

HAND DELIVERED

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

DEPT OF

JUL 14 2010

LAND CONSERVATION
AND DEVELOPMENT

July 14, 2010

To whom it may concern:

I am writing to formally submit my objection to the June 2010 decision by the Metro Council and Clackamas County Board of Commissioners to designate my property as a rural reserve. I participated in the process leading up to this decision, and I believe that process was unfair and potentially in violation of my rights as a landowner. In addition, I believe that Metro and Clackamas County have erred in their application of the reserves designation factors set forth in ORS Chapter 195 and OAR Chapter 660 Division 27 to my property. I request that you modify the decision as described below.

1. Description of Property

My property is comprised of approximately 23 acres of land at 7303 SW Gordon Lane in Wilsonville. I have attached a map of the property for convenience. My property is surrounded on two sides by the Charbonneau neighborhood in the city of Wilsonville. The Willamette River serves as my northern boundary and approximately 18 acres are actively farmed by my neighbor to the east. When I purchased this land in 2000, it was zoned Exclusive Farm Use ("EFU") but being immediately adjacent to Charbonneau and therefore the Wilsonville city limits and the UGB, I planned for eventually being able to apply for inclusion into the UGB and develop some portion of the property.

2. Participation in Local Proceedings

By way of qualification to object to the decision, I have included a copy of my written testimony submitted at the January 21, 2010 Metro hearing conducted in Wilsonville. I also gave oral testimony at the same meeting. Additionally, I attended and signed into a Reserves Steering Committee meeting on March 16, 2009 at the Metro building and had several discussions with Metro and Clackamas County officials.

3. Objections to Decision

A. Property is Suitable for an Urban Reserve Designation

I believe that Metro and Clackamas County have misapplied the urban reserve designation factors set forth in ORS Chapter 195 and OAR Chapter 660 Division 27. My property is suitable for an urban reserve designation because it is immediately adjacent to Charbonneau, and I believe it is far better suited for future residential development as opposed to its current rural reserve designation. By way of its location, my property would be a natural and simple expansion of the Charbonneau neighborhood, already served conveniently off of Interstate 5, with Wilsonville city services (water, sewer, etc.) available up to my property boundaries. My property along with the neighboring property to my East,

when added to the Charbonneau neighborhood would also completely fill in and be contained by Eilers Road to the East and Miley Road to the South forming a natural and contained boundary.

Furthermore, leaving the property zoned EFU and actively farmed, with over 1800 linear feet of property boundary adjacent to the Willamette River introduces fertilizers, insecticides and other chemicals from conventional farming practices into the river, which is a major source of drinking water and habitat to wildlife. I contend that an urban designation allowing residential development may be a more environmentally sound option as well.

B. Rural Reserve Designation is Too Restrictive

With the passage of the Metro decision designating the land south of the Willamette River as “rural reserves”, I now have no possibility of developing this property for at least the next 50 years. I believe this timeframe is excessive and too heavily weighted in the political desires of several members of the Clackamas County Board of Commissioners and other similarly like-minded anti-growth Councilors who make up Metro. I believe it is both impractical and reckless that anyone believes they can accurately predict the region’s land use needs spanning that kind of time period.

When Measure 37 was passed in 2004, it gave landowners who purchased property before SB100 was enacted the ability to file for a “takings claim” to pursue financial damages for lost value associated with subsequent zoning restrictions that limited their ability to develop their land. The county of jurisdiction could conversely choose to allow the requested development and avoid paying compensation for lost use. I feel that this decision by Metro has equally created a basis for asserting a “takings claim” in that it eliminates the opportunity I previously had to apply for inclusion into the UGB every several years.

I also believe that due to the passage of Metro’s recommendation, I have lost the ability to petition the City of Wilsonville, for which I am an adjacent landowner, from considering my property and rezoning it for inclusion into its city limits prior to the conclusion of the imposed 50 year moratorium. In effect, I have lost the ability to develop this property, should I choose to do so, in my lifetime.

