

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

GREENSPACES WILLING SELLER) RESOLUTION NO. 92-1673D
POLICY AT SUNSET LIGHT RAIL)
TRANSIT STATION) Introduced by Rena Cusma,
Executive Officer

WHEREAS, The Council of the Metropolitan Service District unanimously adopted the Greenspaces Master Plan by Resolution No. 92-1637 on July 23, 1992; and

WHEREAS, The Greenspaces Master Plan describes a desired regionwide system of ecologically significant natural areas recommended for protection, management, and interconnection by greenways and trails to be accomplished through a variety of strategies; and

WHEREAS, The Metro Council unanimously adopted Resolution No. 92-1639A referring to the voters a \$200 million general obligation bond measure to enable protection through purchase of more than 7,000 acres of identified significant natural areas; and

WHEREAS, Master Plan Policy 1.20 states that Metro will negotiate any acquisition of natural areas primarily with willing sellers, using eminent domain only in extraordinary circumstances; and

WHEREAS, The Peterkorts requested both removal from the Master Plan of the 150-acre potential protected area entitled "Cedar Mill" and elimination of any use of eminent domain by the program; and

WHEREAS, Neighbors in the Cedar Mill area have indicated a strong interest in a Natural Area Park that would include a wooded portion of the Peterkort property and they have supported the retention of the Cedar Mill natural area in the Master Plan; and

WHEREAS, The Metro Council adopted the Greenspaces Master Plan with the Cedar Mill area retained as a significant natural area for potential purchase from a willing seller; and

WHEREAS, The voters overwhelmingly approved \$125 million in bonds for the local match on the \$900 million Westside Light Rail Transit (LRT) Project; and

WHEREAS, Much of that portion of the Peterkort property containing upland forest resources is within the half-mile Station Area Planning area around the Sunset LRT Station; and

WHEREAS, An interim overlay zone developed with Metro and Tri-

Met assistance which would include new land use regulations to assure transit-supportive development near the Sunset LRT Station is under consideration; and

WHEREAS, The Sunset LRT Station for construction on land adjacent to the Peterkort property is being designed for construction within the next several years; and

WHEREAS, The acknowledged Washington County comprehensive plan currently designates the Peterkort property an "Area of Special Concern" and requires the following protection for forested areas on the Peterkort property:

1. Requirement that the riparian areas along Johnson Creek be retained in their natural condition.
2. Requirement of a Master Plan and planned development procedures with public notice, hearing, and appeal procedures.
3. Requirement of landscape plans in Master Plan process that retain all trees and wooded areas possible.
4. Requirement for a development permit for any tree removal.
5. Requirement of additional open space allocations to obtain density bonuses in a clustered development; and

WHEREAS, Peterkort Co. has appealed the Metro Council resolutions relating to Greenspaces to the Land Use Board of Appeals (LUBA) contesting the extent of their impact on development of the Peterkort property; and

WHEREAS, The Peterkorts have agreed to dismiss these appeals upon assurance that Metro recognizes the need to avoid eminent domain until transit station development and initial development of transit-supportive uses adjacent to the transit station allows coordinated application of Greenspaces and LRT Station Area Planning policies at this location; and

WHEREAS, RUGGO Objective 16 states Metro's policy to seek opportunities for continued development of land within the UGB to ensure the prospect of living, working, and doing business on existing urban land, especially in nodes of relatively high density that are supportive of non-auto based transportation modes; and

WHEREAS, Compliance with Oregon's Transportation Rule requires local governments to reevaluate comprehensive plans to reduce auto-dependent development; now therefore

BE IT RESOLVED,

1. That the Council of the Metropolitan Service District recognizes the need to maximize the public's investment in light

rail transit by assuring transit-supportive development of the areas around the Sunset LRT Station and all westside stations; and

2. That coordination of the Greenspaces Master Plan willing seller policy with the extraordinary circumstances of Sunset LRT Station construction and regulation is achieved by no exercise of Metro powers of eminent domain to acquire Peterkort property in the vicinity of the Sunset LRT Station for a period of two years following the opening of Westside LRT; and

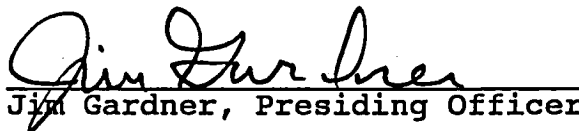
3. That Metro will pursue further analysis towards willing seller acquisition of land or conservation easements and other protection of Goal 5 resource lands in the Cedar Mill area as provided for in Washington County comprehensive plan and in the Metro Greenspaces Master Plan in the Cedar Mill area; and

