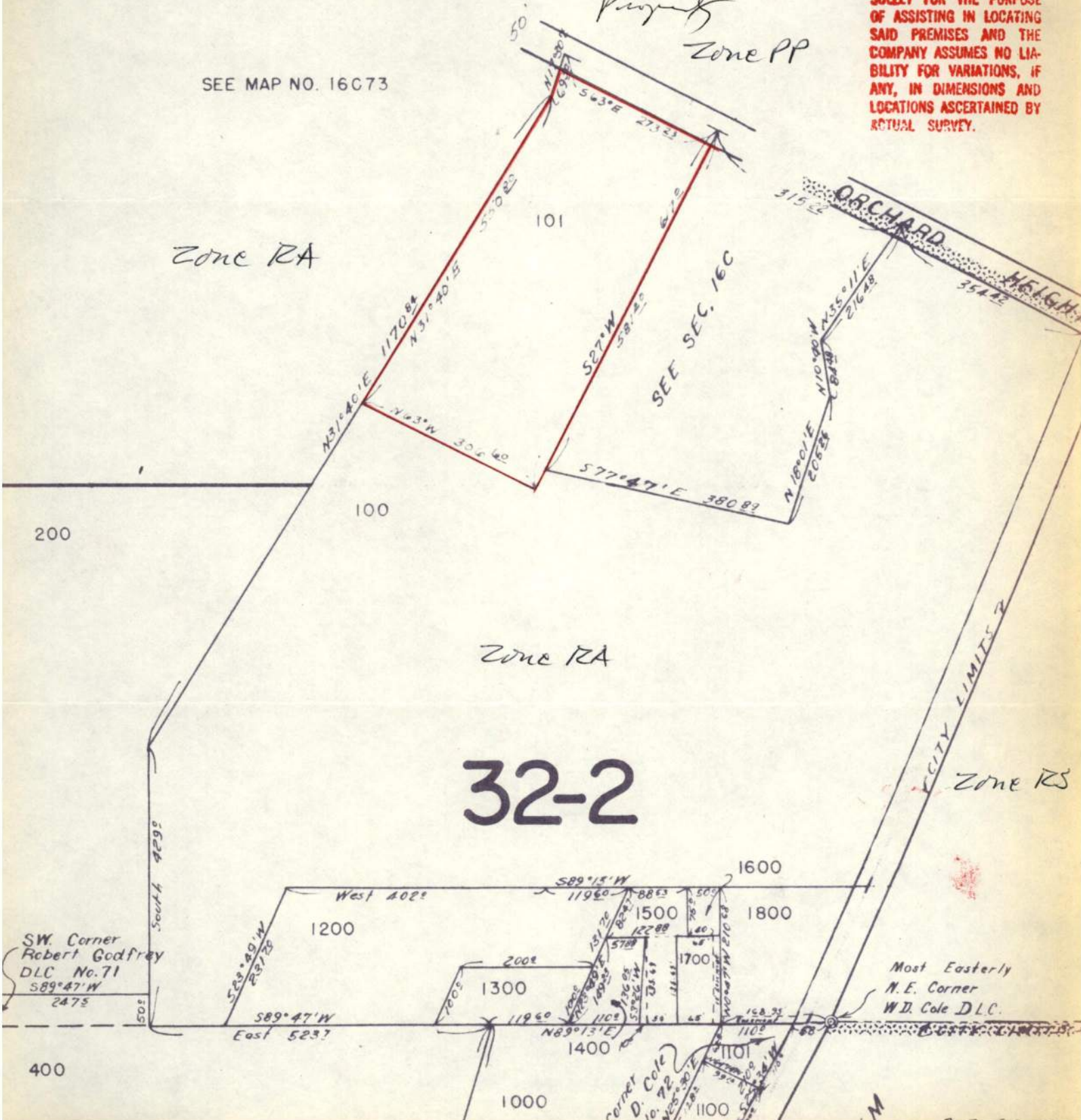
Property
Zone PP

SEE MAP NO. 16C73

Zone RA

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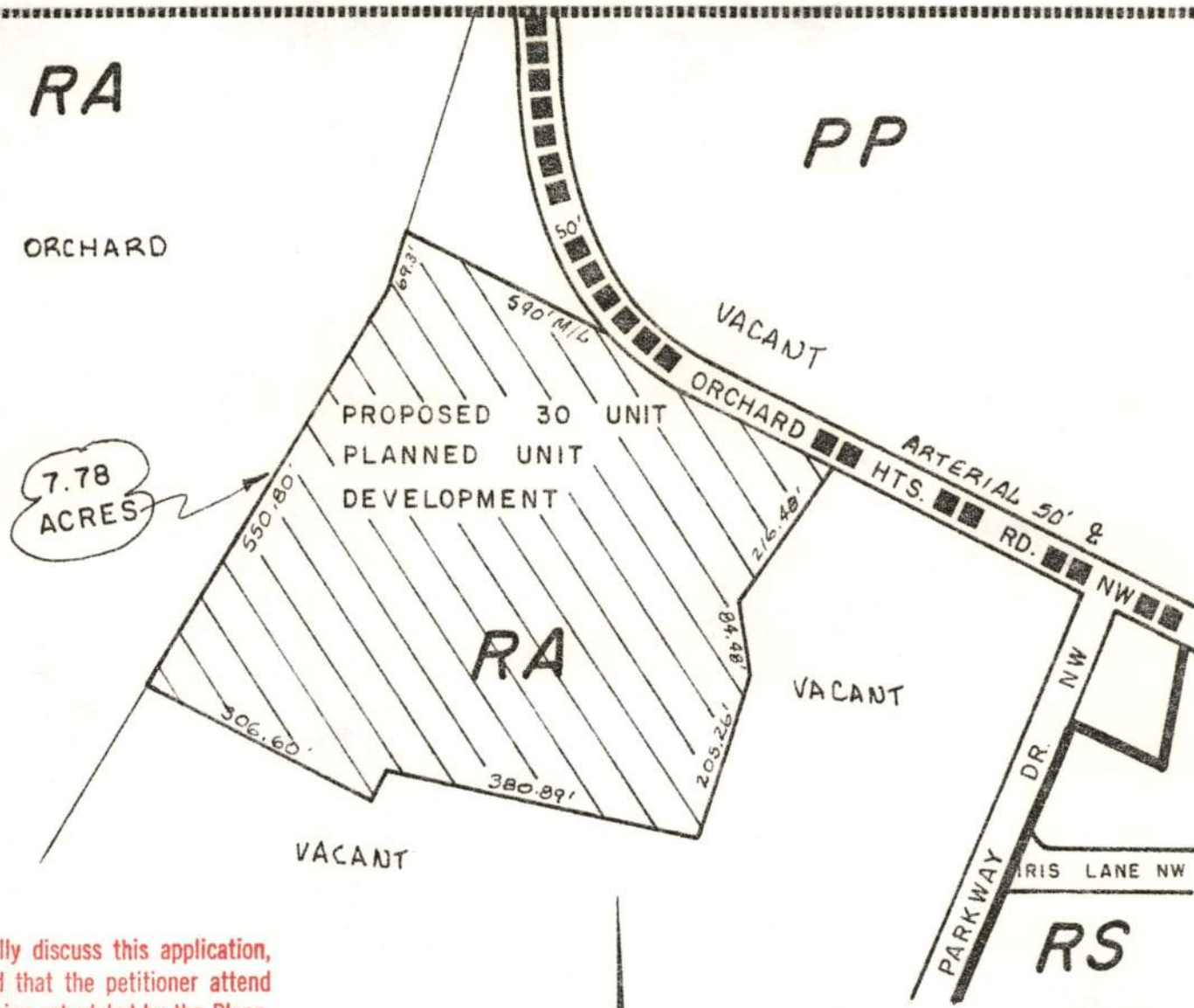
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TIME OF HEARING: 7:30 p.m.

LOCATION OF HEARING: MARION COUNTY COURTHOUSE, BOARD HEARING ROOM (Main Floor)

ANY PERSON wishing to speak either for or against the proposed planned development may do so in person or by attorney at the public hearing. Also, written objections may be filed with the secretary of the Commission by persons in the affected area.

FOR FURTHER INFORMATION, contact the Housing Authority (1235 Woodrow Street NE, Salem - Phone: 585-5271) or Salem Planning Commission (Room 19, Courthouse, Basement - Phone 581-1574).



In order to fully discuss this application, it is requested that the petitioner attend the public hearing scheduled by the Planning Commission.

