



Oregon

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EXHIBIT: _____
LAND CONSERVATION & DEVELOPMENT
COMMISSION
DATE: _____
PAGES: _____
SUBMITTED BY: _____



October 11, 2007

TO: Land Conservation and Development Commission

FROM: Jason Locke, Mid-Willamette Valley Regional Representative

SUBJECT: **Record Objection Order (Item 13 – Other)**

Attached is a proposed order on motions to correct the City of Woodburn periodic review record the department filed at the Court of Appeals. Because the order denies in part one of the motions (on the basis that the requested items were not part of the city's actual submittal), the Commission must approve the order.

Recommended motion: I move that the Motion to Correct the Record of petitioners 1000 Friends of Oregon, Friends of Marion County, Lolita Carl, Kathleen Carl, Diane Mikkelson, Carla Mikkelson, and Marion County Farm Bureau and intervenor-respondents City of Woodburn and Opus Northwest, LLC are granted; the Motion to Correct the Record of intervenor-respondent Fessler Family, LLC is granted in part and denied in part as described in the proposed order.

**BEFORE THE
LAND CONSERVATION AND DEVELOPMENT COMMISSION
OF THE STATE OF OREGON**

IN THE MATTER OF THE PERIODIC)	
REVIEW TASK 2 AND THE AMENDMENT)	Order on Motions
OF THE URBAN GROWTH BOUNDARY)	to Correct the Record
FOR THE CITY OF WOODBURN)	

Pursuant to ORAP 4.22(1)(b), petitioners 1000 Friends of Oregon, Friends of Marion County, Lolita Carl, Kathleen Carl, Diane Mikkelson, Carla Mikkelson, and Marion County Farm Bureau (petitioners) and intervenor-respondents City of Woodburn; Opus Northwest, LLC, and Fessler Family, LLC in CA A135375, Agency No. 07-WKTASK-001720, moved the Land Conservation and Development Commission (Commission) to correct the record that it filed with the Court of Appeals (court) on June 8, 2007.

FINDING OF FACT

By motion dated June 21, 2007, petitioners moved the Commission to provide material to parties that the Department provided the court as an exhibit in the record and to provide an omitted document. Specifically, petitioner moved for inclusion of (1) Volumes I-V; and (2) "Attachment F Statement of the Record."

By motion dated June 22, 2007, intervenor-respondent Opus Northwest, LLC moved the Commission to supplement the record to include a transcript of the Commission's January 25, 2007 hearing on the City of Woodburn Periodic Review Work Task 2.

By motion dated June 25, 2007, intervenor-respondent Fessler Family, LLC moved the Commission to supplement the record with Volume VI, exhibits 1-C and 2 of the city's Work Task 2 submittal and provide the court with better reproductions of certain items that the Commission included in the record it submitted to the court. Specifically, intervenor-respondent Fessler Family, LLC identifies Exhibit 4-A (the Woodburn Economic Opportunities Analysis) as incomplete or illegibly reproduced. Additionally, intervenor-respondent Fessler Family, LLC identifies pages 19-22 and appendices A, B, C, and E as missing from Exhibit 4-D (City of Woodburn Local Wetlands Inventory and Riparian Assessment).

By amended motion dated June 25, 2007, intervenor-respondent City of Woodburn moved the Commission to (1) supplement the record to include a transcript of the Commission's January 25, 2007 hearing on the City of Woodburn Periodic Review Work Task 2; (2) provide materials (Volumes I-V) to parties that the department provided the court as an exhibit in the record; and (3) include Exhibit 1-C (Woodburn Transportation System Plan) and Exhibit 2 (Comprehensive Land Use Map, October 2005) which it identifies as missing from Volume VI.

LCDC Order on Motions to Correct the Record

DISCUSSION

Petitioners and intervenor-respondents City of Woodburn; Opus Northwest, LLC, and Fessler Family, LLC move the Commission to add or replace certain items for the record filed by the Commission in this matter. The Commission has provided Volumes I-V to the court as an exhibit to the record filed June 8, 2007. The Commission therefore understands petitioners and intervenor-respondent City of Woodburn motions to correct the record regarding Volumes I-V as a motion to provide the parties with copies of those volumes. The Commission agrees that a transcript of the January 25, 2007 Commission hearing on Agenda Item 3.b; Attachment F, Woodburn Record; Exhibit 1-C (Woodburn Transportation System Plan); Exhibit 2 (Comprehensive Land Use Map, October 2005) are properly added to the record. The department has worked with the city to obtain better copies of Exhibit 4-A (the Woodburn Economic Opportunities Analysis) and pages 19-22 and appendices A and B to Exhibit 4-D (City of Woodburn Local Wetlands Inventory and Riparian Assessment). Appendix C to Exhibit 4-D is the Riparian Data and Summary Sheets. Appendix E to Exhibit 4-D is the Department of State Lands Riparian Manual. The City of Woodburn did not include a copy of Appendix C or E to Exhibit 4-D in its Work Task 2 submittal.

CONCLUSION

Based on the foregoing, the motions to correct the record of petitioners and intervenor-respondents City of Woodburn and Opus Northwest, LLC are allowed. Because the City of Woodburn did not submit a copy of Appendix C or E to Exhibit 4-D in its Work Task 2 submittal, those documents were not part of the written record under OAR 660-025-0160(5), and the motion of respondent Fessler Family, LLC is denied in those respects. The motion to correct the record of intervenor-respondent Fessler Family, LLC is allowed in part and denied in part.

THEREFORE, IT IS ORDERED THAT:

- (1) The department shall submit a supplemental record to the court that includes:
 - a) Transcript of the January 25, 2007 Commission hearing on Agenda Item 3.b;
 - b) Attachment F, Woodburn Record;
 - c) Woodburn Transportation System Plan (Exhibit 1-C);
 - d) Comprehensive Land Use Map, October 2005 (Exhibit 2);
 - e) Woodburn Economic Opportunities Analysis (Exhibit 4-A); and
 - f) City of Woodburn Local Wetlands Inventory and Riparian Assessment pages 19-22 and appendices A and B (Exhibit 4-D).

The department shall provide a copy thereof to the petitioners and intervenor-respondents.

- (2) The department shall submit paginated copies of the exhibits, Volumes I-V, to the petitioners and intervenor-respondent, and replace the existing copy at the Court with a paginated copy.

Pursuant to OAR 660-002-0010(6), the Motion to Correct the Record of petitioners 1000 Friends of Oregon, Friends of Marion County, Lolita Carl, Kathleen Carl, Diane Mikkelson, Carla Mikkelson, and Marion County Farm Bureau and intervenor-respondents City of Woodburn and Opus Northwest, LLC are granted; the Motion to Correct the Record of intervenor-respondent Fessler Family, LLC is granted in part and denied in part.

DATED THIS ____ DAY OF OCTOBER 2007

FOR THE COMMISSION:

Cora Parker, Acting Director
Department of Land
Conservation and Development

NOTICE: Pursuant to ORAP 4.22(5), any party aggrieved by the Commission's disposition of the motions to correct the record, may request, by motion filed within 14 days of the date of filing of the Commission's disposition, that the court review the Commission's disposition.

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