

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

AN ORDINANCE AMENDING THE
METRO URBAN GROWTH BOUNDARY IN
WASHINGTON COUNTY FOR CONTESTED
CASE NO. 81-9

) ORDINANCE NO. 82-148
)
) Introduced by the Regional
) Development Committee

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

Section 1. The District Urban Growth Boundary (UGB), as adopted by Ordinance No. 79-77, is hereby amended as indicated in Exhibits A and B of this ordinance which are incorporated by this reference.


Section 2. In support of the amendment in Section 1 of this ordinance, the Council hereby adopts Findings, Conclusions and Recommendation in Exhibit C of this ordinance which is incorporated by this reference.

Section 3. In support of the Findings, Conclusions and Recommendation adopted in Section 2 of this ordinance, the Council hereby designates as the record herein those documents and records submitted before or at the hearing in this matter on November 8, 1982.

Section 4. This ordinance is the final order in Contested Case No. 81-9 for purposes of Metro Code Section 5.02.045.

Section 5. Parties to Contested Case No. 81-9 may appeal this ordinance under 1979 Or. Laws, ch. 772.

ADOPTED by the Council of the Metropolitan Service District
this 21st day of December, 1982.



Presiding Officer

ATTEST:



Clerk of the Council

JC/srb/7087B/327

CONSIDERATION OF LOCATIONAL ADJUSTMENT FOR THE
CORNER TERRACE PROPERTY (Contested Case No. 81-9)

Date: October 29, 1982

Presented by: Joseph Cortright

FACTUAL BACKGROUND AND ANALYSIS

Removal of the Malinowski Property

Urban Services - No urban services in place.

Land Use Efficiency - New boundary as effective as existing boundary.

Environmental & Other Consequences - No adverse consequences.

Retention of Agricultural Lands - Removal protects 20 acres of prime agricultural land.

Compatibility with Adjacent Farming - Removal is part of an existing farm.

Avoiding Land Shortages - No land shortages will result.

Under-Utilization of Facilities - Since no services are in place no under-utilization will result.

Addition to Corner Terrace Property

Urban Services - Land is adjacent to urban sewers, waterlines and roads. Can be served economically and addition will increase number of system users.

Land Use Efficiency - The UGB would shift from two roads to a ridgeline and a north/south line.

Environmental and Other Consequences - Transit ridership may increase; no adverse consequences identified.

Retention of Agricultural Lands - 30 acres of agricultural land would be converted to urban use; this would be mitigated by the removal of 20 acres.

Compatibility with Adjacent Farming - An adjacent farm would be separated from the property by a ridgeline for all but several hundred feet of the new boundary.

No Upgrading of Services Required - This land can be served without upgrading sewer, water or road service.

Trades Shall Not Exceed 10 Acres - The net amount proposed to be added is exactly 10 acres.

Overall Evaluation of the Trade - Both areas contain prime farm land. The Corner Terrace property is better situated and better served for urban development. Loss of farmland is mitigated by the trade. Approval of the trade would improve the efficiency of the UGB.

EXECUTIVE OFFICER'S RECOMMENDATION

Approval. See Staff Analysis.

COMMITTEE CONSIDERATION AND RECOMMENDATION

On November 8 the Regional Development Committee recommended Council approval of the ordinances.

JC/gl
7086B/327
10/29/82

STAFF ANALYSIS

CONTESTED CASE NO. 81-9: A PETITION TO AMEND
THE UGB BY ADDING THE CORNER TERRACE PROPERTY
(30 acres) AND REMOVING THE MALINOWSKI PROPERTY
(20 acres).

SUMMARY:

This petition, by Corner Terrace, requests that Metro amend the UGB by adding approximately 30 acres at the Intersection of West Union Road and 185th Avenue and removing approximately 20 acres south of Springville Road in northwest Washington County. Both areas contain high quality agricultural soils. The Corner Terrace property is better located and better served for urbanization. Metro staff recommends approval of this petition, based on a consideration of Metro's Locational Adjustment Standards, as explained herein.

INTRODUCTION:

In May of 1981, Corner Terrace filed a petition for a locational adjustment to add approximately 38 acres at the corner of West Union Road and 185th Avenue. This request for an addition to the UGB was opposed by Washington County. Metro staff and Metro's Hearings Officer also recommended denial of the proposed addition.

In January of 1982, the petitioner requested, and the Regional Development Committee approved, a continuance of this case to enable the petitioner to resubmit this application as a trade. In August of 1982, the petitioner submitted an amended application, reducing the proposed addition from approximately 38 acres to about 30 acres and proposing to remove approximately 20 acres (see attached maps). On October 19, 1982, the Washington County Board of Commissioners endorsed a letter supporting this proposed trade for compliance with Metro's locational adjustments Ordinance No. 81-105.

Standards for Approval (Section 8(c), Ordinance No. 81-105):

c(1): THE LAND REMOVED FROM THE UGB MEETS THE CONDITIONS FOR REMOVAL IN SUBSECTION (b) OF THIS SECTION.

b(1): CONSIDERATION OF THE FACTORS IN SUBSECTION (a) OF THIS SECTION DEMONSTRATE THAT IT IS APPROPRIATE THAT THE LAND BE EXCLUDED FROM THE UGB.

a(1): Orderly and economic provision of public facilities and services. A locational adjustment shall result in a net improvement in the efficiency of public facilities and services, including but not limited to water, sewerage, storm drainage, transportation, fire protection and schools in the adjoining area within the UGB; any area to be added must be capable of being served in an orderly and economical fashion.

- Sewer and water service are not available to the removed (Malinowski) property. Schools, fire and police protection are provided at rural levels.

- Urbanization of this area is several years off. Planning for public facilities for this area can be adjusted to reflect the exclusion of this property.

a(2): Maximum efficiency of land uses. Consideration shall include existing development densities on the area included within the amendment, and whether the amendment would facilitate needed development on adjacent existing urban land.

- The current boundary follows the Washington County line. The proposed adjustment would move the boundary to the southern property line of the Malinowski property. The political and legal boundaries are equally effective in demarcating the UGB.

a(3): Environmental, energy, economic and social consequences. Any impact on regional transit corridor development must be positive, and any limitations imposed by the presence of hazards or resource lands must be addressed.

- This property is not adjacent to any regional transit corridor. Its removal from the UGB would result in no negative impact on transit provision.

- The property has two swales that are minor development hazards
- Removal of this property from the UGB will not result in any major environmental, energy, economic or social consequences.

a(4): Retention of agricultural land. When a petition includes land with Class I through IV Soils, that is not irrevocably committed to nonfarm use, the petition shall not be approved unless the existing location of the UGB is found to have severe negative impacts on service or land use efficiency in the adjacent urban area, and it is found to be impractical to ameliorate those negative impacts except by means of the particular adjustment requested.

- This property includes Class II - IV soils currently in farm use.
- Removal of this area from the UGB will retain these lands for continued farm use.

a(5): Compatibility of proposed urban uses with nearby agricultural activities. When a proposed adjustment would allow an urban use in proximity to existing agricultural activities, the justification in terms of factors (1) through (4) of this subsection must clearly outweigh the adverse impact of any incompatibility.

- The Malinowski property is part of a larger farm, most of which is located outside the UGB. It is bordered on the south by large lot residential development and some agricultural properties.

b(2): THE LAND IS NOT NEEDED TO AVOID SHORT-TERM LAND SHORTAGES FOR THE DISTRICT OR FOR THE COUNTY IN WHICH THE AFFECTED AREA IS LOCATED AND ANY LONG-TERM LAND SHORTAGE THAT MAY RESULT CAN REASONABLY BE EXPECTED TO BE ALLEVIATED THROUGH ADDITION OF LAND IN AN APPROPRIATE LOCATION ELSEWHERE IN THE REGION.

- The property in question 20.27 acres, is not a significant portion of the Metro area or Washington County housing supply.
- Any negative effects from removing this land would be offset by the proposed addition of the Corner Terrace property.

- This removal will not produce any short- or long-term land shortages in the immediate area or in the district.

b(3): REMOVALS SHOULD NOT BE GRANTED IF EXISTING OR PLANNED CAPACITY OF MAJOR FACILITIES SUCH AS SEWERAGE, WATER AND ARTERIAL STREETS WILL THEREBY BE SIGNIFICANTLY UNDERUTILIZED.

- Facilities to serve urban development of this area, including roads and sewer and water lines, have not been built. When built, these facilities can be sized to reflect the removal of this property from the UGB.
- Removing this property from the UGB will not result in the underutilization of public facilities.

b(4): NO PETITION SHALL REMOVE MORE THAN 50 ACRES OF LAND.

- This standard does not apply to land removed as part of trade. See discussion at c(4) in Section IV of this report.

Standards for Approval, Section 8, paragraph c, of Ordinance No. 81-105:

c(2): CONSIDERATION OF THE FACTORS IN SUBSECTION (A) OF THIS SECTION DEMONSTRATE THAT IT IS APPROPRIATE THAT THE LAND TO BE ADDED SHOULD BE INCLUDED WITHIN THE UGB.

a(1): Orderly and Economic Provision of Public Facilities and Services. A locational adjustment shall result in a net improvement in the efficiency of public facilities and services, including but not limited to water, sewerage, storm drainage, transportation, fire protection and schools in the adjoining area within the UGB; any area to be added must be capable of being served in an orderly and economical fashion.

- Nearby sewer and water lines have adequate capacity to serve development of the proposed addition. The area is bordered on the east by 185th Avenue a major arterial and transit route.
- Development of this property would increase the number of users of nearby sewer and waterlines.
- This area can be served in an orderly and economical fashion by the facilities in place.

a(2): Maximum Efficiency of Land Uses. Consideration shall include existing development densities on the area

included within the amendment, and whether the amendment would facilitate needed development on adjacent existing urban land.

- The proposed amendment would change the boundary from 185th Avenue on the west and West Union Road on the North to a ridge line on the north and a newly demarcated north-south line on the west. This boundary would not follow existing property lines.
- In general, it is more efficient for the boundary to utilize natural features, especially where they encompass drainage basins. The ridge line, a portion of the proposed boundary, is such a line. The western edge of the addition, however, does not follow the ridgeline and is, therefore, not as effective as the ridgeline.
- Though the proposed boundary--a ridgeline on the north and a north-south line on the west--is less clear than the existing boundary formed by West Union Road and 185th Avenue, it does achieve service efficiencies and promotes urbanization of all four quadrants of the 185th/West Union intersection.

a(3): Environmental, Energy, Economic and Social Consequences. Any impact on regional transit corridor development must be positive, and any limitations imposed by the presence of hazards or resource lands must be addressed.

- The proposed addition is adjacent to a current bus line serving Portland Community College (PCC). Its development might result in additional ridership on that line.
- No adverse environmental, energy economic or social consequences have been identified.

a(4): Retention of Agricultural Lands. When a petition includes land with Class I through IV Soils, that is not irrevocably committed to nonfarm use, the petition shall not be approved unless the existing location of the UGB is found to have severe negative impacts on service or land use efficiency in the adjacent urban area, and it is found to be impractical to ameliorate those negative impacts except by means of the particular adjustment requested.