4. That, consistent with the Greenspaces Master Plan objectives of Greenspace protection and the objectives of the Regional Transportation Plan, Metro will monitor and become a party in all planning activities and proposed development actions on the Peterkort property in the vicinity of the Sunset LRT Station; and

5. That Metro will continue to implement the Greenspaces Master Plan including the Cedar Mill area, by a integrated, cooperative, public process addressing the interests of the property owners, including the Peterkorts, LRT Station Area Planning, and coordination with surrounding neighbors and other interested parties; and

6. That Metro will participate in review of zoning for the area north of U.S. Highway 26 surrounding the Sunset LRT Station as part of LRT Station Area Planning to seek opportunities for intensification of market driven transit supportive, such as mixed use development, uses in the area immediately surrounding the station south of Johnson Creek.

ADOPTED by the Council of the Metropolitan Service District
this 22nd day of December, 1992.


Jim Gardner, Presiding Officer

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

GREENSPACES WILLING SELLER) RESOLUTION NO. 92-1673D
POLICY AT SUNSET LIGHT RAIL)
TRANSIT STATION) Introduced by Rena Cusma,
Executive Officer

WHEREAS, The Council of the Metropolitan Service District unanimously adopted the Greenspaces Master Plan by Resolution No. 92-1637 on July 23, 1992; and

WHEREAS, The Greenspaces Master Plan describes a desired regionwide system of ecologically significant natural areas recommended for protection, management, and interconnection by greenways and trails to be accomplished through a variety of strategies; and

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WHEREAS, Master Plan Policy 1.20 states that Metro will negotiate any acquisition of natural areas primarily with willing sellers, using eminent domain only in extraordinary circumstances; and

WHEREAS, The Peterkorts requested both removal from the Master Plan of the 150-acre potential protected area entitled "Cedar Mill" and elimination of any use of eminent domain by the program; and

WHEREAS, Neighbors in the Cedar Mill area have indicated a strong interest in a Natural Area Park that would include a wooded portion of the Peterkort property and they have supported the retention of the Cedar Mill natural area in the Master Plan; and

WHEREAS, The Metro Council adopted the Greenspaces Master Plan with the Cedar Mill area retained as a significant natural area for potential purchase from a willing seller; and

WHEREAS, The voters overwhelmingly approved \$125 million in bonds for the local match on the \$900 million Westside Light Rail Transit (LRT) Project; and

WHEREAS, Much of that portion of the Peterkort property containing upland forest resources is within the half-mile Station Area Planning area around the Sunset LRT Station; and

WHEREAS, An interim overlay zone developed with Metro and Tri-

Met assistance which would include new land use regulations to assure transit-supportive development near the Sunset LRT Station is under consideration; and

WHEREAS, The Sunset LRT Station for construction on land adjacent to the Peterkort property is being designed for construction within the next several years; and

WHEREAS, The acknowledged Washington County comprehensive plan currently designates the Peterkort property an "Area of Special Concern" and requires the following protection for forested areas on the Peterkort property:

1. Requirement that the riparian areas along Johnson Creek be retained in their natural condition.
2. Requirement of a Master Plan and planned development procedures with public notice, hearing, and appeal procedures.
3. Requirement of landscape plans in Master Plan process that retain all trees and wooded areas possible.
4. Requirement for a development permit for any tree removal.
5. Requirement of additional open space allocations to obtain density bonuses in a clustered development; and

WHEREAS, Peterkort Co. has appealed the Metro Council resolutions relating to Greenspaces to the Land Use Board of Appeals (LUBA) contesting the extent of their impact on development of the Peterkort property; and

WHEREAS, The Peterkorts have agreed to dismiss these appeals upon assurance that Metro recognizes the need to avoid eminent domain until transit station development and initial development of transit-supportive uses adjacent to the transit station allows coordinated application of Greenspaces and LRT Station Area Planning policies at this location; and

WHEREAS, RUGGO Objective 16 states Metro's policy to seek opportunities for continued development of land within the UGB to ensure the prospect of living, working, and doing business on existing urban land, especially in nodes of relatively high density that are supportive of non-auto based transportation modes; and

WHEREAS, Compliance with Oregon's Transportation Rule requires local governments to reevaluate comprehensive plans to reduce auto-dependent development; now therefore

BE IT RESOLVED,

1. That the Council of the Metropolitan Service District recognizes the need to maximize the public's investment in light

rail transit by assuring transit-supportive development of the areas around the Sunset LRT Station and all westside stations; and

2. That coordination of the Greenspaces Master Plan willing seller policy with the extraordinary circumstances of Sunset LRT Station construction and regulation is achieved by no exercise of Metro powers of eminent domain to acquire Peterkort property in the vicinity of the Sunset LRT Station for a period of two years following the opening of Westside LRT; and