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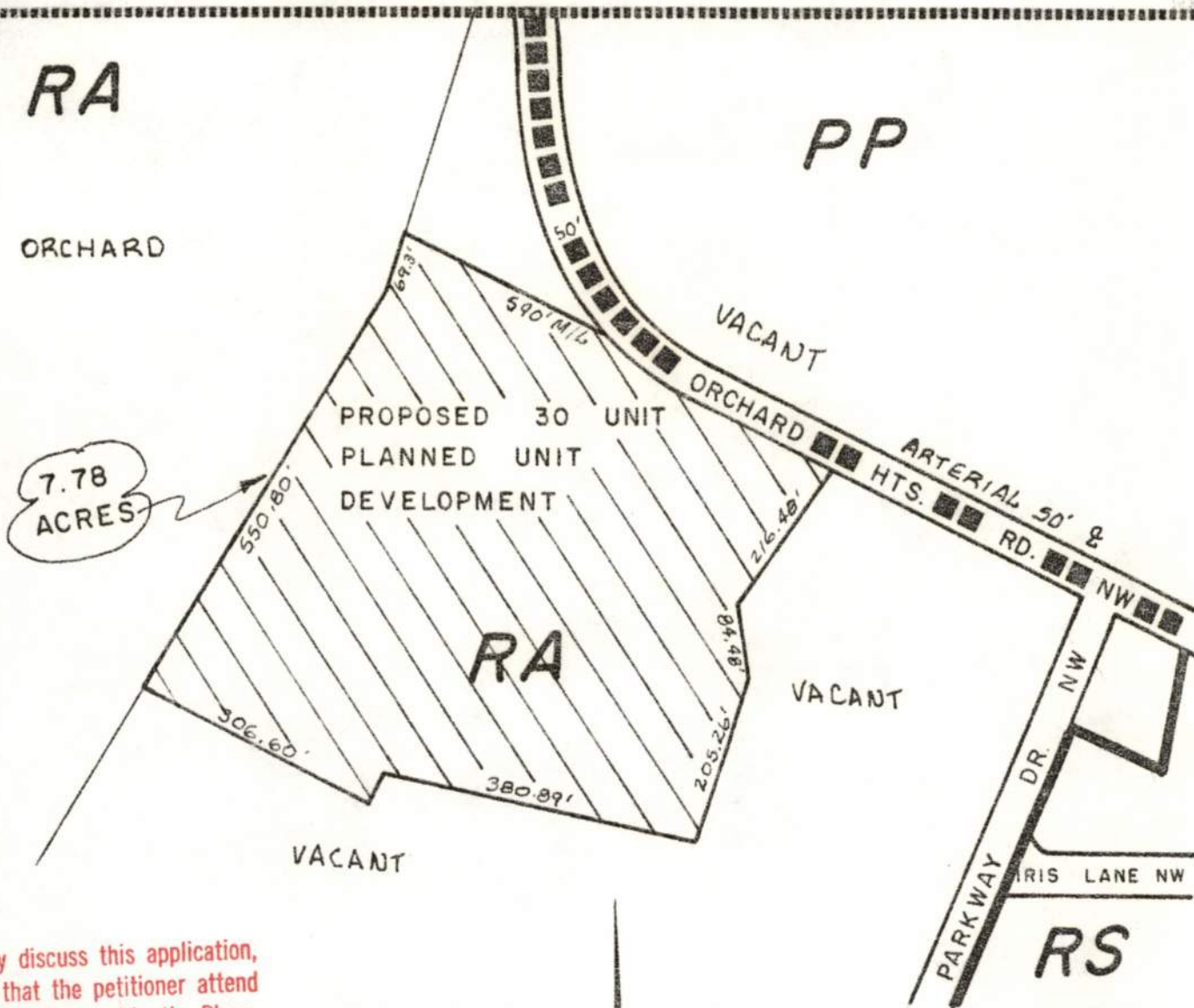
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SALEM PLANNING COMMISSION



MID WILLAMETTE VALLEY COUNCIL OF GOVERNMENTS

Room 19 * Marion County Courthouse, Salem, Oregon 97301 * Telephone AC 503/581-1574

W. J. KVARSTEN, Director

August 18, 1971

Honorable Mayor and Members
of the Common Council
City Hall
Salem, OR 97301

RE: Planned Development Case No. 71-4 (Boone Road SE site) and
Planned Development Case No. 71-5 (Orchard Heights Road NW
site)

Gentlemen:

This is to advise that on August 17, 1971 the Salem Planning Commission made a finding that a planned development is permitted as a conditional use in the RA District and further finds that the aforesaid interpretation is within their power and is not a legislative act.