- This property includes Class II and III soils. It is designated Natural Resource and zoned FRC-38, Forest and Resource Conservation. The applicants

have not argued that this property is irrevocably committed to non-farm use.

- The Malinowski property--proposed for removal from the UGB--includes approximately 20 acres of Class I-IV soils. Exclusion of this property from the UGB, concurrent with inclusion of the Corner Terrace property, mitigates the loss of prime farmland.
- Based on an analysis of the land to be added and the land to be removed, this proposal does not add a substantial amount of Class I-IV farmland to the UGB.

a(5): Compatibility of Proposed Urban Uses with Nearby Agricultural Activities. When a proposed adjustment would allow an urban use in proximity to existing agricultural activities, the justification in terms of factors (1) through (4) of this subsection must clearly outweigh the adverse impact of any incompatibility.

- Approximately seven acres of agricultural land would remain outside the UGB, but downslope from the ridgeline that the applicant requests form (in part) the new UGB. This area is separated from other agricultural land by the ridgeline and a BPA easement. It would be adjacent to land the applicant proposes for urban designation and would not be separated from urban uses by any man-made or natural topographic features.

...THE MINOR ADDITION MUST ALSO INCLUDE ALL SIMILARLY SITUATED CONTIGUOUS LAND WHICH COULD ALSO BE APPROPRIATELY INCLUDED WITHIN THE UGB AS AN ADDITION, BASED ON THE FACTORS IN SUB-SECTION A(a).

- The proposed addition does not include approximately one-half acre at the corner of West Union Road and 185th Avenue. This land is now outside the UGB and has similar service, land use efficiency and other characteristics as the land to be added. This parcel is "similarly situated within the meaning of this ordinance, and if the applicant's petition is approved by the Metro Council, this property should be included in the UGB as well.

c(3): IF, IN CONSIDERING FACTOR 1 OF SUBSECTION (A) THE PETITIONER FAILS TO DEMONSTRATE THAT EXISTING OR PLANNED PUBLIC SERVICES OR FACILITIES CAN ADEQUATELY SERVE THE PROPERTY TO BE ADDED TO THE UGB WITHOUT UPGRADING OR EXPANDING THE CAPACITY OF THOSE FACILITIES OR SERVICES, THE PETITION SHALL NOT BE APPROVED ABSENT A SHOWING OF UNUSUAL CIRCUMSTANCES.

- Public facilities and services can be provided to this area without upgrading or expansion. Sewer and water lines are already in place. The property abuts 185th Avenue and West Union Road.
- c(4): ANY AMOUNT OF LAND MAY BE ADDED OR REMOVED AS A RESULT OF A PETITION UNDER THIS SUBSECTION BUT THE NET AMOUNT OF VACANT LAND ADDED OR REMOVED AS A RESULT OF A PETITION SHALL NOT EXCEED TEN (10) ACRES. ANY AREA IN ADDITION TO A TEN (10) ACRE NET ADDITION MUST BE IDENTIFIED AND JUSTIFIED UNDER THE STANDARDS FOR AN ADDITION UNDER SUBSECTION (d) OF THIS SECTION.
- The amount of land proposed to be added is 10 acres greater than the amount of land proposed to be removed.
- c(5): THE LARGER THE TOTAL AREA INVOLVED, THE GREATER MUST BE THE DIFFERENCE BETWEEN THE RELATIVE SUITABILITY OF THE LAND TO BE ADDED AND THE LAND TO BE REMOVED BASED ON CONSIDERATION OF THE FACTORS IN SUBSECTION (a).
- The total area involved in this trade is approximately 50 acres.
 - The Corner Terrace property is more economically served by existing sewer and water lines and transit and roads than the Malinowski property, which will be served only when the entire Springville Road Specially Regulated Area is developed.
 - Both properties are suited to agricultural use.
 - The Corner Terrace property, located in the vicinity of 185th and West Union Roads is better suited for urbanization than the Malinowski property. The Corner Terrace property has major services immediately available, and is closer to existing major public investments (i.e., the Sunset Highway, Portland Community College) and existing urban development (Somerset West) than the Malinowski property. Development of either of these properties will result in the removal of some Class I-IV Soils from agricultural use.
 - Based on the superiority of the Corner Terrace property for urban use, and the mitigation of any loss of agricultural land by the removal of the Malinowski property, the staff recommends approval of this petition for a locational adjustment.

JC/gl
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HOLCOMB
LAKE

PORTLAND COMMUNITY
COLLEGE
(ROCK CREEK CAMPUS)

SPRINGVILLE

185TH

13 18
24 19

PROPOSED UGB
ADDITION

CURRENT UGB

CURRENT UGB

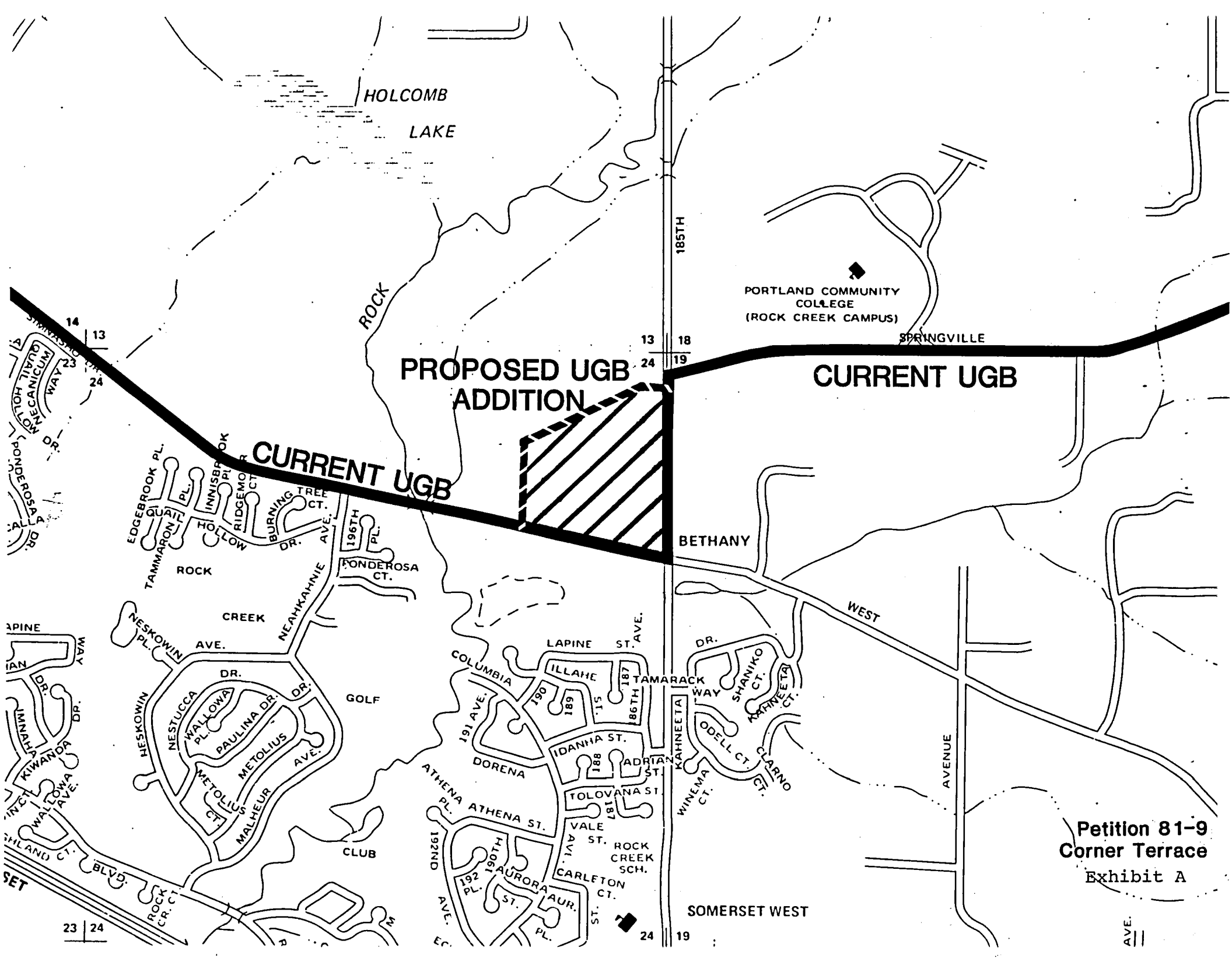
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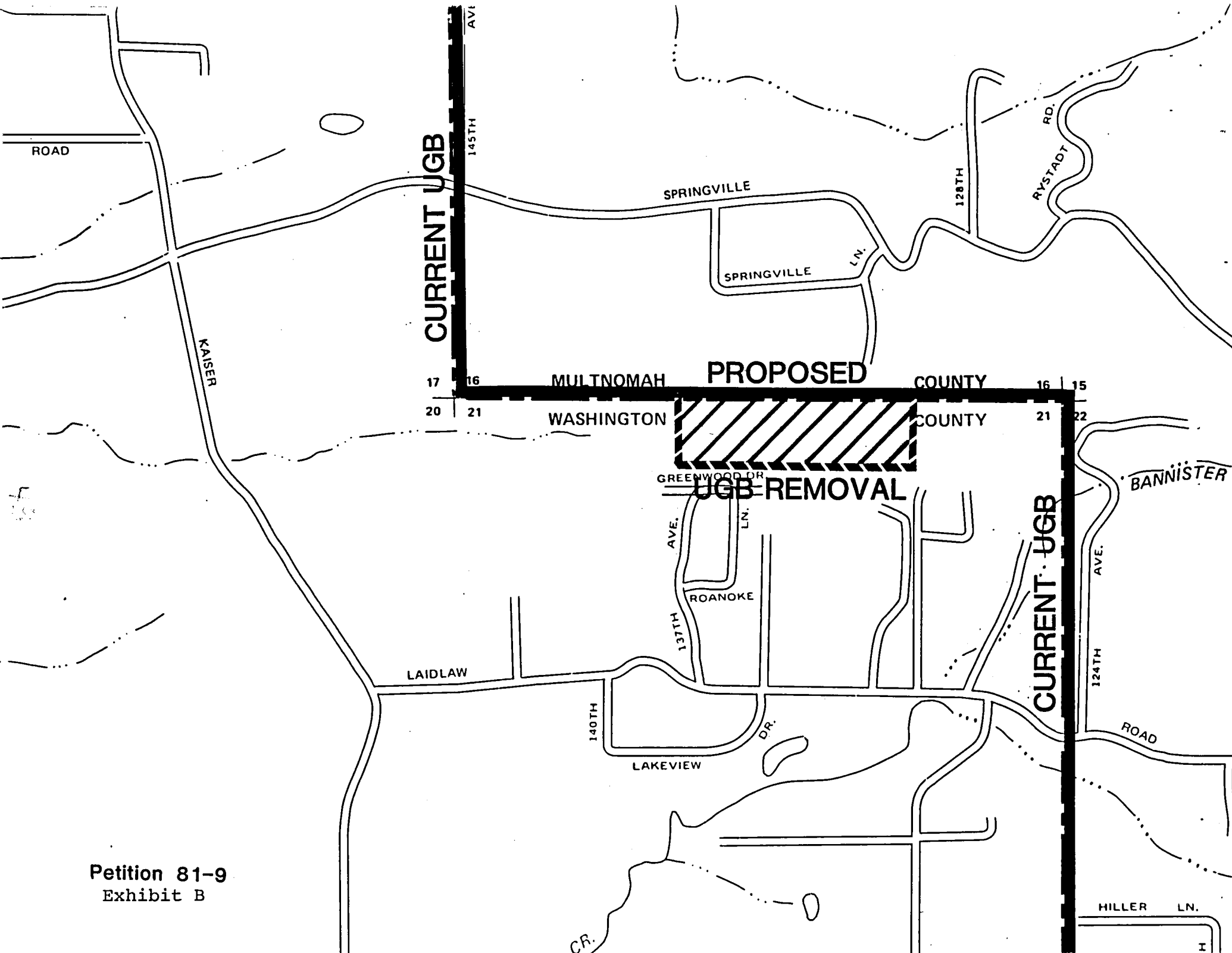
WEST

Petition 81-9
Corner Terrace
Exhibit A

SOMERSET WEST

AVE.