3. That Metro will pursue further analysis towards willing seller acquisition of land or conservation easements and other protection of Goal 5 resource lands in the Cedar Mill area as provided for in Washington County comprehensive plan and in the Metro Greenspaces Master Plan in the Cedar Mill area; and

4. That, consistent with the Greenspaces Master Plan objectives of Greenspace protection and the objectives of the Regional Transportation Plan, Metro will monitor and become a party in all planning activities and proposed development actions on the Peterkort property in the vicinity of the Sunset LRT Station; and

5. That Metro will continue to implement the Greenspaces Master Plan including the Cedar Mill area, by a integrated, cooperative, public process addressing the interests of the property owners, including the Peterkorts, LRT Station Area Planning, and coordination with surrounding neighbors and other interested parties; and

6. That Metro will participate in review of zoning for the area north of U.S. Highway 26 surrounding the Sunset LRT Station as part of LRT Station Area Planning to seek opportunities for intensification of [~~mixed~~] market driven transit supportive, such as mixed use development, uses in the area immediately surrounding the station south of Johnson Creek.

ADOPTED by the Council of the Metropolitan Service District this _____ day of _____, 1992.

Jim Gardner, Presiding Officer



METRO

2000 S.W. First Avenue
Portland, OR 97201-5398
503/221-1646

Memorandum

DATE: December 7, 1992

TO: Transportation and Planning Committee Members
Interested Parties

FROM: Gail Ryder, Council Analyst

RE: Resolution 92-1673B

BACKGROUND: Resolution 92-1673A was, on November 24th, returned by Council to the Transportation and Planning Committee for further review. The attached committee report, dated October 29, 1992, details the history of this measure to that date. As of the October 27 meeting of the Transportation and Planning Committee, both the Peterkort family and the "Friends" groups were in agreement about the resolution; albeit reluctant agreement on the part of the Friends of Cedar Springs due to the recent road construction in the area.

At the November 24 Council meeting, representatives of the Friends of Cedar Springs testified before the Council and requested an amendment to the resolution that effectively placed an additional moratorium on development for the area during the time in question. This was met with surprise by the representative from the Peterkort family and members of the committee. The Council, after lengthy discussion, chose to return the resolution to the committee for further review.

Communications with Tim Ramis, representing the Peterkort family, following the November 24 Council meeting, indicated his inclination toward allowing no further changes to be included in Resolution 92-1673A.

Since that time, Councilor Devlin and Larry Shaw, Office of General Counsel, met with the "Friends" groups to discuss the resolution. Representatives for the Peterkort family were not present. Mr. Shaw submitted the language in Alternative A (enclosed) which satisfied one of the concerns of the group. Their remaining concerns continued to be centered on placing a moratorium on development. Mr. Shaw's legal opinion to the group was that it was not within Metro's power, within this resolution, to grant this authority, and it is generally inconsistent with Metro's policies regarding development for this area.

At the conclusion of the meeting, the "Friends" group representatives agreed to present Alternative A to their respective groups prior to the December 14 meeting. Mr. Shaw agreed to send

a copy to Mr. Ramis. Councilor Devlin asked that the Alternative A be prepared as an amendment for committee consideration (see Resolution 92-1673B). Efforts to resolve the conflict between the two groups will continue between today's date and the committee meeting.

enclosures:

Resolution 92-1673A

Transportation and Planning Committee Report, October 29, 1992

Alternative A, prepared by Larry Shaw, Senior Asst. Counsel

Resolution 92-1673B

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

GREENSPACES WILLING SELLER) RESOLUTION NO. 92-1673B
POLICY AT SUNSET LIGHT RAIL)
TRANSIT STATION) Introduced by Rena Cusma,
Executive Officer

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WHEREAS, Peterkort Co. has appealed the Metro Council resolutions relating to Greenspaces to the Land Use Board of Appeals (LUBA) contesting the extent of their impact on development of the Peterkort property; and

WHEREAS, The Peterkorts have agreed to dismiss these appeals upon assurance that Metro recognizes the need to avoid eminent domain until transit station development and initial development of transit-supportive uses adjacent to the transit station allows coordinated application of Greenspaces and LRT Station Area Planning policies at this location; and [~~new, therefore~~]

WHEREAS, RUGGO Objective 16 states Metro's policy to seek opportunities for continued development of land within the UGB to ensure the prospect of living, working, and doing business on existing urban land, especially in nodes of relatively high density that are supportive of non-auto based transportation modes; and

WHEREAS, Compliance with Oregon's Transportation Rule requires local governments to reevaluate comprehensive plans to reduce auto-dependent development; now therefore

