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October 8, 2010

VIA EMAIL ONLY

John H. VanLandingham, Chair
Land Conservation and Development Commission
635 Capitol Street NE, Suite 200
Salem, OR 97301

Re: Exceptions to the September 28, 2010 Staff Report on the Objections to Portland Metro Area Urban and Rural Reserves Designations

Dear Chair VanLandingham and Members of the Commission:

This office represents Chris Maletis, Tom Maletis, Exit 282A Development Company, LLC, and LFGC, LLC (together, "Maletis"), the owners of property generally located south of the Willamette River, east of Interstate 5, and west of Airport Road in Clackamas County ("Property"). The purpose of this letter is to submit written exceptions to the September 28, 2010 staff report ("Staff Report") prepared by the Department of Land Conservation and Development ("DLCD") on the objections to the Portland Metro area urban and rural reserve designations adopted by the Metro Council ("Metro") and the Counties of Clackamas, Multnomah, and Washington (together, the "Counties"). Please place this letter in the official record before the Land Conservation and Development Commission ("LCDC") in this matter.

A. Executive Summary

Maletis files the following six exceptions to the Staff Report:

- DLCD erred in deferring to Metro and the Counties' designation of the Property as a "rural reserve" when the decision to adopt such designation misconstrued applicable law and was not supported by substantial evidence.
- DLCD erred in recommending denial of Maletis' objection that substantial evidence supports designating the Property as an "urban reserve."

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- DLCD erred in determining that Metro complied with state law when it relied upon a new unacknowledged report extraneous to its acknowledged functional plan for the purpose of identifying population and employment growth forecasts to determine land needs for reserve designations.
- DLCD erred in finding that there is an adequate factual base to support the conclusion that all lands within three (3) miles of the Urban Growth Boundary ("UGB") are necessarily "subject to urbanization" for purposes of OAR 660-027-0060(2)(a).
- DLCD erred in finding that there is substantial evidence in the whole record to assure that the Decision, as it will be implemented by the Counties, is in compliance with Goal 9.
- DLCD erred in finding that Metro and the Counties were not required to apply the Oregon Transportation Planning Rule ("TPR") when the Decision included amendments to each local government's comprehensive plan, and no provision of law exempted the reserve process from the TPR analysis.

As explained in greater detail below, Maletis requests that LCDC grant these exceptions and remand the reserves designations to Metro and the Counties with direction that the four governments remove the "rural reserve" designation from the Property, redesignate the Property as "urban reserve," and otherwise address the legal deficiencies identified herein.

B. Procedural History

The following actions and corresponding dates provide the relevant history of this matter:

6/28/2007	SB 1011 authorizing designation of urban and rural reserves becomes effective
9/8/2009	Maletis submits letter to Clackamas County Board of Commissioners
4/21/2010	Maletis submits letter to Clackamas County Board of Commissioners
5/20/2010	Maletis submits letter and exhibits to Metro Council
6/23/2010	Metro and the Counties submit reserves decision ("Decision") to DLCD
7/14/2010	Maletis timely submits letter with six objections to Decision ("Objection Letter")
9/3/2010	DLCD refers the matter to the LCDC
9/28/2010	DLCD issues Staff Report recommending denial of all six (6) Maletis objections

C. Standard of Review

1. LCDC Review of Decision

Pursuant to OAR 660-027-0080, LCDC must review the Decision for: (1) compliance with the Goals; (2) compliance with the applicable administrative rules; and (3) consideration of the factors for designation of land as urban or rural reserves set forth in ORS 195.137 *et seq.* and

OAR Chapter 660, Division 27. For purposes of this review, "compliance with the Goals" means that the submittal must conform with the purposes of the Goals and that not satisfying individual Goal requirements must only be technical in nature. In order to satisfy Goal 2's requirement for an adequate factual base, each finding of fact of the submittal must be supported by substantial evidence. "[S]ubstantial evidence exists to support a finding of fact when the record, viewed as a whole, would permit a reasonable person to make that finding." OAR 660-027-0080(4)(a). LCDC must remand the Decision to Metro and the Counties if it finds that these standards are not satisfied.

