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July 14, 2010

LAND CONSERVATION
AND DEVELOPMENT

JUL 14 2010

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HAND DELIVERED

To: Urban and Rural Reserves Specialist
Department of Land Conservation and Development
635 Capitol Street NE, Suite 150
Salem, OR 97301

Subject: Objection to Urban and Rural Reserves, Metro Ordinance No. 10-1238A and
Washington County Ordinance 733

Dear Urban and Rural Reserves Specialist,

We wish to file an objection to the regional decision to designate Tax Lot 1N1 18, Lot 100 (hereafter known as "the Peterkort property") as an Urban Reserve. This parcel is part of Washington County Urban Reserve Area 8C. We believe this decision violates statutes, goals, and administrative rules that apply to urban and rural reserves.

Carol Chesarek served on the Multnomah County Reserves Citizen Advisory Committee. Carol and Cherry Amabisca both testified at numerous Reserves Hearings held by Metro, Multnomah County, and Washington County. We both submitted written testimony during the Reserves process. As a result, we have standing to file objections. A list of other individuals who testified, who have standing and who support these objections is attached as Exhibit 1.

Because the findings in Metro Ordinance No. 10-1238A and Washington County Ordinance 733 are almost identical, we will refer to the Metro decisions, where applicable. References to "the County" or "County" mean Washington County.

We have several objections to Metro's decision to designate the Peterkort property as an Urban Reserve (part of Washington County Area 8C), which we have explained below.

We concur with the decision to designate the other portions of Area 8C as Urban Reserves, because the developable portions of those properties are on the urban (south) side of Rock Creek, adjacent to existing arterials, bus line to light rail, and a small shopping center with a full service grocery store. The property in 8C that is adjacent to Peterkort is south of Rock Creek, comprising mostly constrained floodplain and riparian corridor, and it is owned by PCC Rock Creek. PCC Rock Creek has been a good steward for their rural lands and riparian areas, supporting floodplain restoration and offering wetland education classes¹.

¹ Brian Lightcap letter, Washington County Urban & Rural Reserves Record, May 28, 2010, p. 9463

An Urban Reserve on the Peterkort property will result in a small 77 acre island of urban development. It would result in unnecessary and unavoidable adverse effects on adjacent and nearby farm practices and important natural landscape features by extending urban development beyond an extremely valuable buffer (the floodplain) between urban and rural uses, thus ruining forever the value of this floodplain "edge".

To resolve these objections, and to comply with relevant goals and administrative rules, the Department should reject the Urban Reserve designation of the Peterkort property and recommend a Rural Reserve designation instead.

Objection 1: Designating the Peterkort property Urban Reserves Misapplies Urban Reserve Factors of OAR 660-027-0050, Violates Goal 2, Adequate Factual Base, and is not Supported by Substantial Evidence in the Whole Record.

The Metro decisions fail to address several important points in the Urban Reserve Factors. To balance this document, our analysis of the Urban Reserve Factors is located under Objection 2, starting on page 9, but the conclusions there apply to this Objection too.

According to Exhibit E to Metro Ordinance No 10-1238A, Reasons for Designation of Urban and Rural Reserves, Peterkort Property, pages 55-56, the reasons for designating the Peterkort property for urban uses are to provide an easement for a sewer line, to mitigate wetland impacts, to accommodate a road, and to enhance natural areas. Designating the Peterkort property as urban reserves does not facilitate sewer provision or stormwater management, or help accommodate this road. Utility facilities, such as stormwater collection or sewer pump stations, are allowed outright on land zoned for Exclusive Farm Use under ORS 215.283(1)(c). There is no planning limitation imposed by retaining the EFU zoning and designating the land rural reserve.

There is no evidence to suggest that the Peterkort property must be designated urban reserves in order to meet the County's objectives. To the contrary, it is more likely that designating the area as urban reserves will diminish the value of natural features on and near the property and spoil a valuable buffer between urban and rural uses.

The County argues² that the entire 129-acre Peterkort site is important to the successful implementation of the North Bethany Community Plan and to important elements of the funding process on key transportation and sewer line links.

The Metro decisions fail to provide an adequate factual base to support these assertions. They offer the four points below to support the inclusion of the Peterkort site within Urban Reserves. Here are their points and our response.

"1. Transportation: Provides urban land for public ROW and supports the development of a key transportation system link serving the future development of the North Bethany Community."³

Response: The County asserts that a Peterkort UR will provide urban land for a public ROW and "support" development of a new road to serve North Bethany. But the county

² Metro Ordinance No. 10-1238A, Exhibit E, "Reasons for Designation of Urban and Rural Reserves", pages 55, 56. See Exhibit 9 in Attachments.

³ Metro Ordinance No. 10-1238A, Exhibit E, "Reasons for Designation of Urban and Rural Reserves", p 56. See Exhibit 9 in Attachments.

does not define this “support” or demonstrate that Peterkort will provide it.

The County has already completed the Goal Exception necessary for the extension of North Bethany Road A across the Peterkort property⁴, and this section of Road A is in the County’s acknowledged Transportation Plan⁵.

If the Peterkort property is an Urban Reserve, this ROW will likely be more expensive to purchase. An Urban Reserve on the Peterkort property is not needed to permit construction of this road, and might make the road more expensive by increasing the cost of securing the necessary Right of Way (the county has not identified any alternative routes for Road A).

Development of the Peterkort property will bring its own road and infrastructure needs, and these costs have not been estimated and weighed against possible funding benefits before concluding that development of the Peterkort property would be a net funding benefit for North Bethany. Development of the Peterkort property is likely to require more new roads (including some through adjacent agricultural land and natural features), or expansion of existing roads. It might also require other significant new infrastructure, such as a new reservoir. A new reservoir could cost more than \$3.5M, a pump station \$1.5M.

To argue that Peterkort development will help pay for a road to serve North Bethany development without estimating costs for infrastructure needed to serve Peterkort development is not sound. The Metro decisions fail to provide an adequate factual base to demonstrate that the Peterkort development will be able to finance road improvements and other infrastructure needed to serve the Peterkort property, let alone other new urban areas (any more than North Bethany is able to finance all the road improvements required to serve North Bethany).

“2. Sewer system connectivity: The optimal alignment for a primary gravity flow sewer trunk line to serve North Bethany crosses the Peterkort property. NOTE: construction of a pump station-based option could delay construction of sanitary sewer services to the North Bethany area by at least three years.”⁶

Response: The least expensive alignment of a primary gravity flow sewer trunk line to serve North Bethany does cross the Peterkort property. However, a Rural Reserves would not be an impediment to this sewer trunk line. The County argues that construction of an alternative route sewer line could delay construction of sanitary sewer service for up to three years, but this is not a relevant consideration for an Urban Reserve designation.

Sewer connectivity for North Bethany does not depend on an Urban Reserve on the Peterkort property. There are no legal or policy barriers to constructing a sewer trunk line through a Rural Reserve.

⁴ Washington County Ordinance No. 712, June 10, 2009. Link: <http://www.co.washington.or.us/LUT/Divisions/LongRangePlanning/upload/NB-Ord-712-complete.pdf>

⁵ Washington County Ordinance No. 733 Issue Paper No. 3, also in Washington County Urban & Rural Reserves Record, May 6, 2010, p. 8589. See Exhibit 10 in Attachments.

⁶ Metro Ordinance No. 10-1238A, Exhibit E, “Reasons for Designation of Urban and Rural Reserves”, p 56. See Exhibit 9 in Attachments.

The Covenant signed by the Peterkort family and Clean Water Services⁷ commits the Peterkort family to donate both sewer and wetland mitigation easements if Metro designates the property as an Urban Reserve by June 30, 2010, so these easements should already be committed, and under the terms of the Covenant they would not be lost if the Urban Reserve designation is now changed.

It is not clear that a three year delay in sanitary sewer service provision would slow development in North Bethany. Washington County has not yet approved a financing plan for North Bethany. No development that depends on this sewer trunk line can begin without an approved financing plan.

This sewer trunk line will serve only a portion of North Bethany, and development in that area also requires a number of new roads and other new infrastructure that will take years to build. Because of these extensive infrastructure needs, development in that area will not begin for many years even if a financing plan for North Bethany is approved in October.

There are other barriers to construction of this sewer trunk line.

There is no evidence in the record that Clean Water Services has signed easements with all of the property owners along the sewer trunk line route. Failure to secure any one of these easements could result in a delay and redesign of the sewer line.

There is also no evidence in the record that Clean Water Services has the necessary permits for this sewer trunk line (the permit is still being reviewed by the Department of State Lands), and comments opposing this route along Rock Creek have been filed with the Department of State Lands, including comments from Oregon Department of Fish and Wildlife (ODFW)⁸. ODFW recommends using pump stations instead, eliminating the need for the sewer trunk line through the Peterkort property.

The Peterkort property does not need to be designated Urban Reserves in order to provide sewer or stormwater management for North Bethany. Utility facilities such as stormwater collection or sewer pump stations are allowed outright on lands zoned for Exclusive Farm Use under ORS 215.283(1)(c). The Peterkort property is currently zoned for Exclusive Farm Use and could continue as such while providing utility facilities per ORS 215.283(1)(c).

The county has not demonstrated that designation of the Peterkort property as Rural Reserve would delay construction of this sewer trunk line, or that a delay in construction of the sewer trunk line is a valid Urban Reserve consideration. They have also failed to demonstrate that the only obstacle to timely and cost effective completion of the sewer trunk line is designation of the Peterkort property as Urban Reserve.

“3. Wetlands mitigation: The sewer plan identifies roughly 46 acres of valuable

⁷ Peterkort Covenant with Clean Water Services, February 19, 2010, p 2. Attached to Carol Chesarek letter to Metro Council, May 20, 2010, re: Metro Rural and Urban Reserves hearing, Peterkort Property in Washington County. See Exhibit 5 in Attachments.

⁸ Excerpt from Carol Chesarek letter to Washington County Board of Commissioners, June 15, 2010, Re: Urban and Rural Reserves, Ordinance 733. [Washington County Urban & Rural Record, pages 9432 – 9445]. See Exhibit 2 in Attachments, “ODFW Comments”, p 8-11.

opportunities on the Peterkort property which can be used to mitigate wetland impacts caused by public infrastructure development in North Bethany.”⁹

Response: A Rural Reserve designation would be more compatible with using the Peterkort property for wetland mitigation. Wetland mitigation on the Peterkort property does not depend on an Urban Reserve designation -- there are no legal or policy barriers to wetland mitigation in a Rural Reserve.

There are extensive floodplains and wetlands in this area¹⁰ -- the Peterkort property is not the only viable candidate for wetland mitigation near North Bethany.

The Covenant signed by the Peterkort family and Clean Water Services¹¹ commits the Peterkort family to donate both sewer and wetland mitigation easements if Metro designates the property as an Urban Reserve by June 30, 2010. Wetland mitigation on the Peterkort property does not depend on maintaining the current Urban Reserve designation.

The County has failed to demonstrate that wetland mitigation for North Bethany depends on an Urban Reserve designation of the Peterkort property, and that wetland mitigation is not possible in a Rural Reserve.

“4. Enhancement of Natural Areas Program Target Area: Lands on the Peterkort site will support connections to important regional natural areas.”¹²

Response: The County argues that an Urban Reserve on the Peterkort property will “support” connections to important regional natural areas. But these wildlife connections exist today.¹³ Metro’s February 2007 *“Natural Landscape Features Inventory”* for Area #22 Rock Creek Headwaters says “These headwaters also provide wildlife habitat and trail connectivity from the Tualatin Valley to the Tualatin Mountains that includes Forest Park.” These wildlife connections are entirely compatible with the purpose of a Rural Reserve, and a Rural Reserve would better protect these connections for species that can be harmed by human intrusion into the area. There is insufficient evidence in the record that an Urban Reserve would adequately protect these sensitive species.

⁹ Metro Ordinance No. 10-1238A, Exhibit E, “Reasons for Designation of Urban and Rural Reserves”, p 56. See Exhibit 9 in Attachments.

¹⁰ Map attached to Carol Chesarek letter to Washington County Board of Commissioners, June 15, 2010, Re: Urban and Rural Reserves, Ordinance 733. [Washington County Urban & Rural Record, page 9447]. See Exhibit 3 in Attachments, Map 1: North Bethany Concept Plan Natural Features.

¹¹ Peterkort Covenant with Clean Water Services, February 19, 2010, p 2. Attached to Carol Chesarek letter to Metro Council, May 20, 2010, re: Metro Rural and Urban Reserves hearing, Peterkort Property in Washington County. See Exhibit 5 in Attachments.

¹² Metro Ordinance No. 10-1238A, Exhibit E, “Reasons for Designation of Urban and Rural Reserves”, p 56. See Exhibit 9 in Attachments.

¹³ Map attached to Carol Chesarek letter to Washington County Board of Commissioners, June 15, 2010, Re: Urban and Rural Reserves, Ordinance 733. [Washington County Urban & Rural Record, page 9447]. See Exhibit 3 in Attachments, Map 1: North Bethany Concept Plan Natural Features.

ODFW opposes¹⁴ the sewer trunk line through the Peterkort property due to adverse impacts on "sensitive priority habitat," including wildlife habitat fragmentation and harm due to additional human intrusion into the area. Development of the Peterkort property would greatly increase the human intrusion into this sensitive habitat area, far beyond intrusions due to a sewer trunk line.

ODFW has documented¹⁵ the presence of Northern Red Legged Frogs in this area. These frogs use extensive upland areas, up to 300 yards from ponds when they are not breeding. According to the City of Portland's Forest Park Natural Resources Management Plan¹⁶, these frogs are killed by vehicle traffic on roads, and amphibians can be killed by foot and bicycle traffic on trails as well. These frogs are highly terrestrial, using areas up to 300 yards from standing water during non-breeding season. These frogs are declining seriously in the Willamette Valley, and are no longer found in areas where they were once abundant.¹⁷

Elk currently use the Peterkort property, as documented by SaveHelvetia in a report¹⁸ that also describes the effects of urban development. Elk are sensitive to roads and human presence. According to Oregon Department of Fish and Wildlife's "Oregon's Elk Management Plan"¹⁹:

- "Numerous studies have shown ... Roosevelt elk are sensitive to human disturbances such as motorized travel on and off roads"
- "It is documented in numerous studies that human access to elk habitat due to increased road density can negatively affect elk habitat utilization and increase elk vulnerability... Habitat Effectiveness models developed from these studies all concluded that the effectiveness of habitat for elk declines as road density increases."

The City of **Portland's Forest Park Natural Resources Management Plan**²⁰ describes the harmful effects of roads and residential development on wildlife.

Metro's Technical Report for Fish and Wildlife Habitat says "recreation in wildlife habitats is negative in that human intrusions lead to alterations in habitat – for example, vegetation trampling, trails and roads – and may alter wildlife behavior, physiology and

¹⁴ Excerpt from Carol Chesarek letter to Washington County Board of Commissioners, June 15, 2010, Re: Urban and Rural Reserves, Ordinance 733. [Washington County Urban & Rural Record, pages 9432 – 9445]. See Exhibit 2 in Attachments, "ODFW Comments", p 8-11.

¹⁵ *ibid.*, p 10.

¹⁶ *Ibid.* See Exhibit 2 in Attachments, "From the "Forest Park Natural Resources Management Plan"; Portland Parks and Recreation, Bureau of Planning, Adopted by City Council February 8, 1995.", p 2.

¹⁷ "Northern Red-Legged Frog Survey" from Carol Chesarek letter to Multnomah County Board of Commissioners, May 6, 2010, Re: Urban and Rural Reserves. See Exhibit 4 in Attachments.

¹⁸ "Wildlife Habitat" report by SaveHelvetia.org, August 14, 2009 [Washington County Urban & Rural Reserves Record, pgs 5998-6014]

¹⁹ Excerpt from Carol Chesarek letter to Washington County Board of Commissioners, June 15, 2010, Re: Urban and Rural Reserves, Ordinance 733. [Washington County Urban & Rural Record, pages 9432 – 9445]. See Exhibit 2 in Attachments, "Elk", p 7.

²⁰ *Ibid.* See Exhibit 2 in Attachments, "From the "Forest Park Natural Resources Management Plan"; Portland Parks and Recreation, Bureau of Planning, Adopted by City Council February 8, 1995.", p 2,3.

distribution. ... In Colorado, elk experienced reproductive failure when repeatedly approached by humans (Phillips and Alldredge 2000)."²¹

The wildlife corridor between Forest Park and the Coast Range is critical to the health of the Forest Park ecosystem. For elk, the mix of open fields and shrub/tree cover on the southwest side of the Tualatin Mountains, including the Peterkort property, is a critical component to this corridor because the more northerly areas are densely forested and offer fewer food sources. Attachment 1 to Metro Resolution No. 07-3833: Summary of Comments from Stakeholder Interviews For Forest Park Connections Target Area says:

"Northwest corridor and Rock Creek connection properties are also important for maintaining habitat connections to adjacent natural areas and ecosystems, headwaters, and for buffering unique habitats. Important local elk habitat shared with Rock Creek. Elk use creek corridors for movement, feed in open fields, and use forested areas for cover/rest."²²

Development of the Peterkort property would eliminate elk habitat (the upland and riparian portions of the property are both used by elk), and it would also put two wildlife corridors at risk. Urban development on the north side of Rock Creek will disrupt elk use of the north/south wildlife corridor along the creek that leads to Holcomb Lake. It would also significantly narrow the important east/west wildlife corridor that lies between North Bethany and the western portions of City of Portland.²³

Metro's February 2007 "*Natural Landscape Features Inventory*" for Area #22 Rock Creek Headwaters says "These headwaters also provide wildlife habitat and trail connectivity from the Tualatin Valley to the Tualatin Mountains that includes Forest Park."

For Area #23 Forest Park Connections, Metro's February 2007 "*Natural Landscape Features Inventory*" says "The Forest Park connection area ... secures the integrity of the "big game" corridor that links the park with habitat in the northern Coast Range."

Urban development will also influence nearby wildlife habitat, casting a shadow much larger than its footprint, especially if there is not an effective buffer such as Rock Creek between that habitat and urban Bethany.

The Metro decisions fail to demonstrate that Enhancement of the Natural Areas Program Target Area depends on designation of the Peterkort property as an Urban Reserve. They also fail to demonstrate that development of the Peterkort property will "enhance" the connections for wildlife such as elk that use the area today. Such enhancement is more compatible with a Rural Reserve designation.

The only added cost or delay to North Bethany development that the County has demonstrated is likely if the Peterkort property is designated as Rural Reserve is the additional cost of paying for the wetland mitigation easement on the Peterkort property, with an approximate estimated value of approximately \$610,000. But if the property becomes an Urban Reserve, the cost of the ROW for Road A across the Peterkort property is likely to be higher, offsetting some or all of the cost of

²¹ Metro's Technical Report for Fish and Wildlife Habitat, April 2005, Exhibit F to Metro Ordinance No. 05-1077, Attachment 2, page 109.

²² Excerpt from Carol Chesarek letter to Washington County Board of Commissioners, June 15, 2010, Re: Urban and Rural Reserves, Ordinance 733. [Washington County Urban & Rural Record, pages 9432 – 9445]. See Exhibit 2 in Attachments, p. 6

²³ *ibid.* p. 4 "Stakeholders identified protection of east/west wildlife corridors as just as important as north/south corridors."

the wetland easements.

We cannot make Reserves decisions based on speculation about what the Peterkort family may or may not do if the property is designated as a Rural Reserve.

The urban reserve factors do not require consideration of timing – possible delays in development of North Bethany are not a valid Urban Reserve consideration.

“Integrating Habitats” does not add any new protections for natural features

The County has adopted “Principles for Concept Planning of Urban Reserves”²⁴ for Area 8C (including the Peterkort property), saying that the “Integrating Habitats’ approach ... shall be utilized.” The county uses this to imply that Area 8C will receive a higher level of protection than other riparian and habitat areas in Washington County, but there is no evidence in the record that the “Integrating Habitats” approach will provide heightened protection for wildlife and natural resources beyond what is currently required.