CURRENT UGB

PROPOSED



UGB REMOVAL

CURRENT UGB

Petition 81-9
Exhibit B

AMENDMENT TO:
Locational Adjustment
185th & West Union Road Site

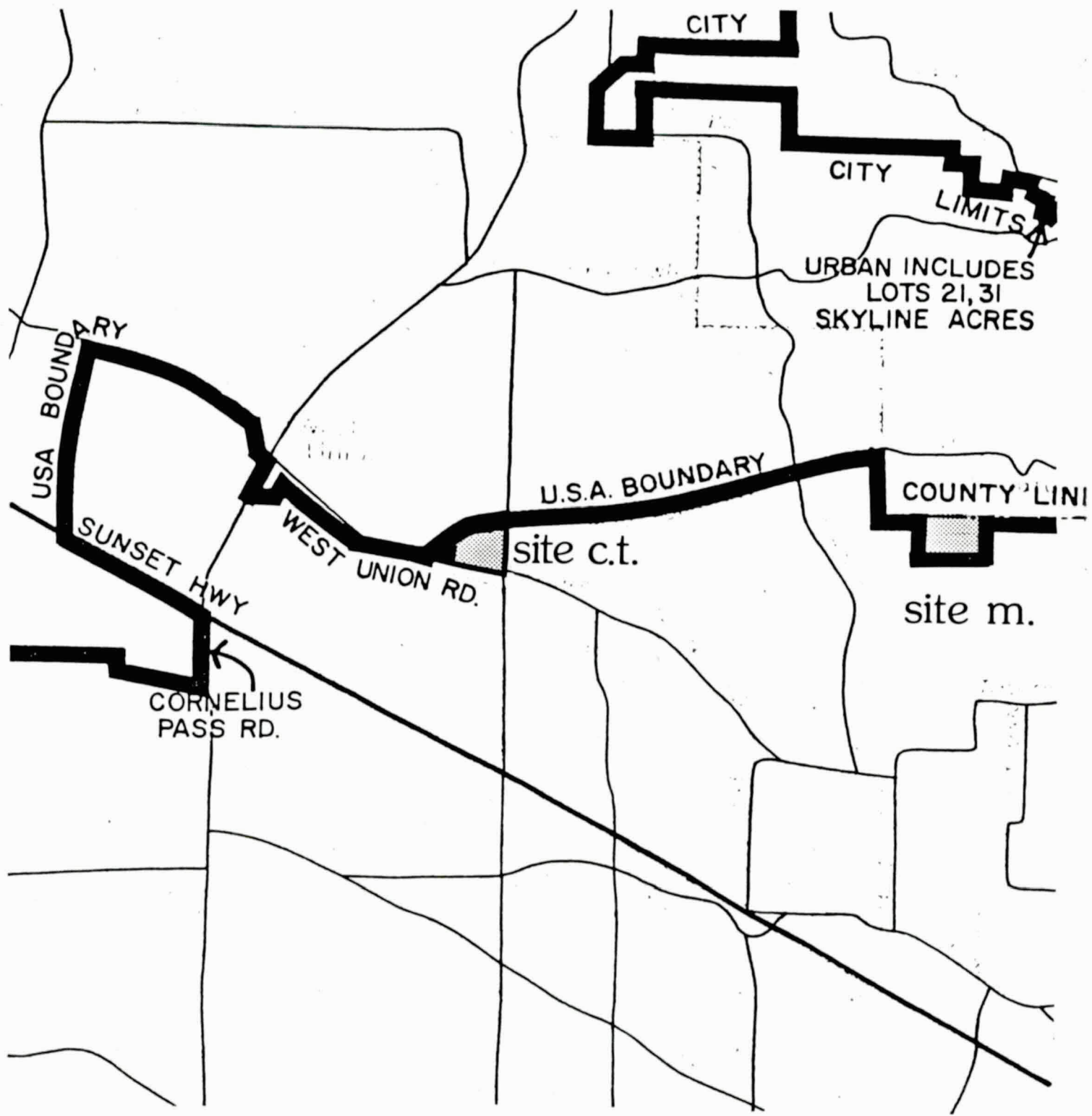
August 23, 1982


Prepared for:

Corner Terrace
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Prepared by:

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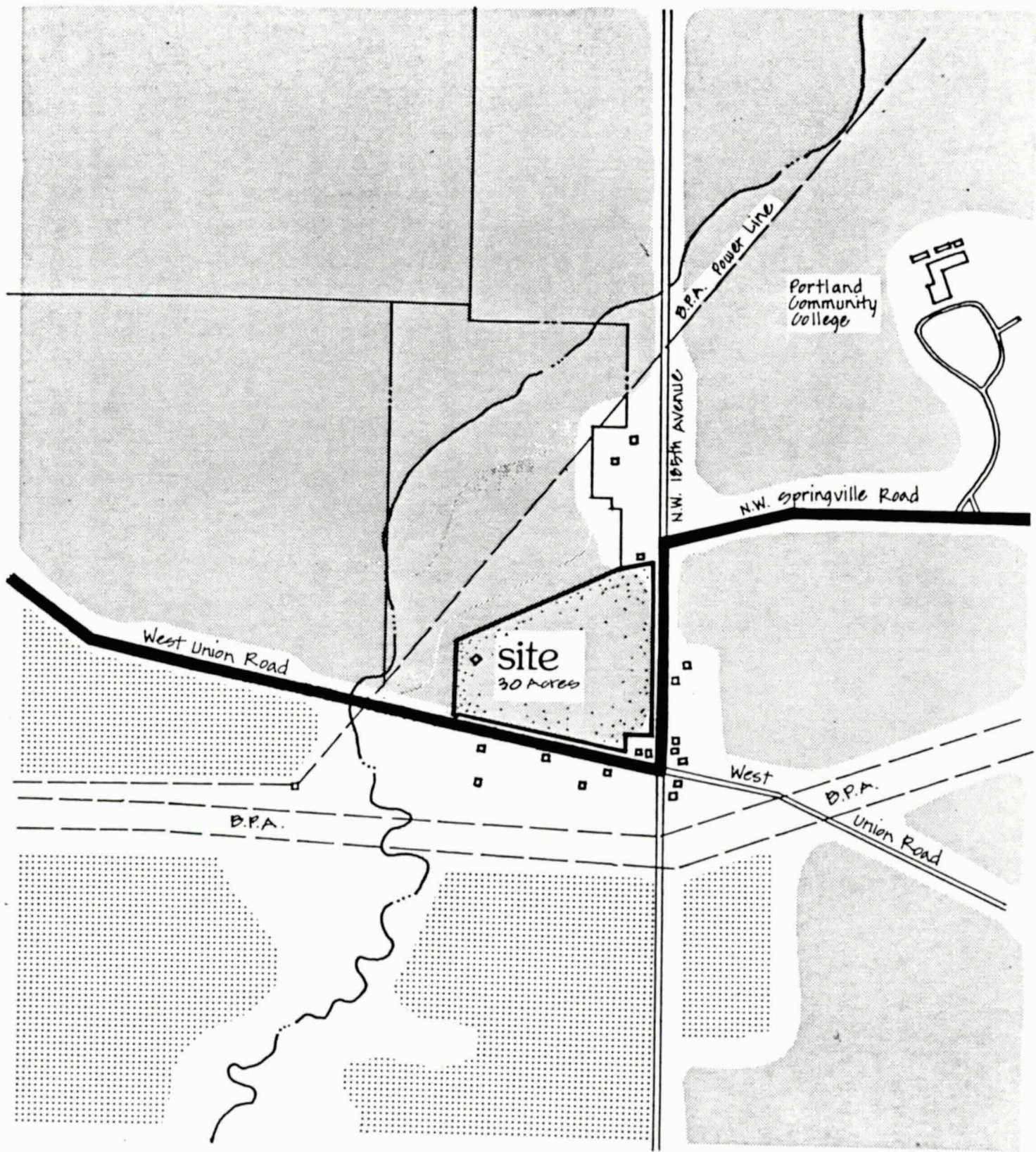


Legend
 Regional Urban Growth Boundary


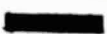


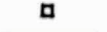
Proposed Urban Growth Boundary

Exhibit 1
 Scale: 1" = 4000'





Legend

-  Site Boundary
-  Regional Urban Growth Boundary
-  Existing Urbanization
-  Existing Residences
-  Existing Agriculture