2. Judicial Review of LCDC Decision

LCDC's decision in this matter is subject to appeal to the Court of Appeals of Oregon. ORS 197.651(1). The Court of Appeals shall reverse or remand LCDC's decision in the event the Court finds that the decision is:

- (1) Unlawful in substance or procedure, provided the procedural errors prejudiced the substantial rights of the petitioner;
- (2) Unconstitutional; and/or
- (3) Not supported by substantial evidence in the whole record as to facts found by LCDC.

ORS 197.651(10). In a recent case, the Court of Appeals of Oregon reversed and remanded a decision of the LCDC affirming the City of Woodburn's adoption of an amendment to its urban growth boundary because LCDC's decision failed to provide an adequate basis for judicial review. *1000 Friends of Oregon v. LCDC*, __ Or App __ (slip opinion, September 8, 2010). In reaching this conclusion, the Court applied the rule of substantial reason set forth in *Drew v. PSRB*, 322 Or 491, 500, 909 P2d 1211 (1996), which provides that "[a]gencies are also required to demonstrate in their opinions the *reasoning* that leads the agency from the *facts* that it has found to the *conclusions* that it draws from those facts." (Emphasis in original). The Court determined that LCDC's decision was conclusory and did not adequately explain reasons why the City of Woodburn's decision was consistent with the applicable approval criteria. *1000 Friends*, __ Or App at __. Thus, LCDC may not simply blindly endorse the Decision. Rather, LCDC must issue its own independent written findings that fully identify the facts at issue, LCDC's legal conclusions, and the reasoning that these facts lead to and, indeed, constitute substantial evidence in the whole record in support of, these legal conclusions. Failure to comply with this requirement when rendering a decision in this matter will subject LCDC to another reversal and remand on appeal.

D. Description of the Maletis Property

The Property is located in the French Prairie area south and east of the City of Wilsonville in Clackamas County. It is generally wedged between SW Miley Road on the north, NE Airport Road on the east, Interstate 5 on the west, and NE Arndt Road on the south. It is served by short and main line railways, and it is within the immediate area of the Aurora State Airport. The Property is generally unimproved, although it does include the Langdon Farms Golf Club. The Property is primarily flat, although it does not lie within any floodplains. Moreover, the Property does not include any important natural landscape features, such as plant or wildlife habitat or other features that define and distinguish the region. As a result, the Property is generally unconstrained and buildable.

E. Exceptions

Exception #1: DLCD erred in deferring to Metro and the Counties' designation of the Property as a "rural reserve" when the decision to adopt such designation misconstrued applicable law and was not supported by substantial evidence.

Maletis takes exception to DLCD's decision to defer to Metro and the Counties' designation of the Property as a "rural reserve." LCDC should grant this exception because the "rural reserve" designation is not supported by substantial evidence in the whole record.

a. DLCD has defined its review authority too narrowly.

As a preliminary matter and contrary to state law, DLCD has erred because it so narrowly defines its role in reviewing reserves designations to effectively allow mere deferral to all reserves designations made by Metro and the Counties. Rather, pursuant to OAR Chapter 660, Division 27, DLCD must discern whether the reserves designations are supported by substantial evidence. Under ORS 183.482(8)(c), substantial evidence exists to support a finding of fact when the record, viewed as a whole, would permit a reasonable person to make that finding.

Specifically, DLCD improperly construes its review authority on appeal in a very limited manner:

"[T]he Department does not believe that the question is whether an area would be better as a rural reserve than as an urban reserve, or even whether Metro was right in its decisions. The questions are narrow: *whether Metro considered what it was supposed to consider, whether Metro's findings explain its reasoning, and whether there is some evidence in the record to support Metro's decision.*"

Staff Report 18 (emphasis in original). DLCD further states that in its review, it accepted broad, area-wide descriptions rather than more specific studies of individual properties because "the Department does not believe that a parcel-by-parcel analysis is required by either the statutes or rules, particularly in light of the fact that the land in question normally will not be urbanized for decades." Staff Report 19. Based upon these narrow articulations of its review authority, DLCD effectively sidestepped any close examination of the myriad objections filed to the Decision.

