



Bradwood Landing

**BRADWOOD LANDING
NARRATIVE IN SUPPORT OF
CLIFTON ROAD VARIANCE APPLICATION**

Submitted August 2007

BACKGROUND

Bradwood Landing has an option to purchase the Bradwood Marine Industrial site as well as certain adjacent lands and wishes to develop a portion of the property with a water dependent industrial use. Primary access to the site is via Clifton Road, a County owned collector road that is not constructed to the collector standards identified in Table 1 of S6.000. Bradwood Landing has proposed substantial improvements to Clifton Road and believes that S6.000 is properly interpreted to allow improvement of the road without compliance with each of the standards in Table 1 of S6.000.¹ Staff has, however, advised Bradwood Landing that it believes new development must bring access roads into full consistency with standards set forth in Table 1. Development is defined in the code as “[a]ny man-made change to improved or unimproved real estate, including, but not limited to: construction, reconstruction, conversion, relocation or enlargement of any structure; any mining, excavation, landfill or land disturbance, any use or extension of the use of the land.” LWDUO 1.030. A variance is therefore requested.

VARIANCE REQUESTED

Bradwood Landing proposes to increase the road width to 24 feet and apply asphaltic surface. Given staff’s interpretation of S6.000 and the physical limitations at the site, Bradwood Landing is requesting a variance from the following Table 1 provisions:

- Speed limit will be less than 40 mph and set at a level determined appropriate by County Engineer.

¹ S6.050(1)(I), for example, states that “all new arterials, collectors, and local streets must conform with design standards of Table 1 Road Right of Way and Improvement Standards.” It is unclear why this language would be provided if the intent were for Table 1 to apply to existing collectors as well. Similarly, Table 1A states that “in resource zones where an existing road is used to provide access to a partitioned parcel, the Board of Commissions shall establish minimum improvement standards and control the timing of the improvement.” Again, this suggests that existing roads are not automatically subject to the Table 1 standards.

- Minimum curve radius will be that shown in the drawings in Exhibit 1 and will not be required to be 500 feet except that the curve at approximate mile post 74 + 00 will not be modified from its current curvature if, during construction, the County Engineer concludes that increasing the curve radius would require a slope easement, since Bradwood Landing does not own or control the land over which the slope easement would be needed.
- Maximum percent grade will be 12.4%, consistent with the current grade.
- There will no shoulder in locations shown in Exhibit 1.

COMPLIANCE WITH LWDUO 5.132(3) VARIANCE STANDARDS

The approval criteria for variances is set forth in LWDUO 5.132(3). Bradwood

Landing's request complies with each of the standards as set forth below.

- A. *There must be proof of exceptional and extraordinary circumstances which apply to the property and which do not apply to other properties in the same zone or vicinity, and result from lot size or shape legally existing in accordance with land use laws prior to September 30, 1980, topography, geology, or other circumstances over which the applicant has no control. These circumstances or conditions must be such that strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of the land and/or structure.*

RESPONSE:

Exceptional and extraordinary circumstances apply to the property which do not apply to other properties in the same zone or vicinity and result from topography, zoning and county right-of-way limitations, circumstances over which Bradwood Landing does not have control.

The Bradwood Landing site is zoned for marine industrial use and the marine industrial zone specifically exempts old mill sites, including Bradwood, from the building size limitation otherwise applicable to the marine industrial zone, indicating County support for development of the site. LWDUO 3.634(16). Staff has interpreted the county standards such that development of the Bradwood site with access to be taken from Clifton Road requires that the road be fully consistent with Table 1. The Bradwood site is properly distinguished from the smaller marine industrial zoned parcels in the County as the size of the marine industrial parcel allows a

different type of development than is possible on the smaller MI sites.² The Bradwood site is subject to circumstances that do not apply to the area generally because it is largely bounded by resource lands and the uses allowed on it differ from those on adjacent lands. The Bradwood Landing site is surrounded by lands with an F80 or aquatic designation and takes access off a road that does not comply with Table 1 but is zoned for industrial use, a circumstance not applying to other properties in the vicinity.