PRINCIPLES FOR CONCEPT PLANNING OF URBAN RESERVES²⁵ for Urban Reserve area 8C says:

“It is 305 acres, of which approximately 114 acres are constrained lands such as wetlands and floodplains. This Urban Reserve area provides vital habitat linkage for sensitive species along a riparian corridor. During concept planning, subsequent comprehensive planning and development review and implementation for the entire special concept plan area, the “Integrating Habitats” approach championed by Metro’s Nature in Neighborhoods program shall be utilized. The “Integrating Habitats” approach is intended to provide appropriate protection and enhancement of natural areas through the use of progressive and environmentally sensitive development practices. This approach combines and balances ecological stewardship and economic enterprise with protection of water quality and restoration and enhancement of key fish and wildlife habitats.”

Response: Integrating Habitats was a design competition sponsored by Metro²⁶. The competition did not provide any new measurable or enforceable standards for habitat protection; it relies on Metro Title 13, a standard that any development in this area is already required to comply with. Washington County has its own Goal 5 implementation program, incorporated into Metro Title 13, called the Tualatin Basin Program. This Program allows some types of development in floodplains, such as parking lots and ball fields, as long as flood capacity is not affected. This type of development would harm wildlife habitat, but is not prohibited by “Integrating Habitats.” Requiring use of the “Integrating Habitats’ approach” is not a substantive new requirement for Area 8C, it does not add any new protection for natural resources, water quality, or fish and wildlife habitats.

²⁴ Special Concept Plan Area C, from Exhibit B to Agreement between Metro and Washington County [Washington County Urban & Rural Record, page 9299], See Exhibit 8 in Attachments.

²⁵ Ibid.

²⁶ Excerpt from Carol Chesarek letter to Washington County Board of Commissioners, June 15, 2010, Re: Urban and Rural Reserves, Ordinance 733. [Washington County Urban & Rural Record, pages 9432 – 9445]. See Exhibit 2 in Attachments, “Integrating Habitats”, p 11.

Goal 5 protections implemented in the Tualatin Basin Program are not sufficient to protect all elements of Natural Features, including upland resources, wildlife such as elk, and Sense of Place.

Remedy. Based on the above, the Peterkort property does not satisfy the factors of OAR 660-027-0050 and should not be designated urban reserves.

Objection 2: Designating the Peterkort property Urban Reserves fails to satisfy OAR 660-027-0040(1) that both the urban and rural reserve factors must be applied “concurrently and in coordination with one another.” , Violates Goal 2, Adequate Factual Base, and is not Supported by Substantial Evidence in the Whole Record.

Because of this requirement, it is improper to solely consider the case of urbanization without simultaneously considering whether these same lands might be more suitable for rural reserve protections. Washington County staff has noted that “the requirement to accommodate urban land need was the deciding element in choosing between an Urban Reserve designation rather than Rural Reserve designation, where the underlying suitability analysis would otherwise support either designation.”²⁷ This built-in bias in the County’s analysis violates the obligation to apply the urban and rural reserves factors concurrently.

Analysis by County staff acknowledges that the Peterkort property qualifies as both urban and rural reserves²⁸. The concurrency obligation requires deciding whether the land more closely satisfied rural objectives over urban, and if so, the land must be protected with a Rural Reserve.

The broad Rock Creek floodplain on Peterkort property exemplifies an important natural landscape feature. Rural Reserves are defined in SB 1011 Section 1 (1):

- (1) “Rural reserve” means land reserved to provide long-term protection for agriculture, forestry or important natural landscape features that limit urban development or help define appropriate natural boundaries of urbanization, including plant, fish and wildlife habitat, steep slopes and floodplains.” (underline added)

The County’s analysis for the remainder of 8C, Bethany West/West Union²⁹ says “Rock Creek and its associated broad floodplain (averaging over 800 feet in width at this location) provides an excellent buffer between the potential urbanization of this site and surrounding rural Reserve lands.” This shows that Metro and Washington County are aware of the value of this buffer. This floodplain is even wider where it crosses the Peterkort property.

The Metro decisions fail to address several important points in both the Urban and Rural Reserves factors. An analysis of each set of factors follows.

Analysis Under OAR 660-027-0050 - Factors for Designating Land as Urban Reserves

The following analysis responds to the urban reserves factors analysis in Metro Ordinance No. 10-1238A, Exhibit E, “Reasons for Designation of Urban and Rural Reserves”, p 56-58 (see Exhibit 9 in Attachments).

²⁷ Washington County Staff Report, Urban & Rural Reserve Recommendations, August 3, 2010.

²⁸ Metro Ordinance No. 10-1238A, Exhibit E, “Reasons for Designation of Urban and Rural Reserves”, p 55. See Exhibit 9 in Attachments.

²⁹ Ibid. p. 81

“(1) Can be developed at urban densities in a way that makes efficient use of existing and future public and private infrastructure investments;

As noted above, the Peterkort site provides the only practicable location for siting a gravity flow sewer line for the provision of sanitary sewer services to a portion of the North Bethany planning area. This site also provides the only reasonable route for an alternative transportation system link between this community and surrounding areas. Future development of this site would not only utilize the public and private investments currently being made in North Bethany, but would ultimately aid in funding long-term infrastructure construction and maintenance.

It is expected that future development of the Peterkort site would be designed to complement the North Bethany Community at urban densities that optimize both private and public infrastructure investments. The developable portion of the Peterkort property would be designed to connect to the North Bethany community and the surrounding community via a future road connection (Road 'A') and could be served by the planned sewer line.”

Response: It is not certain that the planned sewer trunk line across the Peterkort property will be built (see Response to “2. Sewer system connectivity” in Objection 1, page 4).

Urbanization of the Peterkort property is not required for Road A construction (see Response to “1. Transportation” in Objection 1, page 3).

There is no evidence in the record demonstrating that the Peterkort property would aid in funding long-term infrastructure construction and maintenance. North Bethany was expected to be efficient and cost-effective to develop when it was added to the UGB in 2002, but those expectations were sadly disappointed. Estimates of full infrastructure costs (roads including ROW, water, sanitary sewer, stormwater, schools, parks, affordable housing, etc) are needed to support claims that Peterkort development could aid long-term construction and maintenance for infrastructure.

The Metro decisions fail to provide an adequate factual base to demonstrate that the Peterkort development will be able to finance road improvements and other infrastructure needed to serve the Peterkort property, let alone other new urban areas (any more than North Bethany is able to finance all the road improvements required to serve North Bethany).

The necessity of crossing Rock Creek and the wide floodplain will make transportation connections to the Bethany area expensive and inefficient compared to other Urban Reserves that do not require crossing steelhead-bearing streams and broad floodplains.

There is inadequate evidence in the Metro decisions to support several assertions for UR Factor (1).

“(2) Includes sufficient development capacity to support a healthy economy;

Together with remaining buildable lands within the UGB and other urban reserve lands throughout the region there will be sufficient development capacity to support a healthy economy. The addition of the Peterkort property adds approximately 80 acres of developable land to Urban Reserve Area 8C. The area could likely be developed as the sixth neighborhood of North Bethany, featuring a walkable community centered around

parks and mixed use areas.”

Response: Because the developable portion of the Peterkort property is separated from North Bethany by a broad floodplain, the Peterkort property will not be well connected to North Bethany neighborhoods, with only one direct road connection (Road A) likely. NW 185th will provide another connection, but there will be a gap of about 2000’ between the southern edge of Peterkort development and the nearest residential area to the south since the road must first cross the floodplain and then the edge of the Rock Creek PCC campus.

An isolated 77 acres of urban development is unlikely to support significant retail in this neighborhood. Most of the developable portions of the Peterkort property are more than 1 mile from nearby grocery stores, a distance most people are unwilling to walk to meet their daily needs. Maps 1 and 2 in Exhibit 3 (see Attachments) show that most of the developable part of Peterkort is more than 1 mile from the retail center with grocery store at NW 185th Ave and NW West Union Rd, and that all of the Peterkort developable area is more than 1 mile as the crow flies from the planned North Bethany mixed-use center (expected to include a small grocery type store) to be built along Kaiser Road. Road A crosses the narrowest point of the floodplain and riparian corridor, leaving the nearest residential development on either side roughly 500’ apart.

“(3) Can be efficiently and cost effectively served with public schools and other urban level public facilities and services by appropriate and financially capable service providers;

This site has been included in facilities planning discussions during development of the North Bethany Plan. The Beaverton School District has made commitments for needed facilities in this area and has included discussion and consideration of potential urban reserves based growth impacts in the recent development of the 2010 update of their Long Range Facilities Plan. The Rock Creek Campus of Portland Community College is immediately adjacent to the southern boundary of this site. Other well-established facilities and services being extended to the North Bethany Community would also be expected to serve this site.”

Response: It is not clear whether the 77 acres of developable land could support a new elementary school. The Metro decisions do not consider that about two-thirds of the Peterkort property is in the Hillsboro school district, only about one-third is in the Beaverton school district that serves North Bethany.

“(4) Can be designed to be walkable and served with a well-connected system of streets, bikeways, recreation trails and public transit by appropriate service providers;

The Peterkort site will be served by a collector road (Road ‘A’) extending along the northern portion of the site to connect the North Bethany community to SW 185th Avenue to the west. The northeastern edge of this property directly abuts planned connections to both on and off-street pedestrian facilities linking to planned neighborhood parks in North Bethany. This site offers a major opportunity to link trails in the broader Bethany area along the Rock Creek corridor. Public transit service is currently available immediately south of the site with multiple lines providing connections to Westside Light Rail Transit.”

Response: As explained above in the Response to Urban Reserve factor (2) (see pages 10 and 11), the 77 developable acres on the Peterkort property would become an urban island, with EFU farmland to the west and the north, and the wide Rock Creek floodplain to the east and south. This tiny urban island will not have a network of local streets connecting it to the larger urban fabric due to these barriers, it will remain isolated.

The road connections to the Bethany area are likely to remain limited to Road A and NW 185th Ave. Any new or improved road connections must cross Rock Creek and its broad floodplain.

New off-street pedestrian (trail) connections between Peterkort and North Bethany would also require expensive bridges to cross Rock Creek. Rock Creek is used by steelhead.

As documented under #4 in Objection 1 above [clean up reference and add page #], Metro's Technical Report for Fish and Wildlife Habitat [Exhibit F to Metro Ordinance No 05-1077, Attachment 2] explains that recreation in wildlife habitats can lead to alterations in habitat and may alter wildlife behavior, physiology, and distribution. Trails inevitably alter habitat, and they are a source of human disturbance in wildlife areas.

Additional creek crossings would be expensive and potentially harmful to the creek. New trails to link the broader Bethany area along the Rock Creek corridor to not require an Urban Reserve, they are entirely compatible with a Rural Reserve.

The roads to the north (NW Germantown Road, etc.) and the west (NW Cornelius Pass Road, etc.) are rural roads, without bike lanes or sidewalks.

Tri Met expects that people will walk up to ¼ mile to reach a bus line. There is a single bus line providing service along NW Springville Road and on NW 185th Ave south of NW Springville Road, connecting to Westside Light Rail Transit, but this service is more than 1 mile from the developable portion of the Peterkort property. The other bus line serving PCC Rock Creek is even further away from the Peterkort property.

During North Bethany Stakeholder Workgroup meetings (held during 2006 and 2007), PCC Rock Creek representatives said they did not want any new roads from North Bethany to enter their campus.

The Peterkort property is bordered to the north and west by EFU-zoned farmlands in Rural Reserves. These resources would be harmed by any new roads constructed to create a more complete network of roads to serve the Peterkort property.

“(5) Can be designed to preserve and enhance natural ecological systems;
Limited opportunities for wetlands mitigation are available in this area of the county. Therefore, a key focus of adding the Peterkort site to the urban area is the opportunity to improve and enhance the currently degraded wetlands along Rock Creek. The entirety of Urban Reserve Area 8C would be subject to certain requirements identified in the county's Rural/Natural Resource Plan Policy 29. This area, called out as Special Concept Plan Area C, would require the implementation of Metro's "Integrating Habitats" program in the concept and community planning of the reserve area. The "Integrating Habitats" program utilizes design principles to improve water quality and provide wildlife habitat.”

Response: It is almost impossible to meet this factor for the Peterkort property.

Factor (5) is not limited to natural ecological systems within the Urban Reserve. If an Urban Reserve will harm an ecological system that extends beyond the urban area, this factor cannot be met. The riparian area and floodplain between the developable portion of the Peterkort property and Rock Creek campus of Portland Community College (PCC Rock Creek) is used by the local elk herd, bobcats, and wildlife that is part of a larger ecological system – the Rock Creek Headwaters natural landscape feature, which is in turn strongly connected to the Forest Park Connections natural landscape feature.

As explained above the Response to “4. Enhancement of Natural Areas Program Target Area” in Objection 1 (page 6) elk are sensitive to roads and human presence, and City of Portland has documented the harmful effects of roads and residential development on wildlife.

Development of the Peterkort property would force elk out of that section Rock Creek, make it harder for them to reach the important habitat around Holcomb Lake, and could also harm both their east-west wildlife corridor across the foothills and their north-south corridor along the Rock Creek floodplain between Holcomb Lake and the Rock Creek Headwaters areas to the north.³⁰

According to Metro, Forest Park is a Habitat of Concern³¹. It is especially important to maintain the park’s wildlife corridor to the Coast Range. As mentioned above, Metro’s February 2007 “*Natural Landscape Features Inventory*” says “The Forest Park connection area ... secures the integrity of the “big game” corridor that links the park with habitat in the northern Coast Range.”

Urbanization of the Peterkort property would put this important east/west wildlife corridor on the south side of the Tualatin Mountains at risk – there is a relatively narrow “pinch point” in between North Bethany and the western part of Portland above North Bethany. New urban development on the north side of Rock Creek would endanger this important wildlife corridor by ruining the floodplain’s buffer between urban and rural areas. Elk, cougar, and black bear use this corridor. Development of the Peterkort property would also add more vehicles to NW Germantown and NW Cornelius Pass Roads, adding more urban pressure on nearby habitat and making wildlife crossings more hazardous.

Even if the factor is considered limited to the Urban Reserve area, forcing the elk out of this portion of their habitat would clearly harm a natural ecological system by reducing their habitat and by altering the ecosystem that they currently participate in.

As documented on page 8, Integrating Habitats was a design competition that did not provide any new measurable or enforceable standards for habitat protection; it relies on Title 13, which any concept plan for this area is already required to comply with.

There is no reason the Peterkort property cannot be used for wetland mitigation if it is designated rural reserve, an urban reserve designation is not required to allow wetland mitigation.

“(6) Includes sufficient land suitable for a range of needed housing types;

The Peterkort site will provide added opportunities to meet local housing needs. The 80 acres of buildable land on the site can be developed with a variety of different housing

³⁰ Map attached to Carol Chesarek letter to Washington County Board of Commissioners, June 15, 2010, Re: Urban and Rural Reserves, Ordinance 733. [Washington County Urban & Rural Record, page 9447]. See Exhibit 3 in Attachments, Map 1: North Bethany Concept Plan Natural Features.

³¹ Map attached to Carol Chesarek letter to Washington County Board of Commissioners, June 15, 2010, Re: Urban and Rural Reserves, Ordinance 733. [Washington County Urban & Rural Record, page 9458]. See Exhibit 3 in Attachments, Map 3: Metro Habitats of Concern.

types which would be expected to complement those already planned in the North Bethany area.

Considering that employment growth in Washington County has been historically very strong, and that the area remains attractive to new business and holds potential for significant growth, housing demand in this area will continue to grow.”

Response: There is no evidence in the record to show that the Peterkort property would be more suitable for a range of housing types or more attractive for housing than other Urban Reserve candidate areas in Washington County.

“(7) Can be developed in a way that preserves important natural landscape features included in urban reserves; and

As previously noted, this site is traversed by Rock Creek and its associated floodplain which is included on the Metro Regional Natural Landscape Features Map. Rock Creek and its associated wetlands are considered an important target area for long-term water quality improvements in the Tualatin River Basin and provide vital habitat linkage for sensitive species. Together with the other lands in Urban Reserve Area 8C, this site will be subject to a special planning overlay (Special Concept Plan Area C) designed to address the important values of this riparian corridor by requiring appropriate protection and enhancement through the use of progressive and environmentally sensitive development practices.”

Response: According to OAR 660-027-0010(6), “ ‘Important natural landscape features’ means landscape features that limit urban development or help define appropriate natural boundaries of urbanization.” The Rock Creek floodplain is mapped as an important natural landscape feature, but its ability to limit urban development and help define appropriate natural boundaries of urbanization would be destroyed by developing the Peterkort property. There is no evidence in the record that the loss of these important functions was considered.

New urban roads and trails within the Peterkort area are likely to be within 300 yards of ponds in the Rock Creek floodplain and wetland areas between the developable portion of the Peterkort property and the Rock Creek campus of Portland Community College. Northern Red-Legged Frogs have been identified in this area, and these frogs use extensive upland habitat areas, up to 300 yards from their breeding ponds, making them susceptible to vehicle, bicycle, and foot traffic on roads and trails. According to the City of Portland’s Forest Park Natural Resources Management Plan³², amphibians can be killed by vehicle traffic on roads, and by foot and bicycle traffic on trails. Northern Red Legged Frogs are declining seriously in the Willamette Valley, and are no longer found in areas where they were once abundant.³³

Development of the Peterkort property is also likely to expand the urban intrusion into the sensitive habitats along Rock Creek by putting development near both sides of the floodplain and

³² Excerpt from Carol Chesarek letter to Washington County Board of Commissioners, June 15, 2010, Re: Urban and Rural Reserves, Ordinance 733. [Washington County Urban & Rural Record, pages 9432 – 9445]. See Exhibit 2 in Attachments, “From the “Forest Park Natural Resources Management Plan”; Portland Parks and Recreation, Bureau of Planning, Adopted by City Council February 8, 1995.”, p 2

³³ “Northern Red-Legged Frog Survey” from Carol Chesarek letter to Multnomah County Board of Commissioners, May 6, 2010, Re: Urban and Rural Reserves

probably adding new trails through the floodplain and riparian areas. The City of Beaverton's Pre-Qualified Concept Plan³⁴ proposed ball fields as a possible use of this floodplain. The potential harm is documented³⁵ in comments from Oregon Department of Fish and Wildlife opposing the Clean Water Services application for permission to build a sewer trunk line across part of the Peterkort property.

Locational and topographic realities beyond the county's control will result in traffic from this area using NW Germantown Road to reach Portland. This added traffic will have a negative impact not only on adjacent agriculture, but also on Forest Park and the valuable wildlife corridors in the West Hills.³⁶ Elk are sensitive to human disturbance such as motorized travel.

Development of the Peterkort property would also destroy the sense of place provided by the floodplain and adjacent trees that currently mark a departure from the Bethany urban area and entry into a rural area with farms and floodplain surrounding you. This development would also eliminate a valued pastoral view from North Bethany as explained in RR factor 3e, Sense of place below (pages 18 and 19). The boundary and buffer between urban and rural uses that is provided by the creek and floodplain would also be lost.

"(8) Can be designed to avoid or minimize adverse effects on farm and forest practices, and adverse effects on important natural landscape features, on nearby land including land designated as rural reserves.

Concept and community level planning in conformance with established county plan policies can establish a site design which will avoid or minimize adverse impacts on farm practices and natural landscape features in the area. As noted above, Urban Reserve Area 8C will include a planning overlay specifically targeting special protection for the identified natural landscape features in the area. It is important to note that even without this special plan policy, the existing regulatory framework in urban Washington County would require significant levels of protection and enhancement of the Rock Creek corridor at the time of development of surrounding lands."

Response: The Cities of Beaverton and Hillsboro both appear to have included the Peterkort property in their Urban Reserves documented in their Pre-Qualified Concept Plans.

However, the Metro decisions fail to provide an adequate factual base to demonstrate that the Peterkort property can be designed so that urban development will avoid or minimize the adverse effects that will result from additional urban traffic on rural roads through nearby agricultural areas, and through important natural features, even though the harm of such roads is well documented.³⁷

³⁴ City of Beaverton Pre-qualifying Concept Plan, September 23, 2009, Washington County Urban & Rural Reserves Record p 3063

³⁵ Excerpt from Carol Chesarek letter to Washington County Board of Commissioners, June 15, 2010, Re: Urban and Rural Reserves, Ordinance 733. [Washington County Urban & Rural Record, pages 9432 – 9445]. See Exhibit 2 in Attachments, "ODFW Comments", p 8-11.

