



MULTNOMAH COUNTY
LAND USE AND TRANSPORTATION PROGRAM
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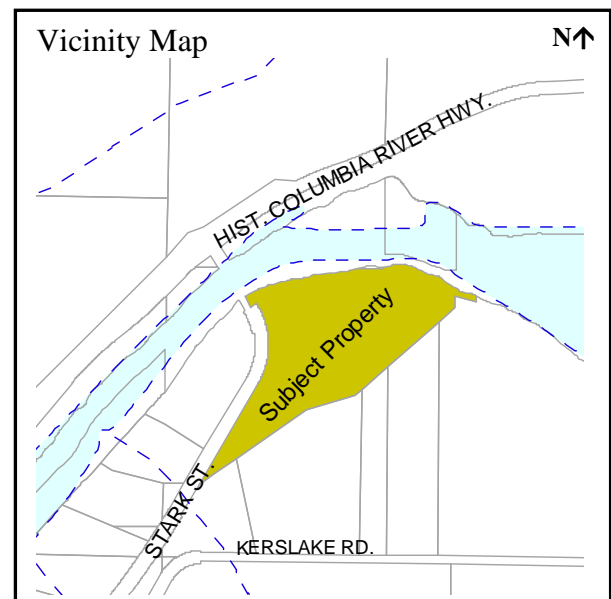
Findings and Decision

Multnomah County Land Use Hearings Officer

Community Service Conditional Use, Significant Environmental Concern, and Design Review

Case File: T3-07-003

Hearing: A public hearing on this application was held on February 8, 2008 at the offices of the Multnomah County Land Use and Transportation Program. Planner George Plummer represented Multnomah County; and Scott Ashcom, Applicant, represented property owners Junki and Linda Yoshida. Christine Cook, Hearings Officer, presided.



Location: 29330 SE Stark Street
TL 100, Sec 06AC, Township 1 South, Range 4 East, W.M.
Tax Account #R994060550

Applicant: Scott Ashcom,
PO BOX 4323
Portland, OR 97208

Property Owners: Junki & Linda Yoshida
29330 SE Stark St.
Troutdale, OR 97060

Summary Request for a Community Service Conditional Use Permit, Significant Environmental Concern for Habitat Permit and Design Review Permit for a private park to conduct wedding ceremonies on a property in the Commercial Forest Use (CFU) Zone District.

Zoning: Commercial Forest Use District and Significant Environmental Concern (SEC-h) Overlay District

Site Size: 12.01 acres

APPLICABLE APPROVAL CRITERIA:

Chapter 37: Administration and Procedures, MCC 36.2000 et. al: Commercial Forest Use, MCC 36.4100 et. al: Off-Street Parking and Loading, MCC 36.4500 et. al: Significant Environmental Concern, and MCC 36.7000 et. al: Design Review

Commercial Forest Use

36.2030(A)(1): Conditional Use, Private Park and Campground
36.2045: Use Compatibility Standards
36.2073: Access
36.2075 Lot of Record.
36.2085 Off-Street Parking and Loading.
36.2095 Sewage, Storm Water, Water Systems and Grading Requirements

Community Service

36.6000: Purpose
36.6005 General Provisions
36.6010 Approval Criteria
36.6020 Restrictions

Significant Environmental Concern

36.4500- Purposes
36.4505 Area Affected
36.4510 Definitions
36.4515 Uses - SEC Permit Required
36.4520 Exceptions.
36.4535 Scope of Conditions.
36.4540 Application for Sec Permit
36.4550 General Requirements for Approval In Areas Designated as SEC-h.
36.4560 Criteria for Approval of SEC-h Permit -Wildlife Habitat.

Comprehensive Plan Policies

Policy 11: Commercial Forest Land Area
Policy 14: Development Limitations
Policy 31: Community Facilities and Uses
Policy 37: Utilities
Policy 38: Facilities
Policy 39: Parks and Recreation

Design Review

36.7000-36.7060 Design Review

Off-Street Parking

36-4100-36.4215 Off-Street Parking Standards

STAFF RECOMMENDATION (Pre-Hearing):

The Staff Report recommended that the Hearings Officer deny this application because several criteria and standards had not been met by the applicant's submittal. Those criteria and standards are listed below with the section number where the analysis for that criterion or standard is located in this decision:

- MCC 36.2030(A)(1) Community Service Uses: Private park (See Section 4.1)
- Comprehensive Plan Policy 39 (Section 6.5)
- MCC 36.2073: All lots and parcels in this district shall abut a street, or shall have other access deemed by the approval authority to be safe and convenient for pedestrians and for passenger and emergency vehicles, except as provided for Lots of Record at MCC 36.2075(C).
- MCC 36.6010 (F): Will not create hazardous conditions
- MCC 36.4120: A plot plan showing the dimensions, legal description, access and circulation layout for vehicles and pedestrians, space markings, the grades, drainage, setbacks, landscaping and abutting land uses in respect to the off-street parking area and such other information as shall be required, shall be submitted in duplicate to the Planning Director with each application for approval of a building or other required permit, or for a change of classification to O-P.
- MCC 36.7030(D)(7) Pedestrian circulation (Section 8.4.4.7)
- MCC 36.7030(D)(10) Areas to be landscaped (Section 8.4.4.10)
- MCC 36.7030(D)(12) Special provisions for handicapped persons (Section 8.4.4.12)
- MCC 36.7050(A)(1)(c) Each element of the design review plan shall effectively, efficiently, and attractively serve its function. The elements shall be on a human scale, inter-related, and shall provide spatial variety and order. (Section 8.6.1.3)
- MCC 36.7050(A)(3) Special Needs of Handicapped - Where appropriate, the design review plan shall provide for the special needs of handicapped persons, such as ramps for wheelchairs and Braille signs. (Section 8.6.3)
- MCC 36.7050(A)(5) Pedestrian and Vehicular circulation and Parking - The location and number of points of access to the site, the interior circulation patterns, the separations between pedestrians and moving and parked vehicles, and the arrangement of parking areas in relation to buildings and structures, shall be designed to maximize safety and convenience and shall be harmonious with proposed and neighboring buildings and structures. (Section 8.6.5)
- MCC 36.7050(A)(6) Drainage - Surface drainage and stormwater systems shall be designed so as not to adversely affect neighboring properties or streets. Systems that insure that surface runoff volume after development is no greater than before development shall be provided on the lot. (Section 8.6.6)
- MCC 36.7055(C)(3)(c)(2) A landscaped strip separating a parking or loading area from a street shall contain: Low shrubs, not to reach a height greater than 3'0", spaced no more than 5 feet apart, on the average. Section 8.7.3.3)
- MCC 36.7055(C)(3)(d) Landscaping in a parking or loading area shall be located in defined landscaped areas which are uniformly distributed throughout the parking or loading area. (Section 8.7.3.4)
- MCC 36.7055(C)(3)(e) A parking landscape area shall have a width of not less than 5 feet. (Section 8.7.3.5)

Staff Conclusion: Though staff recommended a denial as of the writing of the Staff Report, Staff also stated that the proposed use could be conditionally approved if the applicant made minor alterations to the proposal and amended the plans to meet the above-listed requirements. The first

reason for the denial recommendation was that the request was only for a private park to conduct wedding ceremonies. A previous Multnomah County case had determined that wedding ceremonies alone are not “recreational uses” as required for a private park in a forest zone pursuant to Oregon Administrative Rule (OAR) 660-006-0025(1)(b). Staff suggested that the applicant might propose a limited number of other types of gatherings or other recreational uses at the park in addition to weddings. The proposal might then be closer to what was meant as “recreational uses” in a private park within the Commercial Forest Use (CFU) District.

Staff also suggested that the Applicant submit a revised plan to the hearings officer in order to satisfy the other items listed above.

Hearings Officer: At the hearings and during the post-hearing open record period, the Applicant submitted several materials needed to demonstrate compliance with the applicable criteria.

FINDINGS:

Written findings are contained herein. The Multnomah County Code criteria and Comprehensive Plan Policies are in **bold** font. Planning staff comments and analysis may follow applicant comments. The notation “Applicant” precedes the applicant’s comments, which are in *italics*. The notation “Staff” precedes staff comments and analysis. The Hearings Officer’s analysis and conclusions may follow, preceded by the notation “Hearings Officer.” **Unless explicitly noted otherwise, the Hearings Officer adopts and incorporates Staff comments and analysis as findings supporting this decision.**

1. PROPOSAL

Applicant: *The owners/applicant, Junki Yoshida, applies for a Conditional Use Permit to use existing facilities on Mr. Yoshida's 13 acre compound as a Private Park to conduct weddings, family reunions, picnics, bird watching, and company retreats in an esthetically pleasing forest environment consistent with the purposes of the Commercial Forest Use Zone.*

A private park is an authorized use in a commercial forest use zone under state law (OAR 660-006-0025(4)(e)(A).) A private park is allowed as a Conditional Use under Multnomah County Code 36.2030(D)(1). If analyzed under the standards of OAR 660-006-0025(5) the county ordinance fully incorporates the LCDC Goal 4 rules into the county code.

Mr. Yoshida proposes use of his property for weddings, family reunions, picnics, bird watching, and company retreats to be conducted by a private commercial wedding service company in his private park with a forest setting located on his property. No modification of the property is needed to conduct weddings in this private park setting.

No manmade changes are proposed for the subject use. No buildings or other structures are proposed for the subject use. The subject use includes no proposed mining or dredging. The subject use includes no proposed paving. The proposed use contains no proposed filing or grading. The subject use contains no proposed filing or dredging in amounts greater than ten (10) cubic yards on any lot or excavation. The subject use contains no proposed excavation.

The proposed use of part of Mr. Yoshida's property as a private park includes no development as defined by MCC 36.4510.

The applicant proposes to hold only open-air weddings and other park activities in the late Spring, Summer, and early Autumn. No wedding activity will be conducted indoors. All weddings will be held in the flat, grassy, landscaped floral garden park on his property.

There will be no food preparation associated with weddings on the site. All water consumed will be bottled water.

The goal of conducting weddings and other park activities in the private park at Mr. Yoshida's compound is to permit bride, groom, family and guests to experience the recreational peace and tranquility of a forest environment for their park excursion or wedding ceremony.

Among the existing buildings on the site is a spacious, modern, handicapped-friendly restroom facility. The restroom facilities are approximately 50-75 feet from the flat grassy, timbered park where the weddings will take place.

Weddings and other park activities per event will be limited to no more than 150 persons. No more than 20 park activities or weddings will be held each year. The average ceremony will be on the order of about 100 persons. Parking for park events will be accomplished as follows: Entrance to the private park is through a steel gate entrance marked Wedding Park Entrance on the Plan Map. This gate has a 42+foot opening. The driveway to the parking area is 42 feet wide (all paved) - wide enough for two way traffic lanes. The paved wedding park driveway extends a distance of 240 feet of 42'+ wide pavement to a flat, gravel/grass turf parking area of more than 62,000 square feet. Parking is limited to no more than 50 vehicles.

Smoking is prohibited on all of Mr. Yoshida's property. Fire suppression, should it ever be necessary, will be accomplished by accessing a well with 100 Gallons Per Minute (GPM) pump yield adjacent to the garden/park wedding/ reception area. If expanded coverage is needed, the Riverview Restaurant property across the street is owned by Mr. Yoshida. There is a well on that property which yields approximately 300 GPM. Fire suppression is handled, in this area, by the City of Corbet Fire Department and the City of Gresham. A signed Fire Data sheet is part of the record.

All areas proposed for this private park use are located outside all applicable zoned set-aside areas. The public will not be allowed to enter sloped areas. A Water Resources Area Certification Form signed by Biologist Claudia Steinkong (Schott & Associates, Aurora) is attached certifying that water resources areas do not exist on the site.

Summary

Mr. Yoshida requests approval of application T3-07-003 for a Conditional Use Permit on his property in the CFU zone in Multnomah County for approval of a Private Park under MCC 36.2030(D)(1) for use of a small portion of his property for a commercial wedding service and other private park uses. The applicant meets all applicable standards for approval and complies with all statutes, LCDC rules, ordinances, and other laws to receive approval for this use as a private park.

Compliance with all provisions of Multnomah County Ordinances is demonstrated in the following narratives with attachments. The applicable ordinances are quoted with the applicant's response establishing compliance in bold lettering.

Staff: The applicant is requesting an approval for a Community Service Conditional Use Permit, Significant Environmental Concern for Habitat Permit and Design Review Permit for a private park to conduct wedding ceremonies on a property in the Commercial Forest Use (CFU) Zone District and within the SEC-h Overlay District.

2. PROPERTY DESCRIPTION & VICINITY

Staff: The subject property is 12.01 acres (according to County Assessment Records, Exhibit 2 1), located along Stark Street adjacent to the Sandy River and just southeast of the Stark Street Bridge. The property is a little over a mile by road from the City of Troutdale. The Columbia River Gorge National Scenic Area's (NSA) along the Sandy River reaches upriver to the Stark Street Bridge. The subject property is not within the NSA. The Sandy River Wild and Scenic River ends near the northeast corner of the property.

The river bank rises up steeply from the river then forms a relatively flat bench that makes up the subject property (Exhibit 2.3) on which the proposed use will be located. Along the southeastern property line a canyon rock wall rises up nearly vertical a hundred feet high then levels out. Above the canyon wall to the south and southeast is predominately farmland on land zoned Exclusive Farm Use (EFU) with some residential uses mixed in. Along Stark Street to the southwest within the canyon the properties are zoned Rural Residential and are predominately used as large lot residential properties (Exhibit 2.2). Directly across Stark Street is the Riverside Restaurant.

The opposite side of the river has similar topography with a steep river bank, a bench and nearly vertical canyon rock wall. In the canyon area across the river is Dabney State Park as well as the Historic Columbia River Highway. This area, across the river, is zoned Commercial Forest Use – 4 (CFU-4). Above the canyon wall is farmland zoned EFU. Downstream about a third of a mile, the river canyon widens. The area within the canyon, which is on the other side of the river, is predominately residential use, zoned Gorge General Residential – 5 (GGR-5) within the National Scenic Area.

3. ADMINISTRATION & PROCEDURES

3.1. Summary of Decision Making Processes

MCC 37.0530(C): Type III decisions involve the greatest amount of discretion and evaluation of subjective approval criteria yet are not required to be heard by the Board. Applications evaluated through this process primarily involve conditional uses and some land divisions applications. The process for these decisions is controlled by ORS 197.763. Notice of the application and Hearings Officer hearing is published and mailed to the applicant, recognized neighborhood association and property owners 750 feet of the subject tract. Notice must be issued at least 20 days pre-hearing, and the staff report must be available at least 7 days pre-hearing. The Hearings Officer shall accept into the record all

testimony and evidence relevant to the matter, prior to the close of the hearing. The Hearings Officer decision is the County's final decision and is appealable to LUBA within 21 days of when the decision is final. The decision is final the day the signed Hearings Officer decision is mailed pursuant to 37.0660(D).

Staff: The application has followed the procedures for a Type III land use decision. The application was received on May 29, 2007 (Exhibit 1.1). It was declared complete on November 20, 2007 when additional information was submitted. However additional substantive information including a revised superseding narrative on December 27, 2007 and a Traffic Site Distance study on January 9, 2008. On January 16, 2008 a Notice of Public Hearing was mailed to all property owners within 750 feet, recognized neighborhood associations, the applicant and the property owners (Exhibit 2.4). On January 18, 2007 notice was published in the Oregonian.

Hearings Officer: A public hearing on this application was held on February 8, 2008 at the offices of the Multnomah County Land Use and Transportation Program. The following persons testified: George Plummer, Planner, on behalf of Multnomah County; and Scott Ashcom, Applicant, on behalf of the property owners. Christine Cook, Hearings Officer, presided. No person testified either in writing or orally in opposition to the proposal. All participants agreed to waive the reading of applicable criteria, which are listed in the Staff Report that was available before and at the hearing. The Hearings Officer stated that she had no familial or financial relationship with any party that would prevent her from impartially considering the application and making an unbiased decision based upon the applicable law and the evidence in the record. The Hearings Officer had not visited the site and had not spoken to any person concerning the substance of the application. No person objected to the Hearings Officer presiding over the hearing and making the decision.

At the public hearing, the Applicant did amend his proposal to include outdoor events and uses in addition to weddings, and also submitted a revised site plan. The Applicant requested that the record remain open past adjournment of the hearing, and in that period submitted another site plan to address Staff's remaining concerns. The Applicant agreed that the record should remain open for all parties until Feb. 15 for submittal of additional evidence or argument, for all parties until Feb. 22 to respond to the first week's submittals, and then until Feb. 29 for the Applicant to submit argument only.

