

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

AN ORDINANCE ADOPTING A FINAL) ORDINANCE NO. 92-444A
ORDER AND AMENDING THE METRO)
URBAN GROWTH BOUNDARY FOR)
CONTESTED CASE NO. 91-2:FOREST)
PARK)

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

Section 1. On Wednesday, October 2, 1991, Metro Hearings Officer Chris Thomas held a public hearing for Contested Case No. 91-2:Forest Park. Based on testimony received at that hearing and on written materials submitted in conjunction with the petition, the Hearings Officer has recommended that Metro approve the petition for amendment of the Urban Growth Boundary provided that within 90 days of the passage of this ordinance, the Metro Council receive written notification that the Ramsey portion of the overall transaction has been completed or provided for in a manner satisfactory to the City of Portland.

Section 2. The Council of the Metropolitan Service District hereby accepts and adopts as the Final Order in Contested Case No. 91-2 the Hearings Officer's Report and Recommendations in Exhibit B of this Ordinance, which is incorporated by this reference.

Section 3. The District Urban Growth Boundary, as adopted by Ordinance No. 79-77, will be amended as shown in Exhibit A of this Ordinance, which is incorporated by this reference, upon receipt by the Metro Council of written notification from the City of Portland that the Ramsey portion of the overall transaction has been or will be completed in a manner that

assures the donation to the City of 73 acres referred to as Parcel A; and, at a minimum, the donation to the City of a 20.7 acre portion of Parcel B which is deepest into Forest Park and furthest away from NW Skyline Blvd., or that portion of Parcel B which was designated as "EP" zone as of December 2, 1991. If no such written notification is received within 90 days of the passage of this ordinance, then no amendment of the urban growth boundary shall occur and the petition will be rejected.

Section 4. Parties to Contested Case No. 91-2 may appeal this Ordinance under Metro Code Section 205.05.050 and ORS Ch. 197.

ADOPTED by the Council of the Metropolitan Service District this 27th day of February, 1992.


Jim Gardner, Presiding Officer

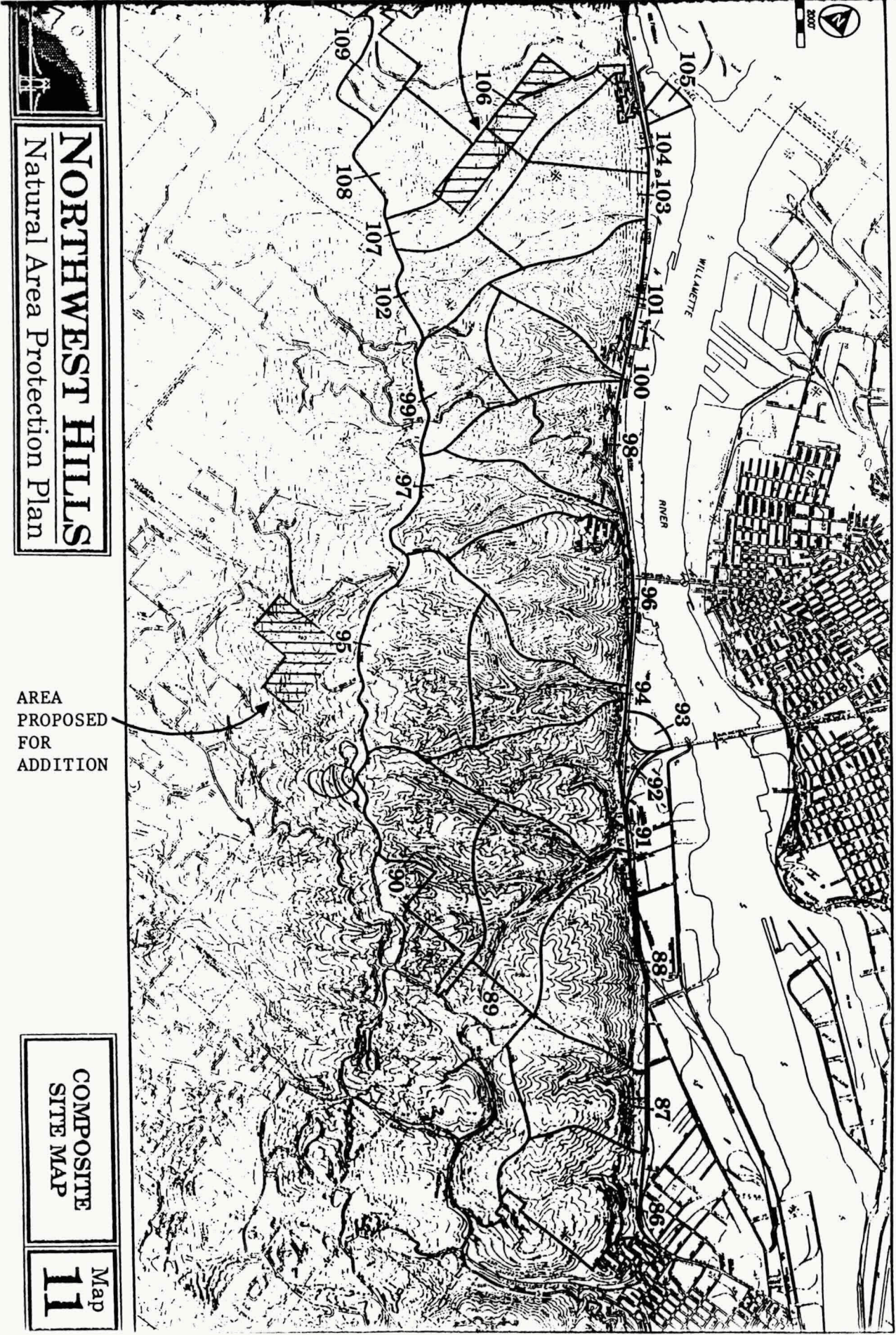
ATTEST:


Clerk of the Council

ES/es
2/27/92

AREA PROPOSED FOR REMOVAL

EXHIBIT A



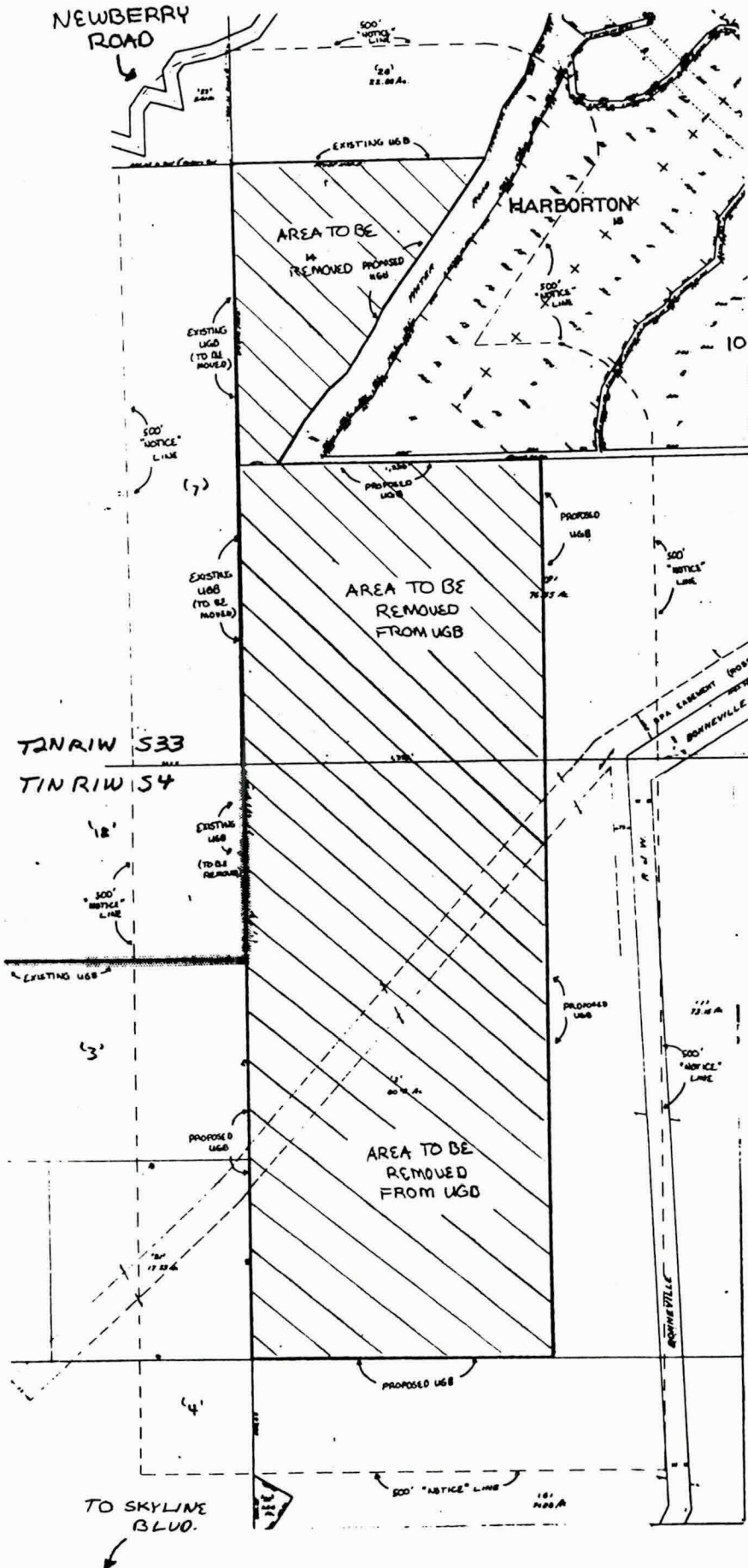
NORTHWEST HILLS
Natural Area Protection Plan

