

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

In the Matter of the Application by Lowell MacGregor)
Group, LLC for a Temporary Permit to Conduct the)
2005 Summer Concert Series at the Reichold Site, also) Final Order No. 24-2005
Known as Columbia Meadows)

WHEREAS, on February 14, 2005, Lowell MacGregor, LLC submitted an application for Temporary Permit (TP 05-10) to hold up to 10 summer concerts on a portion of the Reichold Site, a 246 acre parcel of property zoned for Surface Mining, having Tax Account Numbers 5117-00-00200 and 5117-000-00300; and

WHEREAS, the Board of County Commissioners asserted original jurisdiction over the Temporary Permit on May 4, 2005, and scheduled a hearing on all matters before the Board of County Commissioners during a Special Hearing on June 1, 2005; and

WHEREAS, on June 1, 2005, the Board of County Commissioners held a Special Public Hearing on the application; and

WHEREAS, during the hearing evidence was received into the record, a list of which is attached hereto as Attachment 1, and is incorporated herein by this reference; and

WHEREAS, after hearing testimony and receiving evidence, the Board closed the hearing and voted to tentatively approve the Temporary Permit;

NOW, THEREFORE, IT IS HEREBY ORDERED as follows:

- A. The Board of County Commissioners adopts the Findings of Fact and Conclusions of Law in the Staff Report to the Board of County Commissioners, dated May 27, 2005, which is attached hereto as Attachment 2, and is incorporated herein by this reference.
- B. The Application for a Temporary Permit TP 05-10, is APPROVED subject to the following conditions of approval.
 - 1. The Applicant may hold up to 10 summer concerts on a portion of the subject property known as the Old Fairgrounds Site. This Temporary Permit shall be in effect from June 15, 2005 to September 15, 2005, only.
 - 2. The Applicant may not install any new permanent structures or make any additions to existing structures as a result of this Permit.
 - 3. The Applicant shall clear adequate fire buffers of brush and trees and shall maintain

such fire buffers for the duration of this Permit.

4. The Applicant shall obtain an ODOT temporary access permit. Such Permits are administered by ODOT Region 1 District 2A (telephone number 503-229-5002), which will require the preparation of a traffic analysis and traffic control plan.
5. The Applicant shall meet with the local fire officials and emergency management personnel to develop and implement a coordinated safety plan to fit the location and weather conditions. The following shall be considered as part of the safety plan:
 - a. Traffic flow and control along Highway 30 and the planned ingress/egress routes to/from the concert site must be managed. Any fire resources located on-site must remain available for emergency responses both on and off-site, and shall not be adversely impacted by traffic blockages;
 - b. Adequate access from Highway 30 to all points of the concert venue for both fire and emergency medical response must be ensured. This includes access to within 150 feet of all structures constructed for the concerts. Roads must be approved by the local fire authority;
 - c. Adequate access to and distance from an approved water supply for fire fighting purposes must be provided. For this site, water tenders will be considered as the primary source of fire fighting water supplies. Tenders shall be positioned on-site at the discretion of the fire authority;
 - d. Compliance with the Uniform Fire Code requirements for venue exiting, seating, and fire protection, especially those provisions for approved fire extinguishers, aisle widths as applicable, exiting gates, membrane structure (tents) and emergency vehicle access must be ensured;
 - e. Preparation of the parking areas with respect to fire safety must be planned. Parking fields should be cut, baled, and then mowed as low as practical to reduce the level and amounts of combustible material. Further removal of debris may be required prior to each event;
 - f. Fire breaks must be provided at appropriate locations around the concert venue. Width and construction of the specified breaks shall be 10 feet wide and disked to bare soil. Machinery used on-site shall have appropriate spark arresters and fire extinguishers;
 - g. Additional fire protection equipment may be required on site as determined by the local fire authority depending on the weather and associated dryness of the areas in and around the venue;