³⁶ Ibid. See Exhibit 2 in Attachments, "From the Forest Park Natural Resources Management Plan; Portland Parks and Recreation, Bureau of Planning, Adopted by City Council February 8, 1995.", p 2,3.

³⁷ "Wildlife Crossings", Washington County Urban & Rural Reserves Record, July 14, 2010, pages 9473 - 9480.

It would be difficult to avoid or minimize the harm in this case, since the fastest and most direct route to downtown Portland from the Peterkort property uses NW Germantown Road. NW Germantown Road runs through agricultural land being designated as rural reserves, through the Rock Creek Headwaters natural feature (and crossing the Rock Creek riparian area) and the Forest Park Connections natural feature, and through Forest Park itself. The City of Portland has already documented the harm that traffic on NW Germantown Road causes for wildlife in the park. Traffic from this area will also use NW Cornelius Pass Road, which also runs through agricultural land being designated as Rural Reserves, and which also cuts through the wildlife corridors between Forest Park and the Coast Range, as well as the Rock Creek Headwaters natural feature. Both of these rural roads already bear high traffic loads³⁸.

Because roads across the Tualatin Mountains are very limited (from this area, NW Germantown Road and NW Cornelius Pass Road are the only obvious options), urban traffic is funneled down (instead of being spread across a number of roads) onto a few rural roads, and the impact of this traffic is carried much further from the edge of the urban area than it normally would be.

The Oregon Department of Agriculture report for this area "Identification and Assessment of the Long-Term Commercial Viability of Metro Region Agricultural Lands," January 2007, documents that cut-through urban traffic is already a problem for agricultural practices in this area.

The other portions of this Urban Reserve area 8C are less likely to cause traffic issues on nearby rural roads. They will cause some, but the only portion of the rest of 8C likely to be developed to any great extent is located at the intersection of two arterials which offer attractive alternatives to nearby rural roads. This other portion of 8C is also closer to Hwy 26, will have better access to transit (both bus and light rail), and is adjacent to a grocery store and small retail center at NW 185th and West Union.

There is no evidence in the Metro decisions or in the Pre-qualified Concept Plans for the Peterkort property that the need for a buffer or setback between urban development on the Peterkort property and the adjacent farm property to the north and west was considered. As documented below in the References section, and in attachments, the county does not have a good track record of providing buffers along the edges of urban areas³⁹, and conflicts have resulted in other areas.⁴⁰

The Metro decisions fail to demonstrate that the Peterkort property can be designed to avoid or minimize the adverse effects of urban traffic on farm and forest practices, and the adverse effects on important natural landscape features on nearby land designated rural reserves.

Analysis Under OAR 660-027-0060 - Factors for Designating Land as Rural Reserves

Peterkort property fits the definition of a Rural Reserve. Rural Reserves are defined in SB 1011 Section 1 (1):

³⁸ Carol Chesarek email to Washington County Staff, October 24, 2006, Comments on North Bethany Transportation assumptions [Washington County Urban & Rural Reserves Record, pages 9421 - 9431]

³⁹ Excerpt from Carol Chesarek letter to Washington County Board of Commissioners, June 15, 2010, Re: Urban and Rural Reserves, Ordinance 733. [Washington County Urban & Rural Record, pages 9432 – 9445]. See Exhibit 2 in Attachments, "Part 7: Findings for Metro Ordinance No. 02-987A", p 12

⁴⁰ 3 Letters to Washington County Board of Commissioners [Washington County Urban & Rural Record, pages 9468 – 9470]

- (2) "Rural reserve" means land reserved to provide long-term protection for agriculture, forestry or important natural landscape features that limit urban development or help define appropriate natural boundaries of urbanization, including plant, fish and wildlife habitat, steep slopes and floodplains." (underline added)

Washington County agrees that the Peterkort property qualifies as a rural reserve. According to the Reasons for Urban and Rural Reserves in Washington County [Section VIII of Exhibit E to Ordinance No. 10-1238A, page 55]:

"In the technical analysis to determine conformance with the factors for designation of lands as urban reserves or rural reserves Washington County staff found that the property qualified for designation as either rural reserve or urban reserve."

The southeastern portions of the Peterkort property hold a riparian corridor and broad floodplain along Rock Creek. The land slopes up on both sides of the floodplain, adding to its function as a natural landscape feature that limits urban development and helps define an appropriate natural boundary for urbanization. The floodplain makes the 77 acres of developable land that lies northwest of the floodplain a poor candidate for urbanization by limiting transportation connections to any urban development in North Bethany. Crossing the broad floodplain and riparian corridor would make roads and trails very expensive – a single 2-lane bridge across the narrowest part of the floodplain, proposed to support North Bethany, is estimated to cost \$14M.

The importance of this urban edge at the Rock Creek floodplain is mentioned in Metro's materials for the 2006 Natural Areas Bond measure⁴¹: "Build on wetland/creek confluence near PCC/Rock Creek – opportunity for a "natural edge" between urban and rural areas;"

The October 14, 2009 joint State Agency Letter about Urban and Rural Reserves⁴² emphasizes the importance of using floodplains as urban edges, and urges that floodplains along these edges be placed in Rural Reserves:

"As a general matter, the state agencies believe that larger floodplain areas that are on the periphery of the urban area should *not* be included in urban reserves and that, instead, they should be used as a natural boundary between urban and rural areas to the extent possible. Although some development in floodplains may be possible, the overall amount of development likely to occur in floodplains does not justify their inclusion in urban reserves."

Aside from forming a natural edge, this floodplain also provides sense of place by clearly marking the urban edge. Sense of place, and the buffering effect of the floodplain, are enhanced by moderate slopes on either side of the floodplain. The changes in elevation support the sense of separation.

Developing the 77 "buildable" acres on the Peterkort property would create an urban island, with EFU farmland to the west and the north, and the Rock Creek floodplain and PCC campus to the east and south. This tiny urban island will not have a network of local streets connecting it to the larger urban fabric due to these barriers, leaving it isolated.

⁴¹ Excerpt from Carol Chesarek letter to Washington County Board of Commissioners, June 15, 2010, Re: Urban and Rural Reserves, Ordinance 733. [Washington County Urban & Rural Record, pages 9432 – 9445]. See Exhibit 2 in Attachments, "From Attachment 1 to Resolution No. 07-3834", p.5

⁴² State Agency Comments to Metro Reserves Steering Committee, October 14, 2009, p. 10.

The Oregon Department of Agriculture rated this area as Important agricultural land. The Peterkort property should all be designated Rural Reserve (with the adjacent agricultural lands to the north and west) to protect Natural Features and Important farm land. It qualifies for the “safe harbor” provision in the Administrative Rules.

Rural Reserves for Agriculture. This property is rated “Important” agricultural land by ODA, and is adjacent to the UGB, so it qualifies for the “safe harbor” provision in the Administrative Rules (OAR 660-027-0060 (4)). It is a valuable part of a larger agricultural area proposed for Rural Reserve by Washington County. Development of this property would harm other agriculture in the area due to a lack of sufficient buffers and added traffic on rural roads, diminishing the long term viability of farming across a wider area. A soils report for the Peterkort property is attached⁴³, showing that almost all of the developable area has Class II soils.

Rural Reserves for Natural Landscape Features. The Peterkort property also qualifies for rural reserves based on its regionally significant natural landscape features. The Rock Creek floodplain and riparian corridor are part of the Rock Creek Headwaters (#22) natural landscape feature, identified in Metro’s February 2007 “Natural Landscape Features Inventory”.

Potentially Subject to Urbanization (3)(a). This property has two edges adjacent to the UGB, and it all lies within 3 miles of the Portland Metro area UGB. There can be no question that this area is “potentially subject to urbanization” since it has been designated urban reserves.

Natural Hazards (3)(b). About 50 acres of the property is floodplain.

Fish and Wildlife Habitat (3)(c). Valuable habitat in this area is well documented by Metro and the Natural Landscape Features Inventory. The floodplain and riparian corridor are included in the Natural Features Inventory, and are also target acquisition areas Metro’s 2006 Natural Areas Bond, Rock Creek Headwaters area. Roosevelt Elk have been reported using the floodplain and riparian corridor, and these areas include valuable elk forage. Wildlife connections between Forest Park and Rock Creek are valuable, as is wildlife connectivity to Holcomb Lake (slightly west of the Peterkort property and part of the Rock Creek riparian area). See attached photos of elk⁴⁴ using areas slightly north of here.

Water Quality (3)(d). The Rock Creek watershed already has significant and well-documented water quality issues downstream of this area. This area is considered part of the upper or headwaters portion of Rock Creek. The importance of headwater streams is cited in target area information for Metro’s 2006 Natural Areas Bond for Rock Creek Headwaters (“Goals: Protect the upper watershed to meet water quality protection goals in the lower watershed”)⁴⁵. The upper Rock Creek watershed is defined to include Abbey, Bronson, Holcomb and Beaverton Creeks.

Information for this target area notes: **“Scientific data continues to show the critical importance of intact headwaters for water quality and quantity protection, wildlife habitat**

⁴³ Soils Report for Peterkort property. Attached to Carol Chesarek letter to Washington County Board of Commissioners, June 15, 2010, Re: Urban and Rural Reserves, Ordinance 733. [Washington County Urban & Rural Record, pages 9459-9462]. See Exhibit 7 in Attachments.

⁴⁴ Elk Photos attached to Carol Chesarek letter to Washington County Board of Commissioners, June 15, 2010, Re: Urban and Rural Reserves, Ordinance 733. [Washington County Urban & Rural Record, pages 9455-9457]

⁴⁵ Excerpt from Carol Chesarek letter to Washington County Board of Commissioners, June 15, 2010, Re: Urban and Rural Reserves, Ordinance 733. [Washington County Urban & Rural Record, pages 9432 – 9445]. See Exhibit 2 in Attachments, “Excerpts from “Rock Creek Headwaters and Greenway Target Area”, September 6, 2007, pgs 3-4

and maintenance of overall watershed health.”⁴⁶ This emphasis on intact headwaters indicates that water quality and quantity as would be harmed by urban development in headwater areas, even with Washington County’s stream protections.

In discussion during the 6/18/09 meeting of the Multnomah County CAC, the committee decided on this standard: **“is it important to stop urbanization short of this feature to protect water quality and quantity?”** This floodplain and riparian corridor meet this standard.

Sense of Place (3)(e). The broad Rock Creek floodplain provides a clear sense of departing the urban area when driving on NW 185th Ave. Further, views of the Peterkort property are called out in the Natural Features Overview for North Bethany⁴⁷ as part of an important view corridor from North Bethany, so preserving this property in a Rural Reserve will enhance sense of place for North Bethany. The scenic view corridor from North Bethany to the northwest across the Peterkort property is described as “valued”:

“View Corridor 3—From ridge separating Bethany Creek and Abbey Creek tributaries (near Brugger Road) and facing west and northwest, all views northwest to Tualatin Mountains are valued as scenic viewing pastoral landscape of agrarian fields, wetlands, and forest landscape. All views west allow vista of the distant horizon at the Coast Range Mts. This view direction overlooks Rock Creek North Streamshed (Multnomah County, Local Site 50).”

Boundary or buffer (3)(f). The floodplain through this area is mostly about 1000’ wide – it clearly helps define appropriate natural boundaries of urbanization and to buffer adjacent farms and wildlife habitat from urban development in Bethany.

We need to maintain and reinforce the clear urban edge provided by the creek and floodplain to minimize conflicts between the Bethany urban area and farming on adjacent EFU land expected to be designated Rural Reserves by Washington County.

We also need to maintain an east/west wildlife corridor on the south side of the Tualatin Mountains – there is a relatively narrow “pinch point” in between North Bethany, the Peterkort property, and the western part of Portland in Area 9D to the north. New urban development on the north side of Abbey or Rock Creek would endanger this important wildlife corridor.

Recreation (3)(h). The floodplain and riparian corridor offer wonderful bird watching opportunities, Kingfishers can be seen when driving along NW 185th Ave. The floodplain area could also include recreational trails for North Bethany residents. Trails are consistent with a Rural Reserve.

Summary

I believe that the Peterkort property easily meets these Rural-Reserve factors, and that comparing an evaluation of the Rural Reserve factors to the Urban Reserve factors makes it clear that the Peterkort property is clearly more suited to be a Rural Reserve. Its value as a boundary and buffer between urban and rural uses is outstanding (and this value would be lost forever if the property is developed). Speculative short term benefits for North Bethany cannot outweigh the long term value of this resource.

⁴⁶ *ibid.*, also page 1.

⁴⁷ “Natural Features Overview; North Bethany Planning, Concept Plan Phase,” a Technical Memorandum prepared for Washington County by Steve Mader/CH2M HILL and Robin Craig/GreenWorks, P.C., dated October 11, 2006. Page 12

SB 1011 and the Administrative Rules are designed to protect “large blocks” of farm and forestry land, and to achieve “viability and vitality of the agricultural and forest industries.” This property is part of a large block of Important agricultural land.

The Agriculture and Natural Resources Coalition recommended a Rural Reserve across this area, demonstrating that they agreed that the Peterkort property’s value as a rural reserve exceeds its urban reserve value.

The Metro decisions⁴⁸ argue in favor of designating Urban Reserve on high quality farmland where it can be developed into a Great Community with compact, mixed-use communities with fully integrated street, pedestrian, bicycle and transit systems. But this type of community will not be achieved here due to the separation provided by the floodplain. The Metro decisions also say⁴⁹ that Urban Reserve factors (5), (7), and (8) seek to direct urban development away from important natural landscape features and other natural resources, but urban development of the Peterkort property would surround an important stretch of the Rock Creek Headwaters natural landscape feature #22 and would diminish its value.

Remedy. Based on the above, the Peterkort property does not satisfy the requirements of OAR 660-027-0040(1) and should be designated rural reserves, not urban reserves.

Objection 3: Designating the Peterkort property as Urban Reserves fails to satisfy Goal 2, Evaluation of alternative courses of action, Violates Goal 2, Adequate Factual Base, and is not Supported by Substantial Evidence in the Whole Record.

There is no evidence in the record showing that the Peterkort property could not provide wetland mitigation if it is a Rural Reserve. There is also no evidence in the record to show that nearby alternatives wetland mitigation sites were evaluated for cost and availability, only a comment that there are “limited opportunities for wetlands mitigation ... in this area of the county.”⁵⁰ There are many acres of floodplain and wetland upstream and downstream from the Peterkort property⁵¹, and there is not sufficient evidence in the record to show that these other properties do not offer opportunities for wetlands mitigation near North Bethany.

There is no evidence in the record showing that Road A cannot be built across the Peterkort property if it is a Rural Reserve. There is no evidence in the record to show that alternative funding approaches for Road A were considered, for example slightly higher residential densities in North Bethany. Washington County has the option of increasing the planned density in North Bethany because the North Bethany Community Plan has not been finalized. Urban Reserves are expected to yield an average of 15 dwelling units per acre, but North Bethany is being planned at only about 10 dwelling units per acre. Development of additional homes within North Bethany would produce additional funds from both System Development Charges and Transportation Development Taxes, and would produce those funds closer to the time when Road A will need to be constructed to serve North Bethany than urban development on the Peterkort property (which

⁴⁸ Metro Ordinance No. 10-1238A, Exhibit E, “Reasons for Designation of Urban and Rural Reserves”, page 3.

⁴⁹ Ibid.

⁵⁰ Metro Ordinance No. 10-1238A, Exhibit E, “Reasons for Designation of Urban and Rural Reserves”, page 57. See Exhibit 9 in Attachments.

⁵¹ Map attached to Carol Chesarek letter to Washington County Board of Commissioners, June 15, 2010, Re: Urban and Rural Reserves, Ordinance 733. [Washington County Urban & Rural Record, page 9447]. See Exhibit 3 in Attachments, Map 1: North Bethany Concept Plan Natural Features.

may not occur for some time because it is not adjacent to any city to provide urban services). This option would also make more efficient use of North Bethany infrastructure, provide additional dwelling units, and would not require expensive new infrastructure to serve development on the Peterkort property, while preserving important agriculture lands and a highly valuable natural feature.

There is no evidence in the record to show that the proposed sewer trunk line could not be built if the Peterkort property was a Rural Reserve. There is no evidence in the record to show that later construction of sanitary sewer service to the northwest area of North Bethany would unreasonably delay development, even if that was an allowable consideration for an Urban Reserve decision.

Remedy. Based on the above, designating the Peterkort property as urban reserves does not satisfy Goal 2, and should be designated rural reserves, not urban reserves.

Objection 4: Designating the Peterkort property Urban Reserves fails to satisfy Goal 3 - Agricultural lands (OAR 660-015-000(3) - Urban growth should be separated from agricultural lands by buffer or transitional areas of open space, Violates Goal 2, Adequate Factual Base, and is not Supported by Substantial Evidence in the Whole Record.

This Metro decision violates a key planning principle in Goal 3, that urban growth should be separated from agricultural lands by buffer or transitional areas of open space, because it would eliminate an effective, high quality buffer that serves to protect valuable farm lands.

The key to improving the interface between urban and agricultural lands is providing an adequate (in size and form) buffer between the two uses. Designating the Peterkort property as Urban Reserve would eliminate a high quality existing buffer (the Rock Creek riparian corridor and floodplain) between agriculture and urban uses in the Bethany area without providing a comparable replacement.

The developable portions of this property lie north and west of the broad Rock Creek floodplain, extending into agricultural lands rated Important and Prime, that are zoned EFU and separated from the only nearby urban area (PCC Rock Creek and undeveloped portions of North Bethany) by the substantial Rock Creek floodplain.

There is no comparable natural feature to provide a buffer between urban and rural uses north and west of the Rock Creek floodplain. There is no buffer at all between the Peterkort property and farmland to the north, and to the west only NW 185th Ave is available as a buffer. Roads such as NW 185th can provide hard edges between urban areas and agricultural practices, but they do not provide a useful buffer for agriculture, especially compared to the broad Rock Creek floodplain and adjacent vegetation. A road is not open space.

Designating the Peterkort property as urban reserve does not satisfy the Goal 3 requirement for a buffer or transitional open space between urban growth and agricultural lands.

Remedy. Designating the Peterkort property as urban reserves does not satisfy Goal 3. The property should be designated rural reserves, not urban reserves.

Objection 5: Designating the Peterkort property Urban Reserves violates Goal 5, OAR 660-015-0000(5), To Protect Natural Resources and Conserve Scenic and Historic Areas and Open Spaces, Violates Goal 2, Adequate Factual Base and is not Supported by Substantial Evidence in the Whole Record

The Metro decisions fail to provide an adequate factual base to demonstrate that they have the adequately considered or addressed OAR 660-015-0000(5), GUIDELINES FOR GOAL 5, which says, in part, that “Plans providing for open space, scenic and historic areas and natural resources should consider as a major determinant the carrying capacity of the air, land and water resources of the planning area. The land conservation and development actions provided for by such plans should not exceed the carrying capacity of such resources.” The Peterkort property does not have adequate carrying capacity to serve both the current wildlife population and new urban development. The Implementation section of the Guidelines for Goal 5 says:

1. Development should be planned and directed so as to conserve the needed amount of open space.
2. The conservation of both renewable and non-renewable natural resources and physical limitations of the land should be used as the basis for determining the quantity, quality, location, rate and type of growth in the planning area.

The Metro decisions fail to address these considerations for the Peterkort property. Elk habitat, Northern Red Legged Frogs, and other sensitive habitats would be adversely affected by urban development of the Peterkort property, as explained previously.

The regulatory component of Washington County’s Goal 5 program (the “Tualatin Basin Program” element of Metro Title 13) relies heavily upon the existing vegetated corridor rules and does not address the needs of wide ranging upland species such as elk. Upland habitats in the Tualatin Basin Program are given a “lightly limit” level of protection, education and incentives are the focus, not regulation. Resource retention is optional (voluntary) in upland areas. The Tualatin Basin Program Implementation Report, dated January 2007, says “Jurisdictions may also choose to encourage habitat-friendly development practices in other habitat areas including Class III riparian areas and Class A uplands.”