BE IT RESOLVED,

1. That the Council of the Metropolitan Service District recognizes the need to maximize the public's investment in light rail transit by assuring transit-supportive development of the areas around the Sunset LRT Station and all westside stations; and

~~[IT IS FURTHER RESOLVED]~~

2. That coordination of the Greenspaces Master Plan willing seller policy with the extraordinary circumstances of Sunset LRT Station construction and regulation is achieved by no exercise of Metro powers of eminent domain to acquire Peterkort property in the vicinity of the Sunset LRT Station for a period of two years following the opening of Westside LRT; and

~~[IT IS FURTHER RESOLVED]~~

3. That Metro will pursue further analysis towards willing seller acquisition of land or conservation easements and other protection of Goal 5 resource lands in the Cedar Mill area as provided for in Washington County comprehensive plan and in the Metro Greenspaces Master Plan in the Cedar Mill area; and

~~[IT IS FURTHER RESOLVED]~~

4. That, consistent with the Greenspaces Master Plan objectives of Greenspace protection and the objectives of the Regional Transportation Plan, Metro will monitor and become a party in all planning and proposed development actions on the Peterkort property in the vicinity of the Sunset LRT Station; and

~~[IT IS FURTHER RESOLVED]~~

5. That Metro will continue to implement the Greenspaces Master Plan including the Cedar Mill area, by a integrated, cooperative, public process addressing the interests of the property owners, including the Peterkorts, LRT Station Area Planning, and coordination with surrounding neighbors and other interested parties[-] ; and

6. That Metro will participate in review of zoning for the area north of U.S. Highway 26 surrounding the Sunset LRT Station as part of LRT Station Area Planning to seek opportunities for intensification of mixed uses in the area immediately surrounding the station south of Johnson Creek.

ADOPTED by the Council of the Metropolitan Service District
this _____ day of _____, 1992.

Jim Gardner, Presiding Officer



METRO

2000 S.W. First Avenue
Portland, OR 97201-5398
503/221-1646

Memorandum

Date: December 4, 1992

To: Councilor Richard Devlin

From: Larry Shaw, Senior Assistant Counsel *LSL/dv*

Regarding: GREENSPACES RESOLUTION NO. 92-1673A
Our file: 7.§1.2

Attached is the possible addition to the December 14, 1992, Transportation and Planning Committee meeting packet we discussed from the meeting with the Friends group.

dr
1508

Attachment

Alternative A: Add the following:

"WHEREAS, RUGGO Objective 16 states Metro's policy to seek opportunities for continued development of land within the UGB to ensure the prospect of living, working, and doing business on existing urban land, especially in nodes of relatively high density that are supportive of non-auto based transportation modes; and

"WHEREAS, Compliance with Oregon's Transportation Rule requires local governments to reevaluate comprehensive plans to reduce auto-dependent development;

"IT IS FURTHER RESOLVED,

That Metro will participate in review of zoning for the area north of U.S. Highway 26 surrounding the Sunset LRT Station as part of LRT Station Area Planning to seek opportunities for intensification of mixed uses in the area immediately surrounding the station south of Johnson Creek."

TRANSPORTATION AND PLANNING COMMITTEE REPORT

CONSIDERATION OF RESOLUTION NO. 92-1673A, APPLYING THE GREENSPACE PROGRAM WILLING SELLER POLICY AT SUNSET LIGHT RAIL STATION

Date: December 18, 1992

Presented by: Councilor Moore

Committee Recommendation: At the December 14 meeting, the Transportation and Planning Committee voted unanimously to recommend Council adoption of Resolution No. 92-1673D. Voting in favor: Councilors McLain, Bauer, Buchanan, and Washington. Excused: Councilor Devlin.

Committee Issues/Discussion: Larry Shaw, Senior Assistant Counsel, appeared before the committee to explain the various amendments that have been suggested to Resolution 92-1673A since the November 24 Council meeting. For previous background see December 7, 1992 memorandum to Transportation and Planning Committee from Gail Ryder and October 29, 1992 committee report. The new amendments include:

1) Staff amendments, drafted by Larry Shaw (see "B" version of resolution): Add two "Whereas" sections to reference the Regional Urban Growth Goals and Objectives (RUGGO) Objective 16 and compliance with Oregon's Transportation Rule. The sections are suggested to restate Metro's existing policies as they apply to this particular property. Another amendment adds an additional resolve that more specifically deals with Metro's role within the new community planning being developed within the half-mile radius of the LRT Station. In their entirety, the amendments are intended to emphasize Metro's responsibilities under RUGGO Objective 16 to participate and seek opportunities for intensification of uses.