- h. The Applicant shall not permit any access to wooded areas to the west of the venue at any time during the concerts. Compliance with this requirement may require the placement of signs, fencing, security patrols, or any combination thereof;
 - i. No fireworks or similar devices may be allowed inside the venue and parking areas except those specifically designed for special effects for the concerts. Any such fireworks and/or pyrotechnics must be permitted through the State Fire Marshall's Office.
6. Applicant shall provide a Wetland and Eagle Security Plan which shall be acceptable to the County indicating how both of these resources will be protected from the impacts associated with events held on the subject property. The Eagle Security Plan shall either provide the County with concert authorization by U.S. Fish and Wildlife to hold concerts from June 15, 2005 to September 15, 2005, or documentation that the eaglets have fledged before the first concert of the season or series.
7. The Applicant shall obtain a permit from the Oregon Division of State Lands and/or the Army Corps of Engineers if required under State or Federal Law. Document shall be provided indicating that wetland issues have been addressed. The existing wetlands shall be fenced in a manner similar to that which occurred during the 2001-2004 Summer Concert Series.
8. Concerts and all related activities shall only occur on tax account numbers 5711-000-0200 and 5711-000-0300. Tax Account 5711-000-0200 shall only be used for ingress/egress and parking.
9. Applicant shall allow farming activities to continue on the property.

Dated this 8th day of June, 2005.

Approved as to form

By: Sarah Tison

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

By: Anthony Hyde

Anthony Hyde, Chair

By: Joe Corsiglia

Joe Corsiglia, Commissioner

By: Rita Bernhard

Rita Bernhard, Commissioner

ATTACHMENT 1

EXHIBIT 1-

- (1) Notice of Public Hearing (Publication);
- (2) Notice of Public Hearing (Property Owner Notice);
- (3) Affidavit of Mailing;
- (4) Affidavit of Publication;
- (5) Board Communication from Todd Dugdale dated May 10, 2005 requesting a hearing;
- (6) List of people to receive notice;
- (7) Board Communication dated May 26, 2005, with the following attachments:
 - a. Staff Report to the Board of County Commissioners dated May 27, 2005;
 - b. Application for a Temporary Permit;
 - c. Addendum to Temporary Permit Application;
 - d. Columbia Meadows Security Plan;
 - e. Columbia Meadows Traffic Plan;
 - f. Letter to Sheriff Derby requesting Noise Variance;
 - g. E-mail from Sarah Hartung;
 - h. Memorandum from Sarah Hartung to Lowell MacGregor dated July 30, 2003;
 - i. Letter to US Fish and Wildlife Service dated February 14, 2005;
 - j. Letter to Tom Thornton dated February 14, 2005;
 - k. Map of Subject Site;
 - l. Address Map;
 - m. Zoning Map.
- (8) Minutes of May 4, 2005 Board Meeting.
- (9) Letter to Board Kevin from Owens, Columbia River PUD, dated May 30, 2005.

COLUMBIA COUNTY BOARD OF COMMISSIONERS

STAFF REPORT - SURFACE MINING ZONE

5/27/05

Temporary Permit

“Use Not Allowed in the District”

FILE NUMBER: TP 05-10

APPLICANT: Lowell MacGregor Group, LLC
400 East Evergreen, Suite 305
Vancouver, WA 98660

OWNER: Morse Bros. Inc.
PO Box 7
Lebanon, OR 97355

PROPERTY LOCATION: Old County Fairgrounds site approximately 3 miles north of St. Helens and then west of Hwy 30 and about ½ mile north of Coastal St. Helens Chemical facility.

REQUEST: To allow up to 10 Summer Concerts between June 15th and September 15th, 2005

TAX ACCT. NUMBER: 5117-000-00200 & 300

ZONING: Surface Mining (SM) per Plan Amendment PA 98-3

DATE OF APPLICATION: February 14, 2005

REVIEW CRITERIA:

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CCZO

Section 1505.1(A)	2
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Section 1501.1(E)	3, 4

BACKGROUND:

The applicant requests Temporary Permit approval for a “Use Not Allowed in the District” to stage up to 10 summer concerts June 15, 2005 through September 15, 2005 on a portion of a 246 acre parcel of pasture land zoned for Surface Mining (SM). Potable water will be brought to the site and be made available for each concert. Portable sanitation facilities will be provided for each concert. The applicant is provided a Security Plan, Traffic Plan and Natural Resource Protection Plan. The property is within the St. Helens Rural Fire Protection District.

