

**CITY OF PACIFIC
WASHINGTON**

ORDINANCE NO. 1801

**AN ORDINANCE OF THE CITY OF PACIFIC, WASHINGTON REZONING CERTAIN REAL
PROPERTY LOCATED AT 312 WEST VALLEY HIGHWAY**

WHEREAS, the Pacific Planning Commission made application to formally rezone certain real property located at 312 West Valley Highway, Pacific, Washington, more particularly described in File No. RE-11-001; and

WHEREAS, the City Council has received the report from the Hearing Examiner recommending approval of the rezone; and

WHEREAS, the City Council adopts the recommended findings and conclusions of its Hearing Examiner finding that the rezone of the site of approximately 40,360 square feet is consistent with the City's Comprehensive Plan and zoning ordinance,

NOW, THEREFORE, THE CITY COUNCIL OF PACIFIC, WASHINGTON, DOES ORDAIN AS FOLLOWS

Section 1. A proposed rezone of certain property located at 312 West Valley Highway S, Pacific, Washington, consisting of 40,360 square feet (less delineated wetlands on the parcel) and described on the attached Exhibit A incorporated by this reference as fully as if herein set forth, as well as in Planning File No. RE-11-001 is hereby approved, rezoning said portion of property from Open Space (OS) to Light Industrial (LI).

Section 2. The Community Development Director is hereby directed to amend the City's zoning map to reflect this change.

Section 3. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 4. Effective Date. This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum, and shall take effect five (5) days after passage and publication of an approved summary thereof consisting of the title.

PASSED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 9TH DAY OF MAY, 2011.

CITY OF PACIFIC



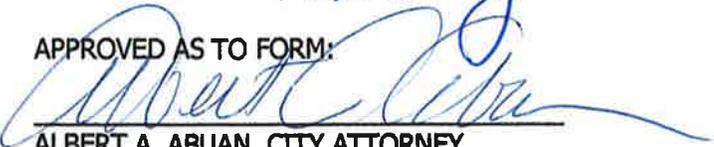
RICHARD HILDRETH, MAYOR

ATTEST/AUTHENTICATED:



JANE MONTGOMERY, CITY CLERK

APPROVED AS TO FORM:



ALBERT A. ABUAN, CITY ATTORNEY

FILED WITH THE CITY CLERK: 04.28.11
PASSED BY THE CITY COUNCIL: 05.09.11
PUBLISHED: 05.13.11
EFFECTIVE DATE: 05.18.11
ORDINANCE NO: 1801



TO: Pacific Hearing Examiner
FROM: Jay D. Bennett, Community Development/Public Works Director
DATE: March 23, 2011
SUBJECT: REZONE 11-001 - 312 West Valley Highway S – Parcel #3353404340

I. INTRODUCTION

Staff, on behalf of the Pacific Planning Commission, formally request the Pacific Hearing Examiner recommend to Pacific City Council, to amend the Zoning Map to show the level portion of 312 West Valley Highway South adjacent to the City right-of-way as Light Industrial District.

A 2004 determination that the level portion of 312 West Valley Highway South adjacent to West Valley Highway was zoned Light Industrial, had been made by the then Public Works Director. Recent staff research revealed that the City of Pacific zoning map shows the Light Industrial zone has historically extended only to the western edge of the West Valley Highway South Right-of-Way (ROW). Any property west of this ROW is in an Open Space zone, therefore 312 West Valley Highway South was, and is, zoned Open Space.

The City Planning Commission accepted application # CP-11-002 which proposed to modify the Pacific Comprehensive Plan Map and re-district the “flat, level” part of the parcel to Light Industrial (see map: proposed LI part of property indicated by light blue).

A Public Hearing was advertised and held on the proposal on February 22, 2011, after which the Pacific Planning Commission formally recommended adoption of the Comprehensive Plan Map change to the Pacific City Council.

The City Council heard the measure at their March 7, 2011 Workshop, and then formally adopted the Comprehensive Plan Map change by Ordinance No 1799 at their March 14, 2011 Meeting.



The subject will be considered at a Public Hearing, which has been officially established for April 19, 2011 beginning at 9:30 am (or as soon thereafter) in Pacific City Hall.

