Smith & Bybee Lakes Wildlife Area Management Committee
Larry Devroy, Chair

Coordinated by:

Metro

600 NE Grand Ave.
Portland, OR 97232
(503) 797-1515

Smith & Bybee Lakes Management Committee Meeting

5:30 p.m. - 6:30 p.m., Tuesday, December 6, 2005
Metro Regional Center, 600 N E Grand Ave., Room 270
Portland, Oregon 97232

AGENDA

Welcome and introductions	(Devroy)	5:30 - 5:35 pm
Approve previous meeting'-s notes	(Devroy)	5:35 – 5:40 pm
Updates	(All)	5:40 – 5:50 pm
Columbia Slough Plan scoping project	(Chris Scarzello, City of Portland)	5:50 – 6:30 pm
Adjourn		6:30 pm

Summary Meeting Notes
Smith and Bybee Wetlands Management Committee
December 6, 2005

In Attendance:

Larry Devroy (Chair) *	Port of Portland
Troy Clark (Vice Chair)*	Audubon Society of Portland
Pam Arden *	40-Mile Loop Land Trust
Brenda Hanke *	St. John's Neighborhood Assn.
Nancy Hendrickson *	Portland Bureau of Environmental Services
Dan Kromer *	Metro
Patt Opdyke *	North Portland Neighborhoods
Jim Sjulin *	Portland Bureau of Parks and Recreation
Dale Svart *	Friends of Smith and Bybee Lakes
Chris Scarzello	Portland Bureau of Planning
Vickie Eldredge	Metro Parks – Committee Recorder
Elaine Stewart	Metro Parks – Natural Resources Scientist
Paul Vandenberg	Metro Solid Waste and Recycling – Solid Waste Planner

* Denotes voting SBWMC member

The meeting was called to order at 5:50 p.m.

Larry Devroy welcomed Dan Kromer (from Metro Parks), who is stepping into Jim Morgan's spot. Dan Kromer is a familiar face at Smith and Bybee meetings and has been involved with the issues and management of the site for many years.

Patt Opdyke requested an updated roster for the committee. Vickie will update the information, e-mail it members and bring hard copies to the January meeting.

Consideration of October 25, 2005 meeting notes

The notes were approved as written by the members of the committee.

Update: Trails Feasibility Study

Elaine Stewart reported that, at its December 1st meeting, the Metro Council discussed the feasibility study and took considerable public testimony. Councilors approved a resolution; the relevant text read:

"BE IT RESOLVED that the Metro Council hereby accepts the Smith and Bybee Wetlands Trail Feasibility Study and appended hereto as Exhibit C; and directs staff to implement the following recommendation:

Italics

A. Remove the South Lake Shore segment from further study at this time.

B. The South Slough Alignment is the preferred alignment, but further analysis is required for the Metro Council to determine feasibility. Staff will conduct the following feasibility analysis and report back to the Metro Council:
   - Perform feasibility study for a slough bridge.
   - If a slough bridge is infeasible, determine impact to developing Ash Grove segment.
   - If Ash Grove segment infeasible, consider no build option.
   - Explore extending South Slough segment beneath the North Portland Road Bridge, and continuing the trail through the Columbia Blvd. Waste Water Treatment Plant (WWTP) to cross the Columbia Slough at the existing pedestrian bridge within the WWTP.
   - Begin negotiations with private property owners along South Slough, on a "willing-seller" basis."

Columbia Corridor Scoping Project – Guest speaker: Chris Scarzello

Purpose/goal: To develop a scope of work for improving natural resources planning and updating regulations in the Columbia Corridor area. Regulatory improvements should be at the top of the list. The Columbia Corridor is deficient in natural resource protections and the city wishes to update regulations. The city also wants to improve consistency across the Corridor; currently there are multiple plans in the area. Planners hope to simplify regulations. A single master plan for the Corridor would be a great undertaking, but may be worth it in the end.

The core work program, to be completed in the next couple of years, includes consolidating existing plans, providing tax incentives for natural resource protection and evaluating potential industrial lands within the Corridor. Individual work plan modules are more specific projects and are contingent on funding.

The city is seeking comments from the SBWMC and other stakeholders:
- Does the core work program address the issues important to SBMC?
- What order does SMBC feel that the modules need to be in?
- Timeline: what should be first and what can wait?

For more information, see the project website:
http://www.portlandonline.com/planning/index.cfm?c=39983

Deadline for comments to the city is the end of December; planners hope to wrap up the scoping project at that time. Products from this work will include a detailed summary of the work program (funding needs, staff needs, etc.).

Committee members were very interested in the relationship of the Smith-Bybee NRMP to any Corridor master plan. The city would have this "environmental master plan" take

the place of the NRMP. All items in the NRMP would be included in the environmental master plan, and the city's intention is to make project implementation easier.

Comments and/or concerns from the committee include:

- There is a lot of emphasis on development – is this at the expense of natural resource protection? It was acknowledged that it is development-heavy; planners did not include language in the handouts regarding expansion of E-zones because they did not want to "scare off" the development community.

- One potential benefit of this plan could be a streamlined review process. On its own projects, the city is able to accelerate project reviews by getting staff from all the agencies at the table. It may be possible to expand this process to other applicants.

- Funds from a possible fee-in-lieu-of-mitigation are currently slated to go to BES's watershed revegetation program. It was pointed out that there are other agencies and organizations (e.g., watershed council) that would be appropriate recipients. A broader perspective for this program might bring more natural resource benefits than a single project. It may also be desirable to accumulate funds for acquisition.

- Regarding the committee's current work evaluating the NRMP – the environmental master plan would be updated every ten years. It would include regulations specific to areas such as Smith-Bybee. The committee could prepare for the reviews in advance, e.g., listing anticipated projects that could be incorporated into the master plan. This could alleviate problems such as outdated projects and information in plans that are not updated. Members also pointed out that it might be beneficial to exempt certain projects from review when they are conducted by qualified agencies or organizations and are already in the plan.

The city plans to keep the committee informed and to include it in the decision-making process. For more information or to discuss the project, contact:

Chris Scarzello, City of Portland
503-823-7716
cscarzello@ci.portland.or.us

Smith/Bybee Wetlands Management Committee
December 6, 2005

Scoping for Columbia Corridor Area Natural Resources Planning and Regulatory Improvement

Project Intent: Develop a scope of work for a future inter-bureau effort to coordinate and integrate natural resource conservation approaches with the unique watershed, hydrologic, economic, and transportation characteristics of the Columbia Corridor area *(adapted from the River Renaissance Strategy, 2004).*

Why now?

- River Renaissance Strategy
- Portland Watershed Management Plan
- Industrial Districts Atlas
- Metro's Nature in Neighborhoods – two year compliance window
- TMDL compliance window
- Regulatory Improvement

Desired Outcomes

- Simplify and improve consistency in environmental regulations, while meeting City goals for resource protection and watershed health in the Columbia Corridor area
- Facilitate development and operations (business, industry, facility and resource management, etc.) that are both ecologically sensitive and economically competitive, consistent with *River Renaissance Strategy* principles
- Achieve or advance compliance with Metro Nature in Neighborhoods Program, Clean Water Act TMDLs for the Columbia Slough, Safe Drinking Water Act, and other regulatory requirements
- Identify and engage in partnerships to carry out the initial planning and long-term implementation
- Develop a set of replicable, cost-effective, and equitable approaches and tools that can be readily understood and implemented
- Support partner cities and agencies in their efforts to comply with regional, state and federal requirements through creative, multi-objective strategies

Partners in scoping effort: Columbia Slough Watershed Council representatives, local residents and business owners, representatives from friends groups, developers, large lot owners, representatives from environmental advocacy organizations and the Metro Greenspaces Program, Columbia Corridor Association representatives, representatives from the Port of Portland and Multnomah County Drainage District, and staff from BES, Parks & Recreation, BDS, PDC, Water, and PDOT.

Overview of Scoping Process

- Started with working assumptions based on discussions in 2004 and earlier
- Tested assumptions by conducting stakeholder interviews (summer, fall 2005)
- Synthesized interview results and identified common themes – posted on website at http://www.portlandonline.com/planning/index.cfm?c=39983
- Derived a set of draft Criteria for Success (both process and outcome-related criteria) and a statement of project intent; posted on website
- Developed a menu of potential project elements and discussion of potential geographic applicability; posted on website
- Met with bureau staff to review and discuss draft criteria and draft project elements
- Based on bureau feedback, developed a straw proposal:
  - Draft core work program
  - Potential project "modules" to add on in combination or in sequence
- Met with interviewees (agency, business and community representatives; bureau staff) to get feedback on draft work program and modules:
  - Are major issues addressed?
  - Is the proposed core program work the City should pursue?
  - What is missing?
  - Which "module" is most important to pursue?
  - What are the opportunities for partnerships?
  - What are the potential pitfalls?

Next steps:

- Draft a scope of work, including budget, timeline and partner roles/responsibilities, for possible consideration in the 06-07 budget
- Review against other Bureau of Planning workplan priorities
- Review with other bureau managers to assess potential for partnership roles
- Determine whether to advance this proposal in the 06-07 budget process

	Strengths	Partnership Opportunities	Geographic Applicability	**Relative level of effort ($, time, degree of public involvement, special expertise needed)**
isition, easement and land exchange watershed ervation easements, or public-private atural resources	Wide public support; certain, permanent protection of natural resources		Columbia Slough Watershed	
ent along the Columbia Slough "stars" on zoning maps to reflect Natural policy or Smith Bybee Lakes Trail Study DD headquarters) MCDD headquarters to NE 82nd, map ods to trail ng Marine Drive	Certainty and clarity about trail alignment; opportunity to consider trail alignment concurrent with and in the context of planning along the slough	Lead: Parks Participating bureaus: BDS, Planning, BES, MCDD	Columbia Slough Watershed or Columbia Corridor area	

WORKING DRAFT summary of proposed core work program, plus potential "modules" to add on (not listed in any priority order)

