

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE EXECUTIVE OFFICER TO EXECUTE A PROGRAMMATIC 4(F) STATEMENT AND NEGOTIATE A RIGHT OF WAY AGREEMENT WITH CLACKAMAS COUNTY DEPARTMENT OF TRANSPORTATION OVER METRO PROPERTY) RESOLUTION NO 99-2740A) Introduced by Mike Burton, Executive Officer)

WHEREAS, Metro and North Clackamas Park and Recreation District ("NCPRD") jointly own 106 acres of regionally significant natural area on Mt. Talbert (the "Mt. Talbert Property") with frontage on Sunnyside Road, purchased with Ballot Measure 26-26 bond funds; and

WHEREAS, the Clackamas County Department of Transportation ("CDOT") and the Oregon Department of Transportation ("ODOT") are developing the Sunnyside Road Improvement Project (hereafter, "Project"), identified in Metro's Regional Transportation Plan; and

WHEREAS, the Project requires the acquisition for right-of-way purposes of 3,000 square feet of the Mt. Talbert Property, comprising 150 feet of Sunnyside Road frontage, and will eliminate Metro's Sunnyside Road curb-cut, the regionally significant natural area's sole current access to a major arterial; and

WHEREAS, the Mt. Scott Trail, a regional trail system identified in the Metro Greenspaces Master Plan, is planned for the Mt. Scott Creek corridor, connecting the Metro/NCPRD property to other greenspaces along Mt. Scott Creek; and

WHEREAS, the Project requires that a new Mt. Scott Creek crossing be built for the improved Sunnyside Road, and a culvert crossing would pre-empt the ability to engineer a Sunnyside Road underpass along Mt. Scott Creek for the Mt. Scott Creek Trail; and

WHEREAS, to fulfill federal funding requirements, CDOT and ODOT must obtain from Metro and NCPRD a Programmatic 4(F) Statement, acknowledging the Project's impacts to park property and agreeing to the mitigation proposed; and

WHEREAS, the Metro Parks and Greenspaces Easement Policy requires formal review of all right-of-way requests by the Regional Parks and Greenspaces Advisory Committee, the Regional Facilities Committee and the full Metro Council; and

WHEREAS, the Metro Parks and Greenspaces Department has determined that this right-of-way request can be accommodated without significant impact to natural resources, cultural resources, recreational facilities, recreational opportunities or their operation and management, as long as certain additional conditions are met; therefore,


BE IT RESOLVED,

- 1) That the Metro Council approves and authorizes Metro's Executive Officer to execute the Sunnyside Road Project Programmatic 4(f) Statement on Metro's behalf, agreeing that the proposed ROW acquisition of a portion of the Mt. Talbert Property will result in no significant impairment of the use of the remaining Mt. Talbert greenspace land for its intended purpose, with the following findings and mitigation conditions:
 - a) The sale of 3,000 square feet of land fronting Sunnyside Road for right-of-way purposes can be accommodated without significant impact to the natural resources, cultural resources, recreational facilities, recreational opportunities or the operations and management of the Mt. Talbert Property.
 - b) The sale of the Mt. Talbert Property's Sunnyside Road curb-cut can be accommodated without significant impact to the Mt. Talbert Property's natural resources and cultural resources. However, unless Metro approved comparable access to the Mt. Talbert Property is guaranteed by a realignment of the 117th Avenue and Sunnyside Road intersection, the loss of curb-cut vehicular access to the Mt. Talbert Property from Sunnyside Road will significantly impact current and future recreational opportunities on the site, the Mt. Talbert Property's potential as a recreation facility, and its operations and management.
 - c) Comparable vehicular access from Sunnyside Road to the Mt. Talbert property must be guaranteed via conversion and realignment of the Sunnyside Road and 117th Avenue intersection to a four-way, signaled connection to the Mt. Talbert property.
 - d) A bridge, instead of a culvert, must be constructed over Mt. Scott Creek at the Sunnyside Road/Mt. Scott Creek juncture to enhance passage for resident and anadromous fish in Mt. Scott Creek, which flows through the Mt. Talbert Property; and to insure continuity and safe access under the improved Sunnyside Road for the Mt. Scott Creek regional bicycle and pedestrian trail system. Unless a bridge is built, the Sunnyside Road Improvement Project will significantly impact the recreational opportunities on the Mt. Talbert Property provided by safe bicycle and pedestrian

access to a regional trail system. The cost of the bridge will be included in the cost of the project.

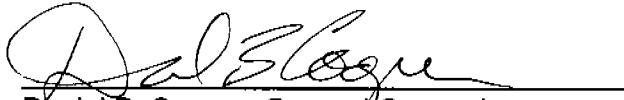
- 2) That the Metro Council authorizes the executive officer to negotiate the sale of approximately 3,000 sq. ft of the Mt. Talbert Property to CDOT/ODOT for the fair market value of the property, as confirmed by Metro's review appraiser upon issuance of the Project's build-decision so long as the conditions noted in item "c" and "d" above are met.

ADOPTED by the Metro Council this 28th day of January 1999.



Rod Monroe, Presiding Officer

APPROVED AS TO FORM:



Daniel B. Cooper, General Counsel

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CLACKAMAS COUNTY

Department of Transportation & Development

THOMAS J. VANDERZANDEN
DIRECTOR

August 28, 1998

Charles Ciecko, Director
Regional Parks and Greenspaces
Metro
600 NE Grand Ave.
Portland, OR 97232-2736

SUBJECT: 4(f) approval for the Sunnyside Road Project

Dear Mr. Ciecko:

In seeking approval of our 4(f) statement we are submitting the first part of our application under Metro's Acquisition Procedure as established by Resolution 97-2539B. It is premature for us to actually begin acquisition because we do not yet have a Build Decision on the Sunnyside Road Project. However, we cannot get to the point of a Build Decision without a completed 4(f) statement.

Normally 4(f) statements are completed by staff, but since you feel this needs Council involvement, we will begin by addressing the first portion of Metro's Acquisition Procedure as we agreed on the phone. We will address the points in Exhibit A of Resolution 97-2539B 13 a-c before the Build Decision to obtain a signed 4(f) statement. We will complete 13 d-g as we approach acquisition after the Build Decision. This would be done sometime in 1999.

A programmatic 4(f) statement is enclosed for your signature.

As a matter of background, the Sunnyside Road Project is included in the Regional Transportation Plan. Project Development has been underway for the last three years. Last January Metro, with the North Clackamas Parks and Recreation District, purchased a property for the Mt. Talbert Greenspaces Park, having frontage along Sunnyside Road. Because the property is in public ownership, is open to the public and is to be used for recreation, the rules of section 4(f) of DOT Act 49 Section 771.135 U.S.C. apply.

If you have any further questions on this matter please contact me. Also, I'd like to set up a meeting to discuss this matter and make sure the way we addressed these issues meets your needs

Dick Van Ingen
Dick Van Ingen, Planner
650-3315

Enclosures

Application for Acquiring Right-of-Way on Metro Greenspaces Property, Sections a-c.
Programmatic 4(f) statement

Map detailing the area of Mt. Talbert Park impacts

cc.

Ron Weinman, Clackamas County

Leslie Howell, CH2M-Hill

Application for Acquiring Right-of-Way on Metro Greenspaces Property Sections a-c.