The Clifton Road alignment contains significant curvature and is bounded in segments by cliffs on one side and environmentally sensitive lands on the other side. Requiring development of the road outside the right of way would be inconsistent with several S6.005 criteria and therefore deprive Bradwood Landing of the reasonable use of its land. Pursuant to S6.005(3)(G), Clatsop County should “[m]inimize, with the constraints of reasonable engineering practices and costs, the creation of roads within lands designated for Exclusive Farm Use, Forest Resource, Open Space Reserve, Rural and Rural Service Areas designated by the Clatsop County Comprehensive Plan.” Clifton Road passes through F80 land. The road work is proposed within existing right of way and no new roads are proposed. Work outside the right of way would also conflict with S6.005(H)’s requirement that the County ensure that the new road will minimize interference with forest management or harvesting practices. By minimizing the expansion of the road to that needed for safety purposes, interference with forest management or harvesting practices will be minimized. S6.005(I)’s requires that the County minimize within the constraints of reasonable engineering practices and costs the loss of productive agricultural or forest land, and be located on that portion of such land that is least suitable for timber or agricultural production, taking into consideration, but not limited to, the following: topography,

² Note, Clatsop County approved an exception authorizing filing of the mill pond to

soil capability or classification, erosion potential, and the size and resultant configuration of affected tracts. The proposed improvements minimize the incursion onto forest land by limiting work to the existing right of way and out of adjacent sensitive lands. S6.005(J) requires that the road be designed to minimize the loss of important wildlife habitat, such as sensitive deer and elk range, identified natural areas, and other significant natural features. The proposed work is limited to work within the existing right of way, limiting impact on sensitive natural features. The variance is necessary for the Clifton Road improvements to be consistent with County road criteria in S6.005(3)(G) through (J) and strict imposition of the S.6000 Table 1 standards would deprive Bradwood Landing of reasonable use of its property, as a water dependent industrial use.

B. *The granting of a variance shall neither be injurious to the neighborhood or community nor otherwise detrimental to the public welfare or to public safety.*

RESPONSE:

The granting of the variance is not injurious to the neighborhood or community nor otherwise detrimental to the public welfare or safety. The proposed variance will allow substantial improvements to an existing county road, providing improved infrastructure to the County and better public access for the community. The variance is consistent with S6.005(3)(A) in that the road would be constructed to be capable of ensuring unrestricted access to and from a property. S6.005(3)(A). With two lanes of traffic, Clifton Road will provide unrestricted access to and from Bradwood. The improvements would provide adequate, safe, and legal access with minimum public cost as required by S6.005(3)(B). The improvements would place the burden of the costs on the benefited person(s) per S6.005(3)(C) since Bradwood Landing will pay its proportionate share of the improvement costs. The road proposed would provide access for fire protection, ambulance, police, mail, school bus, public transit and garbage

create one unified development site rather than two smaller parcels.

services as required by S6.005(3)(D). Two-way traffic would be possible. The proposed improvements would provide for drainage ways and utility services as required by S6.005(3)(E). The drainage ditch will be shifted outbound a few feet as required in some cases. No new utilities or existing utilities will be affected by our road improvements. Granting the variance is not injurious to the neighborhood or community or otherwise detrimental to the public welfare or public safety. The variance will be compatible with adjoining land use as required by S6.005(3)(F). The improvements to the road will benefit the adjoining land uses by improving access without requiring acquisition of additional right of way.

- C. *The granting of the variance will not permit the establishment of any development or use which is not permitted by the Ordinance, nor confer upon the applicant any special privilege that is denied by this Ordinance to other lands, structures or buildings in the area.*

RESPONSE:

Granting the variance will not permit the establishment of a development or use not permitted by the Ordinance, nor confer upon Bradwood Landing a special privilege denied by the Ordinance to other lands, structures or buildings in the area. Public roads within the right of way are permitted uses in the F80 zone. The proposed LNG facility is a water dependent industrial use allowed in the Marine Industrial zone.

- D. *There must be proof of significant hardship if the variance is not granted. It is not sufficient proof of hardship to show that a greater profit would result if a variance were granted. Nor shall loss of value be a valid reason to grant a variance. Furthermore, the hardship cannot be self-created or self-imposed, nor can it be created by one who purchases property with or without the knowledge of restrictions present. The hardship must result from the strict application of this Ordinance, and be suffered directly by the property in question. Evidence of a variance granted under similar circumstances shall not be considered as a solely sufficient cause to grant hardship relief.*

RESPONSE:

Significant hardship results if the variance is not granted. Private property would have to be acquired to expand Clifton Road outside of the existing right of way and it would be necessary to encroach upon sensitive land. Since Staff has interpreted the code to require new development of the Bradwood site to require improvement of Clifton Road to Table 1 standards to the Bradwood site may not be redeveloped without the variance.