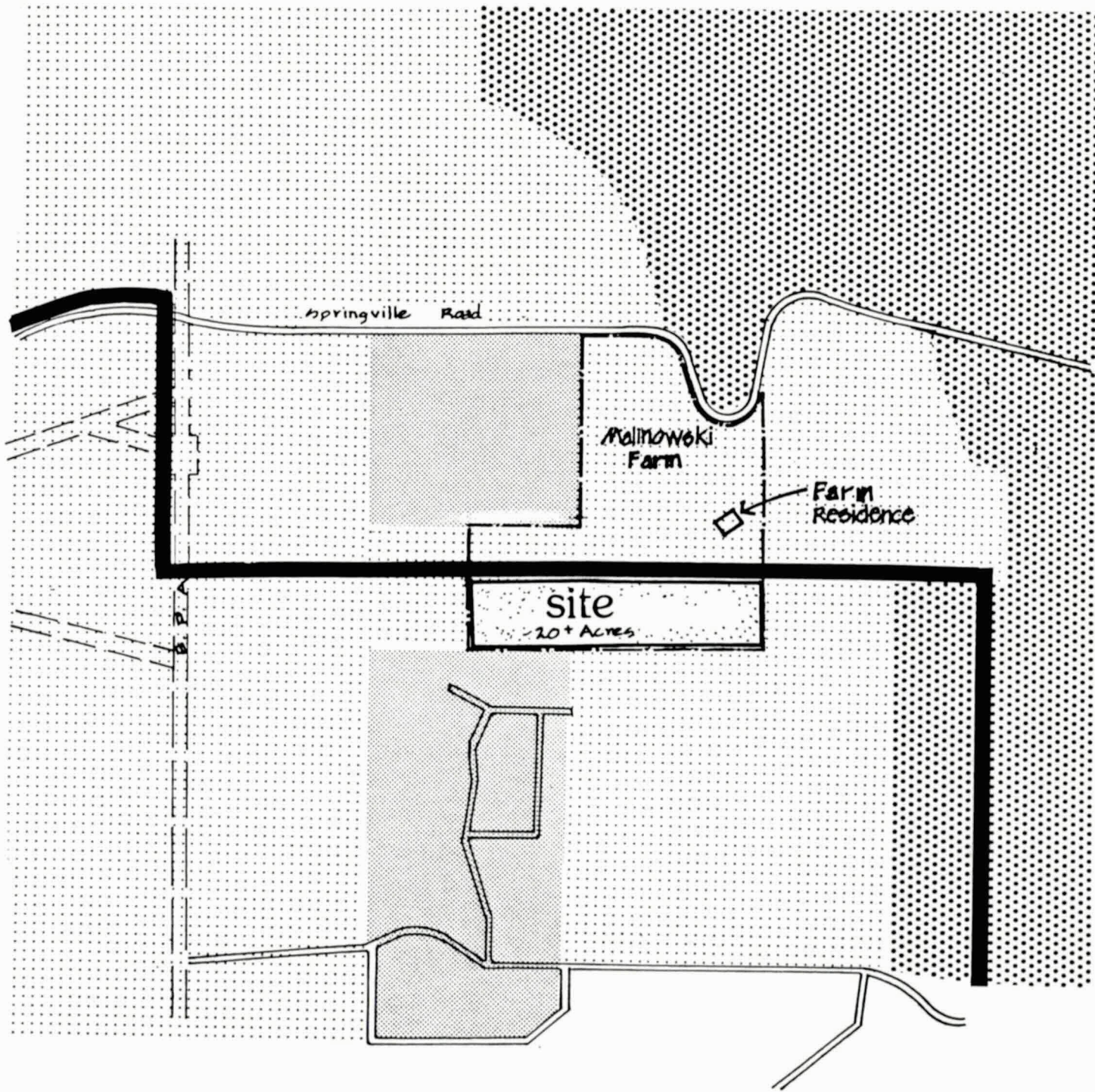
3

Corner Terrace Site Area






Exhibit 2
Scale: 1" = 1000'



16



Legend

-  Site Boundary
-  Regional Urban Growth Boundary
-  Existing Forest
-  Existing Rural Residential
-  Existing Open space & Agricultural

4

47

Malinowski Site Area

Exhibit 3
Scale: 1" = 1000'



such a determination, information on the Malinowski property must be assembled and analyzed, similar to that completed for the Corner Terrace property and submitted to METRO in a Petition and report dated May 15, 1981. Also to be determined is that the property to be removed (Malinowski) is suitable to be placed in the Rural portion of the county and can reasonably be utilized for resource purposes.

The criteria and conditions are addressed individually, with discussion and comparison of both the Corner Terrace and Malinowski properties as major parts of the individual addressing of each criteria and condition. The five main factors for consideration are set forth in Section 8, Standards for Petition Approval, subsection (a) and are as follows:

- (1) **Orderly and economic provision of public facilities and services.** A locational adjustment shall result in a net improvement in the efficiency of public facilities and services, including but not limited to, water, sewerage, storm drainage, transportation, fire protection and schools in the adjoining areas within the U.G.B.; and any area to be added must be capable of being served in an orderly and economical fashion.
- (2) **Maximum efficiency of land uses.** Considerations shall include existing development densities on the area included within the amendment, and whether the amendment would facilitate needed development on adjacent existing urban land.
- (3) **Environmental, energy, economic and social consequences.** Any impact on regional transit corridor development must be positive and any limitations imposed by the presence of hazard or resource lands must be addressed.
- (4) **Retention of agricultural land.** When a petition includes land with Class I - IV soils that is not irrevocably committed to non-farm use, the petition shall not be approved unless the existing location of the U.G.B. is found to have severe negative impacts on service or land use efficiencies in the adjacent urban area and it is found to be impractical to ameliorate those negative impacts except by means of the particular adjustment requested.

- (5) Compatibility of proposed urban uses with nearby agricultural activities. When a proposed adjustment would allow an urban use in proximity to existing agricultural activities, the justification in terms of factors (1) through (4) of this subsection must clearly outweigh the adverse impact of any incompatibility.

Following the addressing of the five criteria in subsection (a), the four conditions contained in subsection (b) must be met as directed in subsection (c) which applies to petitions for removal of land from the U.G.B. in one location and extending the U.G.B. in another location. Subsections (b) and (c) are stated as follows:

- (b) Petitions to remove land from the U.G.B. may be approved under the following conditions:

- (1) Consideration of the factors in subsection (a) of this section demonstrate that it is appropriate that the land be excluded from the U.G.B.

- (2) The land is not needed to avoid short-term land shortages for the District or for the county in which the affected area is located and any long-term land shortage that may result can reasonably be expected to be alleviated through addition of land in an appropriate location elsewhere in the region.

- (3) Removals should not be granted if existing or planned capacity of major facilities such as sewerage, water and arterial streets will thereby be significantly underutilized.

- (4) No petition shall remove more than 50 acres of land.

- (c) A petition to both remove land from the U.G.B. in one location and extend the U.G.B. in another location may be approved under the following conditions:

- (1) The land removed from the U.G.B. meets the conditions for removal in subsection (b) of this section.

- (2) Consideration of the factors in subsection (a) of this section demonstrate that it is appropriate that the land to be added should be included within the U.G.B.
- (3) If, in considering factor one of subsection (a), the petitioner fails to demonstrate that existing or planned public services and facilities can adequately serve the property to be added to the U.G.B. without upgrading or expanding the capacity of those facilities or services, the petition shall not be approved absent a showing of unusual circumstances.
- (4) Any amount of land may be added or removed as a result of a petition under this subsection but the net amount of vacant land added or removed as a result of a petition shall not exceed 10 acres. Any area in addition to a 10 acre net addition must be identified and justified under the standards for an addition under subsection (d) of this section.
- (5) The larger the total area involved, the greater must be the difference between the relative suitability of the land to be added and the land to be removed based on consideration of factors in subsection (a).

Subsection (d) must also be addressed as part of the process of adding land to the U.G.B. The conditions of subsection (d) are:

- (1) An addition of land to make the U.G.B. coterminus with the nearest property lines may be approved without consideration of the other conditions in this subsection if the adjustment will add a total of two acres or less, the adjustment would not be clearly inconsistent with any of the factors in subsection (a) and the adjustment includes all contiguous lots divided by the existing U.G.B.
- (2) For all other additions, the proposed U.G.B. must be superior to the U.G.B. as presently located based on a consideration of the factors in subsection (a). The minor addition must include all similarly situated contiguous land which could also be appropriately included within the U.G.B. as an addition based on the factors in subsection (a).

- (3) Additions shall not add more than 50 acres of land to the U.G.B. and generally should not add more than 10 acres of vacant land to the U.G.B. Except as provided in subsection (4) of this subsection, the larger the proposed addition, the greater the differences shall be between the suitability of the proposed U.G.B. and suitability of the existing U.G.B., based upon consideration of the factors in subsection (a) of this section.
- (4) If an addition is requested in order to remedy an alleged mistake made at the time the U.G.B. for the area affected was adopted, the addition may be approved if specific conditions are met.

The full addressing of all criteria and conditions contained in subsections (a), (b), (c) and (d) of Section 8 will fulfill all requirements of METRO Ordinance Number 81-105 and demonstrate that the trade of lands to include the Corner Terrace property within the U.G.B. and remove the Malinowski property from the Urban area will be beneficial. Comparison of the properties illustrate that **the Malinowski property lacks any reasonable expectation of being developed within an urban framework in the foreseeable future.** However, the Corner Terrace property may be developed immediately because urban services are currently in place and of suitable size and capacity.

Section 8, Standards for Petition Approval, subsection (a)

1. **Orderly and economic provision of public facilities and services** - As explained and described in the Petition for Locational Adjustment dated May 15, 1981, all necessary and required urban facilities and services are **immediately available** to the Corner Terrace property while no such facilities and services exist or are planned for the Malinowski property. Use of in-place services at 185th and West Union Road will maximize the public investment without creating a need for increased levels of operation. This will result in the orderly and economic provision of services with a definite net increase in service efficiency. The following table compares services for both the Corner Terrace and Malinowski properties, with the Corner Terrace property at 185th and West Union Road proving to be an asset to the Urban area within the U.G.B.

Table 1

Comparison of Services and Facilities and Site Characteristics

<u>Service or Facility or Site Characteristic</u>	<u>Corner Terrace</u>	<u>Malinowski</u>	<u>Advantage/ Asset to U.G.B.</u>
Sanitary Sewer	24" Bethany Trunk is located 800' south of West Union Road and 185th Avenue.	Area is unsewered. Nearest service is 11,000 lineal feet to south and west at 158th and West Union Road. Bronson Creek Interceptor is 21". No plans by U.S.A. for extension.	Corner Terrace
Water	Wolf Creek Highway Water District has 18" line in West Union Road, 16" in 185th north of West Union, 12" in 185th south of West Union.	No organized water district to serve the site. All water must be provided by private on-site wells.	Corner Terrace
Roads and Transportation	West Union Road and 185th Ave. in place and are designated as arterials. Site is one mile north of designated Regional Transportation Corridor (U.S. 26).	Site has no direct access to any public road.	Corner Terrace
Soils (Ag. Capability)	SCS Classes II & III Aloha & Helvetia Silt Loams and Verboort Silty Clay Loams	SCS Classes II & III Helvetia & Saum Silt Loams	Even
Adjacent Uses	Agriculture with some rural residential. Suburban residential subdivision south of BPA lines. PCC - Rock Creek Campus to the near northeast on Springville Road.	Agriculture, open space and natural resource uses on all sides. Some scattered rural residential development. No nearby suburban residential development.	Corner Terrace

<u>Service or Facility or Site Characteristic</u>	<u>Corner Terrace</u>	<u>Malinowski</u>	<u>Advantage/ Asset to U.G.B.</u>
Schools	Rock Creek Elem. School located on 185th Avenue approximately ½ mile south of site. Five Oaks Jr. High 2½ miles S.E. of site. Aloha High School 5 miles south of site on 185th Ave.	Skyline Elem. School is 6.5 miles N.W. of site. Lincoln High School is located in downtown Portland.	Corner Terrace
Fire Protection	Washington County Fire District No. 1 Station is ½ mile south of site on 185th Avenue.	Protection by Skyline Fire District No. 20, a volunteer district with backup by Washington County Fire District No. 1 out of Rock Creek Station. Response time is 8 minutes by W.C.F.D. No. 1.	Corner Terrace
Police Protection	Washington County Sheriff's Dept. Regular patrols in residential area and around PCC with minimal response time.	Washington County Sheriff's Dept. Regular patrols on less frequent basis with longer response times.	Corner Terrace
Mass Transit	Direct service on 185th Avenue via Tri-Met line #65 between Beaverton Transit Center and PCC campus.	No direct Tri-Met service to site or on Springville Road east of PCC. Nearest service is #65 at PCC.	Corner Terrace
Storm Drainage	No formal storm drainage system.	No formal storm drainage system.	Even

The clear advantage is with the Corner Terrace property. The Malinowski site possesses service and facility characteristics generally associated with rural areas where future growth is not planned.