There is another problem. The Tualatin Basin Program only protects riparian corridors after they are within Clean Water Services service boundary. Until then, they are governed by the Rural/Natural Resource element of the Washington County Comprehensive Plan, which does not limit forestry practices. In rural areas, this means that property owners are allowed to remove trees to within 25’ of a stream.

The Tualatin Basin Program, implemented by Clean Water Services (CWS) to protect riparian areas, only takes effect after the UGB has been expanded, and after Concept planning has completed. Any property owner with trees in a riparian corridor within an Urban Reserve, or in an unplanned UGB expansion area, can remove trees that are more than 25’ away from a stream to minimize the habitat conservation area and maximize the development potential of their property up until CWS annexes the property. This type of tree removal has been common in the North Bethany area. The incentive to remove such trees results directly from planned urban development.

There is an inadequate factual base in the record to demonstrate that the Metro decisions considered the Goal 5 requirement to “conserve the needed amount of open space” by evaluating the needs of elk, Northern Red-legged Frogs, and other species that use the Peterkort property. There is also no evidence that the Metro decisions considered the effects that Peterkort development and the resulting additional urban traffic would have on the important east/west

wildlife corridor on the south side of the Tualatin Mountains that is used by elk, cougar, and black bear⁵².

Remedy. Designating the Peterkort property as urban reserves does not satisfy Goal 5. The property should be designated rural reserves.

Objection 6: Designating the Peterkort property Urban Reserves fails to satisfy OAR 660-027-0005(2), Long-term Protection of Large Blocks of Agricultural Land and Important Natural Landscape Features, Violates Goal 2, Adequate Factual Base and is not Supported by Substantial Evidence in the Whole Record

OAR 660-027-0005(2) says “Rural reserves under this division are intended to provide long-term protection for large blocks of agricultural land and forest land, and for important natural landscape features that limit urban development or define natural boundaries of urbanization. The objective of this division is a balance in the designation of urban and rural reserves that, in its entirety, best achieves livable communities, the viability and vitality of the agricultural and forest industries and protection of the important natural landscape feature that define the region.”

The Metro decision to designate the Peterkort property as urban reserves fails to achieve this balance.

Urban development on the Peterkort property would not result in a livable community because it would be physically separated from North Bethany and is not “walkable” due to the distance to retail stores that meet daily needs. OAR 660-027-0010(12) says that “Walkable describes a community in which land uses are mixed, built compactly, and designed to provide residents, employees, and others safe and convenient pedestrian access to schools, offices, businesses, parks and recreation facilities, libraries and other places that provide goods and services that are used on a regular basis.” Development on the Peterkort property will not provide convenient pedestrian access to schools, offices, and businesses that provide the goods and services that are used on a regular basis, as explained in Objection 2, analysis of Urban Reserve Factor (2) on pages 10 and 11.

Urban development on the Peterkort property would cast a shadow over a large block of nearby Foundation and Important agriculture lands that form a large block, threatening their viability and vitality with additional urban cut through traffic, possible requirements for new roads through adjacent farmlands, and unbuffered urban edges.

The Rock Creek floodplain limits urban development and defines a natural boundary of urbanization, exemplifying an important natural feature that deserves rural reserve protection.

Remedy. Designating the Peterkort property as urban reserves does not satisfy OAR 660-027-0050(2). The property should be designated rural reserves.

Conclusion

⁵² In 2006, Forest Park Neighborhood Association mapped locations where people had seen elk, cougar, and black bear. This map is included in the Multnomah County Urban and Rural Reserves Record, page 392, and it complements the elk sightings recorded in the SaveHelvetia.org August 14, 2009 report “Wildlife Habitat” [Washington County Urban & Rural Reserves Record, pgs 5998-6014

One of the goals of the Reserves process is to ensure that we make smart decisions about which areas to develop. Great Communities should allow residents to walk to meet their daily needs. New development needs to be integrated into the urban fabric, not isolated in little islands. Farmlands and natural resource areas should be protected for the long term benefits they provide, not sacrificed for short term gains.

Designating Peterkort as an urban reserve will not create a Great Community, and it will result in harm to adjacent and nearby agricultural practices and important natural landscape features.

There is ample evidence to support designating this property as a Rural Reserve for both natural features and agriculture, especially given the valuable buffer that the Rock Creek floodplain provides between urban and rural uses, and its importance in the context of the West Hills, Forest Park, and wildlife corridors.

The Peterkort property is important for the surrounding agricultural area and for its natural landscape features, which deserve the protection of a Rural Reserve.

Thank you for your consideration.

**Objections to Metro Urban and Rural Reserves
Metro Ordinance No. 10-1238A and Washington County Ordinance 733
Peterkort Property (Tax Lot 1N1 18, Lot 100)**

SUBMITTED July 14, 2010

BY



Carol Chesarek
13300 NW Germantown Road
Portland, OR 97231



Cherry Amabisca
13260 NW Blshop Road
Hillsboro, OR 97124

Cc:

Metro Regional Center
600 NE Grand Ave.
Portland, OR 97232
Laura Dawson Bodner

Clackamas County
Department of Transportation and Development
Development Services Building
150 Beaver Creek Road
Oregon City, OR 97045
Maggie Dickerson

Multnomah County
1600 SE 190th Avenue
Portland, OR 97233
Chuck Beasley

Washington County
Department of Land Use and Transportation
155 N. First Ave., Suite 350-14
Hillsboro, OR 97124-3072
Steve Kelley

**Objections to Metro Urban and Rural Reserves
Metro Ordinance No. 10-1238A and Washington County Ordinance 733
Peterkort Property (Tax Lot 1N1 18, Lot 100)**

ATTACHMENTS

- Exhibit 1 List of supporters who have standing and support the objections
- Exhibit 2 Excerpt from Carol Chesarek letter to Washington County Board of Commissioners, June 15, 2010, Re: Urban and Rural Reserves, Ordinance 733. [Washington County Urban & Rural Record, pages 9432 – 9445]
- Exhibit 3 Maps attached to Carol Chesarek letter to Washington County Board of Commissioners, June 15, 2010, Re: Urban and Rural Reserves, Ordinance 733. [Washington County Urban & Rural Record, pages 9447, 9448, and 9458]
- Map 1 - North Bethany Concept Plan Natural Features
Map 2 - Peterkort property in relation to Bethany Community
Map 3 - Metro Habitats of Concern
- Exhibit 4 “Northern Red-Legged Frog Survey” from Carol Chesarek letter to Multnomah County Board of Commissioners, May 6, 2010, Re: Urban and Rural Reserves.
- Exhibit 5 Peterkort Covenant with Clean Water Services, February 19, 2010. Attached to Carol Chesarek letter to Metro Council, May 20, 2010, re: Metro Rural and Urban Reserves hearing, Peterkort Property in Washington County (excluding signature pages).
- Exhibit 6 Elk Photos attached to Carol Chesarek letter to Washington County Board of Commissioners, June 15, 2010, Re: Urban and Rural Reserves, Ordinance 733. [Washington County Urban & Rural Record, pages 9455-9457]
- Exhibit 7 Soils Report for Peterkort property. Attached to Carol Chesarek letter to Washington County Board of Commissioners, June 15, 2010, Re: Urban and Rural Reserves, Ordinance 733 [Washington County Urban & Rural Record, pages 9459-9462]
- Exhibit 8 Special Concept Plan Area C, from Exhibit B to Agreement between Metro and Washington County [Washington County Urban & Rural Record, page 9299]
- Exhibit 9 Peterkort section of Metro Ordinance No. 10-1238A, Exhibit E, “Reasons for Designation of Urban and Rural Reserves,” pages 55-58
- Exhibit 10 Washington County Ordinance No. 733 Issue Paper No. 3, May 6, 2010 [Washington County Urban & Rural Reserves Record, pages 8586-8591]

The undersigned individuals have participated in at least one Urban & Rural Reserves hearing and therefore have standing to submit Objections. These individuals wish to join the attached Objections opposing the designation of the Peterkort property as an Urban Reserve.

John C. Platt 7/11/10
Date
John C. Platt
23269 NW Yungen Road
Hillsboro, OR 97124

Robert H. Bailey 7-11-10
Date
Robert H. Bailey
7455 NW Helvetia Road
Hillsboro, OR 97124

Allen L. Amabisca 7-11-2010
Date
Allen L. Amabisca
13260 NW Bishop Road
Hillsboro, OR 97124

Charlie C. Young 7/12/10
Date
Charlie C. Young
13310 NW Bishop Road
Hillsboro, OR 97124

Patricia Bailey 7-11-10
Date
Patricia Bailey
7455 NW Helvetia Road
Hillsboro, OR 97124

Gary Price 7/14/10
Date
Gary Price
13500 NW Bishop Road
Hillsboro, OR 97124

Adrian Amabisca 7-11-2010
Date
Adrian Amabisca
13260 NW Bishop Road
Hillsboro, OR 97124

Greg Mecklem 7/13/10
Date
Greg Mecklem
12995 NW Bishop Road
Hillsboro, OR 97124

The undersigned individuals have participated in at least one Reserves hearing and therefore have standing to submit Objections. These individuals wish to join the attached Objection to the designation of the Peterkort property as an Urban Reserve.

Milly Skach
13640 NW Springville Lane
Portland, OR 97229

[REDACTED]
[REDACTED]
[REDACTED]

Kevin O'Donnell
5981 NW 142ND TER
Portland, OR 97229

Greg Malinowski
13450 NW Springville Lane
Portland OR 97229

Greg Malinowski

[REDACTED]
[REDACTED] NW Springville Lane
[REDACTED]

Joseph C Rayhawk
15248 NW Germantown Road
Portland, OR 97231

Joseph C Rayhawk

Christopher H. Foster
15400 NW McNamee Rd.
Portland OR.

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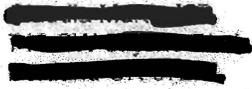
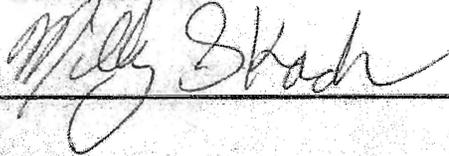
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Exhibit 2. Excerpt from Carol Chesarek letter to Washington County Board of Commissioners, June 15, 2010, Re: Urban and Rural Reserves, Ordinance 733. [Washington County Urban & Rural Reserves Record, pages 9432-9445]

References (underlining added)

The Definitions section (660-027-0010) in the administrative rules provides this:

(6) “Important natural landscape features” means landscape features that limit urban development or help define appropriate natural boundaries of urbanization, **and that thereby provide for the long-term protection and enhancement of the region's natural resources, public health and safety, and unique sense of place.** These features include, but are not limited to, plant, fish and wildlife habitat; corridors important for ecological, scenic and recreational connectivity; steep slopes, floodplains and other natural hazard lands; areas critical to the region's air and water quality; historic and cultural areas; and other landscape features that define and distinguish the region.

Water Quality and Quantity

In discussion during the 6/18/09 Multnomah County CAC meeting, the committee decided on this standard: **“is it important to stop urbanization short of this feature to protect water quality and quantity?”**

The importance of headwater streams is cited in target area information for Metro’s 2006 Natural Areas Bond for Rock Creek Headwaters (“Goals: Protect the upper watershed to meet water quality protection goals in the lower watershed”). The Rock Creek watershed is defined to include Abbey, Bronson, Holcomb and Beaverton Creeks.

Information for the target areas notes: **“Scientific data continues to show the critical importance of intact headwaters for water quality and quantity protection,** wildlife habitat and maintenance of overall watershed health.” This indicates that water quality and quantity as would be harmed by urban development in headwater areas, even with Title 13 protections.

The Rock Creek Headwaters description says “Watershed managers have identified protection of the upper watershed as a high priority for meeting water quality protection goals in the lower watershed. ... Because the creek and its tributaries pass through rapidly urbanizing neighborhoods within the cities of Hillsboro and Beaverton, protecting water quality is a priority.” Metro appears to consider the lower watershed to be the area passing through Hillsboro and Beaverton, and their Tier 1 target area includes portions of the upper watershed.

From the Metro Natural Landscape Features Inventory, February 2007

Rock Creek Headwaters

Rock Creek flows from the Tualatin Mountains in Forest Park to the Tualatin River. Watershed managers have identified protection of the upper watershed as a high priority for meeting water quality protection goals in the lower watershed. Opportunities to improve and protect habitat also exist through the protection of key tributaries and their associated wetlands. Because the creek and its tributaries pass through rapidly urbanizing neighborhoods within the cities of Hillsboro and Beaverton, protecting water quality is a priority. These headwaters also provide wildlife habitat and trail connectivity from the Tualatin Valley to the Tualatin Mountains that includes Forest Park.

Forest Park Connections

Forest Park lies within the city of Portland and unincorporated Multnomah County. It is considered by many to be the "crown jewel" of the region's open spaces network. At more than 5,000 acres of mostly second-growth forest, Forest Park contains an abundance of wildlife and its massive tree canopy and substantial undergrowth serves as a natural air purifier, water collector, and erosion controller. The Forest Park connection area provides protection to key watersheds like Balch, Miller, Ennis and Agency Creeks and secures the integrity of the "big game" corridor that links the park with habitat in the northern Coast Range. Connecting Forest Park to Rock Creek and the proposed Westside Trail will keep important wildlife corridors intact and provide trail connections between the region's largest urban park and Washington County.

From the "Forest Park Natural Resources Management Plan: Portland Parks and Recreation, Bureau of Planning, Adopted by City Council February 8, 1995. Development impacts on wildlife and habitats in Forest Park.

"Increased activity along boundaries, roads, and trails fragments populations of amphibians and reptiles using the park.

1. Boundaries increasingly act as barriers to movement of some species. An adult female northern red-legged frog was found road-killed at the junction of Skyline Boulevard and NW Springville Road. Traffic levels have especially increased along Skyline Boulevard and Germantown Road. Increased use of Germantown Road during evening hours increases the risk to nocturnal organisms crossing this road from adjacent portions of Forest Park. Mortality also occurs on trails in the Balch Creek system with heavy human use. Slow-moving diurnal salamanders such as rough-skinned newts are especially vulnerable to heavy foot-traffic. Regardless of type of boundary or thoroughfare, increased use increases the risk of crossing such boundaries to relatively slow-moving amphibians and reptiles.
- 2.
3. Activity along the boundaries of, or thoroughfares through, Forest Park have a region of influence that extends some distance into the park from those boundaries and thoroughfares. Greater disturbance along such edges places amphibians and reptiles in those areas at greater risk." p. 60

"Roads

Roadways present problems to many wildlife species for a variety of reasons. The movements of large mobile mammals may be inhibited or disrupted by roads. Noss (1987) reports that carnivores, particularly large ones, will avoid roads whenever possible. ... Predators following roadsides would be exposed to a higher risk of mortality from automobile collisions, and this effect extends for a distance of 1 km. into adjacent natural areas.

Smaller vertebrates like forest rodents and amphibians may find roads a nearly impassable barrier, while reptiles seeking to absorb heat from warm roads are killed in large numbers in some areas of the United States. Increased numbers of roads accompanying development and

the subsequent increase in automobile traffic tend to further fragment habitat and disturb use by wildlife by interfering with foraging and dispersal of many species. This would be in addition to losses due to harmful edge effects created by road construction and clearing.

Residential Development

Residential development poses some particular conflicts with forest wildlife. Domestic dogs and cats, prey on small vertebrates including shrews and woodpeckers. Additionally, dogs form packs which chase black-tailed deer (*Odocoileus hemionus*), elk (*Cervis elaphis*) and other large and medium-sized mammals." p. 64

According to a new Metro document "**Wildlife corridors and permeability, A literature review,**" April 2010: "Reptiles and amphibians are particularly vulnerable to road effects, and some species may experience high mortality when migrating to or from breeding areas

Excerpts from Exhibit A to Metro Resolution No. 07-3834, Approving the Natural Areas Acquisition Refinement Plan for the Rock Creek Headwaters and Greenway Target Area, September 6, 2007:

"Background

...

The 2006 Natural Areas bond measure stated:

A major tributary of the Tualatin River, upper Rock Creek and its tributaries are under intense development pressure as urban growth expands throughout the watershed. Watershed managers have identified protection of the upper watershed as a high priority for meeting water quality protection goals in the lower watershed. Opportunities to improve and protect habitat also exist through the protection of key tributaries and their associated wetlands. In addition, the protection of key undeveloped sites in the lower reaches of Rock Creek, particularly in Hillsboro, will buffer growth, protect water quality and provide nature in neighborhoods for local residents.

A biological assessment for this target area indicates that oak woodlands and oak savanna habitat support varied wildlife, and expanding the protected natural areas would increase habitat opportunities for vulnerable species such as red-legged frogs, Western bluebirds and northwestern pond turtles. In addition, threatened species such as steelhead, cutthroat trout and coho salmon are present in Rock, Abbey, Holcomb, Bannister and Bronson creeks, as well as in an Abbey Creek tributary."

...

"Target Area Description

Rock Creek flows from the Tualatin Mountains to the Tualatin River. The headwaters hold key areas of undeveloped land which provides linkages for wildlife. These areas also contribute to water quality. Because the creek and its tributaries pass through rapidly urbanizing neighborhoods within the city of Hillsboro, protecting water quality is a priority."...

"Findings

- Rock Creek is a major tributary of the Tualatin River. The headwaters of Rock Creek and its tributaries have been targeted for acquisition due to intense development pressure as urban

- Multiple stakeholders have mentioned the important bottomland forest and wetland confluence habitat on the Willamette River where tributary streams enter the Willamette River. Habitat for pond turtles, bottomland forest, and Willamette wetlands are a diminishing resource. Restoration potential and mitigation bank potential. Very important habitat for Willamette River listed fish species
- The connections with the Rock Creek watershed and its tributaries are important linkages for wildlife and humans. Possible connections in this area for the Westside Trail and the Pacific Greenway trail were mentioned. Abbey Creek headwaters, Rock Creek headwaters
- Balch Creek and Forest Park in-holdings and edge properties are important targets for maintaining forest and habitat health and for protecting water quality in key watersheds. However, they are likely to be very expensive and difficult to acquire.
- Northwest corridor and Rock Creek connection properties are also important for maintaining habitat connections to adjacent natural areas and ecosystems, headwaters, and for buffering unique habitats. Important local elk habitat shared with Rock Creek. Elk use creek corridors for movement, feed in open fields, and use forested areas for cover/rest.”

From the Multnomah County West Hills Reconciliation Report Revised – May 1996:

Page V-9,10,11 (Wildlife Habitat):

“Thus it is the quantity of the West Hills Wildlife Habitat Area in relation to its quality and location that are critical to this inquiry. High quality habitat elsewhere in Multnomah County cannot substitute for even medium quality habitat in the West Hills. It is because medium quality habitat is limited, and threatened by conflicting uses at a particular location, that makes the West Hills a significant Goal 5 resource.

4. Quality ...

a. WILD ABOUT THE CITY (Marcy Houle, 1990)

This report discusses the concept of contiguous areas of natural habitat for wildlife and the results of the fragmentation of habitat into “islands.” In the latter instance, numerous biological studies (see bibliography for Wild About the City) have documented the diminishment and loss of native plants and animals due to a lack of connection to a larger ecosystem. Continued development in the West Hills wildlife area could result in the fragmentation, and therefore the degradation of both the West Hills’ and Forest Park’s natural systems, the loss of species diversity, the permanent loss of natural populations to catastrophe such as fire, and the weakening of plant and animal populations due to the lack of genetic diversity available in larger areas.

b. A STUDY OF FOREST WILDLIFE HABITAT IN THE WEST HILLS (Esther Lev, Jerry Fugate, Lynn Sharp, 1992)

This report provides a more in depth study of existing wildlife within the West hills area. Research for the study included a series of six transects throughout the region, representing different types of land use... the transect with the most species diversity and numbers were found in the “control” transect within the boundaries of Forest Park. This indicates the high wildlife habitat values to be found within the park, and the importance of integrating Forest Park into a larger contiguous wildlife habitat area in order to protect this high value.”