C. The Outcome Was Preordained

Furthermore, I believe that the area south of the Willamette River was targeted for a rural reserve designation from the beginning and that serious evaluation of suitable properties south of the Willamette to be considered for urban reserves was purposely avoided due to political considerations. There is already UGB expansion south of the Willamette River and therefore a precedent set with the Charbonneau neighborhood, which is in the city limits of Wilsonville.

D. Insufficient Urban Reserves to Serve Employment Growth

Pursuant to ORS Chapter 195.145(4) and OAR 660-027-0040(2), Metro and the counties must designate sufficient urban reserves to accommodate urban population and employment growth through 2060. As I explained to the Metro Council in January, I believe that Metro is not providing sufficient land to serve the needs of business development as required by this rule.

4. Specific Changes Requested

I respectfully ask that one or several of the following changes be considered to resolve my objection:

- Change my property's designation from Rural Reserve to Urban Reserve, so at the appropriate time my property can be appropriately evaluated and considered for inclusion into the UGB or
- Allow me to develop portions of my property under an appropriate residential zoning change to be approved by Clackamas County and/or
- Revoke the 50 year "lock-up" timeframe approved by Metro and return the duration of evaluating properties to previous and more reasonable timeframes

5. Conclusion

Finally, I close with an excerpt from my letter to the Metro Council that I submitted as written testimony on January 21st of this year. It highlights my disappointment with the way that land use politics are practiced here in Oregon and with the Metro recommendations, which at the time, had not yet been approved.

"The recommendations are precisely what I have come to expect in Oregon, more of the same including:

- A continued focus on gradual dilution of individual private property rights
- More government imposed limitations on property owners from seeking the "highest and best use" of their land
- And more political posturing aimed at preserving an artificial "utopia" that doesn't adequately address and plan for the long term business development needs of our state, and doesn't do enough to encourage business growth and the creation of jobs for our citizens"

Thank you for your consideration of my objection.

Sincerely,



David A. Smith
7303 SW Gordon Lane
Wilsonville, OR 97070

Enclosures:

Attachment A – Map of Property

Attachment B – Written Testimony to Metro on January 21, 2010

CC:

Laura Dawson Bodner – Metro

Maggie Dickerson – Clackamas County

Chuck Beasley – Multnomah County

Steve Kelley – Washington County

January 21, 2010

To our Metro Representatives:

Full disclosure, I have a "dog" in this fight. I am a private property owner south of the Willamette River, in unincorporated Clackamas County, an area that is currently classified as a rural reserve. I assume rationale for this designation might include protecting "fertile" farmland, although I know some of the farm parcels south of the Willamette are either not actively farmed or are so small, and/or unprofitable to be economically viable as productive farm land. I can also perceive the rationale to be that the area south of the Willamette as being too prohibitively expensive to provide needed services or to build needed infrastructure. There is no doubt, however, that this area makes incredible sense for cost effective future urban development given convenient accessibility to THE major North-South highway going through our state. And certainly sooner than the next 50 years!

I have followed this "Making the Greatest Place" process for the last 2 years. However, I think the process more closely resembles the "Greatest Show on Earth". However, I must admit the process has been no circus. In fact, I have found the process itself to have been thoughtful, open and participative, albeit one whose outcome may have been largely predetermined. The recommendations are precisely what I have come to expect in Oregon, more of the same including:

- A continued focus on gradual dilution of individual private property rights
- More government imposed limitations on property owners from seeking the "highest and best use" of their land
- And more political posturing aimed at preserving an artificial "utopia" that doesn't adequately address and plan for the long term business development needs of our state, and doesn't do enough to encourage business growth and the creation of jobs for our citizens

Although one voice in this process is not likely to sway the "popular" opinion that growth should be so tightly and artificially managed within pre-ordained boundaries, and that growth should "not be allowed in my back yard", I cannot help but look forward 50 years from now and tell you "I told you so".

