STATE OF OREGON,
County of ____________________________
1 certify that the within instrument was
recd. __________ M. and recorded
in said County

O. Willock, Deputy Clerk

By: ________________, Deputy.

DN 3-30-99,
Jo Ann Renie

COVER SHEET FOR INSTRUMENT TO BE RECORDED

The attached instrument is presented for recording. A summary of its terms is as follows:

1. The name(s) of the transaction(s) embodied therein is/are:** DECLARATION AND Covenants.

2. If attached instrument conveys or transfers a title to any real estate or is a memorandum of such instrument(s), the true and actual consideration paid for each transfer (required by ORS 93.050) is:** Not Applicable.

3. Until a change is requested, tax statements shall be sent to (give name and address):**

Arthur McFadden, McFadden Grayhound Park, S.O., Box 9, Fairview, OR 97024

4. The parties involved, as described in ORS 205.025 (1)(b) and (b) and 205.140, are:**

Arthur McFadden, Owner
Donna C. Kofalsberg, Attorney

date

5. The name and address of the person in whom the instrument will be delivered (required by ORS 205.180) are:**

Donna C. Kofalsberg, Attorney
621 N.E. Harrison, #300, Portland, OR 97232-5611

6. If the attached instrument is to be recorded in the county clerk's records, the information described in ORS 205.125 (1)(c)

(If applicable) follows:** Not Applicable.

7. If the attached instrument is a lien certificate or represents a lien claim created by order or warrant, any partial satisfaction received prior to the recording of the attached instrument is as follows (if none, so state):** Not Applicable.

*ORS 205 requires this information to be set forth on the last page of any instrument presented to a county clerk for recording. This cover sheet shall be completed and attached to

*As recorded by the instrument in the same manner as required by the instrument in the record. Each instrument shall be recorded by the instrument in the record. Each instrument shall be recorded by

*As recorded by the instrument in the record. Each instrument shall be recorded by the instrument in the record. Each instrument shall be recorded by the instrument in the record. Each instrument shall be recorded by the instrument in the record. Each instrument shall be recorded by the instrument in the record. Each instrument shall be recorded by the instrument in the record. Each instrument shall be recorded by the instrument in the record. Each instrument shall be recorded by the instrument in the record. Each instrument shall be recorded by the instrument in the record. Each instrument shall be recorded by the instrument in the record. Each instrument shall be recorded by the instrument in the record. Each instrument shall be recorded by the instrument in the record. Each instrument shall be recorded by the instrument in the record. Each instrument shall be recorded by the instrument in the record. Each instrument shall be recorded by the instrument in the record. Each instrument shall be recorded by the instrument in the record. Each instrument shall be recorded by the instrument in the record. Each instrument shall be recorded by
DECLARATION AND COVENANT

THIS DECLARATION AND COVENANT is made this ___ day of ____, 1999, by ___________, hereinafter referred to as “Owner.”

WHEREAS:
1. Owner is the owner in fee of the real estate described as Parcel A, a description of which is attached hereto as Exhibit A and by this reference made a part hereof as if fully set forth;

2. Parcel A, or portions thereof, is a compensatory mitigation site, the establishment and maintenance of which was agreed to by Owner as a condition of Permit number 98-1311 issued by the U.S. Army Corps of Engineers, Portland District (Corps) pursuant to Section 404 of the Clean Water Act (33 USC 1344);

3. Owner has received a Permit from the Corps to place fill in waters of the United States, and but for Owner’s agreement to restrict the use of Parcel A to compensatory mitigation in perpetuity as evidenced by this document, the Owner’s permit application would have been rejected by the Corps.

NOW, THEREFORE, in partial consideration of the Corps’ issuance of the Permit, a copy of which Permit is attached hereto as Exhibit B and whose compensatory mitigation terms, restrictions, and conditions as they apply to Parcel A are by this reference incorporated herein as if fully set forth (Permit Obligations), the Owner hereby declares and covenants that:

4. Owner, Owner’s heirs, administrators, executors, assigns, and grantees shall take all actions necessary to mitigate the adverse environmental effects resulting from the permitted fill by complying with the Permit Obligations which apply to Parcel A.

5. Owner’s obligations to perform the terms, conditions, and covenants contained in this document and the Permit Obligations (Owner’s Total Obligations) shall bind Owner to the extent of his/her legal or equitable interest in Parcel A; that Owner’s Total Obligations shall be binding on and enforceable against Owner’s heirs, administrators, executors, assigns, and grantees until such time as the permit is modified, revoked, or suspended, or expires without having been exercised.

6. The right of enforcement of Owner’s Total Obligations shall belong to the Corps and its assigns.

7. In the event of any violation or threatened violation of any of Owner’s Total Obligations, the Corps shall have in addition to the right to collect damages, the right to enjoin such violation or threatened violation in a court of competent jurisdiction.

8. It is expressly declared that no breach or violation of Owner’s Total Obligations shall terminate this DECLARATION AND COVENANT, but this limitation will not affect, in any manner, any other rights or remedies for any breach of this DECLARATION AND COVENANT.