Because Metro has not developed an application form, we will use the language of policy 13 a through c to structure the information to obtain a signed Programmatic 4(f) statement. It is premature to seek acquisition at this stage; however, the programmatic 4(f) deals with issues that must precede project approval, and project approval must precede acquisition activities.

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

a) The applicant shall submit a detailed proposal to the Department which includes all relevant information including but not limited to:

Purpose

The proposed project was conceived as a means of alleviating congestion on Sunnyside Road between I-205 and SE 172nd Avenue, which operates at or near capacity in most areas along the corridor. In addition, this section of roadway fails to meet design standards of the American Association of State Highway and Transportation Officials (AASHTO) and Clackamas County in the following ways:

Driveways entering Sunnyside Road are numerous and are frequently located too close together and too close to intersections, resulting in conflicts between main line and driveway traffic. Desirable spacing of driveways and intersections is at least 183 meters (600 feet).

Horizontal curves at several locations have radii lengths less than the minimum 210 meters (690 feet) with a 4 percent superelevation required by AASHTO, resulting in unsafe conditions.

Vertical curves at several locations have rates of change that do not meet AASHTO-accepted minimums. These deficiencies result in limited sight distance.

Limited intersection sight distance caused by sharp horizontal and vertical curves, as well as physical obstructions, create problems for vehicles entering the roadway.

Existing lane widths vary from 3 meters to 3.7 meters (10 feet to 12 feet); the minimum desirable lane width is 3.4 meters (11 feet).

Bicycle / shoulder lanes between I-205 and SE 132nd Avenue are intermittent and, in some areas, narrower than the desirable 1.8-meter (6-foot) width; the remainder of the project area has no shoulders or shoulders of less than 1.2 meters (4 feet).

Pedestrian sidewalks are located along Sunnyside Road west of SE 122nd Avenue but are intermittent beyond that point. Sidewalks between I-205 and SE 105th Avenue, a segment designated a “Regional Boulevard” by Metro, are less than the 2.4-meter (8-foot) width prescribed under that concept and require 2.4-meter (8-foot)-wide planter separations.

Some illumination exists west of SE 105th Avenue, but elsewhere it is sparse, and it is absent at some intersections.

Anticipated increases in daily traffic and the desire to bring the roadway into compliance with current standards necessitate improvements to the corridor. The Sunnyside Improvement Project aims to relieve existing congestion, improve horizontal and vertical alignments, provide for transit and other modal access to the project area, address existing safety concerns, and enhance the overall visual image of the corridor.

Size

The area needed for right-of-way is estimated to be 3000 square feet. The dimensions would be about 20 feet deep along 150 feet of frontage. This determination is based on preliminary engineering. Upon project approval, design engineering would begin. The greater level of detail that would result is as likely to diminish as increase the amount of the right-of-way needed. Design engineering would be completed before we approach Metro to acquire the property.

The total Mt. Scott Property is 66.77 acres. The Sunnyside Road Improvement Project would need 1/10th of 1% of the total.

Components

The plant community in the area needed for right-of-way consists of upland shrubland. The most plentiful species are Scot’s broom, and Himalayan blackberry, both invasive exotic species.

Location

The needed right-of-way is at the end of the panhandle where the Mt. Talbert property touches Sunnyside Road.

Existing Conditions

The property is undeveloped. The area needed for right-of-way is well above Mt. Scott Creek. The property now slopes gently away from Sunnyside Road. No recreational facilities have been developed on the site.

Proposed Project Schedule and Phasing

The first phase from I-205 to SE 122nd Avenue, is shown in the Statewide Transportation Improvement Program (1998-2001). Construction is scheduled to begin in Year 2000. Construction of the remainder of the project is unscheduled at this time, depending on the availability of funding.

Analysis of Alternatives which avoid the Metro Owned or Managed Regional Park

The project is developed with one Build Alternative, with impacts to the Mt. Talbert Property as described above. That alternative includes two options for crossing Mt. Scott Creek: 1) with a bridge, or 2) with a replaced or extended culvert.

A No-Build Alternative is presented as a comparison. It would require no right-of-way from the Mt. Talbert parcel.

An Environmental Assessment is to be released on September 11th, 1998. It describes the impacts of the Build and No-Build Alternatives in detail. Metro has been sent a draft, on which comments were solicited and received. The close of the official comment period for the EA to be released will be stamped inside on an introductory letter from ODOT. We encourage Metro's comment.

The Environmental Assessment contains a section titled "Alternatives Considered But Not Carried Forward". That section contains the following discussion for Segment 2 – Sunnybrook Road to SE 122nd Avenue (relevant to the Mt. Talbert Property):

"The five lane alternatives were not carried forward, primarily because they would not provide adequate future capacity. Of the remaining seven-lane alternatives, widenings to the north or to the south were rejected because they would result in greater land use impacts than widening symmetrically from the centerline."

Although the above statement is true generally for segment 2, the project maps near the Mt. Talbert property show that the centerline does shift slightly to the north, with 20 feet needing to be acquired from the south and approximately 50 feet from the north. More may be needed for a slope easement to the north beyond that.

A primary issue in this area in the creek crossing. The Environmental Assessment contains a detailed evaluation of the bridge and culvert options. Shifting the alignment a considerable amount may cause impacts to the creek not anticipated in the analysis of the Build Alternative.

The Build Alternative was designed (at a preliminary engineering level) as a least impact alternative. Public comment will be sought at the hearing and it is possible that changes could be made when new information becomes available.

b) Are Proposed Uses Consistent With the Master Plan?

At this time we are told that there is no Master Plan for the property. The proposed Sunnyside Road Improvement Project complies with the Clackamas County Comprehensive Plan.

c) Are Alternative Alignments located outside of the Metro Owned or Managed Regional Park Feasible?

A wide variety of alternatives were examined and, based on what we know about environmental impacts in this area (the aquatic and riparian habitats, and endangered Steelhead potential habitat), the Build Alternative is designed to be the least disruptive. The Environmental Assessment gives a full discussion of all alternatives.

OREGON FHWA DIVISION OFFICE

NATIONWIDE 4(f) EVALUATION FOR MINOR TAKES OF PUBLIC PARKS, RECREATION LANDS AND WILDLIFE AND WATERFOWL REFUGES

Project # ODOT Key # 07051

Description The Sunnyside Road project proposes to improve Sunnyside Road from I-205 to SE 172nd Avenue in Clackamas County, Oregon. This project would serve to relieve existing and future congestion, improve horizontal and vertical alignments, provide for transit and other modal access to the project area, address safety concerns, and improve overall visual image of the corridor. The Build Alternative, between Sunnybrook Road and SE 122nd Avenue, would be a 7 lane divided highway including bike lanes and sidewalks adjacent to the park property. Right-of-way needs from the park property would be approximately 46 meters (150 feet) of frontage and 5 to 7 meters (17.5 to 23.5 feet) of depth for roadway widening.

		Yes	No
1.	Is the Improvement part of an adopted master plan? Clackamas County Comprehensive Plan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2.	Is the proposed improvement an existing unimproved path? Not Applicable	<input type="checkbox"/>	<input type="checkbox"/>
3.	Is the 4(f) resource adjacent to the existing highway or trail?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4.	Is the existing trail/bike path within the 4(f) resource? Not Applicable	<input type="checkbox"/>	<input type="checkbox"/>
5.	Does the amount and location of the taking result in no impairment of the use of the remaining 4(f) land for its intended purpose?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6.	Minor taking of the 4(f) resource;		
	a) If the total 4(f) resource is less than 10 acres, is the taking less than 10% of the total acreage?	<input type="checkbox"/>	<input type="checkbox"/>
	b) If the total 4(f) resource is from 10 - 100 acres, is the taking less than 1 acre?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	c) If the total 4(f) resource is greater than 100 acres, is the taking less than 1% of the resource?	<input type="checkbox"/>	<input type="checkbox"/>

- 7. Are there no proximity impacts which would impair the use of the 4(f) lands for their intended purpose?