A. CORE WORK PROGRAM

Description	Strengths	Partnership Opportunities	Geographic applicability	Relative level of effort ($, time, public involvement, special expertise needed)
1) Consolidate, update and streamline City plans, programs, zoning regulations and procedures ▪ Assess effectiveness and workability of City regulations that currently apply in Columbia Corridor ▪ Develop policy framework ▪ Analyze relationship among City, state, federal regulations and permit review processes; cross-check Zoning Code with other City codes to identify opportunities to streamline, consolidate and simplify regulations and review procedures ▪ Explore innovative approaches to optimize mitigation ▪ Establish and maintain an inventory of mitigation sites ▪ Develop fee-in-lieu-of-mitigation strategy ▪ Develop compliance strategy for Metro *Nature in Neighborhoods* program and TMDLs for Columbia Slough watershed within Portland ▪ Revise development regulations and review processes to provide regulatory incentives that encourage resource enhancement and discourage impacts ▪ Provide simpler review option for projects that meet standards and/or include resource enhancement, where such option doesn't currently exist ▪ Resolve any outstanding code issues related to balanced cut and fill in the managed floodplain	Code consolidation: Simpler code, procedures, and type of review process; less time and expense to understand and address regulations Regulatory streamlining: "Win-win" for landowners and natural resources – more resource protection w/ more certainty and less time/cost; flexible: can target specific areas, land uses, or natural resources (note that with more certainty, some flexibility may be lost) Mitigation and fee-in-lieu strategies: Increased certainty and flexibility for landowners; long-term monitoring and maintenance can lead to greater mitigation success; could be operated through BES Revegetation Program	Lead: Planning Participating bureaus: BDS, BES, PPR, PDC Other partners: MCDD, Port, CCA, state and federal agencies; CSWC, neighbors, advocacy groups, Metro, neighboring cities in the watershed	Columbia Slough watershed within Portland Some elements may be applied citywide (e.g., mitigation and fee-in-lieu strategies) Consider addressing the area north of Marine Drive with caveat that inclusion should not add significant complexity or time to the process	
2) Offer tax incentives to encourage protection and restoration ▪ Explore and facilitate landowner tax deductions and/or credits for protection, restoration of natural resources	Builds on work in progress; long-term protection of natural resources; cost savings for landowner; minimal administration costs for City	Lead: BES, Multnomah County	citywide	

Description	Strengths	Partnership Opportunities	Geographic Applicability	Relative level of effort ($, time, degree of public involvement, special expertise needed)
3) Prepare opportunity site portfolio, site development analysis and prototype designs for industrial properties ▪ Assess the adequacy of the vacant industrial land supply to meet demand and economic development policy objectives in the Columbia Corridor ▪ Prepare a portfolio of development and redevelopment opportunities, and analyze specific properties that are particularly challenging to develop or redevelop due to environmental and other constraints ▪ Develop permit-ready prototype designs and review processes tailored to area characteristics ▪ Assess and compile best practices and incentives to guide development and redevelopment in the corridor ▪ Seek economically viable approaches to manage stormwater and improve watershed health through creative design ▪ Identify and establish City policy on brownfield reuse	Provides groundwork for better understanding of unique development constraints in industrial areas, and will result in useful product to stimulate stormwater- and habitat-friendly industrial development. Education is supported by the public; flexible: can be applied to any natural resource, to specific areas, or to specific uses/activities; can help meet multiple objectives for resource protection and development or redevelopment; can support/supplement a wide range of programs	PDC, BES Integrated Wet Weather Program. Planning Bureau, Office of Sustainable Development Columbia Corridor Association, Port of Portland, American Society of Landscape Architects	Columbia Corridor industrial districts Consider applicability to the Willamette River working waterfront through the River Plan/North Reach project	

B. POTENTIAL WORK PLAN "MODULES"

Module	Description	Strengths	Partnership Opportunities	Geographic Applicability	Relative level of effort ($, time, degree of public involvement, special expertise needed)
A	**Provide integrated site design expertise and individualized permitting assistance** ▪ Work with property owners to design site improvements to achieve multiple objectives on industrial properties ▪ Use "case manager" model to help facilitate straightforward and efficient permitting	Provides direct assistance to reclaim constrained vacant sites for productive use, while advancing stormwater management and natural resource protection goals	PDC, BDS, BES, Planning, Office of Sustainable Development MCDD, Columbia Corridor Assoc., American Society of Landscape Architects	Columbia Corridor industrial districts Consider applicability to the Willamette River working waterfront through the River Plan/North Reach project	
B	**Conduct feasibility study for establishment of a mitigation bank** ▪ Study feasibility and policy issues associated with establishing and operating a local mitigation bank, from which landowners may purchase credits to support off-site resource enhancement projects, or may pay into a mitigation or acquisition fund, in lieu of providing on-site mitigation of development impacts ▪ If determined feasible, develop a scope of work to initiate the program and identify start-up funds for administration and operations	Would facilitate up front mitigation; strategically planned enhancement of functions in a watershed; larger mitigation sites and long-term monitoring and maintenance can lead to greater mitigation success; increased certainty and flexibility for landowners	BES, PDC, Planning, Parks, Office of Management and Finance, Metro, Three Rivers Land Trust, Port of Portland, ODOT, Multnomah County,	Citywide (could be piloted in Columbia Slough Watershed and expanded later)	
C	**Seek system improvements to improve permit coordination among agencies** ▪ Explore opportunities to improve coordination and facilitate processes for meeting certain local, state, and federal requirements, with consideration of a consolidated permit process (using the ESA Streamlining permitting process as a model)	Less time and expense to understand and address regulations; flexible: can be applied to specific area(s), or to specific uses/activities	BDS, BES, state and federal agencies, MCDD, Port of Portland	Citywide	
D	**Conduct feasibility study for a land pooling pilot project** ▪ Study feasibility of establishing and operating a land pooling project, in which land could be legally consolidated ('pooled') by transfer of separate ownerships to a single agency that replats the land and redistributes the new building lots back to owners or investors ▪ If determined feasible, develop a scope of work to initiate the program	Potential "win-win" for landowners, natural resources, with resources permanently protected and landowners receiving full benefit of land development		Could be piloted in Columbia Slough Watershed and expanded later	

Module	Description	Strengths	Partnership Opportunities	Geographic Applicability	**Relative level of effort ($, time, degree of public involvement, special expertise needed)**
E	**Establish a willing-seller land acquisition, easement and land exchange program for the Columbia Slough watershed** ▪ Purchase of property or conservation easements, or public-private exchange of land to protect natural resources	Wide public support; certain, permanent protection of natural resources		Columbia Slough Watershed	
F	**Re-establish/clarify the trail alignment along the Columbia Slough** ▪ Reconcile the location of the "stars" on zoning maps to reflect Natural Resource Management Plan policy or Smith Bybee Lakes Trail Study (areas north and west of MCDD headquarters) ▪ Refine the trail location from MCDD headquarters to NE 82nd, map connections from neighborhoods to trail ▪ Reconcile trail alignment along Marine Drive	Certainty and clarity about trail alignment; opportunity to consider trail alignment concurrent with and in the context of planning along the slough	Lead: Parks Participating bureaus: BDS, Planning, BES, MCDD	Columbia Slough Watershed or Columbia Corridor area	

Scoping for Columbia Corridor Area Natural Resources Planning and Regulatory Improvement

Project Intent and Criteria for Success

November 23, 2005

The following draft statement of intent, desired outcomes and success criteria were derived from recent interviews with community members and City/agency staff. They are intended to stimulate discussion in the scoping of a potential natural resources planning project for the Columbia Corridor area.

Project Intent: Coordinate and integrate natural resource conservation approaches with the unique watershed, hydrologic, economic, and transportation characteristics of the Columbia Corridor area (*adapted from the River Renaissance Strategy, 2004).*

Desired Outcomes

- Simplify and improve consistency in environmental regulations, while meeting City goals for resource protection and watershed health in the Columbia Corridor area
- Facilitate development and operations (business, industry, facility and resource management, etc.) that are both ecologically sensitive and economically competitive, consistent with *River Renaissance Strategy* principles
- Achieve or advance compliance with Metro Nature in Neighborhoods Program, Clean Water Act TMDLs for the Columbia Slough, Safe Drinking Water Act, and other regulatory requirements
- Identify and engage in partnerships to carry out the initial planning and long-term implementation
- Develop a set of replicable, cost-effective, and equitable approaches and tools that can be readily understood and implemented
- Support partner cities and agencies in their efforts to comply with regional, state and federal requirements through creative, multi-objective strategies

Criteria for Success

The following draft success criteria address both process and outcomes. The first five criteria were mentioned fairly consistently among stakeholders. These are followed by a list of additional criteria that were expressed by individuals and do not represent a

consensus among stakeholders, but are important to consider as we proceed through the next steps of this scoping effort.

1) Clearly defined project purpose that is understood by all parties involved. If the Planning Bureau goes forward with a planning project in the Columbia Corridor they must be absolutely clear what the purpose and scope of the project is. The purpose and scope must be understood by all of the stakeholders involved in the Corridor. A successful plan will start with a clearly defined and understood purpose and need. Three issues that must be addressed are 1) motives for the project, 2) fear that environmental protections would be reduced, and 3) concern regarding adding more regulatory requirements to an already complex system.

The parameters of the scope must also be very clear. Several stakeholders have expressed concern that the project would take on too much, too many broad issues, and in trying to reach too far will fail to be successful. For example, many issues beyond environmental protection and the development review process have been discussed for inclusion in this planning process, including, transportation issues, economic development, recreation, better integration of City Bureau functions in the Corridor, and green infrastructure and sustainable development. A comprehensive planning process of the size necessary to include all of the issues facing the Corridor and address them fully and properly may be out of the realm of possibility for the Planning Bureau at this time.

The following are examples of comments regarding a clear purpose for the planning project and clarity of the plan scope:

- The intent and outcomes of the proposed plan need to be well defined up front.
- If the plan is developed as a Natural Resource Management Plan, the plan and its goals will be very successful. Landowner, agency, environmental groups, neighborhood associations and the Port will buy into the plan and would work collaboratively to meet the goals of the plan.
- Clearly identify a City vision for the alternative approach and its associated goals and objectives before work is begun in developing the alternative approach. The goal of the proposed plan needs to be clear; want to see more discussion of the value of the vision; stakeholders need to be involved in developing the vision and buy into it.

2) Stakeholder involvement early in the planning process and throughout the process. All stakeholders were unanimous in commenting that any planning process in the Corridor must include extensive stakeholder input and involvement from the very beginning and all the way through the process. This is another must-achieve criterion for any success for the planning effort. Some of the supporting comments include:

- Buy-in from all of the stakeholders up front with what type of plan or projects would be best for this area.
- Need to get buy-in from stakeholders early on, and get many individual pockets of support. The City needs to have neighbors active in the planning process.

Neighborhoods trust the information more if their representatives are involved. Avoid surprises.
- The City should involve the watershed councils and neighborhood associations;
- The City should invest some money and time in the outreach effort.

3) Regulatory simplicity and certainty and more efficient and effective tools for meeting the goals for the Corridor. It is clear from the stakeholder interviews that one of the prime project success criteria has to be a clear simplification of the regulatory process within the Columbia Corridor without loss to the current level of resource protection. The complexity and inconsistency of regulations across the Corridor was mentioned many times as an existing problem and barrier in the area. It is a barrier to both effective review of development proposals and environmental restoration efforts. The details of this regulatory complexity varied among the stakeholders and the proposed solutions to the problem varied widely and even conflicted in some of the details but the underlying message is clear. Whatever type of project the Planning Bureau proposes to go forward with must result in a simplification of the regulatory system in the Corridor without loss to the current level of resource protection.

Here are some of the most relevant comments that support these criteria:
- Less complex process for review of development projects and environmental restoration applications.
- Additional flexibility in regulatory interpretation, streamlining of the system (especially for less complex projects), and certainty.
- Hope that process is streamlined and helps do more environmental projects as well as business as usual.
- Reconcile the different plan districts and get them all on same page.