Process

A SEPA Environmental Checklist (attached) was submitted with the application for the Comprehensive Plan Map change that redistricted the subject portion of the property from OS to LI. Having received no comments, the Responsible Official for the City of Pacific issued a Final Determination of Non-Significance (DNS) on February 4, 2011. Since there was no difference in project proposals, the City believes that that specific SEPA process satisfied the requirements contained within PMC 16.28.040 for the Type V Permit Rezone application.

At their March 22, 2011, the Pacific Planning Commission formally directed Pacific staff to submit the application RE-11-001 to the Hearing Examiner for a consideration.

Public Notice of the Hearing for subject rezone will be advertised in the Auburn Reporter (City's official Newspaper of Record) on March 25, 2011, with the public comment period closing on April 15, 2011. Public comments (if any) will be entered into the record by the Examiner at the Public Hearing.

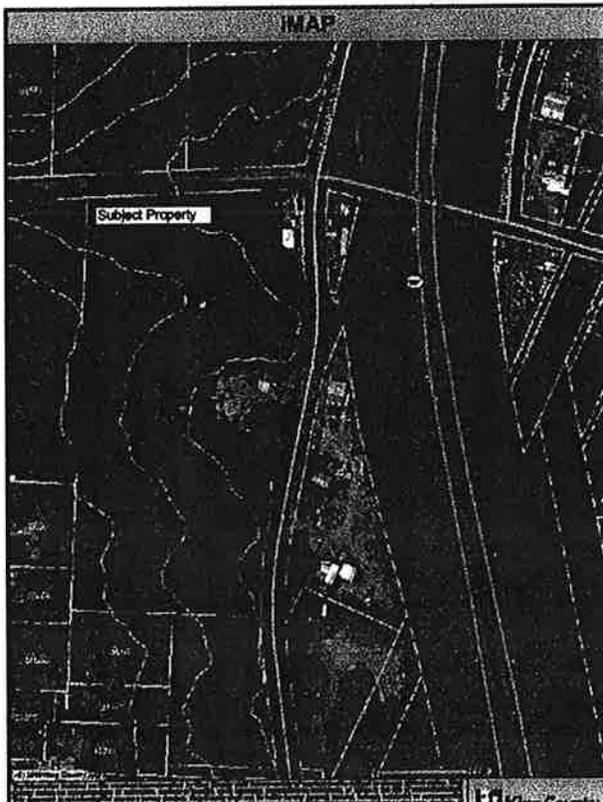
The Notice of Rezone Hearing will be mailed to all properties within 300 feet of subject property via US Postal Service and posted in accordance with established methods of publication (PMC 16.30.030).

Pacific Municipal Code 16.28.110 cites that rezones are legislative actions, not land use permits. However, individual rezones are quasi-judicial actions, and as such shall be processed as if they were Type V permits. Individual rezones may be initiated by the planning commission, the city council, or anyone with ownership interest in the land. The criterion for granting rezones shall be conformance to the comprehensive plan.

Upon Hearing Examiner review and recommendation, the matter will be forwarded to the Pacific City Council for formal consideration and action.

Vicinity Map

The proposal site is located on a portion of 312 West Valley Highway S (Parcel No. 3353404340), just south of 3rd Avenue SW in Pacific, on the west side of West Valley Highway S, west of SR 167.



Issues to be examined:

1) **Is the proposed amendment consistent with the policies of the City of Pacific Comprehensive Plan?** *The requested zoning change, to Light Industrial use is consistent with the Comprehensive Plan.*

2) **Does the proposal meet Concurrency standards contained within the City of Pacific Municipal Code 16.34?** *The subject property is partially developed and served by City of Pacific water service and a Major Arterial street. The site is not served by sanitary sewer. The City and the property owner have ratified a Developer's Agreement that would provide for extension of the City's sanitary sewer service to the site. Since the rezone does not propose to intensify the use of the property, improvements needed to meet concurrency are being evaluated through another permit, currently in process.*

3) Would the resulting maximum allowable use be compatible with adjacent uses? *The subject property is best suited for non-residential type development due to its location along West Valley Highway S. The location of the site also provides buffering that mitigates noise and aesthetic concerns to other adjacent properties.*

