

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

AN ORDER AND RESOLUTION OF INTENT) ORDER AND RESOLUTION NO. 82-356
TO APPROVE A PETITION BY THE CITY)
OF PORTLAND FOR A LOCATIONAL)
ADJUSTMENT TO THE URBAN GROWTH)
BOUNDARY (UGB) UPON COMPLIANCE)
WITH CONDITIONS)

WHEREAS, The City of Portland has submitted a petition (Contested Case No. 81-6) for a locational adjustment to the Urban Growth Boundary (UGB) to add the area known as Jenne Lynd Acres and to remove the area known as Schoppe Acres; and

WHEREAS, The requested trade was heard before the Metro Hearings Officer on November 23, 1981; and

WHEREAS, The requested trade was heard before the Regional Development Committee on January 19, 1982 and on February 8, 1982; and

WHEREAS, The Council heard argument on the petition on March 25, 1982 and voted to deny the petition; and

WHEREAS, The Council voted to reconsider the petition, and heard argument on the petition and voted to approve the petition with conditions on May 27, 1982; and

WHEREAS, The Council voted on September 23, 1982 to reconsider its action on the petition; and

WHEREAS, The Council has reviewed and agrees with the Findings, Conclusions and Recommendations as submitted by the Regional Development Committee; now, therefore,

BE IT RESOLVED,

1. That the Council hereby approves the petition and declares its intent to amend the UGB as indicated in Exhibits 1

and 2. Such amendment shall be by ordinance as follows:

a. For the area to be removed, the Council declares its intent to adopt an ordinance of removal.

b. For the area proposed to be added, the Council declares its intent to add to the UGB those areas that annex to a city.

2. That any UGB amendments adopted pursuant to Section 1 of this Resolution shall be by ordinance and that such ordinances shall be the Final Order in Contested Case No. 81-6 for the purposes of judicial review for the area added to the UGB by such ordinance.

3. That Resolution No. 82-335 adopted on June 3, 1982 which approved the petition with conditions is hereby rescinded and Resolution No. 82-320 is not revived.

4. That the Council accepts and adopts the Findings and Conclusions submitted by the Regional Development Committee on Contested Case No. 81-6.

5. That the Council designates as the record in this case all documents and evidence submitted before or at the May 27, Council Meeting on this matter.

ADOPTED by the Council of the Metropolitan Service District
this 4TH day of OCTOBER, 1982.