2) Tim Ramis amendment (see "C" version of resolution): New Within 6. Resolve. "...to seek opportunities for intensification of [mixed] market driven transit supportive uses in the area immediately surrounding the station south of Johnson Creek."

3) Councilor Moore amendment (see "C" version of resolution): Within 4. Resolve. "...Metro will monitor and become a party in all planning activities and proposed development actions, including administrative actions, on the Peterkort property...". She explained her concern to be a reaction to the Washington County practice to allow development actions to take place without public review. The amendment is to assure Metro's role as a player within decisions by including "administrative actions" and all planning "activities".

Mr. Shaw explained that the "Friends" groups he dealt with were now supportive of #1) and that staff had no problem with either amendments #2) or #3). In response to questions, he clarified the

meaning of "mixed-use" and "market driven" and discussed the current status of the Washington County ordinance and Metro's involvement in that process. The ordinance is still under discussion by the Washington County Planning Commission and Board of Commissioners. It will be scheduled again in March.

Public Testimony: Tim Ramis, representing the Peterkort family testified in general opposition to any amendments to the "A" version of the resolution, which was before Council on November 24, 1992. He was willing to re-negotiate if 1) the party with which he was negotiating was Metro; and 2) further negotiations are based on existing law and did not attempt to micro-manage future land use decisions. In response to the amendments suggested above, he strongly objected to inclusion of both "Whereas" sections and the new "Resolve". He believes references to RUGGO are inappropriate regarding this particular site and that the Transportation rule has been mischaracterized. The new "Resolve", he believes, already picks one outcome. He also questioned Metro "being a party". He said receiving notice is one level, actually becoming a party may not be appropriate. He suggested additional language to Councilor Moore's amendment by adding "to the extent permitted by local code".

Ramis also had comments regarding the slides presented at the last meeting and before the Council. He said the testimony explaining the slide would lead to the erroneous conclusion that the trees being cut down were on Peterkort property, that the pond in questions was also on their property, and that the family had not been good stewards of the land in the past. He said the slide do not justify any changes in the basic agreement and that a "moratorium", as was suggested as the Council meeting, was a violation of the agreement.

Mike Houck, Audubon Society, testified in support of continued cooperative efforts between all parties. He expressed concerns that any Master Plan should look at the entire water shed which he related to current problems in West Eugene.

Troy Horton and Charlotte Corkran, Friends of Cedar Springs, testified in support of the "B" and "C" version of the resolution. Ms. Corkran clarified her comments during the slide show before the committee and the Council saying that the Peterkorts had been excellent stewards of the land. In response to references to the agreement, she said the agreement was twelve years old and that she hoped that there was room for flexibility to deal with changes happening since the agreement was signed.

Mr. Horton reported on Ordinances 419, 420, and 421, which are being appealed to the Land Use Board of Appeals (LUBA). He voiced additional concerns about a Washington County Resolution, introduced by Bonnie Hayes, calling for citizen involvement, which is largely being ignored.

Following committee discussion, the committee approved the "C"

version of the resolution with the following amendments:

1) In Resolve #6. "...to seek opportunities for intensification of [mixed] market driven transit supportive uses, such as mixed use development, in the area..."

2) In Resolve #4. Councilor Moore withdrew her second suggestion and the committee approved, after "planning" adding "activities".

TRANSPORTATION AND PLANNING COMMITTEE REPORT

CONSIDERATION OF RESOLUTION NO. 92-1673, APPLYING THE GREENSPACE PROGRAM WILLING SELLER POLICY AT SUNSET LIGHT RAIL STATION

Date: October 29, 1992

Presented by: Councilor Devlin

Committee Recommendation: At the October 27 meeting, the Transportation and Planning Committee voted unanimously to recommend Council adoption of Resolution No. 92-1673. Voting in favor: Councilors Devlin, McLain, Moore, and Washington. Excused: Councilor Buchanan.

Committee Issues/Discussion: Andy Cotugno, Planning Director, presented the staff report. The resolution under consideration provides the basis for settlement of three currently pending cases before the Land Use Board of Appeals (LUBA). The suits are between Metro and the Peterkort family who owns property at the interchange between Highway 217 and the Sunset Highway. There are several competing Metro interests represented at this particular site. These include: 1) the Metro Greenspaces Program designation of this property as a high quality natural area; 2) a transportation interest because of the intent for light rail and highway construction on or around the site; and 3) land use interests relative to the Regional Urban Growth Goals and Objectives (RUGGO). Further complicating the issue is the policy, within the Greenspaces Master Plan, to acquire property for Greenspaces from "willing sellers" while maintaining the rights of "eminent domain" where necessary. The Peterkort family has brought suit with LUBA because of the "eminent domain" clause.