Elk

Elk need both forage and cover. Their preferred habitat includes a mix cover (trees and shrubs) and open fields. The grasses and forbs they prefer in summer do not grow well in dense shade. As a general rule, they do not like humans or cars.

Quotes from "Oregon's Elk Management Plan, February 2003" by ODFW:

"Numerous studies have shown ... Roosevelt elk are sensitive to human disturbances such as motorized travel on and off roads" p. 16

"It is documented in numerous studies that human access to elk habitat due to increased road density can negatively affect elk habitat utilization and increase elk vulnerability... Habitat Effectiveness models developed from these studies all concluded that the effectiveness of habitat for elk declines as road density increases." p. 30

From the "Forest Park Natural Resources Management Plan: Portland Parks and Recreation, Bureau of Planning, Adopted by City Council February 8, 1995. Development impacts on wildlife and habitats in Forest Park.

"Increased activity along boundaries, roads, and trails fragments populations of amphibians and reptiles using the park.

4. Boundaries increasingly act as barriers to movement of some species. An adult female northern red-legged frog was found road-killed at the junction of Skyline Boulevard and NW Springville Road. Traffic levels have especially increased along Skyline Boulevard and Germantown Road. Increased use of Germantown Road during evening hours increases the risk to nocturnal organisms crossing this road from adjacent portions of Forest Park. Mortality also occurs on trails in the Balch Creek system with heavy human use. Slow-moving diurnal salamanders such as rough-skinned newts are especially vulnerable to heavy foot-traffic. Regardless of type of boundary or thoroughfare, increased use increases the risk of crossing such boundaries to relatively slow-moving amphibians and reptiles.
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*dup
P. 2*

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Roadways present problems to many wildlife species for a variety of reasons. The movements of large mobile mammals may be inhibited or disrupted by roads. Noss (1987) reports that carnivores, particularly large ones, will avoid roads whenever possible. ... Predators following roadsides would be exposed to a higher risk of mortality from automobile collisions, and this effect extends for a distance of 1 km. into adjacent natural areas.

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Residential development poses some particular conflicts with forest wildlife. Domestic dogs and cats, prey on small vertebrates including shrews and woodpeckers. Additionally, dogs form packs which chase black-tailed deer (*Odocoileus hemionus*), elk (*Cervus elaphis*) and other large and medium-sized mammals." p. 64

"Roads

Roads present a particular impediment to small terrestrial animals and some carnivores. Perhaps the prime example of this in Forest Park is NW Germantown Rd. The traffic volume,

embankments and road cuts pose a barrier to small rodents, insectivores, amphibians and reptiles... There is little that can be done about this (short of closing the road) with the exception of providing culverts under the road at several places along its route.” p. 69

From the ODFW Prioritization of Metro Natural Landscape Features:

Rock Creek Headwaters (20) Natural Landscape Feature’s Key Features, Values, and Attributes:

- Streams/habitats with ESA-listed salmonids; historic winter steelhead range
- Portion of OCS Conservation Opportunity Area (CR-09) – Forest Park
- OCS Species of Concern
- Multiple big game species
- Big game winter range
- Wildlife corridors/connectivity

ODFW Comments Oposing the North Bethany Sewer Trunk Line

These ODFW comments on CWS’ application to the Department of State Lands for permission to construct this sewer trunk line to serve North Bethany can also be viewed online:

<http://www.statelandsonline.com/index.cfm?fuseaction=Comments.CommentList&id=44645>

“NAME: Elizabeth Ruther

CITY: Portland

STATE: OR

AGENCY: Oregeon Dept of Fish and Wildlife

COMMENTS:

- An alternate site or design should be investigated.
- Expect adverse impact to water resources.
- Recommend permit denial.

This correspondence is in response to the opportunity to comment received by the Oregon Department of Fish and Wildlife (ODFW) from the Oregon Department of State Lands (DSL). The applicant, Clean Water Services (CWS) would like to construct a completely new gravity-only sewer line within Rock Creek riparian corridor to connect a future North Bethany community to an existing line within the City of Hillsboro boundaries. Overall, ODFW is very concerned about the fish and wildlife species and habitat resource values present in this area that would be negatively impacted if the sewer line installation was allowed to occur. ODFW is also concerned that some local land use review processes will not occur because this area is currently outside of the City of Hillsboro boundaries and Goal 5 inventory for significant natural resources has not been completed. The portion of Rock Creek that is within city boundaries has the highest level of protection and is part of Goal 5 significant natural resource inventory. Based on

ODFW's professional judgement, Rock Creek within the project area can be considered a significant natural resource although it has not been officially designated as such.

Additionally, Rock Creek is one of 27 regional target areas that Metro, with the input of local stakeholders, including the City of Hillsboro, plans to acquire and protect for future generations. An excerpt from the Metro website states:

“A major tributary of the Tualatin River, upper Rock Creek and its tributaries are under intense development pressure as urban growth expands throughout the watershed. Watershed managers have identified protection of the upper watershed as a high priority for meeting water quality protection goals in the lower watershed. Opportunities to improve and protect habitat also exist through the protection of key tributaries and their associated wetlands. In addition, the protection of key undeveloped sites in the lower reaches of Rock Creek, particularly in Hillsboro, will buffer growth, protect water quality and provide nature in neighborhoods for local residents.”

ODFW supports the analysis that Rock Creek is a sensitive natural resource that is highly threatened by current and future development and that management goals for this riparian corridor should remain water quality and natural resource preservation.

ODFW applauds Clean Water Service's biologist, Tracy Dulin, for attempting to minimize natural resource impact within the construction area through smart planning and working closely with CWS engineers. However, ODFW cannot support constructing new sewer lines within sensitive and increasingly fragmented priority habitats, especially when technology exists to meet the City's planning needs without impacting Rock Creek and when local and regional support exists for considering other alternatives to achieve stated natural resource protection goals set by the City, Metro, and the State.

ODFW recommends analyzing the impacts to natural resources after the following information has been considered and included in the analysis for the public's record of information. ODFW has documented Rock Creek as critical for a number of wildlife and fish species, including those of special conservation concern. At present, ODFW has documented a breeding population of the western (Northern Pacific) pond turtle in Bethany Lake where open pipeline trenching is proposed to occur along the northern edge of the waterbody. The western pond turtle is a federal Species of Concern in Washington County, a State Sensitive-Critical species, and a Strategy Species within the Willamette Valley Ecoregion as per the Oregon Conservation Strategy (OCS) (ODFW 2006). Additionally, ODFW has documented the presence of northern red-legged frogs, Federal Species of Concern, State Sensitive-Vulnerable species and OCS Strategy species, in this reach of Rock Creek from a site visit on May 25th, 2010. ODFW has documented this reach of Rock Creek as rearing habitat for Coho salmon and spawning habitat for steelhead (Lower Willamette River ESU, winter run), a state-classified vulnerable sensitive species, federally listed threatened species, and OCS Strategy species. Cutthroat trout also utilize this creek. ODFW expects that there are several other

species of special conservation concern that use habitats within the area of interest for at least part of their life cycle including, but not limited to, the western bluebird, slender-billed nuthatch, little willow flycatcher, acorn woodpecker, western grey squirrel, and California myotis (bat). It is important to note that OAR 635-044-0130 protects state classified sensitive species.

The impacts to the wetland, riparian, and wildlife habitat found within the area would be substantial, in the long-term, as well as the short-term. Short-term impacts from pipeline construction are not the only impacts, nor necessarily the largest. Long term impacts to fish and wildlife that have cumulative negative effects include:

- o A reduction in migratory bird use and nesting waterfowl from increased edge habitat, reduced habitat quality, and easy human access along the permanent easement line.
- o Increased non-native plant and animal species due to soil disturbance and increased accidental introduction.

- o Permanent change in vegetation structure along 50-foot construction easement and 15-foot permanent easement resulting in permanent loss of micro-habitat and disturbance buffer for state sensitive and strategy species.

- o Increased human disturbance to maintain and repair the pipeline into the future

- o Increased likelihood of pipeline exposure because the dynamic nature of stream channels and flow events naturally result in streambed movement over time.

- o Prolonged absence of rare and important habitat features, such as mature White oak and standing dead trees. These features take more than a human lifetime to replace and removal of these resources is not considered a ‘temporary’ impact by ODFW because the action permanently degrades the habitat for priority species for decades.

ODFW works hard to maintain and increase populations of native and identified sensitive species, as well as strategy habitats identified in the Oregon Conservation Strategy. As such, the installation of the sewer line in this otherwise undeveloped reach is highly undesirable and does not support ODFW’s future desired conditions for the occurring species or potentially occurring species.

ODFW recommends conserving this area as a fish and wildlife movement corridor and linkage to adjacent suitable habitats. Habitat fragmentation is a limiting factor (i.e., threat) to habitats and associated species within the Willamette Valley Ecoregion and the OCS provides guidance through Actions 4.2 and 4.3. Rock Creek is a clear corridor connecting Forest Park area to other habitat patches including the Tualatin River corridor.

ODFW recommends DSL require that CWS reconsider the other alternatives to meet wastewater management objectives for the future North Bethany community that do not impact significant aquatic and terrestrial habitats, state sensitive species, and/or OCS strategy habitats and species. ODFW supports considering alternatives including Alternative 1 in the permit application that utilizes pump station technology and upgrading existing sewer lines to meet project objectives.

In summary, ODFW highly supports Alternative 1 in the permit application because it meets multiple stakeholder interests including protection of fish and wildlife resources and habitat connectivity in the area. Since the construction of a new sewer line in sensitive priority habitat is not consistent with ODFW management guidelines or the Oregon Conservation Strategy and the applicant has not demonstrated that the natural resource impacts from the preferred alternative are unavoidable, and after considering all of the above fish, wildlife, and habitat concerns, ODFW must recommend denial of the application as it currently stands. Please address any questions you may have regarding these comments to Elizabeth Ruther at 503.621-3488 x228.”

Integrating Habitats

“Integrating Habitats” was a design competition conducted by Metro. It did not include any new legally enforceable standards for habitat friendly development. The competition relied on Metro’s Title 13 (which Washington County is already required to comply with, via their Tualatin Basin Plan) for standards of protection for habitat conservation areas. Washington County’s commitment to follow these strategies for the Peterkort property sounds nice, but it has no measurable benefit.

Page 6 of Metro’s “Integrating Habitats Competition Brief” (http://library.oregonmetro.gov/files/050208_designbrief_web_v05.pdf) discusses the Role of Habitat Conservation Areas (HCAs) in *Integrating Habitats*:

Metro’s Title 13 Plan offers innovative, flexible, incentive-based approaches and site design options that encourage nature-friendly development practices. Of primary focus in competition categories are the zones designated as habitat conservation areas (HCAs). HCAs are categorized under three levels: high, moderate and low quality. These designations are based on quality of vegetation, proximity to sensitive areas, and the economic value of the property. Site designs should *avoid* development in HCAs. If development cannot be avoided, site designs should *minimize* the development disturbance to the HCA. Where conservation of a portion of an HCA is not possible, *mitigation*, requiring the creation of like habitat elsewhere on site, is viewed as a ‘last resort’ option.

The design brief for all 3 of the Competition Categories of Metro’s “Integrating Habitats Competition Brief” refer to the importance of Metro Title 13:

Habitat-Based Design and Planning* “The scheme should be consistent with Metro’s Title 13 habitat-based goals (pg 6) and avoid and minimize (and mitigate only as a ‘last resort’) development in HCAs.”

Washington County: Setbacks and Buffers to ensure compatibility between urban uses and agricultural practices on adjacent land outside the UGB zoned for farm or forest use

Washington County began concept planning for North Bethany in 2006. In October, 2009, the County board adopted Land Use Ordinance 712 – North Bethany Subarea Plan. This ordinance includes the following language in Exhibit A, Findings – A-Engrossed Ordinance No. 712, October 27, 2009, pages 61 and 62:

“Part 7: FINDINGS FOR METRO ORDINANCE NO. 02-987A (Exhibit B – Conditions on Addition)

...
6. In Title 11 planning, the city or county with land use planning responsibility for Study Areas 84, 85, 86, and 87 (partial) shall adopt provisions in its comprehensive plan and zoning regulations - such as setbacks, buffers and designated lanes for movement of slow-moving farm machinery - to ensure compatibility between urban uses in an included study area and agricultural practices on adjacent land outside the UGB zoned for farm or forest use.

Findings. North Bethany is bordered by agricultural lands on the east, north and west. As discussed in findings for Metro Ordinance No. 02-987A, Abbey Creek and the adjoining floodplain/riparian zone form a substantial natural buffer separating the Bethany area from the resource land and existing rural neighborhoods to the north. A powerline corridor buffers urban uses on the southern portion of the eastern boundary. The boundary in the northeastern corner is generally not buffered by natural resource lands. For this area, the county will continue to consider how to ensure compatibility between urban uses and farm and forest use in a subsequent land use ordinance.

Conclusion. The county is not in compliance with Condition on Addition No. 6. As part of a subsequent land use ordinance, the development of specific development standards will continue to be considered as reasonable measures to minimize potential conflicts.”

On behalf of Forest Park Neighborhood, which borders the northern and eastern edges of North Bethany, I have requested implementation of the required buffers and setbacks at each stage of the planning process. Four years after starting North Bethany planning, Washington County still has not identified any standards for setbacks or buffers to ensure compatibility between urban uses and agricultural practices on adjacent land outside the UGB zoned for farm or forest use, nor have they identified a strategy or process for defining such buffers. The county is currently hurrying to complete a revised North Bethany ordinance, but none of the materials provided so far propose any standards for the setbacks and buffers. The county does not appear to have researched definitions of setbacks and buffers with proven record of success in other areas.

The County's failure to define a specific, measurable, enforceable, and legally defensible development standards for setbacks and buffers with a proven record of success for North Bethany, or for Urban Reserves (in their Reserves documentation) leaves a great deal of doubt about whether they are capable of designing new urban areas with the necessary setbacks and buffers to avoid or minimize adverse effects on farm and forest practices as required by Urban Reserves Factor (8) in OAR 660-027-0050 in locations such as the Peterkort property (now in Urban Reserve Area 8C) or for the where there no riparian corridor to provide a buffer. The Cities of Beaverton and Hillsboro do not appear to have defined (or ever implemented) this type of buffer or setback either, and no standard is mentioned in their Pre-Qualified Concept Plans.

Tree Protection in Urban Areas

“Regional Urban Forestry Assessment and Evaluation for the PortlandVancouver Metro Area,” Prepared by Audubon Society of Portland and Portland State University’s

Department of Environmental Science and Management, June 2009 (*Revised June 2010*)

[http://library.oregonmetro.gov/files//060110_forestry_assessment_revised_web.pdf]

Urban Unincorporated Washington County, Page 29:

“No permit is required to cut trees outside the development review process unless the site is identified as a Goal 5 resource on the applicable community plan. Washington County has no official sanctioned tree committee, board, or commission. The county does not have an urban forestry management plan.”

“In sum, both a lack of specific standards for tree preservation and the presumption that trees cannot be accommodated at zoned densities result in little tree preservation in urban unincorporated Washington County.”

“Tualatin Basin Goal 5 / Natural Resources ESEE Analysis.” prepared by Tualatin Basin Partners for Natural Places and Angelo Eaton & Associates. March 2005.

Excerpts:

Page 1-3, chapter 1

“The following is the goal statement from the Basin Approach document:

Metro’s fish and wildlife vision articulates the overriding goal of the Basin Approach:

‘The overall goal is to conserve, protect and restore a continuous ecologically viable streamside corridor system, from the streams’ headwaters to their confluence with other streams and rivers, and with their floodplains in a manner that is integrated with the surrounding urban landscape. This system will be achieved through conservation, protection and appropriate restoration of streamside corridors through time.’ “

Page 1-12,13

The “Use Category” recommended for Outer Impact Areas in the Tualatin Basin Plan is “Allow,” and for Inner Impact Areas “Lightly Limit” is recommended. Environmental impacts are documented in the report:

“The environmental impacts of allowing conflicting uses on wildlife habitat include:

- Conflicting uses introduce impacts to wildlife habitat by placing dwellings, accessory structures, commercial and industrial structures and other related uses in the wildlife habitat areas. In combination with edge effects that result from clearing forested areas for homes and other buildings, native species are often displaced by the human inhabitants.

Peterkort
 wildlife corridor

Project Team:

William Haack

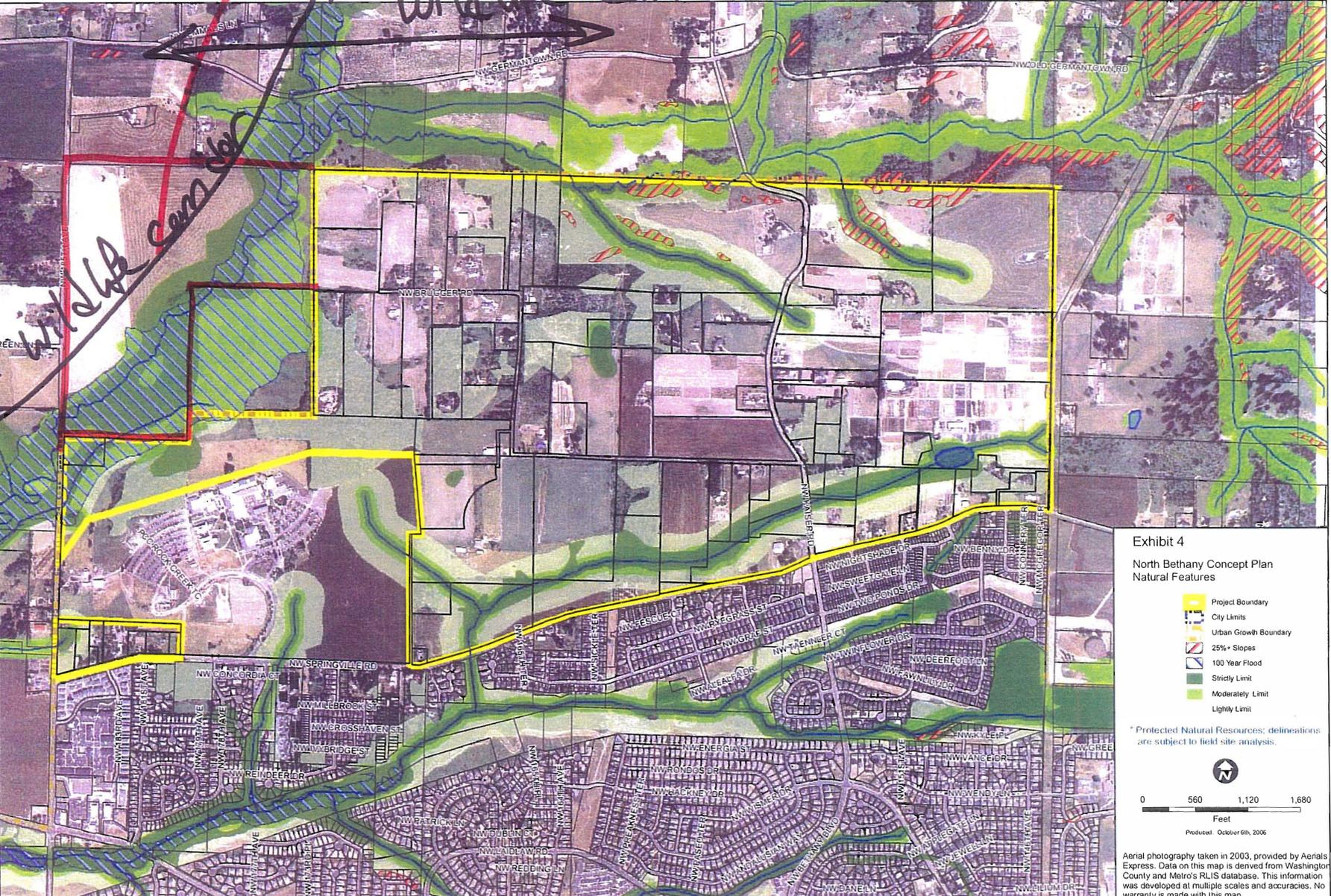


Exhibit 4
 North Bethany Concept Plan
 Natural Features

- Project Boundary
- City Limits
- Urban Growth Boundary
- 25+ Slopes
- 100 Year Flood
- Strictly Limit
- Moderately Limit
- Lightly Limit