- 8. Have the officials with jurisdiction over the property agreed in writing with the assessment of impacts and proposed mitigation?

- 9. Have no Federal funds (Land, Water, and Conservation Funds) been used in the acquisition of improvements of the 4(f) resource?

- If no, was the land conversion/ transfer coordinated with the appropriate Federal agency, and are they in agreement?

SUMMARY AND APPROVAL

The project meets all criteria included in the programmatic 4(f) evaluation approved on December 23, 1986.

All required alternatives have been evaluated and the findings made are clearly applicable to this project.

The project includes all possible planning to minimize harm and that there are assurances that the measures to minimize harm will be incorporated in the project.

Date

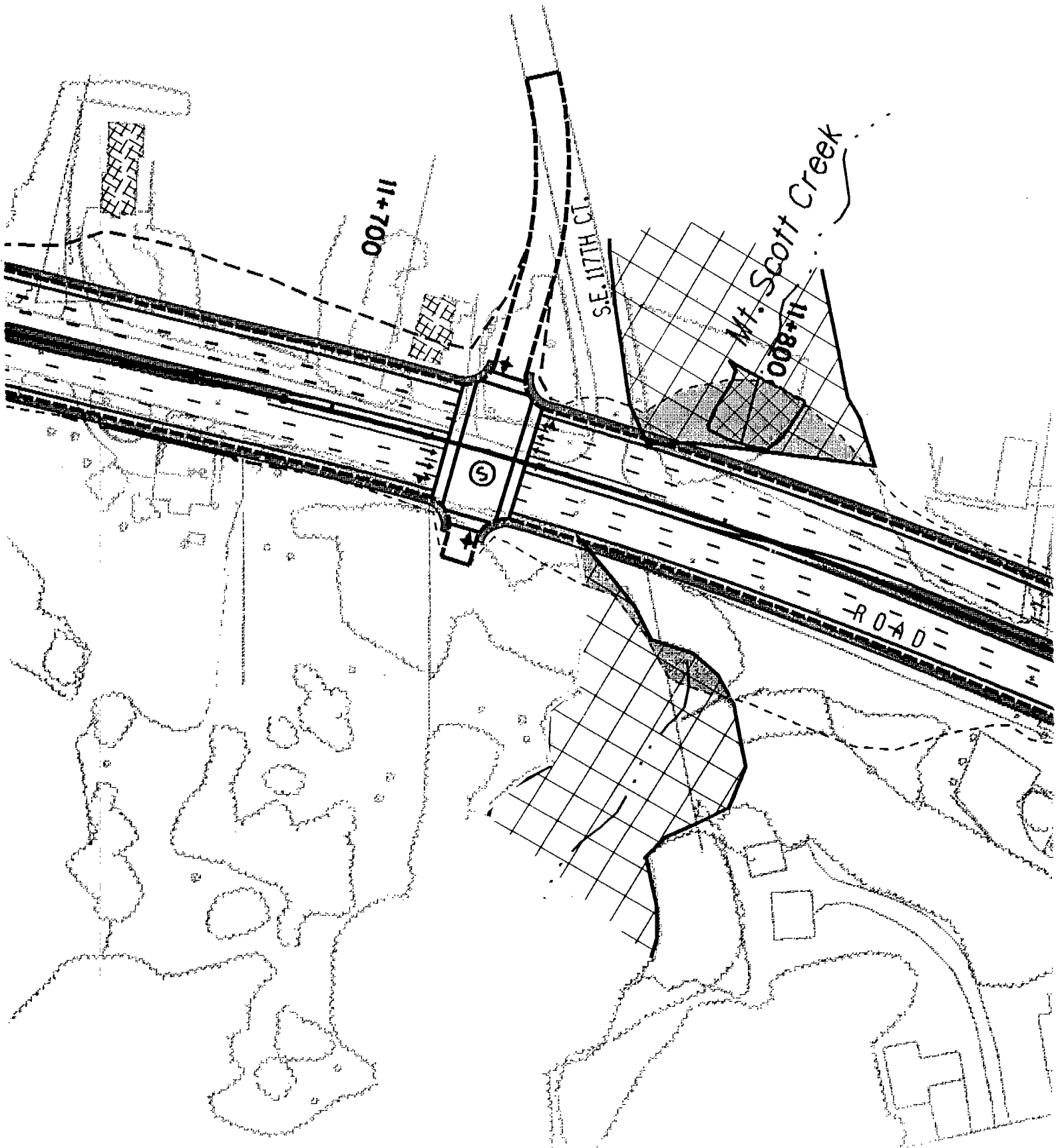
Certified _____
Responsible Official (City, County, Parks, etc.)

Date

Approved _____
ODOT Official

Date

Approved _____
FHWA Division Administrator



TRANSPORTATION COMMITTEE REPORT

CONSIDERATION OF RESOLUTION NO. 99/-2740, FOR THE PURPOSE OF AUTHORIZING THE EXECUTIVE OFFICER TO EXECUTE A PROGRAMMATIC 4(F) STATEMENT AND NEGOTIATE A RIGHT-OF-WAY AGREEMENT WITH CLACKAMAS COUNTY DEPARTMENT OF TRANSPORTATION OVER METRO PROPERTY

Date: January 21, 1999

Presented by: Councilor Atherton

Committee Recommendation: At its January 19 meeting, the Committee considered Resolution No 98-2740 and voted unanimously to send the resolution to the Council with a do pass recommendation. Voting in favor: Councilor Atherton, Councilor Bragdon and Chair Kvistad.

Committee Issues/Discussion: Charlie Ciecko, Regional Parks and Greenspaces Director, presented the staff report. Ciecko explained that the purpose of the resolution was to respond to a request from the Clackamas County Department of Transportation to purchase about 3000 square feet (150 feet long and 20 feet wide) of right-of-way for the Sunnyside Road Improvement Project from Metro's Mt. Talbert open space property which we own jointly with the North Clackamas Park and Recreation District.

Ciecko noted that, since federal funds are financing a portion of the project, Clackamas County must obtain a Programmatic 4(f) Statement from both Metro and the North Clackamas Park and Recreation District concerning resource impacts of the right-of-way acquisition. In addition, he noted that the Council has adopted a specific review process for right-of-way requests involving Metro open space properties (Resolution No. 97-2539B). This review process includes a formal review by the Parks and Greenspaces Committee and the Council.

Ciecko noted that adoption of the resolution would include the proposed Programmatic 4(f) Statement as Attachment 2. He explained that the statement includes two important conditions for the granting of the proposed right-of-way. First, Metro is requesting that vehicular traffic access to the property be maintained. The project, as initially proposed would eliminate curb-cut access. Metro condition language included in the statement would provide that "comparable vehicular access from Sunnyside Road will be provided to the Mt. Talbert property via realignment of 117th Avenue, extending 117 Avenue south to serve the Metro and NCPRD property, and converting this intersection to a four-way, signaled intersection."