Sanitary sewer service is currently located entirely to the south, with no service to the north and limited service capabilities to properties east and west of the Malinowski site. Although not fully planned for the immediate vicinity, sanitary sewer service, and future water service, if it is obtained from the Wolf Creek Highway Water District, can be best provided from the south within the U.G.B. through developing property areas. Therefore, the removal of the Malinowski site from within the U.G.B. will not impact future service provision to adjacent or nearby properties which will remain within the U.G.B. Surface drainage will not increase if the site remains undeveloped and is outside the U.G.B., providing an added degree of protection to surrounding sites.

2. **Maximum efficiency of land uses** - The access and services deficiencies demonstrated by the Malinowski property will create difficulties in obtaining any efficiency of urban land use. The site possesses a small creek or drainage swale at each end (east and west) which will not only reduce on-site efficiency and utility but will cause some minor problems in developmental relationships with adjacent properties. Land to the south has been partially developed on septic tanks and wells, in large lot rural residential properties with limited potential for further divisions and access to the Malinowski property. Therefore, the ability to obtain maximum efficiency of urban land uses on the Malinowski property has been severely restricted. This, however, will serve as an advantage to the site when it is placed outside the U.G.B. within the Rural area because much of the rationale for development will be removed. The site is suitable for inclusion in the Rural area of the county for the following specific reasons:

- o All property under the Malinowski ownership within the general area will be within the Rural area, as opposed to being split between the Rural and Urban areas by the U.G.B. which was located on the Multnomah-Washington County line without consideration for property ownership, use in conjunction with farmable lots, future accessibility and serviceability, and the development potential of the site when taken by itself.

- o Soils on the site are Classes II, III and IV which are suitable for agricultural use and production. A portion of the 20.26 acre Malinowski property currently within the U.G.B. is presently under cultivation.
- o The required level of energy efficiency for rural use is more compatible with the potential of the site, considering the locational proximity to urban collectors or arterials and the distance required to extend urban services from the existing limits of service.
- o Physically, the site is related to properties not currently within the U.G.B.

The maximum efficiency of land uses for the Corner Terrace property was discussed on page 14 of the Petition for Locational Adjustment, dated May 15, 1981.

3. Consequences

- a. **Environmental** - The site is bracketed by two small drainage swales which may create minor hazards on the east and west ends of the site. Some flood hazard is identified by Washington County on Tax Lot 100. Generally, potential environmental consequences resulting from urban development will be minor.
- b. **Energy** - The Malinowski site is nearly five road miles from the regional transit corridor at the Sunset Highway via a somewhat indirect route which includes Springville Road, Kaiser Road, West Union Road, 143rd Avenue and Cornell Road. Local transportation requirements resulting from urban development on the site will not be energy efficient nor will the extension of necessary urban services and facilities to serve the site. (See Table 1.) The lack of nearby mass transit facilities will not promote use or extension of Tri-Met services by potential future residents.
- c. **Economic** - Extensive investment in public facilities and services will be required prior to any urban development. The investment will increase the overall costs of development causing a direct increase in the cost of housing.

- d. **Social** - More costly development will result in a reduced opportunity for property and home ownership, causing a need for more affordable housing at another location.

The consequences for the Corner Terrace site are addressed and discussed in the original Petition and are of considerably less significant impact than the consequences for the Malinowski property.

4. **Retention of agricultural land** - The Malinowski property is a combination of Class II, III and IV soils which are currently partially in agricultural production. Removal of the property from the U.G.B. would promote the retention of the on-going agricultural activities on the site and adjacent lands under the same ownership.

Similar soils and soil classes exist on the Corner Terrace site which is currently in agricultural production.

5. **Compatibility of proposed urban uses with nearby agricultural activities** - The on-going agricultural activities on the Malinowski site are part of the activities occurring on the larger Malinowski properties. Urban development on the site would disrupt the agricultural activities and reduce the incentive for continued but less intensive agricultural activities on the Malinowski holdings not within the U.G.B. The site has minor natural boundaries but cannot be effectively separated from surrounding lands where agricultural activities occur. In addition, the necessary and required extension of access and urban services (sanitary sewer and water) to serve urban development on the site will impact surrounding lands resulting in a change in the overall compatibility between rural and urban uses in the same area.

The compatibility issue for the Corner Terrace site is addressed in the original Petition, demonstrating a significantly greater ability on the part of the Corner Terrace property to be compatible with nearby agricultural activities.

Section 8, Standards for Petition Approval, subsection (b)

1. **Consideration of factors in subsection (a)** - After consideration of all factors in subsection (a) as they relate to the Malinowski property, it is clear that the Malinowski property is not suitable for inclusion within the U.G.B. nor for urban development. See Table 1.
2. **Land is not needed to avoid shortages** - After consideration of the factors in subsection (a), the Malinowski property will not fulfill any short-term land needs, based on the lack of urban services. Over the long-term, the Malinowski property possesses no particular locational advantage which could not be surpassed by another location within the general vicinity. The proposed trade will include superior lands (Corner Terrace) which will assist in fulfilling both the short-term and long-term need based on the availability of services and the proximity to existing and planned suburban development.
3. **Underutilization of service and facility capacity** - Removal of the Malinowski property from the Regional U.G.B. will not impact the existing capacity of major facilities because none exist to serve the property or the immediate vicinity. No plans exist for the extension of water or sanitary sewer services to the area or the reclassification of Springville Road to arterial status. Taken overall, removal of the Malinowski property from the Regional U.G.B. will not result in any underutilization of services or facilities, either existing or planned.
4. **Removal of more than 50 acres** - The Malinowski property is approximately 20 acres in size.

Section 8, Standards for Petition Approval, subsection (c)

1. **Lands removed from the U.G.B. meet the conditions of subsection (b)** - See above, page 14 for a discussion of all conditions of subsection (b).

2. **Consideration of factors in subsection (a)** - See above, pages 8-13 for discussion and consideration of all conditions of subsection (a).
3. **In consideration of item 1 of subsection (a), demonstration must be made that existing or planned public services and facilities can adequately serve the property to be added to the U.G.B. without upgrading or expanding the capacity of the services and facilities** - As discussed in the original Petition for Locational Adjustment to include the Corner Terrace property, water and sanitary sewer service is currently available in the West Union area which will support medium density residential development on the Corner Terrace site without further upgrading or expanding of the facilities.
4. **Areas beyond a 10 acre net addition must be identified and justified under the standards contained in subsection (d)** - The proposed trade would result in the addition of 10 net vacant acres to the U.G.B. See below, pages 15-18 for discussion and consideration of the standards in subsection (d).
5. **The larger the total area involved, the greater must be the difference between the relative suitability of the land to be added and the land to be removed based on consideration of the factors in subsection (a)** - Table 1 on pages 9 and 10 demonstrates the superior characteristics and suitability of the Corner Terrace site over the Malinowski property. The Corner Terrace site possesses an advantage and will be an asset to the U.G.B. for urban development purposes in eight of the ten categories contained in the table. The large difference between the Corner Terrace and Malinowski properties for inclusion within the U.G.B. and future urban development result in a significantly greater suitability for the inclusion of the Corner Terrace site and a distinct asset and advantage to the urban area.

Section 8, Standards for Petition Approval, subsection (d)

1. **Additions to make the U.G.B. coterminus with the nearest property lines may be approved without consideration of subsection (d) if the adjustment will add two acres or less, not be inconsistent with factors in subsection (a) and will include all**

contiguous lots divided by the existing U.G.B. - The proposed addition of the Corner Terrace site would include more than two acres.

2. **Proposed U.G.B. must be superior to the existing U.G.B. based on factors in subsection (a) and must include all similarly situated contiguous land which could also be appropriately included within the U.G.B. based on the factors in subsection (a)** - As noted in the original Petition for Locational Adjustment, all similarly situated contiguous land which could be appropriately included within the U.G.B. based on the factors in subsection (a) is located directly east of the site across 185th Avenue and is currently within the existing U.G.B. The land north of the proposed site, which is also under the ownership of the Corner Terrace Partnership, is further from the available urban services and facilities and is located north of the extension of Springville Road which is the line of the U.G.B. east of 185th Avenue. The property on the north is separated from the 30.26 acre site proposed for inclusion within the U.G.B. by the ridgeline and swale area which would impact the serviceability of the property. Land south of the site across West Union Road is presently within the U.G.B.

Removal of the Malinowski property from within the U.G.B. would result in the retention of a large block of similarly situated contiguous land under the same ownership for resource use. As discussed, the Malinowski property is not highly compatible with the large lot residential area to the south, but is more suitable to be included outside the U.G.B. with lands demonstrating open space and agricultural characteristics as exist to the north and east. Therefore, the refined U.G.B., which would exclude the Malinowski property, would be superior to the existing U.G.B.

3. **Additions shall not add more than 50 acres to the U.G.B. and generally should not add more than 10 acres of vacant land. The larger the proposed addition the greater the differences shall be between the suitability of the proposed U.G.B. and the existing U.G.B. based on consideration of factors in subsection (a)** - The superior suitability of the Corner Terrace site when compared to the Malinowski property was demonstrated in the discussion of the five factors in subsection (a),

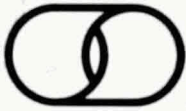
pages 8-13. The addition of 30.26 acres is, taken by itself, justifiable under the factors of subsection (a). However, with the exclusion of the 20.26 acre Malinowski property and its comparative unsuitability for urban development, the addition of the 30.26 acre Corner Terrace site to the U.G.B. is a more highly justifiable refinement of the U.G.B. and does not exceed the 10 net vacant acre standard.