This resolution is an attempt to clarify Metro's intent regarding eminent domain and this particular property. The resolution provides that Metro will only seek to purchase portions of the property or acquire conservation easements from "willing sellers" only and will not use the power of eminent domain until two years after the Westside Light Rail has been completed. During the intervening period of time, further work will be necessary to reconcile competing Metro interests (i.e. what is the balance between development interests and Greenspaces interests). The intent is also for active participation by Metro in the development process, which is currently controlled by Washington County's plan, to protect out interests. Active participation means seeking notification of all proceedings, providing testimony, intervening or becoming a party in those cases if necessary.

Larry Shaw, Legal Counsel, explained several of the other issues further complicating this issue. In addition to planning efforts now underway for design of the transit station, and the construction of a Barnes Road extension, there is also a new road being constructed connecting 112th to Barnes Road. This connecting road has been very controversial during the past year. During the

last week, the Peterkort's began construction of the road under authority of a Facilities Permit. The area in question is on their property, within 800 feet of the north property line. Washington County plans to complete the connection with 112th following selection of the appropriate alignment. The reason for construction at this time is economics. The contractor for the Barnes Road project was available at the same unit price to complete the 112th project, thereby justifying the earlier start date because of the savings of mobilization costs. Tri-Met also wants the road completed now as part of the development needed for construction of the Westside Light Rail. Mr. Shaw has reviewed the documentation, but has not received confirmation from the Department of State Lands or the Corp of Engineers that authority over the wetlands portion of the site.

Public Testimony: Charlotte Corkran, Patricia Miller and Troy Horton, representing the Friends of Cedar Springs, testified expressing their concern about the current 112th Avenue road project. They support the resolution but with serious reservations. Ms. Corkran expressed concern about the impact of the road project on the adjacent wetland and stated her desire for Metro to have a much larger role in the complete planning effort. Ms. Miller said this is "not a micro road issue, but a macro Greenspaces issue". She is concerned about the ultimate alignment of 112th and the 800 foot variance now under consideration by Washington County that could seriously damage or completely destroy the pond and a large stand of 100 year old cedar trees. She said there is no public process. She was also concerned about the meaning of "good faith". Mr. Horton explained that his group was willing to "jeopardize our own dream" by supporting this resolution. He supports the resolution, though, because it will remove the Peterkort's fear about condemnation and make it possible for them to sit down and discuss the situation with the Friends groups.

Councilor Consideration: Councilor questions centered on the following:

- 1) What is financially at stake for the Peterkort family? How far are they willing to go to protect their interests?
- 2) Is the Peterkort family operating in "good faith"?
- 3) Was the 112th alignment the choice of the Peterkort's or was it the result of a planning process? How much say did the family have over design of the road?
- 4) Why is the road project happening now, rather than later? Who is paying for it?
- 5) What land use approvals have been gained?
- 6) Is the road public?
- 7) What was the nature of the agreement made by the Peterkort family with local jurisdictions?

Jim Coleman, Ramis, O'Donnell, appeared to answer questions on behalf of Tim Ramis. He explained that the 112th project was part of the land use planning process in which the Peterkort's have

expended over \$2 million over a several year period. The design was approved by Washington County, with the blessing of Tri-Met to coincide with the light rail transit (LRT) station planning. The road is part of the Regional Transportation Plan and the Washington County Comprehensive Plan. This portion of the road is being paid for by the Peterkort family as part of a package of agreements in exchange for which they get desired zoning for the area to be developed around the LRT Station. It is a public road which, following the decision for alignment may be connected with 112th by Washington County. It is being developed now because it is more economically feasible than later. The Barnes Road extension is a public project that is adjacent.

Larry Shaw explained that the history of the site involves a complicated and all-inclusive plan amendment connecting all issues, of which 112th is only one. To be allowed re-zoning, the Peterkort's were required to: 1) dedicate Barnes Road; 2) build 112th on their property; and 3) sell 6.4 acres to Tri-Met, which resulted in their additional donation of 3 more acres. What they received was re-zoning of all property south of the creek to "office/commercial" with a master plan overlay.

Andy Cotugno explained that in addition to the Comprehensive Plan permanent designation, there was also a Master Plan approval for a portion of the property, that is a five year action that has since lapsed. Both actions were taken in 1982. There will need to be a new Master Plan at some point in time. Overlapping that, there is intent to do station-area planning around all Westside LRT Stations which may or may not lead to changes in Comprehensive Plan designations. This review will take several years and will examine actual land use designations for possible change. Additionally, Washington County has undertaken an interim action to deal with disallowed and allowed land uses, certain set-back requirements, and parking orientation requirements to be in place in the interim period of time. That action was tabled until next March. Finally there is the Greenspaces Plan, which also designates some of the same area. This designation is non-specific at this time, until a complete evaluation of all properties is undertaken following passage of the ballot measure.