4) Could potential infrastructure and traffic impacts associated with the maximum use be effectively mitigated? *The rezoning does not impact the existing, adequate provision of public services, including transportation, water, sewerage, schools, and parks, nor do they impact the existing availability of public utilities and services. All will continue to be available to serve the site. The further intensification of the site beyond existing use would need to examine and potentially provide for mitigation of impacts.*

5) Does the proposed use of the property involve special environmental impacts or threats to the public welfare? *Yes, the property does contain a steep slope (to the west) and an environmentally sensitive area (to the south); however, these areas are protected by adhering to the extent of the current development. The rezoning does promote public health, public safety, and the general welfare by allowing for continued light industrial development in an area with access to urban infrastructure and services, including: public water; SR167, an arterial street (West Valley Highway S), and emergency services.*

II. SUPPORTING COMPREHENSIVE PLAN GOALS & POLICIES

Chapter 2 - Land Use Element

Policy LU-4.2.7: Light Industrial (LI) - *This land use category is intended for industrial uses, and compatible commercial uses designed to have minimal impact to the surrounding neighborhood. Light Industrial development should have a high degree of landscaping and buffering, especially adjacent to residential uses. Such uses generally include warehousing; fabrication; resource based uses with adequate environmental controls to prevent off site impacts; equipment repair; and office and retail uses associated with these uses.*

Policy LU-11.3: *Support development and redevelopment of industrial lands that make positive contributions to the environment of Pacific and individual land areas, the City of Pacific, and the region.*

GOAL LU 13: Reserve areas appropriate for industrial development

Policy LU-13.1: *The City recognizes that industrial developments place varying demands on the community's quality of life and service capabilities. In addition to demonstrating a development's consistency with Plan policies, applicable land use regulations, and environmental policies, significant industrial development shall be encouraged to provide a balance between service demands and impacts placed on the City's quality of life vs. the local benefits derived from such development.*

Policy LU 16.2: *Preserve environmental quality by taking into account the land's natural development constraints and mitigating environmental impacts in critical areas.*

Policy LU 16.3: *Promote efficient use of renewable resources, water, and energy through the use of natural drainage, indigenous landscaping, energy efficient siting and building construction, and recycling.*

Policy LU 16.4: *Development of all sites shall be consistent with applicable environmental standards and policies.*

Chapter 6 – Economic Development Element

1. ED 3. FUTURE NEEDS

In keeping with the City's commitment to the preservation of its quality of life, Pacific's future economic strategy rests on... "Using a large amount of relatively scarce flat land for commercial and industrial parks that is currently undeveloped or underdeveloped";

ED-22: Support and retain small businesses for the employment and services they provide to the community.

III. APPLICABLE PACIFIC MUNICIPAL CODES

Chapter 16.28 Type V Permit Procedures

16.28.110 Rezones and Annexations

Chapter 20.40.020 Open Space Districts – Permitted Buildings and Uses.

OS zones exclude commercial uses.

Chapter 20.44.020 – 050 Light Industrial Districts (LI)

Recycling Buy Back operations are permitted in the LI districts.

IV. EXISTING LAND USE AND ENVIRONMENTAL CONSTRAINTS

The subject site is composed of Lots 8 Block 17, Hillman's Pacific City Addition, Division 1. It is 4.29 acres currently developed with an 1140 vs. office building that was converted from a residence.

The Open Space area has slopes up to 60 percent to the west of the level portion, which is not included as a part of this permit. The remainder of the site is generally level, except for the southeastern portion, which contains a depressed area and delineated 0.47 acre wetland.

V. ADJACENT LAND USES

North:	West side: Open space/Resource Use (PMC 20.06.070(F) (2)); East side: Light Industrial – Vacant
Northwest:	Open Space with Highway Commercial zoning on West Valley Highway: Currently wooded land and AALCO Pacific pallet manufacturing
East:	Light Industrial owned by same property owner (abuts SR 167)
South:	Wooded Open Space (with delineated wetlands)
West:	Wooded (steep slope) Open Space and vacant RS-11 Single Family

VI. PUBLIC SERVICES, INFRASTRUCTURE AND TRAFFIC CIRCULATION

It is believed that the proposed rezone does not add vehicle trips per day to current traffic levels as the site has previously been operating as a Light Industrial use.