4) Resolution of issues and uncertainty related to mitigation. There was near unanimous consensus among stakeholders that the process of requiring, constructing, and monitoring mitigation efforts in the Corridor needs to be improved. Mitigation bank or fee-in-lieu program options were most often mentioned, but it is clear that some range of alternatives to the current mitigation process need to be developed. All agree that the current system does not necessarily lead to successful mitigation in terms of both replacement of lost resource values and cost effectiveness to the applicant. Mitigation success is perceived as low and monitoring and maintenance inadequate. The Corridor planning project will be a success if more efficient and effective alternative mitigation options are implemented within the Corridor.

5) Evaluation and integration of the good work that has already been done in the Corridor. It was stressed by many stakeholders in the interviews that much good work has already been done in the Corridor toward meeting resource protection and restoration goals and in planning for economic development and business growth. This good work needs to be acknowledged, thoroughly evaluated, and the best elements brought forward

in any new planning process for the Corridor. Some examples from the stakeholder comments include:

- Fully recognize and utilize the Columbia Slough Watershed Council Action Plan. It is a great document, borne of a collaborative effort.
- Do not want to see the good parts of the natural Smith-Bybee Lake NRMP lost or superseded by a new plan.
- There are provisions of the Columbia South Shore Plan District that work well. You can proceed to do some things under the South Shore district plan without need for a review; the group does not want to lose that flexibility through a new plan.

6) Important considerations. Individual stakeholders mentioned specific success criteria that they considered necessary for a successful project. While these criteria were not consistently expressed by interviewees and do not represent a consensus among stakeholders, they are important to consider as we move forward in this scoping effort.

Any resulting planning effort must include:

- A process for making policy decisions to provide clarity about direction and resolve inherent tensions between goals.
- Integration of natural resource goals with other public policy goals, rather than pitting one against the other.
- Consistency with Metro Regional requirements (Title 3 and 13).
- Recognition of other state and federal regulatory requirements (CWA TMDLs and MS4 permit, ESA, etc.) and coordination with other agencies on overlapping permit and mitigation requirements.
- Removal of barriers and provision of incentives and partnership opportunities to promote resource enhancement (e.g., streamlined permitting, cost-sharing, resource enhancement credits, etc.) – aka "make it easier to do the right thing."
- Resolution the trail designations issues on the zoning maps.
- A combination of regulatory and non-regulatory elements.
- Consideration of the scarcity of land supply and the range of constraints on developing vacant industrial land (e.g., brownfield clean-up requirements) to inform how to best target efforts.
- Land use decisions that balance the unique natural resource and economic development objectives of the district.
- Consideration of the unique physical characteristics of the area, including the managed floodplain, tidal influence, etc.

Some interviewees identified additional criteria that are outcome-related, and that raise policy questions that would likely be appropriate to address in any planning project that emerges from this scoping effort. Examples include:

- No matter what, increase protected habitat (upland, secondary drainage ways and main slough).
- No-net-loss of natural resources.
- Recognition of the Port's dedicated land use areas.
- A process that works to create more jobs and economic opportunity; if these happen, the rest of what constitutes a desirable environment to live in will follow.
- Acceptance by regulators of federal and state general permits already received by the districts.
- Regulate to protect the high value natural resources; use incentives to protect lower value.

Columbia Corridor Scoping Project: Draft Project Elements Memorandum

-DRAFT-

November 3, 2005

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1.0 INTRODUCTION

At the request of the City of Portland Bureau of Planning, Adolfson Associates, Inc. (Adolfson) has prepared a draft technical report presenting a menu of potential project elements that may be considered by the City for use in the development of a planning project for the Columbia Corridor (the Corridor). These potential project elements are presented as options to consider in addressing the issues that were identified by the stakeholder groups and others during the project scoping phase. The potential project elements are described, the pros and cons of each element are discussed, and the elements are considered against the scoping project draft goals and success criteria as appropriate. Both regulatory and non-regulatory project elements are evaluated with an emphasis on incentives. Regulatory project elements are discussed in Section 2.0, while non-regulatory elements are discussed in Section 3.0. An overview of each potential project element is discussed followed by a discussion of program examples from existing programs and a discussion of the project element's potential application(s) to the Corridor. The following brief section (1.1) discusses issues and criteria to consider when evaluating incentive-based project elements generally.

1.1 Incentives

In preparing this menu of potential project elements there was an emphasis on evaluating project elements that provide some level of incentive. Incentives include various non-regulatory tools, as well as regulatory approaches that encourage resource protection by offering simplified permitting options or reduced fees. Some incentive options are more appropriate than others for individual situations, and a close evaluation of factors such as program goals, financial resources, public support, and certainty of outcomes will help increase the success of a given incentive program and its contribution to a successful natural resources management program. A primary key to success of any incentive program is the ability to offer a range of options to landowners (Adolfson Associates, 1999). Some landowners may be interested in technical or financial assistance in enhancing natural resources, while others may choose to sell their property to protect sensitive areas if given the option to do so. In previous work, Adolfson has used the following criteria to consider when evaluating the specific application and success the potential success of an incentive option:

- **Existing statutory authority.** Does the City have the authority to implement the program without additional legislative action? And if not, is there an entity who has the authority with whom the City could enter into an implementation agreement?
- **Level of protection.** What level of protection does the incentive provide and for how long? Incentives that ensure conservation over a long period of time provide greater certainty than shorter-term or education-based incentives that leave land in private ownership or do not lead to direct protection. Any tool that incorporates continued private ownership frequently runs the risk of a change in use, while public acquisition ensures longer-term protection. In addition, while education-based incentives may find a receptive public audience, they do not guarantee on-the-ground protection. The level and duration of protection provided by incentives may also depend, in part, on whether there is a commitment to long-term

maintenance and monitoring. Maintenance and monitoring will increase the cost of an incentive, but can increase the certainty associated with the outcome.

- **Administrative ease.** How large are the administrative costs (in FTEs or dollars) that the program would require relative to the amount of area conserved? How much paperwork, education, and outreach are required for participants to understand the program? A complex program, like transfer of development rights, may require relatively more staff time and cost to implement, while a landowner recognition program may require fewer resources.
- **Flexibility/options.** Can the incentive be refined or adjusted to address a particular property or sensitive area in the Corridor? Those options that can be widely applied to many types of land uses and natural resources may offer the greatest flexibility.
- **Acceptance by stakeholders.** Is the incentive supported by stakeholders in the project area? Without support, an incentive program is not likely to see frequent use by stakeholders.
- **Ease of funding.** Does the incentive require additional public financing? Incentives such as landowner recognition may require little funding, while public acquisition incentive programs, particularly in urban areas, are generally costly.
- **Fairness/equity.** Are similarly-situated property owners or stakeholders treated in the same way? An incentive that offers the same level of compensation or recognition to similarly situated owners or stakeholders would provide more equity and likely be more broadly supported by stakeholders in the Corridor.
- **Political feasibility.** Does the incentive have political support? Without such support, the incentive may also receive little funding.
- **Cost effectiveness.** Does an incentive's cost (acquisition, implementation, monitoring, maintenance, and administration) more than offset the value associated with conserving the natural resource?

2.0 REGULATORY IMPROVEMENT APPROACHES

New regulatory approaches and/or changes to existing regulations need to be considered in the context of the already complex regulatory structure within the Corridor. The Columbia Slough Watershed falls within the jurisdiction of Metro, Multnomah County, four cities, four drainage districts, and the Port of Portland. Additionally, multiple state and federal agencies have jurisdiction over a variety of development related activities in the Corridor. Within the City of Portland alone, the Corridor contains multiple overlay zones, three Natural Resource Management Plans, and three plan districts—many of these regulations overlap while some are exclusive. Other city bureaus also administer regulations, such as the Erosion Control code, that apply in the watershed.

Section 2.1 discusses issues related to consolidating regulations within the City of Portland in the Corridor. Because it is very specific to the City and to existing regulations, this section does not follow the standard format of the element discussion found throughout the rest of the report.

Instead, it is a focused discussion on what Adolfson sees as the opportunities and challenges to consolidating the multiple regulations within the Corridor.

The remainder of Section 2 covers regulatory streamlining, mitigation banking, on- and off-site density bonuses and transfers of development rights.

2.1 Consolidation of City of Portland Regulations

Because of the existing complexities of regulations within the Corridor, options that provide the highest degree of regulatory simplicity throughout the Corridor also require the highest degree of complexity for any future planning project. The simplest regulatory option for the Corridor would be to have one single set of City zoning regulations but that would involve an incredibly complex and potentially divisive process to accomplish. However, there are options available that are less onerous to pursue but allow for regulatory and procedural relief.

The majority of stakeholders interviewed favored consolidating regulations if resource protections were not compromised and if it made the permitting process less complex. There are three existing regulatory mechanisms to consider, Natural Resource Management Plans (NRMPs), Plan Districts, and Overlay Zones. Additionally, the current regulations cover a variety of land use issues including environmental, industrial, cultural, and hazardous waste related. The first step will be to decide which of these land use issues will be addressed—a comprehensive look at all of the regulations or limiting the project to just environmental regulations. The Multnomah County Drainage District has suggested limiting the Corridor project to focus on environmental issues at the level of an NRMP for the whole Corridor, rather than take on all of the other industrial and commercial issues within the Corridor.

2.1.1 NRMP considerations. Natural resource management plans provide opportunities for coordination with, or joint adoption by, other local governments; special districts; and regional state, and federal agencies. They also provide a means to evaluate the cumulative effects of development and mitigation proposed at different times and in different places within the same large ecosystem. There are three NRMPs currently in place in the Corridor, the East Columbia Neighborhood Natural Resources Management Plan (East Columbia), the Natural Resources Management Plan for Smith and Bybee Lakes (Smith Bybee), and the Natural Resources Management Plan for Peninsula Drainage District No. 1 (Pen1). The East Columbia plan is a non-regulatory plan containing advisory goals and policies only. The Smith Bybee plan is a very old plan with strict regulatory requirements and overly complex, cumbersome, and costly procedures. The Smith Bybee plan also contains many action items that are completed or out of date, as is the plan itself. Much of the area regulated by the Smith Bybee plan is now within public ownership and so the procedures and regulations affect mostly resource enhancement and public recreation projects. The Pen1 plan has simpler, less cumbersome procedures and fewer strict regulations but many of the action items within it are also completed or out-of-date. Pen1 and Smith Bybee incorporate only a small amount of private land and the majority of the plan areas are public recreation and resource land.