4. **Additions may be requested to remedy an alleged mistake made at the time the U.G.B. was adopted** - The proposed trade is not to remedy an alleged mistake but to refine the U.G.B. in an attempt to improve the efficiency of land use and potential development as well as the utilization of in-place urban services and facilities. There will be no significant loss to the resource oriented Rural area as a result of the trade, but rather, a gain for the development oriented Urban area.

The previous pages address the criteria of subsections (a), (b), (c) and (d) of METRO Ordinance 81-105 in compliance with the requirement that a comparison be made between the two properties proposed for inclusion in the trade, and that the property to be added be shown to be "appropriate" for addition. The comparison of the two properties has demonstrated that the 30.26 acre Corner Terrace site is far more suitable for inclusion within the U.G.B. and future urban development than the 20.26 acre Malinowski property, already within the U.G.B., which would be removed. No significant loss to the Rural area would result from the trade because:

- a). The balance of the Corner Terrace property, over 83 acres, would remain outside the U.G.B. and would continue to be farmed.
- b). Both properties proposed to be traded are Class II and III soils, according to available information from the SCS (Soil Conservation Service), and
- c). The 20.26 acre Malinowski property may, when removed from the U.G.B., be combined with other properties under Malinowski ownership to form a more viable resource unit, all within the Rural area where future urban development pressures are reduced or entirely removed.

The trade will be an asset to the Urban area, providing more buildable residential area which will utilize in-place services and facilities without adversely impacting the rural area resources and agricultural practices. A reasonable and justifiable means exists for establishing the adjusted U.G.B. across the Corner Terrace site, using both natural and manmade features to facilitate the replacement of the line.



Benkendorf & Associates Ltd.

620 S.W. Fifth Avenue, Portland, Oregon 97204
(503) 226-0068

October 19, 1982

Mr. Joe Cortright
Metropolitan Service District
527 S.W. Hall Street
Portland, Oregon 97201

RE: Second Addendum to Corner Terrace Locational Adjustment Petition


Dear Joe:

Enclosed please find additional materials generated in response to the comments by yourself and Steve Siegel during the recent meeting with DeMar Batchelor and Bob Price. We have prepared this material on the following three issues:

1. Agricultural lands
2. The Jeffries property
3. Inclusion of similarly situated contiguous lands

We believe that our comments should provide the final key to fulfillment of the standards which will lead to the approval of the Corner Terrace - Malinowski trade. If you have any further questions or comments, please do not hesitate to contact either myself or Bob Price. We will assist you in any way possible to achieve a positive staff position on this issue. Thank you.

Yours sincerely,



Al Benkendorf, AICP

Enclosure

cc: Steve Berrey
DeMar Batchelor

AB:rp/lp

Second Addendum
Corner Terrace Petition for Locational Adjustment Trade

After substantial preparation of the trade proposal which includes approximately 30.26 acres of the Corner Terrace property within the Regional Urban Growth Boundary (U.G.B.) and excludes 20.26 acres of the Malinowski property, three specific issues remain to be settled. They are:

1. The inclusion of agricultural lands within the U.G.B. and the utilization of and impact on local services.
2. Inclusion of the Jeffries property at the northwest corner of the intersection of 185th Avenue and West Union Road to prevent the creation of an "urban island" within the U.G.B.
3. The inclusion of all similarly situated contiguous land with this proposed addition to the U.G.B.

The need for additional discussion of these three issues is a result of meetings and telephone conversations between METRO staff and the property owners' representatives. These meetings were held to clarify the standards in METRO Ordinance 81-105 and to ensure a complete understanding of the criteria used in the staff analysis of the trade proposal. An elaboration of information previously submitted follows for these three issues.

1. The inclusion of agricultural lands within the U.G.B. by virtue of the addition of 30.26 acres of the Corner Terrace property will be balanced by the exclusion of 20.26 acres of equally suitable agricultural land originally included in the urban area when the U.G.B. was formulated. The Malinowski property is part of a family run farm unit of approximately 60 acres. The Malinowski farm presently includes a profit-making operation of pasturing and grain cropping with the Malinowskis living on the farm as they have done for nearly 30 years. A conversion of a major portion of the farm to truck crops is currently under consideration. A reduction of the total farm size from 60 to 40 acres as a result of urbanization of 20 acres of the farm currently within the U.G.B., would cause the loss of a valuable west facing

As noted in Table 1 (Comparison of Services and Facilities and Site Characteristics) of the Amendment to Locational Adjustment dated August 23, 1982, the Corner Terrace site possesses an extremely advantageous location with regard to local and regional facilities and services. Considering that the great majority of the Bethany community has been designated for Low Density Residential, 0-5 units per acre, some of the available services, especially sanitary sewer and water, are oversized for anticipated future development levels. Therefore, an existing portion of local services will be underutilized, creating an economic hardship on those who must pay for the oversized (and underutilized) services. The opportunity to develop additional land which would utilize existing services will result in public and private economic savings through a greater economy of scale, more efficient utilization of existing services and facilities, and a better fulfillment of planned levels of use originally anticipated by the utility and service districts.

2. The Jeffries property is a .65 acre site at the northwest corner of the intersection of 185th Avenue and West Union Road. This site was not included in the original proposal because the site is under different ownership, different zoning, and has a long history of use which is different from the Corner Terrace site. By their own action, the Jeffries have requested that the site be added to the area within the U.G.B. in a separate action to avoid the creation of an "urban island" within the U.G.B. See attached consent signed by Mr. and Mrs. Jeffries.
3. The inclusion of all similarly situated contiguous land, as required by Section 8 (d) (2) of Ordinance 81-105, was originally accomplished by the initial proposal for a 38 acre addition to the U.G.B. In the initial proposal, topographic floodplain and manmade features (BPA transmission lines) adequately identified the boundary on all sides except the southeast corner of the site.

Features include 185th Avenue, the ridgeline, the BPA easement, the Rock Creek floodplain and West Union Road. Being required to hold exactly to the 10 acre net vacant land addition standard (Section 8 (d) (3)) will create an area of 7 to 8 acres now excluded from the proposed U.G.B. adjustment. This is the only area of "similarly situated contiguous land" not presently included which should be considered for inclusion.

slope and some potential orchard area. According to the Malinowskis, the loss of the 20 acres would inhibit the conversion to truck farming now under consideration. Truck farming is a valuable agricultural activity to be located in close proximity to urban areas.

The Corner Terrace - Malinowski trade is one which is an even balance of agricultural land for agricultural land, preserving the integrity and potential of an active farm unit while providing a significant degree of efficiency in land use and utilization of existing public facilities, services and investment. The trade goes beyond the standard for maintaining agricultural land and viable farm operations, fulfilling Statewide Planning Goal 3 and contributing to a fulfillment of Statewide Planning Goal 11.

An additional factor in the use of the Malinowski property currently designated Urban and located within the U.G.B. is the existence of power lines and a 100 foot wide easement along the south property line. This easement area must remain undeveloped whether in the urban or rural areas and will reduce any viable use of the 20.26 acre area currently within the U.G.B. The powerline easement represents 4.6 acres of land which will never be developed and must be used for either open space or agriculture. The current agricultural use of the easement area will continue if the site area is excluded from the U.G.B. and returned to an agricultural designation and use. This will prevent an inefficient use of over 22% of the 20.26 acres of Malinowski property if the area remains Urban within the U.G.B. Adjustment of the U.G.B. to the south line of the Malinowski property, also the south line of the 100 foot powerline easement, will ensure an effective buffer between urban and rural uses.

The Corner Terrace property is an operating farm. A portion of the land is leased for grain crops to a nearby farmer. The residents of the house are not farmers and provide only a minimal caretaking function. Flexibility in the agricultural use of the site is limited by the local topography, the floodplain, surrounding uses and agricultural activities of the nearby larger farm units. The property owners have had no success in either leasing or selling the entire parcel as a farm unit.

We believe that the original revised U.G.B. as proposed for the 38 acre additional is superior to any other existing or potential boundary. To be required to reduce the Corner Terrace site by 7 to 8 acres simply to conform to the 10 acre standard set forth in Section 8 (d) (3) will create a poor demarcation on the west boundary. Therefore, we do not believe that the 10 acre standard should be maintained as an inflexible standard. Additional acreage beyond the 10 acres, such as the 7 to 8 acres originally included in the Petition, which are similarly situated contiguous lands should be included because such lands are highly suitable for urban uses. It is requested that the Regional Development Committee and the METRO Council, on their own motions, include the 7 to 8 acre residual balance of the site to provide a reasonable and logical parcel for inclusion within the U.G.B.

CONSENT TO INCLUDE PROPERTY WITHIN METROPOLITAN
SERVICE DISTRICT URBAN GROWTH BOUNDARY

WE, Frank Jeffries and Clara Jeffries, husband and wife,
hereby represent that we are the owners in fee simple as tenants
by the entirety of real property located at 18515 N. W. West Union
Road, Portland, Oregon 97229, also described on the records of
Washington County Department of Assessment and Taxation as Tax Account
No. 1N2W-24-Tax Lot 300.

Further, we hereby request and consent to the inclusion
of the above-described real property within the Metropolitan Urban
Growth Boundary, and we expressly authorize the appropriate Committee
or Council to include the described property within the Urban Growth
Boundary.

DATED this 15th day of October, 1982.

Frank M. Jeffries
Frank Jeffries

Clara A. Jeffries
Clara Jeffries

STATE OF OREGON)
) ss
County of Washington)

On the 15th day of October, 1982, personally appeared Frank
Jeffries and Clara Jeffries and acknowledged the foregoing to be their
voluntary act and deed.

Before Me:

DeMar A. Betchler
Notary Public for Oregon
My commission expires: 3/10/85



WASHINGTON COUNTY

ADMINISTRATION BUILDING - 150 N. FIRST AVENUE
HILLSBORO, OREGON 97123

SEP 22 1982

BOARD OF COMMISSIONERS

VIRGINIA DAGG, Chairman
LYELL GARDNER, Vice Chairman
JIM FISHER
BONNIE L. HAYS
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PLANNING DEPARTMENT
(503) 648-8761

September 20, 1982

DeMar Batchelor
139 NE Lincoln
Hillsboro, OR 97123

Al Benkendorf
Benkendorf and Associates
620 SW 5th Avenue
Portland, OR 97204

Dear Messrs. Batchelor and Benkendorf:

This letter is in response to your request of September 17, 1982, for comments from the Planning Department concerning trades in the Urban Growth Boundary for property located at the northwest quadrant of 185th and West Union Road, known as the Corner Terrace Property, and property located south of Tualatin-Sherwood Road, east of SW 120th Avenue, known as the Sharp property.

