

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF GRANTING AN)	RESOLUTION NO. 04-3458A
EASEMENT TO THE CITY OF CORNELIUS)	
FOR NON-PARK USE THROUGH METRO)	
OPEN SPACE PROPERTY LOCATED AT THE)	Introduced by Chief Operating Officer
INTERSECTION OF NORTH 29 TH AVENUE)	Michael J. Jordan with the concurrence of
AND HOBBS ROAD)	Council President David Bragdon

WHEREAS, Metro owns Open Space property spanning Council Creek in the City of Cornelius, Washington County, on North 29th Avenue; and

WHEREAS, the City of Cornelius is requesting a permanent right-of-way easement and a temporary construction easement over the Metro parcel to widen North 29th Avenue, and add a bike lane, storm water drainage and a fire hydrant, as depicted in Exhibit A attached hereto (the "Easement"); and

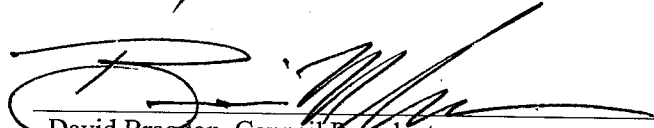
WHEREAS, Metro Council wishes to waive the requirement that the City of Cornelius pay fair market value for the Easement and Metro's expenses to process the Easement request, in return for construction by the City of Cornelius of an access driveway, apron, and curb cut to provide maintenance access to Metro Open Space that is currently inaccessible; and

WHEREAS, Resolution No. 97-2539B "For the Purpose of Approving General Policies Related to the Review of Easements, Right-of-Ways and Leases for Non-Park Uses Through Properties Managed by the Regional Parks and Greenspaces Department," adopted November 6, 1997, requires review of all easement requests by the full Metro Council; and

WHEREAS, the Metro Parks Department has determined that this easement request has met the criteria in Resolution 97-2539B, as identified in Exhibit B, and can be accommodated with minimal impact to natural resources, recreational resources, recreational facilities, recreational opportunities or operation and management; now therefore

BE IT RESOLVED that the Metro Council authorizes the Chief Operating Officer to grant a permanent easement and a temporary construction easement to the City of Cornelius, for road widening, slope support, storm drainage and a fire hydrant; as depicted in Exhibit A, said components to be designed in accord with Metro's "Green Streets: Innovative Solutions to Stormwater and Stream Crossings," as shall be further set forth in an instrument approved by the Office of Metro Attorney.

ADOPTED by the Metro Council this 27th day of May, 2004.


David Bragdon, Council President

APPROVED AS TO FORM:


Daniel B. Cooper, Metro Attorney

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF GRANTING AN)	RESOLUTION NO. 04-3458
EASEMENT TO THE CITY OF CORNELIUS)	
FOR NON-PARK USE THROUGH METRO)	
OPEN SPACE PROPERTY LOCATED AT THE)	Introduced by Chief Operating Officer
INTERSECTION OF NORTH 29 TH AVENUE)	Michael J. Jordan with the concurrence of
AND HOBBS ROAD)	Council President David Bragdon

WHEREAS, Metro owns Open Space property spanning Council Creek in the City of Cornelius, Washington County, on North 29th Avenue; and

WHEREAS, the City of Cornelius is requesting a permanent right-of-way easement and a temporary construction easement over the Metro parcel to widen North 29th Avenue, and add a bike lane, storm water drainage and a fire hydrant, as depicted in Exhibit A attached hereto (the "Easement"); and

WHEREAS, the City of Cornelius has requested that the Metro Council waive the requirement that it pay fair market value for the Easement and Metro's expenses to process the Easement request, instead offering to build Metro an access driveway and put in a curb cut to provide maintenance access to the Metro Open Space that is currently inaccessible; and