One option to consider would be to adopt a new Natural Resource Policy Plan for the corridor that incorporates the best policy elements of the NRMPs within sub-areas. This Policy Plan

would then be used to guide and influence other legislative projects or other City efforts within the Corridor. The best of the regulatory elements from the NRMPs then could be folded into a Corridor–wide regulatory program. Since most of the regulatory elements of the Smith Bybee plan are obsolete, that plan area could be incorporated into a regulatory program that is applied throughout the Corridor without compromising protections. The East Columbia area is already under the general environmental overlay zone regulations. The area covered by Pen1 could also be included in the consolidated regulations since the current Pen1 regulations are already tied very closely to the environmental overlay zone regulations and many of the specific actions and projects in the plan are complete.

One aspect of the existing Pen1 regulatory scheme should be considered for the whole Corridor. The Pen1 NRMP identifies specific mitigation areas that could be used by applicants and describes the type of mitigation appropriate for that location. This provides more certainty for the applicant and something similar should be considered for the Corridor-wide regulations.

Another option to consider including in Corridor-wide NRMP-type regulations would be allowing changes or modifications to the regulations to be considered and approved through a master plan type process. Currently with NRMPs in the Corridor, modifications to NRMP regulations are processed through a Type III review procedure, or more likely a legislative procedure. This has proved to be too limiting and burdensome given the minor nature of the types of NRMP changes needed and requested. A master plan process allows modifications to be processed through a quasi-judicial forum, which is faster and less complex.

2.1.2 Plan District Considerations. Plan districts consist of zoning regulations that have been tailored to a specific area of the City. Plan districts are applied in conjunction with a base zone and modify the regulations of the base zone. The plan districts within the corridor are diverse. The South Shore Plan District (South Shore) is very complex—almost a miniature zoning code in itself—and covers the full spectrum of land use issues. The Cascade Station/Portland International Center (CS/PIC) Plan District is a spin-off of the South Shore PD and is focused on development adjacent to the airport. The Portland International Raceway Plan District (PIR) is a focused plan district that applies only to City owned land and deals with the master planning and operation of the Portland International Raceway. Integrating these plan districts into a single set of regulations that apply to the whole Corridor would be a difficult task. The PIR Plan District for example, is simply too focused to be integrated with other regulations. It would inevitably end up as a Subdistrict for some Corridor-wide plan.

Environmental regulations are embedded within each of the three plan districts with the environmental regulations being essentially the same in the South Shore and CS/PIC Plan Districts. Elements of the South Shore and CS/PIC environmental regulations could be modified and adapted for use throughout the Corridor. Certain aspects of these regulations are required through a Court decision but these elements can be maintained (primarily through the overlay zoning).

Adolfson recommends that only the environmental portion of the plan district regulations be addressed, with the South Shore and CS/PIC environmental regulations consolidated with a Corridor-wide set of environmental regulations. This could take the form of a single corridor-wide NRMP or an environmental plan district that applied to the entire corridor. The PIR Plan

District regulations should remain intact as they are single property specific and function as guidance for master planning for the raceway. The Port is also interested in working with the City to develop a plan district that would apply to the airport. It is unclear at this time how that would interact with the Corridor-wide planning effort.

2.1.3 Overlay zone considerations. Overlay zones consist of regulations that address specific subjects that may be applicable in a variety of areas in the City. Overlay zones are applied in conjunction with a base zone and modify the regulations of the base zone. Adolfson recommends that this effort address only the Environmental Overlay Zone within the Corridor and possibly the Scenic Overlay Zone. Overlay zones are single issue specific and the overlays present in the Corridor outside of plan districts are best suited to being addressed within their own overlay (e.g., airport noise, aircraft landing). How the planning effort might address environmental overlay zone regulations is discussed further in section 2.2 below.

2.1.4 Specific Regulatory Considerations. There are some specific regulatory suggestions that were identified in the stakeholder interviews or have surfaced in other discussions. These are discussed below in Section 2.2, Regulatory Streamlining.

2.2 Coordination of State, Federal, and Local Regulations

2.2.1 Overview

The existing complexities of regulations within the Corridor extend beyond just the City of Portland and other local Jurisdictions. The regional government, Metro, sets the regional standards that local jurisdictions must meet. Multnomah County has jurisdiction over some activities in certain parts of the Slough Watershed. Additionally, state and federal agencies have requirements governing wetland fill and excavation and endangered species. There are many opportunities for coordination and streamlining of the multiple permit processes and regulations. A review of the various agency regulations could identify potential duplications, gaps, conflicts, and any potential for increased efficiencies in these multiple regulations. This could result in the multiple regulating agencies working more closely together and/or reducing the number of parallel reviews. It could also result in some jurisdictions eliminating their overlapping regulations and deferring review or permitting responsibilities to other jurisdictions. This effort may be difficult to achieve, given the lack of staffing of the state and federal regulating agencies.

2.2.2 Program Examples

The State of Oregon and the U. S. Army Corps of Engineers (Corps) have coordinated some wetland permitting requirements between them to reduce the permits and process required. The new Statewide Programmatic General Permit (SPGP) allows the State of Oregon and the Corps to streamline the environmental permit process. For example, the Reed Canyon fish ladder project on the Reed College campus received separate permits from the Corps and Department of State Lands in 2001. However, had the site been reviewed under the new SPGP it would have required only one permit.

The City of Portland has a current program—coordinated through the City ESA Program—that convenes representatives from local, state, and federal regulatory agencies to review potential projects/permits together to try and reduce the time and steps associated with obtaining multiple permits.

2.2.3 Application to the Columbia Corridor

The City could seek additional opportunities to coordinate regulations and permit processes between the various agencies with jurisdiction in the Corridor. Any opportunities to better coordinate processes, reduce timelines, and reduce costs would provide substantial benefits to landowners in the Corridor. There may even be opportunities to reduce overlapping regulations in the Corridor. For example, the City could provide a programmatic environmental (wetland) permit that is recognized by DSL and the Corps.

2.3 Regulatory Streamlining

2.3.1 Overview

Regulatory reform approaches address the negative or disincentive aspects of regulations by trying to create a "culture of compliance" that will lead to more successful protection of sensitive areas and natural resources. Streamlining may take many forms, from consolidating and simplifying regulations and easing permitting requirements, to improving information and compliance assistance. For this discussion, "streamlining" focuses on changes to regulations and procedures that may improve compliance or that specifically provide an incentive to protect or restore of sensitive areas and natural resources. One such approach is to remove disincentives or barriers to enhancement efforts in regulations, while another approach promises landowners "safe harbors" where they may avoid extensive documentation or cost for environmental compliance if they follow a prescribed set of standards or rules.

2.3.2 Program Example

The City of Portland has already reviewed its Environmental Overlay Zone regulations to identify ways to enhance protection of these areas while providing benefits to landowners. In 1995, the City completed the Environmental Zone Streamline Project, which resulted in a broad set of changes to the City's environmental regulations and procedures. With the assistance of a citizens advisory committee, the City developed a set of recommendations including the following:

- Establish a two-track review system that allows actions conforming to objective environmental standards to proceed without land use review;
- Create a new set of standards and criteria specific to "resource enhancement projects" with an accompanying expedited permitting procedure; and

- Develop an environmental handbook to improve awareness and understanding of the goals and requirements of the City's environmental zones.

Most landowners in the City have responded favorably to the two-track system, as meeting the standards avoids $1,002 to $1,775 in application fees, two or more months of review time, and the risk of permit denial. Some types of resource enhancement projects, which previously had not been distinguished from development projects, are now permitted outright or through a limited review process. The Portland Environmental Handbook provides an important educational complement to the new requirements, outlining environmentally sensitive methods of development, describing native plants and appropriate uses, and providing guidance for compliance with environmental zone standards.

In late summer 2005, the City of Portland completed the Environmental Code Improvement project, which resulted in additional simplification and streamlining of environmental overlay zone requirements, including provisions that apply to resource enhancement projects. However, historic and recent regulatory streamlining efforts have not yet been applied to many parts of the Columbia Corridor and so there is an opportunity to uniformly apply some type of regulatory streamlining, with objective and discretionary criteria tracks, throughout the Corridor.

2.3.3 Application to the Columbia Corridor

While already a regional leader in this area, the City could seek additional opportunities to streamline regulations and build in additional incentives for protecting, enhancing, and restoring sensitive areas and natural resources in the Corridor. Such measures could address a wide variety of natural resources, and, if carefully crafted, could provide substantial benefits to landowners in the Corridor as well. Within the framework of the City code, streamlining could be applied throughout the Watershed or limited to just the Corridor. Suggested approaches include the following:

- Consolidate the multiple layers of overlay, plan district, and NRMP regulations into a single uniform set of Corridor regulations, as discussed above.
- Convert some of the regulatory advantages built into the NRMPs to function more like master plan regulations.
- Expand the two-track system (clear and objective review option and discretionary review option) already used in the Environmental Overlay Zone to be available throughout the Corridor.
- Allow a variable buffer width option. A variable buffer width is where encroachment is allowed into a protected area (buffer), usually along a stream or bank of a water body, in return for an extension of the protected area on a non-developed portion of the property. For example, if a property owner has a drainageway that runs the length of their property line, 1000 feet, and the protected area is 50ft, then the total area is 50,000 sq ft of protection. The applicant could be allowed to reduce the width of the protected down to 25ft in one area and increase the protected area width in other areas, if the overall area of protection is still 50,000 sq ft. A restoration component could be included to ensure the resources are buffered from the development in the area where distance is decreased.

- Amend portions of the code to allow enhancement of stream and wetland buffers and upland habitat areas in degraded sensitive areas where development might otherwise not be permitted. If the City's code restricts development from expanding into sensitive areas (e.g., stream or wetland buffers), there may be few opportunities to enhance degraded buffers during development or redevelopment. Changes to the code could allow for some expansion in a resource area or greater density on a site in exchange for resource enhancement.
- Provide an expedited route for applications that do restoration, enhancement, LID or sustainable development options.
- Waive/modify permitting requirements for protection, enhancement, or restoration projects. For example, a landowner requesting a development permit may have their permit processing expedited by voluntarily agreeing to enhance onsite natural resources or provide a wider buffer than required by regulations.
- Shift permit fees to increase fees for greater impacts to resource areas, and reduce fees for increased protection, enhancement, or restoration of resource area functions and values.
- Continue to develop sustainable development incentives in the Corridor such as, waiving stormwater utility fees or providing density bonuses for low-impact development such as limiting total impervious cover on a lot or use of "eco-roofing."
- Look for overlaps or contradictions in environmental regulations between the city code and other regional, state, and federal regulations. There may be options for changing some city codes to more closely tie with other regulations or to provide a joint application process for certain projects such as impact to and mitigation of wetlands.

2.4 Mitigation Banking

2.4.1 Overview

Mitigation is defined as restoration, creation, enhancement, and, in some cases, preservation undertaken specifically to compensate for unavoidable resource impacts associated with development actions. Mitigation banking is generally used when compensation cannot be achieved at the development site or would not be as environmentally beneficial (see Federal Guidance, FR Vol. 60, No. 228, 1995). The concept of wetland mitigation banking originated in the 1970s and increased in popularity the 1980s and 1990s. In 1995, the federal government issued federal guidance for wetland mitigation banks, and by 2000, the number of wetland banks nationwide had grown to at least 350 (Washington Department of Ecology, 2001).