This continuation of the grand experiment, now being coined "Making the Greatest Place" is likely to do just that, but only for an elite few, including:

- The retired, who are no longer concerned with seeking a livelihood
- The Government sector, who see little use for encouraging the private sector, until the tax revenues that fuel its growth run out
- The Environmentalists who care more about a tree or a bird or a pond than a person's livelihood
- The NIMBYs who already have the land for their homes and businesses and don't want to see others benefit from acquiring the same

The outcome is likely far different for another set of constituents, the entrepreneurs who build businesses that create jobs and the private sector citizens who count on adequate jobs being created. Instead we continue to see jobs and tax revenues disappear from our state as we endure the nation's

second highest unemployment rate (11%) due to Oregon's unfriendly business climate. I believe we have already reached the "tipping point" in which the State and local government's overly restrictive land use policies have contributed to a business environment that can no longer support the number of jobs necessary to generate the tax revenues needed to support our great state. Now fast forward to what our situation will look like 50 years from now, after relying on the same tired policies that we currently use to manage land use and stimulate business growth in Oregon. I don't like what I see.

After having reviewed the current plan recommendations, I would offer the following challenge:

- Take bold action now and do not give in to the politically expedient path of least resistance
- Preserve more individual property rights by not forcing or dictating urban or rural development designations at the Metro level, instead leave more of these decisions up to local county and city jurisdictions
- Change the current recommendation for lands south of the Willamette River and North of the Marion County line from rural reserves to undesigned. These lands are a valuable buffer for future urban development, particularly as we look out as far as 50 years. Although perhaps not the politically expedient thing to do, I would argue it is the right thing to do.

Sincerely,

David Smith
7303 SW Gordon Lane
Wilsonville, OR 97070

SECTION 24 T.3S. R.1W. W.M.

CLACKAMAS COUNTY

1" = 400'

D.L.C.