Presiding Officer

JC/srb
6727B/318

RURAL

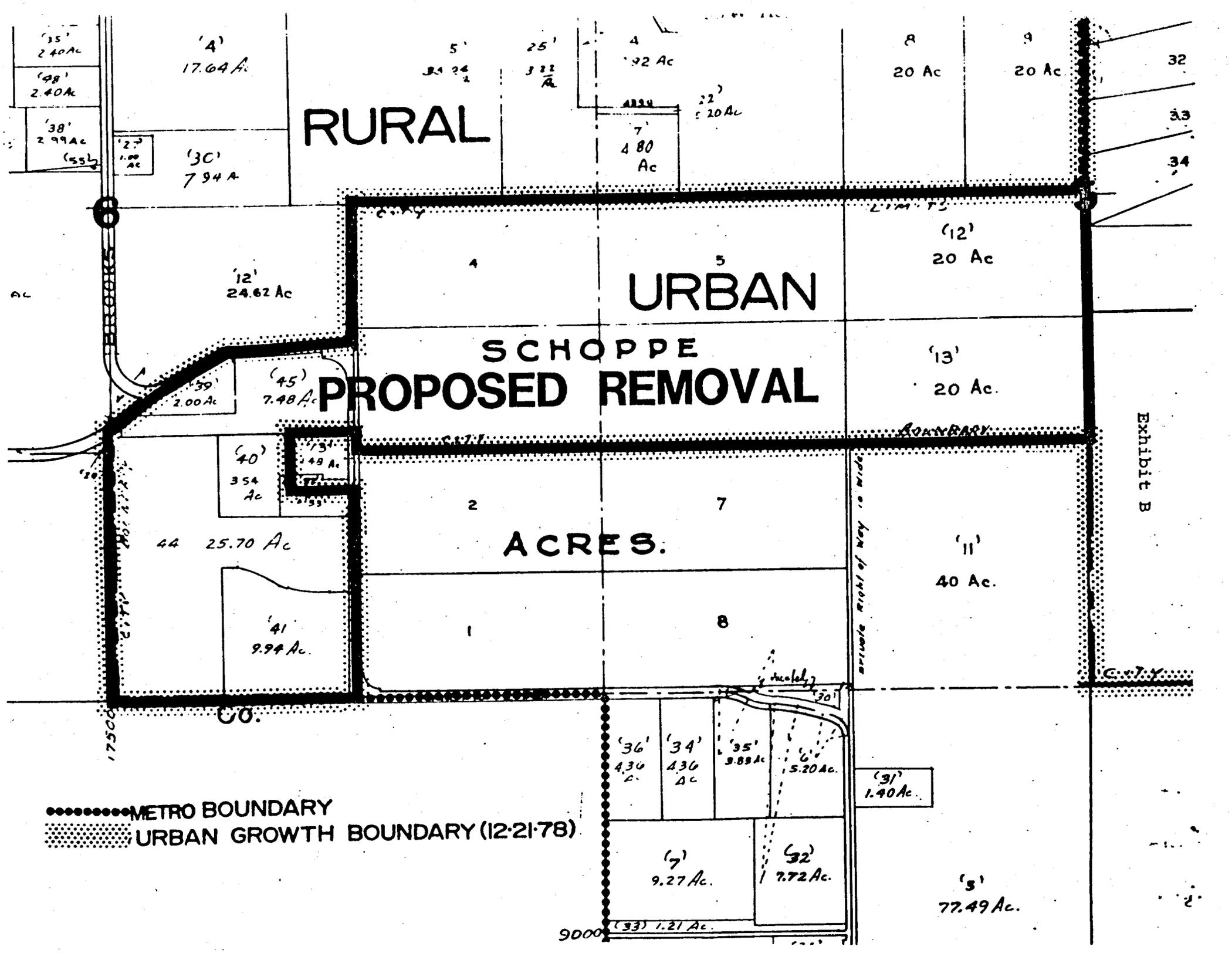
URBAN

SCHOPPE
PROPOSED REMOVAL

ACRES.

..... METRO BOUNDARY
..... URBAN GROWTH BOUNDARY (12-21-78)

Exhibit B



STAFF REPORT

Agenda Item No. 1

Meeting Date 10/4/82

CITY OF PORTLAND'S REQUEST TO AMEND THE UGB
TO ADD JENNE LYND ACRES AND TO REMOVE SCHOPPE
ACRES FROM THE UGB (CONTESTED CASE NO. 81-6)

Date: September 30, 1982

Presented by: Joseph Cortright

FACTUAL BACKGROUND AND ANALYSIS

Introduction

This report summarizes the Metro Staff Report on Contested Case No. 81-6. Staff believes that the City of Portland's proposed UGB locational adjustment meets the standards established by Metro Ordinance No. 81-105 and should be approved accordingly. The attached Resolution would add land in Jenne Lynd Acres to the UGB as it is annexed to a city.

The case is divided into two parts: the addition of Jenne Lynd Acres and the removal of Schoppe Acres.

Metro's standards require the consideration of five key urbanization factors. Those factors are: efficient service provision, land use efficiency, environmental, energy, economic and social consequences, agricultural land retention and compatibility with nearby farm use.

Schoppe Acres

There is no allegation by any of the parties that the Schoppe Acres area fails to meet the standards for removal.