WHEREAS, Resolution No. 97-2539B "For the Purpose of Approving General Policies Related to the Review of Easements, Right-of-Ways and Leases for Non-Park Uses Through Properties Managed by the Regional Parks and Greenspaces Department," adopted November 6, 1997, requires review of all easement requests by the full Metro Council; and

WHEREAS, the Metro Parks Department has determined that this easement request has met the criteria in Resolution 97-2539B, as identified in Exhibit B, and can be accommodated with minimal impact to natural resources, recreational resources, recreational facilities, recreational opportunities or operation and management; now therefore

BE IT RESOLVED that the Metro Council authorizes the Chief Operating Officer to grant permanent easement, and a temporary construction easement to the City of Cornelius, for road widening, slope support, storm drainage and a fire hydrant, as depicted in Exhibit A, and as shall be further set forth in an instrument approved by the Office of Metro Attorney.

ADOPTED by the Metro Council this _____ day of _____, 2004.

David Bragdon, Council President

APPROVED AS TO FORM:

Daniel B. Cooper, Metro Attorney

N 29th Avenue -Cornelius
Project No. 1753-01(A)
Metro-East Dedication/Easement
April 20, 2004

RECEIVED

APR 21 2004

CORNELIUS
PUBLIC WORKS DEPARTMENT

PROPERTY DESCRIPTION

A 10.00 foot wide strip of land situated in the southeast one-quarter of Section 34, Township 1 North, Range 3 West of the Willamette Meridian, in the City of Cornelius, Washington County, Oregon, being a portion of that tract of land conveyed to Metro by deed document Fee No. 2001099586, Washington County Deed Records, and being more particularly described as follows:

Beginning at the southwest corner of said Metro tract, said corner being on the easterly right of way line of N 29th Avenue (County Road No. 485), a 40.00 foot wide right of way;

Thence, along said easterly right of way line, North 00°30'29" East, 457.98 feet to the southerly line of that tract of land conveyed to Bartoo, et ux., by deed document Fee No. 2000073894;

Thence, along said southerly line, South 88°58'11" East, 10.00 feet to a point 30.00 feet easterly of the centerline of said N 29th Avenue (when measured at right angles);

Thence South 00°30'29" West, parallel with said easterly right of way line, 457.97 feet to the southerly line of said Metro tract;

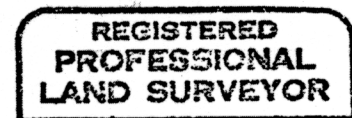
Thence, along last said southerly line; North 89°02'05" West, 10.00 feet to the True Point of Beginning.

Together with an 8.00 foot wide easement for public utilities lying easterly of and adjacent to the above described 10.00 foot wide strip.

Together with a 20.00 foot wide permanent easement for slope, and temporary easement for construction, lying easterly of and adjacent to the above described 10.00 foot wide strip.

Containing 4,580 square feet of dedication and 9,159 square feet of easement.

Bearings Based on Survey No. 28,237, Washington County Survey Records.



John P. Tacchini



RECEIVED: 6/30/04

Westlake
consultants inc

N 29th Avenue - Cornelius
Project No. 1753-01(A)
Metro-East Dedication
April 30, 2004

BARTOO, ET UX.
DEED FEE NO. 2000073894

METRO
DEED FEE NO. 2001095204

EXISTING
BRIDGE

20.0'

20' SLOPE
EASEMENT

8' PUE

30.0'

S89°29'31"E
10.00'

N00°30'29"E
92.81'

S00°30'29"W
90.23'

POINT OF BEGINNING

N70°14'07"W
2.50'

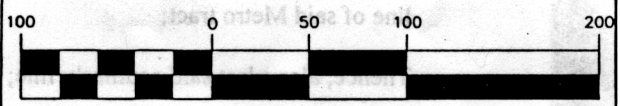
S66°30'21"W
8.37'

GOUGH, ET UX.
DEED FEE NO. 2002054889

N 29TH AVENUE (C.R. 485)



GRAPHIC SCALE



(IN FEET)
1 IN = 100FT

METRO
DEED FEE NO. 2001099586

20.0'

N. 29TH AVENUE
RIGHT-OF-WAY DEDICATION
SE 1/4 SEC 34, T1N, R3W, WM
CITY OF CORNELIUS,
WASHINGTON COUNTY, OREGON

DATE	20APR04
DRAWN BY	TGB
CHECKED BY	JPT
REVISIONS	
JOB NO.	1753-01

WESTLAKE
CONSULTANTS INC.