G. L. CURRY NO. 43

HEIR OF D.S. MINKLER NO. 44

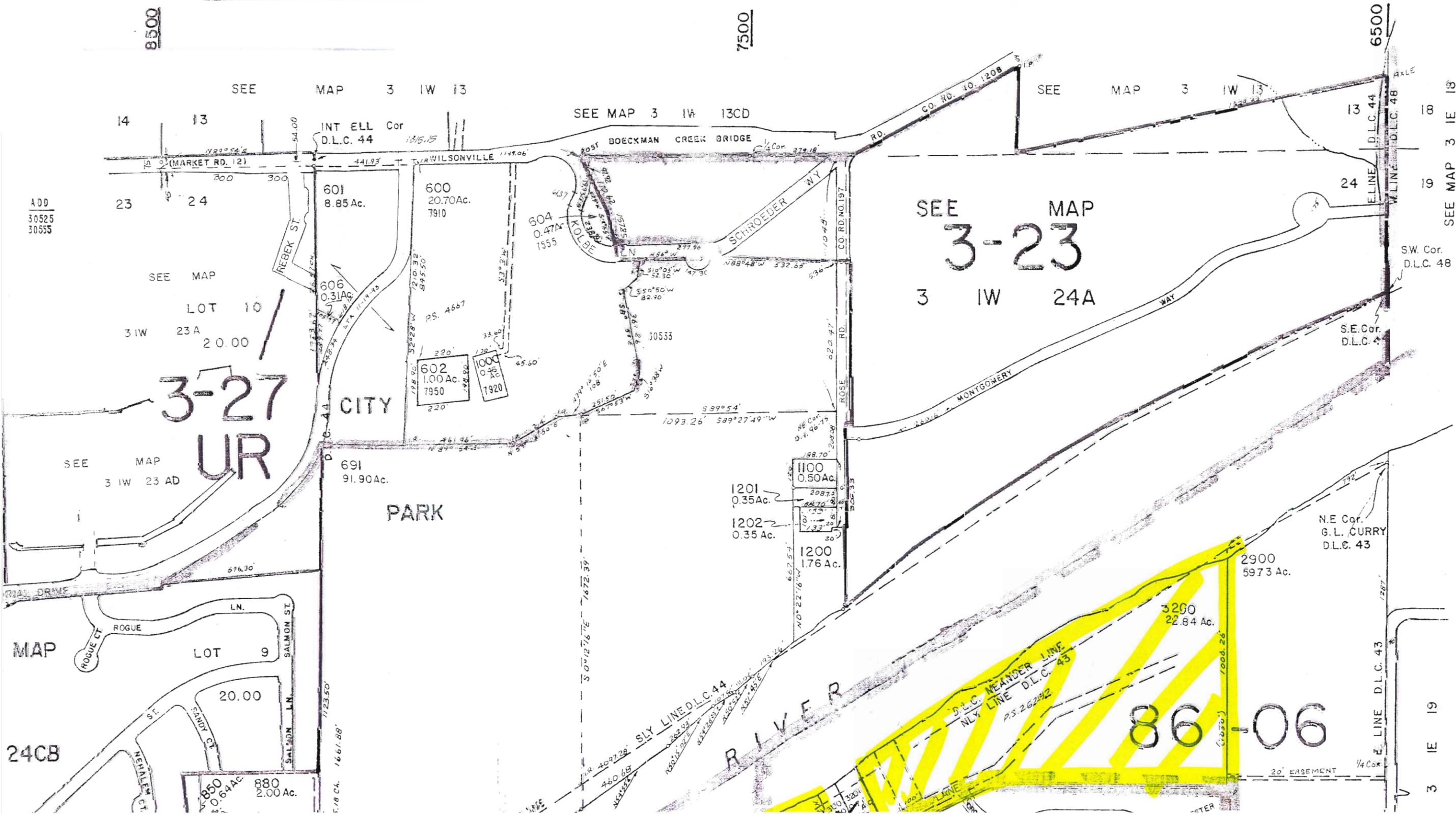
3 IW 24

WILSONVILLE

This map was prepared for assessment purpose only.

CANCELLED NO.

- 100
- 101 THRU 115
- 200
- 201
- 300
- 400
- 401
- 402
- 500
- 603
- 801
- 802
- 840
- 841
- 851
- 852
- 881
- 890
- 1102
- 1190
- 1191A1
- 1300
- 1400
- 1401
- 1402
- 1403
- 1500
- 1600
- 1700 THRU 2800
- 3303
- 3304
- 3305
- 3306
- 3307
- 3308
- 3309
- 3301
- 3310
- 3311
- 701
- 3312
- 1191
- 1101
- 3302
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- 605
- 702
- 700
- 3000



ADD
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3-27
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SEE MAP
3-23
3 IW 24A

86-06

SEE MAP 3 IE 18

3 IE 19

24CB

MAP

SEE MAP
3 IW 23 AD

SEE MAP
LOT 10
3 IW 23A
20.00

SEE MAP 3 IW 13

SEE MAP 3 IW 13CD

SEE MAP 3 IW 13

MAP
ROGUE LN.
ROGUE CT.
SALMON LN.
LOT 9
20.00

850
880
2.00 Ac.

INT ELL Cor
D.L.C. 44

601
8.85 Ac.

600
20.70 Ac.
7910

604
0.47 Ac.
1555

602
1.00 Ac.
7950

1000
0.46 Ac.
1920

691
91.90 Ac.

1201
0.35 Ac.

1202
0.35 Ac.

1100
0.50 Ac.

1200
1.76 Ac.

2900
5973 Ac.

3200
22.84 Ac.

N.E. Cor.
G.L. CURRY
D.L.C. 43

E. LINE D.L.C. 43

S.W. Cor.
D.L.C. 48

S.E. Cor.
D.L.C. 4

D.L.C. 44

E. LINE

W. LINE D.L.C. 48

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WAY

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RD.