Jenne Lynd Acres

- ORDERLY AND ECONOMIC PROVISION OF PUBLIC FACILITIES

Water -- 12" main in Jenne Lynd Road - adequate to serve ultimate urban development.

Sewer -- Johnson Creek Interceptor size to serve area adequate to serve ultimate urban development.

Roads -- Must be upgraded with or without amendment because of surrounding urban development. (Since hearings on this case were closed, the City of Portland has proposed and the Council

approved, addition to the TIP of a project to widen Foster Road in this area.)

Drainage facilities, schools and fire protection -- can all be provided to sites.

- MAXIMUM EFFICIENCY OF LAND USES

Surrounded by Urban Land -- Jenne Lynd Acres is surrounded by urban land on three sides.

Suburban Lotting Pattern -- Most of Jenne Lynd is subdivided. The 170 acres are divided into 70 lots with 35 owners.

Existing single family residences -- One-half of the parcels now have houses on them.

Lots of Record allow continued development -- Approximately 40 additional houses could be built on the existing lots of record in the area.

- ENVIRONMENTAL, ENERGY, ECONOMIC AND SOCIAL CONSEQUENCES

Johnson Creek -- This area is part of the Johnson Creek Basin and a portion of the area is in the 100-year floodplain.

Drainage Problems -- Metro's Johnson Creek Guidelines for Stormwater Management apply to local government development decisions in the Jenne Lynd area.

- RETENTION OF AGRICULTURAL LANDS

All of the Jenne Lynd Acres area is irrevocably committed to non-farm use by existing development.

- COMPATIBILITY WITH NEARBY FARM USE

There are no adjacent or nearby farm uses.

Staff Conclusions

- Retention of Agricultural Lands and Compatibility with Nearby Agricultural Use do not apply to this case.

- Maximum Efficiency of Land Use is clearly provided for. Removal of Schoppe Acres eliminates a finger-like extension of the UGB into rural land. Jenne Lynd is surrounded by urban land, partially developed at suburban densities, and will experience continued development whether or not it is included in the UGB. Maximum efficiency of land use can be achieved only if Schoppe Acres is excluded and Jenne Lynd is included.

THE CENTRAL ISSUES IN THIS CASE ARE AS FOLLOWS:

- ORDERLY PROVISION OF SERVICES

Sewer and Water systems have adequate capacity. Roads do not now have adequate capacity, but due to Jenne Lynd's location--surrounded by urban land--these roads will have to be improved whether or not this area is added to the UGB. The recent Foster Road TIP amendment is a good example of this. Likewise schools, storm drains and fire protection are available to the larger developing area.

Because the City of Portland is the provider of most of the key urban services to this area, annexation is closely related to meeting the requirement for orderly and economic provision of public services. Metro staff, therefore, recommends that the Council approve the petition and provide that land in Jenne Lynd Acres will be added to the UGB as portions of that area are annexed to a city. The attached resolution provided for the incremental addition of properties to the UGB as they are annexed to a city. In addition, Schoppe Acres would be removed from the Boundary.

- ENVIRONMENTAL, ENERGY, ECONOMIC AND SOCIAL CONSEQUENCES

Development of the Jenne Lynd area--more houses and streets--will increase stormwater runoff, which will ultimately flow into Johnson Creek.

Development will occur whether or not the area is added to the UGB. Development will be more intensive if the area is added, but storm drainage facilities will also be available. Metro's Johnson Creek guidelines apply to any development in this area.

Recommendation

The proposed petition meets Metro's standards for an UGB locational adjustment. The addition of Jenne Lynd acres is consistent with long-range efficiency in the provision of public facilities and services and Metro's Johnson Creek guidelines will mitigate any environmental consequences.

Staff recommends that the Council approve the petition and approve incremental additions to the UGB in the Jenne Lynd Acres area as these areas are annexed to a city. Schoppe Acres would be removed from the UGB.

