

HAND DELIVERED

Land Conservation and Development Commission
635 Capitol Street NE
Suite 150
Salem, Oregon 97301-2540

October 8, 2010

LAND CONSERVATION
AND DEVELOPMENT

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Subject: **Objection to Metro's exclusion of Area 9B from designation as Urban Reserve.**

My name is Robert Burnham. As referenced in a prior communication with the Department, our family owns 115 acres in the area now described as the "L" in Area 9 B abutting the recently approved development of North Bethany which is our western boundary (that coincidentally coincides with the Washington / Multnomah County stair step boundary). I wish to take this opportunity to vehemently appose the Department's recommendation that the Commission deny all objections and then recommend approval of the submittal of the Portland Metro area rural reserve designation as it would apply to our property.

Within II. Summary of Recommended Action, page 3 of 110 the second sentence of paragraph six, Department staff admits that "[t]here are several areas where the parties [objectors] made persuasive policy arguments and there are a few areas where there may be close legal questions concerning the decisions under review". I submit to the Commission that the "L" within Area 9B is one of those "persuasive policy arguments" raising "legal questions" for the following factual reasons:

- If in fact as the LCDC Department suggests in their summary [Agenda item 7 page 108 of 110] That it "*recommends that the Commission find that the local government appropriately considered the factors and documented the reasons they made the decisions for each area subject to the objections listed above*" [pages 104-108] ...The decision was nowhere near as cut-and-dried as the Department describes. Commissioner Jeff Cogen, who had spent the previous two years taking the lead and guiding the "Reserve process" for the Multnomah County Board of Commissioners, strongly supported including Area 9B as urban reserve. Commissioner Cogen took a proactive approach during the process to view for himself, on the ground and in real time, the Areas that were under serious consideration. Commissioner Cogen was not persuaded that the evidence of facts supported a fifty-year designation of Rural Reserve. [Then] Chair Ted Wheeler agreed with and joined Commissioner Jeff Cogen [our current Chair] in the opinion that Area 9B should be urban reserve.
- Prior to Multnomah County Commission's [split] vote, the Multnomah County Advisory Committee concluded that the "L" lands adjacent to the new Community of North Bethany were suitable for "urban reserve". They understood that Oregon's own Department of Agriculture, as well as the local Farm Bureau had already determined that our area lands are "conflicted" and not suitable as agricultural "Foundation" ground. The land, although previously utilized for small cattle farms, has not been used for any agricultural purpose for a number of years, and due to liability problems arising from the suburban housing development and a planned middle school literally across the street, can never be used for cattle again.
- The "L" has relatively level topography, with a gentle slope towards Bethany Village Town Center and North Bethany. This property is logically placed, as well as

naturally suited, for future urban reserve needs. Our lands abut Washington County and could be accommodated by existing infrastructure and future plans for sewer, transportation corridors, surface water management, fire, parks and other infrastructure being extended to North Bethany.

- The “L” lands are a geopolitical fit for Bethany with the one exception ... our land is adjacent to but not within Washington County. Yet, with the prospect of a planned middle school and dense development literally on our common western boundary, traditional farm practices and the tools needed to sustain them become a looming liability for us and for the exploding population of future new neighbors.
- I don't think the “L” in Area 9B is what the Department staff was envisioning when stating that “Rural reserves in the Portland metro region will provide the long-term certainty about stability of uses that our agricultural and forest industries need to make significant capital investments” [II Summary, para 4]. This land is unsuited to commercial agriculture, forestry, or other rural business purposes. Neither farmers nor forestry professionals are willing to invest or even rent these properties. And by no stretch of the imagination does the Area's physical attributes and vegetation (essentially brush, unkept pastureland, some aging and dead trees, and weeds) speak to a special or unique natural resource.
- If Area 9 B is included as urban reserve, the opportunity to plan and manage for future trails and scenic options with connectivity to Forest Park could be realized. It was intended that those goals could be preserved through landowner gifting. Should this area be saddled with a Rural reserve designation, the opportunity and motivation for a public/private partnership for such options will be diminished, if not lost altogether. Since the property would be nothing but a substantial financial drain on my family and me, we would have no resources or incentive to engage in any kind of conservation activities.

For reference, I have attached the Core 4 map on which I identified the boundary of the North Bethany Development, future school site, and stair-step county boundary line.

Since the “L” is not viable as farm or forest land in 2010, as the Department of Agriculture and the agricultural marketplace has confirmed, reasonable planners and right-thinking decision makers should not choose to ignore that reality. North Bethany is continuing to develop and will most likely almost surround Area 9B long before a rural reserve designation could be revisited. We are talking about being denied the flexibility to consider lands next to an already approved high density development of North Bethany for a period of fifty years. We are precluded from using the property for any possible commercial purpose by the encroaching development, and we will be precluded from contemplating future development by the proposed designation, thus making it unattractive for any sale; because of this predicament, this designation essentially functions as a governmental taking of our property.

We have repeatedly provided facts in oral and written testimony to the Multnomah County Advisory Committee, the Board of Multnomah County Commissioners, Metro and most recently to LCDC's Department substantiating the fact that Area 9B does not meet the guidelines established by SB 1011 for rural reserves. However, the Area facts and demographics do meet the criteria for urban reserves.