AREA
PROPOSED
FOR
ADDITION

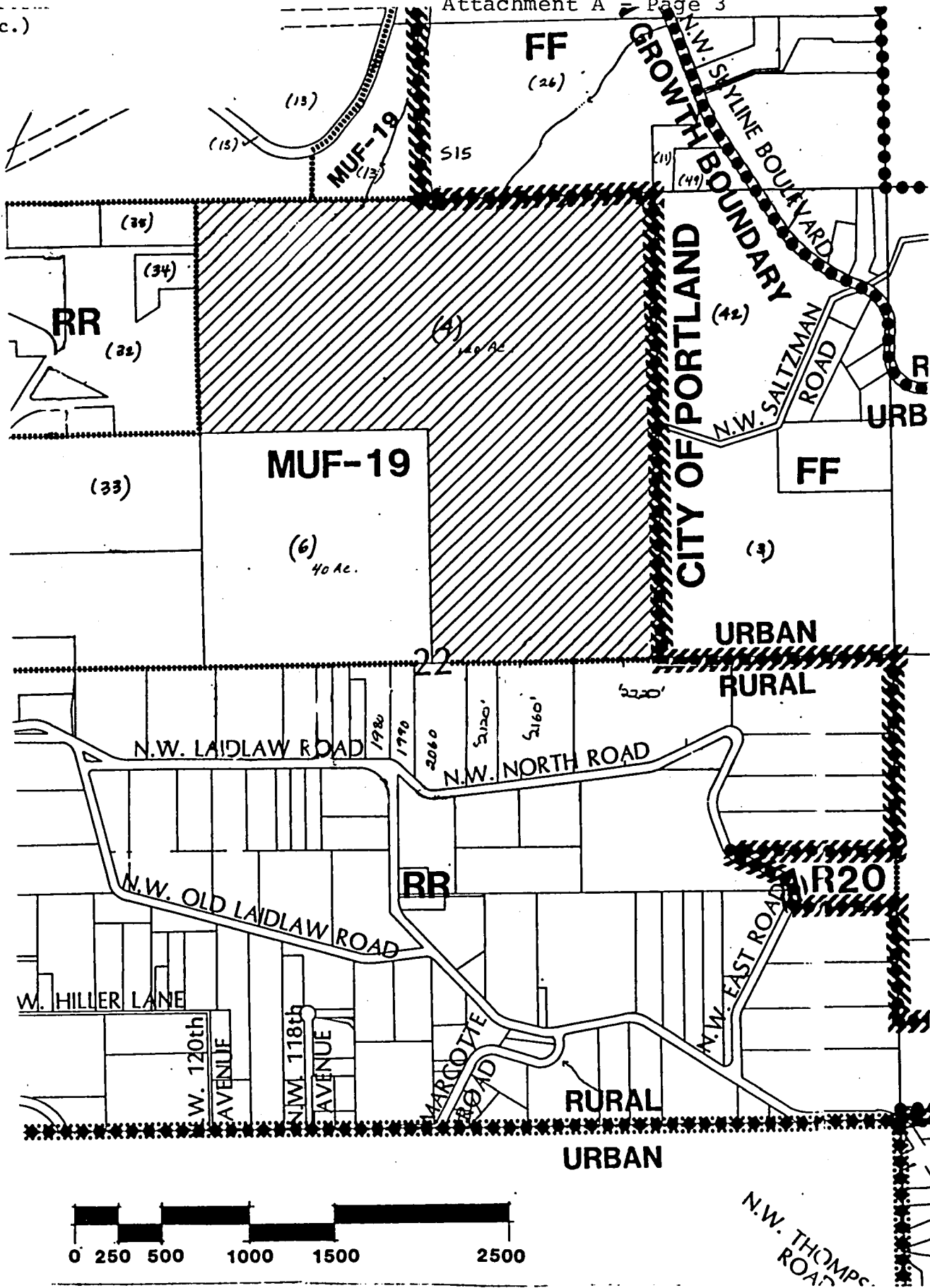
COMPOSITE
SITE MAP

Map
11

EXHIBIT A



(120.0 ac.)



**EXHIBIT NO. 31: Land Development Consultants, Inc.,
Letter of transmittal and attached zoning/presentation
maps 10/21/91**

**Note: Exhibit 31 is a map that is too large for
photocopying. It will be available at the Metro
Council Hearing and at the Metro offices for
examination.**

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

AN ORDINANCE ADOPTING A FINAL ORDER)
AND AMENDING THE METRO URBAN)
GROWTH BOUNDARY FOR CONTESTED CASE)
NO. 91-2:FOREST PARK)

ORDINANCE NO: 92-444

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY
ORDAINS:

Section 1. On Wednesday, October 2, 1991, Metro Hearings Officer Chris Thomas held a public hearing for Contested Case No. 91-2:Forest Park. Based on testimony received at that hearing and on written materials submitted in conjunction with the petition, the Hearings Officer has recommended that Metro approve the petition for amendment of the Urban Growth Boundary provided that within 90 days of the passage of this ordinance, the Metro Council receive written notification that the Ramsey portion of the overall transaction has been completed or provided for in a manner satisfactory to the City of Portland.

Section 2. The Council of the Metropolitan Service District hereby accepts and adopts as the Final Order in Contested Case No. 91-2 the Hearings Officer's Report and Recommendations in Exhibit B of this Ordinance, which is incorporated by this reference.

Section 3. The District Urban Growth Boundary, as adopted by Ordinance No. 79-77, will be amended as shown in Exhibit A of this Ordinance, which is incorporated by this reference, upon receipt by the Metro Council of written notification from the City of Portland that the Ramsey portion of the overall transaction has been or will be completed in a manner satisfactory to the City of Portland. If no such written notification is received within 90 days of the passage of this ordinance, then no amendment of the urban growth boundary shall occur and the petition will be rejected.

Section 4. Parties to Contested Case No. 91-2 may appeal this Ordinance under Metro Code Section 205.05.050 and ORS Ch. 197.

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

Presiding Officer

ATTEST:

Clerk of the Council

ES/es
1/24/92

STAFF REPORT

CONSIDERATION OF AN ORDINANCE ADOPTING A FINAL ORDER AND AMENDING THE METRO URBAN GROWTH BOUNDARY FOR CONTESTED CASE 91-2:FOREST PARK

Date: January 24, 1992

Presented By: Ethan Seltzer

BACKGROUND

Contested Case No. 91-2 is a petition from the City of Portland and HGW, Inc. for a trade of lands into and out of the urban growth boundary (UGB). Trades are considered by Metro under MC 3.01 as a locational adjustment to the UGB. The property proposed for inclusion in the UGB (labelled parcel A) totals approximately 120 acres and is located southeast of NW Skyline Boulevard and north of NW Laidlaw and NW North Roads in Multnomah County. The property proposed for removal from the UGB (labelled parcel D) is located at the northern end of Forest Park, southeast of Newberry Road, in Multnomah County. The City of Portland has taken a position in support of the petition and Multnomah County has decided to not take a position either in favor of or opposition to the petition.

As will be described below, this is a complex matter involving a third property (referred to as the "Ramsey property" below) in addition to the lands proposed for addition to and removal from the UGB. Metro Hearings Officer Chris Thomas held a hearing on this matter on October 2, 1991, in the Metro Council Chambers. Testimony was received from both the petitioner and from concerned citizens. The Hearings Officer's Report and Recommendation, attached as Exhibit B to the Ordinance, concludes that the petition complies with the applicable standards in MC Chapter 3.01, but recommends that the approval not take affect unless, within 90 days of passage of the Ordinance, the Council receives written notification that the portion of the transaction involving the Ramsey property has been or will be completed to the City's satisfaction. One exception to the decision has been filed and is attached to this staff report for your review.

Following presentation of the case by the Hearings Officer, and comments by the petitioner, the parties to the case will be allowed to present their exceptions to the Council. The petitioner will be given the opportunity to respond to the exceptions posed by parties. The Hearings Officer will be available to clarify issues as they arise.

At its meeting on the 13th of February, 1992, Council can, following the public hearing, pass the Ordinance on to second reading or remand the findings to staff or the Hearings Officer for modification. Since all properties affected by this petition are presently within the Metro District boundary, no action by the Boundary Commission is required prior to final Council action.

