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DEPT OF
JUL 14 2010
LAND CONSERVATION
AND DEVELOPMENT

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July 13, 2010

Via Email Only: Larry.French@state.or.us.

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

Re: Objection to Rural Reserves Designation
Part of Pete's Mountain Area

To Whom It May Concern:

Please consider this letter as a formal objection to the inclusion of the "Pete's Mountain Area" of West Linn as part of the Rural Reserves Designation.

I represent the following landowners of real property located in the Pete's Mountain Area: Leigh & Ceille Campbell, Donald and Dawn Bowerman, Gordon Root, Steven Prueitt and Colin & Mindy Giddings.

I have standing to object as I have participated in the process leading to the decision made by Clackamas County Board of Commissioners by having submitted both oral and written testimony at a number of public hearings, workshops and open house events. In addition, all of the individuals I represent have participated in the underlying Clackamas County Process by testifying and/or submitting written testimony. (i.e. 5/26/09; 8/10/09; 9/8/09; 2/9/10).

We object to the decision by Clackamas County and METRO designating Pete's Mountain Area of West Linn as part of the "Rural Reserves" as that designation was made with blatant disregard to the required criteria for such a designation and was made with political motivation.

We recommend the area "Top of Pete's Mountain" be deemed "undesigned". The "Top of Pete's Mountain" area can be defined as property located in elevations greater than 150 feet and confined by Schaeffer Road to the North, Pete's Mountain Road to the East, Hoffman Road to the South and Mountain Road to the West. (Exhibit A)

The following points establish why Clackamas County's designation of the Pete's Mountain Area was improper in light of the lack of evidence that the "Top of Pete's Mountain" met the criteria for Rural Reserve designation pursuant to OAR 660-027-0060.

1. Long-term protection to the agriculture and forest industries:

Clackamas County ignored the evidence that there is limited to no "agricultural industry" in the "Top of Pete's Mountain" area.

2. Capability of sustaining long-term agricultural operations:

The area is not capable of "sustaining long term agricultural operations" and in fact numerous agricultural and forestry attempts have failed.

3. Has suitable soils and available water where needed to sustain long-term agricultural operations:

The soil and water is not suitable to sustain long-term agricultural operations. Not only are the poor quality soils a limiting factor, the area is mapped as a "Groundwater Limited Area" by the Oregon Water Resources Department, and thus no agricultural groundwater rights are available. Moreover, there is highly limited agricultural viability due to rock through to surface.

4. Suitable to sustain long-term agricultural operations taking into account adjacent area:

The "Top of Pete's Mountain" area is not "suitable to sustain long-term agricultural operations" as there are no large, active agricultural tracts, and the land use pattern and agricultural infrastructure is not sufficient or suitable to sustain long-term operations.

Numerous exhibits, such as the attached soils map (Exhibit B) were previously introduced into the record in Clackamas County and illustrate the poor soil content, the groundwater limitations and the failed attempts for agriculture and forestry uses. Despite these submissions, Clackamas County deemed the "Top of Pete's Mountain" as "Rural Reserve" while marking the area just north of this as "undesigned". Clearly, based on the record and the recommendations submitted to Clackamas County Commissioners, the "Top of Pete's Mountain" should have been deemed "undesigned".

Political Motivations:

As stated in the Joint State Agency's letter to the Core 4,

" . . . the factors set forth in rule [OAR660-027-0060] can't be skirted in order to achieve other desired policies." October 14, 2009, Joint State Agency's letter to the Core 4.

It is telling that Clackamas County opted to manage its own process to develop reserves recommendations by forming a 21-member Policy Advisory Committee (PAC) and then completely

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disregarding the PAC recommendations, the County Staff recommendations, and the Planning Commission recommendation that the "Top of Pete's Mountain" not be designated Rural Reserves.

The disregard for the PAC, County Staff, and Planning Commission recommendations is evidenced by the Maps presented to the Clackamas County Board of County Commissioners at their September 6, 2010 Business Meeting. Those maps illustrate that the "Top of Pete's Mountain" area was recommended to be "undesigned". See, Exhibits C (Map 1) and Exhibit D (Map 2).

In addition, the subsequent statements from several of the Clackamas County Commissioners is evidence that the decision to designate this area was not supported by a majority of the Commissioners. (Exhibit E (previously submitted 5/20/10))

Charlotte Lehan, Clackamas County Board of Commissioners: *"...these lands did not meet the factors to be designated either an urban or rural reserve". "...having a hard time with a rural reserve designation on Pete's Mountain as there is no real farming activity up there and the rock comes clear to the surface."*

Jim Bernard, Clackamas County Board of Commissioners: *"The only place we didn't correctly apply the factors was on Pete's Mountain."*

Ann Linninger, Clackamas County Board of Commissioners. *"I stand by my position, which has been my position the entire time. When you apply the factors to Pete's Mountain it should be "un-designated", not a Rural Reserve."*

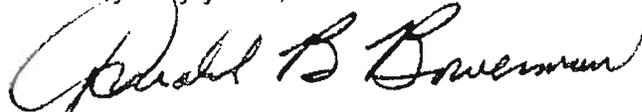
Bob Austin, Clackamas County Board of Commissioners:
Question: "Do you feel that the factors were correctly applied when designating Pete's Mountain as a Rural Reserve?"
Answer: "No."

Bottom Line: "Top of Pete's Mountain" area simply does not fit the criteria for Rural Reserves and the political motivations that forced that area into the Rural Reserves designation should be addressed by DLCD.

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Therefore, we strongly urge the Urban and Rural Reserves Specialist to reconsider whether the passing of Clackamas County ZDO-223. We recommend a specific change of the designation of the "Top of Pete's Mountain" Area to "undesigned".

Very truly yours,



Donald B. Bowerman

cc: Laura Dawson-Bodner, METRO (via email)
Maggie Dickerson, Clackamas County (via email)
Chuck Beasley, Multnomah County (via email)
Steve Kelley, Washington County (via email)

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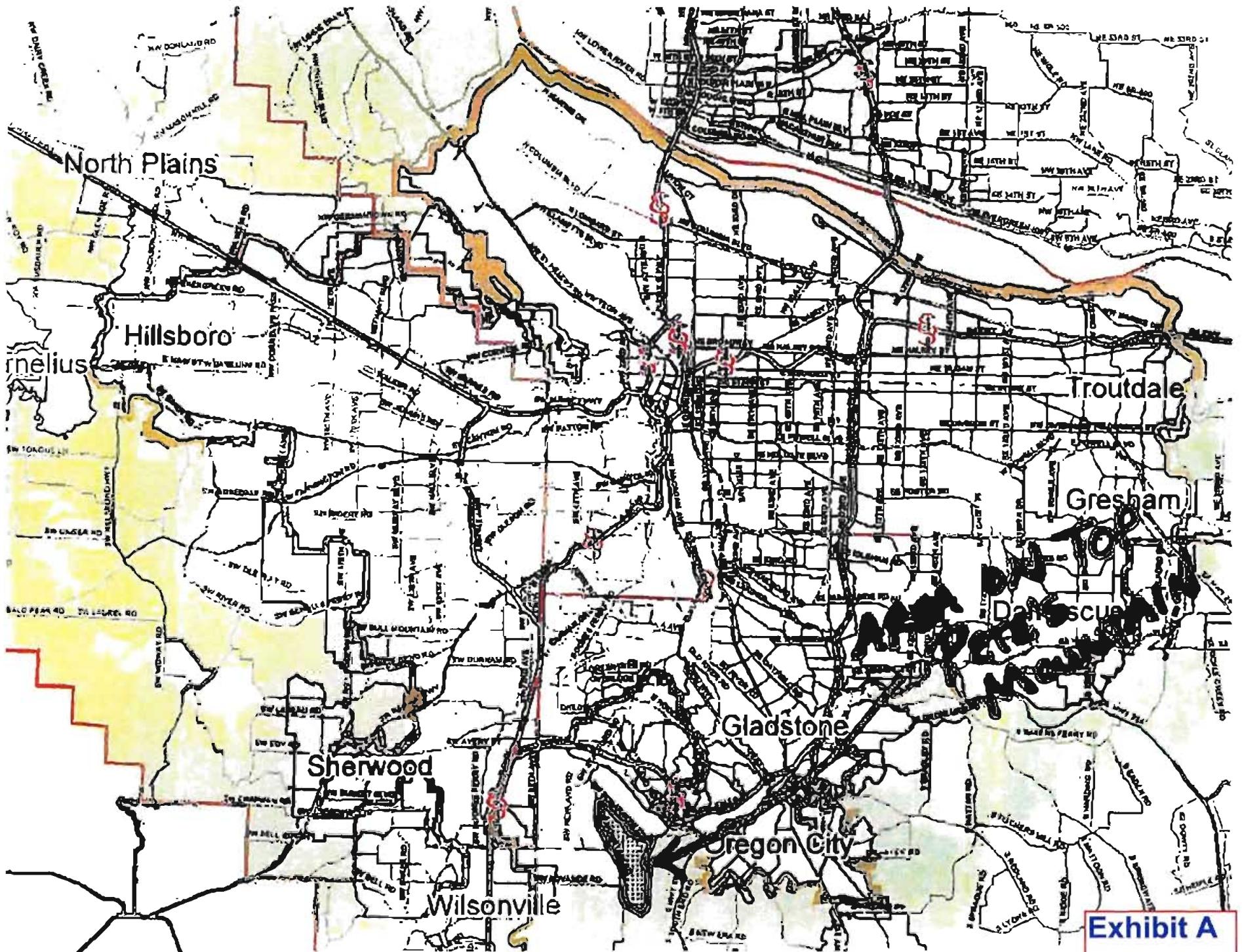
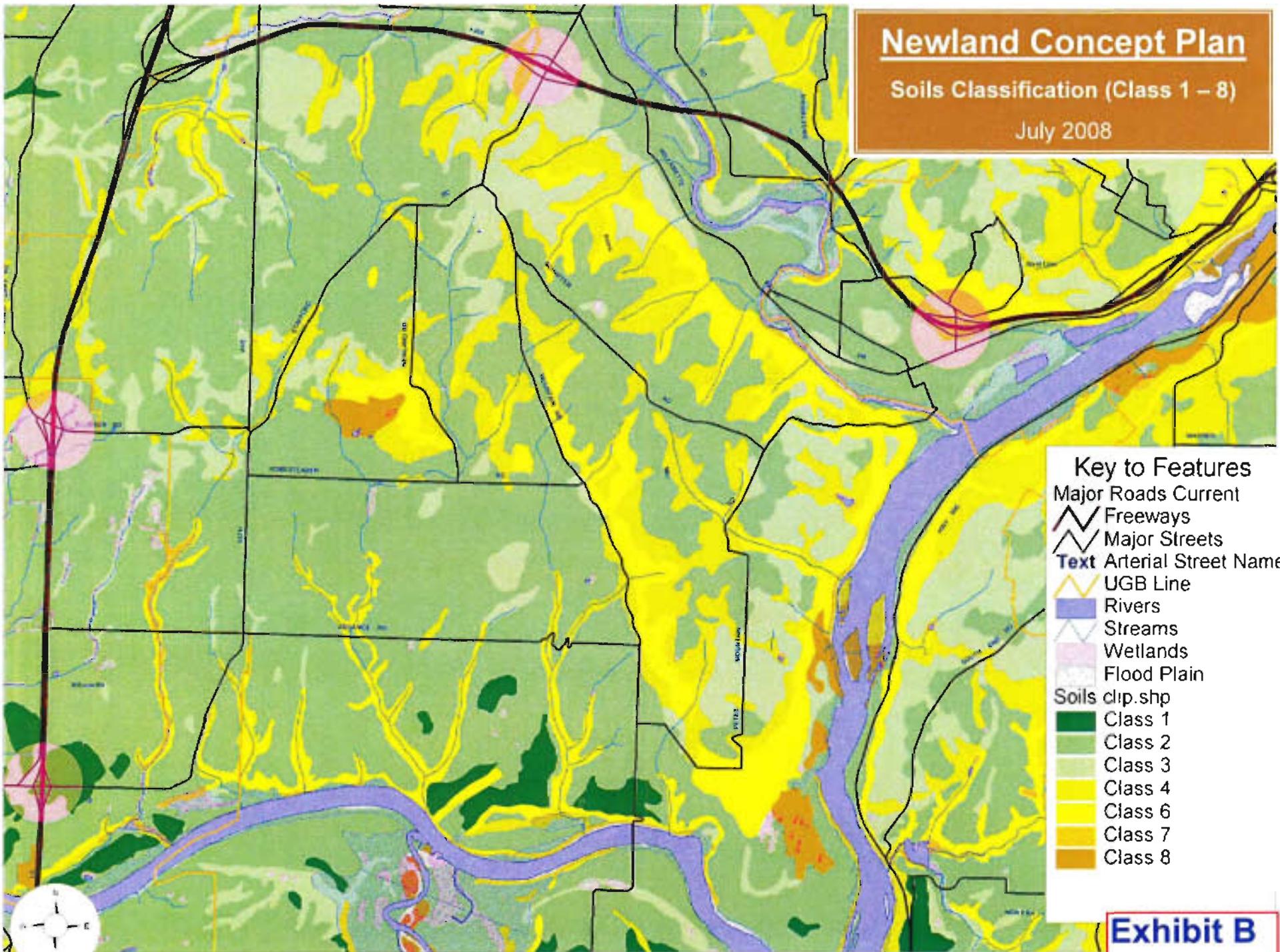


Exhibit A

Newland Concept Plan

Soils Classification (Class 1 – 8)

July 2008



Key to Features

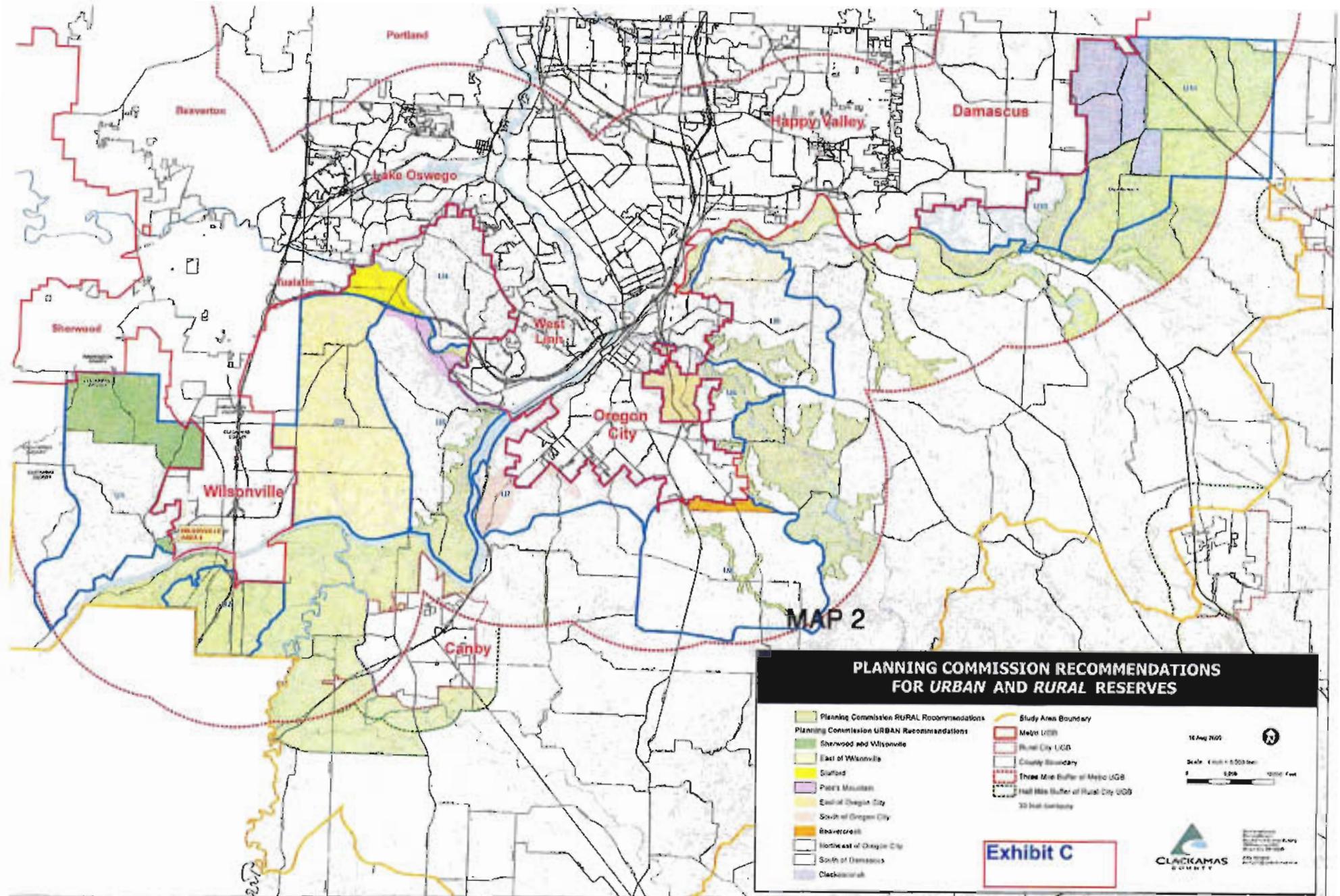
- Major Roads Current
- Freeways
- Major Streets
- Text Arterial Street Name
- UGB Line
- Rivers
- Streams
- Wetlands
- Flood Plain

Soils clip.shp

- Class 1
- Class 2
- Class 3
- Class 4
- Class 6
- Class 7
- Class 8

Exhibit B

4000 0 4000 8000 12000 16000 20000 24000 Feet



MAP 2

**PLANNING COMMISSION RECOMMENDATIONS
FOR URBAN AND RURAL RESERVES**

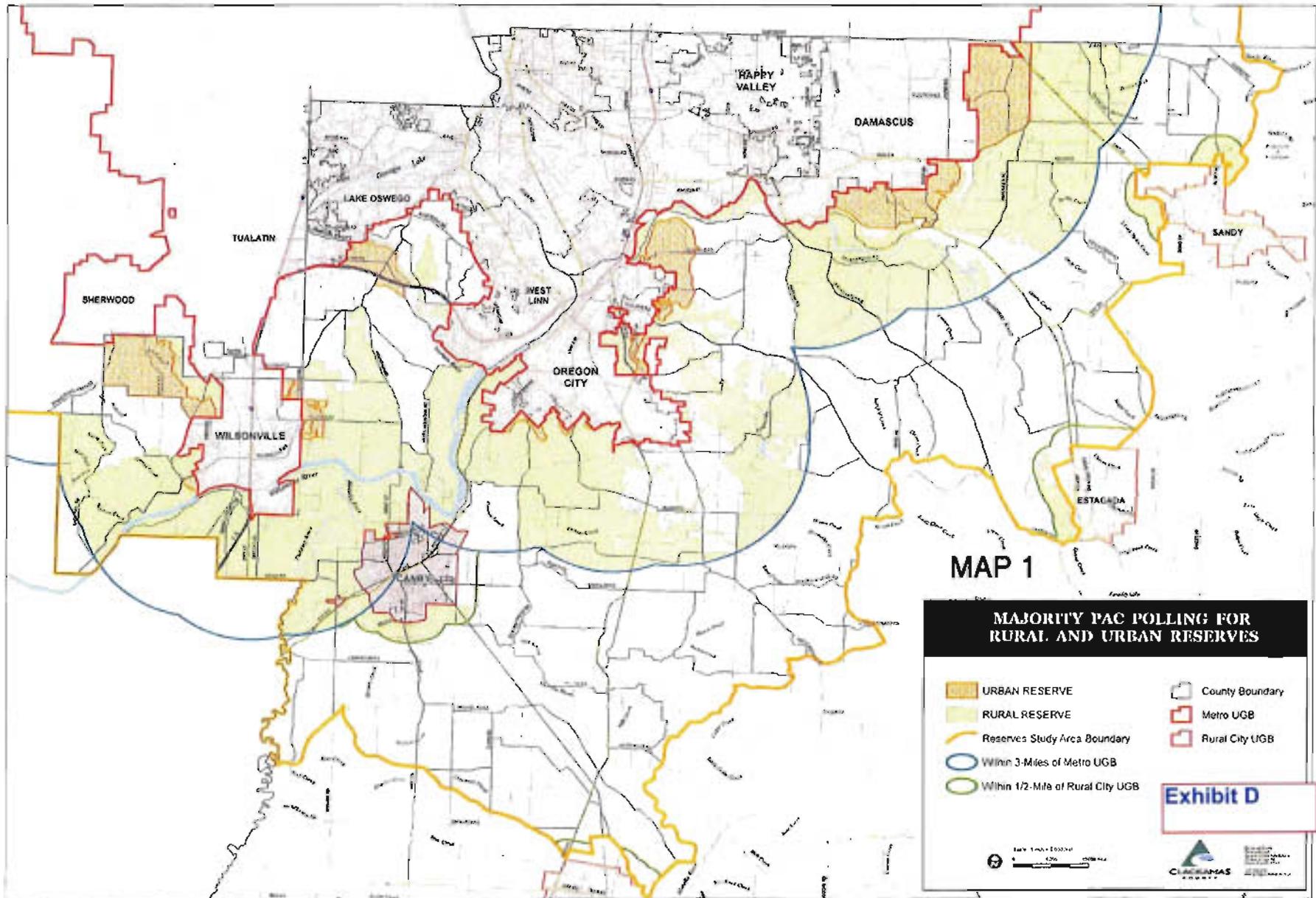
Planning Commission RURAL Recommendations	Study Area Boundary
Planning Commission URBAN Recommendations	Metro UGB
Sherwood and Wilsonville	Rural City UGB
East of Wilsonville	County Boundary
Stafford	Three Mile Buffer of Metro UGB
Peck's Mountain	Half Mile Buffer of Rural City UGB
Eastern Oregon City	30-foot setbacks
South of Oregon City	
Beavercreek	
Northwest of Oregon City	
South of Damascus	
Clackamas	

10 Aug 2005

Scale: 1 inch = 5,000 feet
0 1.25 2.5 Miles

Exhibit C

CLACKAMAS COUNTY



1

Affidavit

2

My name is Gordon Root, and I have personal knowledge of all events in this Affidavit.

3

I am a real estate developer and own approximately 48 acres on Pete's Mountain. As such, I am intimately involved in the Home Builders Association of Metropolitan Portland (HBA), and serve as an officer and director of that association. I have also been intimately involved in the Reserves Process. I served on the Policy Advisory Committee for Clackamas County, attended multiple open houses, the Planning Commission Hearings, the Board of County Commissioners Hearings and work sessions, most of the Project Steering Committee Meetings at Metro, and many of the Core 4 meetings. Not only did I regularly attend and participate in these events, I also testified at each opportunity and made submissions into the record. Needless to say, I feel that I am engaged and knowledgeable as anyone could be.

12

Despite the overwhelming amount of testimony and evidence myself and my fellow large tract property owners on Pete's Mountain submitted into the record, substantiating that Pete's Mountain did not meet the factors to be designated as a Rural Reserve, the Board of County Commissioners (BCC) went against the recommendation of the Clackamas County Staff, the Planning Commission and the Policy Advisory Committee and have designated our lands as a "Rural Reserve". I believe this was motivated by political purposes and flies in the face of the Factors and the entire process outlined in SB 1011, which has since been substantiated by the Commissioners themselves.

20

I was in attendance at the meeting at Metro where the Core 4 was adopting the County maps, when Charlotte Lehan (a member of the BCC and Core 4) was explaining to the group the designations that the Clackamas County BCC agreed upon and was specifically referring to the white portions of the map which indicated the lands as un-designated. At this time she made the statement that "...these lands did not meet the factors to be designated either an urban or rural reserve". At a subsequent Core 4 meeting Charlotte said "she was having a hard time with a rural reserve designation on Pete's Mountain as there is no real farming activity up there and the rock comes clear to the surface".

28

I also serve on the Political Action Committee of the HBA, and one of the activities we engage in is interview political candidates seeking elected office and our association endorsement. As such, on March 31, 2010 we were interviewing Commissioner Jim Bernard. One of the topics was the reserves process and Jim was commenting about the process in general, and specifically about how well he feels that the BCC did at applying the factors. Jim then said that "The only place we didn't correctly apply the factors was on Pete's Mountain".

Exhibit E

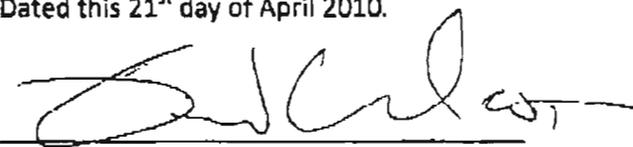
34 Frankly, I was stunned to hear such an admission and followed up with the question as
 35 to why then did the BCC designate Pete's Mountain as a Rural Reserve. Jim's response was that
 36 they were afraid they would end up in court with "those people up there", which was then
 37 clarified as the group known as the Pete's Mountain Homeowners Association, (PMHA). There
 38 were eight other people in the room who also heard these comments.

39 Secondly, on April 1, 2010, a group of nine of us interviewed Bob Austin, who is also a
 40 sitting member of the BCC and running for re-election. During his interview the subject of the
 41 reserves process also was a topic of discussion and the subject of Pete's Mountain was brought
 42 up by Dave Nielsen. I then asked Bob a point-blank question, which was "Do you feel that the
 43 factors were correctly applied when designating Pete's Mountain as a Rural Reserve. He did
 44 not equivocate, his answer was "No".

45 As a follow-up to this, I took it upon myself to call and speak with Ann Linninger,
 46 another sitting member of the BCC who is also up for re-election. I asked her flat out if she felt
 47 that the BCC properly applied the factors when it came to designating Pete's Mountain as a
 48 Rural Reserve. Being an attorney, she said, "Gordon, I see where you are going with this, and I
 49 stand by my position, which has been my position the entire time. When you apply the factors
 50 to Pete's Mountain it should be "un-designated", not a Rural Reserve".

51 I feel strongly that the designation of Pete's Mountain as a rural reserve was a politically
 52 motivated move and know that if the factors were properly applied, there would be no such
 53 designation.

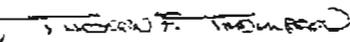
54 Dated this 21st day of April 2010.

55 

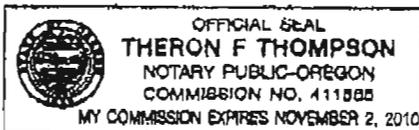
56
57 Gordon C Root

58
59 Subscribed and sworn to before me this 21st day of April 2010

60 

61 Notary Public for Oregon, 

62 My Commission Expires 11-2-2010



64

Exhibit E