

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING)
THE EXECUTIVE OFFICER TO)
PURCHASE THE DERBY-HEINZE)
PARTNERSHIP PROPERTY ON MT. SCOTT)
IN THE EAST BUTTES/BORING LAVA)
DOMES TARGET AREA)

RESOLUTION NO. 02-3199
Introduced by Councilor Monroe

WHEREAS, in May 1995, the Metro area voters approved the Open Spaces, Parks and Streams Bond Measure that authorized Metro to issue \$135.6 million in general obligation bonds to finance land acquisition and certain park-related capital improvements; and

WHEREAS, on July 25, 1996, via Resolution 96-2361, the Metro Council adopted a refinement plan that outlined a land protection strategy for the East Buttes/Boring Lava Domes target area; and

WHEREAS, the Tier 1B objective of the refinement plan establishes a challenge grant program to acquire strategic properties that enhance and connect existing open space in the Mt. Scott/Clatsop/Powell Buttes, Kelly Butte, Rocky Butte and Mt. Talbert areas; and

WHEREAS, Resolution No. 98-2724 amended the East Buttes/Boring Lava Domes target area refinement plan to authorize additional land acquisitions in the East Buttes target area, and increased the allocation of existing bond measure funds to the challenge grant program provided that the local jurisdiction contribute a minimum of 25% of the purchase price for an acquisition; and

WHEREAS, local jurisdictions Clackamas County, North Clackamas Park and Recreation District and City of Happy Valley have indicated their interest in assisting Metro to preserve the approximately 50-acre Derby-Heinze Partnership property located on heavily-developed Mt. Scott; and

WHEREAS, a May 1, 2002 letter from Larry Sowa, Chair of the Board of Clackamas County Commissioners indicates the immediate availability of local match, believed to be sufficient for match requirement for a Tier 1B property; and

WHEREAS, if the available local match is not sufficient to meet the minimum 25% non-Metro match for a Tier 1B property after renegotiation for purchase, the parties request that the match requirements be waived, and Metro acquire the Property as an "unusual circumstance" acquisition under the Open Spaces Work Plan; and

WHEREAS, Metro had entered into an Agreement of Purchase and Sale with the Derby-Heinze Partnership, with a Closing Date of August 3, 2001, which has since expired; and

WHEREAS, this Resolution is consistent with the requirements of Resolution 01-3106, Resolved # 1 (B)(2), requiring that acquisitions in Target Areas where minimum acreage goals have been met, such as East Buttes/Boring Lava Domes, require Council authorization;

WHEREAS, notwithstanding the criteria adopted in Resolution 01-3106, the Derby-Heinze property is a priority to the Greenspaces Acquisition Program; now, therefore,

BE IT RESOLVED,

That the Metro Council hereby authorizes the Executive Officer to negotiate for and purchase the Derby-Heinze Partnership property.

ADOPTED by the Metro Council this _____ day of _____, 2002.

Not Adopted

Carl Hosticka, Presiding Officer

Approved as to form:

Dan Cooper, General Counsel

Staff Report

CONSIDERATION OF RESOLUTION NO. 02-3199 FOR THE PURPOSE OF AUTHORIZING THE EXECUTIVE OFFICER TO PURCHASE THE DERBY-HEINZE PARTNERSHIP PROPERTY ON MT. SCOTT IN THE EAST BUTTES/BORING LAVA DOMES TARGET AREA

Date: May 16, 2002

Prepared by: Michael Morrissey

Description

Resolution No. 02-3199 requests authorization for the Executive Officer to purchase land on Mt. Scott in the East Buttes/Boring Lava Dome Target Area.

Existing Legislation

Metro Code 2.04.026 (a) (3) requires that the Executive Officer obtain the authorization of the Metro Council prior to executing any contract for the purchase of real property. The Open Spaces Implementation Work Plan, adopted by the Metro Council via Resolution 96-2424, was established to implement the Open Spaces, Parks and Streams bond measure passed by the voters of the region in 1995. The Work Plan established acquisition parameters that authorize the Executive Officer to purchase property, within the Council-approved target area refinement plan maps. Purchases that do not meet these criteria or have "unusual circumstances" (as that term is defined in the Work Plan) require specific Council approval. Via Resolution 96-2361, the Metro Council approved the East Buttes/Boring Lava Domes target area refinement plan tax-lot specific map, which includes the subject Mt. Scott property. The refinement plan was amended via Resolution 98-2724 to remove the challenge grant cap. This resolution proposes to approve an unusual circumstance purchase, waive one requirement of the refinement plan, and authorize the purchase of the subject property subject to the terms of the Purchase and Sale Agreement, executed by Metro and the landowner, subject to approval by Metro Council.

Resolution 01-3106 "For the Purpose of Modifying the Open Spaces Implementation Work Plan and Open Spaces Acquisition Regional Target Area Refinement Plans to Direct Future Acquisitions of Properties that Satisfy Specific Identified Criteria" requires that all anticipated purchases in target areas where minimum acreage goals have been met, such as East Buttes/Boring Lava Domes, require Council approval. In addition, at least one criteria from the following must be met for the property to be purchased by the Executive Officer without further council approval:

1. Must be located in existing identified gaps in public ownership in critical wildlife corridors, trails or greenways identified in the bond measure; or
2. Are adjacent to existing Metro or other public ownership or conservation group-owned properties, and are key remaining parcels necessary to accomplish the assemblage of a regional scale natural area, consistent with specific Target Area goals and objectives as set forth in existing approved Refinement Plans for that target area; or
3. Provide needed or desirable public access points to previously acquired parcels; or
4. Are properties containing no less than sixty (60) acres located inside the urban growth boundary, containing critical natural habitat features, the loss of which could negatively impact species that have been listed or are likely to be listed under the Endangered Species Act in the Metro region; or
5. Properties that will help achieve, wherever possible, the minimum acreage goals established in the bond measure for each target area; or
6. Within existing target areas and parcels that meet the objectives otherwise set forth in the resolution, particular emphasis should be given to acquisitions that would either (a) have a significant financial contribution from a local government or other outside partner or (b) complete or enhance the overall

Metro (or other public) ownership in an area recommended for potential future public access by the citizen Green Ribbon committee, currently reviewing a list of 30 Metro acquisition parcels and areas.