DLCD's statements are, at once, disappointing and inconsistent with state law for at least two reasons. First, regardless of "whether there is *some* evidence in the record to support Metro's decision," DLCD has apparently wholly failed to consider whether substantial evidence exists in the record that not simply conflicts with, but actually fully rebuts and undermines, the evidence in support of Metro's decision. Stated another way, "some evidence" does not constitute substantial evidence in the whole record, and such limited analysis does not comply with the LCDC's legal obligations on review.

Second, and perhaps more importantly, regardless of whether any statute or rule requires a parcel-by-parcel analysis, the statutes and rules do require that the Decision be supported by substantial evidence in the whole record. Thus, this requirement extends to all properties under review, regardless of their size. It is simply irresponsible and contrary to the evidence to conclude that because many properties in an area have certain characteristics that support a particular reserves designation that this means that neighboring properties have the same characteristics and warrant the same designation. Thus, LCDC should find that DLCD has erred in defining its review authority.

b. The enforcement of OAR 660-027-0060(4) ("safe harbor" rule) by Metro and the Counties violates ORS 195.141(3) and (4).

LCDC should reverse and remand the Decision because the application of the "safe harbor" rule of OAR 660-027-0060(4) violates Oregon law. ORS 195.141(3) requires that Metro and each County "*shall* base [a rural reserve] designation on consideration of factors including, but not limited to..." (emphasis added). The statute continues by enumerating review factors. The statute does not provide any exceptions when Metro and the Counties are not required to apply these review factors. Notwithstanding this fact, when adopting administrative rules to implement ORS 195.141(3), LCDC adopted OAR 660-027-0060(4), which permits a county to ignore the enumerated factors of OAR 660-027-0060(2) and simply focus on whether the land in question is designated a Foundation or Important Agricultural Land by the ODA. This explicitly violates ORS 195.141 and LCDC's rule-making authority under the statute. LCDC clearly exceeded its statutory authority in enacting this provision. To the extent that Metro and any of the Counties relied on OAR 660-027-0060(4) as the basis to designate any rural reserves (and it appears the Clackamas County in particular has engaged in this practice), such action misconstrues the applicable statute.

DLCD contends that the rule simply identifies a circumstance where the rural reserve factors have already been considered through an analysis prepared by the ODA. Staff Report 81. DLCD's response misses the point. ORS 195.141(3) requires that Metro and the Counties, not the ODA or any other third party, consider the factors for designating rural reserves. Furthermore, none of these statutory factors concern a property's designation as Foundation or Important Agricultural Land or a property's location within three (3) miles from the UGB. Finally, ODA's prior analysis was prepared before adoption of Senate Bill 1011 and the establishment of this reserves designation process. Therefore, it would have been impossible for it to take into account all of the reserves factors. Finally, there is no evidence that the ODA completed its analysis in a transparent public process that provided notice and an opportunity for comment by affected landowners. In short, there was no due process to ODA's analysis.

In sum, LCDC had no reasonable basis for determining that the "safe harbor" rule was an adequate surrogate to application of the factors actually delineated in the statute. LCDC should remand the Decision to correct this error with direction that Metro and the Counties reconsider the reserves designations without applying the "safe harbor" rule at all.

c. DLCD erred in limiting its review of the decision to designate the Property as a rural reserve based upon the arbitrary boundary drawn at the Willamette River.