ANALYSIS

This petition is part of a larger "3-way" transaction involving the City of Portland, HGW, Inc., and the Ramsey family. In brief, the Ramsey family owns about 120-acres of land within Forest Park that, if developed, could cause significant disruption to wildlife corridors and existing and planned park trail networks. HGW, Inc., owns 120 acres outside and south of the park that could be developed with up to 12 dwellings under the current rural zoning. If the HGW, Inc., property could be brought within the UGB, it could be developed with up to 60 dwellings, although about 40 would be more likely given steep slopes on the site. However, there is currently not a need within the existing UGB for additional residential land.

By trading land owned by the City of Portland out of the UGB, there would be no net change in the land area within the UGB. In fact, Metro's locational adjustment process includes a trade procedure in recognition of the fact that land now designated for urban use may be less well suited for urban development than land currently outside and adjacent to the UGB. In exchange for the City's willingness to remove some of its property from the UGB, and recognizing the increase in development potential that would result if parcel A was brought inside the UGB, HGW, Inc., has agreed to purchase the Ramsey property and convey it to the City.

Therefore, although the trade before the Council technically only concerns parcels A and D, it is really part of this larger transaction involving the Ramsey property as well. If the Ramsey property was not involved in the transaction, the City of Portland would not be an applicant and there would be no trade proposal before the Metro Council. Currently, Metro considers petitions for trades according to the criteria outlined in MC Chapter 3.01. The standards for considering a trade are:

- 1) The trade results in a net of no more than 10 vacant acres being added or 50 acres being removed. In this case, a net of 19 acres would be removed, satisfying this requirement.
- 2) Each City or County with jurisdiction has taken a position in favor, in opposition, or declining to express an opinion. The City of Portland has taken a position in support of the proposed trade, and Multnomah County, for reasons discussed below, has taken a position of "no comment. Therefore, the petition satisfies this requirement.
- 3) The petition must be filed by a city whose planning area is contiguous with the sites, or by a group of not less than 50 percent of the property owners who own more than 50 percent of the land area in each site involved in the trade. With the City of Portland as an applicant and HGW, Inc. the sole owner of the proposed addition to the UGB, this petition meets this requirement. However, as noted by the Hearings

Officer, the City of Portland would not be an applicant if the Ramsey property were not a part of the overall transaction. Therefore, if the Ramsey property is not conveyed to the City by HGW, Inc., the transaction cannot be completed, the City would no longer be an applicant, and this petition would not meet this requirement.

4) The petition must meet the strict requirements of MC Chapter 3.01.040(a)(4) and (c)(1) for the preservation of agricultural land. The property proposed for addition is currently zoned MUF-19 which, under Multnomah County zoning, is intended to be protected for forest use. Multnomah County has taken a position of "no comment" largely because of its concern regarding the preservation of forest land and its conclusion that parcel A is capable of supporting and suitable for forest use. However, Multnomah County, in a previous action to which Metro was a party, determined that the property was not suitable for agricultural use. For reasons stated in his report, the Hearings Officer has determined that the petition meets this requirement because agricultural land, as envisioned in the Metro Code and Statewide Land Use Planning Goals, is not affected by the proposed action.

5) The land proposed for inclusion in the UGB must be more suitable for urbanization than the land proposed for removal. The Hearings Officer, based on factual testimony in the record, has concluded that the land proposed for addition to the UGB is better suited for urbanization than the lands to be removed.

6) Nearby agricultural land either won't be affected or can be protected from the affects of urbanizing the lands proposed for addition to the UGB. The Hearings Officer has concluded that the petition meets this requirement.

Hence, the Hearings Officer has concluded that the petition meets the requirements for trades, as long as the transaction involving the Ramsey property is successfully completed. His recommendation, therefore, is conditioned on the completion of the overall transaction.

The exception filed by Mr. Rochlin agrees with the Hearings Officer's conclusion but proposes stricter conditions pertaining to the exact nature of the property to be conveyed by HGW, Inc., to the City of Portland.

Executive Officer's Recommendation

The Metro Council should accept the recommendation of the Hearings Officer, including the condition as proposed. The appropriate place to raise the issue of the satisfaction of the City of Portland with the final transaction is with the City, not Metro.

ES/es
1/28/92

December 4, 1991

Forest Park Neighborhood Assoc.
2934 NW 53rd Dr.
Portland, OR 97210

Ethan Seltzer, Land Use Coordinator
Metro
2000 SW First Ave.
Portland, OR 97201-5398

RE: CONTESTED CASE 91-2: FOREST PARK

By this letter, the Forest Park Neighborhood Association (FPNA) files an exception to the November 15, 1991 recommendation of the Hearing Officer. The decision to file this exception was made by vote of the Development Committee on December 2, 1991.

The Hearing Officer's Report (the Report) says, on page 37, under the heading VIII. Recommendation, "The petition should be approved, provided that the ordinance approving the petition should state that the approval shall not be effective unless the City of Portland has filed with Metro, within 90 days of passage of the ordinance, a written notification that the Ramsey part of the overall transaction has been completed, or its completion has been provided for, in a manner satisfactory to the City."

FPNA supports with conviction the proposed UGB exchange, including the Ramsey part of the transaction. The Report identifies the Ramsey part as important and necessary to the entire proposal.* We agree. However, the Report does not adequately define the Ramsey part. Page 10, lines 7-12 come closest to a definition: "The Ramsey part of the proposed transaction will have HGW, Inc. purchase all of the 73 acre parcel and all, or the part deepest into Forest Park, of the 46 acre parcel. HGW, Inc. then will give the land it has acquired to the City of Portland. The City will add the land to Forest Park, thus assuring it is kept in an undeveloped state."

The problems are:

1. The Report, page 10, fails to define "the part deepest into Forest Park" sufficiently to allow reasonable people to agree on what property is necessary to the transaction.
2. The Recommendation would leave the entire Ramsey part of the transaction, which is recognized by all as vital, to a determination by the City that it is satisfied. This includes even the 73 acre parcel.

During the hearing, Richard Whitman (attorney for HGW) testified that HGW would acquire and donate the entire Ramsey 73 acre property and at least 23 acres of the Ramsey 46 acre property. All who testified in favor of the transaction did so having heard the Whitman testimony. This testimony must have been in the mind of the Hearing Officer upon making his recommendation. To require mere satisfaction of the City is an excessive delegation of power to the City. If the Ramsey properties are essential, and all agreed that they are, then they must be defined in the ordinance in their essential character. We ask that

* Page 8 line 22 to page 10 line 14, page 11 line 24 to page 12 line 5, page 28 lines 3 to 11 and page 33 lines 3 to 11.

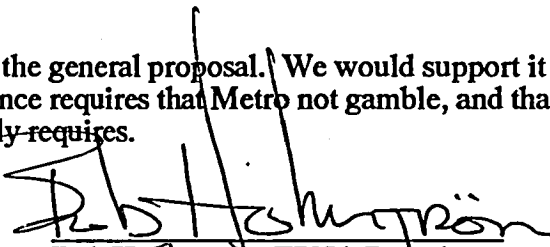
the ordinance implement an amended recommendation. Add to the paragraph ending on page 37, line 23:

“The Ramsey part shall consist of donation by HGW, or provision for donation, of the 73 acre Ramsey property, and at least 20.7 acres of the 46 acre Ramsey property. The minimum 20.7 acres shall be the part of the property deepest into Forest Park and farthest from Skyline Blvd. Alternatively, at HGW's option, HGW may substitute for the 20.7 acres, the portion of the 46 acre Ramsey parcel which, on December 2, 1991, bears the EP overlay zone, regardless of the ultimate disposition of any legal challenge to the validity of the ordinance designating the EP zone on the property. The EP zone area may be more or less than 20.7 acres.”

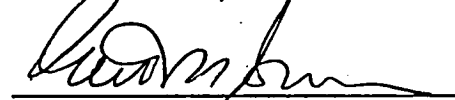
A map generally illustrating the 20.7 acre area is attached. The actual boundary lines might be changed to better conform to features on the land or overlay zone transitions, or for other reasons. 20.7 acres is acceptable as we understand that, when Mr. Whitman testified, no survey line had been drawn, and he may be reasonably understood to have been approximating. We think a ten percent margin of error is reasonable. We also believe that 20.7 acres represents a sufficient quantity of the most sensitive land to satisfy the requirements. As the text of the proposed amendment indicates, the EP zone area on the property, regardless of acreage, will be satisfactory. The amended recommendation is completely consistent with the intent and understanding of the Hearing Officer. He says in the Report on page 11 line 25 that the transaction “...would bring the one Ramsey parcel and all or a major part of the other Ramsey parcel into City ownership...”

If the Recommendation were adopted as proposed by the Hearing Officer, the City would be placed in the position of determining how much of a gift to itself justifies approval of a UGB exchange. This invites HGW to reopen negotiations. The less land acquired from the Ramseys, the less cost to HGW. The City might have good reason to accept far less than anticipated by the Hearing Officer and parties, if faced with an alternative of getting nothing at all. The City in such a position cannot well represent the interest of the general metropolitan area in determining whether the UGB exchange should proceed or not. The Recommendation as written places too much temptation in the path of both HGW and the City.