EXECUTIVE OFFICER'S RECOMMENDATION

COMMITTEE CONSIDERATION AND RECOMMENDATION

The Development Committee on October 4, 1982 recommended approval of the Resolution.

JC/srb
6904B/318



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

MEMORANDUM

Date: September 28, 1982

To: Parties to Contested Case 81-6

From: Joe Cortright, Planner

Regarding: Development Committee and Council
Deliberation on Contested Case 81-6 (addition
of Jenne Lynd Acres to the Urban Growth
Boundary)

On September 23, 1982, the Metro Council voted to reconsider its action on Contested Case 81-6. This matter has been referred to the Regional Development Committee for a recommendation.

The Regional Development Committee will meet on Monday, October 4, 1982, at 5:30 p.m. in the Metro Council Chamber to discuss this case and vote on a recommendation. These committee deliberations will be based on the existing record in this case and no argument or testimony will be accepted.

Following the Regional Development Committee meeting, the full Council will meet at 7:00 p.m. to take up the Committee recommendation. Each side will be permitted 5 minutes at the Council meeting to present argument on the Committee recommendation.

JC:lz

COUNCIL

STAFF REPORT

Agenda Item No. 7.1

Meeting Date 9/23/82

CITY OF PORTLAND'S REQUEST FOR RECONSIDERATION OF
CONTESTED CASE NO. 81-6

Date: September 10, 1982

Presented by: Joseph Cortright

FACTUAL BACKGROUND AND ANALYSIS

The City of Portland has proposed an amendment to the UGB that would include an area known as Jenne Lynd Acres in the urban area and would remove Schoppe Acres. This case (Contested Case No. 81-6) has gone through Metro's Locational Adjustment process. On March 25, 1982, the Council voted to deny the petition. Upon reconsideration, the Council voted to approve the petition, with the condition that the entire area be annexed to a city within two years.

Following the Council's last action, the City of Portland forwarded an annexation proposal to the Boundary Commission for a portion of the Jenne Lynd area.

The Boundary Commission staff have reviewed the case, and have informed Metro and the City of Portland, that under state law, the Commission cannot approve this annexation, because it cannot be certain that the area so annexed will be within the UGB, and thus be eligible for urban services. The Boundary Commission staff argues that the Council's action effectively prohibits any piecemeal annexation of land in the Jenne Lynd Acres area.

The City of Portland petitions again for reconsideration of this case to ask the Council whether this was the result it intended in conditioning its approval upon the annexation of the entire area.

If the Council feels that this was the result it intended, it should vote not to reconsider. If the Council feels that this was not the intended result, and that further or different action is required, it should vote to reconsider.

EXECUTIVE OFFICER'S RECOMMENDATION

I recommend that the Council vote to reconsider. It is unclear from the Council's May 27, 1982, action whether piecemeal annexation of the Jenne Lynd Acres area should be allowable.

COMMITTEE CONSIDERATION AND RECOMMENDATION

This petition for reconsideration was submitted directly to the Council and has not been considered by any Committee.

JC/srb-6735B/318
09/10/82



CITY OF

PORTLAND, OREGON

BUREAU OF PLANNING

Mildred A. Schwab, Commissioner
Terry D. Sandblast, Director
Room 1002, 1120 S.W. Fifth Avenue
Portland, Oregon 97204-1966
(503) 796-7701

Code Administration 796-7700 Land Use 796-7700 Transportation 796-7700 Urban Design 796-7702

August 25, 1982

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

Re: Metro Resolution No. 82-335, Contested Case No. 81-6.

To the Council:

On behalf of the City of Portland, I am requesting the Metropolitan Service District to reconsider the annexation condition which accompanies the Council's decision on Portland's petition for an Urban Growth Boundary adjustment. With adoption of Resolution No. 82-335, the Metro Council declared its intent to approve Portland's petition to amend the UGB in areas known as Jenne Lynd Acres and Shoppe Acres. The accompanying annexation condition hampers that process.