3.2. Initiation of Action

MCC 37.0550: Except as provided in MCC 37.0760, Type I - IV applications may only be initiated by written consent of the owners of record or contract purchaser. PC (legislative) actions may only be initiated by the Board of Commissioners, Planning Commission, or Planning Director.

Staff: County Assessment records show the property owners as Junki and Linda Yoshida (Exhibit 2.1). Mr. Yoshida signed the application form providing the necessary authorization to process the application (Exhibit 1.1). This criterion has been met.

4. COMMERCIAL FOREST USE

4.1. CFU Community Service Conditional Use

MCC 36.2030(A) The following Community Service Uses pursuant to all applicable approval criteria, including but not limited to the provisions of MCC 36.2045, 36.2050, 36.2056, 36.2061, and 36.6000 through 36.6020. The applicable criteria of 36.6010 shall be limited to (A) through (H) for uses in this section.

(1) Private park ...

Applicant: *The applicant applies for a Community Service Use of part of his property as a park under MCC 36.6015 (A)(5). No campground is proposed for the subject private park to be used as a wedding venue. Hence, (a)-(f) do not apply for this application.*

Staff: The request is for approval of a private park to conduct wedding ceremonies on a property within the CFU Zone District. Whether a private park to conduct wedding ceremonies is allowed under this criterion in forest resource district such the CFU District was addressed in a previous case for a different property, County Land Use Case T3-05-007 (Exhibit 2.6). In that case under Section 5 the finding addressed establishing a private park as a wedding venue. The County Code does not specify what amenities or uses constitute a park. In Case T3-05-007 to address the question “is the proposed wedding venue a ‘park’”, staff and the hearing officer turned to state regulations for guidance. It was determined that under Oregon Administrative Rule (OAR) 660-006-0025(1)(b), a park may be allowed on Goal 4 lands (forest resource property such as CFU District) in order to provide for uses, “to conserve soil, air, and water quality and to provide for fish and wildlife resources, agriculture and recreational opportunities. Thus the proposal had to conserve soil, air, and water quality and provide for either

- Fish and wildlife resources
- Agriculture, or
- Recreational opportunities.

It was determined in Case T3-05-007 that weddings alone did not meet the standard of recreational opportunities. The applicant in the case demonstrated they were proposing providing other recreational opportunities appropriate for a forest setting, other than just wedding ceremonies.

Staff briefed the applicant for this request about this requirement and suggested that the applicant read the decision for Case T3-05-007 and adjust the proposal to meet the OAR requirement. Under another criterion the applicant briefly refers to some charitable fund raising events held on the property but does not address how the proposed park would meet the requirement providing for recreational opportunities appropriate for a forest setting [].

This application fails to address the requirements OAR 660-006-0025(1)(b) by not addressing a range of recreation opportunities the proposed park will provide. The application is limited to providing wedding ceremonies and that proposed use alone does not meet the requirement for recreational opportunities appropriate for a forest setting necessary to establish a park.

Hearings Officer: The Applicant now proposes to include among the outdoor events at the park “family reunions, picnics, bird watching, and company retreats.” These are among the uses that this Hearings Officer has found would provide “recreational opportunities” appropriate for a forest setting. See OAR 660-006-0025(1)(b); *Dorsey*, Case File T3-05-007, December 21, 2005. They could therefore be uses to justify establishment of a private park located on lands protected by Statewide Planning Goal 4, such as Multnomah County’s Commercial Forest Use Zone. In

accordance with applicable law and that decision, I find that these sorts of outdoor activities, proposed along with weddings by this Applicant, are recreational activities, appropriate in a forest environment. The applicant has proposed establishment of a private park as a Community Service Use pursuant to MCC 36.2030(A) and OAR 660-006-0025(1)(b).

4.2. Use Compatibility Standards

4.2.1 MCC 36.2045(A) (1) - The use will: Not force a significant change in, or significantly increase the cost of, accepted forestry or farming practices on surrounding forest or agricultural lands;

Applicant: *The proposed use of the applicant's property for a wedding service business in his private park will not force any change in, or increase the cost of, accepted forestry or farming practices on surrounding forest or agricultural lands. Farming directly abuts the applicant's property. Wedding services will be conducted in his private park as indicated on the site plan drawing attached to this application. By contract the proposed weddings will not involve more than 150 persons. No more than 50 vehicles will be allowed on the property for wedding services. No more than 20 weddings per year will take place. All will be in daylight hours. Farmers and timber operators on adjacent lands are protected against nuisance suits by Oregon's Right to Farm statutes. Access to the wedding site is through the electric gate described in the site plan drawing. That access point is more than ¼ mile from the nearest access road to farms on the bench land adjacent to the applicant's property. No interference by traffic entering the gate of the applicant's property should be experienced by nearby farmers or timber operators.*

Staff: The subject property is separated from the adjacent forestland to the north, used as a State Park, by the river and farmland, to the east and southeast, by the 100 foot canyon wall. It appears from a 2004 aerial photo (Exhibit 2.3) that the farmland is being used for landscaping crops, pasture or hay. Sometimes forest or farming practices will have some off-site impacts such as dust, noise, chemical drift in the wind, etc. The property owners will be required to sign a statement and file it with County Record that the owners and the successors in interest acknowledge the rights of owners of nearby property to conduct forest operations consistent with the Forest Practices Act and Rules, and to conduct accepted farming practices. Given the property owners recognize this potential and accept it, the proposed use will not force a significant change in, or significantly increase the cost of, accepted forestry or farming practices on surrounding forest or agricultural lands. A condition of approval will require the statement discussed early to be filed with County Records.

Hearings Officer: The Applicant has filed the required statement. This criterion is satisfied.

4.2.2. MCC 36.2045(A) (2) - The use will: Not significantly increase fire hazard, or significantly increase fire suppression costs, or significantly increase risks to fire suppression personnel; and

Applicant: *Wedding services conducted in the private park on the property will not increase fire hazard in any way. Wedding services will be non-smoking, and no fire will be permitted on the property when the private park is employed for wedding service use. There is a well on the premises near the private park which can be used for fire suppression if needed. This will, if anything, reduce fire suppression costs if needed. The entrance to the property complies with all*

requirements for access by fire suppression vehicles and equipment. (see "Off Road Parking" narrative above.) Fire suppression and fire-fighting services are provided in the area by the City of Corbett and by arrangement with the City of Gresham. Fire District Review for the site and use was approved by the Fire Official at the City of Gresham and is attached to this application.

Staff: The applicant proposes a smoking ban on all participants that use the proposed park. This type of restriction as well as a ban on any open fires related to the park use, would address any concerns that the proposed use would increase the risk of fire. The subject property is maintained as lawn also reducing the fire risk. Given the proposed smoking restriction, a ban on open fires and the park are maintained as a lawn, the proposed use will not significantly increase fire hazard, or significantly increase fire suppression costs, or significantly increase risks to fire suppression personnel. The standard can be met through a condition if approval is gained.

Hearings Officer: This criterion is satisfied pursuant to Conditions of Approval 2, 7, and 11.

4.2.3. MCC 36.2045 (B) A statement has been recorded with the Division of Records that the owners and the successors in interest acknowledge the rights of owners of nearby property to conduct forest operations consistent with the Forest Practices Act and Rules, and to conduct accepted farming practices.

Staff: The statement is included as Exhibit 2.7. A condition can ensure this is met.

Hearings Officer: This criterion is satisfied pursuant to Condition of Approval 4.

4.3 Development Standards for Dwellings and Structures

* * *

MCC 36.2061(C) (1) The dwelling or structure shall comply with the standards of the applicable building code...

Staff: The existing dwelling will not be used for the proposed use. No new dwelling or other structures will be constructed due to this request. The applicant is proposing existing restrooms be used for the proposed use. The restrooms will need to meet the applicable building code requirements. The standard can be met through a condition. A condition can require this if approval is gained.

Hearings Officer: The Applicant has submitted a drawing of a restroom design that is meant to be ADA compliant. Ex. H.3. This criterion is satisfied pursuant to Conditions of Approval 5 and 13.

4.4. Access

MCC 36.2073: All lots and parcels in this district shall abut a street, or shall have other access deemed by the approval authority to be safe and convenient for pedestrians and for passenger and emergency vehicles, except as provided for Lots of Record at MCC 36.2075(C).

Applicant: *The attached site plan drawing shows that the driveway has access to Stark Street. The access point is marked "Electric Gate Entrance" on the site plan drawing. The existing structure on the property, to quote Gresham Fire Official Mike Kelley, "is exempt from the fire flow standards in MCC Chapter 29 because: the structure is an exempt farm structure" and because the use is "open air. No building use except restrooms." (see attached Fire District Review signed by Mike Kelly.*

Staff: The applicant submitted a traffic study dated May 25, 2007 by DKS Associates which addressed trip generation and site distance. An addendum dated January 8, 2008 by DKS Associates recommends two options for meeting site distance requirements (Exhibit 1.5). Those options are

- "Relocating the planned driveway further to the south by about 200 feet to provide for the required 390 feet of site distance," or
- "Remove the obstacles along the inside curve..."

Removal of the fences and other obstacles on the inside curve is not considered here because it would interfere with the Design Review approval for the restaurant on that property. No proposal to amend that approval has been submitted.

The applicant has verbally stated that he will amend the site plan to include a change in the driveway location but has not at this time submitted such a plan.

County Transportation Planning and County Engineers have reviewed the proposed use, the site plan, the traffic and the site distance studies. In a memorandum dated January 29, 2008 (Exhibit 2.8), J. Michael Lynch, County Transportation Planning Specialist has outlined the following requirements (Exhibit 2.8):

- County Transportation will require the relocation of the driveway at least 200 feet to the south.
- County Transportation will require minimal driveway spacing of 50 feet. The new driveway access point will need to either line up directly across the street from the restaurant driveway or be at least 50 feet north of it.
- County Transportation will allow the existing access driveway to the north near the bridge to continue as a fire access driveway. An access permit will be required for the new access.
- County Transportation will require the property owner dedicate 30 feet of property in the area adjacent and southeast of the bridge to meet a 60 foot right-of-way width. County Transportation has provided Dolan findings for the required dedication included in Exhibit 2.8.

This standard is not met. The applicant will need to submit a new site plan showing the new driveway location. Conditions can address the access locational requirement, access number requirements, and the right-of-way dedication requirement if an approval is gained.

Hearings Officer: The applicant has provided a new site plan showing the driveway location 200 feet to the south. Ex. H.6. It is not clear from that map where the relocated driveway is in relation to the restaurant driveway across the road, but the applicant has been quite clear that the property owner is willing to meet the access requirements. This criterion is satisfied by the applicant's submitted materials and pursuant to Conditions of Approval 6 and 7.

4.5. Lot of Record

- 4.5.1. MCC 36.0005 – Definitions: Lot of Record – Subject to additional provisions within each Zoning District, a Lot of Record is a parcel, lot, or a group thereof that, when created or reconfigured, (a) satisfied all applicable zoning laws and (b) satisfied all applicable land division laws, or (c) complies with the criteria for the creation of new lots or parcels described in MCC 36.7785. Those laws shall include all required zoning and land division review procedures, decisions, and conditions of approval.**
- (a) "Satisfied all applicable zoning laws" shall mean: the parcel, lot, or group thereof was created and, if applicable, reconfigured in full compliance with all zoning minimum lot size, dimensional standards, and access requirements.**
- (b) "Satisfied all applicable land division laws" shall mean the parcel or lot was created:**
- 1. By a subdivision plat under the applicable subdivision requirements in effect at the time; or**
 - 2. By a deed, or a sales contract dated and signed by the parties to the transaction, that was recorded with the Re-cording Section of the public office responsible for public records prior to October 19, 1978; or**
 - 3. By a deed, or a sales contract dated and signed by the parties to the transaction, that was in recordable form prior to October 19, 1978; or**
 - 4. By partitioning land under the applicable land partitioning requirements in effect on or after October 19, 1978; and**
 - 5. "Satisfied all applicable land division laws" shall also mean that any subsequent boundary reconfiguration completed on or after December 28, 1993 was approved under the property line adjustment provisions of the land division code. (See Date of Creation and Existence for the effect of property line adjustments on qualifying a Lot of Re-cord for the siting of a dwelling in the EFU and CFU districts.)**

Staff: The applicant submitted a copy of a deed filed with County Records on April 5, 1993 in Book 2670 on Pages 1806 and 1807 (Exhibit 1.9). The property was zoned CFU at that time with an 80 acre minimum for new properties under MCC 11.15.2058(A). If this deed created the property, the property would not have met the minimum size requirement. However, the zoning map from 1962 shows that the property was a tax lot at that time (Exhibit 2.4). There appears to be no reason that a tax lot would have been created in the area that does not reflect the boundaries of the property. Staff finds that the property in its current configuration was in existence by 1962. If it was created between 1958 and 1962 it would have met the minimum acreage requirement of two acres or more for the F-2 Zone district. Thus staff finds the property is a Lot of Record if it meets MCC 36.2075 (A) below.

Hearings Officer: The Applicant testified at the public hearing to the history of this property and its use, ownership and configuration throughout the 20th century.

- 4.5.2. MCC 36.2075 (A) In addition to the Lot of Record definition standards in MCC 36.0005, for the purposes of this district a Lot of Record is either:**
- (1) A parcel or lot which was not contiguous to any other parcel or lot under the same ownership on February 20, 1990, or**

Staff: A check of County Assessment records indicated that the property was not in the same ownership as any adjacent resource zoned property in 1990. The property is a Lot of Record.

Hearings Officer: There is adequate evidence in the record to conclude that the subject sit is a Lot of Record.

4.6. Off-Street Parking and Loading.

MCC 36.2085: Off-street parking and loading permitted as an accessory use shall be provided as required by MCC 36.4100 through 36.4215

Staff: Findings for the off-street parking requirements are in Section 7 of this staff report.

4.7. Sewage, Storm Water, Water Systems and Grading Requirements

4.7.1. MCC 36.2095 (A) On-site sewage disposal, storm water/drainage control, water systems unless these services are provided by public or community source shall be provided on the lot.

- (1) Sewage and storm water disposal systems for existing development may be off-site in easement areas reserved for that purpose.**
- (2) Storm water/drainage control systems are required for new impervious surfaces. The system shall be adequate to ensure that the rate of runoff from the lot for the 10 year 24-hour storm event is no greater than that before the development.**

Staff: The applicant has submitted a Certificate of On-Site Sewage Disposal for wedding services in a private park complete by Michael Ebling City of Portland Sanitarian (Exhibit 1.). For the storm water requirements the applicant has not submitted a Storm Water Certificate. Due to the new pavement for the relocated driveway being impervious surface the applicant will need to submit a Storm Water certificate completed and signed by a registered engineer. This requirement can be met through a condition if an approval is gained.

Hearings Officer: This criterion is satisfied pursuant to Condition of Approval 20.

4.7.2. MCC 36.2095 (B) Grading and erosion control measures sufficient to ensure that visible or measurable erosion does not leave the site shall be maintained during development. A grading and erosion control permit shall be obtained for development that is subject to MCC Chapter 29.

Staff: The property owners shall apply for a Grading and Erosion Control (GEC) Permit if a permit is required under MCC 29.356 for any grading or excavation work related to this proposal including landscaping and the new driveway prior to any earth work. If a permit is not required the property owner shall submit an erosion control plan for a minimal impact project for County Land Use Planning review prior to any earth work. An Erosion Control Inspection fee shall be submitted prior to any earth work. This requirement can be met through a condition if an approval is gained.

Hearings Officer: This criterion is satisfied pursuant to Condition of Approval 18.

5. COMMUNITY SERVICE CONDITIONAL USE

5.1. Purpose

MCC 36.6000 - Purpose: MCC 36.6010 through 36.6230 provides for the review and approval of the location and development of special uses which, by reason of their public convenience, necessity, unusual character or effect on the neighborhood, may be appropriate as specified in each district.

Applicant: *The proposed wedding service use on the applicant's property is publicly convenient and takes advantage of the unusual character of the neighborhood in such a manner as to preserve the commercial, environmental and esthetic benefits of the timber resources found on this particular site. Wedding services to be conducted in the applicant's park are non-intrusive and preserve the natural character of the wooded ecology of the area. For these reasons, use of the park on the applicant's property for wedding service use is appropriate in the Commercial Forest use District.*

Staff: The proposed use is in this category as a public service uses.