In closing, we emphasize our support for the general proposal. We would support it even if not amended as we request. But, prudence requires that Metro not gamble, and that it should specifically state what it specifically requires.



Bob Holmstrom, FPNA President



Earl Grove, Chairman FPNA
Development Committee

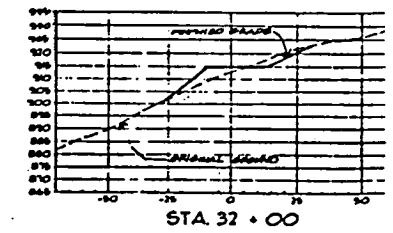
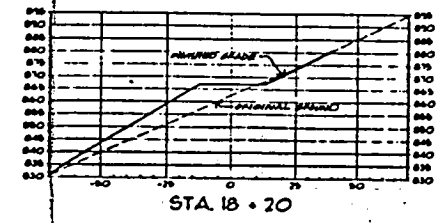
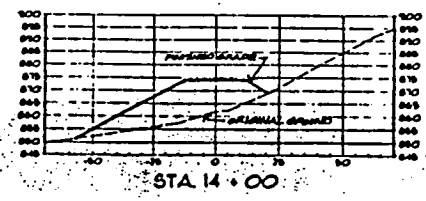
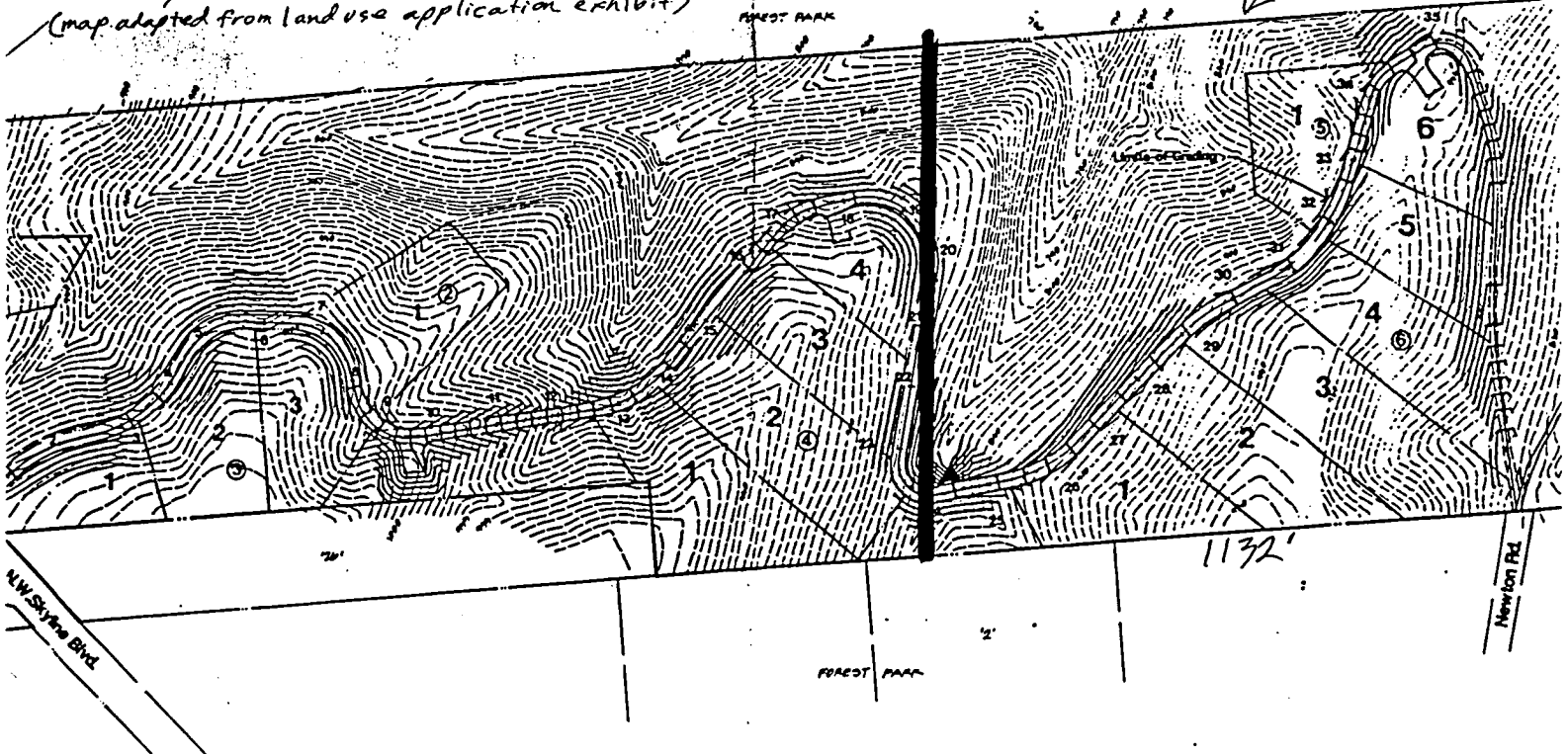
Certificate of Service follows map attachment.

Attachment to Exception on caso 91-2

Ramsey 46 acre property

(map adapted from land use application exhibit)

Proposed HGW donation to city



CERTIFICATE OF SERVICE

I hereby certify that on December 4, 1991, I served a true copy of the foregoing letter taking exception to the November 15, 1991 Recommendation of the Hearing Officer in Contested Case No. 91-2 on each of the persons listed below by deposit in US Mail with first class postage paid.



Richard M. Whitman
Ball, Janik & Novak
101 S.W. Main Street, Suite 1100
Portland, OR 97204-3274

John Sherman
Friends of Forest Park
1912 N.W. Aspen
Portland, OR 97210

City of Portland
c/o Bureau of Parks & Recreation
Attention: Jim Sjulín
1120 S.W. Fourth Avenue, #1302
Portland, OR 97204

Don Joyce
226 N.W. Hermosa Blvd.
Portland, OR 97210

Arnold Rochlin
Route 2, Box 58
Portland, OR 97231

Hilde Freed Taylor Trust
John B. Taylor Trust
5805 N.W. Skyline Blvd.
Portland, OR 97229

Duplicate
copy

FINDINGS IN SUPPORT OF ORDINANCE 81-105,
ESTABLISHING PROCEDURES FOR LOCATIONAL ADJUSTMENTS
TO METRO'S URBAN GROWTH BOUNDARY

February, 1981

BEFORE THE METROPOLITAN SERVICE DISTRICT

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In the Matter of the Application)	
of HGW, INC. and the CITY OF)	Contested Case No. 91-2
PORTLAND for an Amendment)	
to the District Urban Growth)	REPORT AND RECOMMENDATION
<u>Boundary</u>)	OF HEARING OFFICER

I. Nature of Case

This is an application by HGW, Inc., representing Forest Park Estate Joint Venture, and the City of Portland for approval of a trade under which certain land would be brought within the regional urban growth boundary (UGB) and other land would be moved outside the UGB.

The land proposed for addition to the UGB (referred to herein as Parcel A) is southwest of Skyline Boulevard, west of NW Saltzman Road, and north of NW Laidlaw and NW North Roads. It consists of 120 acres. There are no improvements on the land. It is owned by Forest Park Estate Joint Venture, of which petitioner HGW, Inc. is a member. Parcel A is in unincorporated Multnomah County, on the border of the City of Portland.

The land proposed for deletion from the UGB (referred to herein as Parcel D) is southeast of NW Newberry Road, at the northern end of Forest Park. It consists of 139.8 acres. There are no improvements on the land. It is owned by the City of Portland. Parcel D is in the City of Portland.

The parcel descriptions and maps showing the parcels are attached hereto as Attachment A.

1 The City of Portland, as an applicant, supports the
2 application, although with a condition that will be discussed
3 herein. Multnomah County has not taken a position on the
4 application, but did pass a resolution related to the application
5 that also will be discussed herein.

6 II. Proceedings and Record

7 On October 2, 1991, following publication and notice to
8 property owners who were identified as owning property within 500
9 feet of the parcels, the hearings officer held a hearing at
10 Metro's office. Those testifying in support of the UGB
11 amendment, some conditionally as described herein, were:

12 Richard Whitman, attorney for HGW, Inc.

13 Jim Sjulín, City of Portland Natural Resources Supervisor

14 Bob Stacey, City of Portland Planning Director

15 John Sherman, Friends of Forest Park

16 Don Joyce

17 Earl Grove, Forest Park Neighborhood Association

18 One other witness, Arnold Rochlin, gave qualified support to the
19 UGB amendment and asked that the hearing be kept open pending the
20 completion of pending negotiations between the City, HGW, Inc.,
21 and others, as will be described herein. In addition, prior to
22 the hearing, the hearing officer received a letter in support of
23 the amendment on behalf of the Hilda Freed Taylor Trust and the
24 John B. Taylor Trust.

25 At the end of the hearing, the hearing was closed, but the
26 record was kept open solely to receive maps requested by the

1 hearing officer. Following receipt of the maps on October 21,
2 1991, the record was closed.