It is our understanding that you are proposing to have both of these properties included within the Urban Growth Boundary by trading property located in the north-eastern portion of Washington County that is currently included within the Urban Growth Boundary. Both the Corner Terrace property and the Sharp property came before the Planning Commission and the Board of County Commissioners approximately one year ago for comments. At that time, both properties were proposed as additions to the Urban Growth Boundary, and a trade was not being considered at that time. The Planning Commission and Board's action on Corner Terrace was to recommend not including that property within the Urban Growth Boundary. No comments were made on the Sharp property. The no comment on the Sharp property was based on the fact that the City of Tualatin had not commented on the proposal. At the time the City of Tualatin was going through the acknowledgement process at LCDC and felt that it would complicate their acknowledgement process if they were to comment on this particular proposal. Since then the City of Tualatin has taken the position they would not oppose the trade to have the Sharp property being included in the Boundary, and ultimately within the City limits of Tualatin.

Based on the information we received on September 17, 1982, the Corner Terrace property is proposed for residential use if included within the Boundary and the Sharp property is proposed for industrial use.

The Corner Terrace property: As we discussed on September 17th the land which you are proposing to exclude from the Boundary, by way of a trade for the Corner Terrace property, is now under some discussion by the County and the CPO to have the entire Bethany/Springville Road area removed from the Urban Growth Boundary.

At this time we do not know if such a removal will occur. If the Bethany-Springville Road area were to be excluded from the Urban Growth Boundary, the Corner Terrace adjustment to the Urban Growth Boundary would be an addition and therefore identical to the previous request made a year ago. If that is the case, then the Planning Department would oppose the addition of Corner Terrace within the Urban Growth Boundary. Additionally, if land on the east side of SW 185th and north of West Union Road were removed from the Boundary, the Corner Terrace property would be an illogical extension of the Urban Growth Boundary.

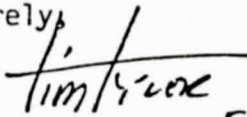
However, if the Springville Road area is not removed from the Urban Growth Boundary and a trade can be made with property that is currently within the Boundary, then the Planning Department would not oppose such a trade taking place. We base that position on the following facts:

1. Sewer service to the Corner Terrace property is in close proximity as opposed to the site being proposed to be traded.
2. The Corner Terrace property is adjacent to an eighteen inch Wolf Creek District water line and the property proposed to be traded is outside of any water district.
3. The Corner Terrace property is adjacent to two arterial roads, West Union and NW 185th Avenue.
4. The property proposed to be taken out has no direct public access today.
5. The Corner Terrace property is immediately adjacent to existing urban development, that is, the Rock Creek area.
6. The property proposed to be taken out of the Boundary is primarily rural residential and agricultural.
7. The Corner Terrace property is more easily served by Police, Fire and Transit service than the property proposed for trade.

The Sharp property: Again, like with the Corner Terrace property, if a trade can be accomplished for land that is now within the Urban Growth Boundary and the City of Tualatin is willing to provide future urban services to the area, the Planning Department would not oppose this area being included within the Boundary. We have spoken with the Planning Department of the City of Tualatin, and they have indicated their willingness to provide services to the land at such time as it is included within the Boundary and annexed to the City. However, if the land being proposed for trade is included in the Springville Road area, and that property is taken out of the Urban Growth Boundary, then the Sharp property would be an addition to the Boundary, and the Planning Department could not support the addition.

I hope that the above information is sufficient for your needs at Metro concerning the trades in the Urban Growth Boundary. If the Planning Department can be of any further assistance to you on this matter, please let us know.

Sincerely,



Richard A. Daniels *For*
Planning Director

RAD:JER/emc

400 Dekum Building
519 SW Third Avenue
Portland, Oregon 97204
December 1, 1982

Councilor Cindy Banzer
Presiding Officer
Metropolitan Service District
Council
527 SW Hall Street
Portland, Oregon 97201

Re: Case No. 81-9, Corner Terrace UGB Amendment

Dear Councilor Banzer:

I represent Michael McPherson, 18225 NW Springville Road, Portland, 97229 and Gary Sundquist, Route 2, Box 453, Portland, 97231. Both Mr. McPherson and Mr. Sundquist participated in the proceedings of the Council's Metropolitan Development Committee resulting in its recommendation for approval of the petition to add the "Corner Terrace" property to the regional urban growth boundary. Both my clients reside outside the UGB in the vicinity of the proposed change. Mr. McPherson's home is within plain view of the Corner Terrace property. Mr. McPherson and Mr. Sundquist oppose inclusion of this parcel of prime agricultural land within the UGB. This letter contains their exceptions to the Development Committee's report.

The petitioner in this case, Corner Terrace, proposes to add to the UGB 30 acres owned by it at the northwest corner of West Union Road and 185th Avenue. The petitioner proposes to "trade" this addition for the removal of 20 acres (the Malinowski property) on Springville Road. Both parcels are productive agricultural land.

My clients do not object to the proposal to remove the Malinowski property from the UGB. This removal appears to satisfy all the requirements for a petition to remove land from the UGB. See pages 2-4 of the staff recommendation.

However, we strongly object to Corner Terrace's request that its property be included in the UGB. The request does not comply with Metro's standards for "locational adjustments" to the UGB, and no amount of "trading" can make it comply.

The problem with Corner Terrace's proposal is that its property is open, undeveloped farmland, and the applicable law does not permit farmland to be added to the UGB except in extraordinary circumstances. Those circumstances do not exist in this case.

The applicable standard is in subsection (a)(4) of section 8 of Metro Ordinance No. 81-105. It declares that a petition

to add agricultural land to the UGB

"shall not be approved unless the existing location of the UGB is found to have severe negative impacts on service or land use efficiency in the adjacent urban area, and it is found to be impractical to ameliorate those negative impacts except by means of the particular adjustment requested." (Emphasis added.)

This ordinance standard is set out at page 5 of the Staff's recommendation.

The ordinance is clear. Farmland cannot be added to the UGB through a minor amendment -- with or without a trade -- unless the farmland is needed to solve a severe service or land use inefficiency.

There will be cases where severe negative impacts exist. For example, if a sewer line must cross farmland outside the boundary in order to allow development of land already in the boundary, it may be necessary to include the farmland within the UGB.

However, in this case the applicant has not identified a single "negative impact on service or land use efficiency" from the present location of the UGB -- much less a severe negative impact. The analysis prepared by your staff contains no findings addressing this standard (see applicable section, at the bottom of page 5 and page 6).

Approval of this addition would be an obvious and complete violation of Metro's locational adjustment standards. It would also undermine the entire process for locational adjustments. That process is based on the assumption that it will work to make the UGB more efficient, but that it will not be used to expand the UGB onto productive farmland. Farmland can be converted only if a need is demonstrated for additional land, through a major UGB amendment. However, if farmland can be added by means of "locational adjustments," the UGB will no longer stand as a firm line between land needed for growth and land to be preserved for farming. It will be difficult for farmers to avoid speculative pressure on land costs all around the edge of the UGB.

That is the reason your ordinance prohibits additions of farmland except in cases of severe negative impact. That is an important reason why LCDC acknowledged Metro's ordinance as in compliance with the goals.

Finally, and as a second exception to the recommendation for approval, we would point out that the staff analysis fails to demonstrate compliance with subsection (a)(5) of section 8 of the

Councilor Cindy Banzer
December 1, 1982
Page Three

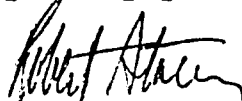
the ordinance, which provides:

"When a proposed adjustment would allow an urban use in proximity to existing agricultural activities, the justification in terms of factors (1) through (4) of this subsection must clearly outweigh the adverse impact of any incompatibility."

The staff report finds that the proposed addition would break up an existing farm parcel; would isolate a portion of the remaining farm parcel from other farm land; and would fail to provide any buffer between the new urban area and adjoining farm lands. The staff does not even attempt to explain how this interference is "outweighed" by approval.

We respectfully request that the Council deny that portion of the application for locational adjustment which would add 30 acres at 185th and West Union to the regional UGB.

Very truly yours,



Robert E. Stacey, Jr.
Attorney for Michael McPherson
and Gary Sundquist

cc: De Mar Batchelor
Michael McPherson
Gary Sundquist

5.1 Ordinance No. 82-149, amending the Metro Urban Growth Boundary in Washington County for Contested Case No. 81-10. (First Reading and consideration of exceptions) (Sharp Property)

Motion: Councilor Bonner moved adoption of Ordinance No. 82-149. Councilor Schedeen seconded the motion.

Councilor Bonner presented the Development Committee report and recommendation of approval.

Joe Cortright, Development Services Planner, presented the staff report, as contained in the agenda of the meeting.

Presiding Officer Banzer asked for presentations of exceptions to the staff report. There were none.

Councilor Kafoury noted that the staff report contained a letter from Washington County regarding the Bethany area and its possible removal from the Urban Growth Boundary, and asked what impact that proposal would have on the case before them.

Mr. Cortright responded that until a formal petition was received, it was the staff's view that the Bethany area was a part of the UGB and that the decision on the case before the Council should not be based on a "what if" situation, but rather on Metro's established standards.

General Counsel Jordan advised the Council that whatever was going on with the Bethany area was irrelevant to the case before the Council and should not be considered in making their decision.

The ordinance was passed to second reading on December 21, 1982.

5.2 Ordinance No. 82-148, amending the Urban Growth Boundary in Washington County for Contested Case No. 81-9. (Corner Terrace) (First Reading and consideration of exceptions)

Councilor Bonner presented the Development Committee report and remarked that the Committee had had a difficult time deciding which way to go with the case but was recommending approval.

Motion: Councilor Bonner moved adoption of Ordinance No. 82-148. Councilor Schedeen seconded the motion.

Joe Cortright, Development Services Planner, presented the staff report, as contained in the agenda.

Presiding Officer Banzer stated that two communications regarding the case had been received: Frank Buehler, Route 1, Box 1074, Hillsboro, and Robert E. Stacey, representing Michael McPherson and Gary Sundquist, 400 Dekum Building, 519 S.W. Third Avenue, Portland. (Copies of the letters are appended to the agenda of the meeting.)

Presiding Officer Banzer then asked for presentations of exceptions to the staff report.

Mr. Frank Buehler requested to be heard even though he had not established party status. General Counsel Jordan stated that it was his understanding that Mr. Buehler was out of the country when the Development Committee heard the case and that given the circumstances the Council could find that his evidence could not be presented at the original hearing and give him party status to present exceptions at this time.

Motion and Councilor Bonner moved that Mr. Buehler be allowed to
Vote: testify. Councilor Schedeen seconded the motion.

By voice vote, the motion carried unanimously.

Mr. Frank Buehler, Route 1, Box 1074, Hillsboro, presented a petition in opposition to the trade (appended to the agenda of the meeting). He stated that notification to nearby owners was not adequate and that some of the petition signers lived as close as 200 feet and had not received notification.

Councilor Bonner inquired about the notification process. General Counsel Jordan stated that notification was required only to property within 250 feet of the portion of property that was being added to the Urban Growth Boundary, and not within 250 feet of the entire parcel that was owned by the applicant. He said that was why some nearby owners did not receive notification.

Councilor Bonner requested that the notice rule be reviewed by the Development Committee at some future date.

Councilor Etlinger asked Mr. Buehler if CPO #7 had taken a position on the case. Mr. Buehler responded that the CPO had taken a neutral position.