This interpretation is made pursuant to Section 110.720(a) of the Salem Revised Code. That section further provides that such interpretation be forwarded to the Common Council for its information.

Very truly yours,

W. J. Kvarsten, Secretary
Salem Planning Commission

WJK/pb

cc: Members of Salem Planning Commission
Wm. Juza, City Attorney

MEMBER AGENCIES:

STATE OF OREGON * MARION COUNTY * POLK COUNTY * YAMHILL COUNTY * CITY OF SALEM * CITY OF DALLAS
CITY OF WOODBURN * CITY OF SILVERTON * CITY OF McMinnville * CITY OF INDEPENDENCE
SCHOOL DISTRICT 24J * MARION COUNTY FIRE DISTRICT NO. 1



City of **SALEM, OREGON**

TELEPHONE (503) 581-5123
ZIP CODE 97301

August 16, 1971

Mr. W. J. Kvarsten
Secretary
Salem Planning Commission
Marion County Courthouse
Salem, Oregon

No. 9-71

Dear Mr. Kvarsten:

This opinion is being submitted to you in response to your request concerning the McGrath Corp. conditional use application.

FIRST QUESTION PRESENTED

Is a planned development permitted as a conditional use in an RA Residential Agricultural District?

ANSWER GIVEN

Yes, providing the planning commission makes such an interpretation of the ordinance under the provisions of Section 110.720 of the Salem Revised Code.

SECOND QUESTION PRESENTED

May a holder of an ^{EARNEST}~~interest~~ money receipt to property file an application for a conditional use?

ANSWER GIVEN

Yes, provided the seller consents in writing to such application.

THIRD QUESTION PRESENTED

Must a notice of public hearing on a conditional use application be given by certified mail?

ANSWER GIVEN

Yes.

DISCUSSION

Section 130.030 of the Salem Revised Code list the conditional uses which are authorized in an RA District. A planned development is not listed but is listed as a conditional use for the first time in an RS district. It appears, in my opinion, that this was an oversight by the drafters of the Salem Zoning Ordinance. I say this for the reason that in the chapter dealing with planned developments in the Salem Zoning Ordinance RA Districts are mentioned. I specifically allude to Section 121.500 where the minimum acreage for planned development sites provide that RA or RS Districts shall be five acres. This section goes on to state that in RA or RS districts six residential units per acre are permitted. Again in Section 121.520 it provides that dwelling units in a building are not limited in the RA, RS, RD, RL, RM, RH districts. The RA District is referred to also in other sections of the planned development chapter. The present planned development chapter was adopted in 1970 two years after the original Salem Zoning Ordinance was passed and it appears to me that there was no question that the intent was that planned developments would be permitted as conditional uses in an RA District.

I would direct your attention to Section 110.720 of the Salem Revised Code which provides that in the administration of the Salem Zoning Ordinance where there is doubt regarding the intent of the ordinance, the director shall request an interpretation of the provision by the planning commission. I would therefor conclude by stating that the planning commission would have to concur with my opinion.

The second question deals with the chapter on the application itself. Section 119.020 provides who may file a conditional use application. Subsection (b) states a purchaser thereof under a duly executed written contract when he states he is the contract purchaser on the application and the seller consents in writing to such application. It is my understanding that McGrath Corp. is purchasing the property in question by a written agreement commonly referred to as an earnest money receipt. If the application indicates that it is purchasing on contract and if the seller consents, then in my opinion this fulfills the requirements of this section.

The last question involves the mailing of notices. Section 111.040 requires that notices of public hearings shall be mailed to each property owner whose property abuts upon and is contiguous with the premises for which or upon which the variance or conditional use is sought. Subsection (d) of this section states "all notices required by this section shall be

Mr. W. J. Kvarsten

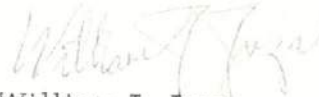
-3-

August 16, 1971

sent by certified mail." In my opinion failure to send a notice by certified mail ~~as~~ required by this section would be fatal. I do not subscribe to the conclusion that subsection (d) of Section 111.040 applies only to zone changes initiated by the planning commission.

It is my opinion that to advert possible litigation under this application the planning commission should initiate an amendment to Section 130.030 so that planned developments are included as conditional uses in an RA District. Assuming the council passes the necessary ordinance making this amendment, then McGrath Corp. can refile its conditional use application.