Our request is based upon the impasse experienced by the Boundary Commission as it considers an annexation proposal in Jenne Lynd Acres. Those problems are described in the attached August 18 memo to the Metro Council from Ken Martin, Executive Officer of the Boundary Commission. The City of Portland requests a reconsideration of the annexation condition because it is unworkable and invites legal challenges. Furthermore, it prematurely imposes annexation upon a diverse area.

By way of background, in July 1981, the Portland City Council approved annexation of 80% of the Jenne Lynd Acres area when Council adopted a resolution petitioning Metro for a UGB change. In an attempt to comply with Metro's condition, City Council approved a revised annexation proposal July 15, 1982. That proposal is now before the Boundary Commission.

The annexation condition on Jenne Lynd Acres interferes with the statutory responsibility of the Boundary Commission to regulate the phasing of annexation and the delivery of urban services, and to comply with standards prescribed by State law. If exceptions are made by the Boundary Commission because of the unique circumstances, and the annexation is approved, additional legal and practical questions will then be raised with land use actions taken by the City. Thus, both the Boundary Commission and the City of Portland risk legal challenge for any action taken on land annexed to the City while outside the UGB.

Metropolitan Service District

August 25, 1982
Page 2

In order to comply with the Boundary Commission deadline for making a decision, we further request that the Metro Council consider this matter before the Boundary Commission October 7th hearing on the annexation proposal..

Sincerely,



Terry P. Sandblast
Director of Planning

TDS:rs
Attc.

RECEIVED

AUG 25 1982

Prop # 1864

City of Portland
Bureau of Planning

PORTLAND METROPOLITAN AREA LOCAL GOVERNMENT BOUNDARY COMMISSION

320 S.W. STARK STREET (SUITE 530)

PORTLAND, OREGON 97204

PHONE: 229-5307

August 18, 1982

To: Metro Council

From: Ken Martin, Executive Officer *KJM*

Subject: Jenne Lynd Acres - Problem for Boundary Commission. Caused by Metro Decision on Urban Growth Boundary Change
(Ref: City of Portland - Annexation - Proposal No. 1864)

Background

On June 3, 1982, the Metro Council passed a "Resolution of Intent" regarding a proposed Urban Growth Boundary Change for the Jenne Lynd Acres area in southeast Multnomah County. The resolution states that the area will be designated Urban only when the entirety of the area is annexed to the City of Portland and provided this happens within two years.

The City of Portland in response to petitioning property owners in this area and in its attempt to meet the above condition, has brought before the Boundary Commission a proposed annexation of a portion of the area considered in the Metro Urban Growth Boundary Change (See Fig. 1). The Boundary Commission must by statute make a decision on this proposal within 90 days of its receipt--which is October 17, 1982. Since the Commission's only scheduled hearing in October is October 7, this latter date is for practical purposes the one by which the Commission must make a decision.

The Problem

The condition imposed by Metro--annexation within two years--does not fit well with existing law on annexations. In fact it places the Boundary Commission in an untenable position. The condition is almost impossible to meet for two reasons:

Reason No. 1. Annexation law dictates that successful annexation is dependent on consents to annex from property owners. Since, as the Metro Council is well aware from its hearings, there is considerable vehement opposition to annexation in Jenne Lynd Acres, the timing of annexation of the entire area is impossible to predict. Given the opposition and the dependence on consent, it is safe to say that annexation of the entire area would take more than 2 years.

STAFF:

KENNETH S. MARTIN, Executive Officer
DENIECE WON, Executive Assistant
CAROL LUMB, Executive Assistant
JEAN KRETZER, Administrative Assistant

COMMISSIONERS:

GENE GINTHER, Chairman
CAROL STEELE, Vice-Chairman
WAYNE ATTEBERRY
PAMELA BAKER
CAROL KIRCHNER

ANNE NICKEL
KATHY SCOTT
BARBARA TREYVE
BOB WEIL
BOB WIGGIN
MARIE WILLIAMS

Reason No. 2. Even if the necessity of majority property owner consent to annexation could be circumvented by annexing consenting properties around the edge and islanding the non-consenting owners, many variables suggest this maneuver would be unsuccessful or would take considerably longer than the two years. Among the significant unknowns if such a tack were taken, are the willingness of either the Portland City Council or the Boundary Commission to go along with such an unpopular method for annexing the entire area.