Mr. Robert Stacey, 400 Dekum Building, 519 S.W. Third Avenue, Portland, representing Mr. Sundquist and Mr. McPherson, testified in opposition to the addition of the Corner Terrace property to the UGB. However, he said, they did not oppose the exclusion of the Malinowski property from the UGB. He said the Corner Terrace property was agricultural land and that the standard applicable to the addition of any agricultural land which is not committed to urban or rural development had not been met by the Corner Terrace property. He said the standard was clear that farmland could not be added to the UGB through a minor amendment, with or without a trade, unless the farmland was needed to solve a severe service or land use inefficiency, and that the applicant had not identified a single negative impact on service or land use efficiency, much less a severe negative impact. He said the staff report and the applicant's submittal contained no finding which addressed the standard. Mr. Stacey said the purpose of the standard was to protect agricultural land along the fringe of the UGB from conversion through a process which

was designed to correct errors or make fine tuning adjustments and was not designed to allow the gradual inclusion of agricultural land.

Councilor Bonner commented that when the Rock Creek campus was established in the area it provided a service which couldn't be overlooked. He also said there were capital improvements existing in the area.

Councilor Kafoury stated she agreed with Mr. Stacey's arguments and that the school in the area did not imply that there was pressure to develop around it. She said schools were allowed in areas zoned for exclusive farm use.

Councilor Etlinger noted that there would be no net reduction in agricultural land if the trade was approved.

Councilor Deines stated that the Development Committee had more or less given their word that they would approve the proposal if a trade was found. He went on to say that if the Council thought the standard was too stringent that maybe they ought to consider revising the ordinance to change the standard, especially if the case before them was approved.

Councilor Kirkpatrick noted for the record that the November 8th minutes of the Development Committee reflected a unanimous vote of the Committee to support the trade.

Mr. Demar Batchelor, 139 E. Lincoln, Hillsboro, representing the applicant for Corner Terrace, stated that he felt Mr. Stacey had missed the mark in some of the conclusions he submitted to the Council. He said that Mr. Stacey had said the applicant had shown no negative impact if the property was not included in the UGB. He said it was their point of view that the service areas were consciously determined by the providers and that those service areas included the subject property. For example, he said, when the Wolf Creek Water District determined what the service area would be for the water line, it included the subject property. He said the same point of view is applied to the fact that Tri-Met services the area. He said there were facilities and services in the immediate area to serve the property and that a compelling case had been made that the full utilization of services would not occur unless the property was permitted to use them. He said the proposal was supported by the Washington County Board of Commissioners, the Washington County staff, that the CPD had taken no position on the matter, and that the Metro staff and Development Committee supported it.

Councilor Kafoury asked Mr. Batchelor to identify the severe negative impacts argued in Section 8, a(4) of the ordinance establishing the standards. Mr. Batchelor stated that the argument they tried to make was that when the water line was put in, the service area, which embraced the subject property, was decided upon, and based on that service area determination an investment of public monies was made on the theory that as the service area was connected, the public monies

would be recaptured. He said if the public bodies did not recapture the money from the land which was to use the services, then the costs were shifted to a smaller area of property, which was a severe negative impact on property within the UGB. He said the same line of argument could be made with Tri-Met. He said Tri-Met was running very expensive equipment right by the property, not just to pick up the Rock Creek campus people, but in hopes of recapturing its investment in equipment by a utilized facility. He said the services and facilities were not there to encourage development but instead because a public body consciously decided what the service area would be before they made the investment.

Councilor Kafoury stated that Mr. Batchelor's argument was not in the material she had read. Mr. Batchelor responded that it was in the record and had been made during the course of the public hearings.

Councilor Williamson asked if the sewer and water lines were in place at the time the UGB was established. Mr. Batchelor responded yes.

The ordinance was then passed to second reading on December 21, 1982.

5.3 Ordinance No. 82-147, approving in part the City of Portland's petition for Locational Adjustment of Metro's Urban Growth Boundary (UGB) for the area known as Schoppe Acres. (Second Reading)

Councilor Bonner presented the Committee report.

Councilor Rhodes asked if everyone in the area agreed to be removed. Mr. Cortright responded that the City of Portland had requested removal of the property and it was his understanding that the City had contacted the property owner and had secured permission and consent to have it removed from the Urban Growth Boundary.

Vote: The vote on the motion to adopt Ordinance No. 82-147 resulted in:

Ayes: Councilors Banzer, Berkman, Bonner, Deines, Etlinger, Kafoury, Kirkpatrick, Rhodes, Schedeen, and Williamson.

Nays: None.

Abstention: None.

Absent: Councilors Burton and Oleson

Motion carried, Ordinance adopted.

D.C. office had commented it was one of the best bicycle-oriented projects they had reviewed.

Ms. Carol Jones, 2877 S.E. Sherman Street, 97214, representing the Oregon Environmental Council, testified in support of the program.

Vote: The vote on the motion to adopt Resolution No. 82-373 resulted in:

Ayes: Councilors Etlinger, Kirkpatrick, Oleson, Rhodes, Schedeen, Williamson, and Banzer.
Nays: None.
Abstention: None.
Absent: Councilors Berkman, Bonner, Burton, Deines, and Kafoury.

Motion carried, Resolution adopted.

7.1 Ordinance No. 82-149, amending the Metro Urban Growth Boundary in Washington County for Contested Case No. 81-10. (Sharp Property) (Second Reading)

The ordinance was read a second time, by title only.

Mr. Joseph Cortright, Planner, briefly reviewed the staff report, as contained in the agenda of the meeting. He said the staff recommendation was to approve the trade.

There was no Council discussion.

Vote: The vote on the previous motion to adopt the Ordinance resulted in:

Ayes: Councilors Burton, Etlinger, Kirkpatrick, Oleson, Rhodes, Schedeen, and Williamson.
Nays: None.
Abstention: None.
Absent: Councilors Berkman, Bonner, Deines, and Banzer.

Motion carried, Ordinance adopted.

7.2 Ordinance No. 82-148, amending the Urban Growth Boundary in Washington County for Contested Case No. 81-9. (Corner Terrace) (Second Reading)

The ordinance was read a second time, by title only.

Mr. Cortright presented a brief summary of the staff report, as contained in the agenda of the meeting. He stated it was the staff's recommendation that the trade be approved.

Councilor Oleson stated that the case barely seemed to meet the standards and that there were some close issues. Mr. Cortright responded that there were close issues but reiterated that the staff came down on the side of the case meeting the standards.

Councilor Rhodes stated that she intended to vote against the amendment because she felt the trade was not significant enough to alter the Urban Growth Boundary. She said she didn't mind the Malinowski property being withdrawn from the UGB but she was not in favor of adding the Corner Terrace property to the UGB.

Councilor Williamson inquired about a point raised at the last meeting regarding the sewer capacity; that it couldn't be added to and therefore it wasn't an urban service available to the Corner Terrace Property. He asked if the sewer line could be used.

Mr. Cortright responded that it was his recollection there was capacity in the line and the treatment plant but there was a question that some years down the road the Wolf Creek District would need to add to the system.

Mr. Al Benkendorf, representing the applicants in the case, stated that the Unified Sewerage Agency was in the process of constructing the Rock Creek trunk which would provide sufficient capacity to serve the Corner Terrace property.

Councilor Etlinger stated he had changed his mind since the committee meeting and was now opposed to the trade. He said he was persuaded by the testimony of the representative of the 1,000 Friends of Oregon, that he had looked at the property and talked to people, all of which convinced him that there were no negative impacts to the UGB if the property was not included.

Councilor Oleson stated he had also looked at the land and thought the area looked somewhat urban. He said the land might provide a better buffer between urban and farmland than what existed now.

Vote: The vote on the previous motion to adopt Ordinance No. 82-148 resulted in:

Ayes: Councilors Burton, Deines, Kirkpatrick, Oleson, Schedeen, Williamson, and Banzer.

Nays: Councilors Etlinger and Rhodes.

Abstention: None.

Absent: Councilors Berkman, Bonner and Kafoury.

Motion carried, Ordinance adopted.

ORDINANCE NO. 82-148

TITLE An Ordinance amending the Metro
Urban Growth Boundary in Washington
County for Contested Case No. 81-9.

DATE INTRODUCED December 2, 1982

FIRST READING December 2, 1982

SECOND READING December 21, 1982

DATE ADOPTED December 21, 1982

DATE EFFECTIVE January 20, 1983

ROLLCALL

	Yes	No	Abst.	<u>Absent</u>
Burton	x			
Oleson	x			
Williamson	x			
Berkman				x
Kirkpatrick	x			
Deines				x
Rhodes	x			
Schedeen	x			
Bonner				x
Banzer				x
Etlinger	x			
Kafoury				x



METRO

METROPOLITAN SERVICE DISTRICT
527 S.W. HALL ST., PORTLAND, OR. 97201, 503/221-1646

December 27, 1982

Rick Gustafson
EXECUTIVE OFFICER

Metro Council

Cindy Banzer
PRESIDING OFFICER
DISTRICT 9

Bob Oleson
DEPUTY PRESIDING
OFFICER
DISTRICT 1

Charlie Williamson
DISTRICT 2

Craig Berkman
DISTRICT 3

Corky Kirkpatrick
DISTRICT 4

Jack Deines
DISTRICT 5

Jane Rhodes
DISTRICT 6

Betty Schedeen
DISTRICT 7

Ernie Bonner
DISTRICT 8

Bruce Etlinger
DISTRICT 10

Marge Kafoury
DISTRICT 11

Mike Burton
DISTRICT 12

Mr. Gordon Mulleneaux
Washington County Administrator
150 North First, Room 418
Hillsboro, Oregon 97123

Dear Mr. Mulleneaux:

Enclosed are true copies of the following ordinances adopted by the Council of the Metropolitan Service District on December 21, 1982:

Ordinance No. 82-148, An Ordinance amending the Metro Urban Growth Boundary (UGB) in Washington County for Contested Case No. 81-9.

Ordinance No. 82-149, An Ordinance amending the Metro Urban Growth Boundary in Washington County for Contested Case No. 81-10.

Please file these copies in the Metro ordinance files.

Sincerely,

Everlee Flanigan
Clerk of the Council

Enclosures



METROPOLITAN SERVICE DISTRICT
527 S.W. HALL ST., PORTLAND, OR. 97201, 503/221-1646

December 27, 1982

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Bruce Etlinger
DISTRICT 10

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Mike Burton
DISTRICT 12

Mr. George Poppen
County Clerk
Clackamas County Courthouse
906 Main
Oregon City, Oregon 97045

Dear Mr. Poppen:

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Ms. Jane McGarvin
Clerk of the Board
Multnomah County Courthouse
1021 S.W. Fourth Avenue, Room 606
Portland, Oregon 97204

Dear Ms. McGarvin:

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Sincerely,

Everlee Flanigan
Clerk of the Council

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