Background and Analysis

In May 1995, the Metro area voters approved the Open Spaces, Parks and Streams Bond Measure, which authorized Metro to issue \$135.6 million in general obligation bonds to finance land acquisition and certain park-related capital improvements.

On July 25, 1996, via Resolution 96-2361, the Metro Council adopted a refinement plan, which outlined a land protection strategy for the East Buttes/Boring Lava Domes regional target area. One objective of the plan is to “encourage participation of other governments and non-profit organizations in acquiring strategic properties that enhance and connect existing open space in the Mt. Scott, Mt. Clatsop, Powell Butte, Kelley Butte, Rocky Butte, and Mt. Talbert areas by establishing a challenge grant program.” One of the refinement plan requirements is that acquisitions on these buttes be made with a minimum 25% non-Metro match.

Mt. Scott was established as one of the “urban buttes” in the approved Tier IB acquisition area for the challenge grant program. Mt. Scott is a largely developed, but partially undeveloped-forested butte, which is prominently in view from as far away as downtown Portland, and from as close as I-205.

Mt. Scott was identified as a regionally significant natural area in the Greenspaces Master Plan, which described the area as follows:

“Outstanding view of Portland skyline. Wooded sides of volcanic butte provide wildlife habitat as well as green backdrop to east side of urban area. Significant development pressure”

Much of Mt. Scott is developed, although there are two large cemeteries on this butte. The land in question consists of approximately 50 acres and represents Phases IV and V of the Altamont development, a luxury single family “Street of Dreams” subdivision. Phases I-III of Altamont are fully developed and immediately downhill of the subject site. The subject property is the highest point on Mt. Scott and the highest point inside the UGB in the entire region. This site is the last remaining undeveloped large parcel on Mt. Scott in a natural condition.

The land is mainly forested with a mix of second growth conifer and hardwoods. It has a relatively native and healthy understory by urban standards and is not dominated by the typical invasive exotics. The site affords a spectacular view of downtown Portland, the Willamette and Columbia Rivers, Mt. St. Helens, the west hills of Portland and the Tualatin Ridge (Forest Park).

The site is large for an undeveloped site within the UGB, but it is surrounded by development and thus isolated from both a wildlife habitat and park/trail connectivity perspective.

Metro had entered into a Purchase and Sale Agreement to purchase this land from the current owner, the Derby-Heinze Partnership, a development firm. The Agreement expired in 2001 and another agreement would need to be negotiated.

Metro Council authorized the acquisition of the property in question on Mt. Scott as a Tier IB property when Council approved the East Buttes/Boring Lava Domes Target Area refinement plan.

Match money sufficient to meet the 25% required for purchase of this property was at issue in 2001, when a resolution to purchase the site was submitted by the Executive Officer, but then withdrawn. A May 1, 2001 letter from Clackamas Co. Board Chair Larry Sowa, indicates that local match funds are still available. Further communication with county staff indicates that Clackamas County is committing \$300,000 of county general fund, North Clackamas Parks and Recreation District (NCPRD) is committing \$300,000, and the City of Happy Valley is committing \$125, for a total of \$725,000, which may or may not meet match requirements, dependent upon the ultimate purchase price. Staff expects that the fair market value will be further reduced by \$125,000 contributed by the Derby-Heinze partnership. This site, if purchased by Metro, will be managed by NCPRD pursuant to an Intergovernmental Agreement.

Findings

Acquisition of the property is recommended, based on the following:

- The East Buttes/Boring Lava Domes Target Area Refinement Plan identifies Mt. Scott as a regional priority for protection through a 25% challenge grant program. The goal of the challenge grant is to promote public partnerships and leverage regional bond funds. Local jurisdictions have committed to contributing \$725,000 towards the purchase price, and the Derby-Heinze partnership has committed to contributing \$125,000 to offset the purchase price.
- Clackamas County, NCPRD, and the City of Happy Valley support this acquisition and NCPRD has indicated its willingness to manage and operate this property under the terms of an IGA.
- The remaining provisions of the East Buttes/Boring Lava Domes Target Area refinement plan shall remain unchanged, with the sole modification being the waiver of the 25% match requirement for this property, if necessary.
- The minimum acreage goal for the East Buttes target areas has been met, requiring Council approval for acquisition of this site consistent with requirements of Resolution 01-3106.

Budget Impact

Bond funds (with contributions of \$850,000 from local partners) would supply acquisition money. Based on recent briefings to the Metro Council by parks staff regarding remaining bond funds, funding of this acquisition could require the withdrawal of offers, currently extended to property owners in other target areas.

NCPRD has stated its willingness to assuming long-term management responsibilities for the property as part of an Intergovernmental Agreement to be entered into after closing.