5.2. Community Service General Provisions

5.2.1. **MCC 36.6005(A) Community Service approval shall be for the specific use or uses approved together with the limitations or conditions as determined by the approval authority.**

Applicant: *Community Service approval sought is for the specific use of the applicant's private property in a Commercial Forest Use Zone park for wedding service use⁽¹⁾. The wedding service use will be intermittent. No more than 20 wedding services per year will be conducted. No more than 150 persons will attend any single wedding service. No more than 50 automobiles will be allowed on the property for any single wedding service. All wedding services will be performed during daylight hours. The owners/applicant, Junki Yoshida, will use existing facilities on his 13 acre compound as a private park to conduct wedding services in an esthetically pleasing forest environment consistent with the purposes of the Commercial Forest Use Zone.*

The space marked "wedding services" on the site plan map is a venue currently used by groups of persons in the manner that park space is used. For example, Yoshida Group company parties have used the space for walks, bird-watching, wildlife observation, and enjoyment of fresh air and the outdoors in its beautiful timbered environment. Groups have used the space for picnics, barbecues, general relaxation and general recreation. Groups using this park-like space for park-like uses included Dornbecher Children's Hospital Foundation, Ronald McDonald House Charities, and many others. Mr. Yoshida holds numerous social functions on his 13 acre property, and many use the space for park uses.

Vehicles will turn off Stark Street through the 42+ foot Wedding Park gate entrance and proceed Eastward on the 42+ foot paved driveway marked "paved driveway" on the site plan drawing. Parking supervisors (attendants) will guide the vehicles to the parking area. Vehicles for handicapped loading and general loading will turn into spaces designated by a parking attendant for "handicapped loading" and "loading." Vehicles will proceed along the paved driveway a distance of 240 feet to the grass-gravel parking area. Attendants at the parking area will guide the cars into parking spaces. By contract, no more than 50 vehicles will be allowed into the property. There are 50 parking stalls of 9.5' x 25' dimensions with 30' turning aisles. Attendants will direct

pedestrian flow from cars, once parked, to the "walkway" and on to the private park where wedding services will take place. This is marked "walkway" on the site plan drawing. Attendants at the parking area will keep vehicles and pedestrians separated. Pedestrians, once out of their cars, will proceed on foot down the walkway which extends from the parking area along a path to the North of the existing restroom facility, and on to the grassy, timbered park where wedding services will be conducted marked "Wedding Services" on the map. No smoking will be allowed on the property. All water and beverages will be catered in bottles and cans. Any music or other sound generating activities requiring sound reinforcement, will be limited to acoustic sound generation and acoustic sound reinforcement which will keep sound levels below 50 decibels . All trash and refuse will be immediately cleaned from the park upon conclusion of the wedding services. Handicapped-friendly restroom facilities service the park directly at a distance of 50-100 feet from the Wedding Service Park. Fire service access is good at the electric gate and the fire official has approved the fire flow chart. Once the wedding service ends, attendants will direct vehicles back the way they entered, maintaining separation of pedestrians and cars and directing traffic off the property in the reverse sequence. All wedding service participants will depart the property in vehicles directly following the wedding services. No reception will be held on the subject property.

The applicant proposes to hold only open-air weddings in the late Spring, Summer, and early Autumn (15 May through 15 September annually). No wedding activity will be conducted indoors. No activities will be allowed on any slopes on the subject property. All wedding activities will be conducted on the flat central areas of Mr. Yoshida's property. outside any of these zoned and overlaid areas. All weddings will be held in the flat, grassy, landscaped floral garden park.

(1)The word "park" as used here is a noun meaning a place with characteristics of a park. The part of the applicant's property marked "wedding services" on the site plan drawing has characteristics of a park as that word is commonly used. The entire area is a grass lawn with trees spaced across the area of the park so as to allow a fairly large area of shaded space to accommodate groups of persons who desire to enjoy the natural amenities of this lawn and timbered space. We do not assert that this space has been continuously "used" in the ways a park is used. This is why the application is for a conditional use permit. The applicant proposes to "use" this space, the entrance, driveway, parking area, and walkway, as a venue for wedding services: he wishes to use this venue as a private park in which to hold wedding services.

Staff: The proposed Community Service use is for the specific use with the limitations or conditions as determined by the approval authority.

5.2.2. MCC 36.6005(B) Uses authorized pursuant to this section shall be subject to Design Review approval under MCC 36.7000 through 36.7060.

Staff: The Design Review standards are addressed later in this staff report under Section 8.

5.2.3 MCC 36.6005(C) A Community Service approval shall not be construed as an amendment of the Zoning Map, although the same may be depicted thereon by appropriate color designation, symbol or short title identification.

Staff: An approval will not amend the Zoning Map.

5.3. Community Service Approval Criteria

5.3.1. MCC 36.6010(A): Is consistent with the character of the area;

Applicant: *The proposed use makes no change to the character of the area. There is no construction proposed. No development is proposed. Hence, the wedding service use for the space indicated on the applicant's property is consistent with the character of the area.*

Staff: The character of the area is a mix of residential, farmland, forestland, parkland and commercial. While the properties to the east and south are residential and farmland there is a 100 high canyon wall separating them from the subject property. The property across Stark Street is a restaurant and the property directly across the river is a park. Given the adjacent commercial and parkland uses the proposed use as a park used weddings or a park used for other type of gatherings is consistent with the character of the area.

Hearings Officer: This criterion is satisfied.

5.3.2. MCC 36.6010 (B): Will not adversely affect natural resources;

Applicant: *Since there is no change proposed in any natural resources on the subject parcel, there will be no adverse affect on any natural resources.*

Staff: No new structures are proposed. No tree removal is proposed, however the new driveway location may require some tree removal. The proposed use is more than 250 feet from the river, with the parking and new driveway being more than 400 feet from the river. The applicant has submitted a Certificate of On-Site Sewage Disposal for wedding services in a private park complete by Michael Ebling City of Portland Sanitarian. Given sewage disposal is provided for there should be no other adverse affects to the natural environment related to a park used for gatherings with the limitation as proposed by the applicant. No element of the proposed use should adversely affect natural resources. This criterion is met.

5.3.3. MCC 36.6010 (C): Will not conflict with farm or forest uses in the area;

Applicant: *There have been no complaints by the two farmers operating on the South and East boundaries of the applicant's property against the social activities which have occurred on the applicant's property so far. The applicant, and his guests, some times numbering in the hundreds, have not complained about farm and forest practices in the area. The applicant has agreed to file a letter agreeing not to complain against farmers and forest operators in the area (attached).*

Staff: The subject property is separated forestland park to the north by the river and from the adjacent farmland to the east and south by the 100 foot canyon wall. It appears from a 2004 aerial photo (Exhibit 2.3) that the farmland is being used for landscaping crops, pasture or hay. Sometimes farming practices will have some offsite impacts such as dust, noise, chemical drift in the wind, etc. Staff is not aware of any conflict that has resulted from the restaurant across the street. The proposed use will be a less intense use. If approved the property owners will be required to sign a statement and file it with County Record that the owners and the successors in interest acknowledge the rights of owners of nearby property to conduct forest operations consistent with the Forest Practices Act and Rules, and to conduct accepted farming practices.

Given the property owners recognize this potential and accept it, the proposed use will not force a significant change in, or significantly increase the cost of, accepted forestry or farming practices on surrounding forest or agricultural lands. A condition of approval will require the statement included as Exhibit 2.7 to be filed with County Records. This criterion can be met through a condition if an approval is gained.

Hearings Officer: This criterion is satisfied pursuant to Condition of Approval 4.

5.3.4. MCC 36.6010 (D): Will not require public services other than those existing or programmed for the area;

Applicant: *No new public services will be required for the proposed use.*

Staff: A private park for weddings will not require any additional public services other than those existing or programmed for the area. This criterion is met.

5.3.5. MCC 36.6010 (E): Will be located outside a big game winter habitat area as defined by the Oregon Department of Fish and Wildlife or that agency has certified that the impacts will be acceptable;

Applicant: *No big game winter habitat in the area. Elevation is too low.*

Staff: The project site is not in the big game winter habitat area as defined by the Oregon Department of Fish and Wildlife. This criterion is met.

5.3.6. MCC 36.6010 (F): Will not create hazardous conditions; and

Applicant: *Since no changes are proposed for any natural features, no hazardous conditions will be created.*

Staff: The only potential hazardous conditions that staff is aware of is the location of the proposed access. The applicant submitted a traffic study dated May 25, 2007 by DKS Associates which addressed trip generation and site distance. An addendum dated January 8, 2008 by DKS Associates recommends two options for meeting site distance requirements. Those options are

- “Relocating the planned driveway further to the south by about 200 feet to provide for the required 390 feet of site distance,” or
- “Remove the obstacles along the inside curve...”

Removal of the fences and other obstacles on the inside curve is not considered here because it would interfere with the Design Review approval for the restaurant on that property. No proposal to amend that approval has been submitted.

The applicant has verbally stated that he will amend the site plan to include a change in the driveway location but has not at this time submitted such a plan.

County Transportation Planning and County Engineers have reviewed the proposed use, the site plan, the traffic and the site distance studies. In a memorandum dated January 29, 2008 (Exhibit 2.8), J. Michael Lynch, County Transportation Planning Specialist has outlined the following requirements (Exhibit 2.8):

- County Transportation will require the relocation of the driveway at least 200 feet to the south.
- County Transportation will require minimal driveway spacing of 50 feet. The new driveway access point will need to either line up directly across the street from the restaurant driveway or be at least 50 feet north of it.
- County Transportation will allow the existing access driveway to the north near the bridge to continue as a fire access driveway. An access permit will be required for the new access.
- County Transportation will require the property owner dedicate 30 feet of property in the area adjacent and southeast of the bridge to meet a 60 foot right-of-way width. County Transportation has provided Dolan findings for the required dedication included in Exhibit 2.8.

These requirements can be included as conditions if an approval is gained. This criterion is met through a condition.

Hearings Officer: The applicant has provided a new site plan showing the driveway location 200 feet to the south. Ex. H.6. It is not clear from that map where the relocated driveway is in relation to the restaurant driveway across the road, but the applicant has been quite clear that the property owner is willing to meet the access requirements. This criterion is satisfied by the applicant's submitted materials and pursuant to Conditions of Approval 6 and 7.

5.3.7. MCC 36.6010 (G): Will satisfy the applicable policies of the Comprehensive Plan.

Applicant: *The proposed use of part of the applicant's property as a private park allows continuation of timber production in the CFU zone, and preserves the other values protected by the CFU zone by allowing weddings to be conducted in a venue which offers scenic, aesthetic, and other natural resource amenities in a manner compatible with the growing of timber and protection of natural and wildlife resources. Weddings bring groups of persons into this natural resource environment in a non-intrusive and respectful way. No disturbance of existing timber or natural resources is proposed because the wedding venue requires no construction, no physical development, and is limited in extent. Wedding services will be intermittent, causing no disturbance to the wildlife and scenic amenities of the area.*

Staff: Findings for the Comprehensive Plan Policy are in the Section 6 of this staff report. This criterion is met through those findings.

5.3.8. MCC 36.6010 (H) Will satisfy such other applicable approval criteria as are stated in this Section.

Staff: There are no other approval criteria other than the following one and the Design Review standards.

6. COMPREHENSIVE PLAN POLICIES

6.1. Policy 11: Commercial Forest Land Area

The County's policy is to designate and maintain as commercial forest land, areas which are:

- A. Predominantly in forest cubic foot site Class I, II, and III, for Douglas Fir as classified by the U.S. Soil Conservation Service;**
- B. Suitable for commercial forest use and small woodlot management;**

- C. Potential reforestation areas, but not at the present used for commercial forestry;
- D. Not impacted by urban services; and
- E. Cohesive forest areas with large parcels; or
- F. Other areas which are:
 - 1. Necessary for watershed protection or are subject to landslides, erosion or slumping; or
 - 2. Wildlife and fishery habitat areas, potential recreation areas or of scenic significance.

Staff: For the subject property, Policy 11 is implemented through the application of the CFU District. The proposal has been reviewed for compliance with CFU criteria in Section 4 of this staff report. Please refer to that section for findings related to proposal's impact on forest land resources.

6.2. Policy 14: Development Limitations

The County's policy is to direct development and land form alterations away from areas with development limitations except upon a showing that design and construction techniques can mitigate any public harm or associated public cost and mitigate any adverse effects to surrounding persons or properties. Development limitations areas are those which have any of the following characteristics:

- A. Slopes exceeding 20%;
- B. Severe soil erosion potential;
- C. Land within the 100 year flood plain;
- D. A high seasonal water table within 0-24 inches of the surface for 3 or more weeks of the year;
- E. A fragipan less than 30 inches from the surface;
- F. Land subject to slumping, earth slides or movement.

Staff: The subject property is relatively flat except for the canyon escarpment rising up along the southeastern property boundary. The proposed use will be in the flat area. There is no severe soil erosion potential in the area of the proposed use. The land is not in the floodplain. There has been no indication of a high season water table or fragipan. The only area that may subject to slumping, earth slides or movement would be the canyon wall. It very unlikely that there would be any earth movement during the dry season when the use is proposed.

6.3. Policy 37: Utilities

6.3.1. Policy 37: Water and Disposal Systems

* * *

- C. Shall have an adequate private water system, and the Oregon Department of Environmental Quality (DEQ) will approve a subsurface sewage disposal system; or
- D. Shall have an adequate private water system and a public sewer with adequate capacity.

Staff: No water system is necessary for the proposed use. The applicant submitted a Certification of On-Site Sewage Disposal signed by Michael Ebling, Sanitarian, City of Portland approving the septic system for the proposed use (Exhibit 1.9). These policies are met.

Hearings Officer: The proposal complies with these policies.

6.3.2. Policy 37: Drainage

- E. Shall have adequate capacity in the storm water system to handle the run-off; or**
- F. The water run-off shall be handled on the site or adequate provisions shall be made; and**
- G. The run-off from the site shall not adversely affect the water quality in adjacent streams, ponds, lakes or alter the drainage on adjoining lands.**

Staff: For the storm water drainage requirements the applicant has not submitted a Storm Water Certificate. Due to the new pavement for the relocated driveway being impervious surface the applicant will need to submit a Storm Water certificate completed and signed by a registered engineer. This requirement can be met through a condition if an approval is gained. This Policy can be met through a condition should approval be gained.

Hearings Officer: Pursuant to Condition of Approval 20, the proposal complies with these policies.

6.3.3. Policy 37: Energy and Communications

- H. There shall be an adequate energy supply to handle the needs of the proposal and the development level projected by the plan; and**

Staff: There is already electric power supplied to the property. The proposed use will be during the daylight hours, minimal electricity should be needed. This policy is met.

Hearings Officer: The proposal is for limited uses, outside, during daylight hours, no more than 20 times a year, in the summer. Because of the limits on use and because electricity is already supplied to the property, this policy is satisfied. See Condition of Approval 2.

6.4. Policy 38: Facilities

It is the County's Policy to coordinate and encourage involvement of applicable agencies and jurisdiction in the land use process to ensure:

Fire Protection:

- B. There is adequate water pressure and flow for fire fighting purposes; and**
- C. The appropriate fire district has had an opportunity to review and comments on the proposal.**

Police Protection

- D. The proposal can receive adequate local Police protection in accordance with the standards of the jurisdiction providing police protection.**

Applicant: Wedding services conducted in the private park on the property will not increase fire hazard in any way. Wedding services will be non-smoking, and no fire will be permitted on the property when the private park is employed for wedding service use. There is a well on the premises near the private park which can be used for fire suppression if needed. This will, if

anything, reduce fire suppression costs if needed. The entrance to the property complies with all requirements for access by fire suppression vehicles and equipment. (see "Off Road Parking" narrative above.) Fire suppression and fire-fighting services are provided in the area by the City of Corbett and by arrangement with the City of Gresham. Fire District Review for the site and use was approved by the Fire Official at the City of Gresham and is attached to this application.

Staff: The Mike Kelly, Deputy Fire Marshall, Gresham Fire and Emergency Service has reviewed the proposed access and site plan. However given that the transportation study recommended a change of access location and County Transportation has required the change in location be implemented, the applicant will need to submit the revised plan to the fire district for a revised access review. There will be no additional buildings, so fire flow review is not needed. The sheriff department currently patrols this area. These policies can be met through a condition of approval requiring a fire district review of the proposed access prior to any earth work.

Hearings Officer: This criterion is satisfied pursuant to Condition of Approval 2, 6, 7 and 11.

6.5. Policy 39: Parks and Recreation Planning

The County's policy is to operate its established parks and recreation program to the degree fiscal resources permit, and to:

- A. Work with residents, community groups and parks commission to identify recreation needs, to maintain and develop neighborhood parks, and to identify uses for under-developed park lands.**
- B. Work with federal, state and local agencies, community groups and private interests to secure available funds for development, maintenance and acquisition of park sites and recreation facilities for park purposes.**
- C. Encourage the development of recreation opportunities by other public agencies and private entities.**

Staff: This policy encourages private entities to establish recreational activities. Under finding Section 4.1 of this staff report addressed what is required for a park in the CFU District. Under that finding staff found that a park in the CFU District needed to provide at least one of the following:

- Fish and wildlife resources
- Agriculture, or
- Recreational opportunities.