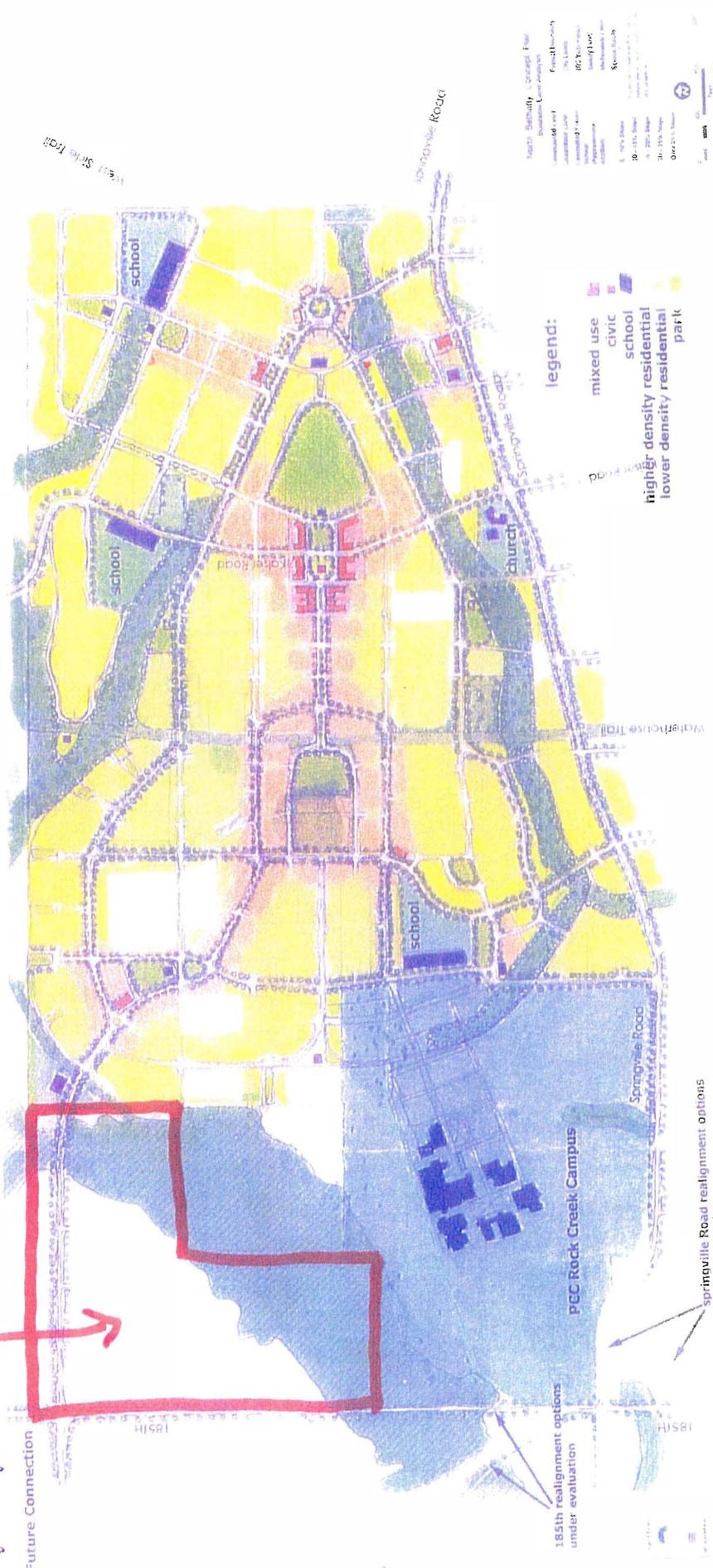
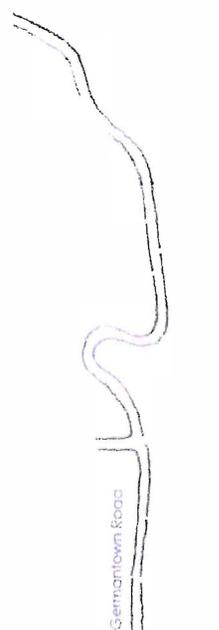
* Protected Natural Resources: delineations are subject to field site analysis.

Feet
 Produced: October 6th, 2006

Aerial photography taken in 2003, provided by Aerials Express. Data on this map is derived from Washington County and Metro's RLIS database. This information was developed at multiple scales and accuracies. No warranty is made with this map.

Exhibit 3, Map 2
 Peterkast Property
 in relation to
 Bethany Community

Peterkast



Bethany
 a community of distinction

185th realignment options under evaluation

Springville Road realignment options under evaluation

Map 2

Map 2
 Bethany, WV
 185th realignment options under evaluation
 Springville Road realignment options under evaluation

Map 2
 Bethany, WV
 185th realignment options under evaluation
 Springville Road realignment options under evaluation

Exhibit 3, Map 3



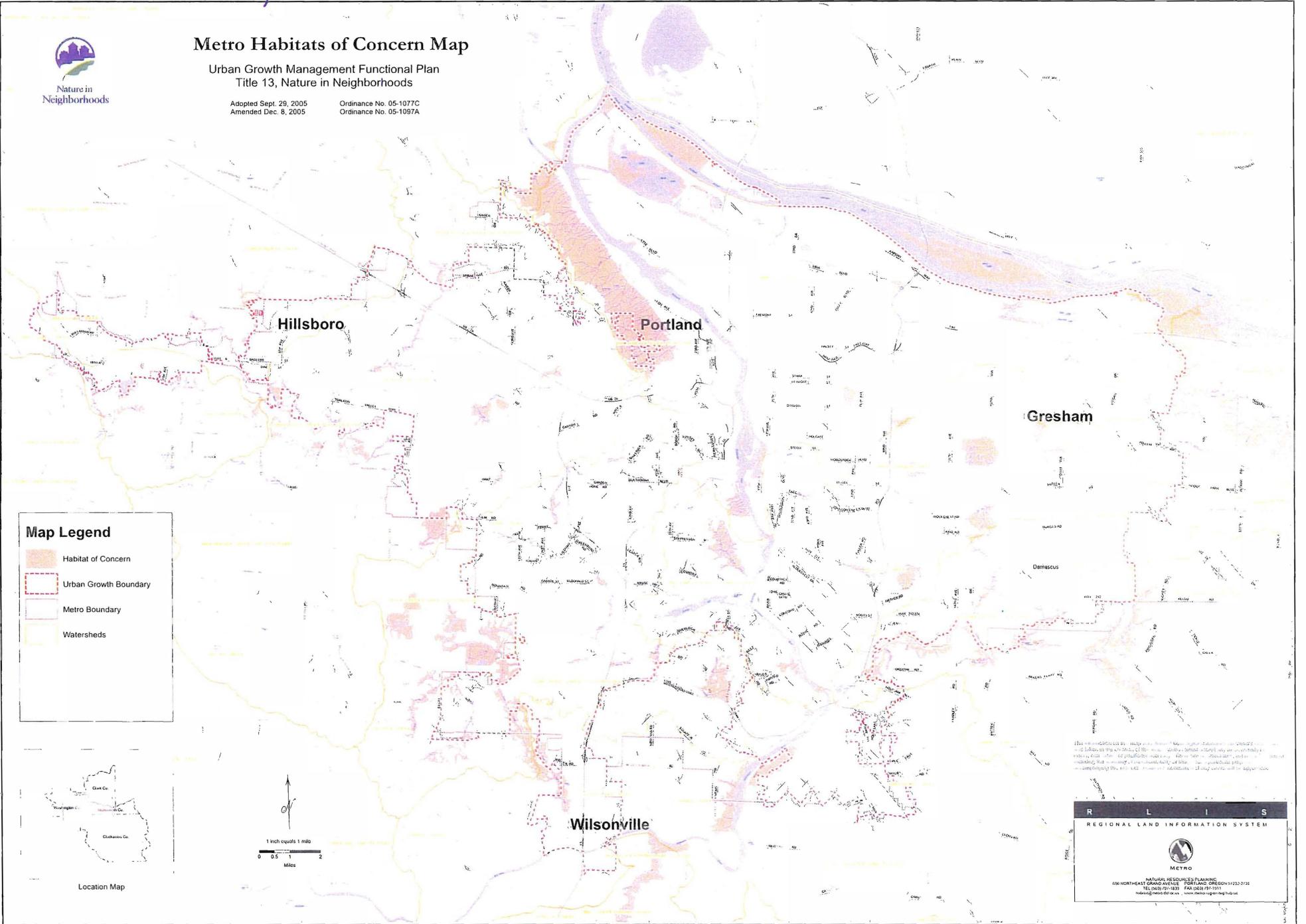
Nature in
Neighborhoods

Metro Habitats of Concern Map

Urban Growth Management Functional Plan
Title 13, Nature in Neighborhoods

Adopted Sept. 29, 2005
Amended Dec. 8, 2005

Ordinance No. 05-1077C
Ordinance No. 05-1097A



Map Legend

- Habitat of Concern
- Urban Growth Boundary
- Metro Boundary
- Watersheds



Location Map



This information is provided as a public service. It is not intended to constitute an offer of insurance or any other financial product. Please consult your insurance agent for more information. The information is provided as a public service and is not intended to constitute an offer of insurance or any other financial product. Please consult your insurance agent for more information.

R L I S

REGIONAL LAND INFORMATION SYSTEM

METRO

NATURAL RESOURCES PLANNING
100 NORTHEAST GRAND AVENUE PORTLAND, OREGON 97232-3732
TEL (503) 791-1833 FAX (503) 791-1911
http://www.metroregional.gov

Northern Red-legged Frog Survey

Reserves Area 9B, the Lower Springville "L"

May 4, 2010

Scope and Intent

We surveyed Northern red-legged frogs (*Rana aurora aurora*) in the proposed Rural Reserve known as the Lower Springville "L" (Urban and Rural Reserve study area 9B) on April 26, 2010. This area is located in western Multnomah County, bordered on the west and south sides by the Washington County line.

NW Springville Road runs through the lower part of the area. Most of the area located north of NW Springville Road is in the Abbey Creek watershed, and drains to the north and east. Most of the area south of NW Springville Road is in a different sub-watershed of Rock Creek, and drains to the west and south towards a riparian corridor along the county line and then through Bethany.

Because Northern red-legged frogs are a Strategy Species in the *Oregon Conservation Strategy*, we wanted to determine whether they were present in the "L." Our survey was limited to 5 properties in the "L" that we had permission to enter. These properties each included at least one pond or stream.

Oregon Conservation Strategy

In 2006, Oregon Department of Fish and Wildlife (ODFW) published the *Oregon Conservation Strategy*. This document provides a comprehensive state strategy for conserving fish and wildlife. Previously, many plans had been used that focused on a particular species, area or natural resource. The objective of the *Oregon Conservation Strategy* is to ensure that Oregon's natural treasures are passed on to future generations. "The *Oregon Conservation Strategy* emphasizes proactively conserving declining species and habitats to reduce the possibility of future federal or state listings." (3)

According to the *Oregon Conservation Strategy*, "The goals of the *Oregon Conservation Strategy* are to maintain healthy fish and wildlife populations by maintaining and restoring functioning habitats, preventing declines of at-risk species and reversing declines in these resources where possible." (3)

Conservation Status: Why Northern red-legged frogs are important

1. Northern red-legged frogs are a **federally listed Species of Concern** in Multnomah County. (4)
2. Northern red-legged frogs (*Rana aurora aurora*) in the Willamette Valley are listed as a **Vulnerable Sensitive Species** by the Oregon Department of Fish and Wildlife. Species on this list face one or more threats to their populations and/or habitats. (2)
- 3) ODFW's *Oregon Conservation Strategy* identifies Northern red-legged frogs as a "**Strategy Species**" in the Willamette Valley. Conservation actions listed for these frogs include "Maintain wetland habitat with emergent plants. Maintain adjacent forested habitats." (3)

According to the Oregon Conservation Strategy, "Red-legged frogs lay their eggs in wetlands with clean water beginning in late winter. They spend a lot of time on land in cool damp forests." These frogs are highly terrestrial, and they need adjacent moist forest areas for foraging and over-wintering habitat. (3)

The July 13, 2002 Working Draft of Metro's "Riparian Corridor and Wildlife Habitat Inventories," page 31, says:

"Northern Red-legged Frogs inhabit marshes, ponds, and streams with little or no flow, and use seasonal waters if wet until late May or early June. Stems below the water line are needed for egg attachment. These frogs often use dense hardwood stands with heavy ground cover. Possible causes cited for decline include displacement by introduced bullfrogs and pesticide and herbicide runoff (ODFW 1996). Habitat specialist: water, herbaceous and riparian wetlands, westside lowlands coniferous-hardwood forests."

Atlas of Oregon Wildlife says that Red legged frogs occur up to 300 yards from standing water during non-breeding season. It also says: "This species is declining seriously in the Willamette Valley. Several recent surveys have failed to detect this species at sites in the valley where it was once common to abundant." (1)

Urbanization

According to a new Metro document "Wildlife corridors and permeability, A literature review, April 2010: "Reptiles and amphibians are particularly vulnerable to road effects, and some species may experience high mortality when migrating

to or from breeding areas.” Two of the ponds where Northern red-legged frogs were located are within a few yards of NW Springville Road.

Field Survey

DATA COLLECTION

Char Corkran, a local wildlife biologist and co-author of Amphibians of Oregon, Washington and British Columbia: A Field Identification Guide, 2006, performed the survey. Carol Chesarek escorted Ms. Corkran to five properties with ponds, streams, and wetlands in the Lower Springville Road “L” on April 28, 2010.

Ms Corkran walked each property and carefully searched for frogs and salamanders. Tadpoles were captured with a small net for identification and then released. Ms. Corkran found that all of the properties had red-legged frog habitat, suitable for different times of year and different life stages. It was a cold day (the high temperature reported in Portland for the day was 54 degrees F), and given the difficulty of locating amphibians it is likely that there are more frogs than we were able to locate.

RESULTS

Four adult Northern red-legged frogs were identified in a pond on property located at 13303 NW Springville Road.

Northern red-legged frog tadpoles were netted and identified in each of 2 ponds on Malinowski Farms, located at 13450 NW Springville Lane. Malinowski Farms is roughly 60 acres, and includes land in two different watersheds. Northern red-legged frog tadpoles were found in ponds in both the Abbey Creek watershed in the northern portion of the “L”, and in the other sub-watershed in the southern portion of the “L.” Both of these sub-watersheds flow into Rock Creek. Malinowski Farms is a certified organic farm, so pesticide and herbicide runoff are not a concern on this farm.

Tadpole stage Northern Pacific Treefrogs (*Pseudacris regilla*) and Long-toed Salamanders (*Ambystoma macrodactylum*) were also found in the larger Malinowski Farms pond. Long-toed Salamander tadpoles were also found in a pond at 13512 NW Springville Lane. Adult Roughskin Newts were found on several properties in the “L.”

Ms. Corkran will report her findings to the appropriate state authorities.

A property owner at 13560 NW Springville Road reported that Audubon Society of Portland employees had previously identified Northern red-legged frogs using a small pond on their property.

Ms Corkran noted that the area contains extensive healthy Oregon white oak savanna and oak woodland habitats. We also confirmed that White Breasted Nuthatches (a species associated with Oregon white oaks) are using the area.

CONCLUSION

The Lower Springville Road area contains at least 3 ponds used by breeding Northern red-legged frogs. The area also includes extensive terrestrial habitat that these frogs need. Urbanization of the area, and additional traffic on NW Springville Road would threaten these frogs.

As a Strategy Species identified by the Oregon Department of Fish and Wildlife and federally listed Species of Concern in the Willamette Valley, Northern red-legged frogs are important, they are present in the Lower Springville Road area, and the habitat in this area should be preserved in its rural state. The presence of these frogs supports a Rural Reserve designation for the Lower Springville Road "L."

Works Cited

1. Blair Csuti, et al., Atlas of Oregon Wildlife: Distribution, Habitat, and Natural History, Oregon State University Press, 1997, p. 25.
2. Oregon Department of Fish and Wildlife, "Sensitive Species List". 2008. [HYPERLINK http://www.dfw.state.or.us/wildlife/diversity/species/docs/SSL_by_taxon.pdf] p.1, 13
3. Oregon Department of Fish and Wildlife. 2006. *Oregon Conservation Strategy*. Oregon Department of Fish and Wildlife, Salem, Oregon. [HYPERLINK <http://www.dfw.state.or.us/conservationstrategy/>]
4. U.S. Fish and Wildlife Service, "Federally Listed, Proposed, Candidate Species and Species of Concern", July 20, 2009. [HYPERLINK <http://www.fws.gov/oregonfwo/Species/Lists/Documents/County/MULTNOMAH%20COUNTY.pdf>]

Acknowledgements

This report was edited and compiled by Carol Chesarek.

*Portions were adapted from the Save Helvetia report: **Oregon White Oak Survey (Quercus garryana) Survey Area North of Highway 26, August 21, 2009**, edited by Cherry Amabisca*

Many thanks to Char Corkran for generously offering her time and expertise.

Exhibit 5

Washington County, Oregon 2010-024029

03/31/2010 09:57:45 AM
D-PPS Cnt=1 Str=11 C WHITE
\$155.00 \$5.00 \$11.00 \$15.00 - Total = \$186.00



I, Richard Hobernicht, Director of Assessment and Taxation and Ex-Officio County Clerk for Washington County, Oregon, do hereby certify that the within instrument of writing was received and recorded in the book of records of said county.

Richard Hobernicht, Director of Assessment and Taxation, Ex-Officio County Clerk



155
5
11
15

After recording return to:
Clean Water Services
2550 SW Hillsboro Hwy
Hillsboro, OR 97123
Stop 10

COVENANT Clean Water Services and the Peterkort Family

This Covenant is entered into by and between CLEAN WATER SERVICES ("District") and the following members of the Peterkort family (collectively "Peterkort") and shall be effective February 19, 2010:

STEVEN A. PETERKORT, KAREN R. PETERKORT, PAMELA A. MAHER, NORMAN J. PETERKORT, SANDRA M. LAUBENTHAL, MADALYN M. RUSTAGI, SHEILA PETERKORT JENKINS, JOHN J. PETERKORT, ROBERT F. PETERKORT, CAROL E. PETERKORT, ELIZABETH CARLGREN; SALLY JORGENSON, TRUSTEE OF THE SALLY JORGENSON REVOCABLE TRUST, U/A DTD JANUARY 12, 2007; AND SHIRLEY JUDD, TRUSTEE OF THE SHIRLEY JUDD REVOCABLE TRUST U/A DTD JANUARY 12, 2007

RECITALS

WHEREAS, the Peterkorts jointly own certain real property (the "Property") located in Washington County Oregon described as TL 100, Twp. 1 N, Range 1 W, Sec. 18, Willamette Meridian (recorded deed no. 2007-031706), which is generally located east of NW 185th Avenue, north of the PCC Rock Creek campus and west of the proposed Bethany residential development; and

WHEREAS, the District owns and operates municipal waste water collection and treatment system, including sanitary sewer and stormwater sewer facilities and desires to construct a sanitary sewer line through the Property; and

WHEREAS, the District also desires to use a portion of the Property located within the 100-year floodplain of Rock Creek, in conjunction with floodplain land owned by Portland Community College at its Rock Creek Campus, as a mitigation area for wetland and floodplain impacts of near-by development, such as the proposed Bethany residential development; and

WHEREAS, the Property is currently located outside of the Metro urban growth boundary and is under consideration for possible designation as Urban Reserve by Metro as part of its current revision of the Metro urban growth boundary, and

Handwritten initials/signature

However this does not obligate the District to take any activity participate in any such appeals.

SP RLL

WHEREAS, the Peterkorts desire an Urban Reserve designation for the Property to facilitate its inclusion into the Metro urban growth boundary and subsequent development with urban uses and residential densities; and

WHEREAS, the District is willing and able to assist the Peterkorts in their efforts to obtain an Urban Reserve designation from Metro for the Property, and in exchange, the Peterkorts are willing and able to convey and otherwise grant the easements over the Property that the District desires.