VII. SUMMARY OF FINDINGS

1. The existing use of the property has currently not created impacts to adjacent properties.
2. The proposal will have negligible impacts on the primary uses up the hill to the west.
3. The proposal is compatible with the existing Light Industrial use to the east.
4. There are currently no indications the site is impacted by naturally-occurring environmental constraints.
5. There is a substantial public interest in the continued use of the property as a buy-back recycling center.
6. A SEPA environmental checklist was submitted with the application for the Comprehensive Plan Map change that redistricted the subject portion of the property from OS to LI. The City of Pacific issued a Final Determination of Non-Significance (DNS) on February 4, 2011. The City believes that this SEPA process satisfies the requirements contained within PMC 16.28.040.
7. Pacific Municipal Code 16.28.100 provides that Type V permit decisions may not be administratively appealed. Judicial review is available pursuant to RCW 36.70C.040.

VIII. RECOMMENDATION

Staff believes the rezone is suitable for the existing developed, "level portion" of the subject property and given reasonable consideration to the character of the neighboring district, much of which is developed with light industrial uses. The rezoning request supports the location and character of the subject and surrounding properties, all which have easy access to SR 167, a major arterial, and are close to services in Pacific, thus staff recommends approval of the proposed portion of the subject property to be rezoned to Light Industrial.

Submitted this day to the Pacific Hearing Examiner,

Jay D. Bennett

3/23/11

Jay D. Bennett, Community Development Director
City of Pacific

Date

ATTACHMENTS

- A. Application for Rezone
- B. SEPA Environmental Checklist
- C. SEPA Determination of Non-Significance
- D. Relevant Pacific Municipal Codes

RECEIVED
CITY OF PACIFIC

APR 27 2011



CITY OF PACIFIC
100 – 3rd Avenue Southeast
Pacific, WA 98047

COMMUNITY DEVELOPMENT
PUBLIC WORKS DEPARTMENT

April 25, 2011

City of Pacific
100-3rd Avenue S.E.
Pacific, WA 98047

RE: REZONE 11-001
312 West Valley Highway South
Parcel # 3353404340

Dear Applicant:

Transmitted herewith is the report and recommendation of the City of Pacific Hearing Examiner relating to the above-entitled matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "SKC", written over a horizontal line.

STEPHEN K. CAUSSEAU, JR.
Hearing Examiner

SKC/jjp
cc: Parties of Record
CITY OF PACIFIC

OFFICE OF THE HEARING EXAMINER

CITY OF PACIFIC

REPORT AND RECOMMENDATION

CASE NO.: REZONE 11-001
312 West Valley Highway South
Parcel # 3353404340

APPLICANT: City of Pacific
100-3rd Avenue S.E.
Pacific, WA 98047

SUMMARY OF REQUEST:

Rezone of a portion of a parcel located at 312 West Valley Highway South from OS to LI.

SUMMARY OF RECOMMENDATION:

Approval

PUBLIC HEARING:

After reviewing City of Pacific Community Development Department Staff Report and examining available information on file with the application, the Examiner conducted a public hearing on the request as follows:

The hearing was opened on April 19, 2011, at 9:34 a.m.

Parties wishing to testify were sworn in by the Examiner.

The following exhibits were submitted and made a part of the record as follows:

EXHIBIT "1" - City of Pacific Community Development Department Staff Report and Attachments

JAY BENNETT, Community Development/Public Works Director, appeared, presented the City Staff Report, and testified that the City supports the rezone. The site is now within the Open Space zone and the applicant requests a zone reclassification to rezone the flat, level portion of the site to LI or Light Industrial. On February 4, 2011, the City Council changed the Comprehensive Plan designation to LI and also applied for the present rezone. The City provided proper notice. The rezone issues are discussed on pages 2

and 3 of the Staff Report. The parcel contains a steep, upward slope on the west, and the Pacific Municipal Code, specifically the critical areas ordinance, prevents impacts to the slope. The SEPA official issued a DNS and received no appeals. The applicant has provided a survey of the flat area proposed for the rezone.

No one spoke further in this matter and so the Examiner took the request under advisement and the hearing was concluded at 9:43 a.m.

NOTE: A complete record of this hearing is available in the City of Pacific Community Development Department.