If the applicant proposed a use that provide for more recreational opportunities than then Policy 39 would be met by a proposed private park. Policy 39 is not met by the current park proposal.

Hearings Officer: The Applicant has proposed additional uses that provide for recreational opportunities. See findings at Section 4.1, above. The proposal complies with this policy.

7. OFF-STREET PARKING AND LOADING

7.1. Purpose

MCC 36.4100: The purposes of this subdistrict and these off-street parking and loading regulations are to reduce traffic congestion associated with residential, commercial, manufacturing, and other land uses; to protect the character of neighborhoods; to protect the public's investment in streets and arterials and to provide standards for the development and maintenance of off-street parking and loading areas.

Applicant: *Traffic congestion will be reduced by limiting the number of persons attending the wedding ceremonies to no more than 150. Calculating an average of 4 persons per automobile, the number of cars to be parked will be no more than 38. Calculating 3 persons per car the number of cars parked will be no more than 50. Traffic congested from the proposed commercial use will be reduced by limiting the number of wedding ceremonies annually to no more than 20. By limiting the number of weddings conducted each year to no more than 20, and by limiting the number of automobiles parked "off-street" to no more than 50 per wedding, traffic congestion will be reduced, and the character of nearby neighborhoods will be protected, and the public's investment in streets and arterials will be protected. Traffic congestion will further be reduced by limiting the period each year that wedding will be conducted on the property to May through October (six months of good weather). Proposed wedding service ceremonies are an intermittent use. Only an average of 3-4 weddings per month will be conducted. This intermittent use of the parking field further reduces traffic congestion. The off-street parking field is located more than 240 feet from Stark Street. The proposed use reduces congestion and protects the character of the neighborhood and public investment in streets and arterials.*

Staff: The purpose of the Off-Street Parking Code is met through the findings that follow in this Section 7.

7.2. General Provisions

MCC 36.4105 In the event of the erection of a new building or an addition to an existing building, or any change in the use of an existing building, structure or land which results in an intensified use by customers, occupants, employees or other persons, off-street parking and loading shall be provided according to the requirements of this Section.

Applicant: *Proposed use provides off-street parking and loading for the wedding service business.*

Staff: The proposal is for a change of use thus the standard of the Off-Street Parking Code must be met.

7.3. Continuing Obligation

MCC 36.4115: The provision for and maintenance of off-street parking and loading facilities without charge to users shall be a continuing obligation of the property owners. No building or any other required permit for a structure or use under this or any other applicable rule, ordinance or regulation shall be issued until satisfactory evidence in the form of a site development plan, plans of existing parking and loading improvements, a deed, lease, contract or similar document is presented demonstrating that the property is and will remain available for the designated use as a parking or loading facility.

Applicant: *Applicant attests and agrees that all off-street parking and loading facilities will continue to be provided to users of the proposed wedding service without charge, and that the applicant will maintain the off-street parking facilities and access driveway in good condition, and that this will be a continuing obligation of the applicant. The parking field will remain available for use by the wedding service as a parking facility. The applicant provides a revised site development plan map attesting to the continuing obligation to provide and maintain all off-street parking facilities for the purposes of a commercial wedding service.*

Staff: The property owners will be required to provide off-street parking and loading on a continuing basis for the proposed park use. This standard can be required to be met through a condition if an approval is gained.

Hearings Officer: The Applicant's revised plan of February 15, 2008 shows space for parking and loading. Pursuant to that submittal and Conditions of Approval 8-14, 17-20, this policy is satisfied.

7.4. Plan Required

MCC 36.4120: A plot plan showing the dimensions, legal description, access and circulation layout for vehicles and pedestrians, space markings, the grades, drainage, setbacks, landscaping and abutting land uses in respect to the off-street parking area and such other information as shall be required, shall be submitted in duplicate to the Planning Director with each application for approval of a building or other required permit, or for a change of classification to O-P.

Applicant: *The attached plot plan map shows dimensions, legal description, access and circulation layout for vehicles and pedestrians, space markings, grades, drainage, setbacks, landscaping and abutting land uses in respect to the off-street parking area.*

Staff: The applicant has submitted a plan addressing most but not all of the required items (Exhibit 1.3). This standard is not met.

Hearings Officer: The Applicant has submitted a revised plan of February 15, 2008. Ex. PH.1. It addresses the criteria that were unmet by the Feb. 8, 2008 map (Ex. H.6). Specifically, it depicts 3 separate parking spaces with loading areas for the disabled, which are located on pavement in close proximity to the pedestrian walkway and the restrooms. Ex. PH.1. It also shows a pedestrian walkway from the parking area which is separated from traffic. The loading spaces are shown on Ex. H.6. This standard has been satisfied.

7.5. Use of Space

MCC 36.4125 (A) Required parking spaces shall be available for the parking of vehicles of customers, occupants, and employees without charge or other consideration.

MCC 36.4125 (B) No parking of trucks, equipment, materials, structures or signs or the conducting of any business activity shall be permitted on any required parking space.

MCC 36.4125 (C) A required loading space shall be available for the loading and unloading of vehicles concerned with the transportation of goods or services for the use associated with the loading space.

MCC 36.4125 (D) Except for residential and local commercial districts, loading areas shall not be used for any purpose other than loading or unloading.

MCC 36.4125 (E) In any district, it shall be unlawful to store or accumulate equipment, material or goods in a loading space in a manner which would render such loading space temporarily or permanently incapable of immediate use for loading operations.

Applicant: *Applicant affirms that there will be no charge for any parking relative to the proposed wedding service use. No truck parking, no equipment parking, no parking of materials or signs, and no conducting of business activity will occur on any required parking space. All parking spaces will be continuously provided for the exclusive use by customers of the wedding services or employees. All loading and unloading of vehicles concerned with the transportation of goods and services shall take place at a point approximately 120 feet away from the parking field. There is an existing, paved parking space near the private park where the wedding services will take place. All loading of goods and services needed by the wedding service use will be done at this location on the existing paved parking space. This parking space for loading will not be used for any other purpose when the private park is being used for wedding services. No equipment, material or goods will be stored or accumulated on the required parking space. Nor will any equipment, material or goods be stored on the required loading space. In this way no equipment, material or goods will be positioned in a manner which would render the loading space temporarily or permanently incapable of immediate use for loading operations.*

Staff: The applicant proposes 48 parking spaces available for the parking of vehicles of customers, occupants, and employees without charge or other consideration. No parking of trucks, equipment, materials, structures or signs or the conducting of any business activity will be permitted in any required parking space. The applicant is proposing two loading spaces. The required loading will be available for the loading and unloading of vehicles concerned with the transportation of goods or services for the use. Loading areas shall not be used for any purpose other than loading or unloading except during non[-]business hours when these spaces can be used for residential uses. No storage or accumulation equipment, material or goods in a loading space in a manner which would render such loading space temporarily or permanently incapable of immediate use for loading operations will be allowed. These standards can be required to be met through a condition if an approval is gained.

Hearings Officer: Pursuant to Conditions of Approval 8 and 9, this criterion is satisfied.

7.6. **Location f Parking and Loading Spaces**

MCC 36.4130 (A) Parking spaces required by this Section shall be provided on the lot of the use served by such spaces.

Applicant: *All parking spaces required for the proposed wedding service use are located on the same lot as the wedding service use. The loading space to be utilized is located adjacent to and abuts the private park property where the weddings will be conducted and serves that property*

Staff: The plans show the required parking spaces located on the property of the uses served by the parking spaces (Exhibit 1.2). This standard is met.

Hearings Officer: This criterion is satisfied.

7.7. Improvements Required

- 7.7.1. MCC 36.4135 (A) Required parking and loading areas shall be improved and placed in condition for use before the grant of a Certificate of Occupancy under MCC 36.0525, or a Performance Bond in favor of Multnomah County equivalent to the cost of completing such improvements shall be filed with the Planning Director.**

Staff: If a building permit is required for a change of use for the bathroom facilities or to bring this facilities up to ADA compliance, then the improvements in the parking and loading areas will need be improved prior to granting a Certificate of Occupancy or a Performance Bond in favor of Multnomah County equivalent to the cost of completing such improvements shall be filed with the Planning Director. This standard can be met through a condition if an approval is gained.

Hearings Officer: Pursuant to Condition of Approval 13, this criterion is satisfied.

- 7.7.2. MCC 36.4135 (B) Any such bond shall include the condition that if the improvement has not been completed within one year after issuance of the Certificate of Occupancy, the bond shall be forfeited. Any bond filed hereunder shall be subject to the approval of the Planning Director and the County Attorney.**

Staff: A proposed condition of approval states that any such bond as described in MCC 36.4135(A) will include the condition that if the improvement has not been completed within one year after issuance of the Certificate of Occupancy, the bond shall be forfeited. Any bond filed hereunder will be subject to the approval of the Planning Director and the County Attorney.

Hearings Officer: Pursuant to Condition of Approval 13, this criterion is satisfied.

7.8. Change of Use

MCC 36.4140 (A) Any alteration of the use of any land or structure under which an increase in the number of parking or loading spaces is required by this Section shall be unlawful unless the additional spaces are provided.

MCC 36.4140 (B) In case of enlargement or change of use, the number of parking or loading spaces required shall be based on the total area involved in the enlargement or change in use.

Applicant: *Applicant will provide 50 parking spaces, a dedicated handicapped space, and one large loading space which may also be used for handicapped loading. All parking will be supervised by attendants. The 50 parking spaces to be provided in the parking field are based on the area to be used for the proposed wedding services. 32,252 square feet of land area in the private park is devoted to particular use for conducting wedding services. All 32,252 square feet of land area is devoted to wedding services, and no land at this location (the private park) is devoted to parking or loading. The parking and loading areas are not included in the 32,252*

square foot areas devoted to wedding service use. There is ample space for parking in the Parking Area, so that no fraction of parking space needs to be set aside for that purpose.

Staff: This standard can be met through a condition if an approval is gained. A condition of approval can require that any alteration of the use of any land or structure under which an increase in the number of parking or loading spaces is required by this Section shall be unlawful unless the additional spaces are provided.

Hearings Officer: This criterion is addressed implicitly in the first two sentences of Condition of Approval 2, and explicitly in Condition of Approval 21, which was not recommended by Staff. Pursuant to Conditions of Approval 2 and 21, this criterion is satisfied.

7.9. Joint Parking or Loading Facilities

MCC 36.4145 (A) In the event different uses occupy the same lot or structure, the total off-street parking and loading requirements shall be the sum of the requirements for each individual use.

Applicant: *Only one commercial use will occupy the lot on which the wedding service will be conducted, and that use is the wedding service itself. No other commercial use will occupy the area at which weddings will be performed. No other commercial use will be allowed to do so by the applicant in the future. Only the applicant will occupy the parking field, presently, and in the future.*

Staff: The only commercial use proposed is the private park. This standard is not applicable.

7.10. Standards of Measurement

MCC 36.4160 (A) Square feet means square feet of floor or land area devoted to the functioning of the particular use and excluding space devoted to off-street parking and loading.

MCC 36.4160 (B) When a unit of measurement determining the number of required off-street parking or off-street loading spaces results in a requirement of a fractional space, any fraction up to and including one-half shall be disregarded, and any fraction over one-half shall require one off-street parking or off-street loading space.

Applicant: *All parking, loading, and maneuvering areas provide for turning, maneuvering and parking of all vehicles on the lot. No parking, loading, or maneuvering space requires any vehicle to back-up. Parking Area is 250'x250' (62,500 square feet). No more than 50 vehicles will be parked at any time. Parking will be supervised by three attendants at all times.*

Staff: The parking requirements will use this standard.

7.11. Design Standards: Scope

MCC 36.4165 (A) The design standards of this section shall apply to all parking, loading, and maneuvering areas except those serving a single or two-family residential dwelling or mobile home on an individual lot.

MCC 36.4165 (B) All parking and loading areas shall provide for the turning, maneuvering and parking of all vehicles on the lot. After July 26, 1979 it shall be unlawful to locate or construct any parking or loading space so that use of the space requires a vehicle to back into the right-of-way of a public street.

Applicant: *All parking, loading, and maneuvering areas provide for turning, maneuvering and parking of all vehicles on the lot. No parking, loading, or maneuvering space requires any vehicle to back-up. Parking Area is 250'x250' (62,500 square feet). No more than 50 vehicles will be parked at any time. Parking will be supervised by three attendants at all times.*

Staff: The design standards of this section apply to the parking, loading and maneuvering areas. The proposed development provides parking areas turning, maneuvering and parking of all vehicles on the lot. The parking is designed so that there will be no backing into the road. These standards are met.

Hearings Officer: This criterion is satisfied.

7.12. Access

MCC 36.4170 (A) Where a parking or loading area does not abut directly on a public street or private street approved under MCC 36.7700 et seq., the Land Division Chapter, there shall be provided an unobstructed paved drive not less than 20 feet in width for two-way traffic, leading to a public street or approved private street. Traffic directions therefore shall be plainly marked.

MCC 36.4170 (B) Parking or loading space in a public street shall not be counted in fulfilling the parking and loading requirements of this section. Required spaces may be located in a private street when authorized in the approval of such private street.

Applicant: *The entrance to the wedding park abuts Stark Street and is marked Wedding Park Entrance on the site plan map. The entrance has a 42' opening. The driveway from the entrance to the parking field (Parking Area) is completely unobstructed and is 240' long. The entire length of the driveway is divided into two 21' lanes by a painted yellow line. The entire access road is paved and the access road is 42' wide, allowing for two-way traffic. The loading area is located at the Southeast side of the driveway a distance of 120'. The loading area is 30'x30' in area. Traffic directions from the entrance to the Parking Area will be given directly to drivers by parking attendants.*

No receptions will be held on the applicant's estate. All attendees of the wedding services will be directed from the entrance to the parking area and into their parking slots by parking attendants. Egress will be handled in the same manner but in the opposite directions. Traffic patterns will be directed for both vehicles and pedestrians by the attendants. All parking for the wedding service will be in the Parking Area. No parking will be allowed on the public street.

Staff: The driveway shown on the plan will need to change as required by County Transportation per DKS Associates recommendation (Exhibits 1.5). The access driveway from the right-of-way to the parking area must be unobstructed and paved. This standard can be required to be met through a condition if an approval is gained. The proposed plan demonstrates the parking requirements for the proposed use will be met on the property.

Hearings Officer: The requirements of this criterion are satisfied.

7.13. Dimensional Standards

MCC 36.4175 (A) Parking spaces shall meet the following requirements:

- (1) At least 70% of the required off-street parking spaces shall have a minimum width of nine feet, a minimum length of 18 feet, and a minimum vertical clearance of six feet, six inches.
- (2) Up to 30% of the required off-street parking spaces may have a minimum width of eight-and-one-half feet, a minimum length of 16 feet, and a vertical clearance of six feet if such spaces are clearly marked for compact car use.
- (3) For parallel parking, the length of the parking space shall be 23 feet.
- (4) Space dimensions shall be exclusive of access drives, aisles, ramps or columns.

MCC 36.4175 (B) Aisle width shall be not less than:

- (1) 25 feet for 90 degree parking,
- (2) 20 feet for less than 90 degree parking, and
- (3) 12 feet for parallel parking.
- (4) Angle measurements shall be between the center line of the parking space and the center line of the aisle.

MCC 36.4175 (C) Loading spaces shall meet the following requirements:

- (1) Minimum width: 12 feet – Minimum depth: 25 feet
- (2) Minimum vertical clearance shall be 13 feet.

Applicant: *All parking spaces are 9.58 feet wide and 25 feet deep. All aisles are 30 feet wide. Vertical clearance is unlimited because the entire Parking Area is an open field. There will be no parallel parking. All parking will be 90 degree parking. Loading space dimensions are 20 feet wide and 30 feet in depth. Vertical clearance for the loading space is unlimited. (See attached Site Plan drawing.)*

Staff: The plan shows parking that meets the nine foot width and exceeds the 18 foot depth requirements for parking spaces. The proposed parking spaces are shown as all 90 degree parking with the aisle widths at 25 feet or more (Exhibit 1.2). The proposed loading spaces exceed the 12 foot width and the 25 foot depth requirements. Vertical clearance is met. This standard is met.

Hearings Officer: This criterion is satisfied. See Ex. PH.1.