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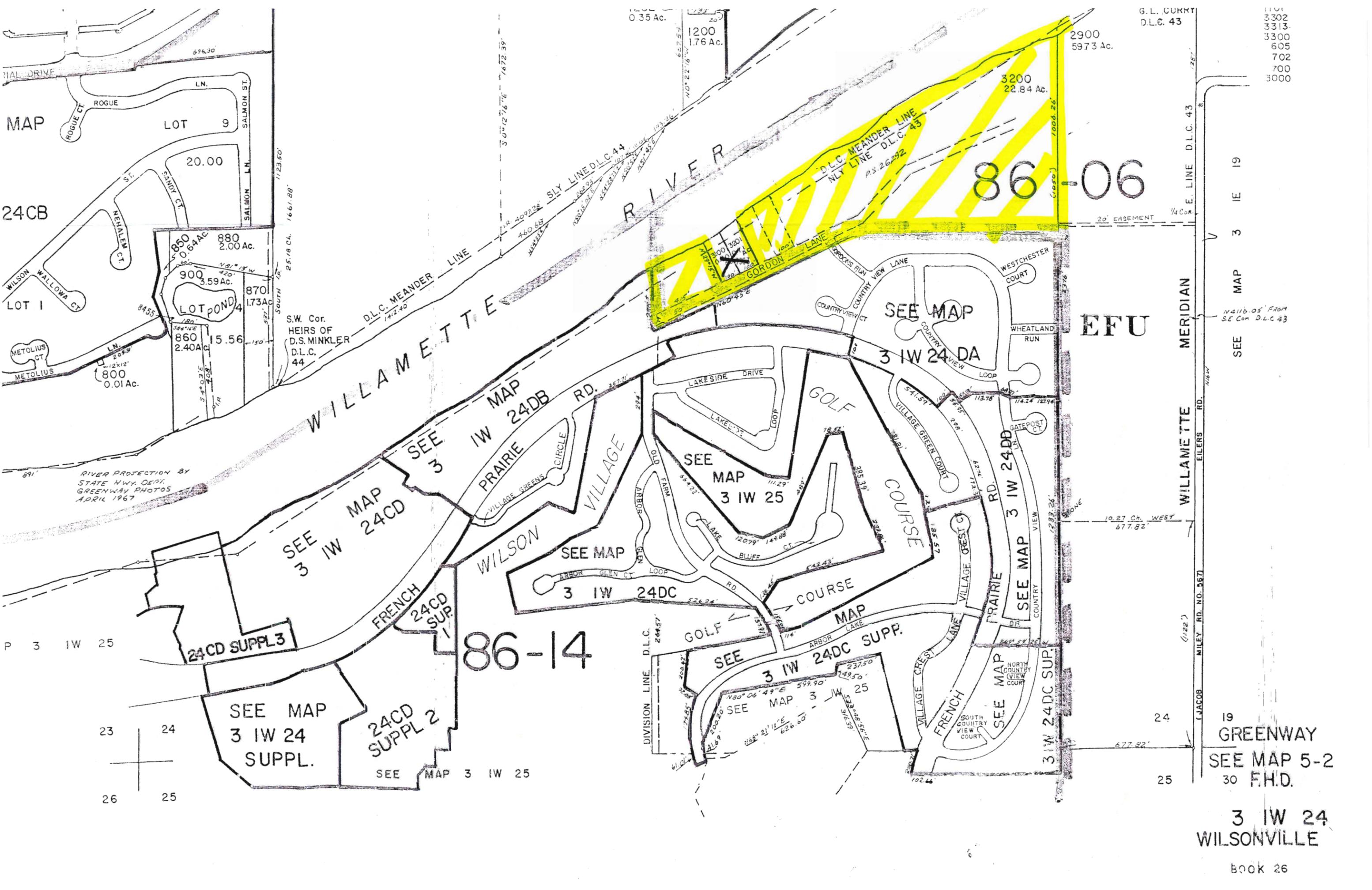
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1101
3302
3313
3300
605
702
700
3000

G.L. CURRY
D.L.C. 43

2900
5973 Ac.

3200
22.84 Ac.

86-06

EFU

86-14

19
GREENWAY
SEE MAP 5-2
30 F.H.D.

3 IW 24
WILSONVILLE

BOOK 26