Metro's second concern involves providing an adequate crossing over Mt. Scott Creek. Ciecko explained that a trail running along the creek will be an important part of the local and regional trail system. The county is currently considering either a culvert or a bridge option over the creek at Sunnyside Road. Metro's statement supports the bridge alternative as a means of insuring future safe access for both pedestrians and bikers for the creek trail.

Councilor Atherton asked if the culvert alternative would be "below grade" (ie. under the road) and whether this alternative was currently part of the construction project. Ciecko responded that the culvert would be under the road and that no final decision had been made on the bridge or culvert alternatives. Councilor Atherton asked about funding for the project. Andy Cotugno, Transportation Director, responded that the initial phase of the project will receive \$6.4 million in federal funds and some county funds. An additional \$1.4 million in federal funds has been requested for a bridge over Mt. Scott Creek. Councilor Atherton asked about the Metro budget

impact of granting the right-of-way. Ciecko noted that Metro would be required to receive an appraised fair market value for the property and that the proceeds would be placed in the open spaces account and be available for future land purchases.

Councilor Monroe asked for background information concerning the Mt. Scott Creek Trail. Ciecko verbally explained the location of the trail, the trails with which it would connect, and provided Councilor Monroe with a map showing its approximate location

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 99-2740 FOR THE PURPOSE OF AUTHORIZING THE EXECUTIVE OFFICER TO EXECUTE A PROGRAMMATIC 4(F) STATEMENT AND NEGOTIATE A RIGHT OF WAY AGREEMENT WITH CLACKAMAS COUNTY DEPARTMENT OF TRANSPORTATION OVER METRO PROPERTY

Date: December 16, 1998

Presented by: Charles Ciecko

PROPOSED ACTION

Resolution No. 99-2740 requests authority for the Executive Officer to execute a Programmatic 4(F) Statement, acknowledging that the acquisition for right-of-way purposes of lands held by Metro for open space will not impair the use of the remaining open space lands, and negotiate a right-of-way agreement with Clackamas County Department of Transportation over Metro property.

BACKGROUND AND ANALYSIS

Metro and North Clackamas Parks and Recreation District (NCPRD) jointly own 106 acres of regionally significant natural area on Mt. Talbert, located south of Sunnyside Road west of I-205, including a panhandle or flag lot that extends to the edge of Sunnyside Road near SE 117th Avenue (hereafter the "Mt. Talbert Property").

The Sunnyside Road Improvement Project (hereafter the "Project") aims to relieve congestion, address safety concerns, provide for transit and other modal access, and enhance the overall visual image of the Sunnyside Road Corridor between I-205 and SE 172nd Avenue. A federally-funded project managed by Oregon Department of Transportation (ODOT) and Clackamas County Department of Transportation (CDOT), the Project is currently in its environmental assessment review period on the preferred alternative, with the build-decision on the first phase of the Project scheduled for early 1999. The Project's preferred alternative requires a right-of-way (ROW) purchase from Metro and NCPRD on the panhandle portion of the Mt. Talbert Property. The area needed for the ROW is estimated to be 3000 square feet, being 20 feet deep along Metro's 150 feet of Sunnyside Road frontage. Additionally, the project will eliminate curb-cut access for properties on Sunnyside Road, including the Mt. Talbert Property land, to improve traffic safety and reduce traffic conflicts and accidents.

Because the Sunnyside Road Project is federally-funded, CDOT must obtain a Programmatic 4(f) Statement from Metro and NCPRD which addresses the resource impacts of the acquisition of public open space for ROW purposes and consents to CDOT's proposed mitigation. The project will not move forward to a build-decision until CDOT receives the Programmatic 4(f) Statement from Metro and NCPRD.

METRO PARKS AND GREENSPACES EASEMENT POLICY

CDOT's request for ROW relating to a road improvement project is a proposed non-park use of a regionally significant natural area under the Metro Parks and Greenspaces Easement Policy. Therefore, the application for right-of-way acquisition and Programmatic 4(f) Statement was submitted and evaluated under the policy contained in Resolution No. 97-2539B, adopted by the Metro Council on November 6, 1997.

The applicant's proposed right-of-way acquisition presents the following potentially significant impacts:

1. Impacts to the natural resource values;
2. Impacts to recreational opportunities, the recreational facility itself and impacts to operations and management due to the loss of curb-cut vehicular access to the Mt. Talbert Property; and
3. Impacts to multi-modal trail and bicycle connectivity, potentially resulting in the loss of recreational opportunity represented by safe trail access under Sunnyside Road to the future Mt. Scott trail system, which connects to and provides access to the Mt. Talbert Property.

Upon consideration of the above potential impacts, in light of the materials submitted by applicant and a site visit by Metro personnel, the Department has determined that the application for right-of-way acquisition can be accommodated without significant impact to park resources, facilities, or their operation and management, as long as key conditions are fulfilled. The analysis of the impacts and related required mitigation is set forth below. The Regional Parks and Greenspaces Advisory Committee was presented with these findings and recommendations on October 6, 1998. The RPGAC is recommending approval of the Programmatic 4(f) with conditions and the ROW acquisition.

FINDINGS

Natural Resource Values

Metro agrees with the EA finding that the loss of vegetation, habitat, and recreational use caused by the taking of 3,000 square feet of the Mt. Talbert Property for ROW purposes will result in no significant impact to the property's natural resource values. The area requested by CDOT has limited habitat value due to its proximity to Sunnyside Road and the influence of traffic on noise and air quality. The habitat value is also limited by exotic vegetation on this portion of the site that consists mostly of blackberry and a few native cottonwood and hawthorn trees. There are no known listed threatened and endangered animal or plant species on the parcel sought for the ROW.

Site Access

The Project's preferred alternative would eliminate the Mt. Talbert Property's Sunnyside Road curb cut and consequently future access potential. Preserving the Mt. Talbert Property's public access to a major arterial is essential to protect the viability of the Mt. Talbert property as a regionally significant natural area. future public access to the Mt. Talbert property. Consequently, the loss of the curb cut due to the right-of-way acquisition will have a significant impact unless mitigated through the provision of acceptable and comparable access to Sunnyside Road.

Comparable access to Sunnyside Road may be provided through the realignment of the 117th Avenue intersection, the installation of a traffic light at this location and a right-turn entry onto the Mt. Talbert Property. The exact location for the realignment of the intersection and southern extension of 117th avenue is yet to be determined. Possible scenarios include having the realigned intersection terminate on the adjacent property immediately to the east of the Mt. Talbert Property, or having the intersection and southern extension of 117th Avenue terminate on the eastern border of Metro's property. The Department's staff preference is that the location of the realignment and southern extension for 117th Avenue would terminate on the eastern border of Metro's property.

Safe Trail Access

The proposed Mt. Scott regional trail system will accommodate bicyclists and pedestrians and provide connectivity along Mt. Scott Creek between current and future parks within the Sunnyside corridor, including the Mt. Talbert Property. This trail system will serve local and regional needs and is identified in the NCPRD Master Plan, the Clackamas County Comprehensive Plan Open Space Network and Recreation Needs Map and the Metro Greenspaces Master Plan.

Ensuring safe access and modality for pedestrians and bikes along the future Mt. Scott creek regional trail system is important. Construction of a bridge instead of a culvert at the Sunnyside Road/Mt. Scott Creek Crossing allows for a trail underpass, ensuring safe crossing under Sunnyside road for trail users. Department staff and NCPRD prefer the bridge option be chosen as the preferred alternative design to ensure modality and safe access and travel for people using the future trail system. Additionally, a bridge will minimize environmental impacts to Mt. Scott Creek and enhance passage for resident and anadromous fish.