3 After the hearing on October 2, two interested persons
4 submitted written testimony to the hearing officer. Although the
5 written testimony was received after the submittal deadline and
6 therefore is not part of the record, it will be discussed herein.

7 The following documents were either introduced during the
8 hearing, were received by the hearing officer prior to the
9 hearing, or appeared in Metro's pre-hearing file in this matter.
10 Together with the oral testimony at the hearing, they constitute
11 the record upon which this report and recommendation is based:

- 12 Exhibit 1 - Memorandum from Ethan Seltzer to Chris Thomas
13 8/26/91
- 14 Exhibit 2 - Notice List and attached memorandum from
15 Ethan Seltzer to File (8/26/91) and Notice of
16 Public Hearing
- 17 Exhibit 3 - Staff Report from Ethan Seltzer to Chris
18 Thomas 8/26/91
- 19 Exhibit 4 - Letter from Richard M. Whitman to Ethan
20 Seltzer 7/1/91
- 21 Exhibit 5 - Petitions for Locational Adjustment,
22 including Exhibits A through E, Notice List,
23 and Calculation of UGB Amendment Deposit
- 24 Exhibit 6 - Letter from Ethan Seltzer to Richard M.
25 Whitman 7/5/91
- 26

- 1 Exhibit 7 - Letter from Richard M. Whitman to Ethan
Seltzer 7/22/91
- 2 Exhibit 8 - City of Portland Ordinance No. 164376
- 3 Exhibit 9 - Multnomah County Resolution No. 91-108
- 4 Exhibit 10 - Comment of City of Portland Water Bureau
5 7/18/91
- 6 Exhibit 11 - Comment of Portland School District 7/18/91
- 7 Exhibit 12 - Letter from Reg E. Martinson to Ethan Seltzer
8 7/18/91
- 9 Exhibit 13 - Comment of City of Portland Bureau of
10 Environmental Services 7/18/91
- 11 Exhibit 14 - Comment of City of Portland Office of
12 Transportation 7/19/91
- 13 Exhibit 15 - Memorandum from Laurel Wentworth to Ethan
14 Seltzer 7/19/91
- 15 Exhibit 16 - Comment of Portland Fire Bureau 7/23/91
- 16 Exhibit 17 - Maps showing notice area
- 17 Exhibit 18 - Memorandum from Ethan Seltzer to Richard
18 Whitman 7/28/91
- 19 Exhibit 19 - Notice of Proposed Action, provided to DLCD
- 20 Exhibit 20 - Legislative history materials related to
21 Metro Code Section 3.01.040(a)(4)
- 22 Exhibit 21 - Oregon's Statewide Planning Goals 1990
- 23 Exhibit 22 - Memorandum from Christopher P. Thomas to
24 Ethan Seltzer 9/24/91
- 25
- 26

- 1 Exhibit 23 - Letter from John B. and Hilda Freed Taylor,
2 Trustees, to Chris Thomas 10/1/91
3 Exhibit 24 - Letter from Mike Lindberg to Christopher P.
4 Thomas 10/2/91
5 Exhibit 25 - Letter from Richard M. Whitman to Christopher
6 P. Thomas with enclosures 10/2/91
7 Exhibit 26 - Memorandum from Jim Sjulín to Chris Thomas
8 with enclosures 10/2/91
9 Exhibit 27 - The Oregonian editorial 7/18/91
10 Exhibit 28 - Rochlin testimony 10/2/91
11 Exhibit 29 - City of Portland Bureau of Planning maps
12 Exhibit 30 - Notice materials
13 Exhibit 31 - Land Development Consultants Letter of
14 Transmittal and attached maps 10/21/91
15 Exhibit 32 - Hearing witness cards

16 Also received, after the close of the hearing and therefore not
17 part of the record, were:

- 18 Exhibit 33 - Letter from Christine and Brian Lightcap to
19 Chris Thomas 10/2/91
20 Exhibit 34 - Letter from Winton E. Jondahl to Ethan
21 Seltzer 10/3/91

22 The following have qualified as parties in this matter: HGW,
23 Inc., for itself and for Forest Park Estate Joint Venture; City
24 of Portland; John Sherman, for himself and for Friends of Forest
25 Park; Don Joyce; Earl Grove, for himself and for Forest Park

26

1 Neighborhood Association; Arnold Rochlin; Hilda Freed Taylor
2 Trust; and John B. Taylor Trust.

3 III. Standards

4 The standards applicable to this UGB adjustment application
5 are set out in Chapter 3.01 of the Metro Code. The standards are
6 as follows:

7 1. Net Change. Requests for trades of land cannot result
8 in a net change of more than 10 acres of vacant land being added
9 to, or 50 acres of vacant land being deleted from, the area
10 within the UGB. MC §§ 3.01.020(e), 3.01.040(c)(2).

11 2. Local Action. Each city or county with jurisdiction
12 over areas included in the application must take a written action
13 recommending approval or denial of the application or declining
14 to express an opinion, subject to an exception in case the city
15 or county refuses to act. MC § 3.01.025.

16 3. Applicants. A request may be filed (1) by a city with a
17 planning area that includes or is contiguous to the proposed
18 adjustment site; or (2) by a group of more than 50 percent of the
19 property owners who own more than 50 percent of the land area in
20 each area included in the petition. MC § 3.01.035(a).

21 4. Agricultural Lands. If an application calls for the
22 addition of agricultural land with class I-IV soils designated in
23 the applicable comprehensive plan for farm or forest use, then
24 (i) retention of the agricultural land outside the UGB must
25 preclude urbanization of adjacent land within the UGB, or (ii)
26 retention of the agricultural land outside the UGB must prevent

1 the efficient and economic provision of urban services to
2 adjacent land within the UGB; or (iii) the agricultural area must
3 be a parcel or parcels 10 acres or less and must meet certain
4 other requirements. MC §§ 3.01.040(a)(4) and (c)(1).

5 5. Suitability. The land proposed to be brought within the
6 UGB must be more suitable for urbanization than the land proposed
7 to be deleted, based on consideration of the following factors
8 (MC § 3.01.040(c)(3)):

9 (a) Public Facilities and Services. Will the trade
10 provide, in the adjoining areas within the UGB, a net
11 improvement in the efficiency of public facilities and
12 services, including but not limited to water, sewerage,
13 storm drainage, transportation, fire protection, and
14 schools; and can the area to be added within the UGB be
15 served in an orderly and economical fashion? MC §
16 3.01.040(a)(1).

17 (b) Land Use Efficiency. Will the trade promote land
18 use efficiency, taking into consideration existing
19 development densities on the trade parcels, and will the
20 trade facilitate development of adjacent urban land
21 consistent with local comprehensive or regional plans? MC §
22 3.01.040(a)(2).

23 (c) Impact Consequences. Will any impact on regional
24 transit corridor development be positive; and will there be
25 any limitations imposed by the presence of hazard or
26

1 resource lands and, if so, how will the limitations be
2 addressed? MC § 3.01.040(a)(3).

3 (d) Nearby Agricultural Uses. If the trade would allow
4 an urban use near existing agricultural activities, will the
5 justification under (4) and (5)(a)-(c) above clearly
6 outweigh any adverse impact on the agricultural activities?
7 MC § 3.01.040(a)(5).

8 IV. The Parcels and the Overall Transaction

9 The proposed trade involves two parcels of land, as
10 identified above. The trade, however, is part of a larger
11 transaction involving a third parcel. The third parcel, not yet
12 completely defined, is actually two properties owned by the
13 Ramsey family at the northern end of Forest Park. One property
14 is 73 acres and the other property is 46 acres. The overall
15 proposed transaction is this: (1) HGW, Inc. will purchase all or
16 part of the two Ramsey properties and give them to the City for
17 inclusion in Forest Park; (2) The HGW, Inc./Forest Park Estate
18 Joint Venture property, Parcel A, will be brought within the UGB,
19 for development; and (3) the City property, Parcel D, will be
20 moved outside the UGB. See Exhibit 25, pages 2-3; Whitman and
21 Sherman oral testimony.

22 Although there is nothing in the UGB adjustment standards
23 that explicitly provides for recognition of the Ramsey portion of
24 the transaction, that portion is essential to the total
25 transaction. The City would not be an applicant, absent the
26 Ramsey portion. See Exhibits 24 and 26. Sjulín, Stacey,

1 Sherman, Grove, and Rochlin all testified on the critical
2 relationship of the Ramsey properties to the overall transaction.

3 The following more fully describes the total transaction:

4 1. Ramsey Properties. As stated above, the Ramsey
5 properties are two parcels at the northern end of Forest Park,
6 one of 73 acres and the other of 46 acres. The 73 acre parcel is
7 surrounded by Forest Park. The 46 acre parcel is surrounded on 3
8 sides by Forest Park. It juts 1/2 mile into the Park. Forest
9 Park is the largest wilderness park in any city in the United
10 States and possibly in the world. It provides recreation for the
11 human population and habitat for wildlife. Presently, the
12 northern area of Forest Park serves as a wildlife corridor
13 between the rural area north of the Park and the remainder of the
14 Park. To be viable, a wildlife corridor needs at least 1 1/2
15 miles of unbroken terrain. The 73 acre Ramsey parcel is in the
16 middle of the wildlife corridor. The 46 acre parcel runs across
17 the corridor. Sherman testimony.