Very truly yours,



William J. Juza
City Attorney

cc: James Heltzel, President Salem Planning Commission
R. S. Moore, City Manager
James Woodwell, Executive Director
Bruce Williams, Attorney at Law

WJJ:sh

INTFD-DEPARTMENTAL MEMORANDUM

TO: Wm. Juza
City Attorney

DATE: August 13, 1971

FROM: W. J. Kvarsten, Secretary
Salem Planning Commission

FOLLOW-UP
DATE:

SUBJECT: Request for legal opinion regarding procedure for a conditional use
planned development in an RA district

Tuesday evening, August 10, 1971, the Salem Planning Commission held hearing on two planned development conditional use applications in the RA zone. These applications were by the McGrath Corporation for housing units to be transferred to the city under the Turnkey program.

There was considerable opposition at the hearing pertaining to Planned Development Case No. 71-4 of property located on Boone Road SE. Chapin Milbank, Attorney, represented the newly-formed Liberty Gardens Improvement Association. During his presentation, Mr. Milbank raised the following questions:

1. A planned development is not listed in Section 130.030 as a conditional use permitted in the RA district, therefore, he contends, an application should not be processed.

Section 119.070 states, "Before granting a conditional use, the planning commission shall determine:

(a) That it has the power to grant the conditional use;"

He also cited Section 119.030, stating, "The planning commission shall hear and decide only those applications for conditional uses, their expansion or alteration, which are listed in this ordinance."

2. Section 119.020 specifically lists who may file an application. Mr. Milbank contends that because McGrath Corporation is an option holder on the property they could not legally file an application for a conditional use.
3. Section 111.040, MAILING NOTICES, (d) All notices required by this section shall be sent by certified mail. Mr. Milbank contends that this subsection refers to all notices of public hearing including zone changes and conditional uses.

We would appreciate your opinion on these items. Referring to Item No. 2 it is apparent McGrath Corporation was not legally empowered to make the application. The question then is what they may do to make the application valid or must they refile the application under the owners signatures.

We have rescheduled the Planning Commission's consideration of these two applications until August 24 pending your opinion. If we can be of any assistance in clarifying these questions, please feel free to contact us.

CLINE/b

cc: Mr. Chapin Milbank
Mr. James Woodwell
James Heltzel, President
Salem Planning Commission
Gordon Irvine, McGrath Corporation

THE PLANNING COMMISSION

of
X City of Salem
Marion County, Oregon

APPLICATION OF A CONDITIONAL USE FOR
A PLANNED DEVELOPMENT

OUTLINE PLAN
X DETAIL PLAN (as the initial plan)

WE, THE UNDERSIGNED PROPERTY OWNERS DO HEREBY make application to construct the following planned development as a conditional use under the provisions of the proposed Marion County, Oregon, Planning Ordinance, as amended, (See Ordinance No. 149-70):

1. Briefly describe the nature of the proposed planned development:

A planned development for the Housing Authority of the City of Salem
consisting of 30 townhouse units in 7 buildings on a 7.78 acre site.

Roadways, common areas and play areas are incorporated.

ALSO VARIANCES TO PERMIT A THROUGHFARE
SERVING MORE THAN 20 UNITS TO BE 24'
WHERE 30' IS REQUIRED AND TO
ELIMINATE THE REQUIRED SIDEWALKS ADJACENT
TO THE THROUGHFARE (SAL 121.570)

2. The address or general location of the property (use intersecting streets if an address is not available):

Orchard Heights Road 300 feet West of Parkway Drive.

3. Legal description of the property contained in the Planned Development:

Lot(s) _____, Block(s) _____, Addition _____

X If a metes and bounds description is attached to this application, please check.

4. The property is presently zoned RA. A zone change (~~is not being petitioned~~) (is being petitioned). Please strike out one.

5. Variance(s) from the provisions of the ordinance ~~(are not)~~ ~~(are not)~~ requested. Please strike out one.

6. X The plans and information set forth in the ordinance for a Planned Development are attached to this application.

ATTACHMENTS: The following plans and information are attached to this application and are, by this reference, incorporated into the application as if they were fully set forth herein:

ATTACHMENT A: Written Statement.

- (1) Setting forth the nature and character of the Planned Development and the design elements used to take advantage of the Planned Development concept.
- (2) The manner of financing proposed;
- (3) The name, address and zip code of EACH OWNER of property included within the Planned Development;
- (4) The method proposed to maintain the private common open areas, buildings, private thoroughfares or other facilities; and
- (5) The proposed time schedule of development.