Four previous temporary permits, TP 01-24, TP 02-07, TP 03-21 and TP 04-08 were approved by the Planning Commission in the 4 previous years and concerts were held successfully at the proposed site of this application, “Columbia Meadows”, in the summers of 2001, 2002, 2003 and 2004.

FINDINGS:

The following sections of the Columbia County Zoning Ordinance are pertinent to this application:

"1505.1 Use not allowed in District: The Planning Commission may allow a temporary permit for a period not to exceed one (1) year, for a use not otherwise allowed in the zoning district. The temporary permit may be allowed only after a hearing conducted pursuant to Section 1603 and provided that the applicant provides evidence substantiating the following, unless otherwise provided for in this Ordinance:

Finding 1: The Board of Commissioners will hear and review this temporary permit application instead of the Planning Commission pursuant to Section 1612 of the Columbia County Zoning Ordinance (CCZO), a Special Hearing. The hearing will be conducted as a Quasi-judicial public hearing, per Section 1603 of CCZO. Notifications were mailed to surrounding property owners on May 11, 2005 and Notice was published in the newspaper of record on May 18, 2005, as required by Section 1608 CCZO.

A. There is no reasonable alternative to the temporary use;

Finding 2: The applicant proposes to hold 2005 summer concerts in the same location as concerts that were held in 2001, 2002, 2003 and 2004. Originally, in 2001 the County and applicant looked at the possibility of holding the 2001 concerts at the current County fairgrounds and found that existing residential neighborhoods and surrounding the property uses make it impracticable for loud outdoor concerts. Neighboring property owners and groups in opposition to use of the present County fairgrounds as a concert venue expressed displeasure at the possibility of having concerts at this location in 2001. The County then looked at this present site as an alternative. The proposed site with a proven track record of having successful concerts in 2001, 2002, 2003 and 2004 is actually a much better alternative than the current County fairgrounds site. The "Temporary Use: Not Allowed in the District" permit is a better alternative than to try and place the concert venue in a location and zone that would permit concerts and outdoor entertainment but burden the transportation system and neighborhoods surrounding the current fairgrounds. This application is to utilize the "Reichold" or "old" fairgrounds site again as a concert venue for the 2005 concert series, and the fact that successful concerts were held at the proposed location during earlier concert seasons, and Morse Bros. willingness to allow the use of their land for this activity make this proposal a reasonable alternative to the present fairgrounds/Asbury Acres location. An extensive search has not revealed a properly zoned site for an outdoor concert series in the county. Staff finds that this criteria is met.

... continuing with CCZO, Section 1505.1:

B. The permit will be necessary for a limited time or will allow an occasional use, such as housing for seasonal farm labor;

Finding 3: This application is for the time period, June 15, 2005 until September 15, 2005 for up to 10 concerts in this 3 month period. Staff finds that this criteria is met.

... continuing with CCZO, Section 1505.1:

C. The temporary use does not involve the erection of a substantial structure or require any other permanent commitment of the land;

Finding 4: As evidenced by the previous summer's concert series the applicant proposes a similar temporary setup that will include a stage, backstage, office trailers, beer garden, food vending area, seating and bleachers with support infrastructure, portable toilets, and parking areas. There is no permanent commitment of the land since this is a Temporary Permit for a summer concert series only. All stages, temporary sanitation facilities and other temporary structures will be erected but removed when the concert series is over at the end of the summer. The proposed concerts allowed by this temporary permit will not involve the erection of any permanent structures or permanent commitment of the land. Staff find that this criteria is met.