Mitigation banks typically have two components: the physical place where the credits are generated by restoring, creating, enhancing, or preserving wetlands or streams; and an organization that creates the structure and provides management. Credits generated by the mitigation bank can be used to compensate for unavoidable impacts to wetlands or streams in a defined geographic area, typically defined by watershed boundaries. Mitigation banks are protected in perpetuity with a designated long-term manager.

A public agency or a private entrepreneur may sponsor mitigation banks. In addition, banks may be established for use by only one party, such as a large landowner with several proposed projects, or for multiple users to serve the needs of landowners and development proposals in a defined service area.

Mitigation banking is regulated at the federal level by guidelines developed by the U.S. Army Corps of Engineers in coordination with other agencies (FR Vol. 60, No. 288). In Washington, the Department of Ecology has developed guidelines for application to state and local wetland impacts, but implementation of these regulations has been suspended due to a lack of funding (WAC 173-700). In Oregon, the Department of State Lands (DSL) has prepared a wetland mitigation banking guidebook. Both sets of guidelines are similar and address issues such as bank siting, defining service area, determination of bank credits, and bank operation. In addition, both sets of guidelines clarify that while mitigation banking may be permitted, the use of banking does not change overall priorities for first avoiding and minimizing impacts. Agency approval is also required to make full use of mitigation banks to meet state and federal requirements.

An informal mitigation bank may also be an option for the Corridor, similar to what is currently being used in the Natural Resource Management Plan for Peninsula Drainage District No. 1 (Pen1). There is no formal bank created for Pen1, but there are specific mitigation sites identified with descriptions of the type of mitigation or enhancement that could potentially be done. When development is proposed within the Pen1 plan area and mitigation is required, the developer then has the option of selecting from among several pre-planned and pre-approved mitigation sites. This eliminates some of the uncertainty associated with traditional mitigation requirements.

Overall, there are several potential benefits of wetland or stream mitigation banking. First, wetlands or stream corridors can be functionally created or restored "up front" prior to the wetland or stream impact. The detailed planning, construction and monitoring required by state and federal mitigation bank guidelines often leads to greater success in creating or restoring wetland or stream functions compared to site-specific, individual mitigation projects which may result in failure (Washington Department of Ecology, 2001). Up-front mitigation also provides more flexibility to landowners or agencies by reducing the time needed to site, design, construct, and monitor an individual mitigation project. Mitigation banks can allow for consolidation of wetland or stream corridor functions into larger areas, which may provide greater overall function on a watershed level than small, isolated, "postage stamp" wetland or stream corridor enhancements. Mitigation banking options could also be developed to channel in-lieu fees into a fund to acquire lands with natural resources for protection and restoration.

Mitigation banking can also pose several challenges, particularly in urban or urbanizing areas. Costs for purchasing land to create a mitigation bank can be prohibitive in such areas, as can the overall availability of land suitable for creating or restoring a mitigation bank. There may be particular challenges in finding a site with adequate hydrology, often a primary factor in the failure of mitigation projects (Dennison, 1997). In cases where public land is available, mitigation banking must often compete with use of public land for active parks, utilities, or other uses. Policy questions arise including whether it is appropriate to allow mitigation for private projects to be carried out on publicly owned land or on lands located outside of the watershed.

Costs for maintaining and monitoring mitigation banks can also be substantial and may be a particular concern where a public agency will assume responsibility for stewardship of the bank. Logistical challenges, which include determining the service area and credit formulas for use of the bank, may also pose challenges (Driscoll, personal communication, 2002). Finally, because mitigation banking can only succeed where impacts to other wetlands or stream resources are permitted by regulations, some level of "redistribution" of functions (e.g., loss of smaller isolated wetlands, increase in riparian wetlands) on a landscape must be acceptable.

2.4.2 Program Examples

With the widening recognition of the value of offsite mitigation in a watershed context, mitigation banking is becoming increasingly popular in jurisdictions across the country. Several mitigation banks have been developed in Oregon. In Washington, there are several operating wetland or stream corridor mitigation banks; four of these are banks that have been developed for use by public agencies (King County, Pierce County, Washington Department of Transportation, Paine Field); others, including banks in Pacific County and Clark County, have been established to mitigate impacts resulting from private development. Clark County's bank targets stream corridor and wetland mitigation, while the primary focus of most other banks is on wetland mitigation (Washington Department of Ecology, 2001).

In addition to Clark County, Orange County, California provides another example of stream corridor mitigation banking. In that county, a single large landowner and developer was allowed to enhance a stream corridor with vegetation plantings on County-owned land in exchange for stream corridor impacts elsewhere. By providing the land for the bank, the County also received credit in the bank that could be used toward public works projects, such as roads and utilities. Mitigation reportedly achieved high success rates in enhancing stream functions (Marsh, 1996). Finally, in a few cases mitigation banking has been applied to upland wildlife habitat. One of the largest examples of this type of program is southern California's Natural Communities Conservation Partnership (NCCP) program, which addresses habitat for over 100 threatened and endangered species, including the California gnatcatcher. Under this program, communities purchase habitat and allow developers to buy "credits" in acquired areas to offset impacts to habitat elsewhere (Adolfson Associates, 1999).

2.4.3 Application to the Columbia Corridor

Mitigation banking may offer opportunities to enhance or restore wetland and stream functions in the Corridor. If a suitable site(s) could be identified, such a mitigation bank could be used for both public projects (roads, utilities) and private development projects throughout the watershed. A mitigation bank could be used across multiple jurisdictions and agencies, including DSL and the Corps, or a bank could be limited to just City of Portland use. Mitigation banking could also be used to "leverage" planned restoration projects on public land where funding is limited. These could include stream corridor enhancement or wetland enhancement projects. In-lieu fees could provide a fund to acquire additional land for protection and restoration.

Finally, there may be opportunities in the Corridor to establish a critical upland natural resource or wildlife habitat "bank" that would allow landowners to purchase credits in exchange for impacts to habitat, such as mature forest, on private land. The City could sponsor such a bank by acquiring critical wildlife habitat up front, using purchased credits to re-pay the purchase. Such a program could help protect existing wildlife linkages in the Corridor or to re-establish linkages through restoration.

The secondary drainage ways provide potential mitigation banking opportunities. These water bodies vary from flowing drainages to more wetland like depressions. Both can provide water quality, flow and volume, and habitat functions, especially when restored.

2.5 Mitigation Fee-in-Lieu

2.5.1 Overview

Mitigation fee-in-lieu is a program where a property owner or applicant who is required to compensate for unavoidable resource impacts associated with development actions can pay a specified amount of money to the jurisdiction as a fee instead of mitigating on their development site. The jurisdiction then uses the money collected to complete a restoration or enhancement project somewhere off site. The off-site mitigation area is usually somewhere within the same watershed as the development site. Fee-in-lieu can be a stand alone program or it can be incorporated into a mitigation banking program. In-lieu fees could also be paid into a fund to acquire additional land for protection and restoration.

The fees are usually set based on calculations of the cost for mitigation construction, monitoring, and long term maintenance on a per square foot or per acre basis. For example, if one acre of wetland is impacted and three acres of wetland creation are required, then the fee may be calculated as three acres to be created multiplied by X dollars per acre. The entity responsible for the mitigation construction, monitoring, and maintenance could be government agency or a non-profit group.

A fee-in-lieu program does raise multiple policy questions, such as: Where will the money be spent? Who decides? How will the program achieve ecological objectives? Could excess credits from a payment-to-provide program be sold to other projects that need mitigation? What are the priorities?

2.5.2 Program Example

Within the state of Oregon, the Department of State Lands administers a Wetland Mitigation Bank Revolving Fund Account that consists of monies paid by persons in lieu of constructing wetland mitigation projects. The purpose of these payments is to comply with a removal-fill permit or authorization or to resolve a violation of the removal-fill law. DSL uses the funds to contract with others for projects that create, restore, or enhance wetland areas. DSL then provides the funds to entities such as watershed councils to accomplish the projects.

2.5.3 Application to the Columbia Corridor

Mitigation fee-in-lieu offers additional opportunities to enhance or restore wetland and stream functions in the Corridor, beyond what may be achieved through mitigation banking. Within the Corridor, the BES Revegetation program could be used as the designated agency to receive the fees and perform the mitigation. The BES Revegetation program is already up and running in the corridor restoring and enhancing resource areas and performing the long-term monitoring and maintenance necessary to insure project success. A fee-in-lieu program would provide land owners with a more straight forward option for required mitigation and may concentrate mitigation into areas that need it most. An option would be to allow fees collected to be used to buy unprotected resource sites within the Corridor. A fee-in-lieu program could be set-up to operate throughout the Columbia Slough Watershed or just within certain jurisdictions.

2.6 Onsite Density Transfer/Bonus

2.6.1 Overview

On-site density transfers allow landowners to transfer development rights from portions of a parcel where development would be constrained by a sensitive area to buildable portions on the same property. While the site's overall level of development remains the same, onsite density transfer allows one area to be protected and one area developed more intensively. Onsite density transfer provisions are common in land use codes throughout the Pacific Northwest and are frequently used to encourage protection of natural resources. Onsite density transfer is often viewed as a "compromise" technique that can provide landowners greater relief from regulatory burdens while helping a jurisdiction avoid charges of regulatory "takings" of private property for resource area protection. The protected natural resource or sensitive area on the site can remain in private ownership, be dedicated to public ownership, or be managed through a conservation easement or another type of management agreement.

Onsite density transfers can also be used to encourage protection of natural resources or sensitive areas above and beyond what is required by existing regulations. For example, a landowner may be required to provide a 50-foot riparian buffer and allowed to develop a parcel at 5 units per acre. Protection of the 50-foot buffer may reduce the area available to development so that the landowner may not be able to develop the full 5 units and meet the requirements of the base zoning. Onsite density transfer provisions would allow the landowner to develop the full 5 units but would allow automatic adjustment of the base zone regulations so that lot sizes could be reduced or units could be attached so that all 5 allowed units could be developed on the non-protected portion of the property. Another variation of onsite density transfer allows for a bonus incentive. For example, if the landowner from the previous example agrees to widen the buffer to 75 feet, a "bonus" provision might allow the landowner to develop at an increased density, for example 7.5 units per acre, to offset the land costs of the enhanced protection. Such a provision provides a "win-win" where the landowner can exercise an increased development potential on

the site, while the natural resource or sensitive area receives greater protection than would otherwise occur under existing regulations.

While onsite density transfers can be used to protect sensitive areas, such programs often raise concerns about increased density and its effect on adjacent land uses. Increased density may be objectionable to surrounding landowners, or designs that would be required to accommodate the density onsite may not be appealing to the landowner. In such cases, additional design-oriented regulation (e.g., height limits, modulation, setback standards) and/or staff resources for development review may be required.