BUDGET IMPACT

No budget impact is expected.

EXECUTIVE OFFICER RECOMMENDATION

The Executive Officer recommends passage of Resolution No. 99-2740.

BEFORE THE METRO COUNCIL

I HEREBY CERTIFY THAT THE FOREGOING IS A COMPLETE AND EXACT COPY OF THE ORIGINAL THEREOF.

Rebecca V. Shoemaker, Archivist
Clerk of the Metro Council

FOR THE PURPOSE OF APPROVING GENERAL)
POLICIES RELATED TO THE REVIEW OF)
EASEMENTS, RIGHT OF WAYS, AND LEASES)
FOR NON-PARK USES THROUGH PROPERTIES)
MANAGED BY THE REGIONAL PARKS AND)
GREENSPACES DEPARTMENT.)

RESOLUTION NO. 97-2539B

ATTACHMENT '1'

Introduced by
Mike Burton, Executive Officer

WHEREAS, Metro currently owns and manages more than 6,000 acres of regional parks, open spaces, natural areas, and recreational facilities; and

WHEREAS, additional lands are being acquired through the Open Space, Parks, and Streams Bond Measure, approved by voters in May of 1995; and

WHEREAS, the primary management objectives for these properties are to provide opportunities for natural resource dependent recreation, protection of fish, wildlife, and native plant habitat and maintenance and/or enhancement of water quality; and

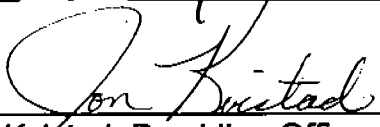
WHEREAS, Metro will be approached with proposals to utilize regional parks, open spaces, natural areas, and recreational facilities property for utility, transportation, and other non-park purposes; and

WHEREAS, Metro seeks to insure that these uses have no negative impact upon the primary management objectives of Metro Regional Parks and Greenspaces properties; and

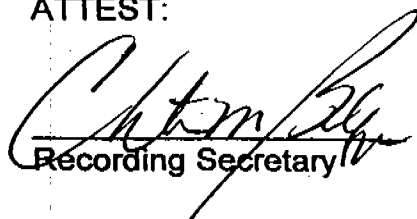
WHEREAS, it would be in Metro's best interest to provide for the orderly evaluation and consideration of proposals to utilize portions of Metro Regional Parks and Greenspaces properties for utility, transportation and other non-park uses; NOW THEREFORE,

BE IT RESOLVED, that the Metro Council hereby adopts the policy attached as Exhibit "A" for any and all requests related to formal proposals for the use of Metro Regional Parks and Greenspaces properties for the purposes noted therein.

ADOPTED by the Metro Council this 6th day of November, 1997.


Jon Kyistad, Presiding Officer

ATTEST:


Recording Secretary

Approved as to Form:

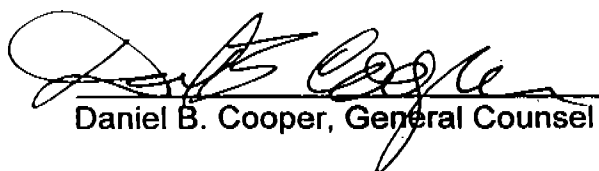

Daniel B. Cooper, General Counsel

Exhibit "A"

METRO POLICY RELATED TO THE REVIEW OF EASEMENTS, RIGHT OF WAYS, AND LEASES FOR NON-PARK USES

Metro owns and manages , either on its own or in partnership with other government and private entities, several thousand acres of regional parks, open spaces, natural areas and recreational facilities. These facilities are maintained to promote and preserve natural resources and recreational opportunities for the public consistent with the Greenspaces Master Plan adopted by the Metro Council in 1992, the Open Spaces Bond Measure approved by the voters in 1995 and other restrictions limiting the uses of specific properties in existence at the time of its acquisition by the public. Nothing in this policy shall be construed to allow these facilities to be used in any manner which detracts from this primary purpose. This policy is written from the perspective of Metro as the property owner, however, in those cases in which Metro co-owns a property with other entities, all decisions concerning the use of the property in question will be fully coordinated with the other owners. In addition, all new development and all proposed work within Water Quality Resource Areas or other environmentally sensitive work will be conducted in accordance with Metro or local government policies, to include where appropriate, application for permits and completion of environmental reviews. In event that local government policies are less restrictive than the Metro Model ordinances, Metro will apply the more restrictive Metro policies.

Regarding requests for easements, right of ways, and leases for non-park uses in Metro owned or managed regional parks, natural areas or recreational facilities, it is Metro's policy to:

- 1) Provide for formal review of all proposed easements, right of ways, and leases for non-park uses by the Regional Parks and Greenspaces Advisory Committee, the Regional Facilities Committee and the full Council. Notwithstanding satisfaction of the criteria set forth herein, the final determination of whether to approve a proposed easement, right of way, or lease is still subject to the review and approval by the full Metro Council.
- 2) Prohibit the development of utilities, transportation projects and other non-park uses within corridors or on sites which are located inside of Metro owned or managed regional parks, natural areas, and recreational facilities except as provided herein.
- 3) Reject proposals for utility easements, transportation right of ways and leases for non-park uses which would result in significant, unavoidable impacts to natural resources, cultural resources, recreational facilities, recreational opportunities or their operation and management.
- 4) Accommodate utility easements, transportation right of ways or other non-park uses when the Regional Parks and Greenspaces Department (the Department) determines that a proposed easement, right of way or non-park use can be accommodated without significant impact to

natural resources, cultural resources, recreational facilities, recreational opportunities or their operation and management; and that the impacts can be minimized and mitigated.

- 5) Require full mitigation and related maintenance, as determined by the Department, of all unavoidable impacts to natural resources, recreational facilities, recreational opportunities or their operation and management associated with the granting of easements, right of ways, or leases to use Metro owned or managed regional parks, natural areas or recreational facilities for non-park uses.
- 6) Limit rights conveyed by easements, right of ways, and leases for non-park uses to the minimum necessary to reasonably accomplish the purpose of any proposal.
- 7) Limit the term of easements, right of ways and leases to the minimum necessary to accomplish the objectives of any proposal.
- 8) Require "reversion", "non-transferable" and "removal and restoration" clauses in all easements, right of ways and leases.
- 9) Fully recover all direct costs (including staff time) associated with processing, reviewing, analyzing, negotiating, approving, conveying or assuring compliance with the terms of any easement, right of way, or lease for a non-park use.
- 10) Receive no less than fair market value compensation for all easements, right of ways, or leases for non-park uses. Compensation may include, at the discretion of the Department, periodic fees or considerations other than monetary.
- 11) Require full indemnification from the easement, right of way or lease holder for all costs, damages, expenses, fines or losses related to the use of the easement, right of way or lease. Metro may also require appropriate insurance coverage and/or environmental assurances if deemed necessary by the Office of General Counsel.
- 12) Limit the exceptions to this policy to: grave sales, utilities or transportation projects which are included in approved master/management plans for Metro regional parks, natural areas and recreational facilities; projects designed specifically for the benefit of a Metro regional park, natural area, or recreational facility; or interim use leases as noted in the Open Spaces Implementation Work Plan.
- 13) Provide for the timely review and analysis of proposals for non-park uses by adhering to the following process:
 - a) The applicant shall submit a detailed proposal to the Department which includes all relevant information including but not limited to: purpose, size, components, location, existing conditions, proposed project schedule and phasing, and an analysis of other alternatives which avoid the Metro owned or managed regional park, natural area or recreational facility which are considered infeasible by the applicant. Cost alone shall not constitute infeasibility.