DLCD also erred by improperly deferring to the Decision by Metro and the Counties to designate the Property as a "rural reserve" on the arbitrary grounds that the Property is located south of the Willamette River. DLCD wholly failed to address Maletis' objection that Metro and the Counties arbitrarily designated the Property as a "rural reserve" due to its location south of the Willamette River. Drawing the boundary at this location greatly oversimplifies the analysis and improperly elevates form over substance in the reserve designation process. Whether a boundary presents well on a map does not provide a basis for a conclusion of substantial compliance with applicable criteria. Further, there are many other instances where Metro and the Counties chose to ignore natural boundaries when designating urban reserves, including on the Peterkort Property in Washington County, which is located on the "rural" side of Rock Creek. Accordingly, the Property's location relative to a natural boundary alone should not affect its reserves designation.

For these reasons, LCDC should find that DLCD has clearly erred in defining and applying its standard of review, both in general and as applied to the Property. LCDC should grant this exception.

Exception #2: DLCD erred in recommending denial of Maletis' objection that substantial evidence supports designating the Property as an "urban reserve."

Maletis takes further exception to DLCD's recommendation that LCDC deny Maletis' objection that substantial evidence supports designating the Property as an "urban reserve." For the reasons stated below, LCDC should grant this exception.

First, as explained above in response to Exception #1, which explanation is incorporated herein by reference, DLCD has improperly defined and applied its standard of reviewing reserves designations identified by Metro and the Counties. Second, and on a related point, there is no indication that DLCD even considered the substantial evidence submitted by Maletis that demonstrates how the Property satisfies each of the factors for designating urban reserves under OAR 660-027-0050. This evidence was set forth in and attached to Maletis' Objection Letter, which, again, is incorporated herein by reference.

In summary, this evidence establishes that the Property is well-suited for designation as an urban reserve. It is proximate to the City of Wilsonville and the existing UGB, and it is ideally located to make efficient use of existing and planned public and private infrastructure investments. Moreover, it is well-equipped with transportation facilities of various modes, including main and short line railways (Union Pacific, Portland and Western); an interstate freeway with operating capacity available to accommodate increases in traffic (Interstate 5); state highways (OR 51 and OR 99); major arterials bordering the Property (NE Arndt Road and NE Airport Road); and immediate access to the fifth-busiest airport in the state (Aurora Airport). Thus, the Property is a veritable multi-modal transportation hub and thus appropriate for industrial development.

Furthermore, the Property is large, generally flat, has no natural resource constraints such as floodplains, steep slopes, or sensitive environmental areas. Nevertheless, the Property is large enough that it can preserve natural elements in open space tracts or buffers along Property lines. In addition, according to expert testimony in the record submitted by Group Mackenzie, the City of Wilsonville has current and planned expansion capacity sufficient to provide public services to significant industrial development similar in size to the developable area of the Property and surrounding parcels. Finally, the Property is surrounded on all four (4) sides by major existing streets. These existing facilities will help buffer surrounding farm and forest practices and important natural landscape features from the adverse effects of any urban land uses on the Property.

LCDC should grant this exception.

Exception #3: DLCD erred in determining that Metro complied with state law when it relied upon a new unacknowledged report extraneous to its acknowledged functional plan for the purpose of identifying population and employment growth forecasts to determine land needs for reserve designations.

Maletis takes further exception to DLCD's finding that Metro and the Counties properly based projections for growth in population, employment, and other measures on a new unacknowledged report. LCDC should grant the exception for two reasons. First, the facts stated by DLCD in the Staff Report are contradicted by substantial evidence in the record. DLCD contends that the projections were "adopted" by the Metro Council in Resolution No. 09-4094 (the "Resolution") and for the express purpose of determining the amount of land needed for urban reserves. Further, DLCD contends that the document that sets out the projections is not "draft" in nature. None of these facts are supported by the record. In fact, both the title and body of the Resolution state that the Metro Council is "accepting" (not adopting) the population and employment forecasts. Second, the Resolution states that the purpose of the Metro Council's action is to serve "as a basis for analysis of need for capacity in the UGB to accommodate growth to the year 2030 and for actions the Council will take to add capacity by ordinance in 2010, pursuant to ORS 197.296(6) and statewide planning Goal 14." All of these referenced actions relate to expansion of the UGB, not to designation of urban and rural reserves. The two processes are independent and will be memorialized in separate decisions. Finally, the document setting forth the growth forecasts is marked "draft" in the record and is referred to in the Resolution as the "*Draft* Urban Growth Report 2009-2030" (emphasis added). Based upon these facts, DLCD's characterization of Metro's action is without factual or legal merit.