ENGINEERING ♦ SURVEYING ♦ PLANNING

PACIFIC CORPORATE CENTER
15115 S.W. SEQUOIA PARKWAY, SUITE 150 (503) 684-0652
TIGARD, OREGON 97224 FAX (503) 624-0157

175301X1.DWG

2004

CORNELIUS
PUBLIC WORKS DEPARTMENT

N 29th Avenue-Cornelius
Project No. 1753-01(A)
Metro-West Dedication/Easement
April 20, 2004

PROPERTY DESCRIPTION

A 10.00 foot wide strip of land situated in the southeast one-quarter of Section 34, Township 1 North, Range 3 West of the Willamette Meridian, in the City of Cornelius, Washington County, Oregon, being a portion of that tract of land conveyed to Metro by deed document Fee No. 2001095204, Washington County Deed Records, and being more particularly described as follows:

Beginning at the southeast corner of said Metro tract, said corner being on the westerly right of way line of N 29th Avenue (County Road No. 485), a 40.00 foot wide right of way;

Thence, along the southerly line of said Metro tract, South 66°30'21" West, 8.37 feet to an angle point in said southerly line;

Thence, continuing along said southerly line, North 70°14'07" West, 2.50 feet to a point 30.00 feet westerly of the centerline of said N 29th Avenue (when measured at right angles);

Thence North 00°30'29" East, parallel with said westerly right of way line, 92.81 feet;

Thence, South 89°29'31" East, 10.00 feet to said westerly right of way line of N 29th Avenue;

Thence, along said westerly right of way line, South 00°30'29" West, 90.23 feet to the True Point of Beginning.

Together with an 8.00 foot wide easement for public utilities lying westerly of and adjacent to the above described 10.00 foot wide strip.

Together with a 20.00 foot wide permanent easement for slope, and temporary easement for construction, lying westerly of and adjacent to the above described 10.00 foot wide strip.

Containing 922 square feet of dedication and 1,786 square feet of easement.

Bearings Based on Survey No. 28,237, Washington County Survey Records.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

John P. Tacchini

OREGON
JOHN P. TACCHINI
JAN. 15, 1987
2267

RECALL: 6/30/04

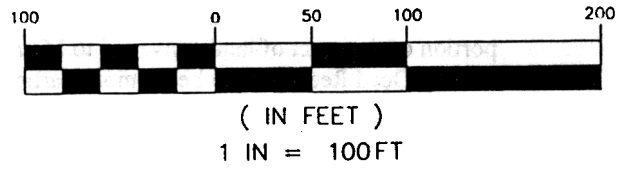
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 CORNELIUS
 PUBLIC WORKS DEPARTMENT

METRO
 DEED FEE NO. 2001095204

BARTOO, ET UX.
 DEED FEE NO. 2000073894



GRAPHIC SCALE



20.0'

EXISTING
 BRIDGE

N 29TH AVENUE (C.R. 485)

GOUGH, ET UX.
 DEED FEE NO. 2002054889

N00°30'29"E 457.98'

S00°30'29"W 457.97'

S88°58'11"E
 10.00'

METRO
 DEED FEE NO. 2001099586

20' SLOPE EASEMENT
 8' PUE

30.0'
 20.0'
 N89°02'05"W
 10.00'