7.14. Improvements

MCC 36.4180 (A) Surfacing

- (1) All areas used for parking, loading or maneuvering of vehicles shall be surfaced with two inches of blacktop on a four inch crushed rock base or six inches of Portland cement or other material providing a durable and dustless surface capable of carrying a wheel load of 4,000 pounds.
- (2) Alternate porous surfacing systems which provide a durable dustless surface capable of carrying a wheel load of 4,000 pounds may be used instead of the blacktop or cement materials in (1) above when approved by the County Engineer. However,

approaches to public rights-of-way shall be paved for a minimum distance of 21' from the fog line, or for a greater distance when required by the County Engineer.

- (3) Large parking fields for intermittent uses such as amusement parks, race tracks, stadiums, and the like may be surfaced with gravel or grass and spaces may be unmarked if the parking of vehicles is supervised.

MCC 36.4180 (B) Curbs and Bumper Rails

- (1) All areas used for parking, loading, and maneuvering of vehicles shall be physically separated from public streets or adjoining property by required landscaped strips or yards or in those cases where no landscaped area is required, by curbs, bumper rails or other permanent barrier against unchanneled motor vehicle access or egress.
- (2) The outer boundary of a parking or loading area shall be provided with a bumper rail or curbing at least four inches in height and at least three feet from the lot line or any required fence.

MCC 36.4180 (C) Marking - All areas for the parking and maneuvering of vehicles shall be marked in accordance with the approved plan required under MCC 36.4120, and such marking shall be continually maintained.

MCC 36.4180 (D) Drainage - All areas for the parking and maneuvering of vehicles shall be graded and drained to provide for the disposal of all surface water on the lot.

Applicant: 36.4180(A)(3) applies in the present case. The applicant's wedding business is an "intermittent use." The applicant will conduct no more than 20 weddings on the premises in any year. All weddings will be held during daylight hours. All parking will be facilitated by supervisor attendants. The applicant will use an existing grass and gravel field for parking. The applicant complies with 36.4180(B)(1). The parking area for the wedding business is located off Stark Street a distance of 240 feet from the entrance to the Wedding Park. The entrance to the Wedding Park has a gateway more than 42 feet wide. There is a 42 foot-wide paved road, suitable for two-way traffic, from the entrance to the parking field 240 feet distant. The paved road at this point becomes a gravel/grass field pathway which extends the driveway to the parking area. A landscaped yard extends the entire 240 feet from the driveway entrance to the field. The channelization of the driveway is clear. It is paved and a yellow line will be painted down the center of the entire driveway length. The parking area and driveway have been sloped, graveled, and grassed for drainage for 50 years or more. The parking field is long established grass. The field slopes gently from an elevation of 80 feet on the South edge, to an elevation about 70 feet near the North edge. This 10' sloping takes about 120' to complete. The parking field is well drained.

Staff: The applicant is proposing large parking field for intermittent use. The use will be no more than 20 events per year which will use the parking area. Given intermittent park use, staff finds that the proposed use a similar use to an amusement park, race track, or stadium. Such an intermittent use may be surfaced with gravel or grass and spaces may be unmarked if the parking of vehicles is supervised. The gravel/grass surface will allow drainage within the parking area. A condition can require no more than the proposed 20 events a year and require parking to be supervised. The parking is separated from the street by a substantial distance with existing landscaping and by the driveway, thus no curbing is necessary. The plan does not show the outer boundary of the parking area as curbed. This standard can be required to be met through a condition if an approval is gained.

Hearings Officer: Pursuant to Conditions of Approval 2, 6, 8, 10, 12, 14, 20, and 21 and Exhibits H.6 and PH.1, these criteria are satisfied.

7.15 Lighting

MCC 36.4185 Any artificial lighting which may be provided shall be shielded or deflected so as to not shine into adjoining dwellings or other types of living units, and so as not to create a hazard to the traveling public on any street.

Applicant: *No new or additional lighting is proposed for the wedding business use on the applicant's property. All wedding services will be during daylight hours.*

Staff: The proposed use will be during daylight hours thus the applicant proposes no new lighting. The standard is met.

7.16. Signs

MCC 36.4190 Signs, pursuant to the provisions of MCC 36.7465.

MCC 36.7490 Directional Signs.

Directional signs shall comply with the following provisions:

Maximum Sign Face Area: Six Square Feet

Types of Signs Allowed: Free Standing, Fascia, Projecting, Painted Wall

Maximum Height: Free Standing 42 Inches, Fascia and Projecting 8 Feet

Extensions into R/W: Not Allowed

Lighting: Indirect or Internal

Flashing Lights: Not Allowed

Electronic Message Centers: Not Allowed

Moving or Rotating Parts: Not Allowed

MCC 36.7505(J) Sign Related Definitions: Directional Sign - A permanent sign which is designed and erected solely for the purpose of traffic or pedestrian direction and placed on the property to which the public is directed.

Applicant: *No signage is required for the wedding service use of the private park at the site. Wedding services are an intermittent use. Needed communication with vehicle drivers and pedestrians will be done by parking and wedding service attendants on site. Handicapped restroom signs approved by the county will be purchased from the county and used as directed by county regulations.*

Staff: The applicant proposes no signage for the proposed use. However directional signs may be needed such as parking area signs, loading area signs, handicap parking signs, handicap restroom signs, etc. This standard is met.

Hearings Officer: Pursuant to Condition of Approval 16, this criterion is satisfied.

7.17. Design Standards: Setbacks

MCC 36.4195 (A) Any required yard which abuts upon a street lot line shall not be used for a parking or loading space, vehicle maneuvering area or access drive other than a drive connecting directly to a street.

MCC 36.4195 (B) A required yard which abuts a street lot line shall not be paved, except for walkways which do not exceed 12 feet in total width and not more than two driveways which do not exceed the width of their curb cuts for each 150 feet of street frontage of the lot.

Staff: The required 30 foot front yard abutting the street will not be used for parking, loading, vehicle maneuvering or as an access drive other the driveway connecting directly to the street. The required front yard which abuts a street lot line will not be paved according to the plans, except for possibly for walkways which do not exceed 12 feet in total width and not more than two driveways which do not exceed the width of their curb cuts for each 150 feet of street frontage of the lot. While the current plans do not show the relocated driveway it will me[e]t this standard because it will be a drive connecting directly to the street. This standard is met.

Hearings Officer: This criterion is satisfied. Ex. H.6, PH.1

7.18. Landscape and Screening Requirements

MCC 36.4200 (A) The landscaped areas requirements of MCC 36.7055 (C) (3) to (7) shall apply to all parking, loading or maneuvering areas which are within the scope of design standards stated in MCC 36.4165 (A).

Applicant: *The entire lot on which the parking area and loading area is located is landscaped and has been landscaped for 50 years or more. Gardeners water the landscaping at least three days per week.*

Staff: The landscaped areas requirements of MCC 36.7055 (C) (3) to (7) apply the parking, loading and maneuvering areas of the proposed development. This standard is met or can be through a condition if an approval is gained.

7.19. Minimum Required Off-Street Parking Spaces

* * *

MCC 36.4205(B) Public and Semi-Public Buildings and Uses

- (1) Auditorium or Meeting Room (except schools) - One space for each 60 square feet of floor area in the auditorium or, where seating is fixed to the floor, one space for each four seats or eight feet of bench length.**
- (2) Church - One space for each 80 square feet of floor area in the main auditorium or, where seating is fixed to the floor, one space for each four seats or eight feet of bench length.**
- (3) Church Accessory Use - In addition to spaces required for the church, one space for each ten persons residing in such building.**
- (4) Club or Association - These shall be treated as combinations of uses such as hotel, restaurant, auditorium etc., and the required spaces for each separate use shall be provided.**

- (5) **Senior High School and Equivalent Private and Parochial School** - One space for each 56 square feet of floor area in the auditorium or, where seating is fixed to the floor, one space for each eight seats or 16 feet of bench length, or one space for each ten seats in classrooms, whichever is greater.
- (6) **College, University, Institution of Higher Learning and Equivalent Private or Parochial School** - One space for each five seats in classrooms or 45 square feet of floor area.
- (7) **Primary, Elementary, or Junior High and Equivalent Private or Parochial School** - One space for 84 square feet of floor area in the auditorium, or one space for each 12 seats or 24 feet of bench length, whichever is greater.
- (8) **Kindergarten, Day Nursery, or Equivalent Private or Parochial School** - One driveway, designed for continuous flow of passenger vehicles for the purpose of loading and unloading children plus one parking space for each two employees.

MCC 36.4205(C) Retail and Office Uses

- (1) **Store, Supermarket, and Personal Service Shop** - One space for each 400 square feet of gross floor area.
- (2) **Service and Repair Shop** - One space for each 600 square feet of gross floor area.
- (3) **Bank or Office, including Medical and Dental** - One space for each 300 square feet of gross floor area.
- (4) **Restaurant, Coffee Shop, Tavern or Bar** - One space for each 100 square feet of gross floor area.
- (5) **Mortuary** - One space for each four chapel seats or eight feet of bench length.

* * *

MCC 36.4205 (E) Unspecified Uses

Any use not specifically listed above shall have the requirements of the listed use or uses deemed most nearly equivalent by the Planning Director.

Applicant: *The proposed wedding service use is most similar to use defined in this ordinance as a Church (MCC 36.4205(B)(2).) That subsection specifies that one parking space shall be provided for each, quote, "four seats . . ." Applicant has limited the number of participants at each wedding service to no more than 150 persons. 150 seats would be used. At one parking space per each four seats 37.5 parking spaces are required by the ordinance. The applicant has provided 50 parking spaces.*

Staff: We concur with the applicant that the proposed use is similar to a church use and concur with the calculations. The proposed parking area meets standard.

Hearings Officer: Ex. PH.1 shows 3 parking spaced for the disabled and 43 other parking spaces. This criterion is satisfied.

7.20. Minimum Required Off-Street Loading Spaces

MCC 36.4210 (A) Commercial, Office or Bank

Square foot of Floor or Land Area	Minimum Loading Spaces Required
25,000 - 59,999	2

* * *

MCC 36.4210 (E) Unspecified Uses: Any use not specifically listed above shall have the requirements of the listed use or uses deemed most nearly equivalent by the Planning Director.

Applicant: *Applicant will provide 2 loading spaces, in accordance with the calculations in this section of the ordinance. The square footage of the land to be used for the wedding services is 32,252 square feet. 2 loading spaces complies with this requirement based upon square footage of the land area used.*

Staff: The applicant proposes two loading spaces given the area of the use. The Planning Director finds that the proposed use meets the equivalent of a commercial use requiring two spaces for the amount of area proposed to be used for the park gatherings (not including the parking area, driveway, or residential use area.) This standard is met.

Hearings Officer: This criterion is satisfied. See loading spaces on Ex. H.6.

8. DESIGN REVIEW

8.1. Purposes

MCC 36.7000 through 36.7065 provides for the review and administrative approval of the design of certain developments and improvements in order to promote functional, safe, innovative and attractive site development compatible with the natural and man-made environment.

Applicant: *The applicant's proposed wedding service business on his property requires no new development or improvements. The existing private park on the owner's property will be used "as is" for the wedding services.*

Staff: Following is the Design Review findings to meet this purpose.

8.2. Elements of Design Review Plan

MCC 36.7005: The elements of a Design Review Plan are: The layout and design of all existing and proposed improvements, including but not limited to, buildings, structures, parking and circulation areas, outdoor storage areas, landscape areas, service and delivery areas, outdoor recreation areas, retaining walls, signs and graphics, cut and fill actions, accessways, pedestrian walkways, buffering and screening measures.

Applicant: *The attached design review drawing shows the location of all existing improvements on the applicant's property. There are no proposed improvements. No grading or construction is required for the use of the applicant's property for parking to serve the wedding service. No improvements are required for use of the applicant's property as a private park for wedding services.*

Staff: The submitted site plan includes the information listed (Exhibit 1.3).

8.3. Design Review Plan Approval Required

MCC 36.7010: No building, grading, parking, land use, sign or other required permit shall be issued for a use subject to this section, nor shall such a use be commenced, enlarged, altered or changed until a final design review plan is approved by the Planning Director, under this ordinance.

Staff: The applicant has applied for a Design Review Permit which is reviewed in the following finding under Sections 8.4 through 8.7 of this decision. The final plan will be reviewed during the hearing or as a condition if an approval is gained and so conditioned.

Hearings Officer: The final plan incorporates the approved elements of Ex. H.6, as superseded where relevant by Ex. PH.1. This criterion is satisfied.

8.4. Design Review Plan Contents

8.4.1. MCC 36.7030 (A): Any preliminary or final design review plan shall be filed on forms provided by the Planning Director and shall be accompanied by such drawings, sketches and descriptions as are necessary to describe the proposed development.

Staff: The applicant submitted the proper forms for a design review. This standard is met.

8.4.2. MCC 36.7030 (B): Contents:

- (1) Preliminary Site Development Plan;**
- (2) Preliminary Site Analysis Diagram;**
- (3) Preliminary Architectural Drawings, indicating floor plans and elevations;**
- (4) Preliminary Landscape Plan;**
- (5) Proposed minor exceptions from yard, parking, and sign requirements; and**
- (6) Design Review Application Fee, as required under the applicable fee schedule in effect at time of application;**

Applicant: *The attached site plan drawing is the Site Development Plan. No new development is proposed. The wedding service use of the private park will occur at the site as the site exists at present. The Preliminary Site Analysis Diagram is included on the attached site plan drawing. The site plan drawing contains the architectural footprint of all existing structures on the site drawn to scale. No proposed use takes place inside of any structure except the existing restroom facility. No new landscaping is proposed for the wedding service use. All existing landscaping on the subject property is indicated on the site plan drawing. No minor exceptions are proposed. The Design Review Application Fee has been paid by the applicant*

Staff: The applicant submitted the necessary plan for this review. This standard is met.

8.4.3. MCC 36.7030 (C): A preliminary site analysis diagram may be in freehand form and shall generally indicate the following characteristics:

8.4.3.1. MCC 36.7030 (C)(i) Relation to adjacent lands;

Applicant: *The site plan drawing indicates the relation of the site of the proposed wedding service use in the applicant's existing private park to adjacent lands. The attached site plan drawing also indicates the relation of the applicants property generally to adjacent lands.*

Staff: This information was included on the plan. This standard is met.

8.4.3.2. MCC 36.7030 (C)(2) Location and species of trees greater than six inches in diameter at five feet;

Applicant: *Location of trees greater than six inches in diameter is indicated on the site plan drawing as "trees." All of the area inside the "trees" indicators is a fairly dense stand of Douglas Fir. Much of this stand is old growth Douglas Fir. In addition to these, just on the other side of the property line to the South and East is a dense stand of old growth Douglas Fir, but this stand is located on the property of the adjacent landowners.*

Staff: Since no removal of trees will be part of the proposal the information submitted is sufficient. This standard is met.

8.4.3.3. MCC 36.7030 (C)(3) Topography;

Applicant: *Topography of the property is indicated on the site plan drawing.*

Staff: This information was included on the plan. This standard is met.

8.4.3.4. MCC 36.7030 (C)(4) Natural drainage;

Applicant: *The existing property has been developed for more than fifty years and the property drains naturally due to its slope and the composition of the soils. The parking area is proposed for a site on the property which has soils which, in years past, have been developed for drainage purposes with gravel and grass.*

Staff: This information was included on the plan. This standard is met.

8.4.3.5. MCC 36.7030 (C)(5) Significant wildlife habitat;

Applicant: *Wildlife habitat on the property is considered in the Significant Environmental Concern Overlays. The SEC overlay boundaries are indicated on the site plan drawing.*

Staff: This information was included on the plan. This standard is met.

8.4.3.6. MCC 36.7030 (C)(6) Information about significant climatic variables, including but not limited to, solar potential, wind direction and velocity; and

Applicant: *We are not aware of any.*

8.4.3.7. MCC 36.7030 (C)(7) Natural features and structures having a visual or other significant relationship with the site.

Applicant: *The number and density of old growth Douglas Fir trees is, in our view, a natural feature having a significant relationship with the site.*

Staff: This information was included on the plan. This standard is met.

8.4.4. MCC 36.7030 (D): A preliminary site development plan may be in freehand form and shall generally indicate the following as appropriate to the nature of the use:

8.4.4.1. MCC 36.7030(D)(1) Access to site from adjacent rights-of-way, streets, and arterials;

Applicant: *Access to the site from Stark Street, the existing right of way, is indicated on the site plan drawing.*

Staff: This information was included on the plan, however, per the DKS Associates recommendation, County Transportation is requiring the relocation of the driveway access point be relocated at least 200 feet to the south. The relocated driveway will need to be shown on the plan. This standard has not been met.

Hearings Officer: Ex. H.6 shows the relocated driveway. This criterion has been met.