Second, even assuming that DLCD's cited facts are true, the Decision still fails to comport with Goal 2 and binding precedent of the Court of Appeals of Oregon, because neither the Resolution nor any other action of the Metro Council has incorporated the growth projections into the acknowledged UGMFP. Goal 2 requires that land use actions be consistent with comprehensive and regional plans; moreover, the Goal requires that these plans "be the basis for all decisions and actions related to use of land." The Court of Appeals had held that Metro violated Goal 2 when it based its estimate for needed land for urban reserves on an informal study that was not a part of the acknowledged UGMFP. *D.S. Parklane Development, Inc. v. Metro*, 165 Or App 1, 994 P2d 1205 (2000). In *Parklane*, the Court affirmed LUBA's remand of Metro's decision to designate urban reserves on a prior occasion, stating that "computation of need [for urban reserves] must be based upon the functional plan and/or Metro's other applicable planning documents." *Id.* at _____. Later, the Court of Appeals of Oregon held that the City of Dundee could not rely on a study contemplated by, but not incorporated within, a comprehensive plan when rendering a land use decision. *1000 Friends of Oregon v. City of Dundee*, 203 Or App 207, 124 P3d 1249 (2005). For the same reasons expressed in *Parklane*, the Court reasoned that the City's action violated Goal 2. The Court explained its decision as follows:

"[This] is not a matter of mere abstract concern. Rather, it goes to the heart of the practical application of the land use laws: The comprehensive plan is the fundamental document that governs land use planning. Citizens must be able to rely on the fact that the acknowledged comprehensive plan and information in that plan

will serve as the basis for land use decisions, rather than running the risk of being 'sandbagged' by government's reliance on new data."

Id. at _____. *Parklane* and *City of Dundee* are directly applicable to the instant case, yet Metro has not complied with this precedent when estimating the region's 50-year land needs. As explained above, the Metro Council has not formally "adopted" the "Draft Urban Growth Report 2009-2030" or incorporated it within the UGMFP. Likewise, Metro has also not incorporated the "COO Recommendation, Urban Rural Reserves," which modified assumptions and trends underlying the growth projections, into the UGMFP. Thus, in clear contravention of *Parklane* and *City of Dundee*, Metro has relied upon unacknowledged documents extraneous to the UGMFP when estimating the region's 50-year land needs for purposes of designating urban reserves. Therefore, Metro and the Counties have erred, and DLCD has erred in contending that Maletis' objection on this point should be denied. LCDC should grant this exception.

Exception #4: DLCD erred in finding that there is an adequate factual base to support the conclusion that all lands within three (3) miles of the UGB are necessarily "subject to urbanization" for purposes of OAR 660-027-0060(2)(a).

Maletis takes further exception to DLCD's finding that there is an adequate factual base to support Clackamas County's conclusion that all lands within three (3) miles of the UGB are "subject to urbanization." LCDC should grant the exception for three reasons. First, DLCD attempts to downplay the significance of this factor by noting that it is not a mandatory approval criterion but simply one factor considered among many. This statement misses the point. Whether the factor is mandatory or optional, Clackamas County's interpretation of it is wholly arbitrary in nature. There is no evidence in the record to support the selected distances or to explain why properties within three (3) miles of a UGB, as opposed to 2.75 miles or 13 miles, were more or less subject to the varied factors that influence urbanization, such as location, surrounding development patterns, demographic trends, proximity to employment centers or transportation facilities, parcel sizes, or quality of schools. In the absence of any evidence at all to support the characterization of this factor, there is no adequate factual base for purposes of Goal 2 to support Clackamas County's application of this factor in the rural reserves analysis.