18 The Ramsey properties are zoned RF, for residential farm and
19 forest development. This zoning would accommodate up to 59
20 residential dwelling units on the two parcels, one unit for every
21 2 acres. Exhibit 26. The actual number of developable units
22 might be less due to terrain. Development at this level would
23 destroy the wildlife corridor. Notwithstanding this, the
24 Ramseys, already have attempted once, unsuccessfully, to get a
25 development permit for the 46 acre parcel; and are preparing
26 development plans for the 73 acre parcel. Sherman testimony.

1 The 73 acre parcel and the portion of the 46 acre parcel deepest
2 into Forest Park, however, recently have been placed by the City
3 in an environmental protection (EP) overlay zone. If legally
4 valid, the EP overlay could severely restrict or prevent any
5 development. The Ramseys do not accept the validity of the
6 overlay. Exhibit 28; Stacey testimony.

7 The Ramsey part of the proposed transaction will have HGW,
8 Inc. purchase all of the 73 acre parcel and all, or the part
9 deepest into Forest Park, of the 46 acre parcel. HGW, Inc. then
10 will give the land it has acquired to the City of Portland. The
11 City will add the land to Forest Park, thus assuring it is kept
12 in an undeveloped state. This will be a major step toward
13 protection of the wildlife corridor in that area. Sherman
14 testimony.

15 2. Parcel D. The proposed 139 acre deletion parcel, at the
16 north end of Forest Park abutting the UGB, is owned by the City.
17 It is part of the Park, zoned for open space. It is highly
18 unlikely that it ever will be developed by the City or sold by
19 the City to others for development, whether inside or outside the
20 UGB. Thus its deletion from the area within the UGB likely will
21 have no future effect on development of Parcel D itself.

22 On the other hand, so long as Parcel D is within the UGB, it
23 is possible that land abutting Parcel D to the north will be a
24 candidate for future addition to the area within the UGB. If
25 Parcel D is removed, then the likelihood that the area to the
26 north ever will come within the UGB will be greatly reduced,

1 since the UGB adjustment standards would not permit a UGB
2 addition to the north if it would create a Parcel D island that
3 is excluded from the UGB. MC § 3.01.020(d); Exhibit 25. Thus
4 deletion of Parcel D is likely to permanently commit land farther
5 to the north to rural use.

6 3. Parcel A. The proposed 120 acre addition parcel, well
7 to the south of the other parcels, is west of Skyline Boulevard.
8 It is not important as a wildlife corridor. Whitman testimony.

9 Parcel A presently is zoned MUF 19. This means the land
10 could be partitioned into 6 lots and developed with 6 residential
11 units. Alternatively, as a planned development, it may be
12 developable with 12 residential units. In fact, HGW, Inc. two
13 years ago proposed to Multnomah County a 12 unit rural planned
14 development. The County denied the proposal, largely because
15 Metro, the City of Portland, and neighborhood organizations
16 testified that Parcel A was potential UGB addition land and
17 should be developed at urban, not rural, densities. The County's
18 denial of the planned rural development led to discussions that
19 developed into the present transaction. Exhibit 25.

20 If brought within the UGB, Parcel A likely would receive RF
21 zoning, which would permit up to 60 residential units on the
22 parcel. Given the terrain, however, a typical plan for the
23 parcel would provide approximately 40 units. Whitman testimony.

24 In summary, the overall transaction:

25 (1) Would bring the one Ramsey parcel and all or a major
26 part of the other Ramsey parcel into City ownership, thus

1 assuring permanent protection of a high value wildlife corridor
2 into Forest Park. This would mean the loss of a theoretic
3 capacity of up to 60 residential units (depending on how much of
4 the 46 acre Ramsey parcel is acquired by the City), although the
5 actual number might be less due to terrain.

6 (2) Would bring Parcel A within the UGB, thus providing a
7 theoretic capacity for 60 dwelling units, although the likely
8 actual development capacity gained would be about 40 units, due
9 to terrain.

10 (3) Would move Parcel D outside the UGB. This would not
11 impact future development on Parcel D, but likely would cause
12 areas to the north of Forest Park to remain rural in the future,
13 rather than converting at some future time to urban.

14 V. Findings and Application of Standards

15 1. Net Change. According to MC § 3.01.040(c)(2), for a
16 trade:

17 "The net amount of vacant land proposed to be added may not
18 exceed 10 acres; nor may the net amount of vacant land
19 removed exceed 50 acres."

20 The petition proposes an addition of 120 vacant acres to the area
21 within the UGB and a removal of 139.8 vacant acres. There will
22 be a net removal of 19.8 vacant acres. Exhibit 5. This is
23 within the 50 acre limit. Thus the "net change" standard is met.

24 2. Local Action. According to MC § 3.01.025(a):

25 ". . . a petition [for a UGB adjustment] shall not be
26 accepted and shall not be considered a completed petition

1 under Section 3.01.020 unless the petition includes a
2 written action by the governing body of each city or county
3 with jurisdiction over the area included in the petition
4 which:

5 "(1) Recommends that Metro approve the petition; or

6 "(2) Recommends that Metro deny the petition; or

7 "(3) Expresses no opinion on the petition."

8 The City of Portland has jurisdiction over Parcel D. It is
9 one of the petitioners for the UGB adjustment. The City thus
10 recommends that Metro approve the petition, subject to the
11 condition that the Ramsey transaction be part of the overall
12 transaction. This condition is the subject of part VI below.

13 Multnomah County has jurisdiction over Parcel A. The
14 County, in Resolution No. 91-108, considered the UGB adjustment
15 petition, but did not recommend either approval or denial. The
16 County, in ambiguous language, expressed support for the
17 preservation of Forest Park and expressed support for the
18 preservation of resource lands unless determined appropriate for
19 other uses. The County also requested that Metro, in considering
20 the adjustment, evaluate the effect of urbanization patterns on
21 adjoining resource lands. Exhibit 9.

22 Since the City, by being a petitioner, has taken a written
23 action recommending approval of the petition, and since Multnomah
24 County by Resolution No. 91-108 has taken a written action
25 expressing no opinion on the petition, the "local action"
26 standard is met.

1 3. Applicants. According to MC § 3.01.035(a):

2 "A petition [for a UGB adjustment] may be filed by:

3 "(1) A county with jurisdiction over the property or a city
4 with a planning area the includes or is contiguous to the
5 property; or

6 "(2) The owners of the property included in the petition or
7 a group of more than 50 percent of the property owners who
8 own more than 50 percent of the land area in each area
9 included in the petition." (Emphasis added.)

10 Here, HGW, Inc., representing the owner of Parcel A, is a
11 petitioner. The City, which is the owner of, and has
12 jurisdiction over, Parcel D is a petitioner. Exhibit 5. Thus
13 the "applicants" standard is met.

14 Since the removal of Parcel D is part of the proposed
15 adjustment, and since the City owns and has jurisdiction over
16 Parcel D, according to the "applicants" standard Metro would not
17 be able to consider this application for a UGB adjustment without
18 the City as a petitioner. The City has indicated that its
19 participation as an applicant is conditioned on the Ramsey
20 portion of the transaction being completed, or completion being
21 provided for, in a manner satisfactory to the City. Exhibits 24,
22 26. Given this condition, it is appropriate that the proposed
23 UGB adjustment, if otherwise subject to approval, not be
24 effective unless the Ramsey portion of the transaction is
25 completed in a manner satisfactory to the City. This is further
26 discussed in part VII below.

1 4. Agricultural Lands. According to MC § 3.01.040(c)(1),
2 for a trade, "[t]he requirements of paragraph 3.01.040(a)(4) of
3 this chapter [must be] met." Section 3.01.040(a)(4) states:

4 "Retention of agricultural land:

5 "(A) When a petition includes land with Class I-IV
6 soils designated in the applicable comprehensive plan
7 for farm or forest use consistent with the requirements
8 of LCDC Goals No. 3 or 4, the petition shall not be
9 approved unless it is factually demonstrated that:

10 (i) retention of the agricultural land would preclude
11 urbanization of an adjacent area already within the
12 UGB, or

13 "(ii) retention of the agricultural land would prevent
14 the efficient and economical provision of urban
15 services to an adjacent area inside the UGB, or

16 "(iii) the property is a legal parcel or parcels 10
17 acres or smaller in aggregate zoned for Exclusive Farm
18 Use" (Emphasis added.)

19 Parcel A, the proposed addition land, contains approximately 20
20 acres of Class I-IV soils, mostly Class IV. Multnomah County's
21 comprehensive plan designates this land for forest use. In a
22 specific review of Parcel A, Multnomah County has found that the
23 parcel is not capable of sustaining an agricultural use. The
24 record supports this conclusion, due to both the lack of a
25 sufficiently high proportion of Class I-IV soils and to slope
26 factors. Exhibits 5, 25.