POINT OF BEGINNING



N. 29TH AVENUE
 RIGHT-OF-WAY DEDICATION
 SE 1/4 SEC 34, T1N, R3W, WM
 CITY OF CORNELIUS,
 WASHINGTON COUNTY, OREGON

DATE	19APR04
DRAWN BY	TGB
CHECKED BY	JPT
REVISIONS	
JOB NO.	1753-01

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175301X1.DWG

EXHIBIT B
Resolution 04-3458

Metro Easement Policy Criteria and Staff Findings

- 1) Provide for formal review of all proposed easements, rights of ways, and leases for non-park uses by the Regional Parks and Greenspaces Advisory Committee, the Regional Facilities Committee and the full Council. Notwithstanding satisfaction of the criteria set forth herein, the final determination of whether to approve a proposed easement, right of way, or lease is still subject to the review and approval by the full Metro Council.**

Staff Finding: The City of Cornelius has forwarded a formal easement application and request to the Regional Parks staff. The full Metro Council may hear the request if the staff forwards it on or if the City of Cornelius chooses to take it before the Council on its own.

- 2) Prohibit the development of utilities, transportation projects and other non-park uses within corridors or on sites which are located inside of Metro-owned or managed regional parks, natural areas, and recreational facilities except as provided herein.**

Staff Finding: The applicant proposes to widen the road by extending each single vehicle lane, installing curb/gutter, storm drainage, and water line along N. 29th Avenue (Hobbs Road) adjacent to and on Metro-owned open space property. This transportation project ends prior to the northwest end of Metro property known as the Seus property. Beyond the terminus of the proposed project is an old, narrow bridge incompatible with the collector road standards. Beyond the bridge lay rural lands zoned EFU. A sidewalk originally proposed within the ROW was eliminated at this time since its purpose was not clear: (1) there is no parks or trail plan identifying the need or appropriateness for this sidewalk and (2) the sidewalk would lead to a dead end at a very narrow bridge leading to EFU land.

- 3) Reject proposals for utility easements, transportation right of ways and leases for non-park uses which would result in significant, unavoidable impacts to natural resources, cultural resources, recreational facilities, recreational opportunities or their operation and management.**

Staff Finding: Development proposed within the easement area includes 20 feet for road surface width increase and slope cuts to accommodate the road improvement. An additional 10 feet right-of-way is needed for streetlight, a fire hydrant, a driveway approach and two storm water catchment basins. The exact location of each improvement will be determined as development occurs. The development could potentially impact natural resource values along Council Creek due to increased storm water contribution unless storm water is detained and treated.

- 4) Accommodate utility easements, transportation right of ways or other non-park uses when the Regional Parks and Greenspaces Department (the Department) determines that a proposed easement, right of way, or non-park use can be accommodated without significant impact to natural resources, cultural resources, recreational facilities, recreational opportunities or their operation and management; and that the impacts can be minimized and mitigated.**

Staff Finding: Metro is not seeking to change, alter or develop this property at this time. Without a master plan for the site, the current landscape is protected for natural resource values. At this time, no sidewalk will be constructed within the ROW. This easement

application includes a requirement that City of Cornelius construct a driveway/curb cut that provides access to Metro property directly from 29th Street that currently is not available, thereby, providing benefit for park purposes.

- 5) **Require full mitigation and related maintenance, as determined by the Department, of all unavoidable impacts to natural resources, recreational facilities, recreational opportunities or their operation and management associated with the granting of easements, right of ways, or leases to use Metro owned or managed regional parks, natural areas or recreational facilities for non-park uses.**

Staff Finding: All site disturbance resulting from construction of road improvements will be restored by City of Cornelius upon completion of construction to conditions equal to or better than prior to construction.

- 6) **Limit rights conveyed by easements, right of ways, and leases for non-park uses to the minimum necessary to accomplish the objectives of any proposal.**

Staff Finding: The dimensions of the easement request is the minimum needed to allow improvement of 29th Street to collector street standards. The improvements will make the field area inaccessible for maintenance equipment, unless access is provided with a driveway/curb cut at a point where the road grade and adjacent Metro land grade meet.