Second, DLCD contends that there is substantial evidence to support Clackamas County's characterization of this factor. Specifically, DLCD contends that Clackamas County relied upon the "safe harbor" rule of OAR 660-027-0040(4) in identifying a radius of lands subject to urbanization. For the reasons explained below in response to Exception #6, which reasons are incorporated herein by reference, the "safe harbor" rule itself is invalid. Therefore, it cannot serve as an adequate factual base to justify Clackamas County's decision.

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Finally, DLCD does not cite to any other evidence (substantial or otherwise) to support Clackamas County's action. Thus, DLCD's recommendation is likewise not supported by substantial evidence. LCDC should grant this exception.

Exception #5: DLCD erred in finding that there is substantial evidence in the whole record to assure that the Decision, as it will be implemented by the Counties, is in compliance with Goal 9.

Maletis takes further exception to DLCD's recommendation to deny Maletis' objection that there are adequate assurances that the Decision will comply with Goal 9. LCDC should grant the exception because there is no substantial evidence in the whole record to support DLCD's contention.

The Decision includes short findings offered by each of the Counties that the designation of reserves complies with Goal 9. *See generally* Metro findings, pp. 32, 44, 100-101; however, the Decision and the record are utterly devoid of facts to support these conclusions. Further, it does not appear that Metro has made any effort to acknowledge and coordinate the Counties' findings and substantive mapping decisions as to Goal 9 into its own analysis to ensure that regional Goal objectives and obligations are met. Further, there are no independent findings by Metro that demonstrate, based upon substantial evidence in the whole record, that the Decision complies with Goal 9 on a regional basis. LUBA and the Court of Appeals of Oregon have expressly applied Goal 9 to Metro's decision regarding a previous UGB amendment. *BenjFran Development v. Metro*, 17 Or LUBA 30, 40-41 (1988), *aff'd* 95 Or App 22 (1989).

These deficiencies in analysis and findings leave many open questions for implementing the Decision over time. For example, although Metro identifies a 50-year land need for approximately 3,000 acres of large-lot employment lands, there is no mechanism or guarantee that the lands designated by the Decision as urban reserves can actually fulfill this need as compared to other candidate lands. In the alternative, to the extent the designated lands can fulfill the identified need, there is no mechanism or guarantee that individual land use decisions made by the Counties will provide a realistic opportunity for these lands to develop in the needed manner.

That is, it is entirely possible that one or more of the Counties could allow its limited urban reserves to develop for residential purposes because that serves immediate and local needs, while the region as a whole suffers because no County properly entitles sufficiently-sized and located employment land sufficient to serve the identified regional need over the planning period. Under these circumstances, LCDC cannot make the requisite finding that the Decision complies with Goal 9. Further, LCDC's decision will be inadequate for judicial review under *1000 Friends of Oregon* because LCDC will be unable to apply the rule of substantial reason to find and identify

the facts at issue, the legal conclusions, and the required reasoning that these facts lead to these conclusions. DLCD has erred, and LCDC should grant this exception.

Exception #6: DLCD erred in finding that Metro and the Counties were not required to apply the TPR when the Decision included amendments to each local government's comprehensive plan, and no provision of law exempted the reserve process from the TPR analysis.

Maletis takes further exception to DLCD's recommendation that LCDC deny Maletis' sixth objection. This objection concerns the failure of Metro and the Counties to issue any findings whatsoever regarding the Oregon Transportation Planning Rule ("TPR"), despite the fact that they were each amending their respective functional and comprehensive plans.

DLCD's contends that the TPR is inapplicable for three reasons, but none of these reasons is persuasive. First, DLCD contends that the proposed plan amendments will not significantly affect any existing or planned transportation facilities because the plan amendments are not described in any of the "categories listed in OAR 660-012-0060(1)." This contention completely misconstrues the TPR, which by its terms, is applicable to any "amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation." OAR 660-012-0060(1). It is undisputed that Metro and each of the Counties are adopting comprehensive plan amendments in conjunction with the reserves designations. Accordingly, the TPR is applicable. Second, DLCD contends that the horizon for calculating a significant effect for purposes of the TPR (the end of the planning period, which in many cases is 20 years) is incompatible with the long-range planning associated with reserves planning. It may be true that the TPR is not well-suited to the instant amendments; however, some would argue that the TPR is not well-suited to various other plan amendments. Regardless, no provision of the TPR or the urban reserves rules relieves Metro and the Counties of completing the analysis prior to adopting the amendments at issue.