8.4.4.2. MCC 36.7030(D)(2) Parking and circulation areas;

Applicant: *All parking areas, and both vehicle and pedestrian circulation areas are indicated on the site plan drawing.*

Staff: This information was included on the plan. This standard is met.

8.4.4.3. MCC 36.7030 (3) Location and design of buildings and signs;

Applicant: *The location and dimensions of existing buildings are indicated on the site plan drawing. There are no new structures or buildings proposed. No activities proposed will occur in any existing structure, except the restrooms. All signs needed to identify restrooms and handicapped access will comply with county requirements. No other signs will be used due to supervised attendants.*

Staff: This information was included on the plan. This standard is met.

8.4.4.4. MCC 36.7030(D)(4) Orientation of windows and doors;

Applicant: *Since all activities associated with the proposed use will be outdoors (except the restrooms) this criteria does not apply.*

Staff: This standard is not applicable.

8.4.4.5. MCC 36.7030(D)(5) Entrances and exits;

Applicant: *n/a*

Staff: This standard is not applicable.

8.4.4.6. MCC 36.7030(D)(6) Private and shared outdoor recreation spaces;

Applicant: *The site plan drawing indicates the location of the existing private park as "Wedding Services." This is a private and shared recreation space.*

Staff: This information was included on the plan. This standard is met.

8.4.4.7. MCC 36.7030(D)(7) Pedestrian circulation;

Applicant: *Pedestrian circulation is indicated on the site plan drawing as "Walkway." This walkway passes from the parking area, where wedding participants leave their parked automobiles, and walk to the private park where wedding services will take place. There may also be some light pedestrian circulation between places marked on the site plan drawing as "handicapped loading" and "loading area."*

Staff: The applicant states, "Pedestrian circulation is indicated on the site plan drawing as Walkway." However, the plan does not include a label of "Walkway." This standard is not met.

Hearings Officer: Ex. PH.1 shows a pathway for pedestrian circulation labeled "Pedestrian Walkway." This criterion is satisfied.

8.4.4.8. MCC 36.7030(D)(8) Outdoor play areas;

Applicant: *The entire area marked on the site plan drawing as "Wedding Services" may be considered a "play area" insofar as this area is used as a private park.*

Staff: We concur that the area marked "Wedding Services" could be considered a play area if the applicant was proposing other recreational uses. Staff does not find that weddings services are considered either play or recreation. This standard is met.

Hearings Officer: The Applicant has proposed other recreational uses that will occur onsite. This criterion is satisfied.

8.4.4.9. MCC 36.7030(D)(9) Service areas for uses such as mail delivery, trash disposal, above-ground utilities, loading and delivery;

Applicant: *The only area to which this criteria applies is the "loading area" marked on the site plan drawing.*

Staff: The plans show the loading area and trash disposal area. The other items are not applicable. This standard is met.

8.4.4.10 MCC 36.7030(D)(10) Areas to be landscaped;

Applicant: *No new landscaping is proposed.*

Staff: The applicant states there will be no new landscaping, however landscaping is required in the parking area. This standard has not been met.

Hearings Officer: Ex. PH.1 shows 5' landscaped strips between rows of cars in the parking area. This criterion is satisfied.

8.4.4.11. MCC 36.7030(D)(11) Exterior lighting;

Applicant: *No new lighting is proposed. No lighting is needed because all wedding services will be conducted during daylight hours.*

Staff: The wedding services will be conducted during daylight hours. No lighting is proposed. This standard is met.

8.4.4.12. MCC 36.7030(D)(12) Special provisions for handicapped persons;

Applicant: *Handicapped loading is provided at locations marked on the site plan drawing as "handicapped loading" and "loading area." Both locations will be marked with appropriate signs. The existing restrooms are handicapped accessible.*

Staff: The plans show handicapped parking but that is all. The plans do not confirm that the surface is suitable for wheelchairs and there is no evidence that the restrooms are ADA compliant. This standard is not met.

8.4.4.13. MCC 36.7030(D)(13) Surface and storm water drainage and on-site waste disposal systems; and

Applicant: *See attached sign-off sheets "Certification of Water Service" and "Certification of On-Site Sewage Disposal."*

Staff: The applicant has submitted a Certification of On-Site Sewage Disposal for wedding services signed by Mike Ebling, City of Portland Sanitarian. The applicant has not address storm water drainage for the extension for the driveway. Given that the driveway will exceed 500 square feet and must be paved. A Storm Water Certificate is required to demonstrate that storm water/drainage control system is adequate to ensure that the rate of runoff from the lot for the 10 year 24-hour storm event is no greater than that before the development. This standard has not been met.

* * *

Hearings Officer: Pursuant to Condition of Approval 20, this criterion is satisfied.

8.4.5. MCC 36.7030 (E): The preliminary landscape plan shall indicate:

- (1) The size, species, and approximate locations of plant materials to be retained or placed on the site; and**
- (2) Proposed site contouring.**

Applicant: *All trees and plant material will be retained. In addition to the landscaping plant material, the trees are Douglas Fir, many of them old growth. There is also Spruce on the site. All will be retained and their approximate location is indicated on the revised site plan drawing (28 September 2007).*

No new site contouring is proposed. The existing site contouring will remain.

The attached site plan drawing is the Design Review Plan. It is a description of the proposed use of a part of the applicant's property as a private park

Staff: Landscaping is required in the parking area. This landscaping is not shown on the plan. This standard has not been met.

Hearings Officer: The revised plan shows landscaping in the parking lot. This criterion is met.

8.5. Final Design Review Plan

MCC 36.7040: A final design review plan shall contain the following, :

- (A) Site Development and Landscape Plans drawn to scale, indicating the locations and specifications of the items described in MCC 36.7030 (D) and (E), as appropriate;
- (B) Architectural drawings, indicating floor plans, sections, and elevations;
- (C) Proposed minor exceptions from yard, parking, and sign requirements; and
- (D) A narrative and any other evidence needed to demonstrate compliance with the Design Review Criteria in section .7050, and the applicable Standards in .7055 or Minor Exceptions in .7060.

Applicant: *The attached site plan drawing is the final design review plan. There is no change in existing facilities, landscaping, or structures proposed.*

Staff: The applicant has submitted plans that do not meet County Transportation requirements and do not meet the Design Review requirements. Final plans will need to be submitted in order for the Hearings Officer to consider.

Hearings Officer: The Applicant has submitted Ex. H.6, and Ex. PH.1, which supersedes the parts of H.6 that it covers. Together, these plans comply with the criteria.

8.6. Design Review Criteria

MCC 36.7050 (A): Approval of a final design review plan shall be based on the following criteria:

8.6.1. MCC 36.7050 (A) (I) Relation of Design Review Plan Elements to Environment.

8.6.1.1. MCC 36.7050 (A) (I) (a) The elements of the design review plan shall relate harmoniously to the natural environment and existing buildings and structures having a visual relationship with the site.

Applicant: *No changes in the natural environment, the land, structures on the land, contouring, or any other natural feature have been proposed. All elements of the design review plan relate harmoniously to the natural environment, existing buildings and structures having a visual relationship with the site as they do presently, for no change in any of these elements has been proposed in the design review plan.*

Staff: The proposed use includes a gathering of people in a park like setting for wedding ceremonies without any new structures. Such a use will relate harmoniously to the natural environment. The proposed use will not impact the current residential current use of the property or the existing buildings and structures having a visual relationship with the site because the proposed use is an intermittent use. This criterion is met.

8.6.1.2. MCC 36.7050 (A) (I) (b) The elements of the design review plan should promote energy conservation and provide protection from adverse climatic conditions, noise, and air pollution.

Applicant: *No additional energy consumption is required by elements of the design review plan. Wedding services are limited to daylight hours, which reduces need for non-natural lighting. No food preparation will occur in the wedding services. This will reduce need for power and fuel, reduce air pollution, and reduce fire danger. The fir tree canopy at the private park site of the wedding services will provide shelter from rain and wind. There will be a limitation on noise to music below 50 decibels by any sound reinforcement equipment used to amplify the acoustic sound of musical instruments. Any recorded music accompanying wedding ceremonies will not exceed 50 decibels. All music will be performed in the private park at a distance of 60 feet or more from property boundaries.*

Staff: The proposed use will occur during the daylight hours which will reduce the need for energy. Generally adverse weather occurs during the winter, the proposed use will not occur during the winter. There should be no air pollution related to the event other than vehicle use and through limiting the parking to 50 vehicles for 150 people carpooling will need to be encouraged reducing pollution and energy consumption. The applicant will limit the noise to 50 decibels. This can be included as a condition should approval be gained.

Hearings Officer: Pursuant to Condition of Approval 2, this criterion is satisfied.

8.6.1.3. MCC 36.7050 (A) (I) (c) Each element of the design review plan shall effectively, efficiently, and attractively serve its function. The elements shall be on a human scale, inter-related, and shall provide spatial variety and order.

Applicant: *The elements of the design review plan limit participation in wedding services to no more than 150 people. This is a human scale. Services are limited to daylight hours and are to be conducted in a forest environment, providing special variety and natural order. The elements of the design review plan take advantage of the natural environment to create a recreational and spiritual ambience through use of the private park's outdoor beauty to experience the harmony of the relation between nature and man.*

Staff: The elements of the design review plan except for the handicapped, pedestrian circulation, drainage and parking landscaping met this requirement. They efficiently and

attractively serve their function and are on a human scale, inter-related. They provide spatial variety and order. This criterion is not met for the handicapped, pedestrian circulation, drainage and parking landscaping elements of the design review, because the applicant did not provide the necessary application information to demonstrate the criterion was met.

Hearings Officer: The Applicant has provided the needed information. The criterion is satisfied.

8.6.2. MCC 36.7050 (A) (2) Safety and Privacy - The design review plan shall be designed to provide a safe environment, while offering appropriate opportunities for privacy and transitions from public to private spaces.

Applicant: *No new development, grading or construction is proposed. Safety and privacy provided currently for the many guests who visit Mr. Yoshida's property for social functions will be retained in the use of the park for wedding services. No smoking will be allowed at wedding services. The Gresham Fire Department has approved the proposed use because none of the proposed wedding service activities occur inside any structure on the property (except restrooms). Drinking water will be safe. It will be provided as purified bottled water by the wedding service. The entire 13 acre property is fenced to provide safety from wildlife or intruders.*

Staff: The proposed development will have a vegetative canyon wall buffer between it and the neighboring residential property to the south and east. The river buffers the property to the north. The site is fenced and existing landscaping buffers the property from the road. These buffers provide for privacy transition from public to private space. This criterion is met.

8.6.3. MCC 36.7050 (A) (3) Special Needs of Handicapped - Where appropriate, the design review plan shall provide for the special needs of handicapped persons, such as ramps for wheelchairs and Braille signs.

Applicant: *Two loading areas have been provided for use by handicapped persons. One of them is designated for "handicapped loading" and the other for "loading" but both may be used by handicapped persons. The "handicapped loading" space is on a flat, paved surface adjacent to the private park where wedding services will be conducted. The "loading area" may also be used for handicapped access. The loading area is also on a flat, paved surface and is located 120 feet from the private park where wedding services will be conducted. The existing restroom facility is handicapped accessible and "handicapped friendly." Special requirements for handicapped persons shall be provided under terms of the contract between the wedding service business and guests, as required.*

Staff: The applicant states that in addition to the handicapped parking area that the loading spaces will be used for handicapped loading. The loading spaces are dedicated spaces required for loading purposes only. The plan shows handicapped labeled parking but that is all. The plans do not confirm that the surface is suitable for wheelchairs and there is no evidence that the restrooms are ADA compliant. This criterion is not met.

Hearings Officer: Ex. PH.1 depicts the handicapped parking spaces as located on the paved driveway. This surface will be suitable for wheelchairs. As conditioned by Condition of Approval 13, this criterion is satisfied.

8.6.4. MCC 36.7050 (A) (4) Preservation of Natural Landscape - The landscape and existing grade shall be preserved to the maximum practical degree, considering development constraints and suitability of the landscape or grade to serve their functions. Preserved trees and shrubs shall be protected during construction.

Applicant: *The natural landscape will be preserved because no change is proposed for the natural landscape of the area. No grading, construction, or disturbance of any kind is proposed.*

Staff: The proposed plan shows the existing landscape and grade is entirely preserved and is to be maintained. Grading will be necessary to establish the new driveway location required by County Transportation although the area is relatively flat. A condition can require that trees and shrubs to be preserved be protected during construction through fencing them along the drip line. This criterion can be required to be met through a condition, if an approval is gained.

Hearings Officer: Pursuant to Condition of Approval 17, this criterion is satisfied.

8.6.5. MCC 36.7050 (A) (5) Pedestrian and Vehicular circulation and Parking - The location and number of points of access to the site, the interior circulation patterns, the separations between pedestrians and moving and parked vehicles, and the arrangement of parking areas in relation to buildings and structures, shall be designed to maximize safety and convenience and shall be harmonious with proposed and neighboring buildings and structures.

Applicant: *The site plan drawing shows the pedestrian and vehicle circulation and parking proposed for the use of the private park for wedding service use. Vehicles will enter the property through the gate marked "Wedding Park" entrance on the site plan drawing. Vehicles will turn off Stark Street through the Wedding Park entrance and proceed Eastward on the 42 foot paved driveway marked "paved driveway" on the site plan drawing. Handicapped loading and general loading will turn into spaces designated by a parking attendant and marked "handicapped loading" and "loading area" on the site plan drawing. Vehicles will proceed along the paved driveway a distance of about 240 feet to the grassy graveled parking area. Attendants will guide drivers on the driveway to the parking area marked "gravel & grass parking area" on the site plan drawing. Here two attendants will guide the cars into parking spaces. There are 50 parking stalls of 9.5' x 25' dimensions with 30' turning aisles. Attendants will direct pedestrian flow from cars, once parked, to the "walkway" and on to the private park where wedding services will take place. This is marked "walkway" on the site plan drawing. Two attendants at the parking area will keep vehicles and pedestrians separated. Pedestrians, once out of their cars, will proceed on foot down the walkway which extends from the parking area along a path to the South of the existing restroom facility, and on to the grassy, timbered park where wedding services will be conducted. Once the wedding service ends, attendants will direct vehicles back the way they entered, maintaining separation of pedestrians and cars and directing traffic off the property in the reverse sequence.*

Staff: The site plans shows two access points, vehicular circulation and parking areas. Pedestrian separation from maneuvering vehicles and parking area is not shown. The applicant states, "Pedestrian circulation is indicated on the site plan drawing as Walkway." However, the plan does not include a label of "Walkway." This criterion is not met.

Hearings Officer: Ex. PH.1 depicts a Pedestrian Walkway which is separated from the vehicular maneuvering areas and the parking areas. This criterion is satisfied.

8.6.6. MCC 36.7050 (A) (6) Drainage - Surface drainage and stormwater systems shall be designed so as not to adversely affect neighboring properties or streets. Systems that insure that surface runoff volume after development is no greater than before development shall be provided on the lot.

Applicant: *No new drainage systems are needed for the proposed use. The existing drainage system will be retained.*

Staff: An analysis of drainage is not necessary except for the new relocated driveway section because the proposal does include any other new impervious surface. The applicant has not addressed storm water drainage for the extension for the driveway. Given that the driveway will exceed 500 square feet and must be paved, a Storm Water Certificate is required to demonstrate that storm water/drainage control system is adequate to ensure that the rate of runoff from the lot for the 10 year 24-hour storm event is no greater than that before the development. This criterion has not been met.

Hearings Officer: Pursuant to Condition of Approval 20, this criterion is satisfied.

8.6.7. MCC 36.7050 (A) (7) Buffering and Screening - Areas, structures and facilities for storage, machinery and equipment, services (mail, refuse, utility wires, and the like), loading and parking, and similar accessory areas and structures shall be designed, located, buffered or screened to minimize adverse impacts on the site and neighboring properties.

Applicant: *No new areas, structures and facilities for storage, machinery and equipment, service are proposed. Loading facilities are in plain view so that they may be used by handicapped persons, if necessary. The parking area is screened and secluded behind the existing barn and restroom buildings. No accessory areas or structures are proposed. All activities of the wedding service and parking will be utilized "as is" without need for development or modification in order to minimize negative impacts to the existing site, and neighbors.*

Staff: The proposed plan shows existing vegetative buffer between the road for the parking and loading areas. The neighboring properties to the south and east are buffered by the canyon wall as well as existing trees. To the north the use is buffered by the existing vegetation along the river. No new structures are proposed. This criterion is met.

8.6.8. MCC 36.7050 (A) (8) Utilities - All utility installations above ground shall be located so as to minimize adverse impacts on the site and neighboring properties.