FINDINGS, CONCLUSIONS, AND RECOMMENDATION:

FINDINGS:

1. The Hearing Examiner has admitted documentary evidence into the record, viewed the property, heard testimony, and taken this matter under advisement.
2. A SEPA Environmental Checklist was submitted with the application for the Comprehensive Plan Map change that redistricted the subject portion of the property from OS to LI. Having received no comments, the Responsible Official for the City of Pacific issued a Final Determination of Non-Significance (DNS) on February 4, 2011. Since there was no difference in project proposals the SEPA process satisfied the requirements contained within PMC 16.28.040 for the Type V Permit Rezone application.
3. Public Notice of the hearing for subject rezone was advertised in the Auburn Reporter (City's official Newspaper of Record) on March 25, 2011, and the public comment period closed on April 15, 2011. The Notice of Rezone Hearing was mailed to all properties within 300 feet of subject property via US Postal Service, and the site was posted in accordance with required methods of publication (PMC 16.30.030).
4. Pursuant to Section 16.28.110 of the Pacific Municipal Code (PMC), the City of Pacific Planning Commission submitted an application to rezone the flat, lowland portion of a generally rectangular parcel from Open Space (OS) to Light Industrial (LI). The parcel abuts the west side of West Valley Highway, south of its intersection with Third Avenue S.W. within the City of Pacific.
5. The application proposes to rezone a triangular portion of the site adjacent to West Valley Highway that has flat topography and is similar in elevation to the highway. The balance of the parcel consists of steep slopes and will remain in the OS zone classification. The property owner has provided a survey showing the exact location of the rezoned area.

6. Pursuant to Ordinance No. 1799, the Pacific City Council amended the Pacific Comprehensive Plan by placing the said triangular flat area of the parcel into the LI designation. The City now requests a zone reclassification to bring the zoning of the site into conformance with the comprehensive plan.
7. Improvements on the site include an 1,140 square foot office building that the property owner converted from a residence. The property owner utilizes the site as a buy-back recycling center, and with the change of zone, could intensify the use to recycling processing pursuant to the conditional use permit process.
8. The abutting parcel to the north is also split zoned with Highway Commercial located at the intersection of Third Avenue and West Valley Highway and the balance of the parcel within Open Space. The parcel abutting the south property line is located within the Public Lands designation of the comprehensive plan. The parcel located to the east and southeast of the site on the east side of West Valley Highway is improved with a light industrial use and zoned LI. The steep slope provides a significant buffer from the present LI use on the site to residential uses up slope to the west. The site is also in close proximity to SR-167, the noise from which would mask any noise occurring on the site.
9. Prior to obtaining a zone reclassification the applicant must show that the request is consistent with the criteria set forth in PMC 16.28.110, which reads in part:

...However, individual rezones are quasi-judicial actions, and as such shall be processed as if they were Type V permits. Individual rezones may be initiated by the planning commission, the city council, or anyone with ownership interest in the land. The criterion for granting rezones shall be conformance to the comprehensive plan.

In the present case the City of Pacific submitted the rezone application.

10. In determining conformance with the Comprehensive Plan, the applicant must show that the request satisfies the following criteria:
 - A. The proposed amendment is consistent with the policies of the City of Pacific Comprehensive Plan, as the Comprehensive Plan designates the site as LI.
 - B. The present use of the site meets the concurrency standards set forth in PMC 16.34. The triangular portion of the site proposed for the zone reclassification is partially developed and presently served with water by the City of Pacific. While the City presently does not provide sanitary sewer service, the City and the property owner have ratified a developer's agreement that would provide for extension of sewer service to the site.

- C. The maximum allowable use in the LI zone classification will not be incompatible with adjacent uses. Residential uses to the west are provided significant protection by the steep slope in the western and central portions of the site. Furthermore, SR-167 will mask adverse noise impacts of any LI use.
- D. The zone reclassification will not impact the provision of adequate public services to include transportation, water, sewage, schools, and parks. The rezone does not impact the provision of future public utilities and services as all will remain available to serve the site.
- E. The proposed use of the property does not involve special environmental impacts or threats to the public welfare. While the property contains a steep slope to the west and an environmentally sensitive area to the south, the present development protects both of such areas, and the applicant has provided a survey to establish the exact area of the rezone. The rezone will serve the public health, safety, and general welfare by allowing a Light Industrial use of the site consistent with other such uses in the area. The site has direct access onto West Valley Highway, which in turn provides access to SR-167.