ATTACHMENT B: Reproducible Maps showing:

- (1) the property boundary lines;
- (2) topography;
- (3) proposed buildings and uses;
- (4) existing buildings which are to be retained;
- (5) existing structures and uses on property adjacent to or abutting the Planned Development site;
- (6) the nature, character and a density of dwellings;
- (7) the location of all thoroughfares, walks and parking facilities and the nature of their improvement, and whether they are public or private;
- (8) public uses;
- (9) open spaces; and
- (10) utilities.

ATTACHMENT C - If a public hearing on the Outline Plan is to be held: EITHER

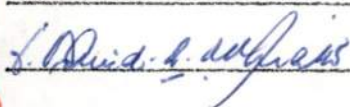
- (1) A certified list and map showing the name, address and zip code of each owner of property in the Planned Development and in the affected area,
OR
- (2) A zone change petition (with the certified list and map)

ATTACHMENT D: Variances requested setting forth the unusual conditions applying to the land, building or use which is different than other land, buildings or uses in the same zone and how the variance would further the Planned Development concept.


7. The applicants hereby certify that all of the above statements and the statements in the attachments and exhibits transmitted herewith are true, and the applicants acknowledge that any permit issued on the application may be revoked if it develops that any such statements are false.

DATED this 21 day of July, 1971.

Signatures of each owner of the property containing the proposed planned development:

<u>SIGNATURE</u>	<u>NAME</u> (Printed or Typed)	<u>MAILING ADDRESS</u> City, Zip Code
J. David A. McGrath	McGrath Corporation	
	2255 116th Avenue Northeast	
	Bellevue, WA 98004	

8. This application is filed by:

		
Name	Address, Zip Code	Telephone
J. David A. McGrath	2255 116th Avenue Northeast Bellevue, WA 98004	206-455-0790

9. If questions arise regarding this application, to whom should they be directed if other than the person filing the application?

Name	Address, Zip Code	Telephone
G. L. Irvine	2255 116th Avenue Northeast Bellevue, WA 98004	206-455-0790

NOTE: Two copies of the application form are to be filed.

The following filing fees must accompany this application at the time of filing:

OUTLINE PLAN or DETAIL PLAN (whichever is filed first:

- \$25.00, plus \$1.00 per dwelling unit
- Maximum Fee: \$100.00

DETAIL PLAN, as second stage - No additional filing fee

ZONE CHANGE PETITIONS - \$50.00 in addition to the above

VARIANCES - No fee when included in the public hearing for either Outline or Detail Plan application.

July 21, 1971

TWO PLANNED DEVELOPMENTS
FOR THE
HOUSING AUTHORITY OF THE
CITY OF SALEM, OREGON

I. CHARACTER AND CONCEPT

Basic to the precepts of a planned unit development are the attributes of well conceived housing design and the method of incorporating that design into a community within a community. To blend the necessary bulk of a multi-family development into an area of single family residences, without insult to either, requires empathy for old and new neighbors, and the skills of many talented people.

The Planned Developments presented here--for Orchard Heights Road and Boone Road--are a refinement of an existing development by the McGrath Corporation at Auburn, Washington. It is rare when a Contractor/Developer has the opportunity to instruct its architect, site engineers, landscape architect to 'do it again, but do it even better'. But that has been done--and the results show the talent and concern of those who have contributed.

The two sites have several factors in common; the suburban, almost rural, setting; the assets of nature, i.e., trees or rolling terrain; and the lack of adjacent multi-family developments. Thus, the opportunity to plan a community of taste and beauty without hint of urban sprawl could not be ignored. The random, but well thought, placement of unit clusters retains the feel of individual homes, and provides visual interest. This variety of siting also allows free traffic flow totally separated from children's play areas and the 'living' side of all units.

Density, or unit count per acre, while a function of local requirements, is tempered by economic considerations for utility runs, roadways and effective use of terrain. The Orchard Heights site, at 4 units per acre, has its plan controlled by terrain. A gentle slope to the creek at the east boundary called for units in clusters of 4 and 5 per building to be placed high and adjacent to the west property line. The single entry road, guarded by a landscaped berm, winds to the rear of the property past parking areas convenient to each unit. The easterly half of this site is left in its natural state, available for future park development. The density at the Orchard Heights Road site, no greater than normal single family, is perhaps wasteful; but the obvious resulting advantages to occupants and children more than justify such planning.