1 Section 3.01.040(a)(4), quoted above, has two possible
2 meanings. One possible meaning is that land is to protected,
3 based on the requirements of that section, only if it meets three
4 criteria:

- 5 (1) It is agricultural land;
- 6 (2) It includes Class I-IV soils; and
- 7 (3) It is designated for farm or forest use by the
8 applicable comprehensive plan.

9 The second possible meaning is that the land is to be protected
10 only if it meets the two criteria:

- 11 (1) It includes Class I-IV soils; and
- 12 (2) It is designated for farm or forest use by the
13 applicable comprehensive plan.

14 Parcel A does include Class I-IV soils and it is designated
15 for forest use in Multnomah County's comprehensive plan. Thus
16 Parcel A fits the second possible meaning for land that is to be
17 protected under MC § 3.01.040(a)(4).

18 Parcel A, however, does not include any agricultural land.
19 LCDC Goal 3 defines "agricultural land" as "in western Oregon . .
20 . land of predominantly Class I, II, III and IV soils . . . and

21 / / /

22 / / /

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26

1 other lands which are suitable for farm use" The
2 Multnomah County Code, as permitted by Goal 3, has further
3 refined the definition of agricultural land by stating that land
4 cannot sustain a farm use if the soils are "Class . . . IV or
5 greater for at least 75% of the lot area." MCC §
6 11.15.2172(C)(2). In addition, the County Code defines
7 "agricultural land" as "[1]and of predominantly Class I, II, III,
8 and IV soils" MCC § 11.15.0010. Parcel A is not
9 predominantly Class I-IV soils; rather, it is 86% Class IV or
10 greater, well in excess of the County Code limit. Exhibit 25.

11 Since Parcel A does not contain agricultural land it does
12 not fall within the class of land to be protected if the first
13 possible meaning of Section 3.01.040(a)(4) is correct. On the
14 other hand, since it does have some Class I-IV soils and is
15 designated for forest use in the County comprehensive plan, it
16 does fall within the protected class of land if the second
17 possible meaning is correct.

18 This distinction is critical because if Parcel A falls
19 within the protected class, Section 3.01.040(a)(4) will forbid
20 its being brought within the UGB. This is because the land would
21 not fit within any of that section's exemptions that permit
22 otherwise protected land to be urbanized:

23 - Exemption (i) allows protected land to be urbanized if
24 necessary to allow urbanization of an adjacent area already
25 within the UGB. The record does not demonstrate that Parcel
26 A must be brought within the UGB to allow urbanization of an

1 adjacent UGB area. Although bringing Parcel A within the UGB
2 might be helpful to such urbanization, the record does not
3 demonstrate it is essential.

4 - Exemption (ii) allows protected land to be urbanized if
5 necessary to provide for the efficient and economical
6 provision of urban services to an adjacent area already
7 within the UGB. The record does not demonstrate that Parcel
8 A must be brought within the UGB in order to allow for the
9 efficient and economical provision of urban services to
10 adjacent UGB areas. Although bringing Parcel A within the
11 UGB might be helpful to the provision of such services, the
12 record does not demonstrate it is essential.

13 - Exemption (iii) addresses proposed addition land zoned for
14 exclusive farm use. Parcel A is not zoned for exclusive
15 farm use.

16 A careful reading of Section 3.01.040(a)(4) indicates that
17 the first possible meaning of the section, limiting the
18 protection to agricultural lands, is correct. First, the opening
19 clause of the section is "Retention of agricultural land". This
20 demonstrates that the section is concerned only with the
21 protection of agricultural land. If this is not a correct
22 reading, then the opening clause is meaningless. Second, the
23 three exemptions, which allow protected land to be brought within
24 the UGB, explicitly deal only with agricultural land. Thus the
25 section as a whole reads as though it is concerned only with
26 agricultural land. Indeed, if the section is not concerned only

1 with agricultural land, but also with forest land, the section
2 has the peculiar result of having exceptions that allow
3 agricultural land to be brought within the UGB but having an
4 absolute prohibition against forest land being brought within the
5 UGB.

6 A review of the legislative history of Section
7 3.01.040(a)(4) does nothing to change this interpretation of the
8 section. Rather, the legislative history indicates that the
9 original purpose of Section 3.01.040(a)(4) was to protect
10 agricultural land. It was not until 1988 that there was any
11 reference to land "designated in the applicable comprehensive
12 plan for farm or forest use. . . ." Thus prior to 1988,
13 protected land clearly had to be agricultural. The 1988
14 amendment dealt with how certain small agricultural parcels that
15 were irrevocably committed to non-farm use could be brought
16 within the UGB without first going through a comprehensive plan
17 amendment process. The reference to land "designated in the
18 applicable comprehensive plan for farm or forest use" was an
19 incidental amendment that is discussed nowhere in the legislative
20 history. Rather, the legislative history refers exclusively to
21 an intent to provide an exemption for small parcels that are
22 committed to non-farm use but that are in areas designated for
23 farm use. See Exhibit 20. In summary, the legislative history
24 supports the view that Metro always has intended that the
25 protections of Section 3.01.040(a)(4) apply only to agricultural
26 land.

1 The only remaining question is why Section 3.01.040(a)(4)
2 includes a reference to land "designated in the applicable
3 comprehensive plan for . . . forest use." A review of LCDC Goal
4 4 provides an answer. Under Goal 4, one of the uses permitted on
5 land designated for forest use is "agriculture . . . appropriate
6 in a forest environment." Exhibit 21. Thus Section
7 3.01.040(a)(4) protects agricultural uses, whether on land
8 designated for farm use or on land designated for forest use.

9 In conclusion, Section 3.01.040(a)(4) applies only to
10 agricultural land proposed to be added to the area within the
11 UGB. Since Parcel A, the addition area, contains no agricultural
12 land, Section 3.01.040(a)(4) is not applicable.

13 5. Suitability. According to MC § 3.1.040(c)(3), for a
14 trade:

15 "The land proposed to be added [must be] more suitable for
16 urbanization than the land to be removed, based on a
17 consideration of each of factors (1), (2), (3) and (5) of
18 Section 3.01.040(a)."

19 This section requires consideration of four factors, followed by
20 a weighing to determine whether Parcel A is more suitable for
21 urbanization than Parcel D.

22 (a) Factor 1: Public Facilities and Services. According
23 to MC § 3.01.040(a)(1), a UGB adjustment must be consistent with
24 the following factor:

25 "Orderly and economic provision of public facilities and
26 services. A locational adjustment shall result in a net

1 improvement in the efficiency of public facilities and
2 services, including but not limited to, water, sewerage,
3 storm drainage, transportation, fire protection, and schools
4 in the adjoining areas within the UGB; and any area to be
5 added must be capable of being served in an orderly and
6 economical fashion."

7 (i) Water. Parcel D, the deletion parcel, presently
8 receives no water service. The nearest water main is
9 approximately 1/2 mile away. There are no plans for additional
10 water mains to the area. Exhibit 5. As stated above, this
11 parcel, owned by the City, is part of Forest Park. It is highly
12 unlikely this parcel ever will be developed, whether inside or
13 outside the UGB. Thus removal of Parcel D from the area within
14 the UGB is unlikely to affect other development in adjoining
15 areas within the UGB and, in particular, is unlikely to affect
16 the efficiency of public water facilities and services to
17 adjoining areas within the UGB.

18 Parcel A, the addition parcel, presently receives no water
19 service. There is a 16 inch water line in Skyline Boulevard,
20 approximately 1400 feet from the Parcel A property line. Parcel
21 A could be served in an orderly and economical fashion by an
22 extension of the line. Exhibits 5, 25. The Taylor Trusts own
23 property adjoining Parcel A, between Parcel A and NW Skyline.
24 The Trusts property is within the UGB, but undeveloped. Exhibit
25 23. A shared water line serving both Parcel A and the Trusts
26 property would be more efficient than service only to the Trusts

1 property. Further, the use by Parcel A of the 16 inch line in
2 Skyline, by maximizing the use of that line, would make the line
3 more efficient in its service to adjoining areas within the UGB.

4 Thus the net effect of deleting Parcel D from the area
5 within the UGB and adding Parcel A to that area will be to
6 increase the efficiency of public water facilities and services
7 to adjoining areas within the UGB, in the Parcel A area.

8 (ii) Sewerage. Parcel D presently receives no sewerage
9 service. The nearest sewer trunk is about 1/4 mile away, in the
10 Linnton area, and there are no plans to extend sewer trunks to
11 the area. Exhibits 5, 25. The sewer line, to reach Parcel D
12 directly, would have to cross Forest Park. Again, since Parcel D
13 is not likely ever to be developed, its removal from the UGB area
14 is unlikely to affect the efficiency of public sewerage
15 facilities and services to adjoining areas within the UGB.