9. Failure to insist on any one or more cases upon the strict performance of any one or more of Owner’s Total Obligations or to exercise any remedy herein contained shall not be construed as a waiver or a relinquishment for the future of any element(s) of Owner’s Total Obligations.
10. Owner's Total Obligations will continue in full force and effect until such time as the permit is modified, revoked, or suspended, or expires without having been exercised.

11. If any clause, sentence, or other portion of Owner's Total Obligations, or if any of the terms, restrictions, and covenants of this DECLARATION AND COVENANT, becomes illegal, null, or void for any reason, or held by any court of competent jurisdiction to be so, the remaining portions will remain in full force and effect.

12. Owner's Total Obligations shall be explicitly included in any transfer, conveyance, or encumbrance of Parcel A or any part thereof. Any instrument of transfer, conveyance or encumbrance affecting all or any part of Parcel A shall set forth Owner's Total Obligations either by reference to this document or by setting forth the full texts thereof.

13. The DECLARATION AND COVENANT and any provision, term, restriction, or covenant contained herein may be terminated, amended, modified or revoked only upon written approval of the District Engineer of the Portland District of the U.S. Army Corps of Engineers. To be effective such approval must be witnessed, authenticated, and recorded pursuant to the law of the State of Oregon.

14. Nothing contained in this DECLARATION AND COVENANT will be deemed to be a gift or dedication of any portion of Parcel A to the general public or for the general public or for any public purpose whatsoever, it being the intention that this DECLARATION AND COVENANT will be strictly limited to and for the purpose expressed herein.

15. In partial consideration of the foregoing, upon receipt of a certified copy of this document, as recorded in the Office of the County Recorder for Multnomah County, Oregon, the Corps will issue the validated Permit to Owner.

Date: 3-24-99

[Signature]

Owner

Subscribed and sworn to before me this 29th day of March, 1999

[Signature]

Joyce J. Howell

Notary Public for the State of Oregon

My commission expires 7-2-99
CONSERVATION EASEMENT LEGAL DESCRIPTION

A TRACT OF LAND SITUATED IN THE NORTHWEST ONE QUARTER OF SECTION 34, AND THE SOUTHWEST ONE QUARTER OF SECTION 27 IN TOWNSHIP 1 NORTH, RANGE 3 EAST OF THE WILLAMETTE MERIDIAN IN THE CITY OF WOOD VILLAGE, MULTNOMAH COUNTY, OREGON, SAID TRACT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE MOST NORTHEASTERLY NORTHWEST CORNER OF THAT TRACT DESCRIBED IN A DEED RECORDED ON APRIL 4, 1998 AS DOCUMENT NO. 98076404 OF THE MULTNOMAH COUNTY DEED RECORDS, THENCE SOUTH 00°08'07" WEST ALONG THE WEST LINE OF SAID TRACT A DISTANCE OF 23.16 FEET TO THE POINT OF BEGINNING OF THE TRACT HEREBIN DESCRIBED; THENCE LEAVING SAID WEST LINE SOUTH 83°37'59" EAST, A DISTANCE OF 20.12 FEET; THENCE SOUTH 88°47'18" EAST, A DISTANCE OF 136.17 FEET; THENCE SOUTH 89°47'56" EAST, A DISTANCE OF 184.96 FEET; THENCE NORTH 89°58'14" EAST, A DISTANCE OF 86.10 FEET; THENCE NORTH 89°55'33" EAST, A DISTANCE OF 50.58 FEET; THENCE SOUTH 45°00'00" EAST, A DISTANCE OF 27.39 FEET; THENCE SOUTH A DISTANCE OF 340.39 FEET; THENCE NORTH 65°43'20" WEST, A DISTANCE OF 79.81 FEET; THENCE NORTH 84°36'54" WEST, A DISTANCE OF 90.74 FEET; THENCE NORTH 44°31'11" WEST, A DISTANCE OF 59.37 FEET; THENCE NORTH 81°34'13" WEST, A DISTANCE OF 31.55 FEET; THENCE NORTH 87°01'45" WEST, A DISTANCE OF 84.28 FEET; THENCE NORTH 20°38'11" WEST, A DISTANCE OF 95.64 FEET; THENCE NORTH 73°17'91" WEST, A DISTANCE OF 20.13 FEET; THENCE SOUTH 83°39'27" WEST, A DISTANCE OF 12.82 FEET; THENCE NORTH 85°06'10" WEST, A DISTANCE OF 25.88 FEET; THENCE SOUTH 69°28'30" WEST, A DISTANCE OF 9.14 FEET; THENCE SOUTH 59°27'41" WEST, A DISTANCE OF 21.19 FEET; THENCE NORTH 89°51'53" WEST, A DISTANCE OF 45.55 FEET TO A POINT ON THE WEST LINE OF SAID BOOK XXX, PAGE XXX; THENCE NORTH 00°08'47" EAST, ALONG SAID WEST LINE, A DISTANCE OF 197.42 FEET TO THE POINT OF BEGINNING OF THE TRACT HEREBIN DESCRIBED.