The Boone Road site is blessed with a park-like stand of mature trees to the rear or east. This natural park will be retained to form a wooded backdrop for the community and an unsurpassed play area for children. Density here is at the maximum allowed, 6 units per acre but, once again, random siting of the seven buildings retains the single family flavor. You will note how effective use of landscape planting and berms develop a sense of privacy and security. Play areas at the Boone Road site are both generous and safe at the north and east sides of the development.

Architectural design of the living units and the ability to blend with adjacent single family homes is best shown at the Boone Road site. Here the two storey town house design must meld to the variety of surrounding residential style without conflict. The use of warm tone stains for exteriors, the low unit count per building, generous open areas and a tastefully basic Northwest architectural design all contribute to accomplish this goal.

We take pride in both the concept and character of the Planned Developments for Orchard Heights Road and Boone Road. We hope the City of Salem and those who live near these mini-communities will appreciate the planning and thought devoted to the end results shown.

II. LAND--CURRENT OWNERSHIP

Sites for both planned developments are under control of the McGrath Corporation through earnest agreement options. Ownership of the Boone Road site lies with Mr. Bruce Williams and Mr. Otto Skopil. The Orchard Heights Road site consists of two plots owned by Mr. Henry E. Odom and Mr. Glen M. Southwick.

III. PROPOSED METHOD OF FINANCING

The two planned developments are to be constructed under the Turnkey III method for the Department of Housing and Urban Development and the Housing Authority of the City of Salem, Oregon. The McGrath Corporation has been assured interim financing for construction through Firstbank Mortgage Corporation of Seattle, Washington.

IV. COMMON AREA MAINTENANCE

McGrath Corporation defers to the Housing Authority of the City of Salem with regard to responsibility for maintaining any facet of the project. Satisfactory completion of the Turnkey contract, excluding warranty responsibility, concludes maintenance of buildings, equipment or site by the Contractor/Developer.

July 21, 1971

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V. COMPLETION SCHEDULE

Barring unforeseen problem with weather, strikes, etc., the completion dates for both Boone Road and Orchard Heights planned developments is scheduled for six months after contractual agreement. The approximate date for contract signing is September 1 to September 15--to be fixed by HUD and the Housing Authority.

VI. LEGAL DESCRIPTIONS

a. Boone Road Site

Beginning at a point which is South $75^{\circ} 04'$ East, 413.16 feet and South $0^{\circ} 08'$ West 249.69 feet from the Northwest corner of Lot 5, REDLAND ORCHARDS, in Township 8 South, Range 3 West of the Willamette Meridian, Marion County, Oregon; thence South $0^{\circ} 08'$ West parallel with the West line of said Lot 5 and the Southerly extension thereof, 347.87 feet; thence South $68^{\circ} 12'$ East 478.74 feet; thence North $0^{\circ} 08'$ East parallel with the Southerly extension of the West line of said Lot 5 and the West line thereof, 634.14 feet to a point on the South line of Boone Road; thence North $75^{\circ} 04'$ West along the South line of said Boone Road, 236.94 feet; thence South $0^{\circ} 08'$ West 172 feet; thence North $89^{\circ} 52'$ West 215.82 feet to the point of beginning.

SAVE AND EXCEPT: the Northerly 10 feet of the Easterly 236.94 feet to be deeded in Boone Road.

b. Orchard Heights Road

PARCEL I:

Beginning in the center of Orchard Heights Road in Township 7 South, Range 3 West of the Willamette Meridian in Polk County, Oregon, at a point which is 5.370 chains North 63° West from a point where the center line of Parkway Drive intersects the center line of said Orchard Heights Road; thence North 63° West along the center of said Orchard Heights Road 4.776 chains; thence South 27° West 8.806 chains to the center of Glen Creek; thence South $77^{\circ} 47'$ East along the center of said Creek 5.771 chains; thence North $18^{\circ} 01'$ East along the center of said Creek 3.110 chains; thence North $10^{\circ} 40'$ West along the center of said Creek 1.280 chains; thence North $35^{\circ} 11'$ East along the center of said Creek 3.280 chains to the place of beginning.

July 21, 1971

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b. Orchard Heights Road (Cont'd)

Reserving for road and right-of-way purposes a strip of land 25.00 feet in width off the Northerly side of the above described tract of land, same being a portion of Orchard Heights Road.