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

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

d) If outside alternatives are not feasible, the Department shall determine if the proposal can be accommodated without significant impact to park resources, facilities or their operation and management. Proposals which cannot be accommodated without significant impacts shall be rejected. If the Department determines that a proposal could be accommodated without significant impacts, staff shall initiate negotiations with the applicant to resolve all issues related to exact location, legal requirements, terms of the agreement, mitigation requirements, fair market value, site restoration, cultural resources, and any other issue relevant to a specific proposal or park, natural area or recreational facility. The Department shall endeavor to complete negotiations in a timely and business-like fashion.

e) Upon completion of negotiations, the proposed agreement, in the appropriate format, shall be forwarded for review and approval as noted in item "1" above. In no event shall construction of a project commence prior to formal approval of a proposal.

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

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

PROJECT REPORT

Attachment #2

To: Charles Ciecko, Heather Nelson Kent, Jim Desmond
Submitted by: Easement and Right of Way Policy Review Team (Julie Weatherby, William Eadie, Emily Roth, Pam Novitsky, and Joel Morton)
Regards: Mt. Talbert Property – Sunnyside Road Expansion and Programmatic 4(f)
Date: December 10, 1998

Project Background/Description

The Sunnyside Road Improvement Project aims to relieve congestion on Sunnyside Road between I-205 and SE 172nd Avenue, which operates at or near capacity in most areas along the corridor. The Sunnyside road improvement project will also improve horizontal and vertical alignments, provide for transit and other modal access to the project area, address existing safety concerns and enhance the overall visual image of the corridor. The first phase, from I-205 to SE 122nd Avenue is scheduled for construction to begin in 2000.

The project is currently in its Environmental Assessment review period on the preferred alternative. Public comment period closed October 20, 1998. The build decision on the project is scheduled for early 1999. The roadway project is being managed by Oregon Department of Transportation and Clackamas County Department of Transportation and is a federally funded project.

Impact and Requested Use of Project

Metro and North Clackamas Parks and Recreation District (NCPRD) jointly own 106 acres on Mt. Talbert, which sits to the south of Sunnyside Road between I-205 on the west and 122nd Avenue on the east. The location of our property is primarily on the north and northeast slopes of Mt. Talbert, with a panhandle or flag lot that extends to the border of Sunnyside Road near SE 117th Avenue. Mt. Scott Creek crosses under Sunnyside Road and runs through the panhandle portion of our property.

Clackamas County DOT has submitted a Programmatic 4(f) document to Metro for review and approval for the Sunnyside Road Project. The Programmatic 4(f) is a requirement when federally funded road projects impact natural resource lands. The Programmatic 4(f) document identifies or determines whether any significant impact to the natural resource lands will occur from the project and identifies mitigation if required. The project will not move forward to a build decision until the Programmatic 4(f) document is submitted to CDOT.

The Sunnyside Road improvement project between Sunnybrook Road and SE 122nd Avenue will require a right-of-way (ROW) purchase from Metro and NCPRD on the panhandle portion of the Mt. Talbert property to achieve project objectives. Additionally, curb access for residences on Sunnyside Road is being eliminated in this stretch of the

road to improve traffic safety and reduce traffic conflicts and accidents. The improvement project is required to provide alternative access to all property owners in this stretch, including Metro and NCPRD.

The area needed for the ROW is estimated to be 3000 square feet. The dimensions are about 20 feet deep along the 150 feet of roadway frontage. The determination is based on preliminary engineering by CDOT. Upon project approval, design engineering would begin. Design engineering would be completed before CDOT approaches Metro to acquire the property.

Project Issues

Clackamas County DOT's request for right-of-way is for the widening of a regional transportation corridor, a non-park use under the Metro Parks and Greenspaces Easement Policy. CDOT's right-of-way application and accompanying Environmental Assessment and 4(f) statement must be submitted to the RPGAC, the RFC and the full Metro Council for approval after evaluation by the Parks and Greenspaces Department. No Master Plan yet exists for the Mt. Talbert property, and the Department has determined that no Master Plan is required prior to further review and analysis of CDOT's application. The application for right-of-way acquisition was thus evaluated for consistency with the Greenspaces Master Plan. The Department's easement committee finds that the application can be made consistent with the Greenspaces Master Plan, as long as certain conditions are met. These conditions are set forth in the findings and recommendations section.

Upon consideration of the applicant's environmental assessment and application, the committee is in agreement with applicant's assessment that no alternative alignment or site located outside of the Mt. Talbert property is feasible. Finally, upon consideration of all materials submitted by applicant and a site visit by Metro personnel, the committee has determined that the application for right-of-way acquisition can be accommodated without significant impact to park resources, facilities, or their operation and management, as long as key conditions are fulfilled. The committee's analysis of the impacts to the site's natural resources, cultural resources, recreational facilities, recreational opportunities, and operation and management, and related required mitigation is set forth below.

The applicant's proposed right-of-way acquisition presents the following potential significant impacts:

1. Impacts to the natural resource values;
2. Impacts to recreational opportunities, the recreational facility itself and impacts to operations and management due to the loss of curb-cut vehicular access to Mt. Talbert property; and
3. Impacts to multi-modal trail and bicycle connectivity, potentially resulting in the loss of recreational opportunity represented by safe trail access under Sunnyside Road to

the future Mt. Scott trail system, which connects to and provides access to the Mt. Talbert property.

These issues will be discussed independently below.

Natural Resource Values

The road-widening project will remove about 3,000 square feet from the panhandle portion of the Mt. Talbert property for right-of-way purposes. Metro and NCPRD agree with the EA finding that the loss of vegetation, habitat, and recreational use directly resulting from the taking of 3,000 square feet of the Mt. Talbert property for ROW purposes will result in no significant impact to the property's natural resource values. The ROW portion that will be impacted by this proposed project is flat. At approximately 100-120 feet from Sunnyside Road the land begins to slope towards the creek.

The site has limited habitat value due to its proximity to Sunnyside Road and the influence of traffic on noise and air quality. The habitat value is also limited by the exotic vegetation community makeup of the site. The plant communities in the potential impact area consist mainly of turf grass, Himalayan blackberry (*Rubus discolor*) and a scattering of red alder (*Alnus rubra*), Holly (*Ilex* sp.) and common hawthorn (*Crataegus monogyna*). Starting six feet back from the road, the Himalayan blackberry runs the entire length of the parcel to Mt. Scott Creek. It is 8-10 feet tall and impenetrable. The largest tree is a red alder with a DBH of 5". The other scattering of trees are saplings with a DBH of less than 3". At approximately 50-75 feet from the road (outside the ROW impact area), begins a mature canopy of black cottonwood (*Populus trichocarpa*) and an established thicket of red alder. There are no known listed threatened and endangered animal or plant species on this parcel subject to ROW.