The Metro condition does not allow any of the property to be designated Urban and allowed to develop with urban services, until all of the area is annexed. Since all of the property may not be annexed for some time, as noted above, it could be years before urban services to facilitate development would be allowed into the area. But the Boundary Commission's statutory requirements for approval of annexations conflicts directly with this.

The statutory responsibility of the Boundary Commission is to assure that an adequate quantity and quality of public services are available upon annexation. Obviously the Commission cannot make such an assurance when the condition imposed by Metro effectively prohibits any urban level development for an unknown and probably lengthy period of time.

The Solution

The solution to the problem is to simplify the decision made by the Council to a simple "Yes" or "No" on the Urban Growth Boundary Change. A variation on this, assuming generally that a Yes answer is favored, would be to apply the Urban designation to the area as the property is annexed--thus allowing urban services to be extended into the area incrementally. Either a straight Yes or No, or, a Yes with the suggested incremental application of the Urban designation, would resolve the Boundary Commission's dilemma.

Without a change in the current Metro resolution, the Boundary Commission is in essence denied the ability to fulfill its statutory obligation. The Commission would likely be forced to deny-without-prejudice city annexation proposals which may in the long term have a great deal of merit.

Additional Information

A review of the Metro record on this very controversial proposal indicates some Council concern over issues which relate to the Boundary Commission. A comment or two on these issues may be helpful.

The record indicates much concern about the ultimate annexation to the city and the city's ability to provide urban services. It should be noted that these concerns are the primary responsibilities of the Boundary Commission. The Commission's reason for existence is to make final decisions on annexations to cities from a regional perspective. The major criterion in the Commission's process is a review of the adequacy of the services. This includes such things as making sure the city has in place protective policies relating to such things as slide hazards and floodplain. Actual implementation of these policies is of course properly done by the city as a part of the development process.