CONCLUSIONS:

1. The Hearing Examiner has jurisdiction to consider and decide the issues presented by this request.
2. The applicant has shown that the request for a zone reclassification satisfies all criteria set forth in PMC 16.28.110 and therefore should be approved.

RECOMMENDATION:

It is hereby recommended to the Pacific City Council that a zone reclassification of the flat, level area of parcel number 3353404340 located at 312 West Valley Highway South adjacent to West Valley Highway be approved.

ORDERED this 25th day of April, 2011.



STEPHEN K. CAUSSEUX, JR.
Hearing Examiner

TRANSMITTED this 25th day of April, 2011, to the following:

APPLICANT: City of Pacific
100-3rd Avenue S.E.
Pacific, WA 98047

**CASE NO: REZONE 11-001
312 West Valley Highway South
Parcel # 3353404340**

NOTICE

1. **RECONSIDERATION:** Any aggrieved party or person affected by the recommendation of the Examiner may file with the Community Development department a written request for reconsideration based on any one of the following grounds materially affecting the substantial rights of said party or person:
 - A. Errors of procedure or misinterpretation of fact, material to the party seeking the request for reconsideration.
 - B. Irregularity in the proceedings before the Examiner by which such party was prevented from having a fair hearing.
 - C. Clerical mistakes in the official file or record transmitted to the Examiner, including errors arising from inadvertence, oversight, or omission, which may have materially affected the Examiner's decision on the matter. The request must be filed no later than 4:30 p.m. on May 13, 2011, (14 working days) with the Community Development Department along with the required reconsideration fee at 100 – 3rd Avenue SE, Pacific, Washington 98047. This request shall set forth the bases for reconsideration as limited by the above. The Examiner shall review said request in light of the record and take such further action as he/she deems proper; including, but not limited to, denying the request, granting the request, with or without oral argument, and may render a revised decision.
2. Appeal of City Council's final decision. The final decision of the City of Pacific City Council may be appealed to the courts.

RECEIVED
CITY OF PACIFIC
MAY 31 2011

CITY CLERK/PERSONNEL
MANAGER

**SUMMARY OF
ORDINANCES
NO. 1801**

City of Pacific, Washington
On the 9th, of May, 2011,
the City Council of the City of
Pacific, Washington, passed
Ordinance No. 1801. A summary
of the content of said ordinances,
consisting of their titles, provides
as follows:

**ORDINANCE NO. 1801
AN ORDINANCE OF THE
CITY OF PACIFIC,
WASHINGTON REZONING
CERTAIN REAL PROPERTY
LOCATED AT 312 WEST
VALLEY HIGHWAY**

The full text of these ordinances
will be mailed upon request, in
accordance with the City's fee
schedule.

Dated the 9th, of May 2011
Jane Montgomery, City Clerk
Published in Auburn Reporter
on May 13, 2011. #489788.



**STATE OF WASHINGTON, COUNTY OF KING }
AFFIDAVIT OF PUBLICATION**

PUBLIC NOTICE

Linda M Mills, being first duly sworn on oath that she is the Legal
Advertising Representative of the

Auburn Reporter

a weekly newspaper, which newspaper is a legal newspaper of
general circulation and is now and has been for more than six months
prior to the date of publication hereinafter referred to, published in
the English language continuously as a weekly newspaper in King
County, Washington. The Auburn Reporter has been approved as
a Legal Newspaper by order of the Superior Court of the State of
Washington for King County.

The notice in the exact form annexed was published in regular issues
of the Auburn Reporter (and not in supplement form) which was
regularly distributed to its subscribers during the below stated period.
The annexed notice, a:

Public Notice

was published on May 13, 2011.

The full amount of the fee charged for said foregoing publication is
the sum of \$66.39.

Linda M Mills

Linda M. Mills
Legal Advertising Representative, Auburn Reporter
Subscribed and sworn to me this 13th day of May, 2011.

Kathy Dalseg

Kathy Dalseg, Notary Public for the State of Washington, Residing
in Covington, Washington
P. O. Number: