

**Public Comment Received as of
Friday August 27, 2010**

**Public Hearing and Possible Adoption: Proposed
Amendments to Rules Regarding Urban and Rural
Reserves in the Portland Metro Area (OAR 660,
division 027)**



August 26, 2010

Land Conservation and Development Commission
c/o Casaria Tuttle, Rules Coordinator
635 Capitol Street NE, Suite 150
Salem OR 97301-2540

Re: Proposed Amendments to Urban and Rural Reserves Rule

Washington County wishes to provide the following comments regarding proposed amendments to Oregon Administrative Rule 660-027, the Urban and Rural Reserves Rule.

SUMMARY

- **Issue 1: Resource-to-Resource District Plan Amendments** - the county requests that the Commission adopt Option A. These requests do not remove land from the natural resource base, occur infrequently and rarely involve increased dwelling density. The alternative proposed by Option B requires a complicated and time-consuming analysis of potential dwelling density.
- **Issue 2: Transportation Improvements That Require an Exception** – the county asks that the Commission adopt Option B. Option B authorizes exceptions for roadways within Reserves that are identified on a county's transportation system plan. The proposed language in Option B remedies the conflict between the existing Rule and the county's need to identify road connections currently being planned (e.g. I-5/99W connector southern arterial) and those that may be contemplated during the 50-year time period of Reserves.
- **Issue 3: Alteration or Expansion of Existing Exceptions** – the county supports the DLCDC staff recommendation of Option A, and requests that Option B not be adopted. Option B limits the expansion of an exception area boundary to those requests seeking to alleviate the failure of an on-site septic system. The county has previously approved Reasons exceptions to expand the boundary of a site to provide safe, off-street parking, and wishes to preserve the ability to process similar requests in the future.

DISCUSSION

Earlier this year, the Commission invited stakeholders to identify various aspects of the Urban and Rural Reserves Rule that pose implementation problems. County staff worked to provide these examples and appreciates that some of our concerns were addressed by the amendments made to the Urban and Rural Reserves Rule in April.

Since April, the county has participated in the Reserves Working Group to further refine and make suggestions for additional rule amendments. Washington County's Board of Commissioners believes that the Oregon Planning Program's provision to allow citizens the opportunity to request plan amendments should be preserved during this new era of Urban and Rural Reserves.

Therefore, the county supports the adoption of language identified as Issue 3 in the August 20, 2010 staff report, "Alteration or Expansion of Existing (currently acknowledged) Exceptions." Continuing to allow Reasons exception requests to alter or expand existing exception properties provides property owners with certainty about the long-term use of their properties. The existing Reasons criteria set a high bar for exceptions, and to be approved, an exception request would truly have to be exceptional - examples of these requests in Washington County include expansions to address health and safety concerns.

The ability to request Reasons exceptions must be preserved in order to provide a safety valve to support the Oregon Planning Program over the next fifty years. In order to protect this safety valve, we urge the Commission to adopt Option A under Issue 3 *without* the addition of Option B. Option B precludes a county's ability to take a Reasons exception to provide adequate parking to alleviate a safety concern, a situation the county has addressed through plan amendments twice in the past decade.

The county asks that further changes be made to the Reserves Rule with regard to Issue 1 (Resource-to-Resource Land Plan Amendments) and Issue 2 (Transportation Improvements Requiring an Exception). Our specific concerns regarding these issues are described below.

Issue 1 - Resource-to-Resource District Plan Amendments

The county prefers Option A under this item, which allows for amendments from farm to forest districts or forest to farm districts in accordance with existing laws and plan criteria. The county has processed a small number of these plan amendments over the last decade, and primarily found that there were other legitimate reasons for requesting the amendment unrelated to dwellings (e.g. tax deferral status).

Option B under Issue 1 requires a review authority to evaluate the potential number of dwellings under the existing zoning and compare that number against the potential number of dwellings under the proposed zoning. This requirement is difficult to implement because of the variety of ways that land can qualify for a dwelling. Land productivity, income and template tests are some of the methods used to obtain dwelling approvals. Working through each method to determine dwelling density under current and proposed is both a complicated and time-consuming process.

Resource-to-resource district plan amendments retain land within the natural resource base, and - of those approved within Washington County - typically reflect properties which are already engaged in uses supported within the requested land use district. These plan amendment requests feature de minimis impacts and do not generally result in any increased housing density.

Washington County requests that the Commission approve the changes in Option A under Issue 1. The county asks that the Commission not adopt Option C due to the implementation issues for local governments, as described in the August 20, 2010 DLCD staff report.

Issue 2 - Transportation Improvements Requiring an Exception

The county supports Option B under Issue 2. Option B would allow counties to take needed exceptions for transportation improvements within urban and rural reserves. Specifically, Option B allows for transportation facilities that serve regional travel needs as identified in the Regional Transportation Plan - *OR* - a county transportation system plan. The fifty-year timeline for Reserves makes it critical that we have a method to address projects that may not yet have been considered. Preserving the exceptions process allows Metro and counties the opportunity to justify individual transportation improvements using the stringent existing standards and criteria for exceptions.

A prohibition on future exceptions for transportation facilities presents a number of complications for planned and future improvements within Washington County. Testimony provided by Metro and the City of Sherwood describes the conflict between the existing Reserves Rule and construction of the I-5/99W Connector "southern arterial" route. The county agrees that adopting the alignment and constructing the roadway would not be permitted under the current Reserves Rule.

This prohibition is also problematic elsewhere in the county. The attachment provided with this letter describes several road projects that would be affected if exceptions are not authorized for transportation improvements. Maps of each affected area are also attached. The county requests that the Commission approve Option B under Issue 2 and reject Option C due to the implementation difficulties for local governments, as described in the August 20, 2010 DLCD staff report.

Thank you for your consideration of these amendments.

Sincerely,



Brent Curtis
Planning Manager

c: Washington County Board of Commissioners
Bob Davis, County Administrator
Andrew Singelakis, Land Use & Transportation Director

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LAND CONSERVATION
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Potential Transportation Implications Under the Existing Reserve Rule

Map 1A: North Hillsboro Urban Reserve – The regionally significant industrial land north of Evergreen and west of Shute Road is of vital importance to not only the economy of Washington County but also the State of Oregon. These lands are within the Urban Growth Boundary. As Concept Plans continue to be refined for this area, it will likely make sense to consider having direct road connections from this area to Jackson School Road and/or Meek Road. It may be prudent to consider another north-south connection over the Sunset Highway. Such connections will likely reduce out of direction travel, lower greenhouse gas emissions and decrease vehicle miles traveled. Such connections would also likely decrease congestion on nearby arterials. In the case of Evergreen Road, such connections could lower volumes enough where some road widening to the west may not be needed. Under current rules, pursuing exceptions for these connections would not be allowed.

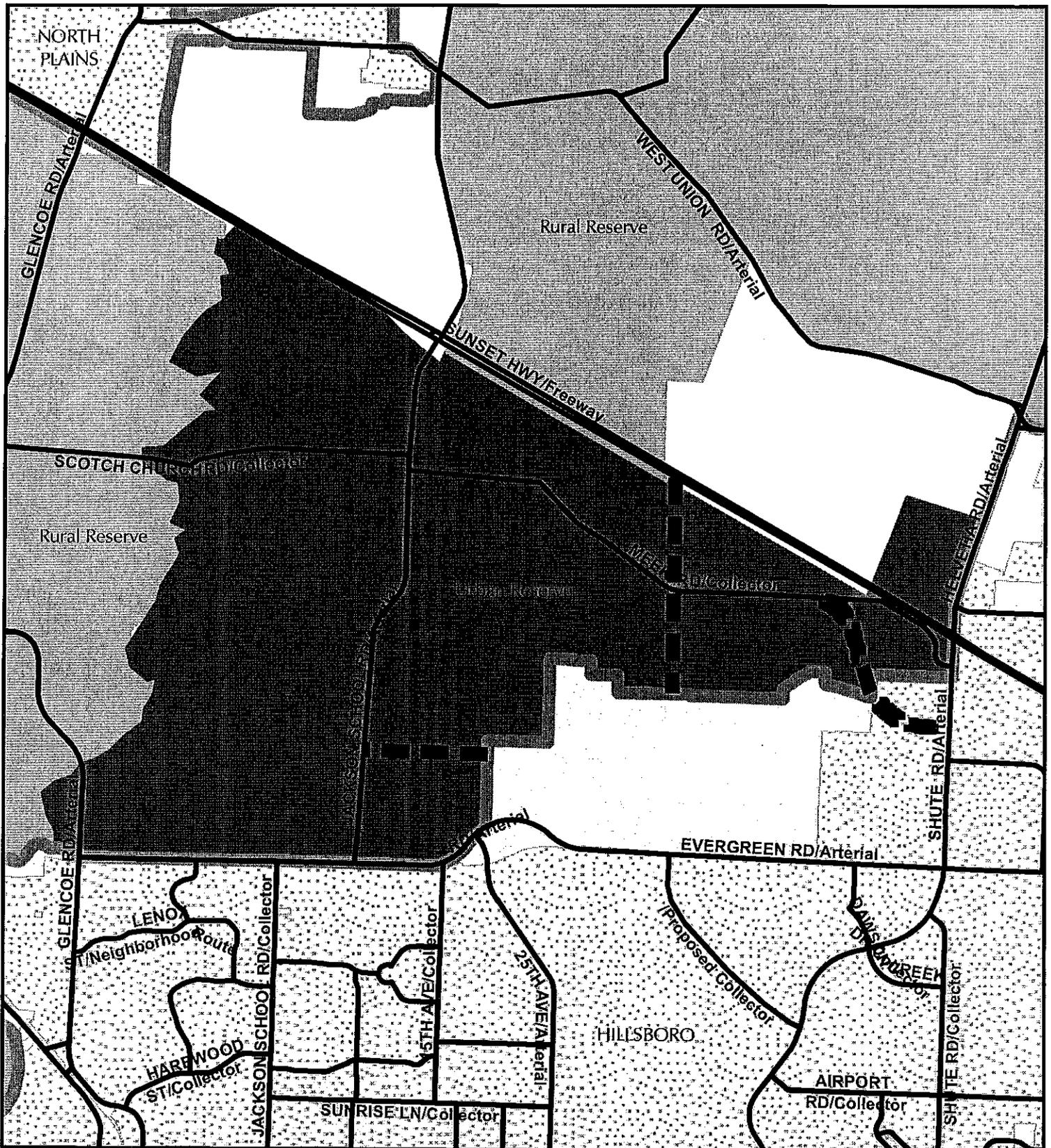
Map 1B: Meek Road Realignment – As part of ODOT interchange improvements, roads that intersect the approach roads to the interchange often need to be realigned or otherwise adjusted to help maintain the safety and capacity of the interchange. In the case of the Helvetia/Brookwood interchange at Highway 26, some preliminary plans have shown the need to realign Meek Road to the south away from the interchange. Meek Road is currently a collector road in Washington County's Transportation Plan so maintaining full access to the road is important. To realign these roads, the new alignment will likely have to go through an exclusive farm use area that is within an urban reserve area. The realigned road may potentially divide existing parcels, which requires an exception under OAR 660-012-0070. Under the existing Reserve Rule, pursuing the exception would not be allowed, and the road would likely need to stay in place creating traffic conflicts at the interchange and impacting ODOT's investment.

Map 2: South Hillsboro Concept Plan – South Hillsboro presents a unique opportunity to create a new and innovative community responding to the needs of the Metro Region, City of Hillsboro and neighboring areas. The Concept plan for the area includes an extension of Cornelius Pass Road south of Tualatin Valley Highway to Rosedale Road. Cornelius Pass Road is a significant north-south arterial in Washington County. With South Hillsboro urbanized, it makes sense to consider extending Cornelius Pass Road to Farmington Road to the south through a rural reserve. The need for such a facility will grow over the next 40 – 50 years. Without such an extension, there may be significant impacts to Rosedale Road (an existing rural collector) and 209th (an existing 3 lane arterial with residential properties along it). Without the extension, congestion impacts at the Farmington Road/209th intersection may be significant. The extension would improve bike connectivity to the regional and county system and greatly improve livability along a parallel arterial, 209th. On a more regional basis, Washington County has struggled with

north-south connectivity and transportation capacity. Highway 217, Murray Road and NW 185th are all currently at capacity and congestion will only get worse over time. Commuter rail and additional transit will help, but not be the cure. The extension of Cornelius Pass would help north-south circulation in the County. Under current rules, the extension of Cornelius Pass to Farmington Roads would have to meet existing strict exception criteria. There would be benefits and costs identified in such an exception evaluation. It is important to leave the exception process as an option to help create a vibrant community in South Hillsboro, and as a potential tool for helping address future congestion in the Metro region.

Map 3A: North Bethany East-West Collector Road – As part of the North Bethany planning effort it became evident that an alternative connection to NW 185th Avenue was necessary. This connection, known as Road A, was needed in order to improve internal circulation, minimize out of direction travel and vehicle miles of travel, and help ensure that the nearby arterial system wouldn't be overburdened with automobiles to the point where bicycle and pedestrian travel would no longer be convenient or comfortable. This connectivity also provides additional options for future transit service and allows volumes on certain internal streets to decrease to allow for better designed and functioning neighborhoods. Washington County took the exception for the Road A in 2009. If Washington County had not already taken the exception, under the existing Reserve Rule, this roadway would not be allowed because it travels through an urban reserve.

Map 3B: West Bull Mountain Neighborhood Routes– As part of the West Bull Mountain concept planning process it became clear that several neighborhood routes would need to be constructed through the adjoining urban reserve area to connect to both SW Beef Bend Road and SW Roy Rogers Road. These connections serve to decrease indirect travel in the neighborhoods and help reduce volumes on overly encumbered collectors in the area such as SW 150th Ave. The improved connectivity will improve safety, enhance bike connectivity to the surrounding regional system and generally add to the vibrancy and livability of the emerging area. Under the proposed rules, taking an exception for these proposed roads would not be allowed, essentially creating a large, improperly connected de facto “cul-de-sac” at the edge of the UGB.

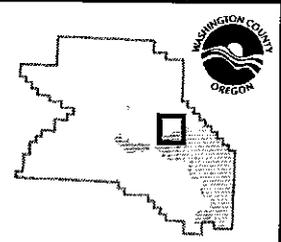
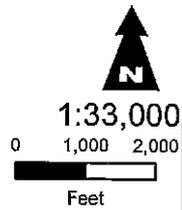


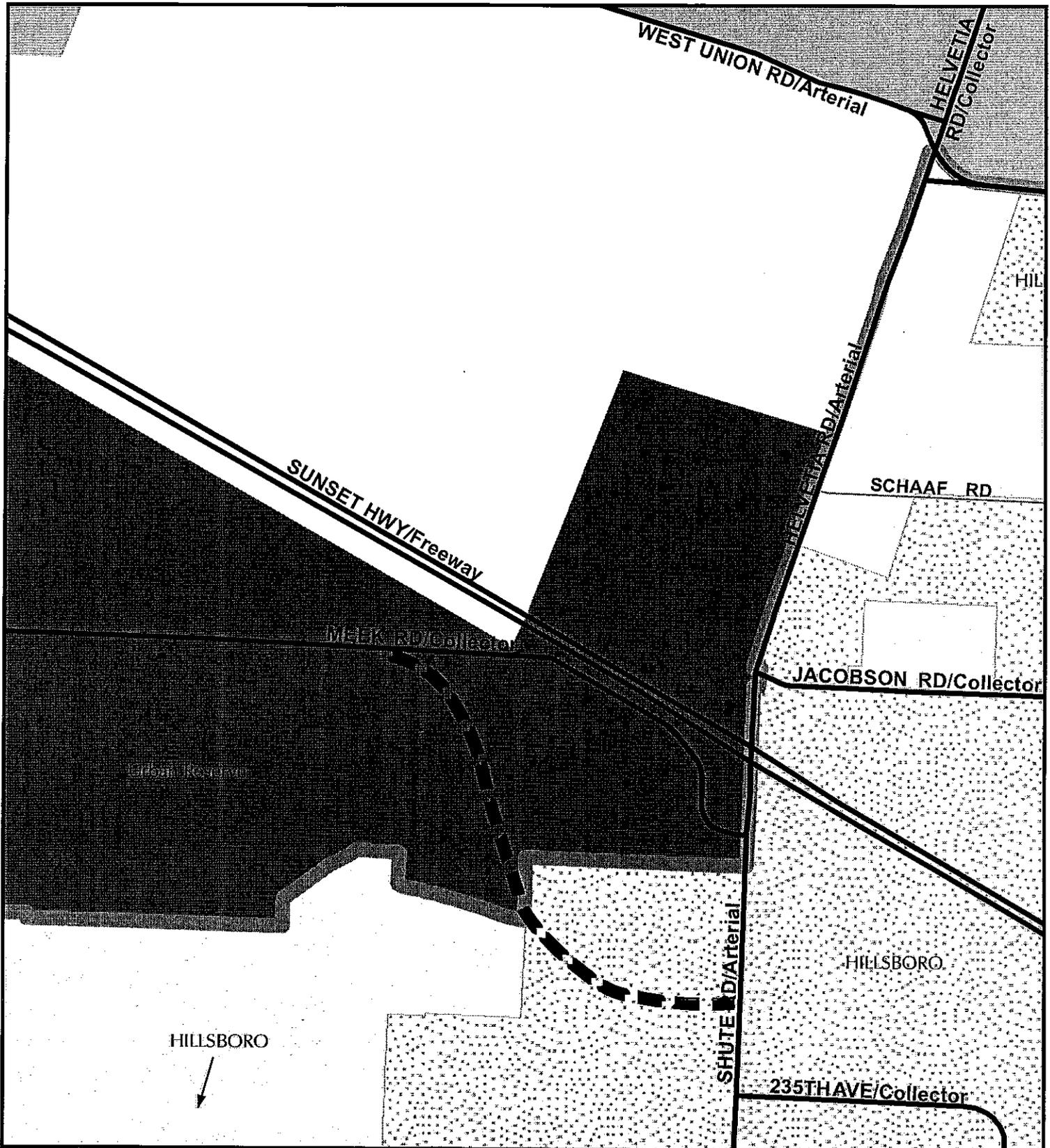
WASHINGTON COUNTY- LONG RANGE PLANNING

Map 1A

North Hillsboro Urban Reserve

-  Potential Road Corridor
-  Rural Reserve
-  Urban Reserve
-  Urban Unincorporated Area
-  City
-  Functional Class
-  Urban Growth Boundary (UGB)



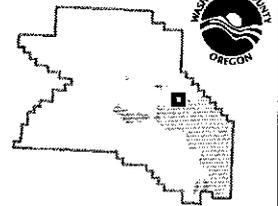
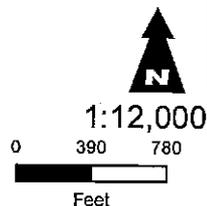


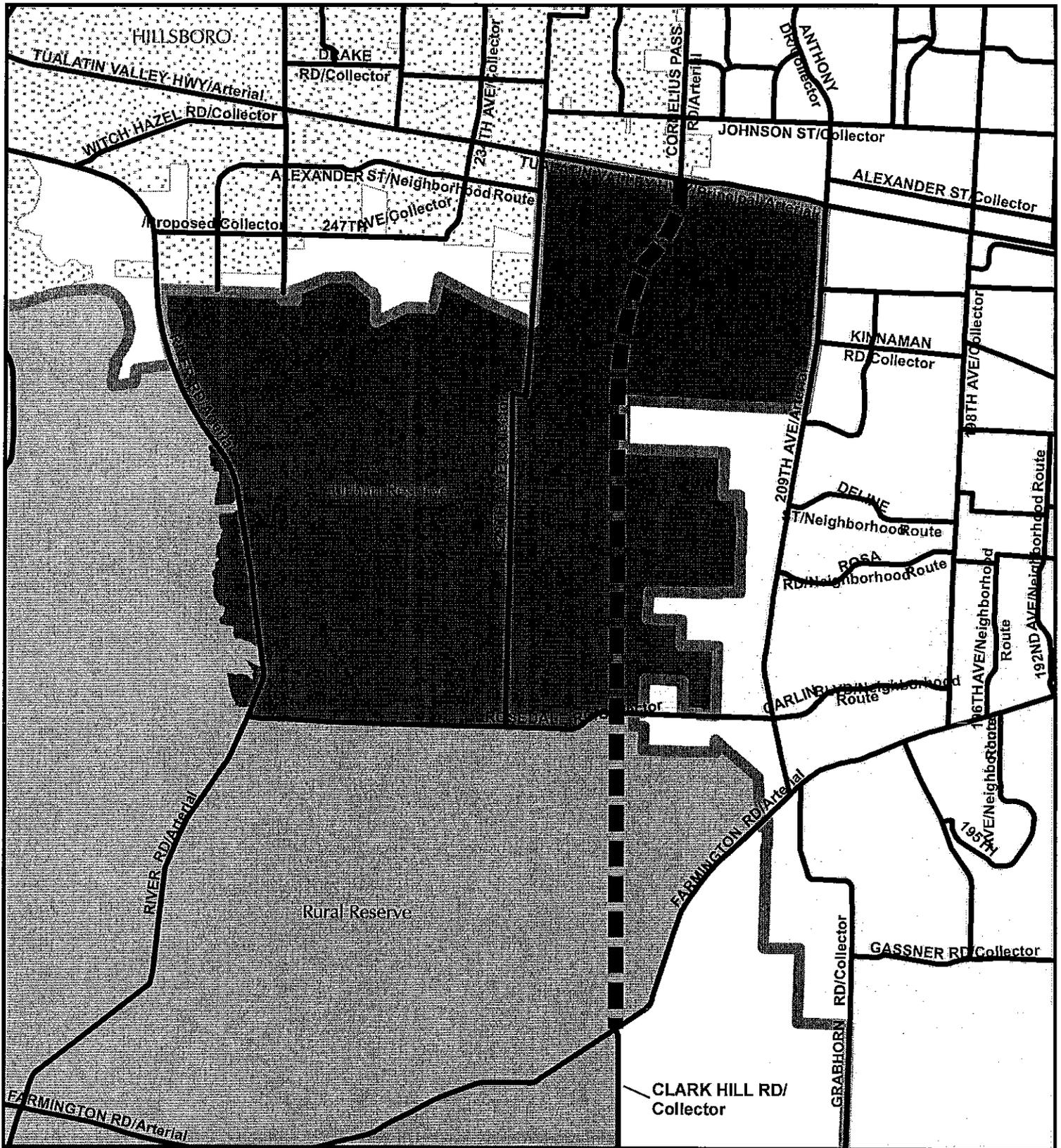
WASHINGTON COUNTY- LONG RANGE PLANNING

Map 1B

Meek Road Realignment

- | | | | |
|---|---------------------------|---|-----------------------------|
|  | Potential Road Corridor |  | Functional Class |
|  | Rural Reserve |  | Urban Growth Boundary (UGB) |
|  | Urban Reserve | | |
|  | Urban Unincorporated Area | | |
|  | City | | |



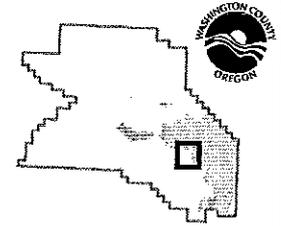
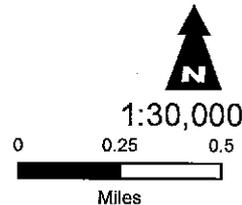


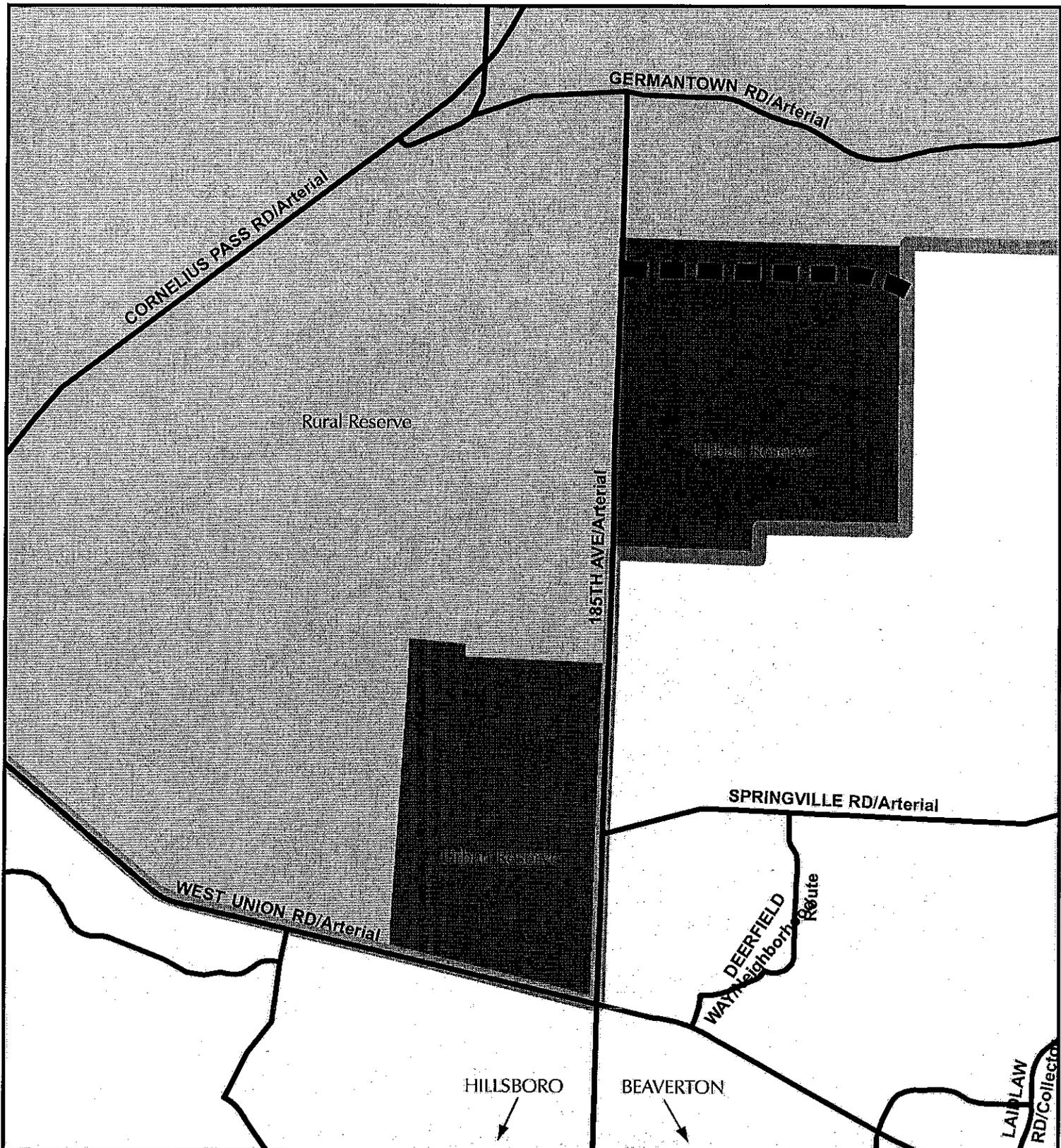
WASHINGTON COUNTY- LONG RANGE PLANNING

Map 2

South Hillsboro Urban Reserve

-  Potential Road Corridor
-  Functional Class
-  Rural Reserve
-  Urban Growth Boundary (UGB)
-  Urban Reserve
-  Urban Unincorporated Area
-  City



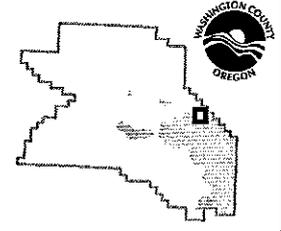
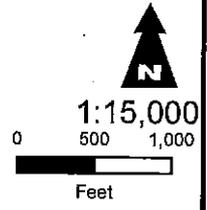


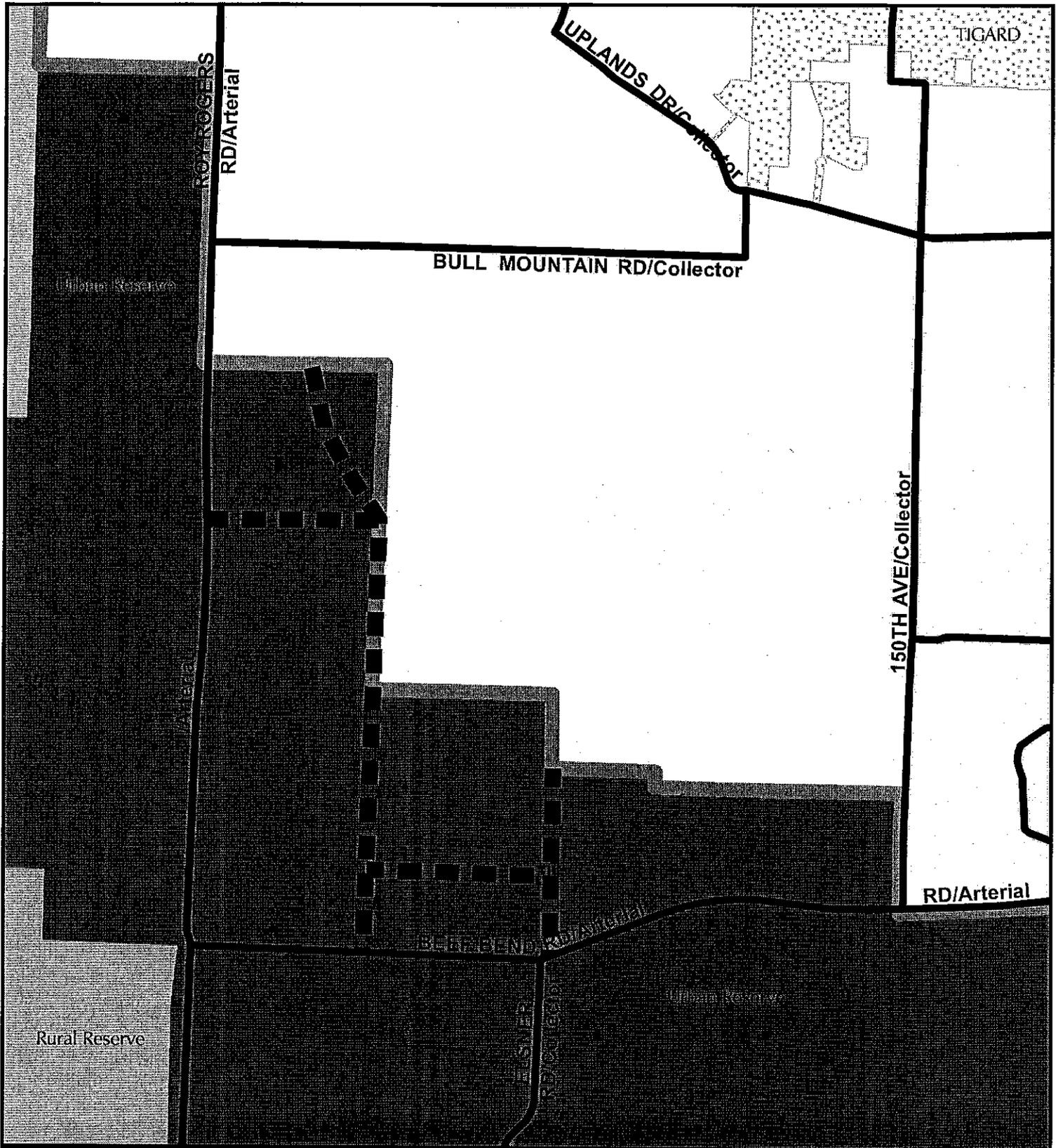
WASHINGTON COUNTY- LONG RANGE PLANNING

Map 3A

North Bethany East-West Collector Road

- | | | | |
|--|---------------------------|--|-----------------------------|
| | Potential Road Corridor | | Functional Class |
| | Rural Reserve | | Urban Growth Boundary (UGB) |
| | Urban Reserve | | |
| | Urban Unincorporated Area | | |
| | City | | |



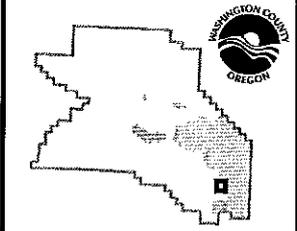
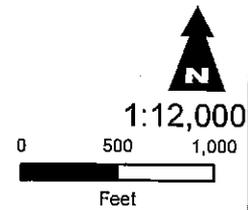


WASHINGTON COUNTY- LONG RANGE PLANNING

Map 3B

West Bull Mountain Neighborhood Routes

- | | | | |
|---|---------------------------|---|-----------------------------|
|  | Potential Road Corridor |  | Functional Class |
|  | Rural Reserve |  | Urban Growth Boundary (UGB) |
|  | Urban Reserve | | |
|  | Urban Unincorporated Area | | |
|  | City | | |



Carol Chesarek
13300 NW Germantown Road
Portland, Oregon 97231

August 27, 2010

Land Conservation and Development Commission
635 Capitol Street NE, Suite 150
Salem, OR 97301

Subject: Agenda Item 9, September 1-2, 2010, LCDC Meeting, PROPOSED
AMENDMENTS TO RULES REGARDING USES ALLOWED WITHIN URBAN AND RURAL
RESERVES IN THE PORTLAND METRO REGION

Dear Chair VanLandingham and Commissioners,

I appreciate the opportunity to share some comments about the proposed rule changes.

I've been actively participating in the Reserves process on behalf of Forest Park Neighborhood Association since I testified in support of SB 1011 at the first Senate hearing. I attended all of the workgroup meetings that crafted the original Administrative Rules. I testified at all of the LCDC hearings when the OARs for Urban and Rural Reserves were developed and adopted, and I testified again at your April hearing about proposed changes to these Rules.

I also had the privilege of serving on Multnomah County's Reserves Citizen Advisory Committee, where we considered how the Administrative Rules applied to the landscape.

Thank you for establishing another workgroup to consider possible changes to the Rules. This workgroup process has proven to be an effective method for exploring the issues, exchanging views, and for developing solutions. It is also one of the few forums I have seen that gives an equal voice to representatives of farm, forest, and natural resource interests -- voices that must be heard and weighed when we are making decisions that will affect the long term protection and viability of those resources.

While this most recent workgroup did not reach consensus on all issues, the issues are much better understood. However, it also became clear that there are still many unknowns, and that even minor changes to the Rules could result in significant unintended consequences. So I hope you will be cautious about adopting any changes to the Rules.

I agree with most, but not all, of the recommendations in the August 20 staff report. Specifically:

Issue 1: Comprehensive Plan Amendments from One Resource Type to Another. I agree that there should be no change to the current rules.

Issue 2: Transportation Improvements that Require an Exception. I agree that there should be no change to the current rules.

Issue 3: Alteration or Expansion of Existing (currently acknowledged) Exceptions in Urban or Rural Reserves. Staff recommends adoptions of Option B, as set forth in Attachment B. I support Option B, but recommend that it be modified to explicitly forbid Goal 14 exceptions to avoid confusion. The workgroup did not have the wording of ORS 215.296 before them when this proposal was discussed, and I don't believe that OAR 660, division 004 was mentioned at the workgroup meeting. I think the intent of the workgroup was to not allow additional "urban" exceptions in these areas, and it would be better to clearly specify that limitation.

Issue 4: Authorization for a Goal 11 exception in order to allow sewer service to rural lands in order to prevent a health hazard. I do not agree with the staff recommendation. This issue was not fully discussed by the workgroup. At that time, staff was not sure whether any rule amendments were needed, and there was no proposed text. While I am certainly sensitive to both preventing health hazards and preventing septic systems from leaking into natural resource areas, I think this issue needs more research and consideration. I recommend no rule change until this issue can be more fully researched and discussed.

I want to offer more detailed comments to explain my recommendations for Issues 1 & 2.

Issue 1: Changes from one resource type to another.

Information on the Metro Reserves web site and in handouts provided at Reserves open houses (hosted jointly by Metro and the Counties) clearly communicated to the public that new uses would not be allowed in Urban or Rural Reserves. That text reads:

"What would a rural reserve designation mean for my community?"

An urban or rural reserve designation will prevent the metropolitan counties (Clackamas, Washington and Multnomah) from amending land use regulations to allow new uses, smaller lots or parcels than were allowed at the time of the designation. This means that if a rural unincorporated area is designated as a rural reserve, land owners in that community will not have the option to modify zoning to accommodate more growth ("upzone") for the next 50 years."

This language reflects the current OAR 660-027-0070 Planning of Urban and Rural Reserves:

(2) In order to maintain opportunities for orderly and efficient development of urban uses and provision of urban services when urban reserves are added to the UGB, counties shall not amend land use regulations for urban reserves designated under this division to allow uses that were not allowed, or smaller lots or parcels than were allowed, at the time of designation as urban reserves until the reserves are added to the UGB.

(3) Counties that designate rural reserves under this division shall not amend their land use regulations to allow uses that were not allowed, or smaller lots or parcels than were allowed, at the time of designation as rural reserves unless and until the

reserves are re-designated, consistent with this division, as land other than rural reserves.

These rules were reviewed and agreed to by the Counties and Metro. A Comprehensive Plan amendment to change from one resource use to another would clearly allow new, different uses on land in Reserves. To allow such changes would undermine public confidence in the process.

Issue 2: Transportation Improvements that Require an Exception.

I want to quote the letter that I submitted to Director Whitman at the April 15 hearing on proposed changes to these Rules, because I believe these points are still relevant to this discussion:

"The harm that roads can cause to farm and forestry lands is well documented, but I want to remind you that natural features can also be degraded by roads. Wildlife habitat is replaced by pavement, streams are affected by bridges, impervious road surfaces result in polluted stormwater runoff, wildlife is killed trying to cross roads, wildlife movement corridors may be blocked or restricted, and the lights and noise from vehicles degrades adjacent habitat. Roads also help spread invasive species into natural areas.

Rural Reserves for Natural Landscape Features are likely to contain lands subject to natural disasters or hazards, important fish, plant, or wildlife habitat, and/or are necessary to protect water quality or quantity such as streams, wetlands, and riparian areas. Such areas are clearly less suitable and desirable locations for new or expanded roads.

Busy roads may diminish the value of a natural feature that provides sense of place. Roads crossing an area serving as a boundary or buffer between urban and rural uses may reduce the value of that boundary or buffer. Roads may also reduce the value of rural recreational opportunities if they make trail crossings and parks less safe and less attractive.

Clearly new and expanded roads in rural reserves are not compatible with the intent of rural reserves, which is to provide long-term protection of agriculture, forestry or important natural landscape features

Another problem with new or expanded roads through rural reserves is that these road facilities then become an excuse for future urban expansion in these areas because the road degrades the rural resource, and because the road becomes existing infrastructure that can contribute to more efficient development of a new Urban area. Both of these results are also incompatible with the long term protection that rural reserves are supposed to provide.

So any new or expanded roads through rural reserves should be strictly limited."

I am also concerned that the underlying reason for Washington County's concern with this current limitation results from their failure to thoughtfully consider one of the Factors for Designation of Lands as Urban Reserves, OAR 660-027-0050:

(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.

The County's analysis of the Urban Reserve factors for each area relied on "Pre-Qualified Concept Plans" submitted by each city. Many of these documents don't appear to consider the adverse effects of new roads (or additional traffic on existing roads) which are likely to be needed to serve the Urban Reserve on nearby farm and forest practices, and on important natural landscape features. I have included excerpts from some of these reports at the end of this letter. If the adverse effects of new roads had been considered, the County might have selected different Urban Reserves and there might be less need for new roads through Rural Reserves.

The Multnomah County Reserves CAC carefully considered the road network around our proposed Urban Reserve near Gresham, and discussed the likely adverse effects of added traffic on those roads. Members of the CAC also considered whether new roads through adjacent rural areas were likely to be needed to serve that Urban Reserve. One reason for recommending against potential Urban Reserves in western Multnomah County was the limited road network and presence of numerous headwater streams and valuable wildlife habitat which would be harmed by added traffic on existing rural roads.

I also have grave concerns about the process for Goal Exceptions for new roads. The North Bethany planning process started in 2006. After many Technical Advisory Committee meetings and Stakeholder Workgroup Meetings, a draft Ordinance was filed on June 12, 2009. The public notice with this Washington County Land Use Ordinance 712 says "An exception to Statewide Planning Goal 3, Agricultural Lands, is proposed for a new road across agricultural land," but there is no mention of the Goal Exception in the Ordinance. After a long series of Planning Commission Hearings and Board of Commissioner Hearings, the Findings for Ordinance 712, which include the documentation for the Goal Exception, were finally made available on 10/23/09, the Friday before the final Board of Commissioners hearing and approval for Ordinance 712 on 10/27/09. There was no consultation with agricultural or natural resource interests, and there was virtually no opportunity for the public to weigh in on this Goal Exception. This would not be an acceptable process for authorizing roads in Reserves. If we were to allow new roads in Reserves in the future, I believe that a new approval process would need to be crafted that would allow for meaningful participation by citizens and representatives for farm, forestry, and natural resources.

I would also note that many road expansions and improvements are allowed under the rule changes adopted by this Commission earlier this year.

I want to thank Commissioner Worrix for her thoughtful leadership of the workgroup. She ensured that everyone was heard and that discussions were effective. She included non-workgroup members in discussions, which helped inform the decisions. She led the group through a series of complex issues in a short period. DLCD staff provided valuable research and thorough explanations of the law and other rules.

Thank you again for the opportunity to provide these comments.

Carol Chesarek

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City of Forest Grove Pre-Qualified Concept Plan:

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

The proposed boundary of the potential candidate urban reserve area was drawn to maximize the use of vegetated corridors as buffers between farm use and areas identified for urbanization. Vegetated corridors provide a natural break between lower and higher density development. In addition, vegetated corridors act as a buffer (by distance and vegetation) reducing potential noise, dust and other conflicts that could occur between agricultural practices and urban development.

Vegetated corridors provide a better buffer between agricultural and urban uses compared to streets. These wide buffers will more effectively reduce impacts from dust and application of pesticides and fertilizer due to substantially greater distance and vegetation.

Development within the candidate urban reserve area could be designed to minimize development density along areas adjacent to farm activities. Buffer areas and setbacks can be required through zoning requirements east of Highway 47 and in the Verboort community area to reduce potential conflicts.

The south candidate urban reserve area is adjacent to an existing industrial area. The floodplain serves as a buffer to areas south of the site."

City of Hillsboro Pre-Qualified Concept Plan (July 28, 2009):

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

Response:

Farming has been and remains an important industry in and around the City of Hillsboro. The city has worked closely with the county in determining its study areas and in meeting the criteria for urban reserves. Recognizing the resources surrounding the city, Hillsboro has been conservative in its request for urban reserves.

As described below, the city is proposing to use natural features and existing parcelization patterns to avoid conflicts between land uses and to provide transitions to minimize the effects on farming practices. As the urban growth boundary will expand incrementally, expansions will require buffers at the edges to ease the transition to urbanization of new areas. In addition to protecting farmland

outside the UGB, the City will explore zoning protections for existing Community Supported Agriculture farms that may be brought into the UGB. Such farms can serve as examples of sustainable urban agriculture, maintaining operations near the people they serve.

North Hillsboro

Natural features – Dairy Creek to the west and Rock Creek to the east – were chosen as east-west boundaries for the North Hillsboro study area in order to provide natural buffers between urban and rural uses. In addition to these natural buffers, employment, including industrial uses, will help create transition and buffer urban and rural uses to the west. Rock Creek will provide a natural buffer between urban and rural uses to the east. To the north, low density residential uses are envisioned to transition between urban and rural uses. Additionally, the tax lots to the immediate north of the study area are highly parcelized and rural residential in nature, providing an existing buffer to farm uses further north (Attachment B, Maps).

Natural buffers and existing urban development already exist on three sides of the study area providing a very good urban to rural interface. The southern edge of the area abuts the existing Urban Growth Boundary, providing a highly compatible transition area. The entire eastern border and most of the western border of the study area have natural buffers consisting of the adjacent flood plains of McKay Creek and Rock Creek. The northern section of the western edge is designated for industrial use (see Figure 5) which is considered a more compatible use with agricultural due to the minimal amount of potential conflict with customary agricultural practices.

The northern edge of the study area is largely designated for low density residential use. The area to the north outside of the study area has several features that support a compatible transition to commercial agricultural uses, including:

- Highly fragmented lots. The 1,500 acre area within one half mile of the northern residential area is highly fragmented containing around 150 separate tax lots. Approximately one quarter of these tax lots are owned by related parties. The largest tax lot is 178 acres, the next largest is 74 and the smallest is 0.11 acre. The average tax lot in the area to the north is 9.5 acres.
- Natural Features. Fifty-five percent of this area is constrained by flood plain, steep slopes, Goal 5 natural resource, 50 foot stream buffer, or BPA transmission line right of way.
- Approximately 30% (456 acres) of this area is exception land.
- Less than half of the area is zoned Exclusive Farm Use.

All of these factors contribute to a highly compatible urban to rural transect.”

South Hillsboro

The South Hillsboro plan area is also characterized by natural buffers and adjacent urban development on three sides. The northern and eastern edges of the South Hillsboro plan area abut the existing Urban Growth Boundary, providing a highly compatible transition area. The western edge abuts the Tualatin River floodplain and the UGB.

With respect to the southern edge, one of the development program features of the South Hillsboro Community Plan is the use of the new urbanist concept of “urban transect” to create a transitional community (Attachment D, page 38). The South Hillsboro Community Plan urban transect radiates from the centers and corridors, with more intense uses located close to TV Highway, becoming less intense moving outward toward a long term Urban Growth Boundary. On the western edge, natural features will provide additional buffer between urban and rural uses. Additionally, the City of Beaverton has selected the areas to the south of the plan area for one of its urban reserve candidate sites. They have targeted the area adjacent to the South Hillsboro Plan area for the same type of use called for in Hillsboro’s plan - low density residential development.”

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

Stafford Basin- Washington County

The most effective response to this factor is a summary of findings produced in the Oregon Department of Agriculture *Identification and Assessment of the Long-Term Commercial Viability of Metro Region Agricultural Lands* January 2007. The Stafford Basin was studied by ODA as a portion of the subarea called East Wilsonville. The entire subarea of East Wilsonville described in the report is much larger than Tualatin’s Area of Interest and extends south to the Willamette River east to West Linn and west to Wilsonville. Soils in Stafford Basin in Washington County are Class II and the area is located in the Sherwood-Dammasch-Wilsonville Ground Water Limited Area precluding the development of additional static ground water sources for irrigation. Existing uses in Tualatin’s Area of Interest are considered rural residential. The report found the area to be broken into many parcels ranging in size from 5 to 10 acres. These lands are exception lands primarily developed with single-family dwellings. Other existing uses such as churches are not compatible with commercial farming. However, there are isolated EFU (Exclusive Farm Use) lands near the intersection of 65th Avenue and I-205 in Washington County.

North of Frobase Road there are three parcels that are zoned EFU and they are classified as Important Agricultural Land. As defined in the ODA 2007 report, Important Agricultural Lands are suited to agricultural production and contribute to or have the capacity to contribute to the commercial agricultural economy. This area currently maintains good integrity according to ODA. This report found that parcel size in EFU land is typically 40 acres or greater and some agricultural operations use several parcels to make one working unit. Future land use decisions in Tualatin’s Area of Interest could affect the integrity of the EFU land near Forbase Road. However, given that single-family dwellings are present in the area further impacts would be minimal. The remaining portion of Tualatin’s Area of Interest are exception lands and including the small island of EFU land are considered not well suited for commercial agriculture.

Tualatin’s Pre-Qualified Concept Plan concentrates development and density in the center of the Stafford area and not at the edges. The Neighborhood Center is located at a strategic intersection where it will be accessible by vehicular, pedestrian and bicycle traffic. Development on the edge will most likely be low-density residential. These patterns should provide buffers from farm or forest practices located in candidate rural reserves to the east. The specific area was identified because of the topography that directs drainage northerly toward existing Tualatin City boundaries.

Knife River

The Knife River area is part of the West Wilsonville subarea and is considered conflicted. The soils are classified as Class III and IV, they have no agricultural capability and most of the area is wet, gravelly, mucky and rocky. (ODA 2007) The northern portion of the subarea includes Knife River and it lacks irrigation which precludes the area from development of high-value nursery and food crops that could otherwise be produced on the small tracts according to the ODA 2007 report. The ODA report describes the Knife River portion of West Wilsonville as lacking transportation connections to other agricultural areas in the region. The report concludes that: "this area has limited suitability to sustain long-term, viable commercial agricultural operations." Due to surrounding land uses, rural residential and urban areas, poor soils, and lack of existing irrigation rights.

The uses to the north and east of this area are presently industrial and planned for industrial use in the future. The continuation of exiting land uses in the area should not create adverse effects on farm and forest practices in candidate rural reserve areas to the west and south. Immediately bordering the Knife River area are proposed arterial roads with 124th Avenue proposed to the west and a possible arterial to the south connecting I-5 and 99W on the south.

Based on the ODA 2007 study and the City's intention to concentrate development in the center of the potential candidate reserves area, the Stafford Basin in Washington County can be designed to avoid or minimize adverse affects on farm and forest practices and on important natural landscape features on nearby resource land, including land designated as rural reserves. The ODA 2007 indicates this area is not suitable for farming practices and because it is currently industrial uses and the City aspires to continue industrial use it can be designed to avoid or minimize adverse effects on farm and forest practices and on important natural features on nearby resource land, including land designated as rural reserve."

Tuttle, Casaria R.

From: Cherry Amabisca [cherryamabisca@gmail.com]
Sent: Friday, August 27, 2010 11:39 AM
To: Casaria Tuttle
Subject: Rule changes to Rural Reserves

Hello Casaria,

Please forward my comments below to the committee at DLCD that is considering Washington County's request for rule changes to Rural Reserves.

Throughout the reserves process, information from Metro and Washington County to citizens were clear: The intent of Rural Reserves was to provide certainty and protection for farm and forestry operations. It was clearly communicated that if land was designated as Rural Reserves, no new uses would be allowed. I oppose changes to the definition of Rural Reserves. If a specific need is identified in the future, then it should be evaluated. It is too soon in the process to make blanket changes - objections haven't even been responded to yet!

1. Citizens were told that "no new uses" would be allowed in Rural Reserves.
2. No new roads should be allowed in Rural Reserves.
3. Changes between farm and forest zonings should not be allowed in Rural Reserves.

Thank you,

Cherry Amabisca
Save Helvetia
13260 NW Bishop Road
Hillsboro, OR 97124
(503) 647-5334

DEPT OF

AUG 27 2010

**LAND CONSERVATION
AND DEVELOPMENT**

08/27/2010

Tuttle, Casaria R.

From: jerrygbw@aol.com
Sent: Friday, August 27, 2010 11:30 AM
To: casaria.r.tuttle@state.or.us
Cc: mark@nwnw.org; claireleonore@gmail.com; chesarek4nature@earthlink.net; rochlin2@comcast.net; paulasauvageau@yahoo.com; kimberly@laness.us; Wluscombe@aol.com; jerrygbw@aol.com; hildulal@gmail.com; opecheelake@hotmail.com; LBlaise@msn.com
Subject: Reserve Rules Comments, LCDC Sept 2

August 27, 2010

Land Conservation and Development Commission

Re: Proposed Rules Amendments Regarding Uses Allowed in Reserves

Dear Chair VanLandingham and Commissioners:

On behalf of Forest Park Neighborhood Association (FPNA), I would like to comment specifically on the proposed amendment to the rules that would allow significant new transportation improvements in Urban and Rural Reserves (Issue 2).

We support Option D (make no change to the rules) for the following reasons:

- 1) The proposed amendments make few distinctions between urban and rural reserves as to the rules governing transportation improvements, and whereas there may be reasons to modify the rules to allow certain transportation improvements in urban reserves as part of an orderly implementation of necessary improvements, I see no reason at all to relax the rules in rural reserves.
- 2) Even under the current rules, transportation improvements are allowed in rural reserves sufficient to meet safety and maintenance requirements. If a significant transportation improvement (a new road, for example) were proposed in a rural reserve, the arguments for such a project would not be generated within the rural reserve, but they would most likely come from expanding urban needs perhaps adjacent, but certainly outside, the rural reserve.
- 3) The very reasons that a rural reserve has been established can be swiftly and permanently undermined by the construction of a new road. Wildlife habitat, water quality, farm and forest uses, and important landscape features can be damaged and even destroyed when a new road is put in a sensitive location.

We have a real-life example that concerns us greatly. Within the rural reserves that Multnomah County and Metro have proposed (currently before the LCDC for review), are the environmentally rich western slopes of the Tualatin Mountains. These wooded slopes, with their steep canyons and fast-moving streams gradually lead to the rolling hills and a small but productive area of farm lands at the far western edge of Multnomah County. The County and Metro have seen fit to preserve these lands from urban development, even as neighboring Washington County urbanizes the adjacent farm lands of North Bethany. In order to provide transportation services to these burgeoning urban developments, Washington County planners have suggested pushing a road through Multnomah County's rural reserve to connect Springville Road to Saltzman Road.

Please do not amend the rules to allow something like this to happen. The road would in and of itself do damage to this rural landscape, and to send urban traffic through this area would truly violate the public trust. Our neighborhood has worked long and hard to establish a rural reserve here, and it would be a terrible thing to see it undermined by a loophole in the implementing rules.

We would hope that rules governing transportation improvements in rural reserves would very much take into account the reasons that rural areas are protected from development, and that they be designed particularly to avoid urban uses of these lands for transportation projects.

08/27/2010

Thank you very much.

Jerry Grossnickle, President
Forest Park Neighborhood Association
503-289-3046

P.S. Please note that Carol Chesarek, FPNA board member, and/or other board members, may comment on this and other portions of the rules under consideration, and that they do so with our complete support as representatives of FPNA.

DEPT OF

AUG 27 2010

**LAND CONSERVATION
AND DEVELOPMENT**

08/27/2010

DATE: August 27, 2010

FROM: Brian Beinlich
10440 NW Jackson Quarry Road
Helvetia, OR 97124

TO: Land Conservation and Development Commission

RE: Proposed rule changes regarding new uses Rural Reserves

Dear Commissioners:

I am writing regarding the proposed changes to allow new uses in Rural Reserves. This issue will be addressed as agenda item 9 at your September 2nd meeting.

My wife and I host a CSA (Community Supported Agriculture) farm in the Helvetia area, and have participated extensively in the Metro/Tri-County Reserves process. I have testified regarding reserves to both Metro and Washington County on several occasions.

Senate Bill 1011 was created to afford farmers strong, long-term protection against encroaching urbanization, and the proposed rules would weaken those protections. In fact, the proposed rule changes are in conflict with 660-027-0070(3), which states:

Counties that designate rural reserves under this division shall not amend their land use regulations to allow uses that were not allowed, or smaller lots or parcels than were allowed, at the time of designation as rural reserves unless and until the reserves are re-designated, consistent with this division, as land other than rural reserves.

The public has been told that no new uses would be allowed in rural reserves. Indeed, Metro's web site still states¹:

An urban or rural reserve designation will prevent the metropolitan counties (Clackamas, Washington and Multnomah) from amending land use regulations to allow new uses, smaller lots or parcels than were allowed at the time of the designation. This means that if a rural unincorporated area is designated as a rural reserve, land owners in that community will not have the option to modify zoning to accommodate more growth ("upzone") for the next 50 years."

I therefore oppose any changes to the current rules that would:

- allow any new major transportation improvements in rural reserves, or
- allow any zoning changes from farm to forest (or vice versa).

It does seem reasonable to allow minor changes to land uses in rural reserves where prior Goal exceptions have been granted – provided that they do not include Goal 14 exceptions (allowing urban uses in those rural areas).

¹ <http://www.oregonmetro.gov/index.cfm/go/by.web/id=30167>

In summary, I oppose any rule change for Issues 1 and 2, and feel that Issue 3 Option B *may* be acceptable.

Maintaining strong protections in rural reserves is the best way to protect our agricultural land and our farmers' ability to continue farming. I urge you to reject any proposed changes that would weaken these protections.

Thank you for your time and consideration.

Brian Beinlich
Dos Sequoias Farm
10440 NW Jackson Quarry Road
Hillsboro, OR 97124
(503) 647-2163
brian@beinlich.org

DEPT OF

AUG 27 2010

**LAND CONSERVATION
AND DEVELOPMENT**

Tuttle, Casaria R.

From: sgoldfield@aol.com
Sent: Friday, August 27, 2010 2:13 PM
To: casaria.r.tuttle@state.or.us
Subject: Proposed reserves rule changes, input for 9/2 meeting

Please pass on to the Chair of LCDC and any relevant meeting attendees:

I am writing to give you citizen feedback on some proposed rule changes during the Rural and Urban Reserves confirmation process. I'm specifically writing to ask you not to consider changes to the the rules governing the use of the reserves from the original language presented during the adoption process. I understand you have been asked to allow further road and transportation uses, and allow changing designations from forest to farm useage within rural reserves. This goes counter to the best interests of the rural areas we are trying to protect in the reserves process, and also brings changes into the process AFTER the public input is largely complete and therefore undermines the commitments and expectations the public was led to believe during the reserves process. I am a citizen who participated in many of the Multnomah citizen and county reserves meetings and understood that a rural designation would leave the county zonings and useage rules "As Is" in those areas that were farm or forest areas. Please don't deviate from this position.

I live in a farming zoned area of the county, and one of the major issues for my neighbors and I is the threat of traffic increases and new roads through our area. Besides the farming equipment you find on our current roads, we also have wildlife corridors (including elk) across the current roads, and heavy walking and bicycle traffic, and valuable water resources. We have inadequate outlet roads to support an urban level of traffic that could occur with road expansions from neighboring urban areas, and we already have deer, raccoons, birds and other wildlife regularly killed by non-resident commuter traffic not to mention speeders and a level of road rage directed at the residents and cyclists that is dangerous and caused by impatient non-residents wanting to commiute through our rural neighborhood. One of the promises I was counting on was that the rural reserve designation our area received would limit further road expansion and the related hazards which came from urban expansion in adjoining areas. For example, there was discussion of the Bethany area needing further outlet roads from their urban neighborhoods and we argued strongly that building those outlet roads through our rural area would bring traffic increases that were harmful in the farm and park areas where the new roads were proposed. In fact, in my specific reserve area the issue of transportation viability and the negative impact to our local resources was one of the key reasons the area did not qualify to become an urban reserve despite its proximity to urban areas. If you allow new urban type roads to go in a rural reserve, despite the rural designation, you will be creating an exception that will lead to the exact kind of degradation in those areas which the rural reserve was **designed to protect**. Without the sorts of other upgrades that would have come with a planned urban zone, such as sidewalks, bike paths, provisions for runoff, and additional traffic safety measures.

I don't have as much specific experience with the differences between farm and forest zoning, but I know one core issue is the same: reserves were described to have certain properties when citizens were asked to give feedback, and changing those properties after the fact seems deceptive and certainly defeats the purpose of the original citizen input.

I appreciate that you are willing to continue to receive citizen feedback as the adoption of the reserves goes through your committee, and I hope you also recognize that the public is not getting much information or updates to indicate that changes are being considered. You might not be getting a large volume of feedback on this topic but I hope you stay true to what metro citizens believe they asked for in rural areas, and veto these proposed rule changes and keep the reserves process moving forward aligned with the intent and commitments established at the beginning.

My best regards,
 Susan Goldfield

DEPT OF

AUG 27 2010

**LAND CONSERVATION
 AND DEVELOPMENT**

08/27/2010

Tuttle, Casaria R.

From: Kirk Andrews [kirkj.andrews@yahoo.com]
Sent: Friday, August 27, 2010 1:29 PM
To: casaria.r.tuttle@state.or.us
Subject: September 2 comments for LCDC reserves meeting

Dear LCDC Chair VanLandinghan:

I am writing to express my opposition to rules changes regarding issue #1 and issue #2 of the August 20 staff report. These rules relate to new roads within rural reserves and changes to farm and forest zoning.

Changing these two rules would effectively negate the expected outcome for setting the rural reserves aside for the next 50 years. These rule changes would create urban-type usage of rural lands. It would also encourage the advocates of urban development to push for expansion of urban reserves into designated rural reserves by citing these changes as justification. In effect, using a 'Since the road is now there, it's really not a rural area anymore any way....' argument to bolster their position.

Please vote to veto these rule changes in your upcoming September meeting.

Regards

Kirk Andrews

DEPT OF

AUG 27 2010

**LAND CONSERVATION
AND DEVELOPMENT**

08/27/2010



CITY OF CORNELIUS

August 26, 2010

Land Conservation and Development Commission
C/o Casaria Tuttle, Rules Coordinator
635 Capital Street NE, Suite 150
Salem, Oregon 97301

TESTIMONY: Rule Making for Rural Reserves – OAR 660-027

Dear Commissioners:

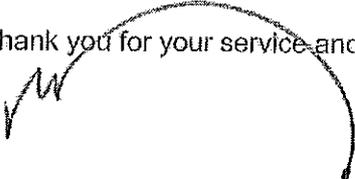
The City of Cornelius is one of eight cities in Washington County that have studied the state rule-making necessary for implementation of Urban and Rural Reserves in the tri-county area. With facilitation from Washington County, our planning directors have met monthly over the past three years to coordinate our local participation in the rule making, analyses, planning, public involvement and the balancing required to create and apply Urban and Rural reserves successfully.

Cornelius supports Washington County's recommendations for amending DLCD's Draft Amendments of these rules, as expressed by Brent Curtis, Washington County Planning Director. Cities absolutely need the existing flexibility to justify an exception to the rules to solve planning problems inherent in unique landscape features and historic, inefficient development patterns.

Of special concern to our community is the draft rule wording on Issue 2 in the staff report that takes away a jurisdiction's right to justify an exception to the Reserve development rules for transportation improvements. We support "Option B" which preserves the existing right to make a special case for exception to the rules. Cornelius has Urban and Rural Reserves approved both to the north and to the south. Along with Forest Grove, our city is connected to the larger urban region from only one direction (east) through urban development. All other connections are through rural areas along county collectors and arterials.

These county roads have served urban traffic and rural farm and recreation traffic for years. Some are too narrow to be safe. Some get flooded most every year. Some, like the essential Hwy 219 – Tongue Lane – Golf Course Road – 10th Avenue – Cornelius Schefflin Road arterial, are a series of corners, turns and kinks that need straightening for safe and efficient travel. If road right-of-way cannot reasonably be purchased in rural areas for connecting, widening, elevating, straightening, separating or building alternative routes to existing multi-purpose roads – when a good public case can be made for safety and efficiency – then the integrity of Rural and Urban Reserves cannot be sustained. Option B of Issue 2 provides the opportunity to make such a case when necessary.

Thank you for your service and consideration of Washington County's sensible recommendations.


Richard Meyer
Development & Operations Director

DEPT OF

AUG 27 2010

**LAND CONSERVATION
AND DEVELOPMENT**



August 27, 2010

Land Conservation and Development Commission
635 Capitol St. NE, Suite 150
Salem 97301-2540

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Claire Puchy

Dan Rohlf

Lee Savinar

Ron Spencer

Board Member

Emeritus

Dave Marshall

On behalf of Audubon Society of Portland and our 12,000 members in Oregon, we submit the following comments on the proposed amendments to rules for designated urban or rural reserves in the Portland Metro region (OAR 660, division 27). By way of general comment, we continue to have concerns with making changes to the rules at this time. We were among those represented on the Metro Urban and Rural Reserve Rules Advisory Workgroup that question the need and the wisdom of making changes to the OAR 660, division 27 especially before the current reserve designation process is complete. We believe that the proposed amendments related to transportation improvements in rural reserves directly undermine the integrity of the recent public process and the intent of SB1010 by weakening the long-term protection of rural reserves *after* the public process designated reserves based on a different, more protective, set of rules. We believe making such significant changes to state administrative rules jeopardizes the certainty that SB1011 and the designation process sought to establish and degrades the public trust in the planning process.

The remainder of our comments focus on the specifically on the three issue areas outlined in the August 20, 2010 DLCD staff report. We address them in order of greatest to least concern.

Issue 2: *Transportation Improvements that Require an Exception.* When it comes to the long-term protection of important natural landscape features in rural reserves, nothing is worse than new or expanded roads. The cumulative impacts from rural residential development notwithstanding, road expansions pose severe ecological impacts to the important natural landscape features rural reserves are supposed to protect. Over the last few decades, studies in a variety of terrestrial and aquatic ecosystems have demonstrated that many of the most pervasive threats to biological diversity - habitat destruction and fragmentation, edge effects, exotic species invasions, pollution, and lethal wildlife/human interactions - are aggravated by roads.¹ These are not impacts that can be avoided or mitigated to preserve the overall function, intent, and value of important natural features in rural reserves. Many of the road ways Washington County would seek to expand in the future cut through rural reserves that establish natural boundaries of the

Trombulak, S.C., and C. Frissell. 2000. A review of the ecological effects of roads on terrestrial and aquatic ecosystems. *Conservation Biology* 14: 18-30. Forman, R.T., and Lauren, A.E., 1998. Roads and Their Major Ecological Effects, *Annual Review of Ecological Systems*: 9, pp. 207-31.

region, ecological and geographic, with important natural landscape features. As described in Attachment G of the staff report, state law already allows road improvements for safety and many road improvements can be done without an exception. We strongly urge the Commission to reject the proposed rule changes that would allow major expansion of road capacity in rural reserves under exceptions process. We could support allowing road and transportation improvements in urban reserves if they are consistent with factors for designating the reserve such as preserving important natural landscape features included in urban reserves and preserving and enhancing natural ecological systems.

Issue 1: *Comprehensive Plan Amendments from One Resource Type to Another.* Several members of the Metro Urban and Rural Reserve Rules Advisory Workgroup expressed concerns that these amendments could allow the development of golf courses or template dwellings in rural reserves. We would certainly share these concerns if in fact these new uses would be expanded in rural reserves under any rule change. The Advisory Workgroup also raised compelling questions about the need of the amendments given the intent is to not allow more dwelling units. However, limiting new dwelling uses on farm or forest land does not necessarily address other potential impacts to natural landscape features that protect water resource areas and wildlife corridors in rural reserves.

Even without proposed development these resources could be threatened by changes in resource zoning. Oregon lacks an effective regulatory framework for protecting water resources and wildlife habitat consistently within the state's watersheds. Policies and regulations to protect water quality and wildlife are administered based on land-use and zoning and not watersheds and natural processes that sustain biodiversity, water resources, and public health and safety. To extent these amendments facilitate the conversion of forest land to farmland zoning, they subject streams and wetlands to lower levels of protection under Departments of Agriculture's rules than would apply under the Forest Practices Act.

If the LCDC proposes to amend OAR 660 to allow comprehensive plan amendments from one resource type to another we support Option C proposed by staff. However we strongly question how this will be administrated in a way that will actually lead to the long-term protection of important natural landscape features. It is not clear how a County or the State will determine if comprehensive plan amendment will "adversely effect the protection of any important natural landscape features." If impacts are not imminent, but merely potential or permitted by the zone change, how will the County or the State evaluate proposed comprehensive plan amendments? Due to these uncertainties we request that the LCDC do not allow comprehensive plan amendments from one resource type to another in rural reserves.

Issue 3: *Alteration or Expansion of Existing (currently acknowledged) Exceptions in Urban or Rural Reserves.* We have no concerns regarding this issue, as long as

the proposed amendments make clear that alterations and expansions apply only to existing, not new, exceptions.

Issue 4: *Authorization for a Goal 11 exception in order to allow sewer service to rural lands in order to prevent a health hazard.* This issue was not thoroughly discussed and resolved by the Metro Urban and Rural Reserve Rules Advisory Workgroup. Moreover, the amended rule language proposed by staff does not appear to condition a new or extended sewer line by exception solely by a demonstrated need "to prevent a health hazard." The amended rule language proposed by staff references OAR 660-011-0060 but only OAR 660-011-0060 relates to public health hazards. OAR 660-011-0060 (3), (8), and (9) contain provisions for extending sewer lines outside UGBs for reasons other than preventing a health hazard. For this reason we oppose the amendment proposed by staff. If the rule should be amended with respect to this issue at this time, it should condition sewer service or extension to rural land with a demonstration that it is needed to prevent a health hazard, perhaps by specifically reference OAR 660-011-0060 (4). We support further research and discussion of this issue including consultation with ODEQ.

Thank you for your consideration.

Sincerely,



Jim Labbe
Urban Conservationist
Audubon Society of Portland

DEPT OF

AUG 27 2010

**LAND CONSERVATION
AND DEVELOPMENT**

Tuttle, Casaria R.

From: Lisa Hansen [kwaterbuff@comcast.net]
Sent: Friday, August 27, 2010 11:12 AM
To: casaria.r.tuttle@state.or.us
Subject: Reserves Rules Sept 2 comments for LCDC

Dear Ms. Tuttle,

Please forward my comments regarding proposed Rural Reserve Changes to Chair VanLandingham of the LCDC in consideration for the September 2, 2010 Rules Meeting for Urban and Rural Reserves.

I am a citizen of Multnomah County and live on the west facing ridge of the Tualatin Mountains. I have been actively involved in the rural reserve process over the past 2 years and was very pleased to see that the West Hills, including our rural surroundings adjacent to Forest Park, were recommended as rural reserves. Now it appears that the intent of the rural reserve designation is threatened by proposals that could harm the very ecosystems and valuable assets that were designed to protect them. Specifically, the proposed issues 1 and 2 which would allow flipping of zoning between farm and forestry, and allowing new roads, respectively.

Regarding issue 1, the purposes of designating land as valuable forestry vs. farmland are different. The restrictions on what can be done on these different types of land are designed to protect their value and the value of adjacent land with same designation. Allowing zoning to "flip" appears to be a huge loophole that could allow a landowner to develop property in a way that would cause harm to adjacent land. The example used of flipping forestry land to farm land in order to build a golf course, is an obvious one. The herbicides and pesticides used in the golf course would run off into forest land, potentially harming wildlife and creating risk for erosion and landslides.

Regarding issue 2, I strongly disagree with a proposal that would allow new roads to be built in rural reserves. The original language for rural reserves did not allow for "new uses." Building new roads are new uses. Roads in rural and forest land have tremendous effects that are well documented scientifically. Non-point source run off, erosion, increased human traffic with resulting degrading effects, and invasive species dispersment are among the hazards of bringing roads into undeveloped areas. By allowing new roads, the protection of rural reserves will be placed on a slippery slope where future rule changes will eat away at the valuable farm and forest that our community so carefully has tried to protect through this exhaustive reserve process.

I do not fully understand all the repercussions of issue 3 and will not comment at this time.

Issue 4. I believe issue 4 should receive some positive consideration. I live in small community of homes on septic systems. Although we have a local requirement to maintain our systems responsibly and annually, I am concerned that the health of the Tualatin watershed and local wells could be adversely affected by my home and that of others on the ridge in the future. Rural landowners must be responsible for protecting their environment from their impacts. If sewer systems are in the best interest of the health of the watershed, their construction must be allowed.

Thank you for considering my comments.

Lisa Hansen
9428 NW Skyview Drive
Portland, OR 97231
503-285-5132
kwaterbuff@comcast.net

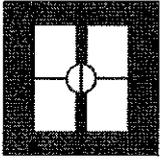
DEPT OF

AUG 27 2010

**LAND CONSERVATION
AND DEVELOPMENT**

08/27/2010

CITY OF HILLSBORO



August 27, 2010

Honorable John Van Landingham, Chairman
Land Conservation and Development Commission
c/o Casaria Tuttle
635 Capitol Street NE, Suite 150
Salem, OR 97301-2540

Re: ***Public Hearing and Possible Adoption of Proposed Amendments to Rules Regarding Uses Allowed Within Urban and Rural Reserves in the Portland Region (September 1-2, 2010, LCDC Meeting)***

Dear Honorable Chair Van Landingham and Commissioners:

Thank you for the opportunity to provide comments regarding the above-referenced rulemaking. Our comments pertain to *Issue 2: Transportation Improvements that Require an Exception*. The City participated in the Metro Rules Advisory Committee (the "Committee") on the proposed amendments.

We support Option B under Issue 2, which would allow exceptions for transportation improvements within Urban and Rural Reserves (the "Reserves") that would serve regional travel needs, as identified in the established Regional Transportation Plan or County Transportation Plan. The designated Reserves have a fifty-year life. During this time, it is foreseeable that transportation facilities to serve areas from Urban Reserves added to the UGB occasionally may be necessary. Option B/Issue 2 would maintain that very important ability in the LCDC Rules.

We disagree with the recommendation that the Commission take no action on this matter. As noted above and in Washington County's letter on this issue, there will be proper occasions when some transportation improvements will be needed in Reserve areas. The more prudent course of action would be to address this issue now based on the informed work of the Committee and LCDC staff relating to this issue already done to date.

We understand that Washington County will be submitting testimony in support of Option B on Issue 2. We join them in urging the Commission to adopt this option.

CITY OF HILLSBORO PLANNING DEPARTMENT

A handwritten signature in cursive script, appearing to read "Patrick A. Ribellia".

Patrick A. Ribellia, Planning Director

cc: Brent Curtis, Washington County
Bob Rindy, DLCD
Elaine Smith, ODOT

DEPT OF

AUG 27 2010

**LAND CONSERVATION
AND DEVELOPMENT**

Linda Peters
25440 NW Dairy Creek Road
North Plains, OR 97133
503.647.2301 Lindabpeters@gmail.com

August 27, 2010

Land Conservation and Development Commission
635 Capitol Street NE
Suite 150
Salem, OR 97301

Re: September 1-2, 2010 Meeting
Agenda Item 9: Urban and Rural Reserves Rulemaking

I had a small role in the work of the Rulemaking Advisory Committee, serving as Dave Vanasche's alternate at two meetings when farm operations demanded his time, and attending two others as an observer. I'm writing to concur with the testimony submitted by Mary Kyle McCurdy for 1000 Friends of Oregon, and to emphasize the "big ideas" I hope you will keep in mind as you deliberate the Reserve rule changes requested by Washington County.

Counties have an affirmative duty to **implement** the rural reserves they designate, (660-027-0040(7) , This obligation goes beyond merely protecting the rural reserves from UGB expansions. The staff report prepared for your previous hearing on this matter concurs, as does Mr. Whitman's previous report to the Commission:¹ Counties must:

"provide a greater degree of protection of resource uses in rural reserves relative to other resource lands in order to encourage long-term investment in farm and forest uses and conservation of important natural resources."

<http://www.oregonmetro.gov/index.cfm/go/by.web/id=30167>

By no stretch of the imagination would Washington County's proposed rule change provide a greater degree of protection for rural reserves. A rule change allowing counties a means of building major new roadways through rural resource lands would in fact **erode** the degree of protection these lands require.

In my experience—which spans about 30 years of advocacy for citizen involvement in smart land use/transportation planning, as a neighborhood organizer, CPO/CCI president, County Commissioner, County Chair, and now back to citizen activist – there are three

¹ March 4, 2010 DLCD staff report, p. 6; April 19, 2010, Director's recommendation to the Commission, p. 10.

principal threats to the long-term viability of large blocks of productive resource lands.

1) Parcelization: One approved application at a time, land is broken up for small-acreage residential, commercial and industrial uses. Oregon's current land use system protects fairly well against these parcelizations, although counties sometimes grant them unchallenged.

2) Urbanization: Cities expand into surrounding resource lands, urbanizing large areas through processes that involve concept planning, intense lobbying of jurisdictions and legislatures to permit their inclusions within UGB's.

3) Transportation facility incursions: Counties, often heavily lobbied by the same cities, developers and investors who are pushing the urban expansions mentioned above, build roads that cut through blocks of productive farms, drawing heavy inter-urban commuter and commercial traffic. Increased traffic conflicts drive out farming operations, and discourage even farmers who have fought for years to hold off urban sprawl. Development pressures increase, and eventually the divided foundation farmlands are lost to production as the lands proceed to urbanization, as described above.

I sincerely appreciate the Commission's intent to work *with* jurisdictions and stakeholders. The Rulemaking Advisory Committee has been a great example of that commitment in action. That said, it is your Commission who must weigh the credibility of Washington County's desire for authority to take Goal exceptions for major new "regional transportation facilities" (whether defined by County- or Metro-adopted Transportation System and Concept Plans) against its duty to protect rural reserves from urban incursions.

The rule change Washington County requests would facilitate siting, permitting, and building of long-sought major roadways through rural reserves, including an Evergreen Road extension through foundation Tualatin Valley farmland and an I-5 to 99W connector through the Tonquin Geologic Area. Please resist such efforts to subvert the intent and rigor of the Reserves statute and existing Administrative Rules.

Sincerely,
Linda Peters
Former Chair, Washington County Board of Commissioners
Participant, Save Helvetia
Participant, Ag/Natural Resources Coalition

DEPT OF

AUG 27 2010

**LAND CONSERVATION
AND DEVELOPMENT**

Tuttle, Casaria R.

From: Gregory Malinowski [gregory.malinowski57@gmail.com]
Sent: Friday, August 27, 2010 10:07 AM
To: casaria.r.tuttle@state.or.us
Subject: Reserves Rules Sept 2 comments for LCDC

Chair VanLandingham
 Land Conservation and Development Commission
 Aug. 27, 2010

I have some concerns with the proposed rule changes that are being suggested even before the Urban and Rural reserves are finalized.

- 1) We were told and went through the process believing that no new uses would be allowed in Rural reserves, Perhaps the maps would look different if we knew that Rural reserves were more *advisory*.
- 2) Washington County has a history of over building urban facilities in order to ask that rules be changed later to allow 'full utilization of taxpayer funded resources' We have in the past had UGBs moved because of overbuilt sewer lines. And at least 2 highway overpasses on the Sunset Highway were built adjacent to rural lands with the statement that they would not effect future UGB decisions, only to have the 'maximise the state and county investment of taxpayer resources' come up. The same is true of UGB plans along Roy Rogers road. Roads through rural areas. are used to make farming more difficult and wear down the local efforts to grow high value crops. Washington County has a shameless history of thwarting resource protections in this regard.
- 3) Washington County has in the past allowed a developer near Mountiandale to buy commercial forest, log it off, change the zoning to farming(no trees left ,so not forest land any more) and apply for an exception to allow a rural subdivision (county said the land was not good farm land because it was covered with stumps and it was not viable to clear off for farming) the citizens had to take the County to court and before this Commission to stop them. Land owners have had 30 years to finagle changes in resource land exception areas. It is time to stick with the Rules for the Urban and Rural Reserves the citizens thought they were working with. I know that the county wanted 35,000. acres for urban reserves, but weakening the rules is no way to get it.

This Commission should assume that any change in the rules at this point will be used by Washington County to Circumvent what the citizens were told the rules were..... ditto for extending sewer lines into rural areas for 'health hazards' if the county was doing its job, these would not come up, and technology has changed. There are other alternatives to extending sewer lines and then taking an exception to allow for more homes in order to 'utilize taxpayer investments'

Thank you for your time. Greg Malinowski 13450 NW Springville Lane Portland, Oregon
 if questions about the above statements. please feel free to call me 503.367.1983

DEPT OF

AUG 27 2010

**LAND CONSERVATION
 AND DEVELOPMENT**

08/27/2010

Tuttle, Casaria R.

From: Arnold Rochlin [rochlin2@comcast.net]

Sent: Friday, August 27, 2010 7:26 AM

To: casaria.r.tuttle@state.or.us

Subject: Rural Reserves Rules-Comments on Pending Proposals to Change Rules-Testimony for 9/2/10 Hearing

Dear LCDC Chair and Commissioners,

The purpose of the reserves legislation and current rules is to preserve the rural uses and character within the reserves. The proposals would weaken implementation of that purpose by allowing new and more intensive uses not now allowed in rural zones. A rural **reserve** must prevent infiltration of non-rural uses, so rural users can rationally invest their resources and labor with justified confidence that their efforts are not doomed to futility.

Land committed to rural use is always available to a future generation to convert to non-rural use while non-rural development is virtually irrevocable.

Please preserve the reserves.

Thank you for your service and attention,

Arnold Rochlin	Home:
PO Box 83645	9715 NW Newton Rd.
Portland, OR 97283	Portland, OR 97231
503 289-2657	

DEPT OF

AUG 27 2010

LAND CONSERVATION
AND DEVELOPMENT

08/27/2010

Tuttle, Casaria R.

From: Pen Barnes [barnesp@ohsu.edu]
Sent: Friday, August 27, 2010 7:52 AM
To: casaria.r.tuttle@state.or.us
Subject: Reserves Rules Sept 2 comments for LCDC

Dear Sir or Madam,

The citizens of the area have been told that the new rural reserves will be protected from new uses and roads.

There should be no rule changes for Issue 1 and Issue 2, as outlined in the August 20 staff report

The point of the rural reserves is just that- they are reserves and they should not be seen as space for developers (and counties) to get around development and infrastructure issues they might be facing. Going to a recent North Bethany development information meeting was highly informative of this. The hostility of the Wa county representatives to the adjacent Mult Co rural reserve and the fact they used the establishment of an adjacent rural reserve to explain why the N.Bethany development is in trouble with its infrastructure planning, shows the rural reserves concepts are already under pressure and in need of serious protection. Wa county is actually pushing to have roads built in Mult co rural reserves in this area to ease their planning difficulties

Thank you for no rule changes for Issue 1 and Issue 2, as outlined in the August 20 staff report

Pen Barnes

DEPT OF

AUG 27 2010

**LAND CONSERVATION
AND DEVELOPMENT**

08/27/2010



534 SW Third Avenue, Suite 300 • Portland, OR 97204 • (503) 497-1000 • fax (503) 223-0073 • www.friends.org
Southern Oregon Office • PO Box 2442 • Grants Pass, OR 97528 • (541) 474-1155 • fax (541) 474-9389
Willamette Valley Office • 220 East 11th Avenue, Suite 5 • Eugene, OR 97401 • (541) 520-3763 • fax (503) 575-2416
Central Oregon Office • 115 NW Oregon Ave #21 • Bend, OR 97701 • (541) 719-8221 • fax (866) 394-3089

August 26, 2010

Land Conservation and Development Commission
635 Capitol Street NE
Suite 150
Salem, OR 97301

Re: September 1-2, 2010 Meeting
Agenda Item 9: Urban and Rural Reserves Rulemaking

Dear Commission Members:

1000 Friends of Oregon has been involved with the urban and rural reserves issue since its inception, including as a member of the original Advisory Committee that helped to develop the reserves rule, and that has been re-convened to discuss the current issues regarding that rule. We appreciate Commissioner Worrix's chairing the Advisory Group and leading us through productive discussions.

1000 Friends agrees with the majority of the Advisory Group members that it is premature to make major changes to the reserves rule. The actual reserves decision has not even been reviewed by the Commission and is not final. There is no time constraint compelling your action now. In fact, it would be prudent for the region to live with the ultimate reserve designations for a bit and see how well they are working. Later, there may be a need for rule or even statutory amendment based on experience, but making any change now is not only premature, it might be the wrong solution.

Therefore, 1000 Friends concurs with most of the staff recommendations. We concur with the following:

- **Issue 1:** Plan amendment from one resource designation to another: no change to the current rules
- **Issue 2:** Transportation improvements requiring an exception: no change to the current rules
- **Issue 3:** Alteration or expansion of existing exceptions: adopt option B (a minor change)

1000 Friends does not concur with the staff recommendation on **Issue 4** (Goal 11 exceptions). As described below, the nature of or basis for the staff recommendation on Issue 4 is not entirely clear; we recommend that you take no action at this time, but rather defer this topic for a later and fuller discussion.



Celebrating Thirty-five Years of Innovation

Background on Reserves

Senate Bill 1011, authorizing the designation of urban and rural reserves by Metro and the counties of Clackamas, Multnomah, and Washington, is and was intended by all involved to be a *compromise*, the purpose of which is to provide more certainty to both urban development needs and to agriculture and natural resource needs.¹ To meet future population and employment growth, urban reserves could be designated without regard to the so-called “hierarchy of lands” requirement found in ORS 197.298 and OAR 660-021-0030, which provide that farm and forest lands are the last option for inclusion in an urban reserve or UGB. Instead, by taking into account a variety of urban development factors,² even the region’s best farm and forest lands could be designated as urban reserves for the long term.

In exchange, the agricultural and forest industries, and natural resources, were to receive long term protection from urbanization on those lands designated as rural reserves, similarly taking into account a variety of rural factors.³

The protections that rural reserves receive in this trade-off are clear: protection from UGB expansions *and* maintaining large blocks of farm and forest land in long-term production. As the Legislative Assembly found, the purpose of reserves is to:

“[O]ffer greater certainty for * * * [t]he agricultural and forest industries, by offering long-term protection of large blocks of land with the characteristics necessary to maintain their viability.”⁴

The statute goes on to describe those “characteristics” of viability for selecting rural reserves, including whether the land is capable of sustaining long-term agricultural operations, taking into account existing land use patterns, adjacent uses, the location of the land relative to other farm uses, and the sufficiency of agricultural infrastructure in the area. ORS 195.141(3) Thus, the designation of rural reserves must offer that “long-term protection” of these characteristics

¹ “195.139 Legislative findings. The Legislative Assembly finds that:

“(1) Long-range planning for population and employment growth by local governments can offer greater certainty for:

(a) The agricultural and forest industries, by offering long-term protection of large blocks of land with the characteristics necessary to maintain their viability; and

(b) Commerce, other industries, other private landowners and providers of public services, by determining the more and less likely locations of future expansion of urban growth boundaries and urban development.

“(2) State planning laws must support and facilitate long-range planning to provide this greater certainty.”

² The factors to consider when designating urban reserves are listed in OAR 660-027-0050, “Factors for Designation of Lands as Urban Reserves.”

³ The factors to consider when designating rural reserves are listed in both statute and rule: ORS 195.141(3) and OAR 660-027-0060, “Factors for Designation of Lands as Rural Reserves.”

⁴ ORS 195.139(1).

The Commission's current rule does this. Not only does the current rule provide that rural reserves shall not be re-designated as urban reserves or added to a UGB during the planning period, but, consistent with the statute's purpose to provide long term protection, it states that rural reserves cannot be re-designated to another use during the period.⁵ And, it provides that no uses not allowed at the time of reserves designation, or smaller lots or parcels, shall be allowed.⁶

No re-designations, no new uses, and no smaller lots or parcels is what Metro and all three counties publicized during every reserve hearing. The Metro website still says:⁷

"What would a rural reserve designation mean for my community?

An urban or rural reserve designation will prevent the metropolitan counties (Clackamas, Washington and Multnomah) from amending land use regulations to allow new uses, smaller lots or parcels than were allowed at the time of the designation. This means that if a rural unincorporated area is designated as a rural reserve, land owners in that community will not have the option to modify zoning to accommodate more growth ('upzone') for the next 50 years."

Consistent with statute, the rule provides that *in addition to* designating land as rural reserves on their maps, counties and Metro "shall adopt policies to implement" the rural reserves. (660-027-0040(7)) This is an affirmative obligation going beyond merely protecting the rural reserves from UGB expansions. The staff report prepared for your previous hearing on this matter concurs, as does Mr. Whitman's previous report to the Commission:⁸

"[T]he urban and rural reserves concept is intended not only to protect rural reserves from urbanization, *it is also intended to provide a greater degree of protection of resource uses in rural reserves* relative to other resource lands in order to encourage long-term investment in farm and forest uses and conservation of important natural resources."

It is important to keep in mind that Metro and the counties are not required to designate urban and rural reserves under this statute and rule – it is simply an authorization to do so; the choice is up to them. If they do not care for parts of the "trade-off," they can forego designating reserves altogether, and rely upon periodic UGB evaluations to plan for future population and employment needs. Or, they can designate only urban reserves, through the original method.⁹ That original method is based upon the "hierarchy," but does not contain the same restrictions on rural reserves. But since the local governments chose this method (and were, in fact, part of developing it), they therefore must operate within it.

⁵ OAR 660-027-0040(5).

⁶ OAR 660-027-0070.

⁷ http://www.oregonmetro.gov/index.cfm/go/by_web/id=30167

⁸ March 4, 2010 DLCD staff report, p. 6; April 19, 2010, Director's recommendation to the Commission, p. 10.

⁹ OAR chapter 660, div. 021.

Issues

The staff report summarizes well the discussions and conclusions of the Advisory Group, so for each issue we will just highlight a few points.

Issue 1: Plan amendment from one resource designation to another in reserves: no change to the current rules.

A majority of the Advisory Group recommended no change to the reserves rule for this issue, with which we agree.

The Advisory Group acknowledged that, whether stated or not, the rationale for a landowner to request a plan amendment from one resource designation to another is to obtain more houses, or uses, than would be allowed under the existing zoning. Examples include forest template dwellings, golf courses, camp grounds, etc... Plan amendments are not needed to conduct farming in a forest zone, or vice versa.

As noted in the staff report, the Group's discussion highlighted the complexity for local governments of interpretation and application of any option that would allow such re-designations, but somehow disallow these nonfarm and nonforest uses.

It was noted that such requests might also be infrequent, which is another reason to not amend the rule at this time to allow them in the reserves. Therefore, the majority of the Advisory Group recommended no change to the current rule, with which we agree.

Issue 2: Transportation improvements requiring an exception: no change to the current rules.

Currently, a large and full array of transportation uses are allowed in the reserves without an exception; these are described in Attachment G of the staff report and include, among other things:

- Road widening
- Converting an intersection to an interchange
- Construction of passing and climbing lanes
- Construction of turn lanes
- Safety improvements
- Repair and maintenance
- Temporary roads for detour, etc...
- Road realignment
- Placement of utilities in right-of-way

Essentially, what the current rule prohibits is the construction of new roads in the reserves. And we support that; it is consistent with the statute. In fact, we have trouble seeing how allowing a new road for urban traffic could even comply with the Reserves statute. Not

changing the rule is also consistent with the trade-offs agreed to in the reserves legislation and told to the public during the local reserves hearings.

Throughout the reserves hearings, the county commissions and the Metro Council heard repeated testimony as to the severe adverse impact that roads - which attract urban commuter traffic - have on farming operations. The Commission has also heard about these conflicts from farmers, ranchers, and foresters throughout the state and from the Department of Agriculture, for decades. More roads, and roads that are attractive to urban drivers, in rural areas are probably the single most harmful urban/rural conflict there is in the Metro area, where a growing urban population is near the state's most productive farm lands.

Urban generated traffic should be handled inside the UGB and if necessary, on existing roads and highways in rural areas, for which all of the above "improvement" opportunities are already available.

Moreover, the whole focus of the proposed change is going in completely the opposite direction of where Metro, many cities, and the state are headed regarding transportation in general and climate change in particular. The proposed rule change focus is on roads - alternative transportation is measured only as against a road already proposed for a reserve area. This skews the conversation from the outset. Rather, the analysis should be comprehensive and integrated, and look at all options and combination of options equally - transit, roads, bicycle, rail, ship, sidewalks, light rail - and should account for greenhouse gas emissions.

No immediate need has been demonstrated for this rule change, and the majority of the Advisory Committee did not support it. We recommend that you make no changes to the rule for this issue at this time.

Issue 3: Alteration or expansion of existing exceptions: adopt option B (a minor change).

A large majority of the Advisory Group recommends adopting Option B, which would allow the alteration or expansion of uses in an exception area located in a reserve, provided there is no new exception taken (including no new exception to Goal 14). We understand that the staff recommendation is intended to prohibit new Goal exceptions. We support the Advisory Group and staff recommendation of Option B.

Issue 4: Authorization for a Goal 11 Exception

The staff report does not directly address Issue 4; it only appears in the proposed rule amendments dated August 20 and included as Attachment B to the staff report. There is also no discussion of Issue 4 in the excerpt prepared by staff of the Advisory Group's discussion at the August 12 meeting.

The rule version in Attachment B titles this issue as "Authorization for a Goal 11 exception in order to allow sewer service to rural lands *in order to prevent a health hazard.*" (Italics added.) However, the staff's proposed rule language is much broader than that. It refers to all of the Goal 11 administrative rule section (OAR 660-011-0060), which allows sewer

service establishment and extension in rural areas for a variety of things, not just health hazards.¹⁰

It seems this staff proposal might stem from a presentation we had, for the first time, at the last Advisory Group meeting. We heard about concerns from marina operator(s) in the Multnomah Channel concerning sewer hook-ups to houseboats, including future action that DEQ may or may not take regarding this.

That the Advisory Group reached no recommendation on this is reflected in the meeting minutes:

“Marilyn Worrix recapped on what to relay to LCDC on this issue. She hears the sensitivity about the sewer issue/need in the marina but hesitancy among the group members to resolve such a large issue by simple elimination of Goal 11 from the list, unless addressed by agenda item 3....”

The group did not return to this issue. While the Advisory Group was sensitive to the concerns raised, it was evident the issue was complex and it was not clear whether (1) any rule amendment was needed or (2) whether this was even the place to seek a solution. We recommend no change to the rule at this time. The marina issue is complicated, involving DEQ as well as DLCD; more investigation and coordination between the two agencies is needed before considering any rule changes.

Thank you for consideration of our comments.

Sincerely,

Mary Kyle McCurdy
Policy Director and Staff Attorney

DEPT OF

AUG 26 2010

**LAND CONSERVATION
AND DEVELOPMENT**

¹⁰ For example, the Goal 11 rule allows sewer expansions, extensions, and new systems to go from within a UGB to outside the UGB and extend to an unincorporated community, without any health hazard showing (see 660-011-0060(3)).



Lynn Peterson
Chair

Commissioners
Bob Austin
Jim Bernard
Charlotte Lehan
Ann Lininger

BOARD OF COUNTY COMMISSIONERS

PUBLIC SERVICES BUILDING
2051 KAEN ROAD | OREGON CITY, OR 97045

August 25, 2010

Chair John VanLandingham and Commissioners
Oregon Land Conservation and Development Commission
635 Capitol St. NE, Suite 150
Salem 97301-2540

Re: Metro Urban and Rural Reserves Rule

Dear Chair VanLandingham and Commissioners:

The Clackamas County Board of County Commissioners appreciates the opportunity to comment on the proposed amendments to the Metro Urban and Rural Reserves Rule, OAR 660, Division 27. Clackamas County is strongly opposed to the proposed rule amendments that would allow new arterials, expressways and other non-local roads in rural reserves.^[1] Allowing new arterials and expressways through rural reserves is fundamentally inconsistent with Senate Bill 1011's premise for the designation of rural reserves: "protection of large blocks of land with the characteristics necessary to maintain their viability." ORS 195.139

Over the two-year process of designating and ultimately adopting urban reserves and rural reserves, Clackamas County, its citizens, its Policy Advisory Committee and its planning commission understood that the adoption of reserves designations, particularly the adoption of Rural Reserves, would subject those areas to additional restrictions under the administrative rules. Specifically, the rules provided that there would be no new uses in the rural reserves, particularly those that would require new exceptions to statewide planning goals.

The fact that these restrictions would be implemented informed both the specific reserves recommendations and adoptions in Clackamas County and just as important, Clackamas County's participation in and adoption of the joint regional decision on reserves.

The current rules allow new local roads and substantial improvements to existing roads and highways. The proposed rule changes would go far beyond that to allow major new arterials, freeways and expressways through both urban reserves and rural reserves. Had such a rule been in place when we adopted reserves, local and regional decisions might

^[1] ^(a) The current rules already allow substantial transportation improvements in reserves, including:

- Construction of additional passing and travel lanes including new rights of way
- Replacement of an intersection with an interchange
- New local roads
- Creation of continuous median turn lanes
- New access roads and collectors in exception areas
- Park and ride lots

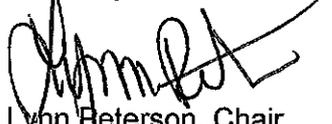
have been very different. For example, if the adoption of an urban reserve carried with it the likelihood of a new thoroughfare that would sever a portion of a nearby rural reserve from the whole, both the urban reserve and rural reserve might have been configured differently. At the very least, the potential for major new roads could have been considered and debated both at the level of individual reserves designations, and in the overall evaluation of the regional decision. Potential transportation corridors might have been addressed by leaving areas undesignated.

Changing the rules at this point also runs contrary to the representations the governments made to citizens who participated in the reserves process. As the representative from the Citizen Involvement Advisory Committee noted at the last workgroup meeting, thousands of citizens participated in the process with the understanding of what reserves designation meant. For example, farmers in a rural reserve may not have opposed a nearby urban reserve designation, believing themselves to be protected by the rules. If the rules change now, when it is too late to participate, those farmers may face the prospect of a new arterial through their farmland in order to connect the nearby urban reserve to a highway. In such a case, it would be fair of them to claim that they were subject to a bait and switch.

Rural reserves were not simply intended to be the last areas to urbanize. If that were the case, there would be no need to designate Rural Reserves at all; we could simply have designated Urban Reserves from which the 50-year land need would be met. As set forth in the purpose statement of the rules: "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 . . ." OAR 660-027-0005.

The reserves decisions were the result of hard fought, difficult and delicate compromises. Clackamas County was a necessary partner in that process. Changing the rules at this point, before the reserves themselves are even acknowledged, raises a serious risk of unraveling those compromises to the detriment of the entire reserves effort.