... continuing with CCZO, Section 1505.1:

D. The temporary use will not be detrimental to the area or to adjacent properties; and,

Finding 5: The promoter, Lowell MacGregor, LLC, must take necessary measures to insure that the concert use of the property will not be detrimental to the area or to adjacent properties. This site is a good location for concerts since it is temporary in nature, is located away from the immediate vicinity of residential neighborhoods, has excellent access from State Highway 30, and is flat and topographically well suited for the proposed activity. The temporary use of the property for concerts will not have any detrimental impact to the area or adjacent properties if the Promoter's Security and Traffic Plans are implemented as presented. Staff finds that this criteria is met.

... continuing with CCZO, Section 1505.1:

E. The temporary use will comply with the Comprehensive Plan."

Finding 6: The proposed concerts, as a temporary use not allowed in the district, complies with the Comprehensive Plan. Specifically goals, objectives, and policies for Recreation, Goal 5 Natural Resources, Transportation, and the Economy. Staff finds that this criteria is met.

The Recreation Goal is "To satisfy the recreational needs of the citizens of Columbia County and its visitors." The proposed temporary use of the property for concerts will satisfy a recreational need and thus the recreational goal.

Goal 5 Natural Resources, Fish and Wildlife Habitat Goal is, "To protect and maintain important habitat areas for fish and wildlife in Columbia County." Policy #5 of this goal is to, "Protect habitat areas identified as sensitive for the Northern Bald Eagle, Northern Spotted Owl, Great Blue Heron, and Band-tailed Pigeon from activities that would either destroy or result in the abandonment of the sensitive habitat area." Policy #11 of this goal is to, "Notify the Oregon Department of Fish & Wildlife (ODFW) and U.S. Fish and Wildlife (USFW) of all proposed uses within inventoried habitat areas and give consideration to comments provided prior to a final decision concerning the proposed uses or activities."

A Bald Eagle nest site has been identified within several hundred feet of the subject property. U.S. Fish & Wildlife and Oregon Department of Fish & Wildlife were notified of this request and provided an opportunity for comment. The applicant has retained Sarah Hartung of Adolfsen Associates, Inc. to provide environmental consulting services for the Columbia Meadows site. A Bald Eagle Biological Assessment and Site-Specific Management Plan was prepared by the JD White Company for Morse Bros. Inc. in previous years for their proposed gravel mining operation. The applicant will follow applicable recommendations and monitoring as

outlined in the plan and specified by ODFW and U.S. Fish & Wildlife. The applicant states, "Lowell MacGregor, LLC will work with US Department of the Interior, Fish and Wildlife Services to prevent harassment of the eagles..." Meeting the applicable provisions of this plan shall meet the intent of the Comprehensive Plan regarding wildlife affected by this proposal.

One objective of the transportation goal is "to utilize the various modes of transportation that are available in the County to provide services for the residents. The use of existing State Highway 30 will provide excellent highway access from the north or south to concerts held on the site and will thus meet the objective of utilizing available modes to provide transportation services for residents and visitors to Columbia County.

The allowance of concerts in the County will help to meet the Economy Goals and Policies of the Comprehensive Plan. Namely the goal, "to strengthen and diversify the economy of Columbia County and insure stable economic growth." Concerts will also help promote the Economic policy to "encourage a stable and diversified economy. The temporary use will comply with the comprehensive plan.

COMMENTS:

No comments have been received from adjacent or nearby property owners or notified agencies up to the date of this staff report (May 27, 2005).

CONCLUSION AND RECOMMENDATION:

Based on the above findings, staff recommends that the Board of Commissioners **APPROVE** this request for a Temporary Use Permit: "Use Not Allowed in the District" to allow up to 10 concerts and related activities sometime between June 15, 2005 and September 15, 2005 on a portion north of the old racetrack on the property known as the "Old Fairgrounds Site" or the "Reichold" site (A.K.A. Columbia Meadows) which is zoned Surface Mining (SM) totaling 246 acres, with the following conditions which have been developed over the last 4 years of concert series and in consideration of this year's proposal:

1. No permanent new structures, nor any additions to existing structures, are permitted as a result of this application.
2. This Temporary Use Permit is valid, based upon comments received from Oregon Department of Fish and Wildlife, for the period from June 15, 2005 to September 15, 2005, and will need to be reapplied for if applicant wishes to hold concerts during any other time period.
3. There shall be adequate fire buffers around all temporary structures, cleared and kept clear of brush and trees to minimize the fire danger to surrounding forest lands.
4. The applicant must obtain an ODOT temporary access permit. Permits are administered by ODOT Region 1 District 2A (503-229-5002). The requirements shall include a traffic analysis & a traffic control plan.
5. The concert promoter, Lowell MacGregor, LLC, must meet with the local fire officials to develop and implement a coordinated safety plan to fit the location and weather conditions. The

following requirements must be considered as part of that plan.

1. Traffic flow and control along Highway 30 and the planned ingress/egress routes to/from the concert site must be managed. Any fire resources located on-site must remain available for emergency responses both on and off-site, and not be adversely impacted by traffic blockages.
 2. Adequate access from Highway 30 to all points of the concert venue for both fire and emergency medical response must be ensured. This includes access to within 150 feet of all structures constructed for the concerts. Roads must be approved by the local fire authority.
 3. Adequate access to and distance from an approved water supply for fire fighting purposes must be provided. For this site, water tenders will be considered as the primary source of fire fighting water supplies. Tenders may be positioned on-site at the discretion of the fire authority.
 4. Compliance with uniform Fire Code requirements for venue existing, seating, and fire protection, especially those provisions for approved fire extinguishers, aisle widths as applicable, exiting gates, membrane structures (tents), and emergency vehicle access must be ensured.
 5. Preparation of the parking areas with respect to fire safety must be accomplished. It is recommended that the parking fields be cut, baled, and then mowed as low as practical to reduce the level and amounts of combustible material. Further removal of debris may be required prior to each event.
 6. Fire breaks must be provided at appropriate locations around the concert venue. Width and construction of the specified breaks shall be 10 feet wide and disked to bare soil. Machinery used on-site shall have appropriate spark arresters and fire extinguishers.
 7. On a case-by-case basis, additional fire protection equipment may be required on-site as determined by local fire authorities. The weather and associated dryness of the areas in and around the venue will be the prime considerations for requiring additional equipment.
 8. No entry or access to wooded areas to the west of the venue will be permitted at any time during the concerts. Compliance with this requirement may include signage, fencing, security patrols, or any combination of these.
 9. No fireworks or similar devices will be allowed inside the venue and parking areas except those specifically designed for special effects for the concerts. Those fireworks and pyrotechnics are allowed only through permits issued by the State Fire Marshall's Office."
6. The Concert Promoter shall provide a Wetland and Eagle Security Plan approved by LDS indicating how both of these resources will be protected from the impacts associated with any events held on the subject property. The eagle security plan shall either: Provide LDS with concert authorization by U.S. Fish & Wildlife to hold concerts from June 1st to September 30th, or documentation that the eaglets have fledged before the first concert of the season or series

NOTE: A portion of the subject property known as tax lots #200 and #300 has been identified as wetland on the National Wetland Inventory (NWI) map "Deer Island". This proposal may require a permit from the

Division of State Lands and/or the Army Corps of Engineers.

7. The applicant shall contact the Division of State Lands (DSL) Wetlands Program to determine if any permits are required from DSL or the Corps of Engineers regarding wetlands. Documentation shall be provided to LDS indicating that "wetland" issues have been addressed. The existing wetlands shall be fenced similar to that which occurred for the 2001, 2002, 2003 and 2004 summer concert seasons.
8. Concerts will be allowed only on this property between the date determined to be safe for eaglet fledging and September 30, 2004. U.S. Fish & Wildlife shall determine when eaglet fledging has occurred and it is safe to begin holding concerts in this location according to the "Eagle Security Plan".
9. The number of concerts allowed on the subject property under this permit is limited to 10 as requested by the applicant.
10. Concerts and related activity shall take place only on tax lots 200 and 300. Tax lot 200 shall be used only for ingress/egress and parking.
11. Farming activities will be allowed to continue on tax lots 200 and 300.

Attachments: Application Packet