- E. *The granting of a variance is necessary for the reasonable use of land or building, and the variance granted by the hearing body is the minimum variance that will accomplish this purpose.*

RESPONSE:

Under the interpretation of the standards put forth by staff, the variance is necessary to allow development of the Bradwood site with a marine industrial use. The variance requested is the minimum variance that will accomplish the purpose since it achieves the 24-foot travelway width and other improvements that are feasible within the existing right of way and grade.

- F. *The hardship does not arise from a violation of the provisions of this Ordinance.*

RESPONSE:

The hardship arises from the topography of the area and environmental features in or next to the right of way, and not from a violation of the Ordinance.

For some lengths of the road, the confluence of these factors limit the size of the road shoulder. The expansion of the flat road surface to the county design includes the 24 foot travel way, the shoulder and the drainage ditch. On the western side of the road the slope is so steep in some cases and the associated ground material is not able to hold a stable slope within the remaining right of way if the road surface is expanded by cutting into the hill. On the eastern side of the road, the slope is frequently steep plus the Hunt Creek is a sensitive environmental

feature that feeds water to the Hunt Creek estuary. No construction on this side of the road should be considered that would allow any sediment to wash into the Hunt Creek.

Making several of the curves more gradual so that they meet the 500 foot radius specification is not possible within the existing right of way. The existing curves limit the design speed for the road.

- G. *The development will occur on a parcel of land that in conjunction with adjacent land in the same ownership is not otherwise reasonably capable of development and use under the provisions of this Ordinance.*

RESPONSE:

The Bradwood site to be developed is not reasonably capable of development without the variance because Clifton Road provides the only primary road access to the site and staff has advised Bradwood Landing that it interprets S6.000 to require full compliance with Table 1 or a variance as a condition of development of the site.

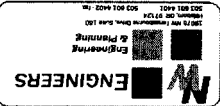
CONCLUSION

For the foregoing reasons, the requested variance should be granted.

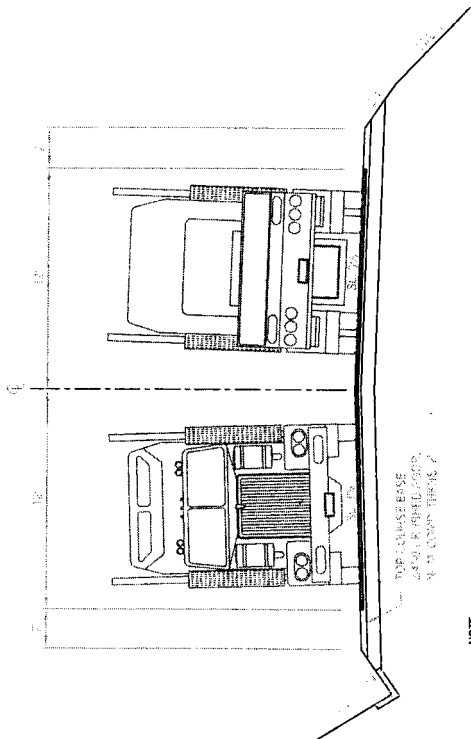
BRADWOOD ROAD WIDENING AND
BRIDGE REPLACEMENT
TBM R&M, SEC 9 W.M.
TAX LOT 100
BRADWOOD, CLATSOP COUNTY, OREGON

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TYPICAL ROAD CROSS SECTION &
DESIGN CRITERIA



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A2
MST



- NOTE:
- (1) CONSTRUCTION OUTSIDE F/W LINE SHALL REQUIRE SLOPE EASEMENT.
 - (2) SUB-BASE AND BASE COMPACTED TO 95% MAXIMUM DENSITY.
 - (3) HORIZONTAL AND VERTICAL ALIGNMENT TO MEET A.A.S.H.O. STANDARDS FOR A DESIGN SPEED OF 20 M.P.H.
 - (4) MAXIMUM GRADE 12.4%

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