Applicant: *No utility installations are proposed.*

Staff: No utility installations are proposed. This criterion is not applicable for this proposal.

8.6.9. MCC 36.7050 (A) (9) Signs and Graphics - The location, texture, lighting, movement, and materials of all exterior signs, graphics or other informational or directional features shall be compatible with the other elements of the design review plan and surrounding properties.

Applicant: *No signs are needed since the wedding services will be directed by attendants who will guide vehicles and pedestrians to and from the parking area and wedding park. The existing visual impact of the site, which is stunning, will be preserved.*

Staff: No signs are proposed. This criterion is not applicable for this proposal.

8.7. REQUIRED MINIMUM STANDARDS

* * *

MCC 36.7055 (C): Required Landscape Areas

The following landscape requirements are established for developments subject to design review plan approval:

8.7.1. MCC 36.7055 (C)(1): A minimum of 15% of the lot area shall be landscaped; provided, however, that computation of this minimum may include areas landscaped under subpart 3 of this subsection.

Applicant: *No development is proposed for the subject site. Nevertheless, an estimated 80% of the lot is landscaped with vegetative ground cover, Douglas Fir, Spruce, shrubs, flowers, and other vegetation.*

Staff: We concur with the applicant that the existing landscaped areas on the property exceed the 15 percent requirement (Exhibit 1.2). This standard is met.

8.7.2. MCC 36.7055 (C)(2): All areas subject to the final design review plan and not otherwise improved shall be landscaped.

Applicant: *All areas subject to final design review are either landscaped or are not proposed for improvement from their existing natural condition.*

Staff: All areas on the property that are not improved or part of the wedding use are shown as landscaped on the plan. The plan shows this standard is met by the proposal.

8.7.3. MCC 36.7055 (C)(3): The following landscape requirements shall apply to parking and loading areas:

8.7.3.1. MCC 36.7055 (C)(3)(a): A parking or loading area providing ten or more spaces shall be improved with defined landscaped areas totaling no less than 25 square feet per parking space.

Applicant: *The proposed parking area has existing improved landscape areas of vegetative ground cover totaling its entire extent: an estimated 150' x 250' = 37,500 sq. ft. The parking area is designed for 50 cars or 50 parking spaces: 50 x 25 = 1,250 sq. ft. A dense stand of existing trees and shrubs line the Southern and Eastern boundary of the parking area. Shrubbery, flowers, and other landscaping edges the Northern boundary of the parking area.*

Staff: While landscaping is required within the parking area through another standard, this standard is met by the proposal given the site is a predominately existing landscaped area surpassing these requirements.

8.7.3.2. MCC 36.7055 (C)(3)(b): A parking or loading area shall be separated from any lot line adjacent to a street by a landscaped strip at least 10 feet in width, and any other lot line by a landscaped strip at least 5 feet in width.

Applicant: *The parking and loading areas are separated from the property lot line adjacent to Stark Street by dense trees and/or landscaping at least 150' thick. The trees and landscaping which separate the parking and loading area from the lot line adjacent to the street are marked on the site plan drawing*

Staff: There is an existing landscaped area between the property and the parking area that meets this standard.

8.7.3.3. MCC 36.7055 (C)(3)(c): A landscaped strip separating a parking or loading area from a street shall contain:

- 1. Street trees spaces as appropriate to the species, not to exceed 50 feet apart, on the average;**
- 2. Low shrubs, not to reach a height greater than 3'0", spaced no more than 5 feet apart, on the average; and**
- 3. Vegetative ground cover.**

Applicant: *The landscaped strip separating the proposed parking and loading areas contains trees spaced appropriate to their species, Douglas Fir, and Spruce; low shrubs not exceeding 3.0'; and vegetative ground cover, mostly grass and flowers.*

Staff: There is a significant area of trees between the street and the parking area. The plan does not show the rows of low shrubs that are not greater than 3'0" in height spaced that are no more than 5 feet apart, on the average (Exhibit 1.2). The ground cover is shown as grass. The required information is not included on the plan to address number 2. This standard is not met.

Hearings Officer: Ex. PH.1 shows the required rows of low shrubs. This criterion is satisfied.

8.7.3.4. MCC 36.7055 (C)(3)(d): Landscaping in a parking or loading area shall be located in defined landscaped areas which are uniformly distributed throughout the parking or loading area.

Applicant: *All landscaping in the parking area is universally distributed vegetative ground cover. This is referred to in the site plan drawing as "gravel & grass parking area."*

Staff: Landscaping is not provided or proposed which is required to be installed uniformly throughout the parking areas. The grass/gravel surface does not qualify as landscaping, it is a parking surface. The plan does not show this standard is met by the proposal.

Hearings Officer: Ex. PH.1 depicts the required parking lot landscaping. This criterion is met.

8.7.3.5 MCC 36.7055 (C)(3)(e): A parking landscape area shall have a width of not less than 5 feet.

Applicant: *The parking landscape area width is the width of the parking area since every square foot of it is landscaped with vegetative groundcover.*

Staff: The plan does not show this standard is met by the proposal.

Hearings Officer: Ex. PH.1 shows that this standard is met.

8.7.4. MCC 36.7055 (C)(4): Provision shall be made for watering planting areas where such care is required.

Applicant: *All existing plants are watered as needed. The proposed use continues this practice.*

Staff: A condition can require the property to maintain through watering when necessary the existing and new landscaping plants.

Hearings Officer: Pursuant to Condition of Approval 11, this criterion is satisfied.

8.7.5. MCC 36.7055 (C)(5): Required landscaping shall be continuously maintained.

Applicant: *All existing landscaping is continually maintained. No new landscaping is proposed. All landscaping is and will be continuously maintained.*

Staff: A condition of approval can require landscaping be continuously maintained. This standard can be required to be met through a condition if an approval is gained.

Hearings Officer: Pursuant to Condition of Approval 11, this criterion is satisfied.

8.7.6. MCC 36.7055 (C)(6): Maximum height of tree species shall be considered when planting under overhead utility lines.

Applicant: *No planting is proposed. n/a.*

Staff: No additional trees are proposed or needed to be planted for this proposal. This standard is not applicable.

8.7.7. MCC 36.7055 (C)(7): Landscaped means the improvement of land by means such as contouring, planting, and the location of outdoor structures, furniture, walkways and similar features.

Applicant: *MCC 36.7055(C)(7) defines "Landscaped" to mean, "the improvement of land by means such as contouring, planting, and the location of outdoor structures, furniture, walkways and similar features." At least 80% of the applicant's property is landscaped. The entire property has been contoured for many years. Part of this area is proposed for parking. The area of the property which was for decades called "Viking Park" has been contoured to near level, and planted to grass turf and flower garden areas for aesthetic enjoyment of park visitors. There are numerous benches, chairs, fountains, water features, a water fall, shrubbery, flower gardens, and*

several other kinds of landscaping across the entire field of the applicant's property. 36.7055(C)(1) is met: 80% of the property is landscaped by the definition; (2) is met: all areas subject to final design review are landscaped — these include the access driveway (paved, but with landscaping along both edges of the road for the entire distance, and the road becoming a landscaped feature itself when it crosses aggregate grass/gravel contouring en route to the "Parking Area." The "Parking Area" itself is landscaped by grass/gravel contouring and "permanent barriers." The "walkway" and "handicapped accessible ramp" are landscaped on both sides by gardens, flowers, and shrubs, statuary, birdbaths, etc. For (3)(a) the parking and loading areas are grassed/graveled/contoured in their entire extent, well exceeding the 25% landscaping requirement; For (b) all lot lines are separated from all parking or loading areas by more than 100 feet of landscaped strip; For (c) no street tree spaces separating parking or loading areas from the street exceed an average of 50 feet, as appropriate; For (c)(2) no low shrubs of more than 3' in height are planted more closely together than 5' and for (3) at least 80% of all landscaped strips are vegetative groundcover. For (d) all parking and loading areas are defined (and so indicated by location on the Superseding Map) and all landscaping in these areas is uniformly distributed throughout the parking and loading areas. And for (e) all parking landscape areas have an extent of at least 30 square feet. For (4) the applicant employs a landscaping service which waters all landscaping on his property at least once, and in hot weather 2 or more times per week. For (5) all landscaping is continuously maintained. For (6) the entire property has been thoroughly developed for more than 50 years: no planting will occur.

Staff: The existing landscaping meets this standard except in the parking and loading areas. In the parking and loading area landscaping planting can be required.

Hearings Officer: Landscaping is required in the parking and loading area and is shown on Ex. PH.1. This criterion is satisfied.

- 8.7.8. MCC 36.7055 (D) When the Planning Director determines that immediate execution of any feature of an approved final design review plan is impractical due to climatic conditions, unavailability of materials or other temporary condition, the Director shall, as a precondition to the issuance of a required permit under MCC 36.7010 through 36.7020, require the posting of a performance bond, cash deposit, or other surety, to secure execution of the feature at a time certain.**

Staff: With proper irrigation system and landscaping needed for the parking area can be planted in the spring, summer or fall prior to the use being established. Staff knows of no reason that aspect of the proposed or required plan is impractical due to climatic conditions or other reasons since the proposed use will be during the dry season.

9. SIGNIFICANT ENVIRONMENTAL CONCERN FOR HABITAT

9.1. Purposes

MCC 36.4500: The purposes of the Significant Environmental Concern Overlay Zone subdistrict are to protect, conserve, enhance, restore, and maintain significant natural features which are of public value, including among other things, river and stream corridors, streams, lakes and islands, flood water storage areas, natural shorelines and unique vegetation, wetlands, wildlife and fish habitats, significant geological features,

archaeological features and sites, and scenic views and vistas, and to establish criteria, standards, and procedures for the development, change of use, or alteration of such features or of the lands adjacent thereto.

Staff: The following code sections implement this purpose. The code does not specifically address archaeological features. Federal and state laws require work to stop if any archaeological feature is discovered. This purpose in regards to any archaeological feature can be required to be met through a condition if an approval is gained.

Hearings Officer: Pursuant to Condition of Approval 12, this criterion is satisfied.

9.2. Area Affected

MCC 36.4505 The SEC overlay zone shall apply to those lands designated SEC-sw, SEC-wr, and SEC-h on the Multnomah County Zoning Map.

Applicant: *The SEC overlays which apply here are the SEC-wr and SEC-sw. The boundary of each overlay is indicated on the attached site plan drawing. These two overlays are also indicated on the attached Land Use Planning Division Overlay Photo.*

Staff: The proposed use is located within the Significant Environmental Concern for Wildlife Habitat (SEC-h) Overlay District. While there are Significant Environmental Concern for Scenic Waterway (SEC-sw) and Significant Environmental Concern for Water Resource (SEC-wr) Overlays Districts located on the property, the proposed use is not located within these districts.

9.3. SEC Permit Required

MCC 36.4515 (A) All uses permitted under the provisions of the underlying district are permitted on lands designated SEC; provided, however, that development, including but not limited to, the location and design of any use, or change, replacement or alteration of a use, except as provided in MCC 36.4520, shall be subject to an SEC permit.

MCC 36.4515 (B) Any excavation or any removal of materials of archaeological, historical, prehistorical or anthropological nature shall be conducted under the conditions of an SEC permit, regardless of the zoning designation of the site.

MCC 36.4515 (C) Activities proposed for lands designated as Scenic Waterways under the Oregon Scenic Waterways System shall be subject to an SEC-sw permit in addition to approval from the Oregon Parks and Recreation Department.

MCC 36.4515 (D) Applications that are subject to an SEC permit shall be processed as Type II land use decisions as provided for in MCC Chapter 37, unless the proposed use is subject to another Type II, III, or IV decision, in which case the SEC application shall be considered in combination with the other action.

Applicant: *There are no wetlands in this category on the applicant's property. No development is proposed by the applicant. All uses proposed are located more than 200' from the Top of Bank*

Sandy River. The nearest use to the 200' boundary of the Riparian/Vegetated Corridor Impact Area is the Wedding Park more than 350' distant from the bank of the Sandy River. See site plan.

A letter from the Oregon Parks & Recreation Department attesting to consistency of the proposed use as a private park with the Oregon Scenic Waterways Management Plan is filed with county planning officials. See letter from Jan Houck, Oregon Parks & Recreation Department, in the record.

Staff: Given the proposed use is located within the SEC-h District an SEC-h Permit is required.

9.4. Application for SEC Permit

MCC 36.4540: A decision on an application for an SEC permit shall be based upon findings of consistency with the purposes of the SEC district and with the applicable criteria for approval specified in MCC 36.4545 through 36.4560. An application for a use on a property containing more than one protected re-source shall address the approval criteria for all of the designated resources on the property. In the case of conflicting criteria, approval shall be based on the ability of the proposed development to comply as nearly as possible with the criteria for all designated resources that would be affected.

- (A) General SEC:** All applications for SEC permits shall include the information listed in this section in sufficient detail for County staff to evaluate the impacts of the proposal. The applicant is responsible for providing all of the required information. In addition to the information listed in this section, the application shall contain the supplemental information that is listed for the resource area in which the development is proposed.
- (1) A written description of the proposed development and how it complies with the requirements applicable to the resource area in which development is proposed as listed in SECsw, SECwr, SECh.**
 - (2) A map of the property drawn to scale showing;**
 - (a) Boundaries, dimensions, and size of the subject parcel;**
 - (b) Location and size of existing and proposed structures;**
 - (c) Contour lines and topographic features such as ravines or ridges;**
 - (d) Location of natural drainageways, springs, seeps, and wetlands on the site. The Planning Director may require the applicant to provide the location of the SEC-wr boundary, topography, or the location of development as determined by a registered professional surveyor or engineer;**
 - (e) Proposed fill, grading, site contouring or other landform changes;**
 - (f) Location and predominant species of existing vegetation on the parcel, areas where vegetation will be removed, and location and species of vegetation to be planted, including landscaped areas;**
 - (g) Location and width of existing and proposed roads, driveways, parking and maneuvering areas, and service corridors and utilities.**
 - (3) A scaled drawing of the building design and elevations that show the relationship between the building and existing and finished grades and existing or proposed vegetation.**
 - (4) Application for a flood hazard permit, erosion control permit, and/or other required natural hazards permit for the proposed development;**

* * *

(D) SEC Wildlife Habitat: In addition to the information required in MCC 36.4540(A) above, an application to develop in SEC-h areas shall also include:

- (1) An area map showing all properties which are adjacent to or entirely or partially within 200 feet of the proposed development, with the following information, when such information can be gathered without trespass:
- (2) Location of all existing forested areas (including areas cleared pursuant to an approved forest management plan) and non-forested "cleared" areas. For the purposes of this section, a forested area is defined as an area that has at least 75 percent crown closure, or 80 square feet of basal area per acre, of trees 11 inches DBH and larger, or an area which is being reforested pursuant to Forest Practice Rules of the Department of Forestry. A non-forested "cleared" area is defined as an area which does not meet the description of a forested area and which is not being reforested pursuant to a forest management plan.
- (3) Location and width of existing drive-ways within 200 feet of the subject parcel's boundaries on all adjacent parcels;
- (4) Existing and proposed type and location of all fencing on the subject property and on adjacent properties and on properties entirely or partially within 200 feet of the subject property.

Applicant: *All plans, surveys, inventories and other requirements for an SEC permit have been prepared by a qualified fish or wildlife biologist as required by the Planning Director.*

Staff: The applicant has submitted the information listed that is applicable for this proposal.

9.5. General Requirements for Approval In Areas Designated as SEC-wr Or SEC-h

The requirements in this section shall be satisfied for development in the SEC-wr and SEC-h areas in addition to the provisions of 36.4555 or 36.4560 as applicable.

9.5.1. MCC 36.4550 (A) Areas of erosion or potential erosion shall be protected from loss by appropriate means. Appropriate means shall be based on current Best Management Practices and may include restriction on timing of soil disturbing activities.

Applicant: *No development or man-made changes are proposed. The Southeastern boundary of the applicant's property is currently in a Hillside Development overlay. Erosion is controlled very well by long established Douglas Fir, Spruce, and other soil stabilization vegetation and features.*

Staff: The only earth work for the project will be grading to establish the relocated driveway in a relatively flat area and minor site preparation for landscaping in the parking areas. There is little potential for erosion. Best Management Practices can be required as a condition. This standard can be required to be met through a condition if an approval is gained.

Hearings Officer: Pursuant to Condition of Approval 18, this criterion is satisfied.

9.5.2. MCC 36.4550 (B) Outdoor lighting shall be of a fixture type and shall be placed in a location so that it does not shine directly into undeveloped water re-source or habitat areas. Where illumination of a water resource or habitat area is unavoidable, it shall be minimized

through use of a hooded fixture type and location. The location and illumination area of lighting needed for security of utility facilities shall not be limited by this pro-vision.