2.6.2 Program Examples

Density transfer/bonus programs are common but vary widely in application throughout Oregon and Washington. Such programs, for example, vary in the amount of density that can be transferred from the sensitive area. Clackamas County, Oregon, allows up to 100 percent of the development right to be transferred from sensitive areas to the buildable portions of the site (National Association of Industrial Office Parks and Puget Sound Water Quality Authority, undated). Such provisions may be possible in more rural areas where increased site-specific density is less of a concern, but may be more problematic in urban areas. Conversely, King County, Washington has employed a declining scale; as the amount of site constrained by sensitive area increases, the amount of density that can be transferred out of the sensitive area decreases. Yet another option is to limit the applicability of a program to address development concerns. The City of Mill Creek, Washington, for example, has adopted a more focused program that applies to just one class of wetland in the city. Portland's existing onsite density transfer program is implemented through its Planned Development and Environmental Zone regulations as part of the subdivision process.

2.6.3 Application to the Columbia Corridor

Onsite density transfers have the potential to increase protection of a variety of sensitive areas and natural resources. Such a system could apply to a variety of sensitive areas in the Corridor including wetlands, stream and riparian areas, flood hazard areas, and wildlife habitat. Onsite density transfer tends to work more effectively for residential development than commercial or industrial. Density, in the form of residential units is easier to account for and to be used as an incentive. For industrial or commercial uses the floor area ratio or building square footage may be used as density "units" that would be transferred or used for a bonus. Application of this option to industrial and commercial situations needs to be more fully explored.

Onsite building square footage transfer provisions could give landowners and stakeholders in the Corridor the option of protecting sensitive areas by choosing to transfer development out of the sensitive area and concentrating development on unrestricted portions of the lot. Such a system, however, would also result in greater development intensity on the developable portions of a property. This would likely increase the height, bulk, and scale of development on such parcels and may require greater flexibility in lot line setbacks. These conditions could create concerns in adjacent neighborhoods about increased development intensity.

The City and Corridor stakeholders could also explore a more focused square footage transfer program in those areas where natural resources are targeted for protection, and where additional development is publicly and politically acceptable. Such a transfer program could be targeted to a "priority" area, or to particular high-quality natural resources.

2.7 Off-site Transfer of Development Rights

2.7.1 Overview

Offsite transfer of development rights, or "TDR", is a method for protecting land by transferring a landowner's rights to develop from one property containing a natural resource or sensitive area (the "sending" area) to an unconstrained property (the "receiving" area) that is more appropriate for development. Such programs place development restrictions on property in sending areas while allowing for an increase in development densities, or "bonuses," in receiving areas. Landowners are compensated for their transferred development rights, and developers receiving the density bonus typically pay the costs of transferring the development rights. TDR has been used to preserve open space, natural resources, farmland, and urban areas of historical importance across the country. More than 20 states, including Oregon and Washington, have enacted or amended statutes to permit the use of TDR (Bredin, 2000).

TDR programs offer several advantages for landowners and the protection of natural resources. Such programs can be appealing to multiple stakeholders; the buyer of development credits gains extra density, the seller reaps financial return, and the community benefits from preservation (Pizor, 1986). TDR programs have also survived several legal challenges. In addition, compared to onsite density transfer programs, TDR programs may provide greater protection for natural resources because offsite TDR eliminates both direct impacts and indirect impacts to natural areas (human presence, pets, etc.).

However, like onsite density transfer programs, successful implementation of offsite TDR programs can be challenging and requires careful evaluation of the "market" for transferred credits and public support for such a program. The main challenges in establishing a TDR program typically include the following:

- Determining the willingness of landowners or stakeholders in targeted sending areas and receiving areas to participate in a density transfer program;
- Establishing receiving areas where increased density, as well as traffic and utility demands are acceptable; and
- Creating a "market" for transferred development credits by determining development trends and establishing values for credits that give landowners more incentive to transfer development credits than to develop their own property.

If unsuccessfully structured, transfers can be quite rare in some TDR programs—this has been the case with several in Washington State and the City of Portland. Studies have indicated that

programs with the strictest development regulations in the sending district may experience the most use of the TDR program (Pizor, 1986). In other cases, a city or county may act as a "bank" or clearinghouse by purchasing development credits from landowners and banking them until a willing buyer can be identified.

2.7.2 Program Example

The use of TDR has become widespread in the country, and programs such as Montgomery County, Maryland's agricultural area TDR program have achieved great success (Adolfson Associates, 1999). There are over 120 transfer of development rights programs nationwide including programs in Seattle and King County, Washington; of these nationwide programs, over 60 are specifically targeted at sensitive areas and natural resources. Several jurisdictions in California have adopted TDR programs to specifically limit development on steep slope areas (Pruetz, 1997).

King County, Washington has adopted a TDR program to help protect farm and forest resource lands and open space outside of its urban growth area. Land eligible for TDR in King County includes farms, forest, open space, regional trails, designated urban separator lands, and habitat for threatened and endangered species (King County Code, 21A.55.110). The Program also includes interlocal agreements with the Cities of Seattle and Issaquah to provide receiving sites in downtown areas. In 2001, the TDR program was converted from a 3-year pilot program to a permanent one. As of October 2005, the County's program had protected more than 91,500 acres of forest and regional trail corridors (Sollitto, personal communication, 2005).

The City of Redmond, Washington has established a TDR program that remains active and supported by many of its citizens and elected officials. Under the program, the City has designated several sending areas including agricultural lands, areas zoned for "urban recreation," and sensitive areas such as wetlands. Both undeveloped properties and properties that are under developed (capable of additional development) are eligible sending areas. Receiving areas are located in downtown areas as well as commercial/office parks, including the Microsoft campus (Shirk, personal communication, 2002). Landowners in receiving areas can buy credits in the form of additional parking spaces, additional building height, or greater building square footage. The program was developed after extensive surveys of the public and developers in the City; surveys were used to develop the formula for calculating credits, identify receiving areas, and determine the market for credits. To implement the program, the City also "downzoned" portions of their downtown area to create demand for transferred development credits (Shirk, personal communication, 2002).

In a more limited application of TDR, the City of Everett, Washington has adopted a TDR program that applies only to "reasonable use" exceptions in the City. This program provides an alternative to development on sites that are so constrained by sensitive areas that the City must legally permit some development. In such limited cases, the City allows landowners to transfer development off the site to avoid the need to impact natural resources or sensitive areas (Pruetz, 1997).

A development right transfer program in Seattle, Washington transfers building square footage rather than density units. The first transaction occurred in 1986, when over 40,000 square feet of floor area were transferred to the Washington Mutual Tower (Pruetz, 1997).

The City of Santa Barbara, California has developed an innovative variation on TDR called Transfer of Existing Development Rights, or "TEDR." Under this program, which is intended to reduce bulk and scale in an existing part of the City dominated by warehouses, landowners may demolish structures on the site, build smaller structures, and transfer the remaining density off the site (Pruetz, 1997).

In the City of Portland, TDR is available in the Northwest Hills Plan District and the Johnson Creek Plan District. Sending sites are designated within Environmental Overlay Zones. It has been little used to date mostly due to the generous density allowances already in place in the receiving areas. If areas with more demand for density were designated as the receiving sites (for example: Downtown, South Water Front, Pearl District) there may be more incentive to take advantage of the opportunity and generate a market demand.

2.7.3 Application to the Columbia Corridor

TDR could be used to protect a variety of natural resources in the Corridor, including wetlands, streams, and wildlife habitat areas. Such a program could apply to development proposals on vacant land, or to properties where substantial increases in density through redevelopment are possible. Before such a program was developed, additional information on likely future development and redevelopment scenarios could be conducted along with surveys of landowners, developers, and other stakeholders to determine the demand and support for a TDR program in the Corridor.

Increasing development in receiving areas could raise concerns regarding increased traffic and demands on utilities, and greater development intensity may also not be publicly acceptable. Although within the Corridor, the practical effect may be of moving already anticipated development to designated areas of the Corridor rather than increasing development from what may have already been expected.

If concerns with transferred development make use of a widespread TDR program problematic in the Corridor, there may be opportunities to develop a more focused program. As is the case in the City of Everett, Washington, the City could restrict the use of TDR to only those situations where property is extensively constrained by sensitive areas or natural resources. The City could also explore a more focused TDR program in those areas where particular sensitive areas are targeted for protection, and where additional density is acceptable. Such a program could be targeted to a "priority" geographic area, such as an industrial sanctuary or urban renewal area, or to particular high-quality natural resources.

Santa Barbara's "TEDR" program could also have some limited applications in the Corridor, particularly combined with strategies such as establishing a regional or Corridor-wide mitigation site on properties with existing development.

3.0 NON-REGUALTORY APPROACHES AND INCENTIVES

3.1 Community Involvement/Recognition Programs

3.1.1 Overview

Landowner/contributor recognition programs acknowledge private landowners or community members that conserve open space, protect habitat, and/or adopt good stewardship practices for sensitive areas or natural resources. These programs also include recognition for other contributors, such as businesses, that help protect and conserve open space and natural resources through direct financial support or in-kind assistance of labor or materials. Recognition may take the form of favorable publicity, awards ceremonies, plaques, certificates, or other means.

Such programs are typically popular with the public and are relatively low cost. While they can be a valuable tool in building partnerships with citizens, they typically do not lead to direct protection of resource areas and are considered more of a "soft" approach to natural resource protection. As a result, such programs are most effectively used in combination with regulations and other programs, such as land acquisition, that are more directly connected with natural resource protection, enhancement, and restoration.

3.1.2 Program Example

An example of a successful recognition program is Nantucket Island's "Green Fund," a stewardship fund established by the Island's Chamber of Commerce. Over 250 businesses on the island contribute to the Fund, and funds are used to purchase sensitive habitat and open space throughout the island. The Fund raised over $250,000 in 1999. Participating businesses are recognized through favorable press in local newspapers and in local radio broadcasts. A private organization in Door County, Wisconsin has developed a similar fund based on the success of Nantucket's program, protecting several hundred acres (Door County Green Fund, 2005).

3.1.3 Application to Columbia Corridor

While several bureaus within the City of Portland have been successful in recognizing the accomplishments of citizens, there are likely several opportunities to expand the City's recognition programs or to team with other organizations to target a program for stakeholders in the Columbia Corridor. For example, the Columbia Slough Watershed Council (Council) has a successful program up and running to recognize landowners that restore sensitive areas or natural resources on private property in the Corridor. Landowners or businesses practicing low-impact development techniques are also currently recognized by the Bureau of Environmental Services and Office of Sustainability. These programs could be more coordinated and the relationship between the Watershed Council and the City more formalized.

Additionally, like Nantucket Island and Door County, the City could also work with stakeholders in the Corridor or throughout the City to encourage them to contribute labor, materials, or money to the enhancement, restoration, or acquisition of natural resources.