- 7) **Limit the term of easements, right of ways and leases to the minimum necessary to accomplish the objectives of any proposal.**

Staff Finding: The permanent easement has limited negative impact to the natural resources of the property. The long-term impact to Council Creek depends on adequate control and treatment of storm water generated by the increased road improvements and use.

- 8) **Require reversion, non-transferable, and removal and restoration clauses in all easements, rights of ways, and leases.**

Staff Finding: All easements include these terms.

- 9) **Fully recover all direct costs (including staff time) associated with processing, reviewing, analyzing, negotiating, approving, conveying, or assuring compliance with the terms of any easement, right of way, or lease for non-park use.**

Staff Finding: The City of Cornelius is asking that Metro dedicate the permanent easement without payment, as they would be paying for the transportation project. This does not fall within the easement policy.

- 10) **Receive no less than fair market value compensation for all easements, right of ways, or leases for non-park uses. Compensation may include, at the discretion of the Department, periodic fees or considerations other than money.**

Staff Finding: The City of Cornelius is asking to donate the property without payment to Metro in return for providing driveway/curb cut to the Metro property. The land value of the undeveloped Metro property was appraised at \$2.66/sq ft. The appraised land value of the

easement area (1,786 sq. ft.) plus the dedicated right-of-way (922 sq. ft.) is \$7,203. The value of a driveway/curb construction including permits is approximately \$2,300.

- 11) Require full indemnification from the easement, right of way or leaseholder for all costs, damages, expenses, fines, or losses related to the use of the easement, right of way, or lease. Metro may also require insurance coverage and/or environmental assurances if deemed necessary by the Office of General Counsel.**

Staff Finding: The easement would include indemnification and insurance provisions.

- 12) Limit the exceptions to this policy to: grave sales, utilities or transportation projects which are included in approved master/management plans for Metro regional parks, natural areas and recreational facilities; projects designed specifically for the benefit of a Metro regional park, natural area, or recreational facility; or interim use leases as noted in the Open Spaces Implementation Work Plan.**

Staff Finding: Since no master/management plan exists for the site, the proposed road improvement has no clear benefits to parks and open spaces. The proposed development within the easement area will result in better access to Metro property when a driveway/curb cut is included.

- 13) Provide for the timely review and analysis of proposals for non-park uses by adhering to the following process:**

A. The applicant shall submit a detailed proposal to the Department which includes all relevant information including but not limited to: purpose, size, components, location, existing conditions, proposed project schedule and phasing, and an analysis of other alternatives which avoid the Metro owned or managed regional park, natural area or recreational facility which are considered infeasible by the applicant. Cost alone shall not constitute unfeasibility.

Staff Finding: Applicant has given no alternative information.

B. Upon receipt of the detailed proposal, the Department shall determine if additional information or a Master Plan is required prior to further review and analysis of the proposal. For those facilities, which have master plans, require that all proposed uses are consistent with the master plan. Where no master plan exists all proposed uses shall be consistent with the Greenspaces Master Plan. Deficiencies shall be conveyed to the applicant for correction.

Staff Finding: No additional information is needed.

C. Upon determination that the necessary information is complete, the Department shall review and analyze all available and relevant material and determine if alternative alignments or sites located outside of the Metro-owned or managed regional park, natural area, or recreational facility are feasible.

Staff Finding: No alternative for alignment outside this area was proposed.

D. If outside alternatives are not feasible, the Department shall determine if the proposal can be accommodated without significant impact to park resources, facilities or their operation and management. Proposals, which cannot be accommodated without significant impact,

shall be rejected. If the Department determines that a proposal could be accommodated without significant impacts, staff shall initiate negotiations with the applicant to resolve all issues related to exact location, legal requirements, terms of the agreement, mitigation requirements, fair market value, site restoration, cultural resources, and any other issue relevant to a specific proposal or park, natural area or recreational facility. The Department shall endeavor to complete negotiations in a timely and business-like fashion.