Site Access

The proposed build alternative alignment would eliminate the property's curb cut from Sunnyside Road in an effort to direct vehicular access through signaled intersections on this stretch of Sunnyside Road. Preserving the Mt. Talbert property's public access to a major arterial is essential to protect the viability of the Mt. Talbert property as a regionally significant greenspace. The current curb cut allows access for both east and westbound traffic. Unless mitigated, the loss of the curb cut would significantly impact the Mt. Talbert property by depriving it of an essential means of public access for recreation, as well as access for operations and management. Consequently, the loss of the curb cut due to the right-of-way acquisition must be mitigated through the provision of comparable access to and from Sunnyside Road.

Metro and NCPRD anticipate that the panhandle-shaped property adjacent to Sunnyside road will provide, at a minimum, a trailhead parking lot and pedestrian access to the future Mt. Talbert regional park. Currently, there is no master plan in place or land use approval for a park on Mt. Talbert because acquisition of desired properties is not complete. Because we are in the early stages of assembling land for the park, future

options for vehicular, trail, bicycle and pedestrian access to the site from Sunnyside Road must be preserved.

One proposal for alternative access is through the realignment of 117th Avenue intersection, installation of a traffic light at this location and creating right- turn entry onto the Mt. Talbert property. As was discussed in the October 6, 1998 meeting between Metro, NCPRD and CDOT, the exact location for the realignment of the intersection and southern extension of 117th avenue is yet to be determined. The scenarios discussed included having the realigned intersection terminate on the adjacent property immediately to the east of the Mt. Talbert property, or have the intersection and southern extension of 117th Avenue terminate on the eastern border of our property. Our preference is that the location of the realignment and southern extension for 117th Avenue would terminate on the eastern border of our property.

Safe Trail Access

A future regional trail system will be developed along Mt. Scott Creek, which runs past the northern base of Mt. Talbert. The proposed Mt. Scott regional trail system will accommodate bicyclists and pedestrians and provide connectivity between current and future parks within the Sunnyside corridor. This trail system will serve local and regional needs and is identified in the NCPRD Master Plan, the Clackamas County Comprehensive Plan Open Space Network and Recreation Needs map and the Metro Greenspaces Master Plan.

Ensuring safe access and modality for pedestrians and bikes along the future Mt. Scott creek regional trail system is important. The build alternative calls for either a culvert or bridge to cross Mt. Scott Creek at Sunnyside Road, which lies just east of the Mt. Talbert panhandle property. A bridge option at Mt. Scott Creek would make an underpass possible as part of the future regional trail system and allow pedestrians to pass under Sunnyside road. Metro and NCPRD prefer the bridge option be chosen as the preferred alternative design to ensure modality and safe access and travel for people using the future trail system. The culvert option would eliminate the possibility of trail continuity.

Findings & Recommendations

The Regional Parks and Greenspaces Advisory Committee was presented with the following findings and recommendations on October 6, 1998. The RPGAC recommended approval of the Programmatic 4(f) and the ROW acquisition under the conditions outlined below.

Findings

- 1) Loss of vegetation, habitat and recreational use resulting from the acquisition for ROW purposes of 3,000 square feet on the panhandle portion of the Mt. Talbert property, bordering Sunnyside Road, will have no significant impact on the natural resource values of the site.

- 2) If comparable access to the Mt. Talbert property is guaranteed via the realignment of the 117th Avenue and Sunnyside Road intersection, the loss of curb-cut vehicular access directly off Sunnyside Road will result in no significant impact to park resources, facilities, or their operation and management.
- 3) Comparable access to the site from Sunnyside Road can be accomplished via the realignment of 117th Avenue at Sunnyside Road, extending 117th Avenue south to serve the Metro and NCPRD property, and converting this intersection to a four-way, signaled intersection.
- 4) Propose a bridge option as the alternative design option at Mt. Scott Creek to allow for a "below grade" crossing of Sunnyside Road as part of the future regional trail system to ensure modality and safe access and travel for people using the future trail system.



Recommendations

- 1) Recommend that the Metro Council authorize the Executive Officer to execute the Programmatic 4(f) Statement on Metro's behalf, agreeing that the proposed acquisition of a portion of the Mt. Talbert property for ROW purposes will result in no impairment of the use of the remaining Mt. Talbert greenspace land for its intended purpose, with the following statements and conditions:
 - a) The taking of 3,000 square feet of frontage along Sunnyside Road for right-of-way purposes will have no significant impact to the natural resource value of the Mt. Talbert property.
 - b) The loss of curb-cut vehicular access directly from Sunnyside Road will result in no significant impact to park resources, facilities or their operation and management *only if* comparable access to the Mt. Talbert property is guaranteed via realignment of the 117th Avenue and Sunnyside Road intersection.
 - c) Comparable vehicular access from Sunnyside Road will be provided to the Mt. Talbert property via realignment of 117th Avenue, extending 117th Avenue south to serve the Metro and NCPRD property, and converting this intersection to a four-way, signaled intersection.
 - d) A bridge option must be chosen at Mt. Scott Creek to ensure safe access and modality for the future trail system.
- 2) Authorize the executive officer to negotiate with CDOT and ODOT for the sale of approximately 3,000 square feet of the subject property for not less than fair market value once the project's build decision has been made.

R L I S
REGIONAL LAND INFORMATION SYSTEM

Open Spaces, Parks & Streams

East Buttes/Boring Lava Domes

-  Bond Measure Acquisitions
-  Parks and Open Space

SOURCES:

TAX LOT MAP

County Assessment and Taxation offices, 1998. Data collection scale is 1"=100' in urban areas and 1"=200' or 1"=400' in rural areas. Horizontal accuracy is plus or minus five feet or better in Beaverton, Milwaukie, Oregon City, Tigard and urban Multnomah County. Other areas are plus or minus ten feet.

TOPOGRAPHIC DATA

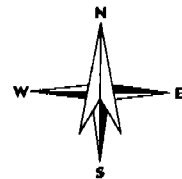
United States Geological Survey, ~1975 depending on quad. Registers to USGS 7.5 minute quad sheets.

AERIAL PHOTOGRAPHY

Aerial photography by Walker & Associates, Seattle, WA September 1997.