3.2 Acquisitions, Easements, and Land Exchanges

3.2.1 Overview

Many resource protection programs include a land acquisition component whereby a public agency seeks to acquire properties with significant resource values, often in specific target areas. In particular, outright acquisition of property, or "fee simple" acquisition, is a certain, reliable method for protecting all types of resource areas. This method:

- Establishes clear ownership and management responsibility;
- Can provide full and permanent protection of the resource;
- Can be less problematic with respect to monitoring and enforcement; and
- Can allow for public access for recreation and other uses, where appropriate.

Purchase prices are determined by appraisal to establish the fair market value of property, usually based on the expected "highest and best use" of the property. Most acquisition programs are conducted on a voluntary willing seller basis, but many public agencies reserve the option of using the power of eminent domain to condemn a property from an unwilling seller.

Conservation easements are another form of land acquisition, but rather than acquiring fee simple ownership, only some of the property rights (such as development rights) are acquired. Conservation easements are legal agreements between property owners and holders of the easement that allow landowners to retain fee title ownership and primary use of their property, while protecting the critical area. Easements place restrictions on use of property, specifically those uses that might damage the critical area, such as development or vegetation clearing. Landowners are particularly receptive to this option if they are interested in continuing to own their property and want to reduce some of its financial burdens or receive a tax benefit. Easements can be purchased or donated, and most are permanent or "in perpetuity" and appear on title reports so they run with the land, binding future owners. Easements include provisions for monitoring, typically an annual site visit, and enforcement to ensure resource protection. Public access is negotiable, but not guaranteed. Easements can be dedicated to, and monitored and enforced by public agencies or land trusts (Lind, 1991).

In some cases, public agencies will develop partnerships with land trusts to establish formal and informal working agreements. Land trusts can often take action more swiftly than public agencies to purchase properties when they become available. Partnerships may take many forms, from informal information sharing and coordination agreements, to more formalized agreements under which public agencies assist land trusts (or vice versa) by providing funding, staffing, technical assistance, or other support. Under such agreements, land trusts may act as a

"broker" or negotiator, and they can purchase and protect land until public funds become available, ultimately passing land on to public ownership. Land trusts can also assume responsibility for monitoring and enforcing conservation easements.

Finally, exchanges, or land swaps, are another means by which public agencies can acquire land. Instead of money changing hands, property is exchanged. If a public agency has surplus land, they can trade it for land that is more useful or meets a specific resource protection goal. Land exchanges, however, are difficult and complex for a variety of reasons. First, a public agency must have surplus property that it is willing to trade. Public agencies are often constrained by what they can do with surplus property and may have fiduciary responsibilities to recover the original acquisition costs. Surplus property must also be attractive to the private landowner. Surplus property appropriate for industrial use may not be appealing, for example, to the private owner interested in residential land. Finally, it can be difficult to equalize property values. If the values do not match, one party may have to balance the values with cash, which can be difficult in some situations. In many cases, a public agency will sell the surplus land to a third party and use the proceeds to acquire the subject property.

While land acquisition programs are among the most publicly popular and effective programs for protecting site-specific resource areas, such programs may have limited application due to the availability of property from willing sellers, and because of the particularly high cost of land in urban areas. In addition, acquisition programs tend to target critical and/or larger natural resource sites, rather than to protect natural resource values and functions at a watershed scale. Such programs, however, are an effective component of a larger strategy to protect resource area functions and values.

3.2.2 Program Example

For over 20 years, the California Tahoe Conservancy has worked to protect the natural environment of the Lake Tahoe Basin, including the water quality of Lake Tahoe and the Basin's diverse wildlife habitat. Among the Conservancy's programs are land acquisition, grants, habitat enhancement, and mitigation. As an independent agency within the State's Resources Agency, the Conservancy administers one of the largest acquisition programs in California involving small, individually owned and subdivided parcels. Its focus is also unique in that acquisitions are taking place in an already urbanized area. As of 1999, the Conservancy had authorized acquisition of over 7,000 acres including steep slopes, wetlands, and riparian areas. The Conservancy's Board is comprised of representatives from agencies and local governments in the region, leading to a collaborative approach to acquisitions, and funding is derived from both internal and external sources. The Conservancy's wide range of programs provides both the agency and landowners with a wide range of options and tools meet conservation goals and objectives in the Basin.

The Portland Bureau of Environmental Services has established a successful willing seller program to purchase flood prone lands along Johnson Creek. In addition, the City coordinates with the Three Rivers Conservancy which seeks to establish conservation easements to protect high value natural resources.

While there are few examples of land exchanges at the local government level, the City of Portland has conducted several land exchanges with private landowners. The City has traded surplus parkland and a maintenance yard for forested areas and other resource land.

3.2.3 Application to the Columbia Corridor

Fee simple acquisition and purchase of easements could continue to be a valuable tool to protect natural resources in the Corridor, particularly those threatened by development. The City could work with Metro to evaluate development patterns and natural resource protection goals to ensure that protection of threatened sensitive areas in the Corridor are given high priority in future acquisition efforts. Other potential sources of funding are discussed below.

3.3 Partnerships

3.3.1 Overview

Partnerships are another option that many local governments are embracing as part of comprehensive natural resource management strategies. Many jurisdictions are seeking opportunities to partner with public utilities, transportation agencies, state and federal resource agencies, conservation organizations, housing and port agencies, and community associations (Trust for Public Land, 2005). Among other advantages, partnerships help to build shared visions and goals, and leverage funds and technical expertise.

3.3.2 Program Examples

The Southeast Pennsylvania Greenspace Alliance has used the power of partnerships to coordinate and link open space throughout a five-county region in Southeast Pennsylvania. The Alliance includes extensive coordination between Counties, municipalities, land trusts, and stakeholders (Adolfson Associates, 1999). More than 100 organizations in Bucks, Chester, Delaware, Montgomery and Philadelphia Counties are working together to define a shared vision, including an integrated network of open space throughout the region.

A unique partnership between King County, the City of Snoqualmie, Cascade Land Conservancy, and Quadrant Homes under the Snoqualmie Preservation Initiative (SPI) has preserved through land exchanges and acquisition a number of key properties in eastern King County. The agreement under the SPI resulted in the protection of over 9,100 acres, including 150 acres adjacent to Snoqualmie Falls and 9,000 acres in the Raging River watershed. The City and County provided financial support for the preservation of the 150 acres adjacent to the Falls, agreeing to allocate planned housing units from the acquired parcel to the nearby planned community of Snoqualmie Ridge. In return, Quadrant Homes, the applicant and owner of the Snoqualmie Ridge project, agreed to yield development rights to 2,800 acres elsewhere in the region as partial mitigation, and to provide $8.7 million in funding for other land acquisition efforts (King County et al., 2004).

3.3.3 Application to the Columbia Corridor

There is a unique opportunity to extend and improve the partnerships that already exist in the Corridor. The Columbia Slough Watershed Council has been a catalyst in bringing together many different interests to form partnerships within the Corridor. The Council works with businesses, the Drainage Districts, BES, the Water Bureau, and Metro among many others. Because these groups have been working together for many years the opportunities to use the Council and the partnerships that have been formed is a great asset and should be thoroughly evaluated in the next phase of the Corridor Planning project. This was also strongly suggested by participants from all sides in the stakeholder interviews. There are also similar groups to the Columbia Slough Watershed Council in other jurisdictions, such as Fairview and Gresham, that could be brought into the discussion.

3.4 Land Pooling

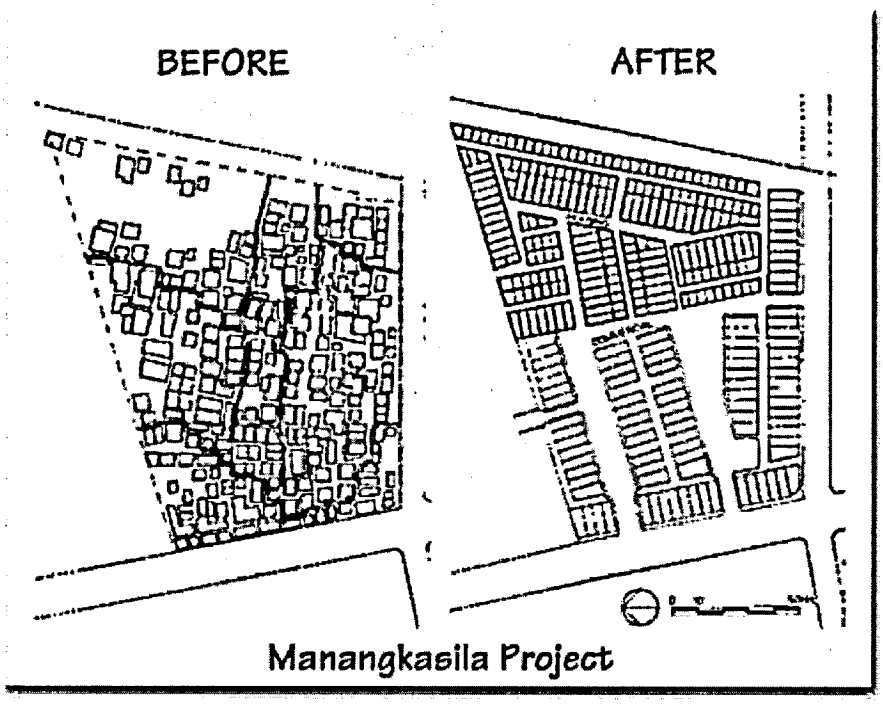
3.4.1 Overview

Land pooling is differentiated from other similar land consolidation techniques as being where land is legally consolidated ('pooled') by the transfer of ownership of separate parcels of land to an agency handling the transaction and redesign, with the later transfer of ownership of the new building lots back to the landowners as shown on a subdivision plan. It is particularly useful in achieving the timely servicing and subdivision of urban-fringe land holdings. The technique also provides a mechanism for using the increase in land value resulting from the planned development to finance the cost of providing road and public utility service. It can provide many of the benefits of large-scale land development projects. The sale of some of the new building lots can also be used to recover the planning and development costs and the cost of redistribution of other lots back to the original landowners. This can be accomplished through a public agency or completed by a partnership of private landowners. It is widely used in Japan, South Korea, and Taiwan and in some cities in Australia and Canada. A somewhat similar technique known as plot reconstitution is used in some cities in India (Upgrading Urban Communities, 2001).

Under a private land-pooling program, property owners form a partnership to unify planning for conservation and development across multiple parcels, providing a *market-based* mechanism for regional planning. Property owners form a partnership (LLC or LLP) and assign planning decisions to the partnership. This can help to optimize the potential of the area in terms of both development and natural resources management. Land pooling helps to integrate property owner needs with broader social goals and municipal control (Budesilich and Binger, 2004).

3.4.2 Program Example

Land pooling is much more common outside of the United States and has been especially successful in Thailand. An illustration of a project in Bangkok is provided below.