PARCEL II:

Beginning in the center of Orchard Heights Road at a point which is 256.84 feet North $23^{\circ} 32'$ East and 887.51 feet North $22^{\circ} 43'$ East and 694.73 feet North $63^{\circ} 00'$ West from the most Easterly Northeast corner of the W. D. Cole Donation Land Claim in Township 7 South, Range 3 West of the Willamette Meridian in Polk County, Oregon; thence South $27^{\circ} 00'$ West a distance of 617.00 feet; thence North $63^{\circ} 00'$ West a distance of 306.60 feet to the Westerly line of a tract of land conveyed to James A. Rowland, et al, by deed recorded in Volume 99, Page 169, Deed Records for said County and State; thence North $31^{\circ} 40'$ East along the Westerly line of said Rowland tract a distance of 550.80 feet to an angle in said Westerly line; thence North $17^{\circ} 30'$ East along the Westerly line of said Rowland tract a distance of 69.30 feet to the Westerly extension of the center of said Orchard Heights Road; thence South $63^{\circ} 00'$ East a distance of 273.23 feet to the place of beginning.

FYI - file

OCT 19 1971



HEALTH DIVISION

DEPARTMENT OF HUMAN RESOURCES

STATE OFFICE BUILDING • 1400 S.W. 5th AVENUE • PORTLAND, OREGON • 97201

TOM McCALL
GOVERNOR

MARVA GRAHAM
Administrator

EDWARD PRESS, M.D.
Deputy Administrator
and
Public Health Officer

October 15, 1971

Mr. John L. Geren, Director
Department of Utilities
City of Salem
P. O. Box 2267
Salem, Oregon 97308

Re: W - Salem Water System
Glen Creek Reservoir 69W4
Skyline Reservoir 70W52
Water Pipeline Extension
Orchard Height Road N.W.

Dear Mr. Geren:

Your plans for the Glen Creek Reservoir, Skyline Reservoir and the 8" CI water pipeline line extension along Orchard Heights Road N.W. from Parkway Drive west approximately 650 feet have been received and are approved subject to the provisions on the attached sheet.

A copy of the plans, with provisional approval noted, is retained for our files.

Very truly yours,

DJH/mew

H. E. Milliken, Director
Office of Public Health Engineering

- cc: District Engineer
- cc: Marion County Health Dept.
- cc: Marion County Planning Commission

COPY

STANDARD PROVISIONS

Division of Public Health
Office of Public Health Engineering

September, 1971

The following numbered paragraphs are standard provisions which are general in scope and pertain to all community water supply construction.

1. All materials and workmanship must be in strict compliance with the provisions of the Oregon Administrative Rules 42-005 governing "Production and Delivery of Water for Domestic Use".
2. All potable water lines and wells, reservoirs or tanks which will produce or hold potable water, must be adequately flushed and sterilized in conformance with the Health Division standards, and tests must indicate that the water is free of bacteriological contamination prior to use as set forth in Oregon Administrative Rules 42-025, paragraph (4,d).

Highly chlorinated water shall not be discharged to streams in such a manner as to damage aquatic life as set forth in Oregon Administrative Rules 41-025, paragraph (5).
3. The construction of the project shall be under the supervision of, and shall be thoroughly inspected by the consulting engineer, who at the completion of the project shall certify in writing to the State Health Division that such construction was inspected by him and found to comply with the approved plans.
4. The installation of the project must comply fully with the regulations of the State Health Division and the Department of Environmental Quality regarding the relative location or separation of water and sewer lines. This requirement is set forth in Oregon Administrative Rules 42-025, paragraph (4,d).
5. Construction of the proposed project must be in conformance with the approved plans and specifications and with applicable codes. No changes or deviations shall be made without the written approval of the State Health Division as set forth in Oregon Revised Statutes 449.220, paragraph (3).
6. All piping must be sized to carry maximum design flows at reasonable velocities and friction losses. The system must be able to supply water at a minimum pressure of at least 20 psi to all points in the system during periods of maximum water demand as set forth in Oregon Administrative Rules 42-025, paragraph (1) and (2) and also paragraph (4).
7. No piping arrangement shall exist which permits contaminated water or other fluids to enter any domestic water supply or its piping system as set forth in Oregon Administrative Rules 42-017, paragraphs (1) to (8).
8. Dead-end runs shall be provided with means of flushing to prevent deterioration of water quality as set forth in Oregon Administrative Rules 42-025, paragraph (4,b).