Applicant: *No outdoor lighting is proposed. All wedding services in the private park will occur during daylight hours, so artificial lighting is not needed*

Staff: No outdoor lighting is proposed. The use is planned for daylight hours only. This standard is met.

9.5.3. MCC 36.4550 (A) (C) The following nuisance plants, in addition to the nuisance plants defined in 36.4510, shall not be used as landscape plantings within the SEC-wr and SEC-h Overlay Zone:

**Table 1
Nuisance Plant List**

Common Name
Lesser celandine
Canada Thistle
Common Thistle
Western Clematis
Traveler' s Joy
Poison hemlock
Field Morning-glory
Night-blooming Morning-glory
Lady' s nightcap
Pampas grass
Hawthorn, except native species
Scotch broom
Queen Ann' s Lace
South American Waterweed
Common Horsetail

Common Name
Giant Horsetail
Crane' s Bill
Robert Geranium
English Ivy
St. John' s Wort
English Holly
Golden Chain Tree
Duckweed, Water Lentil
Fall Dandelion
Purple Loosestrife
Eurasian Watermilfoil
Reed Canary grass
Annual Bluegrass
Swamp Smartweed
Climbing Binaweed
Giant Knotweed

Common Name
English, Portugese Laurel
Poison Oak
Himalayan Blackberry
Evergreen Blackberry
Tansy Ragwort
Blue Bindweed
Garden Nightshade
Hairy Nightshade
Common Dandelion
Common Bladderwort
Stinging Nettle
Periwinkle (large leaf)
Periwinkle (small leaf)
Spiny Cocklebur
Bamboo sp.

Applicant: *No landscape plantings are proposed. n/a*

Staff: This standard can be required to be met through a condition if an approval is gained.

Hearings Officer: Pursuant to Condition of Approval 19, this criterion is satisfied.

9.6. Criteria for Approval Of SEC-h Permit -Wildlife Habitat

9.6.1. MCC 36.4560 (A) Development within areas designated SEC-h shall comply with the provisions of this section. An application shall not be approved unless it contains the information in 36.4540(A) and (D).

Staff: The applicant contains the applicable information listed in 36.4540(A) and (D).

- 9.6.1.1. MCC 36.4560 (A) (1) Where a parcel contains any non-forested "cleared" areas, development shall only occur in these areas, except as necessary to provide access and to meet minimum clearance standards for fire safety.**

Staff: The only physical development will be in the proposed parking areas which is an existing cleared area as well as establishing a driveway extension. The proposed park use will be located in a forested area. There will be no trees removed unless the relocation of the driveway requires it and the removal of some trees for a driveway will not result in a clearing. This standard is met.

- 9.6.1.2. MCC 36.4560 (A) (2) Development shall occur within 200 feet of a public road capable of providing reasonable practical access to the developable portion of the site.**

MCC 36.0005 Definitions: Development - Any act requiring a permit stipulated by Multnomah County Ordinances as a prerequisite to the use or improvement of any land, including a building, land use, occupancy, sewer connection or other similar permit, and any associated grading or vegetative.

Staff: The proposed use requires a permit and landscaping is required in the parking area thus the parking area considered development. Typically this standard is implemented by measuring the closest point of the development such as the location of a dwelling. As long as the edge of the structure is within 200 feet of the road it is considered to be met. In this case the proposed primary use is the park gatherings which are located within 200 feet of the road. The parking is an adjacent accessory use part of the continuous area of the proposed use. This standard is met.

Hearings Officer: This criterion is satisfied.

- 9.6.1.3. MCC 36.4560 (A) (3) The access road/driveway and service corridor serving the development shall not exceed 500 feet in length.**

Staff: The relocated driveway in combination with the existing driveway accessing the parking and loading areas does not exceed 500 feet in length. This standard is met.

- 9.6.1.4. MCC 36.4560 (A) (4) Fencing within a required setback from a public road shall meet the following criteria:**

- (a) Fences shall have a maximum height of 42 inches and a minimum 17 inch gap between the ground and the bottom of the fence.**
- (b) Wood and wire fences are permitted. The bottom strand of a wire fence shall be barbless. Fences may be electrified, except as prohibited by County Code.**
- (c) Cyclone, woven wire, and chain link fences are prohibited.**
- (d) Fences with a ratio of solids to voids greater than 2:1 are prohibited.**
- (e) Fencing standards do not apply in an area on the property bounded by a line along the public road serving the development, two lines each drawn perpendicular to the principal structure from a point 100 feet from the end of the**

structure on a line perpendicular to and meeting with the public road serving the development, and the front yard setback line parallel to the public road serving the development.

(f) Fencing standards do not apply where needed for security of utility facilities.

Staff: No new fencing is proposed as part of this proposal. This standard is met.

9.6.1.5 MCC 36.4560 (A) (5) The nuisance plants listed in Table 1 shall not be planted as landscaping and shall be controlled within cleared areas of the subject property.

Staff: This standard can be required to be met through a condition if an approval is gained.

Hearings Officer: Pursuant to Condition of Approval 19, this criterion is met.

MCC 36.4560 (B) Wildlife Conservation Plan. An applicant shall propose a wildlife conservation plan if one of two situations exist.

- (1) The applicant cannot meet the development standards of Section (A) because of physical characteristics unique to the property. The applicant must show that the wildlife conservation plan results in the mini-mum departure from the standards required in order to allow the use; or**
- (2) The applicant can meet the development standards of Section (A), but demonstrates that the alternative conservation measures exceed the standards of Section (A) and will result in the proposed development having a less detrimental impact on forested wildlife habitat than the standards in Section (A).**

Staff: The applicant has met the development standards of Section (A), thus a Wildlife Conservation Plan is not necessary.

Hearings Officer: I concur that the Applicant need not propose a Wildlife Conservation Plan.

HEARINGS OFFICER'S DECISION:

The applications for permits for Community Service Use, Significant Environmental Concern, and Design Review for a private park for outdoor gatherings and events, including weddings, family reunions, picnics, bird watching, and company retreats are approved, based upon the evidence in the record and applicable law, pursuant to the following findings and subject to the following conditions of approval.

CONDITIONS OF APPROVAL:

The conditions listed are necessary to ensure that approval criteria for this land use permit are satisfied. Where a condition relates to a specific approval criterion, the code citation for that criterion follows in parenthesis.

1. Within 30 days of this decision becoming final and prior to building permit sign-off, the property owners shall record the Notice of Decision which includes all pages of this decision from page one through all the conditions of approval (Pages 1 – 7) and the approved Site Plan with the County Recorder. The Notice of Decision shall run with the land. Proof of recording shall be made prior to

the issuance of any permits and a copy filed with Land Use Planning. Recording shall be at the applicant's expense. [MCC 37.0670]

2. Approval of this land use permit is based on the submitted written narrative(s) and plan(s). No work shall occur under this permit other than that which is specified within this decision and the documents submitted or specified in subsequent land use permits. It shall be the responsibility of the property owners(s) to comply with these documents and the limitations of approval described herein. This decision is limited to 20 gatherings a year for the park use. These gatherings shall occur during daylight hours only and shall occur in the area labeled on the plans for the use. Each gathering shall not exceed 150 guests, not including employees of those providing a service for the gathering such as caterers, parking attendants, etc. All vehicles related to the use shall be parked on site (on the property) and shall not exceed 50 vehicles. The parking shall be supervised and assisted by parking attendants. There shall be no smoking or open fires related to the use. The sound from the proposed use including any related music shall not exceed 50 decibels at a distance of 60 feet or more from the property lines. [MCC 36.2045(A), MCC 36.4180(A)(3), MCC 36.7050 (A) (l) (b) and MCC 36.4185]
3. Pursuant to MCC 37.0690, this land use decision is void/expires two years from the date the decision is final if the development action is not initiated within that time period or the use is not established. The property owners may request to extend the timeframe within which this permit is valid, as provided under MCC 37.0690. Such a request must be made in writing prior to expiration of the decision.
4. A statement as shown in Exhibit 2.7 shall be recorded with the Multnomah County Recorder that the owners and the successors in interest acknowledge the rights of owners of nearby property to conduct forest operations consistent with the Forest Practices Act and Rules, and to conduct accepted farming practices. County Land Use Planning will provide the form to be recorded. [MCC 36.2045 (B)]
5. The restroom structure shall comply with the standards of the applicable building code and with ADA requirements. The property owners shall confirm through an inspection conducted by the Gresham Building Permit inspectors that the restrooms meet the building code and ADA requirements prior to establishing the park use. If a building permit is required for any improvements then one shall be obtained and the property shall not be used for the proposed uses until an occupancy permit is issued. [MCC 36.2061(C), MCC 36.7030(D)(12), and MCC 36.7050(A)(3)]
6. The driveway access to the property shall be located either directly across the street from the existing restaurant driveway or at least 50 feet to the north. The driveway shall be at least 20 feet in width to accommodate two-way traffic with the directions and centerline plainly marked. The property owner shall dedicate 30 feet of property in the area adjacent and southeast of the bridge to meet a 60 foot right-of-way width. The property owners shall obtain an access permit from the County Right-of-Way Program prior to any work within the right-of-way and shall meet the requirements of that permit. [MCC 36.2075(C) MCC 36.6010 (F), and MCC 36.4170(A)]
7. The property owners shall submit to County Land Use Planning a Fire District Access Review with an attached revised plan map showing the relocated access location and driveway extension signed by a fire district official prior to any earth work to establish that access and driveway. [Policy 38]
8. The property owners shall maintain off-street parking facilities and spaces without charge or other consideration for the parking of vehicles of customers, occupants, and employees. The outer

boundary of the parking area shall be marked with curbing or bumper rails [MCC 36.4115, MCC 36.4125 (A) and MCC 4180(B)]

9. No parking of trucks, equipment, materials, structures or signs or the conducting of any business activity shall be permitted in any required parking space (pickup trucks exempt). [MCC 36.4125 (B)].
10. The property owners shall plant and maintain shrubs at less than three feet in height not more than five feet apart located between the parking aisles. Existing trees shown on the plan to remain shall be maintained and not removed. [MCC 36.7055 (C)(3)(c) and. MCC 36.7050(A)(4)]
11. Required landscaping shall be continuously maintained. Provision shall be made for watering planting areas where such care is required to maintain the plants in a living condition [MCC 36.7055 (C)(5) and MCC 36.7055 (C)(4)].
12. If any archaeological artifacts are discovered during construction, work shall stop immediately, until a qualified archaeologist analyzes them and the project is approved to continue by the State Historic Preservation Office and proper federal authorities. [MCC 36.4500]
13. If a Building Permit is required for a change of use for the bathroom facilities or to bring this facilities up to ADA compliance, then the improvements in the parking and loading areas shall be completed prior granting a Certificate of Occupancy, or a Performance Bond in favor of Multnomah County equivalent to the cost of completing such improvements shall be filed with the Planning Director. If the improvement has not been completed within one year after issuance of the Certificate of Occupancy, the bond shall be forfeited. Any bond filed hereunder shall be subject to the approval of the Planning Director and the County Attorney. [MCC 36.4135 (A) and MCC 36.4135 (B)]
14. The parking area shall be grass and gravel mix. [MCC 36.4180]
15. The park use shall be limited to daylight hours and no lighting shall be used for the park use. [MCC 36.4185]
16. No signs shall be installed or used for the park use, other than directional signs. Directional signs shall comply with the following provisions:
 - Maximum Sign Face Area: Six Square Feet
 - Types of Signs Allowed: Free Standing, Fascia, Projecting, Painted Wall
 - Maximum Height: Free Standing 42 Inches, Fascia and Projecting 8 Feet
 - Lighting: Indirect or Internal
 - Extensions into R/W: Not Allowed
 - Flashing Lights: Not Allowed
 - Electronic Message Centers: Not Allowed
 - Moving or Rotating Parts: Not Allowed [MCC 36.4190, MCC 36.7490 and MCC 36.7505(J)]
17. The landscape and existing grade shall be preserved to the maximum practical degree, considering development constraints and suitability of the landscape or grade to serve their functions. Preserved trees and shrubs shall be protected during construction of the driveway extension by installing construction fencing around the trees at the drip lines. [MCC 36.7050(A)(4)]

18. The applicant shall demonstrate compliance with Grading and Erosion Control ordinance prior to any earth work. Current Best Management practices shall be used for erosion control. The property shall apply for a Grading and Erosion Control (GEC) Permit if a permit is required under MCC 29.356 for any grading or excavation work related to this proposal including landscaping and the new driveway prior to any earth work. If a permit is not required the property owner shall submit an erosion control plan for a minimal impact project for County Land Use Planning review prior to any earth work. An Erosion Control Inspection fee shall be submitted prior to any earth work. [MCC 36.4550(A)]
19. The nuisance plants defined in MCC 36.4510, shall not be used as landscape plantings and shall be controlled within cleared areas of the subject property. [MCC 36.4560(A)(5) MCC 36.4550(C)]
20. The property owners shall submit to County Land Use Planning a Storm Water Certificate completed by a registered engineer stating the stormwater control system for the new driveway extension is adequate to ensure that the rate of runoff from the lot for the 10 year 24-hour storm event is no greater than that prior to any earth work for that driveway.
21. Any alteration of the use of any land or structure under which an increase in the number of parking or loading spaces is required by MCC 36.4140, or a successor provision, shall be unlawful unless the additional spaces are provided. [MCC 36.4140(A)-(B)]

Note: Once this decision is final, application for building permits may be made with the City of Gresham/Portland. When ready to have building permits signed off, the applicant shall call the Staff Planner, George Plummer, at (503) 988-3043 ext. 29152, for an appointment for review of the conditions and to sign the building permit plans. Please note, Multnomah County must review and sign off the building permits before the applicant submits building plans to the City of Gresham. Three (3) sets each of the site plan and building plans are needed for building permit sign off. At the time of building permit review, a fee of \$53.00 will be collected. In addition, an erosion control inspection fee of \$77.00 may be required.

DATED: March 17, 2008

Christine M. Cook,
Multnomah County Land Use Hearings Officer

EXHIBITS

1. Exhibits Submitted by the Applicant:

- Exhibit 1.1: Application form and memo from applicant requesting addition of Design Review submitted 5/29/07 & 10/17/07 (1 page);
- Exhibit 1.2: Revised superseding site plan submitted 11/20/07 (1 page)
- Exhibit 1.3: Revised superseding narrative submitted 12/27/07 (40 pages)
- Exhibit 1.4: Stark Street Wedding Site Trip Generation and Sight Distance Study by DKS Associates submitted 5/29/07 (8 pages)

- Exhibit 1.5: Sight distance Verification for 29330 Stark Street DKS Associates 1/09/08 (2 pages)
- Exhibit 1.6: Church information sheets submitted 10/09/07 (2 pages)
- Exhibit 1.7: Certificate of On-Site Sewage Disposal signed by Michael Ebling, Sanitarian submitted 5/29/07 (1 page)
- Exhibit 1.8: Fire District Access Review submitted 5/29/07 (4 pages)
- Exhibit 1.9: Copy of deed recorded 4/5/93 in Book 2670 on Pages 1806 and 1807 submitted 5/29/07 (3 pages)

2. Exhibits Provided by the County

- Exhibit 2.1: County Assessment Records including assessment map for the subject property (3 pages)
- Exhibit 2.2: Current County Zoning Map with approximate project site location labeled (1 page)
- Exhibit 2.3: 2004 Aerial Photo showing approximate project site location (1 page)
- Exhibit 2.4: 1962 Zoning Map (1 page)
- Exhibit 2.5: Notice of Public Hearing (7 pages)
- Exhibit 2.6: Decision of the hearings Officer Case T3-05-007 (92 pages)
- Exhibit 2.7: Forest/Farm statement to be recorded (1 page)
- Exhibit 2.8: County Transportation Planning memorandum (2 pages)
- Exhibit 2.9: Newspaper notice (1 page)

3. Exhibits Submitted at the Hearing

- Exhibit H.1: Sign-in Sheet (1 page)
- Exhibit H.2: Aerial photo of subject property (1 page)
- Exhibit H.3: Letter dated January 8, 2008 from Scott Ashcom, M.A., to George Plummer, Planner (4 pages)
- Exhibit H.4: Photos showing posted sign advertising public hearing (2 pages)
- Exhibit H.5: Conditions and Restrictions signed by Junki Yoshida (2 pages)
- Exhibit H.6: Superseding Map dated February 8, 2008, with attachment showing restrooms (2 pages, one oversized)

4. Exhibits Submitted during the Post-Hearing Open Record Period

- Exhibit PH.1: Revised Plan showing parking area, restrooms, pedestrian walkway and handicapped parking spaces (1 page)