Metro Council
August 18, 1982
Page 3

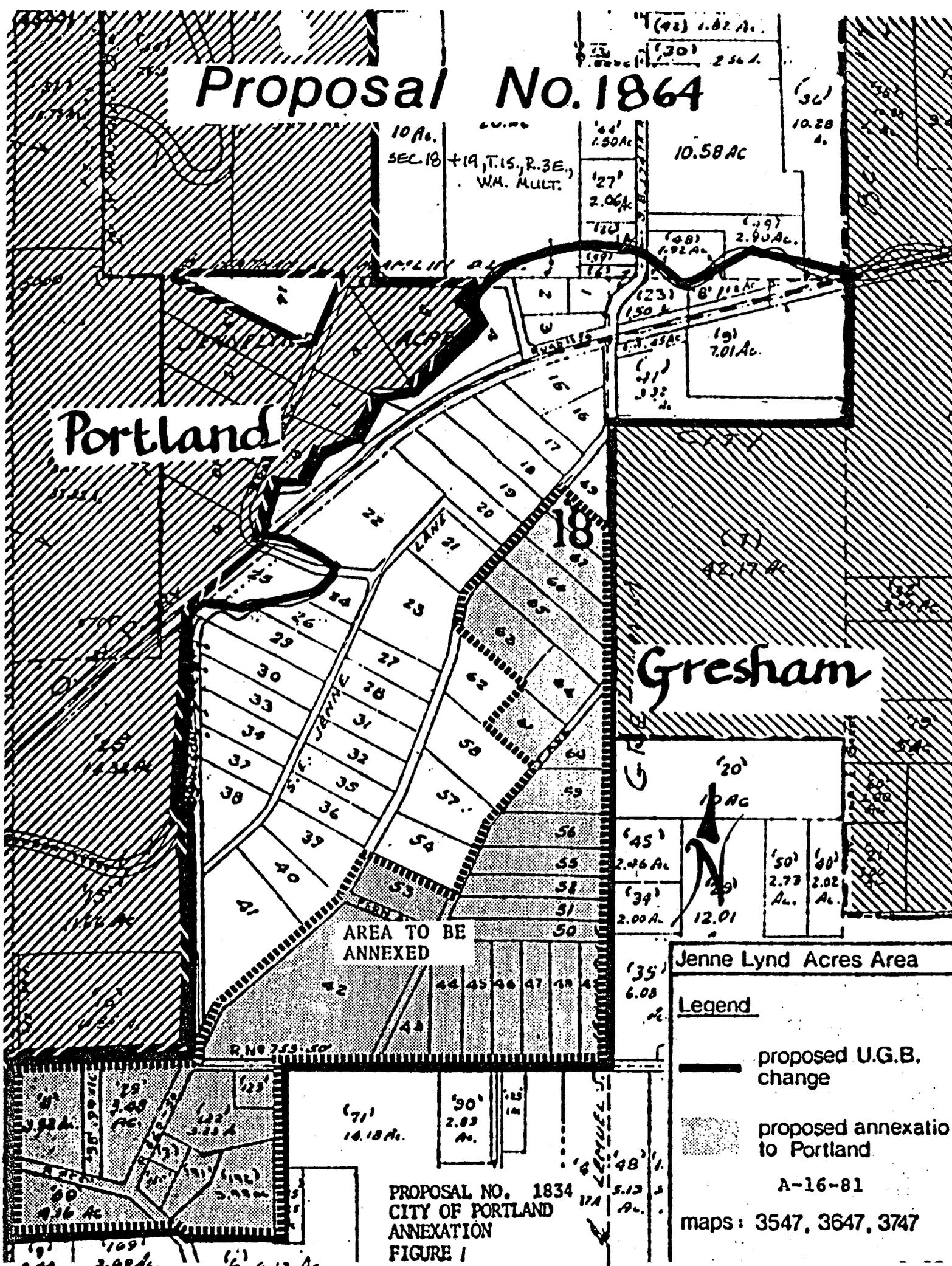
Realizing that some of the Metro Council may not be aware of the responsibilities and processes of the Boundary Commission, I am enclosing several copies of an information booklet. You might want particularly to glance at the sections of our law on pp. 11 (199.410--dealing with statutory responsibilities), 16 (199.461--describing our process), and 17 (199.462--relating to our standards). Also of interest will be the review of why Boundary Commissions were formed, and current operations, found on pp. 3 - 8.

Timing

As noted earlier, the Boundary Commission must make a decision on the annexation proposal currently in front of them on October 7. It is at this point unclear exactly what procedure the Metro Council would follow in order to address the concerns raised in this memo. Hopefully, reconsideration of your Resolution of Intent would be the appropriate course to follow since this would appear to minimize the time needed to react--while still allowing your actions to remain fully and appropriately public.

KSM/jk
Enc.
cc: BC Members

Proposal No. 1864



Portland

Gresham

AREA TO BE ANNEXED

Jenne Lynd Acres Area

Legend

— proposed U.G.B. change

▨ proposed annexation to Portland

A-16-81

maps: 3547, 3647, 3747

PROPOSAL NO. 1834
CITY OF PORTLAND
ANNEXATION
FIGURE 1

19' 2.00
169' 3.00 Ac.
(6) 6.12 Ac.

(35) 6.08

(45) 2.46 Ac.
(34) 2.00 Ac.

(20) 10 AC

(50) 2.73 Ac.
(60) 2.02 Ac.

(23) 1.50
(19) 7.01 Ac.

(27) 2.06 Ac.