Councilor McLain expressed concern regarding the potential of the Peterkort's to start new lawsuits, even if they have agreed to settle the three now pending. Councilor Van Bergen asked about whether other parties could bring suit even if the Peterkort's cannot. The question was answered that the Peterkort's are the only "party" in the suits and the 21 day period of filing has passed so there are no other "parties".

Councilor Moore felt that Metro is being held hostage by an outdated Washington County Comprehensive Plan. Her support of the resolution hinged on reinforcing Metro's role in the process. She suggested strengthening the final "resolve" in the resolution. She also had questions regarding several of the "whereas" sections, specifically the last.

Work Session: Following discussion of exact wording, the committee approved amending the resolution by deleting the final "whereas" section and further amending as follows:

"IT IS FURTHER RESOLVED, that, consistent with the Greenspaces Master Plan objectives of Greenspace protection and the objectives of the Regional Transportation Plan, Metro will monitor and become a party in [~~public hearings on development proposals~~] all planning and proposed development actions on the Peterkort property in the vicinity of the Sunset LRT Station; and"

Councilor Devlin providing additional testimony as a result of several phone calls and clarified that passage of this resolution is contingent on "good faith". If there is an abuse of the process, by any participant, then the issue or eminent domain can and will be reopened.

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

GREENSPACES WILLING SELLER) RESOLUTION NO. 92-1673A
POLICY AT SUNSET LIGHT RAIL)
TRANSIT STATION) Introduced by Rena Cusma,
Executive Officer

WHEREAS, The Council of the Metropolitan Service District unanimously adopted the Greenspaces Master Plan by Resolution No. 92-1637 on July 23, 1992; and

WHEREAS, The Greenspaces Master Plan describes a desired regionwide system of ecologically significant natural areas recommended for protection, management, and interconnection by greenways and trails to be accomplished through a variety of strategies; and

WHEREAS, The Metro Council unanimously adopted Resolution No. 92-1639A referring to the voters a \$200 million general obligation bond measure to enable protection through purchase of more than 7,000 acres of identified significant natural areas; and

WHEREAS, Master Plan Policy 1.20 states that Metro will negotiate any acquisition of natural areas primarily with willing sellers, using eminent domain only in extraordinary circumstances; and

WHEREAS, The Peterkorts requested both removal from the Master Plan of the 150-acre potential protected area entitled "Cedar Mill" and elimination of any use of eminent domain by the program; and

WHEREAS, Neighbors in the Cedar Mill area have indicated a strong interest in a Natural Area Park that would include a wooded portion of the Peterkort property and they have supported the retention of the Cedar Mill natural area in the Master Plan; and

WHEREAS, The Metro Council adopted the Greenspaces Master Plan with the Cedar Mill area retained as a significant natural area for potential purchase from a willing seller; and

WHEREAS, The voters overwhelmingly approved \$125 million in bonds for the local match on the \$900 million Westside Light Rail Transit (LRT) Project; and

WHEREAS, Much of that portion of the Peterkort property containing upland forest resources is within the half-mile Station Area Planning area around the Sunset LRT Station; and

WHEREAS, An interim overlay zone developed with Metro and Tri-Met assistance which would include new land use regulations to assure transit-supportive development near the Sunset LRT Station is under consideration; and

WHEREAS, The Sunset LRT Station for construction on land adjacent to the Peterkort property is being designed for construction within the next several years; and

WHEREAS, The acknowledged Washington County comprehensive plan currently designates the Peterkort property an "Area of Special Concern" and requires the following protection for forested areas on the Peterkort property:

1. Requirement that the riparian areas along Johnson Creek be retained in their natural condition.
2. Requirement of a Master Plan and planned development procedures with public notice, hearing, and appeal procedures.
3. Requirement of landscape plans in Master Plan process that retain all trees and wooded areas possible.
4. Requirement for a development permit for any tree removal.
5. Requirement of additional open space allocations to obtain density bonuses in a clustered development; and

WHEREAS, Peterkort Co. has appealed the Metro Council resolutions relating to Greenspaces to the Land Use Board of Appeals (LUBA) contesting the extent of their impact on development of the Peterkort property; and

WHEREAS, The Peterkorts have agreed to dismiss these appeals upon assurance that Metro recognizes the need to avoid eminent domain until transit station development and initial development of transit-supportive uses adjacent to the transit station allows coordinated application of Greenspaces and LRT Station Area Planning policies at this location; now, therefore,

BE IT RESOLVED,

That the Council of the Metropolitan Service District recognizes the need to maximize the public's investment in light rail transit by assuring transit-supportive development of the areas around the Sunset LRT Station and all westside stations; and