Finally, DLCD contends that, by analogy to OAR 660-024-0020(1)(d), designation of urban and rural reserves does not commit any lands to urban use and actually maintains existing land uses. Therefore, according to DLCD, no new vehicle trips can be generated by designating urban and rural reserves. Again, DLCD misses the point. The exception in OAR 660-024-0020(1)(d) is limited to certain urban growth boundary amendments. It does not apply to designation of reserves. Furthermore, even if no development is proposed at all, the Court of Appeals of Oregon has held that a government agency must determine whether or not there is a significant effect under the TPR prior to adopting a plan amendment. *Willamette Oaks, LLC v. City of Eugene*, 232 Or App 29, 220 P3d 445 (2009). As a result, Metro and the Counties may not avoid such compliance merely because the adoption of urban reserves does not authorize immediate development.

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DLCD goes to great lengths to argue that adoption of the amendments will not have a significant effect. However, until Metro and the Counties actually apply the rule in this context, there is simply no substantial evidence in the whole record to support this conclusion. LCDC must remand the Decision to Metro and the Counties to reopen the record and correct this deficiency.

F. Recommended Action and Conclusion

For the reasons set forth herein, LCDC should: (1) grant Maletis' exceptions; and (2) remand this matter with direction to Metro and the Counties to remove the "rural reserve" designation from the Property, to redesignate the Property as "urban reserve," and to otherwise address the legal deficiencies identified herein. This matter is scheduled to come before LCDC at its meeting on October 19-22, 2010. Maletis requests the opportunity to present oral argument relating to these exceptions at that meeting and prior to LCDC's decision in this matter. Maletis is happy to answer any questions at that time.

Thank you for your attention to these exceptions and for your time in considering this complex and important matter.

Very truly yours,



Steven L. Pfeiffer

cc: Clients
Seth King, Perkins Coie

French, Larry

From: French, Larry [larry.french@state.or.us]
Sent: Monday, October 11, 2010 11:11 AM
To: Pfeiffer, Steven L. (Perkins Coie)
Cc: 'larry.french@state.or.us'; 'chrismaletis@gmail.com'; King, Seth J. (Perkins Coie); 'tmaletis@aol.com'
Subject: RE: Maletis / Exceptions to the 9/28/10 Staff Report on the Objections to Portland Metro Area Urban and Rural Reserve Designations

Steve,

Thank you for your exception report for your Maletis Client, which was received on Friday 10-08-10. All 12 pages are readable.

Best Regards,

Larry French | Grants Administrative Coordinator
Oregon Department of Land Conservation and Development
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From: Lundgren, Christina (Perkins Coie) [mailto:CLundgren@perkinscoie.com] **On Behalf Of** Pfeiffer, Steven L. (Perkins Coie)
Sent: Friday, October 08, 2010 4:49 PM
To: 'Larry.French@state.or.us'
Cc: 'chrismaletis@gmail.com'; King, Seth J. (Perkins Coie); 'tmaletis@aol.com'
Subject: Maletis / Exceptions to the 9/28/10 Staff Report on the Objections to Portland Metro Area Urban and Rural Reserve Designations
Importance: High

Please accept the attached exceptions to the DLCD staff report on urban and rural reserves, which are filing on behalf of Chris Maletis, Tom Maletis, Exit 282A Development Company, LLC, and LFGC, LLC. Please confirm receipt. Thank you for your assistance.

Steven L. Pfeiffer | Perkins Coie LLP

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Sent by Christina R. Lundgren | Perkins Coie LLP

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