(42) 1.02 Ac.
(30) 2.56 Ac.

10 Ac.
SEC 18 + 19, T.15, R.3E.,
WM. MULT.

10.58 AC

10.28

APRIL 22

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COUNCIL

STAFF REPORT

Agenda Item No. 7.1

Meeting Date 9/23/82

COUNCIL ACTION UPON RECONSIDERATION OF CONTESTED CASE
NO. 81-6 (IF RECONSIDERED)

Date: September 10, 1982

Presented by: Joesph Cortright

FACTUAL BACKGROUND AND ANALYSIS

If the Council votes to reconsider Contested Case No. 81-6, the staff has developed four options for the final disposition of this case. The Council can approve the petition, deny the petition, approve "piecemeal" annexations within the Jenne Lynd area and authorize concurrent UGB amendments, or approve the petition with the condition that the entire area be annexed to a city (reaffirming its original action).

It is recommended that Contested Case No. 81-6 not be referred to the Regional Development Committee. Recently, the Council adopted Ordinance No. 82-137, excluding committees from the quasi-judicial process; hearings are now held before the Hearings Officer and final argument is held before the Council under that ordinance. In addition, the matter before the Council is reconsideration, and not rehearing; there is no new evidence to be presented.

Option 1: Approve Without Condition

Approving the petition would put the Jenne Lynd Acres area in the UGB and remove Schoppe Acres. This action would neither require nor hinder the annexation of any property in the Jenne Lynd area to any city. Final Council action would have to be in the form of an ordinance amending the Boundary.

Option 2: Deny

Denying the petition would leave Jenne Lynd Acres outside the Boundary and would leave Schoppe Acres inside the Boundary. This action would preclude the annexation of any property in Jenne Lynd Acres to any city. Final Council action would be in the form of a resolution denying the petition.

Option 3: Approve Incremental Additions

Approving the petition and allowing annexation of the Jenne Lynd Acres area would allow individual properties to be annexed to a city over time. This could produce a pattern of alternating parcels of rural and urban land or result in a "hole" of rural land

surrounded by the UGB. Final Council action would be a series of ordinances amending the UGB as annexations took place. The Council would also have to remove all or portions of Schoppe Acres from the UGB as these annexations occurred.

Option 4: Approve Only on Annexation of the Entire Area

Approving the petition only if the entire area is annexed to a city prohibits any piecemeal annexation under State annexation law. The entire area would have to be annexed simultaneously in order for the UGB amendment to be approved. Final Council action would be in the form of an ordinance amending the UGB, after annexation occurred.

EXECUTIVE OFFICER'S RECOMMENDATION

Not having heard the argument by both sides on these four alternatives, the Executive Officer makes no recommendation at this time.

COMMITTEE CONSIDERATION AND RECOMMENDATION

The Regional Development Committee voted in February for the fourth option, approval upon annexation of the entire area. The Council subsequently affirmed that action on May 27, 1982.

JC/gl
6734B/318
09/16/82



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

MEMORANDUM

Date: September 1, 1982
To: Interested Parties
From: Joseph Cortright, Planner
Regarding: Reconsideration of Contested Case 81-6,
Jenne Lynd Acres

The Metro Council has received a petition from the City of Portland requesting that the Council reconsider its action on the Jenne Lynd Acres Urban Growth Boundary (UGB) amendment for the purpose of clarifying the conditions under which land may be annexed to cities and added to the UGB. This matter will be taken up at the September 23 Council meeting.

The Council action will be divided into two parts. First, the Council will decide whether to reconsider its action. Parties to the case may present argument on whether the Council's action should be reconsidered. Argument will be limited to 10 minutes, to be divided equally between proponents and opponents.

Second, if the Council does vote to reconsider, the parties will be allowed to present argument on what action the Council should take. Argument will be limited to 20 minutes, evenly divided. The Council may sustain its original action or take some other action.

JC:lz