IT IS FURTHER RESOLVED,

That coordination of the Greenspaces Master Plan willing seller policy with the extraordinary circumstances of Sunset LRT Station construction and regulation is achieved by no exercise of Metro powers of eminent domain to acquire Peterkort property in the vicinity of the Sunset LRT station for a period of two years following the opening of Westside LRT; and

IT IS FURTHER RESOLVED,

That Metro will pursue further analysis towards willing seller acquisition of land or conservation easements and other protection of Goal 5 resource lands in the Cedar Mill area as provided for in Washington County comprehensive plan and in the Metro Greenspaces Master Plan in the Cedar Mill area; and

IT IS FURTHER RESOLVED,

That, consistent with the Greenspaces Master Plan objectives of Greenspace protection and the objections of the Region Transportation Plan, Metro will monitor and become a party in all planning and proposed development actions on the Peterkort property in the vicinity of the Sunset LRT station; and

IT IS FURTHER RESOLVED,

That Metro will continue to implement the Greenspaces Master Plan including the Cedar Mill area, by a integrated Cooperative public process addressing the interests of the property owners including the Peterkorts, LRT Station Area Planning, and coordination with surrounding neighbors and other interested parties.

ADOPTED by the Council of the Metropolitan Service District
this _____ day of _____, 1992.

Jim Gardner, Presiding Officer

dr
1104a

December 22, 1992

To: Metro Council
From: Terry Moore
Re: Report to Council on Willing Seller Policy at Sunset/ 217 LRT Station Area

- Our goal here is twofold: to see that Peterkort LUBA appeal of Greenspaces plan is dropped and at the same time to adopt a good policy applying Metro's greenspaces policies to this important parcel; to achieve these ends, we give up Metro's ability to use its power of eminent domain to acquire property owned by the the Peterkort Company for a period lasting until two years after the Westside LRT is open.

- Essentially, we are committing to acquire property only from a willing seller in the 150-acre area now either owned by the Peterkorts, Tri-Met, or in public right-of-way for that time period (i.e. until the year 1999).

- Metro's interest in acquisition of property in this area is to preserve the significant greenspaces area not yet precisely defined but consisting of wetlands, water features (ponds, streams), forested upland areas — all providing natural resource values and wildlife habit areas.

- Metro's additional interest in the area relates to the public investment in light rail transit and in assuring that the intent of the RUGGO document is implemented within the station area specifically, and potentially in the larger surrounding area if it were to become one of the regional "activity centers" anticipated in the RUGGOs.

- The resolution intends, then, that Metro will play an integral role in all "planning activities and proposed development actions" on the Peterkort property in the station area, which encompasses an area approximately one-half mile in all directions from the Sunset LRT station. This will allow Metro (staff and council) to determine if any proposed actions might jeopardize the future of the natural resource area included in the adopted Greenspaces plan or underused development opportunities near the LRT station.

- The resolution, if adopted, will be a policy involving only Metro and the Peterkort Company; it does not directly involve the local jurisdictions (Washington County and/or Beaverton) or Tri-Met (or supposedly any entity to which some portion of the Peterkort property might be sold between now and 2 years following opening of the Westside line). However, the Peterkort Company will be acting on its behalf in the planning and development of the property, and as the agent of Washington County in the development of public rights-of-way through the property, and it must be assumed that this policy does mean that Washington County and any other entity undertaking to develop or plan for the land in the subject area must acknowledge the policy that Metro will have an informed role in all that planning and development.

• However, again, the policy is Metro's and it does not specifically guarantee that Washington County will acknowledge Metro's involvement as specified in the agreement.

• For the record in this matter, the Transportation and Planning Commission (at a minimum) and the Metro Council (ideally) should immediately request a briefing from Tri-Met, Washington County, and Metro staff on the status of station area planning, LRT station design, roadway and parking lot design, and other issues (such as existing zoning, natural resource protection, transportation plan designations, the Washington County proposed interim overlay zone, etc.) in order to evaluate the current status of the area vis-à-vis the public investment in LRT and the potential vulnerability of the Cedar Springs natural resource area.

• Following the briefing, the T/P committee should discuss with Metro staff any needed action on the part of Metro staff as to implementation of the policy.

• The resolution reiterates Metro's commitment to a cooperative planning approach with close interjurisdictional involvement in areas like that represented by the land around the Sunset/217 LRT station. Such an approach to planning will support the regional public infrastructure costs as well as coordinate the various private and public goals for our regional future. The resolution also clearly states Metro's recognition of the unique characteristics of the site and its existing policy of acquiring property from "willing sellers".

tshm