SAID TRACT CONTAINING 132,767 SQUARE FEET, 3.048 ACRES MORE OR LESS.
Wetland Impact Assessment and Compensatory Mitigation Plan

Scope of Work

MULTNOMAH GREYHOUND PARK: CAR PARKING AND STORMWATER FACILITIES

Prepared for:

MKC ACQUISITIONS, INC. and ARTHUR McFADDEN

Revised February 19, 1999

Prepared by:

W&H Pacific, Inc.
8405 S.W. Nimbus Avenue
Beaverton, Oregon 97008-7120
PROJECT DESCRIPTION AND PURPOSE

The proposed project is located in the City of Wood Village, east of N.E. 223rd Avenue and north of N.E. Glisan Street (see Figure 1, Vicinity Map).

The original 114-acre Multnomah Greyhound Park (MGP) property, including the greyhound park and an adjacent golf course, has been subdivided. The project area, a 31-acre parcel, including the race track, was sold to MKC Acquisition Co. and Arthur McFadden (the client). The remainder of the site is proposed for separate redevelopment by another entity for residential/commercial uses in accordance with the City of Wood Village's Town Center zoning code. This subdivision of the original property resulted in the sale of much of the stadium's parking facilities. As a result, the client proposes to develop a vacant portion of their property to replace the lost parking.

The existing greyhound racing stadium will remain in its present condition. The project consists of relocation and reconfiguration of the car parking and dog kennels, and provision of stormwater treatment and detention facilities (see Figure 2, Project Site Plan). After removal of existing storage and maintenance buildings, a practice track and paddock area, the parking along the west side of the track will be reconfigured, allowing for more landscaped spaces and a new west entrance. A portion of the existing meadow area to the north of the stadium, presently used for overflow parking, will be developed as paved parking and new dog kennels. Currently, the first phase of the project is underway, with the grading for the new parking area already completed, and the rock base in place.

A stormwater treatment swale, including landscaping, will be developed on the north side of the new parking area to treat runoff from all new impervious surfaces in the parking area. The stormwater treatment facility will consist of a grassed swale with an underlying topsoil layer and perforated pipe. During storm events, water will flow over the surface of the grassy swale. The swale will trap sediments, and absorb nutrients and metals. Treatment will meet the standards set out in the Foset Sound Stormwater Management Manual, Chapter III. See Appendix 3, Stormwater Drainage Technical Information Report for details of the stormwater treatment and detention methodology. A practice track for greyhounds will be developed north of the stormwater treatment swale.

Stormwater detention for the treated water will be developed at the northern end of the project area, in a field along the south side of Arata Road. Treated water will be discharged to the detention area along a channel known as No Name Ditch, which currently carries flows from the south. A flow control structure will be constructed on the south side of Arata, tying into the existing culvert under Arata.

Part of this project will involve reconfiguring on-site drainage facilities. Currently, a small creek flows under Glisan Street from the south, through a channel east of the existing parking area, and
then enters 36-inch culvert under the existing parking. This culvert currently exits into No Name Ditch, which flows west, then north to the northwestern corner of the project area, and under Arata Road. This culvert will be intercepted near its midpoint and diverted east in a 42-inch pipe. The pipe will then turn north, and run parallel to the eastern property boundary. This pipe will then discharge into an open ditch that will run along the eastern edge of the property. The ditch will then continue along the south side of Arata Road. This will relocate and widen an existing roadside ditch, as required by Multnomah County drainage regulations. The ditch will then discharge into a culvert passing under the roadway. The existing substandard culvert will be replaced as part of this project.

A new sanitary sewer and water line will also be provided parallel to and outside the eastern property line, within the right of way of a future street, Wood Village Boulevard.

Note that while the field along Arata Road is part of the property, only the portions needed for the stormwater detention, wetland mitigation, and the practice track are part of the project area. There are no plans for development of the remainder of the field.

The project will be relatively inexpensive to prepare for development. It is within the city’s urban growth boundary and designated for future development and urban-level services. The site is appropriately zoned (Town Center) and is therefore appropriate for the proposed development. More parking may need to be provided at some future date if attendance at the greyhound races outgrows parking capacity.

A wetland delineation performed in September 1998 found a total of 4.15 acres of potentially jurisdictional wetland on the property. A delineation report was submitted to the U.S. Army Corps of Engineers and the Oregon Division of State Lands (see Appendix 3). Following review, it was determined that a total of 4.39 acres of wetlands are present (see letters of concurrence in Appendix 3).

The purpose of this project is to implement the Comprehensive Plan as adopted by the City of Wood Village through the recreational development of this parcel. The greyhound stadium has been an important recreational attraction for many years, and generates a significant amount of employment. The client expects to boost attendance by upgrading the facilities. The site has excellent access to Interstate 54, and draws on a wide area.

II WETLAND IMPACT ASSESSMENT

A. Description of Wetlands and Other Waters Impacted by Project