NOW, THEREFORE, based on the foregoing Recitals, the parties agree as follows:

A. The Parties jointly agree to cooperate and perform the following:

1. The District, its officials, agents and employees shall use their best efforts to obtain an Urban Reserve designation for the Property during Metro's current urban growth boundary review and reserves process. The Peterkorts shall cooperate with and not interfere in the District's efforts to obtain an Urban Reserve designation for all of the Property. The District shall obtain a final Metro decision that, among other things, designates all of the Property Urban Reserve, if ever by June 30, 2010.

**For Legibility Purposes, see Page 2a.

2. If a final decision by the Metro Council has not been rendered by June 30, 2010 designating the Property Urban Reserve, this Covenant shall be null and void and of no further legal effect. Neither party shall be obligated to perform any of the duties or obligations described in Sections B or C below.
3. Depending upon the circumstances, form and status of Metro's final action as of June 30, 2010, the parties may renegotiate and enter into a new or different agreement.

B. The Peterkorts shall perform the following: If Metro renders a final decision by June 30, 2010 designating all of the Property as Urban Reserve, the Peterkorts shall perform the following at no cost to the District:

1. The Peterkorts shall grant and otherwise convey to the District a temporary construction easement substantially in the form of the easement attached as Exhibit 1, for purposes of constructing and installing a sanitary sewer line over and through the Property generally in the location shown on the illustration of the Property attached as Exhibit 2 to this Covenant.
2. The Peterkorts shall grant and otherwise convey to the District a permanent sewerline easement substantially in the form of the easement attached as Exhibit 3, for purposes of operating, maintaining and repairing a sanitary sewer line over, through and in the Property generally in the location shown on the illustration of the Property attached as Exhibit 2 to this Covenant.
3. The Peterkorts shall grant and otherwise convey to the District an easement encumbering the Property in substantially the form of the easement attached as Exhibit 4, for purposes

** If there is a subsequent appeal and/or remand of Metro's decision, the District, its officials, agents and employees shall continue to use their best efforts to obtain the Urban Reserve designation from Metro.

SP RLL

FOR LEGIBILITY PURPOSES

WHEREAS, the Peterkorts desire an Urban Reserve designation for the Property to facilitate its inclusion into the Metro urban growth boundary and subsequent development with urban uses and residential densities; and

WHEREAS, the District is willing and able to assist the Peterkorts in their efforts to obtain an Urban Reserve designation from Metro for the Property, and in exchange, the Peterkorts are willing and able to convey and otherwise grant the easements over the Property that the District desires.

NOW, THEREFORE, based on the foregoing Recitals, the parties agree as follows:

A. The Parties jointly agree to cooperate and perform the following:

1. The District, its officials, agents and employees shall use their best efforts to obtain an Urban Reserve designation for the Property during Metro's current urban growth boundary review and reserves process. The Peterkorts shall cooperate with and not interfere in the District's efforts to obtain an Urban Reserve designation for all of the Property. The District shall obtain a final Metro decision that, among other things, designates all of the Property Urban Reserve, if ever by June 30, 2010. **** For Legibility Purposes insert the following verbiage here:** If there is a subsequent appeal and/or remand of Metro's decision, the District, its officials, agents and employees shall continue to use their best efforts to retain the Urban Reserve designation for the Property during any such proceedings. However, this does not obligate the District to intervene or actively participate in any such appeals.
2. If a final decision by the Metro Council has not been rendered by June 30, 2010 designating the Property Urban Reserve, this Covenant shall be null and void and of no further legal effect. Neither party shall be obligated to perform any of the duties or obligations described in Sections B or C below.
3. Depending upon the circumstances, form and status of Metro's final action as of June 30, 2010, the parties may renegotiate and enter into a new or different agreement.

B. The Peterkorts shall perform the following: If Metro renders a final decision by June 30, 2010 designating all of the Property as Urban Reserve, the Peterkorts shall perform the following at no cost to the District:

1. The Peterkorts shall grant and otherwise convey to the District a temporary construction easement substantially in the form of the easement attached as Exhibit 1, for purposes of constructing and installing a sanitary sewer line over and through the Property generally in the location shown on the illustration of the Property attached as Exhibit 2 to this Covenant.
2. The Peterkorts shall grant and otherwise convey to the District a permanent sewerline easement substantially in the form of the easement attached as Exhibit 3, for purposes of operating, maintaining and repairing a sanitary sewer line over, through and in the Property generally in the location shown on the illustration of the Property attached as Exhibit 2 to this Covenant.
3. The Peterkorts shall grant and otherwise convey to the District an easement encumbering the Property in substantially the form of the easement attached as Exhibit 4, for purposes

of mitigating wetland and floodplain impacts of near-by development as required by applicable state, federal and Metro wetland and floodplain protection laws. Additionally, the easements provided for herein shall allow the District to discharge surface water into the easement area and to construct and maintain water quality control facilities in this area. The amount and location of area of the mitigation easement conveyed by the Peterkorts to the District shall generally be the area shown in the southeast portion of the Property illustrated in Exhibit 2 but shall not exceed 46 acres of the Property.

4. The Peterkorts shall cooperate with and join in any applications the District may make to state, federal or local governmental agencies for the construction of a sanitary sewer line over and through the Property and the construction and maintenance of wetland and/or floodplain mitigation areas on the property. It is the intent of this paragraph to facilitate the obtaining of all necessary permits and approvals for the District's sanitary sewer line and use of the floodplain portions of the Property (illustrated on Exhibit 2) for wetland and floodplain mitigation. To achieve this objective, the Peterkorts recognize that they may need to sign and be the applicants for some of these state, federal or local permits or approvals, and hereby authorize the District to proceed as the Peterkorts' agent in any such application processes on their behalf.
5. The Peterkorts agree to not oppose the issuance of any permits or approvals for the construction of the sewer line or related improvements and hereby waive all right to file written remonstrance or provide written or oral testimony in any public proceeding against the proposed sewerline improvements and to waive the right to appeal any permits or approvals that may result from those proceedings.
6. The Peterkorts shall allow the District's staff or consultants access to the Property to perform its obligations imposed by, and exercise its rights accorded under, this Covenant including the wetland, floodplain and natural resource delineation of the Property as anticipated in Paragraph C1. To accomplish this, the Peterkorts shall execute an access consent form substantially similar to Exhibit 5.

C. The District shall perform the following: If Metro renders a final decision by June 30, 2010 designating all of the Property as Urban Reserve, the District shall perform the following at no cost to the Peterkorts:

1. The District shall, within 12 months of the effective date of this Covenant, cause a wetland, floodplain and natural resource survey to be conducted of the entire Property by a suitably qualified professional that delineates the wetland and floodplain boundaries and estimates the maximum possible development potential of the Property under urban zoning, the maximum possible wetland and floodplain impacts from such a development, and the maximum possible mitigation that would be required for those impacts under current law. The District shall provide a copy of the final report of this survey to the Peterkorts at no cost.
2. The District shall reserve for the Peterkorts enough wetland and/or floodplain mitigation area in the easement area described in Paragraph B3, or if necessary on any other suitable

land in Washington County to which the District has sufficient right or interest, to mitigate for all known or anticipated wetland and floodplain impacts from the development of the Property north and west of the sewerline easement described in Paragraph B2 (the portion of the Property that will not be encumbered by easements to the District). The amount of wetland/floodplain mitigation area that the District reserves for the Peterkorts shall be the maximum amount estimated as needed to mitigate for the maximum possible development under the applicable state, federal and Metro wetland and floodplain protection laws in effect when the District performs the survey described in Paragraph C1. The parties agree to cooperate to phase work on the Property to the extent practicable.

3. The District shall design the sanitary sewer with adequate capacity to accommodate development of the Property and allow connection of any units constructed on the Property to the sanitary sewer, subject to payment of required connection fees and charges specified in the District's then-applicable Rates and Charges at the time of connection.
4. The District shall construct sanitary sewer improvements and vegetated corridor and wetland enhancements at no cost to the Peterkorts in a manner that meets or exceeds the requirements set forth in the District's Design and Construction Standards Resolution and Order No. 07-20 as amended by Resolution and Order Nos. 08-28 and 09-25. The District shall restrict the easements for vegetated corridor and wetland enhancement to the floodplain and wetland areas in the southeast portion of the Property as illustrated in Exhibit 2. The District shall allow the Peterkorts to construct water quality facilities in the vegetated corridor, subject to the District's requirements set forth in District's Design and Construction Standards.
5. The District shall be responsible for maintaining the vegetation and all other aspects of the sewerline easement described in Paragraph B2 and the wetland and floodplain mitigation easements described in Paragraph B3 in accordance with all applicable legal requirements.

D. General Terms and Requirements: The following general terms and requirements shall also apply:

1. The Peterkorts intend that the easements described in Paragraphs B1, B2 and B3, and the burdens and benefits created therein shall run with the land and shall be binding upon and inure to the benefit of the parties, their heirs, successors and assigns.
2. This Covenant, along with the attached Exhibits 1, 2, 3, 4 & 5, constitute the entire agreement between the parties on the subject matter hereof and it supersedes all prior or contemporaneous written or oral understandings, representations or communications of every kind on the subject. No course of dealing between the parties and no usage of trade shall be relevant to supplement any term used in this Covenant. Acceptance or acquiescence in the course of performance rendered under this Covenant will not be relevant to determine the meaning of this Covenant and no waiver by a party of any right

PCP
P

under this Covenant will prejudice that party's ability and right to full performance under the terms of this Covenant in the future.

3. If any of the provisions contained in this Covenant are held to be illegal, invalid or unenforceable, the enforceability of the remaining provisions will not be impaired. All provisions concerning the limitation of liability and indemnity will survive the termination of this Covenant for any cause.
4. This Covenant and any amendments thereto will become effective when approved by the Peterkorts and the District's General Manager, or the General Manager's designee, and when required by applicable rules, the District's Board of Directors.
5. If any dispute arises concerning the interpretation or enforcement of this Covenant, the parties shall first attempt to resolve that dispute through discussion, then mediation with a mutually agreeable mediator, and thereafter by litigation in Washington County Circuit Court. The prevailing party to any such litigation, or appeal therefrom, shall be entitled to recover its reasonable costs, disbursements and expenses, including attorney fees, from the nonprevailing party, incurred through trial or appeal therefrom. If any such dispute is resolved through conferring by the parties or mediation, both sides shall bear their own costs.
6. This Covenant and all rights, obligations and disputes arising therefrom shall be governed by Oregon law. Any litigation arising out of this Covenant shall be decided by the state courts of Oregon. Venue for all disputes and litigation will be in Washington County, Oregon.
7. This Covenant may be executed by the parties in separate counterparts, each of which when executed shall be an original, but all of which shall together constitute one and the same instrument.

IT IS SO AGREED:

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Exhibit 6, page 1

Elk from car on
Cornelius Pass Road



Exhibit 6, page 2

Elk at
9955 NW Kaiser
Michael + Erika Pratt

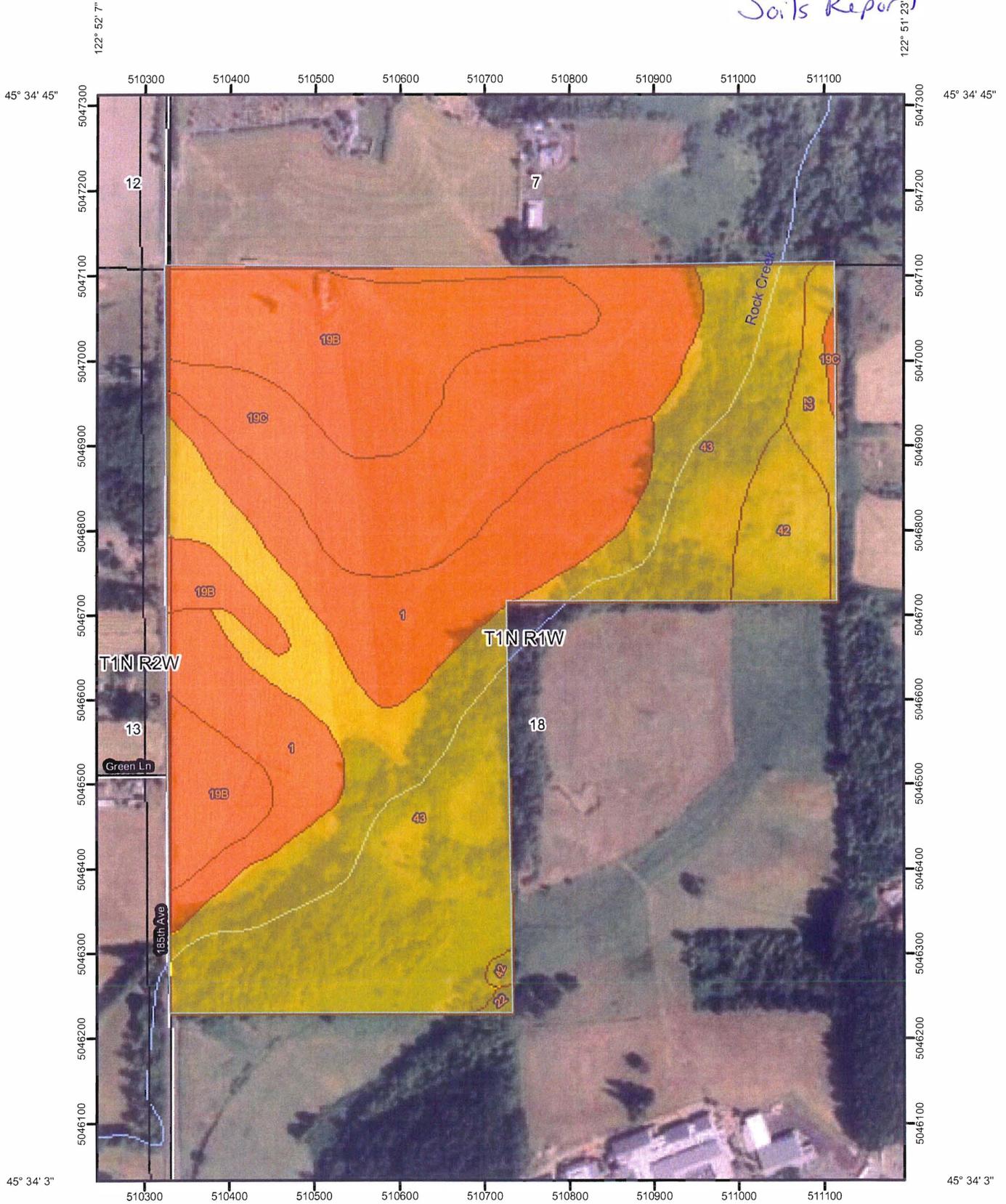


Elk near Brooks Road
Exhibit 6, page 3



Nonirrigated Capability Class—Washington County, Oregon
(Peterkort soils report)

Exhibit 7:
Soils Report



122° 52' 7\"/>



Map Scale: 1:6,100 if printed on A size (8.5" x 11") sheet.



122° 51' 23\"/>

Nonirrigated Capability Class—Washington County, Oregon
(Peterkort soils report)

MAP LEGEND

Area of Interest (AOI)

 Area of Interest (AOI)

Soils

 Soil Map Units

Soil Ratings

 Capability Class - I

 Capability Class - II

 Capability Class - III

 Capability Class - IV

 Capability Class - V

 Capability Class - VI

 Capability Class - VII

 Capability Class - VIII

Not rated or not available

Political Features

 Cities

 PLSS Township and Range

 PLSS Section

Water Features

 Oceans

Streams and Canals

Transportation

 Rails

 Interstate Highways

 US Routes

 Major Roads

 Local Roads

MAP INFORMATION

Map Scale: 1:6,100 if printed on A size (8.5" × 11") sheet.

The soil surveys that comprise your AOI were mapped at 1:20,000.

Please rely on the bar scale on each map sheet for accurate map measurements.

Source of Map: Natural Resources Conservation Service
Web Soil Survey URL: <http://websoilsurvey.nrcs.usda.gov>
Coordinate System: UTM Zone 10N NAD83

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Washington County, Oregon
Survey Area Data: Version 8, Feb 8, 2010

Date(s) aerial images were photographed: 8/4/2005

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

Description

Land capability classification shows, in a general way, the suitability of soils for most kinds of field crops. Crops that require special management are excluded. The soils are grouped according to their limitations for field crops, the risk of damage if they are used for crops, and the way they respond to management. The criteria used in grouping the soils do not include major and generally expensive landforming that would change slope, depth, or other characteristics of the soils, nor do they include possible but unlikely major reclamation projects. Capability classification is not a substitute for interpretations that show suitability and limitations of groups of soils for rangeland, for woodland, or for engineering purposes.

In the capability system, soils are generally grouped at three levels—capability class, subclass, and unit. Only class and subclass are included in this data set.

Capability classes, the broadest groups, are designated by the numbers 1 through 8. The numbers indicate progressively greater limitations and narrower choices for practical use. The classes are defined as follows:

Class 1 soils have few limitations that restrict their use.

Class 2 soils have moderate limitations that reduce the choice of plants or that require moderate conservation practices.

Class 3 soils have severe limitations that reduce the choice of plants or that require special conservation practices, or both.

Class 4 soils have very severe limitations that reduce the choice of plants or that require very careful management, or both.

Class 5 soils are subject to little or no erosion but have other limitations, impractical to remove, that restrict their use mainly to pasture, rangeland, forestland, or wildlife habitat.

Class 6 soils have severe limitations that make them generally unsuitable for cultivation and that restrict their use mainly to pasture, rangeland, forestland, or wildlife habitat.

Class 7 soils have very severe limitations that make them unsuitable for cultivation and that restrict their use mainly to grazing, forestland, or wildlife habitat.

Class 8 soils and miscellaneous areas have limitations that preclude commercial plant production and that restrict their use to recreational purposes, wildlife habitat, watershed, or esthetic purposes.

Rating Options

Aggregation Method: Dominant Condition

Component Percent Cutoff: None Specified

Tie-break Rule: Higher

Nonirrigated Capability Class

Nonirrigated Capability Class— Summary by Map Unit — Washington County, Oregon				
Map unit symbol	Map unit name	Rating	Acres in AOI	Percent of AOI
1	Aloha silt loam	2	23.1	18.4%
19B	Helvetia silt loam, 2 to 7 percent slopes	2	22.7	18.0%
19C	Helvetia silt loam, 7 to 12 percent slopes	2	23.6	18.7%
22	Huberly silt loam	3	2.9	2.3%
42	Verboort silty clay loam	3	4.9	3.9%
43	Wapato silty clay loam	3	48.7	38.7%
Totals for Area of Interest			125.7	100.0%

Exhibit B to Agreement between Metro and Washington County

PRINCIPLES FOR CONCEPT PLANNING OF URBAN RESERVES

- 1. **Special Concept Plan Area A**
 This area, also known as Urban Reserve Area 6B, is approximately 1,776 acres, of which approximately 892 acres are buildable and approximately 839 acres are constrained lands. Existing roads account for an additional 45 acres of non-buildable land. Constrained lands consist of Metro's and Washington County's Goal 5 inventories, slopes over 25%, floodplains, parks, and a city-owned parcel (approximately 10 acres) adjacent to SW Kemmer Road that contains a water tank. In order to account for the above constraints, concept planning should be undertaken as a whole in order to offer appropriate protection and enhancement to the public lands and natural features that are located throughout the area. Residential density targets will be an important consideration in future planning for the area and may need to be adjusted in order to protect and enhance the integrity of existing Title 13 and Goal 5 lands.

- 2. **Special Concept Plan Area B**
 Undesignated lands surrounding the City of Banks and the City of North Plains provide the opportunity in the future for Washington County and each respective city to undertake Urban Reserve planning under OAR 660-021. It is the County's expectation that such planning will result in application of Urban Reserve and Rural Reserve designations in appropriate locations and quantities.