Staff Finding: The current easement request is an alternative to an early proposal that included a planting strip and sidewalk. Metro staff feel this original easement would have negative impacts to natural resources due to lack of master planning for the area and no continuation of bike and foot path.

- E. Upon completion of negotiations, the proposed agreement, in the appropriate format, shall be forwarded for review and approval. In no event shall construction of a project commence prior to formal approval of a proposal.**

Staff Finding: Construction is contingent upon approval.

- F. Upon completion of all Metro tasks and responsibilities or at intervals determined by the Department, and regardless of Metro Council action related to a proposed easement, right of way, or lease for a non-park use, the applicant shall be invoiced for all expenses or the outstanding balance on expenses incurred by Metro.**

Staff Finding: Metro costs have been documented, but the City of Cornelius is asking for the easement costs to be dropped as they are paying for the transportation project.

- G. Permission from Metro for an easement or right-of-way shall not preclude review under applicable federal, state, or local jurisdiction requirements.**

Staff Finding: Criterion satisfied.

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 04-3458, FOR THE PURPOSE OF GRANTING AN EASEMENT TO THE CITY OF CORNELIUS FOR NON-PARK USE THROUGH METRO OPEN SPACE PROPERTY LOCATED AT THE INTERSECTION OF NORTH 29TH AVENUE AND HOBBS ROAD

Date: May 13, 2004

Prepared by: Laurie Wulf

BACKGROUND

Metro Regional Parks and Greenspaces Department occasionally receives requests for easements, leases and right-of-ways through property that has been acquired through Regional Parks and Greenspaces properties. These requests are reviewed and analyzed per the guidance and policy established via Resolution 97-2539B, "For the Purpose of Approving General Policies Related to the Review of Easements, Right-of-Ways, and Leases for Non-Park Uses Through Properties Managed by Regional Parks and Greenspaces Department," adopted by Council on November 6, 1997 (the "Easement Policy").

Metro has received and reviewed an easement application from the City of Cornelius that meets the criteria set forth in the Metro Policy regarding easements, right-of-ways and leases for non-park uses. The City of Cornelius is seeking to widen North 29th Avenue and requests an assembly of easements over Metro Open Space to provide for the proposed components, including: a 10-foot wide easement for road widening and bike paths, an additional 8-foot wide easement for storm drainage and a fire hydrant, a 20-foot wide slope easement and a temporary construction easement on Metro-owned property, as depicted in Exhibit A, attached hereto. The proposed easement is for the purpose of widening the current road to include 12-foot wide vehicle travel lanes, and 6-foot wide bike paths. Staff has determined that the improvements will have no negative impact on Metro-owned property.

ANALYSIS/INFORMATION

1. **Known Opposition:** No known opposition.
2. **Legal Antecedents:** Resolution No. 97-2539B, "For the Purpose of Approving General Policies Related to the Review of Easements, Right-of-Ways, and Leases for Non-Park Uses Through Properties Managed by Regional Parks and Greenspaces Department, adopted November 6, 1997.
3. **Anticipated Effects:** Easement will result in the widening of the existing public road through Metro Open Space and the installation of storm drain and a fire hydrant.
4. **Budget Impacts:** The City of Cornelius requests that the Metro Council waive the Easement Policy requirement that the applicant pay fair market value for the Easement and pay Metro staff costs to process the Easement request. In return, the City of Cornelius proposes to provide a curb cut and build a driveway for accessing Metro's natural area on the east side of North 29th Avenue for maintenance purposes.

RECOMMENDED ACTION

Chief Operating Officer Michael J. Jordan, with the concurrence of David Bragdon, Council President, recommends adoption of Resolution No. 04-3458.