Sincerely,



Lynn Peterson, Chair

On behalf of the Clackamas Board of County Commissioners

LP/dc

DEPT OF

AUG 26 2010

**LAND CONSERVATION
AND DEVELOPMENT**

JOSEPH S. SCHAEFER
LAND USE PLANNER
Direct Line: 503-796-2091
Cellular Phone: (503) 819-4764
E-Mail: jschaefer@schwabe.com

August 25, 2010

VIA E-MAIL CASARIA.R.TUTTLE@STATE.OR.US
VIA FIRST CLASS MAIL

John VanLandingham
Chair
Land Conservation and Development
Commission
c/o Casaria R. Tuttle
635 Capitol Street, Suite 150
Salem, OR 97301

Re: Metro Urban and Rural Reserves Rule

Dear Chair VanLandingham and Commissioners:

This letter addresses Issue 1 of the August 2nd Draft Proposed Rule Amendments to OAR 660-027-0070(4), and is submitted on behalf of Robert Simmons, MD and Bertony Faustin, operators of the Abbey Creek Vineyard in Multnomah County. The vineyard is in a forest district and is currently compelled to truck the grapes off site to be made into wine. In order to reduce transportation costs and impacts and allow the winemaking to occur on site, Multnomah County staff recommended a plan amendment from forest to agriculture. The County later informed us that the reserves administrative rule precludes such an amendment.

It is important to emphasize this is a small scale vineyard; so small that it would not qualify as a winery under ORS 215.452. This particular forest district is only 120 acres and is bounded by the City of Portland, a rural residential exception area, and an agricultural district, and the land uses within the district are a mixture of rural residential, crop lands and small non-commercial forest areas. The proposed revisions to the rule would allow changes from one resource designation to another, and we respectfully suggest that the Commission select one of the options presented.

The primary purpose of the rural reserve is to protect rural resources from nonresource uses. Some counties are confident that the existing statutes and rules governing farm and forest lands are sufficient, and they support Option A (of the August 2nd draft) which allows changes from farm to forest and vice versa in accordance with the existing procedures for these changes. Option B allows the same changes as Option A except that it prohibits amendments which potentially allow more dwellings or land divisions. The Simmons family does not require new dwellings or parcels, so either Option A or Option B is satisfactory.

While Option B offers protection against land divisions and template dwellings, it does not address other nonresource uses that may be allowed following plan amendments. There is concern that changes from farm to forest can allow uses such as paintball parks, gun clubs, and composting facilities. Changes from forest to farm raise concerns about uses not directly related to agriculture, such as commercial activities in conjunction with farm use, golf courses, and permanent asphalt batch plants.

To alleviate these concerns, Option B could be tightened up to not allow new dwellings or new land divisions, to not allow new non-agricultural uses on land being changed to a farm designation, and to not allow new non-forestry uses on land being changed to a forest designation. Here is revised language:

(e) A comprehensive plan or zoning amendment from one farm or forest designation to another farm or forest designation consistent with other applicable law, and provided that:

(A) for amendments from a farm designation to a forest designation, the only uses allowed are uses pursuant to the Forest Practices Act as defined in OAR 660-006-0025(2); and alteration, restoration or replacement of lawfully established dwellings as defined in OAR 660-006-0025(3)(p).

(B) for amendments from a forest designation to a farm designation, the only uses allowed are farm use as defined in ORS 215.203(2); dwellings and other buildings customarily provided with farm uses as defined in ORS 215.213(e) and (f) and ORS 215.283(1)(e); alteration, restoration or replacement of lawfully established dwellings as defined in ORS 215.213(1)(q) and ORS 215.283(1)(p); and facilities for the processing of farm crops, so long as the processed crops are grown exclusively on the farm operation where the facilities are located.

This language ensures that plan amendments will only allow new resource uses. Amendments for nonresource purposes, such as nonresource dwellings, commercial uses and recreational uses would be prohibited. Hopefully this language will satisfy the concerns of those who oppose all of the options presented in the staff report.

Option C adds an additional layer of protection regarding important natural landscape features. The natural landscape features at the Abbey Creek Vineyard include the eponymous creek and its steep wooded banks, which are protected by Multnomah County's Significant



John VanLandingham

August 25, 2010

Page 3

Environmental Concern overlays. Option C has no bearing on the Abbey Creek Vineyard, because the natural landscape feature areas are not suitable for agricultural use. However, as a practical matter Option C will be difficult for counties to administer because the natural resources have not always been delineated on the ground, and because the voluminous rural reserves record and the staff who prepared it will inevitably become less accessible as the years and decades pass by.

In summary, the Simmons family would like to apply for a plan amendment from forest to farm in order to accommodate small scale winemaking. All of the (Issue 1) options before you limit plan amendments to resource designations only, and we request that you adopt OAR 660-027-0070(4)(e) in whichever form seems appropriate to the Commission. Thank you for considering these comments.

Sincerely,



Joseph S. Schaefer
Land Use Planner

JSS:cst

cc: Robert D. Simmons, M.D.
Bertony Faustin

DEPT OF

AUG 26 2010

**LAND CONSERVATION
AND DEVELOPMENT**



Tuttle, Casaria R.

From: Mollie Nelson [mnprojex@comcast.net]
Sent: Thursday, August 26, 2010 1:48 PM
To: casaria.r.tuttle@state.or.us
Subject: LCDC Hearing 9-2-10 Reserves Rules
Follow Up Flag: Follow up
Flag Status: Red

Dear Chair VanLandingham:

I have been involved for months in the Reserves process giving testimony at county and Metro hearings, writing letters, and becoming educated as to the potential outcomes of rural and urban designations in my immediate area. My position, along with a very dedicated group of neighbors, was to work for a Rural Reserve designation appropriate to our properties. We achieved this designation through the votes of the Core 4. Now we see that your commission is about to embark on a review of the Reserve Rules. I will be attending the September 2nd hearing in Salem on the subject.

Until then, I am writing to urge you to **MAKE NO RULES CHANGES** for Issue 1 and Issue 2 as outlined in the August 20 staff report. As citizens involved and affected by the reserves designations, we were told "no new uses" would be allowed in Rural Reserves. And this is what we fought for in order to protect the wildlife habitat and natural features of the landscape. I am especially **OPPOSED** to **NEW ROADS** being allowed through the Rural Reserves. Additionally, I am **OPPOSED** to allowing changes between farm and forest zonings within the Rural Reserves. This is exactly why we worked so hard for the rural designation – to **PROTECT** the rural landscape features, farmland, forests, and wildlife habitat. The very features that required the protection of rural designation would be at risk or ruined with the introduction of alternative uses or addition of roads. I was firmly of the belief that for land put into Reserves, all uses allowed by current zoning would continue to be allowed, but that no **NEW** uses would be allowed. How could we possibly be discussing changes to the rules for these designations when the designations themselves have not been fully implemented by all jurisdictions with a say? It is way too soon to be talking about changes to rules for the designations. The protections anticipated should be fully implemented and allowed to prevail especially when this was designed to be at least a 40-year plan.

Please be thorough and thoughtful in your consideration. Rural designations were designed and communicated to the public to **PROTECT** precious habitat. Do not allow for any Rules changes at this time.

Thank you.

Mollie and Ted Nelson
 13512 NW Springville Lane
 Portland, OR 97229

DEPT OF

AUG 26 2010

**LAND CONSERVATION
 AND DEVELOPMENT**

08/26/2010

**Statewide Land Use
Planning Goal One:**

To insure the
opportunity for citizens
to be involved in all
phases of the planning
process.

Website:

[http://www.oregon.gov/
LCD/citizeninvolvement.
shtml](http://www.oregon.gov/LCD/citizeninvolvement.shtml)

CIAC Members:

Roberta Donovan
Nyssa

Molly Eder
Powell Butte

Ann Glaze (chair)
Dallas

Don Greene
Ashland

Debra Martzahn
Lincoln City

Gregory McClarren
Redmond

Christine White
Portland

Pat Zimmerman
Scappoose

Oregon

Citizen Involvement Advisory Committee

Cliff Voliva, DLCD
Communications Officer
635 Capitol Street, Suite 150
Salem, OR 97301-2540
(503) 373-0050 ext. 268

August 26, 2010

To: Land Conservation and Development Commission

Re: Sept.1 - 2 LCDC meeting, Agenda Item #9

From: CIAC

Your Citizen Involvement Advisory Committee (CIAC) has participated in, received comments about and extensively discussed citizen participation in the rulemaking process for Urban/Rural Reserves. Although much of the citizen involvement process has been exemplary, we have a concern.

Participants in open houses and informational meetings about the reserves were told that rural reserves would not be subject to any new uses that were not allowed at the time the reserve was designated. The proposed change in the rules to allow exceptions for new major transportation facilities in rural reserves appears to violate this promise. To change the rules so soon after reserves were designated may undermine citizen's faith in the process.

The CIAC asks that LCDC rejects the proposed transportation amendments to the reserves OARs. We support staff's recommendation on this issue.

DEPT OF

AUG 26 2010

**LAND CONSERVATION
AND DEVELOPMENT**



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August 25, 2010

John VanLandingham, Chair
Land Conservation and Development Commission
Oregon Department of Land Conservation and Development
635 Capitol Street NE
Suite 150
Salem, OR 97301-2540

Re: Proposed Rulemaking – Urban and Rural Reserves

Chair VanLandingham and members of the Commission:

Thank you for your consideration of the following testimony on behalf of the City of Wilsonville. Wilsonville supports the recommendations of your rulemaking work group, as decided at their August 12, 2010, meeting.

In summary, our City agrees with a number of the work group members that it would be premature to make major changes to the rules for reserves before your Commission has even formally reviewed the reserve decisions of Metro and the three Portland area counties. The Portland region has no real experience with either urban or rural reserves upon which to base the conclusion that the rules applying to the reserves need to be altered in any substantial way.

While we accept that changes to the rules applying to reserves may be appropriate at some point in the future, we have heard no compelling arguments for major changes at this point in time. In fact, we believe that the region is likely to need a few years of experience with both urban and rural reserves before we will really know if any significant changes to the rules are necessary.

Although not a voting member of the work group, the City of Wilsonville participated in every work group meeting. In doing so, we learned that even rule changes that appeared simple on the surface could bring potentially significant, and unintended, consequences.

The City of Wilsonville supports the actions of the work group taken on August 12, 2010, recommending:

1. No changes to the current rules applying to new major transportation improvements in reserves;
2. No changes to the current rules to allow changes from farm to forest zone changes (or vice versa); and
3. Minor changes to allow alterations/expansions of land uses in rural reserves where prior Goal exceptions have been granted – provided that they do not include Goal 14 exceptions (allowing urban uses in those rural areas).

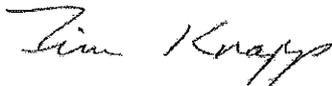
Given the huge amount of time and effort that has gone into establishing reserves in the Metro area, we believe that the proposed changes to the rules should not be rushed. As you are well aware, a poorly chosen word in the rules could lead to significant unintended consequences. We feel that delaying action on any significant changes to the rules would be more prudent than adopting the wrong rules for either urban or rural reserves, especially when the region has no real prior experience with reserves.

Given that Wilsonville has both urban and rural reserves adjacent to our city limits, we expect to be actively involved throughout the terms of the reserves. We anticipate that that involvement is likely to include future rulemaking, but hope that it will not occur until we have had the opportunity to observe the effects of the reserve designations over time.

Thank you for providing this opportunity to comment and a special “thank you” to Commissioner Worrix for chairing the work group and allowing our City representative to take part in the discussions about the rules.

Again, thank you for your time and consideration.

Sincerely,



Tim Knapp, Mayor

Copies: Wilsonville Planning Commission and City Council
Richard Whitman, Director and Hearings Officer, DLCD
Bob Rindy, DLCD Senior Policy Analyst
Arlene Loble, City Manager
Mike Kohlhoff, City Attorney
Michael Bowers, Community Development Director
Stephan A. Lashbrook, Assistant C. D. Director
Chris Neamtzu, Planning Director

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AUG 26 2010

**LAND CONSERVATION
AND DEVELOPMENT**



Mr. John Van Landingham, Chair, LCDC
c/o Oregon Department of Land Conservatuion and Development
635 Capitol Street NE, Suite 150
Salem, OR 97301-2540

RE: City of Portland Comments on Proposed Metro Reserves Amendments Rule Making

Dear Chair Van Landingham,

As Mayor of the City of Portland, I wish to enter the following comments regarding the recent work of the 2010 Metro Urban and Rural Reserves Rule Advisory Workgroup.

City of Portland staff has participated in the Portland region's urban and rural reserves process in all its phases since its inception over three years ago. As Portland's representative to Metro on MPAC and JPACT, I am also actively engaged in the reserves process and nearer term regional growth management decisions. Land use decisions beyond Portland's borders are extremely important. Portland can't plan for its future in a vacuum. Portland depends on Metro and our many partnerships to assure Portland's centers and corridors remain vital places. We need efficient and cost-effective decisions to assure Portland's ability to plan and build infrastructure and to locate pipes, pavement, parks and plazas in places that further city planning and neighborhood livability and revitalization goals. Portland also depends on growth management policies to maintain access to food and reduce green house gas emissions.

As Mayor, I concur with the positions of Portland workgroup representative, Bob Clay, recorded in the August 12 minutes. I support the changes proposed in Option A for Issue #3. With respect to Issues #1 and #2, I strongly urge Option D - "No Changes" at this time.

As Mayor, Issue #2 concerning regional roads and other transportation facilities was the most substantive. In general, I feel the process for rule amendments at this time is premature in light of the incomplete reserves decision making process yet to come before you, and the large number of objectors to that decision. I also believe the options for proposed amendments raised unanswered questions and did not fully address principles set out by agriculture and natural resource stakeholders. At this time, I cannot find a compelling need for changing the balance of land use authority, particularly in designated rural reserves. The regional reserves process relies on a consensus of the region's stakeholders, a process we have yet to complete and a process that is one part of a larger set of growth management decisions to come forward in the coming months.

In closing, I wish to acknowledge LCDC Commissioner Marilyn Worrix for convening the workgroup and DLCD staff, Richard Whitman and Bob Rindy for their considerable expertise.

Sincerely,

Mayor Sam Adams

CC: Commissioner Amanda Fritz
Susan Anderson, Director BPS
Joe Zehnder, Chief Planner
Bob Clay, Supervising Planner

DEPT OF

AUG 25 2010

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