(Illustration source: Upgrading Urban Communities, 2001)

There are few examples of land pooling being used in the United States. Land Pool Partners is an organization created to promote the use of the concept for growth planning generally within the United States (Land Pool Partners, 2005). The Coalition for Utah's Future is a public/private partnership that is promoting the use of TDR and other growth planning techniques that are similar to land pooling to manage growth in the Ogden Valley of Utah (Envision Utah, 2005).

The Land Pooling concept could be integrated with low impact design to reduce impacts on land and energy while maximizing value for the owners involved.

3.4.3 Application to the Columbia Corridor

Land pooling is likely to be most effective for areas at the edge of the Urban Growth Boundary but there may be opportunities within the Corridor. In particular, land pooling may be effective in areas where the land platting is older and multiple lots exist with multiple owners. The details of making this option work in the Corridor may be too costly in time and effort for the return in this case. However, it could also be an effective tool for providing satisfaction and return on investment for land owners in addition to more permanently protecting resource land in the Corridor. There may be opportunities for two or more land owners of large properties to create a master plan for their "pooled" land. There are some very large industrial lots remaining in the Corridor.

3.5 Property Tax Relief/Restoration Credits

3.5.1 Overview

Tax deductions or credits can help landowners cover the costs of habitat restoration projects. Property taxes provide a major opportunity to grant landowners tax relief in exchange for protecting or enhancing natural resources. If conservation actions taken by a landowner were to result in part of the property's value being exempt from property taxes, then that exemption could provide a benefit to the landowner, without costing the City in reduced tax revenue.

"Current use" taxation, which allows landowners to pay property taxes based on current use versus development potential, is a widely used approach in several states. However, only in those states that impose a stiff development penalty if the parcel has been enrolled for less than 10 years is there a fairly strong incentive to postpone development in the face of escalating property costs (England, 2004).

While tax-based incentives can increase resource protection, they are generally less effective at targeting specific sensitive areas or natural resources (Boyd, 1999).

3.5.2 Program Example

King County, Washington's Current Use Assessment program allows citizens of the County and its incorporated cities to recognize "current use" of property with significant natural features, thereby reducing property taxes. The program can reduce property values used for tax assessment from 50 to 90 percent (King County, 1998). The voluntary program applies to high priority areas, including sensitive vegetation, wildlife, and salmon habitat areas. The state of Oregon has several existing conservation reserve programs, including wildlife habitat reserve programs and a riparian tax credit option.

3.5.3 Application to the Columbia Corridor

Currently, Multnomah County applies the open space tax rate to lands within the City of Portland Environmental Overlay Zone if the property owner notifies the County that they have the environmental overlay on any portion of their property. The City could work with Multnomah County to investigate the cost/benefit of being more pro-active about applying the open space assessment to protected resources in the, and to explore the potential to establish an active riparian and wildlife habitat tax credit program in the Corridor (could have applicability City or region-wide as well).

3.6 Information and Educational Assistance

3.6.1 Overview

One of the biggest challenges with any incentive program is disseminating information to landowners, developers, and other potential users. As a result, an active outreach and public information program is a key component of any successful incentive strategy.

An information center and/or clearinghouse would provide a "one stop shop" providing landowners with technical assistance and information on a full range of incentive tools and regulations. Such a center also can provide in-house consulting services to landowners to assist with regulatory compliance, serve as a coordination point between multiple City departments or resource agencies, help to develop institutional capacity for designing and carrying out stewardship projects, or even provide a bank for the sale of transferable development credits. An interactive web site providing news and information on incentive tools can supplement such a program.

An incentive program may also include providing landowners with consulting services that focus on direct and practical assistance as opposed to information exchange and education. Such a program may provide assistance in site planning, resource identification, management, and restoration, and may include a range of services:

- **Technical assistance**: Staff addresses technical concerns of individual landowners, citizens groups, etc.
- **On-call consulting services**: On-call technical consulting teams made up of paid staff and/or volunteers address specific technical projects meeting a set of selection criteria.
- **Environmental ombudsperson**: Responsible for providing assistance in dispute resolution and advocacy to appropriate agencies.
- **Quick-response team/hot line**: Staff or on-call personnel dedicated to respond to specific problems or opportunities.

3.6.2 Program Example

There are several examples of incentive programs that have developed extensive landowner information clearinghouses and assistance services. One of the most successful resource protection programs in the country, the Long Island Pine Barrens program, relies heavily on close interaction between landowners and program staff. Landowners wishing to develop property in an identified core protection area are required to meet with program staff, where they are provided information on various incentive options such as TDR, land acquisition, easements, and development regulations. Program staff attribute the success of the overall program to the ability to offer a range of incentives (Adolfson Associates, 1999).

There are also several examples of effective information programs in Washington State. The City of Bellingham has developed a program called "Retaining the Rain" that promotes low-

impact development techniques for homeowners through on-screen ads at movie theaters and other tools. Jefferson County, Washington coordinates a network of realtors, mortgage bankers, and volunteer watershed stewards to deliver guidance on topics such as low impact development and salmon protection. As part of the program, new homebuyers and landowners are provided with a "welcome to the watershed" packet to increase their understanding of the local watershed.

3.6.3 Application to the Columbia Corridor

These types of program could be very effective in the Corridor and could be fairly easily implemented through partnerships. The Watershed Council, and to an extent BES, already have a nucleus of an educational assistance program up and running. Metro is hiring new staff to provide technical assistance to cities and counties to promote habitat friendly development practices. Establishing partnerships involving the Watershed Council, BES, the Water Bureau, Portland Parks and Recreation, Planning, Development Services, and Metro could broaden technical assistance opportunities for residents and businesses in the Corridor. Partnerships could be used to leverage existing funding and staffing, and to seek additional resources to provide information to landowners in the Corridor on regulations, incentive tools, sustainable development, and restoration/enhancement techniques.

Such programs could include:

- A Corridor-oriented program to provide information to landowners on the natural resources of the Corridor and their contribution to its ecological health;
- A multi-objective site design manual that would provide design guidance and technical assistance in addition to habitat-friendly development practices and assistance to promote sustainable development;
- A program to provide private landowners information on natural resource restoration and enhancement techniques;
- A permit manager to coordinate not only between city regulations but also with other jurisdictions;
- Development of "prototype" environmentally sensitive design concepts in an effort similar to the Infill Design project;
- A native plant salvage program; and
- A native landscaping "template."

3.7 Other Funding Sources

3.7.1 Overview

Key to the success of any incentive program is sufficient commitment to program staffing and funding. There are several options for funding incentive programs, from allocated general budget funds to impact fees and additional taxes.

This category includes two major sources of tax revenue that have been previously used to support natural resource protection programs nationally: real estate transfer taxes and property taxes. The real estate transfer tax is a tax levied, typically at a rate of between 0.5 and 2 percent of the sale price, on the sale of real estate. The tax can be paid by either the buyer or the seller; some jurisdictions such as New York State set conditions, such as the minimum sale value to which the tax can apply ($175,000 in New York State). The real estate transfer tax is often a "one-time" tax for landowners, and while it can be a substantial tax, it generally affects a small part of the population at any given time.

Property taxes are levied as a percentage of the assessed value of residences and businesses. Typically, property taxes are raised through general obligation bonds approved by voters for a specific purpose. Cities in Washington State have the authority to ask voters to approve excess levies for a wide range of public purposes, from parks to open space and schools.

Stewardship trust funds are an additional way to fund incentive programs. These are funds established through private or public donations that collect money to be used for resource conservation measures, such as land acquisitions, conservation easements, or restoration projects. Such funds may be managed by a private or public entity.

Other options to raise funds for incentive programs include the following:

- Allow landowners to voluntarily contribute to a stewardship fund in lieu of mitigation. Application of such an approach to wetlands or streams may be limited due to other regulatory requirements to provide on-the-ground mitigation; however, there may be opportunities to apply such an approach to wildlife habitat and/or Riparian areas.
- Charge mandatory impact fees for landowners that impact resource areas, particularly wildlife habitat or steep slopes. Impact fees could then be used for the protection, enhancement, or restoration of comparable resource areas.
- Give landowners the option to "buy" more density, such as an additional floor of development, by paying into a resource area stewardship fund. Funds could then be used to acquire property or easements to protect resource areas.

3.7.2 Program Example

Washington's San Juan County has established a land bank to fund the purchase of open space on the islands. Funding for the bank is provided through a dedicated stewardship endowment;

the primary funding source is a 1 percent real estate transfer tax paid by purchasers of property in the County. Funds are disbursed by a citizen-based land bank commission in accordance with a County Open Space and Conservation Plan (San Juan County, 2000). Between 1991 and 2004, the bank preserved over 2,700 acres of land (over 1,700 acres in easements and 1,037 in fee simple purchases). The Commission maintains detailed baseline files on all of its properties and uses site-specific management plans and regular monitoring to guide and track changes over time.

Riverside County, California assesses impact fees for projects that impact wildlife habitat, using banked fees to purchase wildlife habitat elsewhere (Porter, 1997).

3.7.3 Application to the Columbia Corridor

The City could explore the several options for funding natural resource management and protection, enhancement, and restoration. The potential to develop partnerships with the City's business community, both within and outside the Corridor is high—the City, for example, could initiate a business-oriented stewardship fund and work with the community to provide recognition to participating businesses. There may also be opportunities to re-evaluate the City's impact fee policies to help fund resource area protection.

Another potential source of funding is through a new Metro Nature in the Neighborhoods Grant Program.

4.0 CONCLUSIONS

There are several regulatory and non-regulatory approaches discussed above that can provide meaningful protection and enhancement of resource areas in the Columbia Corridor. The City could seek additional opportunities to streamline existing regulations and build in additional incentives for protecting and restoring sensitive areas in the Corridor. Such measures could address a wide variety of natural resources and could provide substantial benefits to landowners in the Corridor. Consolidating the multiple layers of existing City overlay, plan district, and NRMP regulations into a single uniform set of Corridor regulations is a prime example.

There could also better coordination of regulations and permitting between state, federal, and local jurisdictions. Permit processes could be coordinated or facilitated to reduce timelines, overlap of review, and reduce procedural steps.

Also among the regulatory programs, both onsite and offsite TDR have potential applications, although more evaluation would be necessary to gage public and stakeholder acceptance of such approaches and the willingness to embrace these approaches.

The City's current policies and zoning code offer the potential to build in additional options to increase protection and enhancement of resource areas. Such changes could be made without substantial cost to the City and could provide landowners in the Corridor with a variety of "carrots" to protect natural resources. Such changes could potentially apply to all areas and resource types, be focused in certain geographic areas, or target certain natural resources.

Among non-regulatory approaches, there are opportunities to target land acquisition efforts in the Corridor, and to increase funding of this and other programs through stewardship funds, impact fees, or allocation from general funds. There may be particular opportunities to involve the City's or Corridor's business community in these efforts.

Ideally, landowners and stakeholders in the Corridor would have a range of options, as previous surveys have shown that landowners strongly support access to a range of incentive tools. The City could enhance its incentive program by providing a one-stop information center, where landowners with property containing natural resource in the Corridor would be provided with information.

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