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Scale in Feet



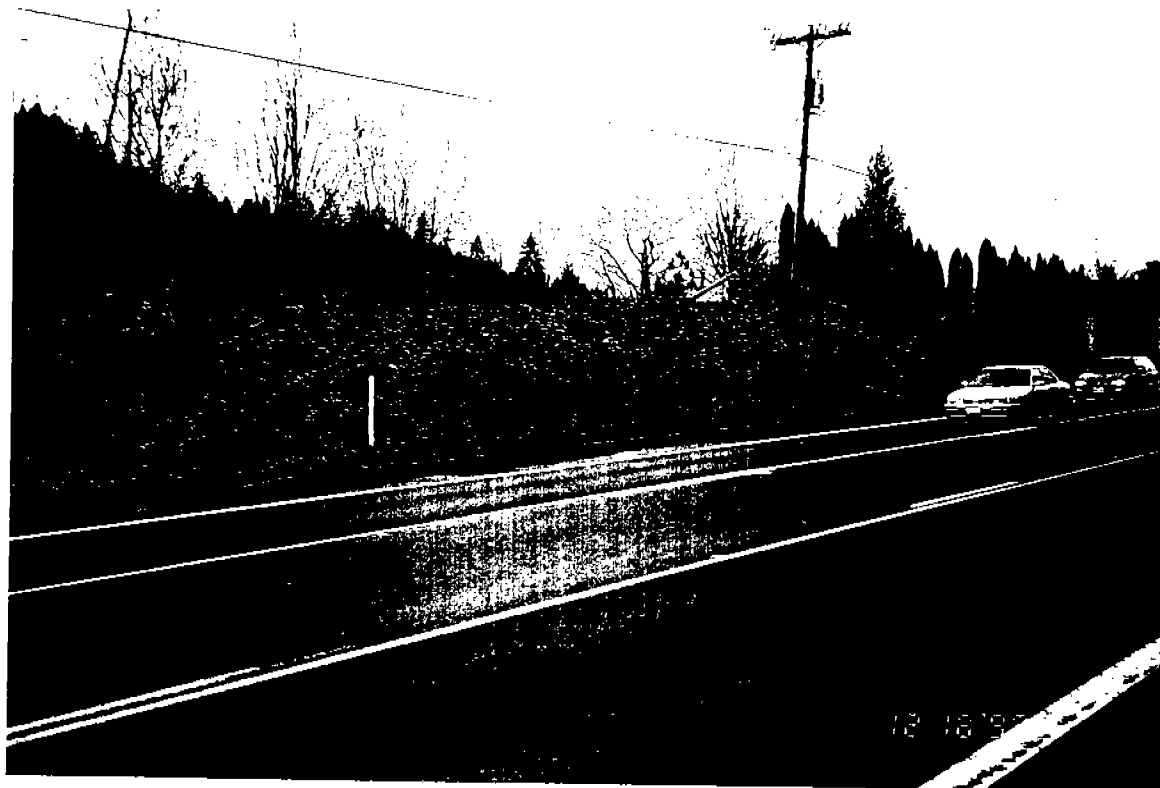


Photo 1 Mt. Talbert property as it borders Sunnyside Road. Blackberries cover the entire frontage of subject property.



Photo 2 Eastern border of Metro property as it fronts Sunnyside Road. Red flag at curb marks border. Woman standing at the 20 foot setback for ROW .



Photo 3 Western border of Metro property as it fronts Sunnyside Road. Red flag at curb marks border. Woman standing at the 20-foot setback for requested ROW.



Photo 4 View of Metro property near Sunnyside Road. Site covered in blackberries from Sunnyside Road to Mt. Scott Creek. View looking due east.



Photo 5 View of Metro property near Sunnyside Road looking southeast. Site begins to slope to Mt. Scott Creek about 200 feet from Sunnyside road.



Photo 6 View of Mt. Scott Creek from the south side of Sunnyside road. The creek is on the adjacent landowner's property, which lies east of Metro's property.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE EXECUTIVE OFFICER TO EXECUTE A PROGRAMMATIC 4(F) STATEMENT AND NEGOTIATE A RIGHT OF WAY AGREEMENT WITH CLACKAMAS COUNTY DEPARTMENT OF TRANSPORTATION OVER METRO PROPERTY) RESOLUTION NO 99-2740) Introduced by Mike Burton, Executive Officer)

WHEREAS, Metro and North Clackamas Park and Recreation District (“NCPRD”) jointly own 106 acres of regionally significant natural area on Mt. Talbert (the “Mt. Talbert Property”) with frontage on Sunnyside Road, purchased with Ballot Measure 26-26 bond funds; and

WHEREAS, the Clackamas County Department of Transportation (“CDOT”) and the Oregon Department of Transportation (“ODOT”) are developing the Sunnyside Road Improvement Project (hereafter, “Project”), identified in Metro’s Regional Transportation Plan; and

WHEREAS, the Project requires the acquisition for right-of-way purposes of 3,000 square feet of the Mt. Talbert Property, comprising 150 feet of Sunnyside Road frontage, and will eliminate Metro’s Sunnyside Road curb-cut, the regionally significant natural area’s sole current access to a major arterial; and

WHEREAS, the Mt. Scott Trail, a regional trail system identified in the Metro Greenspaces Master Plan, is planned for the Mt. Scott Creek corridor, connecting the Metro/NCPRD property to other greenspaces along Mt. Scott Creek; and

WHEREAS, the Project requires that a new Mt. Scott Creek crossing be built for the improved Sunnyside Road, and a culvert crossing would pre-empt the ability to engineer a Sunnyside Road underpass along Mt. Scott Creek for the Mt. Scott Creek Trail; and

WHEREAS, to fulfill federal funding requirements, CDOT and ODOT must obtain from Metro and NCPRD a Programmatic 4(F) Statement, acknowledging the Project’s impacts to park property and agreeing to the mitigation proposed; and

WHEREAS, the Metro Parks and Greenspaces Easement Policy requires formal review of all right-of-way requests by the Regional Parks and Greenspaces Advisory Committee, the Regional Facilities Committee and the full Metro Council; and

WHEREAS, the Metro Parks and Greenspaces Department has determined that this right-of-way request can be accommodated without significant impact to natural resources, cultural resources, recreational facilities, recreational opportunities or their operation and management, as long as certain additional conditions are met; therefore,

BE IT RESOLVED,

- 1) That the Metro Council approves and authorizes Metro's Executive Officer to execute the Sunnyside Road Project Programmatic 4(f) Statement on Metro's behalf, agreeing that the proposed ROW acquisition of a portion of the Mt. Talbert Property will result in no significant impairment of the use of the remaining Mt. Talbert greenspace land for its intended purpose, with the following findings and mitigation conditions:
 - a) The taking of 3,000 square feet of land fronting Sunnyside Road for right-of-way purposes can be accommodated without significant impact to the natural resources, cultural resources, recreational facilities, recreational opportunities or the operations and management of the Mt. Talbert Property.
 - b) The taking of the Mt. Talbert Property's Sunnyside Road curb-cut can be accommodated without significant impact to the Mt. Talbert Property's natural resources and cultural resources. However, unless Metro approved comparable access to the Mt. Talbert Property is guaranteed by a realignment of the 117th Avenue and Sunnyside Road intersection, the loss of curb-cut vehicular access to the Mt. Talbert Property from Sunnyside Road will significantly impact current and future recreational opportunities on the site, the Mt. Talbert Property's potential as a recreation facility, and its operations and management.
 - c) Comparable vehicular access from Sunnyside Road to the Mt. Talbert property must be guaranteed via conversion and realignment of the Sunnyside Road and 117th Avenue intersection to a four-way, signaled connection to the Mt. Talbert property.
 - d) A bridge, instead of a culvert, must be constructed over Mt. Scott Creek at the Sunnyside Road/Mt. Scott Creek juncture to enhance passage for resident and anadromous fish in Mt. Scott Creek, which flows through the Mt. Talbert Property; and to insure continuity and safe access under the improved Sunnyside Road for the Mt. Scott Creek regional bicycle and pedestrian trail system. Unless a bridge is built, the Sunnyside Road Improvement Project will significantly impact the recreational

opportunities on the Mt. Talbert Property provided by safe bicycle and pedestrian access to a regional trail system.

- 2) That the Metro Council authorizes the executive officer to negotiate the sale of approximately 3,000 sq. ft of the Mt. Talbert Property to CDOT/ODOT for the fair market value of the property, as confirmed by Metro's review appraiser upon issuance of the Project's build-decision so long as the conditions noted in item "c" and "d" above are met.

ADOPTED by the Metro Council this _____ day of _____ 1999.

Rod Monroe, Presiding Officer

APPROVED AS TO FORM:

Daniel B. Cooper, General Counsel

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