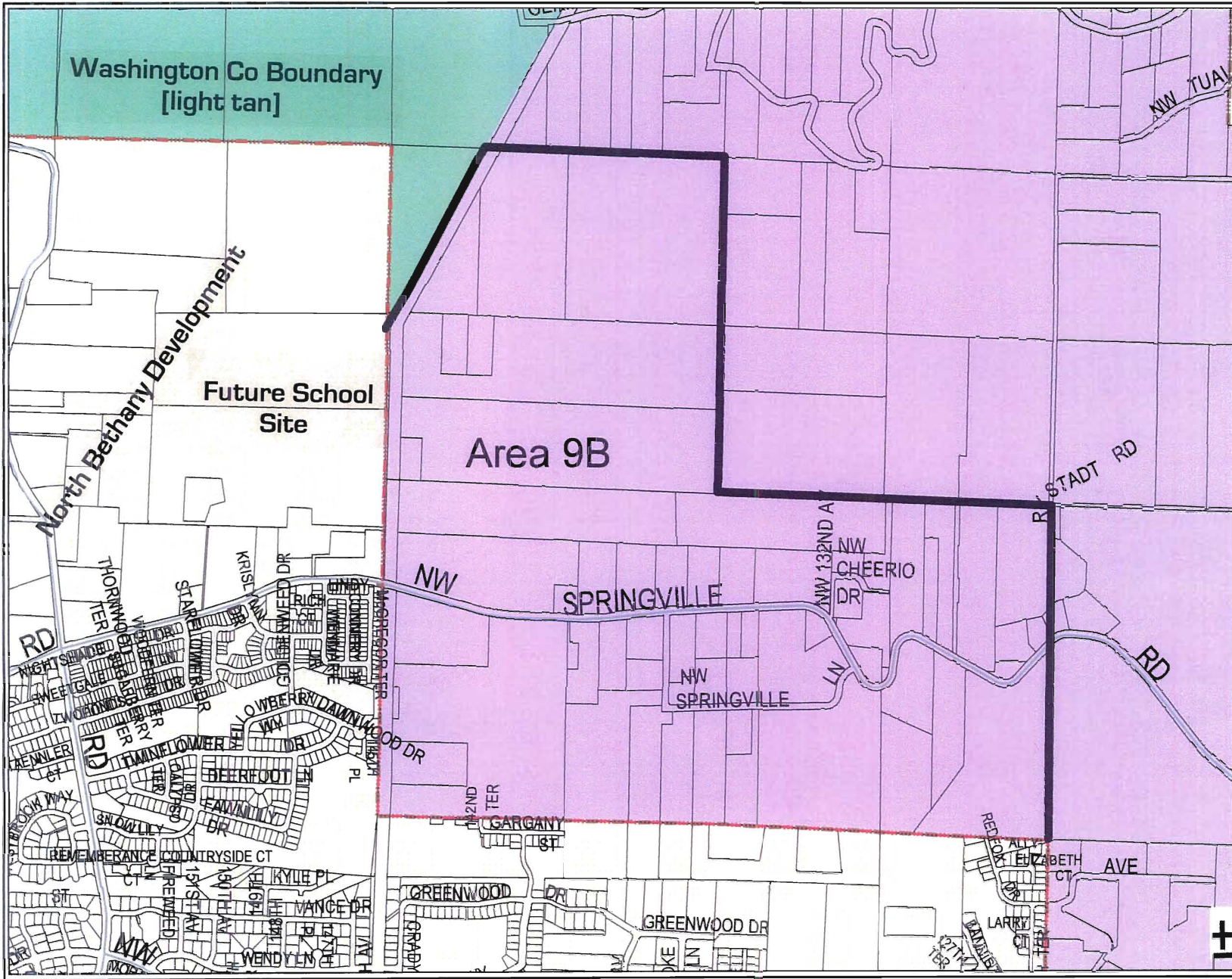
In sum, it is inequitable, inefficient, and unreasonable to include Area 9B as Rural reserve and should be remanded and acknowledged as urban reserve. The "Area" lacks any significant or unique resources under the definition "landscape features" that could require protection under the guise of rural reserve. To the contrary, all parties and future generations of Bethany residents would benefit from the flexibility allowed under the urban reserve designation.

Thank you for your time, patience and deliberation with respect to this serious decision.

Sincerely,

A handwritten signature in blue ink, appearing to read "Robert Burnham", with a long horizontal line extending to the right.

Robert Burnham
14417 NW Springville Road
P.O. Box 2047
Lake Oswego, Oregon



Area 9B

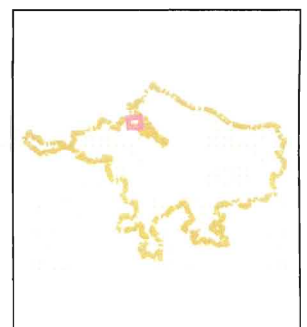
 Urban Growth Boundary
core4_011110

TYPE

-  Rural
-  Urban
-  Urban_Diss

The information on this map was derived from digital databases on Metro's GIS. Care was taken in the creation of this map. Metro cannot accept any responsibility for errors, omissions, or positional accuracy. There are no warranties, expressed or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying this product. However, notification of any errors will be appreciated.

1 inch = 0.22 miles



Location Map



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