- 3. **Special Concept Plan Area C**
 Urban Reserve Area 8C (Bethany West) is 305 acres, of which approximately 114 acres are constrained lands such as wetlands and floodplains. This Urban Reserve area provides vital habitat linkage for sensitive species along a riparian corridor. During concept planning, subsequent comprehensive planning and development review and implementation for the entire special concept plan area, the "Integrating Habitats" approach championed by Metro's Nature in Neighborhoods program shall be utilized. The "Integrating Habitats" approach is intended to provide appropriate protection and enhancement of natural areas through the use of progressive and environmentally sensitive development practices. This approach combines and balances ecological stewardship and economic enterprise with protection of water quality and restoration and enhancement of key fish and wildlife habitats.

WASHINGTON COUNTY



 Tom Brian
 Chair, Washington County
 Board of Commissioners

Dated: 5-25-10

METRO



 David Bragdon,
 Metro Council President

Dated: June 10, 2010

Peterkort section of Metro Ordinance No 10-1238A, Exhibit E

- (1) Gaps between urban and rural reserves that were not intended to be undesignated.
- (2) Digital map layer adjustments resulting from base-map changes which caused parcel line-work to not appropriately match the boundaries for reserves designations.
- (3) Stem of flag lot designated rural reserve dividing an undesignated area – stem should remain undesignated for consistency with adjoining lands.
- (4) Rural reserve designations of public road Rights-of-Way (ROW) adjoining urban or future urban areas could result in management and/or maintenance issues. Staff recommended during the hearings process for Ordinance No. 733 that in instances where roadways are utilized as boundaries for either urban reserves or undesignated lands, the entire ROW be designated urban reserve or remain undesignated. The Board of County Commissioners agreed with this issue and directed county staff to have the changes reviewed through the process defined in the Intergovernmental Agreement with Metro. WashCo Rec. 8533-8554.

Peterkort

At the April 21, 2010 Planning Commission and April 27, 2010 Board of County Commissioners hearings, representatives from the Peterkort family requested that the county reconsider their property's (1N1 18, Lot 100) rural reserve designation and add the property to Urban Reserve Area 8C, Bethany West. The Peterkort family stated that several major infrastructure improvements had been identified to serve the North Bethany development, all located on or adjacent to the Peterkort family lands.

In the technical analysis to determine conformance with the factors for designation of lands as urban reserves or rural reserves (OAR 660-027-0050 and 660-027-0060) Washington County staff found that the property qualified for designation as either rural reserve or urban reserve. The detailed findings on these qualifications are incorporated in the September 23, 2009 recommendations report from the Washington County Urban and Rural Reserves Coordinating Committee to the Regional Core 4 and Reserves Steering Committee.

The Washington County Reserves Coordinating Committee recommendation of September 23, 2009 identified the Peterkort property as part of a significantly larger urban reserve area that extended from the existing urban growth boundary north and east to the Multnomah County border, and to Jackson School Road on the west. Core 4 deliberations in December 2009 resulted in the conversion of most of the urban reserve lands north of Highway 26 to rural reserve. This property was among those changed to a rural reserve designation.

The entire 129-acre Peterkort site is important to the successful implementation of the North Bethany Community Plan and to important elements of the funding process on key transportation and sewer line links. The following key points support inclusion of the Peterkort site within Urban Reserves:

1. **Transportation:** Provides urban land for public ROW and supports the development of a key transportation system link serving the future development of the North Bethany Community.
2. **Sewer system connectivity:** The optimal alignment for a primary gravity flow sewer trunk line to serve North Bethany crosses the Peterkort property. **NOTE: construction of a pump station-based option could delay construction of sanitary sewer services to the North Bethany area by at least three years.**
3. **Wetlands mitigation:** The sewer plan identifies roughly 46 acres of valuable opportunities on the Peterkort property which can be used to mitigate wetland impacts caused by public infrastructure development in North Bethany.
4. **Enhancement of Natural Areas Program Target Area:** Lands on the Peterkort site will support connections to important regional natural areas. WashCo Rec. 8533-8554.

The following findings address the factors for designation of this property as Urban Reserves:

OAR 660-027-0050:

(1) Can be developed at urban densities in a way that makes efficient use of existing and future public and private infrastructure investments;

As noted above, the Peterkort site provides the only practicable location for siting a gravity flow sewer line for the provision of sanitary sewer services to a portion of the North Bethany planning area. This site also provides the only reasonable route for an alternative transportation system link between this community and surrounding areas. Future development of this site would not only utilize the public and private investments currently being made in North Bethany, but would ultimately aid in funding long-term infrastructure construction and maintenance.

It is expected that future development of the Peterkort site would be designed to complement the North Bethany Community at urban densities that optimize both private and public infrastructure investments. The developable portion of the Peterkort property would be designed to connect to the North Bethany community and the surrounding community via a future road connection (Road 'A') and could be served by the planned sewer line.

(2) Includes sufficient development capacity to support a healthy economy;

Together with remaining buildable lands within the UGB and other urban reserve lands throughout the region there will be sufficient development capacity to support a healthy economy. The addition of the Peterkort property adds approximately 80 acres of developable land to Urban Reserve Area 8C. The area could likely be developed as the sixth neighborhood of North Bethany, featuring a walkable community centered around parks and mixed use areas.

(3) Can be efficiently and cost-effectively served with public schools and other urban-level public facilities and services by appropriate and financially capable service providers;

This site has been included in facilities planning discussions during development of the North Bethany Plan. The Beaverton School District has made commitments for needed facilities in this

area and has included discussion and consideration of potential urban reserves based growth impacts in the recent development of the 2010 update of their Long Range Facilities Plan. The Rock Creek Campus of Portland Community College is immediately adjacent to the southern boundary of this site. Other well-established facilities and services being extended to the North Bethany Community would also be expected to serve this site.

(4) Can be designed to be walkable and served with a well-connected system of streets, bikeways, recreation trails and public transit by appropriate service providers;

The Peterkort site will be served by a collector road (Road 'A') extending along the northern portion of the site to connect the North Bethany community to SW 185th Avenue to the west. The northeastern edge of this property directly abuts planned connections to both on and off-street pedestrian facilities linking to planned neighborhood parks in North Bethany. This site offers a major opportunity to link trails in the broader Bethany area along the Rock Creek corridor. Public transit service is currently available immediately south of the site with multiple lines providing connections to Westside Light Rail Transit.

(5) Can be designed to preserve and enhance natural ecological systems;

Limited opportunities for wetlands mitigation are available in this area of the county. Therefore, a key focus of adding the Peterkort site to the urban area is the opportunity to improve and enhance the currently degraded wetlands along Rock Creek. The entirety of Urban Reserve Area 8C would be subject to certain requirements identified in the county's Rural/Natural Resource Plan Policy 29. This area, called out as Special Concept Plan Area C, would require the implementation of Metro's "Integrating Habitats" program in the concept and community planning of the reserve area. The "Integrating Habitats" program utilizes design principles to improve water quality and provide wildlife habitat.

(6) Includes sufficient land suitable for a range of needed housing types;

The Peterkort site will provide added opportunities to meet local housing needs. The 80 acres of buildable land on the site can be developed with a variety of different housing types which would be expected to complement those already planned in the North Bethany area.

Considering that employment growth in Washington County has been historically very strong, and that the area remains attractive to new business and holds potential for significant growth, housing demand in this area will continue to grow.

(7) Can be developed in a way that preserves important natural landscape features included in urban reserves; and

As previously noted, this site is traversed by Rock Creek and its associated floodplain which is included on the Metro Regional Natural Landscape Features Map. Rock Creek and its associated wetlands are considered an important target area for long-term water quality improvements in the Tualatin River Basin and provide vital habitat linkage for sensitive species. Together with the other lands in Urban Reserve Area 8C, this site will be subject to a special planning overlay (Special Concept Plan Area C) designed to address the important values of this riparian corridor

by requiring appropriate protection and enhancement through the use of progressive and environmentally sensitive development practices.

(8) Can be designed to avoid or minimize adverse effects on farm and forest practices, and adverse effects on important natural landscape features, on nearby land including land designated as rural reserves.

Concept and community level planning in conformance with established county plan policies can establish a site design which will avoid or minimize adverse impacts on farm practices and natural landscape features in the area. As noted above, Urban Reserve Area 8C will include a planning overlay specifically targeting special protection for the identified natural landscape features in the area. It is important to note that even without this special plan policy, the existing regulatory framework in urban Washington County would require significant levels of protection and enhancement of the Rock Creek corridor at the time of development of surrounding lands.

B. Washington County: Urban Reserves

The following findings provide an overview of and important references to the detailed analysis performed by Washington County to determine the amount of land that will be needed in Washington County to facilitate long-term planning for urbanization.

OAR 660-027-0050(2) – Does the land have enough development capacity to support a healthy economy?

A variety of methods were used to determine whether Candidate Urban Reserves would contain enough development capacity to form complete communities and support a healthy economy. Washington County staff utilized population and employment forecast data from Metro to develop a Land Needs Analysis for urban reserves that is outlined below. The complete analysis and methodology is fully detailed in the September 23, 2009, report and recommendations from the Washington County Urban and Rural Reserves Coordinating Committee to the Regional Reserves Steering Committee. WashCo. Rec. 3586-3609. In addition, the findings for OAR 660-027-0050(2) were supplemented by data presented by the National Association of Industrial and Office Properties (NAIOP), a business group focused on needs of industrial and related uses, as well as a stakeholder in the Reserves process and member of the Regional Reserves Steering Committee. WashCo. Rec. 6674.

Land Needs Estimates

A significant component of the urban reserves planning process was consideration of the population and employment forecasts to determine the amount of land that should be included in urban reserves recommendations. Population and employment projections were important to identify the gap between how much growth can be accommodated inside the current UGB and what, if any, additional land needs should be considered.

OAR 660-027-0040 requires that *“Urban Reserves designated under this division be planned to accommodate estimated urban population and employment growth in the Metro area for at least 20 years, and not more than 30 years, beyond the 20-year period for which Metro has demonstrated a buildable land supply in the most recent inventory, determination and analysis*



WASHINGTON COUNTY
OREGON

May 6, 2010

LONG RANGE PLANNING DIVISION
ORDINANCE NO. 733
ISSUE PAPER No. 3

Map Amendments Serving a Public Purpose

The following descriptions and maps provide detailed information regarding changes requested by citizens and the City of Cornelius at the Planning Commission hearing on April 21, 2010 and the Board of County Commissioners hearing on April 27, 2010. These requests involve lands that may provide public benefit by facilitating the provision of infrastructure to land already within the urban growth boundary, or making minor changes to designations to provide a more logical boundary.

The requests included in this Issue Paper were forwarded by:

- The Peterkort Family
- Tim O'Callaghan
- City of Cornelius (Two requests)

Peterkort Property

Issue / Request

Earlier adjustments to Urban Reserve Area 8C – Bethany West resulted in removal of a 129-acre property that is critical for the cost-effective and timely provision of urban services to the 2002 UGB expansion area of North Bethany. Roughly one-third of this property, owned by the Peterkort family, is floodplain / wetland traversed by Rock Creek. Long-standing planning efforts for major infrastructure improvements necessary to serve North Bethany—including sewer, stormwater management, transportation and wetland mitigation—depend upon use of this property.

Peterkort family representatives testified at both the April 21, 2010 Planning Commission and April 27, 2010 Board of County Commissioners hearings to request that the county reconsider their property's (1N1 18, Lot 100) rural reserve designation and add the property to Urban Reserve Area 8C, Bethany West. This request is supported by plans and cost considerations for near-and long-term North Bethany urban service investments. A detailed map of the area subject to this request is shown at the end of this discussion.

Staff Recommendation

Designate the Peterkort property as part of Urban Reserve Area 8C - Bethany West.

Staff has determined that additional urban lands are necessary to facilitate development of the North Bethany planning area. These lands are needed for transportation, sanitary sewer and wetlands mitigation. The land is critical to adequately serve the future North Bethany community as planned for adoption later this year. The plan for North Bethany will meet both regional density requirements and ensure the economic feasibility of future land uses in the planning area.

Inclusion of the Peterkort property in an urban reserve provides multiple public benefits to the development of North Bethany in particular, and the larger community in general. The Peterkort family has entered into a written agreement with Clean Water Services to donate the necessary easements for 3,600 feet of sewer trunk line and the use of approximately 50 acres of Rock Creek floodplain for wetland mitigation in return for the property's designation as an urban reserve. According to their testimony, the Peterkort family is willing to provide a similar easement for the construction of Road A, connecting North Bethany to 185th Avenue, and to cooperate in the land use permitting process for construction of the sewer line. A rural reserve designation would negate most of these opportunities. For these reasons, staff finds that adding this property to an urban reserve is a necessary and appropriate action.

Planning Commission Recommendation

At their public hearing on Urban and Rural Reserves held April 21, 2010, the Washington County Planning Commission voted seven to one in favor of including the Peterkort site within proposed Urban Reserve Area 8C – Bethany West.

Background

One of the Metro conditions for the ordinance that brought North Bethany inside the UGB called for the county to *“recommend appropriate long-range boundaries for consideration by the*

Council in future expansion of the UGB or designation of urban reserves.” In addition to being located in an area that is a logical extension of North Bethany, inclusion of the 129-acre Peterkort property would provide a cost-effective route for sewer service and nearby opportunities to mitigate the wetland impacts of public facilities in North Bethany. The resulting wetland enhancements would have the added benefit of establishing important links between Metro’s Natural Areas target lands along Abbey Creek and downstream Metro property along Rock Creek. Approximately 52 acres of the Peterkort property are within the 100-year floodplain of Rock Creek and adjoining wetlands.

Analysis

In the technical analysis to determine conformance with the factors for designation of lands as urban reserves or rural reserves (OAR 660-027-0050 and 660-027-0060) Washington County staff found that the Peterkort property qualified for designation as both rural reserve and urban reserve. The detailed findings on these qualifications are incorporated in the September 23, 2009 recommendations report from the Washington County Urban and Rural Reserves Coordinating Committee to the Regional Core-4 and Reserves Steering Committee.

The Washington County technical analysis determined that in order to establish a land supply which would be adequate to meet long-term growth needs, priorities for inclusion in urban reserves would be based upon the criteria in the December 2006 Great Communities Report along with key decisions emanating from the Washington County Urbanization Forum. These priorities were established through direct coordination with the cities in Washington County and focused on governance, ability to be developed in concert with the Region 2040 Growth Concept and ability to meet the urban factors in the Reserve Rule.

The 129-acre Peterkort parcel was part of a 1,725-acre area of interest / (commitment to provision of governance) established by the City of Beaverton. The city prepared a pre-qualifying concept plan which provided evidence showing how this area of interest could meet all of the applicable criteria referenced above.

The Washington County Reserves Coordinating Committee recommendation of September 23, 2009 identified the Peterkort property as part of a significantly larger urban reserve area that extended from the existing urban growth boundary north and east to the Multnomah County border, and to Jackson School Road on the west. Core 4 deliberations in December 2009 resulted in the conversion of most of the urban reserve lands north of Highway 26 to rural reserve. This property was among those changed to a rural reserve designation.

A part of the Core 4 determination was based upon a recommendation embodied in the Bragdon/Hosticka map distributed in December 2009. That map illustrated a policy recommendation that floodplains be utilized to provide a buffer and/or boundary between urban and rural reserve areas. In the case of the 129-acre Peterkort property, approximately 52 acres of the land is impacted by the Rock Creek floodplain. Analyzed through the Core 4 review process, the use of floodplains as buffers was formalized through the maps adopted by each jurisdiction as part of the Intergovernmental Agreements with Metro for urban and rural reserves.

The entire 129-acre Peterkort site has long been recognized as important to the successful implementation of the North Bethany Community Plan and to important elements of the funding process on key transportation and sewer line links. The following discussion provides the supportive reasoning for including the Peterkort site based on each of the needs referenced in the Issue / Request section above.

1. **Transportation:** The connection of Road A from the northwestern corner of the North Bethany planning area through the Peterkort site to NW 185th Avenue is critical to the traffic flow at buildout of this planned community and provides alternative emergency access to the area. Transportation system funding has been one of the most difficult obstacles to overcome in the implementation process for North Bethany. Urbanization of the approximately 77 acres of buildable lands on the Peterkort site could facilitate the funding of this road connection. A rural reserve designation on this site would leave future construction of this transportation system link in a tenuous position and could present other conflicts for future road construction. The extension of Road A across the Peterkort site is on the county's acknowledged Transportation Plan.
2. **Sewer system connectivity:** The optimal alignment for the trunk line to serve North Bethany crosses the Peterkort property. This sewer project is at the "90% design" stage, is funded and is scheduled for construction as a capital improvement project beginning in 2010, with construction of the portion of the sewer on the Peterkort property scheduled for 2011. Property owner cooperation for trunk line installation is necessary in order to obtain the necessary land use permits. In addition, if designated a rural reserve, the property owners would not benefit from the project and have indicated if the rural reserve designation prevails, they would seek compensation for the necessary easements. The alternative to this gravity sewer would require pumping sewage to a nearby gravity system.

Clean Water Services has provided the following information relating to potential impacts of not obtaining property owner support for installation of a gravity flow sewer line. The primary option to constructing the planned gravity flow line through the Peterkort site would involve:

- a. Locating and acquiring buildable lands for the installation of two pump stations to tie the North Bethany sewer system to the existing Springville Trunk line.
- b. Siting an appropriate alignment and acquiring easements to facilitate installation of sewer line.
- c. Upgrading approximately 4,100 linear feet of the Springville Trunk to carry the added system load. This upgrade would require development of a parallel line to allow the existing line to continue to function during construction.
- d. Staff estimates that this alternative would increase the cost of the sewer project in the North Bethany area by approximately 2 million dollars.
- e. **NOTE: this option could delay construction of sanitary sewer services to the North Bethany area by at least three years.**

The adopted North Bethany plan takes a progressive, environmentally-conscious approach to stormwater management and water quality that is dependent upon, uses and requires the mitigation areas that are anticipated on the Peterkort property. Those areas also help to achieve Metro's goals for natural areas protection as discussed below. In addition, the use of the Peterkort property to site a gravity flow sewer line allows for an environmentally superior and significantly cheaper solution. The pump station alternative would be more expensive due to both higher capital costs and long-term operating costs.

3. **Wetlands mitigation:** The sewer plan identifies roughly 46 acres of valuable opportunities on the Peterkort property which can be used to mitigate wetland impacts caused by public infrastructure development in North Bethany (in order of priority: sewer, storm, transportation, parks, and private development). Other concerns related to wetland impacts in North Bethany include:
 - a. Clean Water Services has estimated that a total of up to 89 acres of land will be needed for mitigation of impacted wetlands by infrastructure construction within the North Bethany planning area.
 - b. State agencies prefer mitigation as close as possible to the site of impact; other mitigation possibilities in the vicinity are extremely limited and may not be cost effective.
 - c. Preliminary estimates of the value of wetlands easements on the Peterkort site total approximately \$610,000.

4. **Enhancement of Natural Areas Program Target Area:** There have been 3-4 years of inter-agency planning discussions among the county's Department of Land Use and Transportation, Clean Water Services and Metro's Parks staff on coordinating the timing of activities and on the multiple agency benefits of the preferred sewer alignment and associated wetland enhancements. The following points highlight the benefits:
 - a. Clean Water Services enhancement work would expand and protect the currently degraded natural area near the confluence of Holcomb and Rock Creeks, thereby improving habitat and water quality in the lower watershed. This work would benefit Metro's Natural Areas Program because it would take place within the Tier 2 priority area for the Rock Creek Target Areas, and is consistent with Program objectives for this area.
 - b. Metro's Natural Areas Program is not expected to acquire lands in Tier 2 areas - the area would be protected with Clean Water Services easements after mitigation work is complete, thereby expanding Metro holdings in the Rock Creek Target Area without expenditure of Natural Areas bond measure funds.
 - c. Mitigation easements will help connect existing Metro holdings in the Rock Creek watershed (recent purchase in Rock Creek headwaters and another near Holcomb Lake).

Peterkort
Approximate Affected Acres: 130

- | Citizen Request | Ordinance No. 733 |
|--|------------------------------|
|  Rural Reserve to Urban Reserve | Rural Reserve |
|  Undesignated to Urban Reserve | Urban Reserve |
|  Rural Reserve to Undesignated | Existing Regional Urban Area |
|  Urban Reserve to Rural Reserve | |
|  Undesignated to Rural Reserve | |