16 Parcel A presently receives no public sewerage service. On
17 development, however, Parcel A probably would not be served by
18 public sewers. Rather, it probably would be served by on-site
19 septic systems. A preliminary study by Cascade Earth Sciences,
20 Ltd. indicates that an on-site sewage disposal system would be
21 feasible and in compliance with Oregon law. Thus Parcel A
22 probably can receive sewerage service in an orderly and
23 economical fashion, from an on-site system rather than from
24 public sewers. If an on-site system turns out not to be
25 feasible, then the Unified Sewerage Agency has a sewer line 5,000
26 feet from Parcel A, with a master plan to bring the line within

1 1,500 feet of Parcel A. The USA line has sufficient capacity to
2 serve Parcel A. Exhibit 5, 25, Whitman testimony.

3 Given the likelihood of an on-site sewage disposal system,
4 bringing Parcel A within the UGB is not likely to affect the
5 public sewerage system and therefore is not likely to affect the
6 efficiency of public sewerage facilities and services to
7 adjoining areas within the UGB.

8 Thus there probably will be no net effect on the efficiency
9 of public sewerage facilities and services from deleting Parcel D
10 from and adding Parcel A to the area within the UGB.

11 (iii) Storm Drainage. Since Parcel D probably will remain
12 permanently undeveloped whether inside or outside the UGB, its
13 removal from the UGB area is unlikely to affect the efficiency of
14 public storm drainage facilities and services to adjoining areas
15 within the UGB.

16 Parcel A is within the Tualatin River Subbasin. The Oregon
17 Department of Environmental Quality has adopted regulations
18 governing non-point source pollution control, including storm
19 water control, in this area, both during construction and on a
20 permanent basis following construction. The regulations require
21 local jurisdiction review and approval of erosion control methods
22 and facilities during construction and of permanent storm water
23 quality control facilities following construction. The
24 regulations establish standards that these methods and facilities
25 must meet. If they cannot meet the standards, then the
26 regulations authorize the local jurisdiction to charge a fee to

1 offset the cost of needed public storm water quality control
2 facilities. Exhibit 25.

3 The City of Portland has implemented the DEQ regulations in
4 several ways. The City requires approval of methods and
5 facilities for storm water erosion control during construction;
6 approval of facilities for permanent storm water quality control;
7 and, typically, the protection of natural water courses as
8 drainage tracts. Exhibit 25.

9 There is no indication that the development of Parcel A
10 would require the use of any public storm drainage facilities and
11 services other than the City regulatory services just discussed.
12 Thus the addition of Parcel A to the UGB area would have no net
13 impact on the efficiency of public storm drainage facilities and
14 services. Although the petitioners offered no specific evidence
15 to assure that on-site storm drainage methods and facilities will
16 be able to meet storm drainage regulatory requirements in an
17 orderly and economical fashion, petitioner HGW, Inc. is a
18 sophisticated developer, has developed preliminary concepts for
19 Parcel A that address drainage issues, and desires to proceed
20 with development. Whitman testimony. It is appropriate to
21 accept HGW, Inc.'s expertise in representing that storm drainage
22 can be handled in an orderly and economical fashion.

23 Overall, there will be no net effect on the efficiency of
24 public storm drainage facilities and services from deleting
25 Parcel D from and adding Parcel A to the area within the UGB.

1 (iv) Transportation. Since Parcel D probably will remain
2 permanently undeveloped whether inside or outside the UGB, its
3 removal from the UGB area is unlikely to affect the efficiency of
4 public transportation facilities and services to adjoining areas
5 within the UGB.

6 Parcel A is 1/4 mile west of Skyline Boulevard, a City
7 street. NW Saltzman Road, a dedicated and graded 50-foot wide
8 right of way, provides access to Parcel A from Skyline.
9 Previously, when HGW, Inc. was seeking County approval of a 12-
10 unit development on Parcel A, the City agreed that Saltzman Road
11 could provide access to Parcel A, provided that the developer
12 improved Saltzman Road to City standards. The City asked that
13 this be a condition of County approval of the development. If
14 Parcel A is brought within the UGB area, it will be annexed by
15 the City, and the City itself will impose this requirement as a
16 condition of approval. Exhibit 25.

17 Parcel A is at the "service edge," for transportation
18 purposes, of areas already within the UGB. NW Skyline Boulevard
19 has sufficient capacity to serve both the areas already within
20 the UGB and Parcel A. Exhibit 15. Thus Parcel A, via Skyline
21 and developer-constructed improvements to Parcel A,, can be
22 served by transportation facilities in an orderly and economical
23 fashion. Further, the addition of Parcel A to the UGB area, by
24 adding to the use of NW Skyline within its capacity, will
25 increase the efficiency of public transportation facilities and
26 services in the adjoining UGB area.

1 Thus the net effect of deleting Parcel D from the UGB area
2 and adding Parcel A to that area will be to increase the
3 efficiency of public transportation facilities and services to
4 adjoining areas within the UGB.

5 (v) Fire Protection. Since Parcel D probably will remain
6 permanently undeveloped whether inside or outside the UGB, its
7 removal from the UGB area is unlikely to affect the efficiency of
8 public fire protection facilities and services to adjoining UGB
9 areas.

10 There is no specific evidence in the record on the level of
11 public fire service to Parcel A and the adjoining UGB area. The
12 City Fire Bureau, however, after considering (1) whether the
13 proposed UGB adjustment would make it easier and less expensive
14 or harder and more expensive to serve adjoining areas within the
15 UGB and (2) the ease of providing fire service to Parcel A,
16 unconditionally supported approval of the proposed UGB
17 adjustment. Exhibit 16. It is reasonable to interpret this as
18 indicating that already existing public fire facilities and
19 services have the capacity to serve Parcel A and can do so in an
20 orderly and economical fashion. Further, the addition of Parcel
21 A to the UGB area, by adding to the use of existing public fire
22 facilities and services within their capacity, will increase the
23 efficiency of those facilities and services in the adjoining UGB
24 area.

25 Thus the net effect of deleting Parcel D from the UGB area
26 and adding Parcel A to that area will be to increase the

1 efficiency of public fire protection facilities and services to
2 adjoining areas within the UGB.

3 (vi) Schools. Since Parcel D probably will remain
4 permanently undeveloped whether inside or outside the UGB, its
5 removal from the UGB area is unlikely to affect the efficiency of
6 public school facilities and services to adjoining UGB areas.

7 The Portland School District anticipates that, if Parcel A
8 is developed with approximately 45 residential units, there would
9 be an additional 75 to 100 students added to the school system.
10 The students would attend Skyline Elementary School, West Sylvan
11 Middle School, and Lincoln High School. Skyline probably will
12 have sufficient capacity to accommodate these students. West
13 Sylvan and Lincoln, however, probably will not have sufficient
14 capacity. In order to provide additional space to accommodate
15 the additional students at West Sylvan and Lincoln, the estimated
16 capital cost is \$260,000. Estimated annual operational costs due
17 to the additional students, for instructional staff, general
18 support, and transportation, are \$175,000 - \$200,000. Exhibit
19 12. Assuming these expenditures are made and the expanded
20 capacity is provided, there is no indication that there will be
21 any decrease in the efficiency of public school facilities and
22 services to adjoining UGB areas, due to the addition of Parcel A
23 to the UGB area. Further, it appears likely that the expanded
24 capacity can be provided in an orderly and economical manner.
25 Regarding Skyline Elementary School, it appears that its

1 operation following the addition of Parcel A to the UGB area, by
2 coming closer to filling its capacity, will be more efficient.

3 The Portland School District calculations do not take into
4 account the Ramsey portion of the overall transaction. In
5 effect, one aspect of the overall transaction is the elimination
6 of residential units that could be developed on the Ramsey
7 properties and their reappearance as units that will be developed
8 on Parcel A. Although the exact numbers of units that might be
9 developed on the Ramsey properties and that will be developed on
10 Parcel A are not known, the numbers are roughly equivalent and
11 are in the 40 to 60 unit range. Although the record does not
12 indicate where students from the Ramsey properties would attend
13 school, if those properties were developed, the number of
14 additional students would be essentially the same.

15 Thus, taking into account the overall transaction, but also
16 even if not considering the Ramsey portion of the transaction,
17 there will be no net effect on the efficiency of public school
18 facilities and services to adjoining areas within the UGB.

19 (vii) Public Facilities and Services Summary. If Parcel D
20 is deleted from and Parcel A is added to the UGB area, there will
21 be a net increase on the efficiency of public water,
22 transportation, and fire protection facilities and services to
23 adjoining areas within the UGB. There will be no change in the
24 efficiency of public sewerage, storm drainage, and school
25 facilities and services. Thus overall, there will be a net
26 improvement in the efficiency of public facilities and services

1 in the adjoining areas within the UGB. In addition, Parcel A can
2 be served by needed public facilities and services in an orderly
3 and economical fashion.

4 (b) Factor 2: Land Use Efficiency. According to MC §
5 3.01.040(a)(2), a UGB adjustment must be consistent with the
6 following factor:

7 "Maximum efficiency of land uses. Considerations shall
8 include existing development densities on the area included
9 within the amendment, and whether the amendment would
10 facilitate needed development on adjacent existing urban
11 land."

12 Parcel D has no existing development and therefore
13 theoretically could be developed at a maximum efficiency.
14 However, as stated above, Parcel D is part of Forest Park and
15 therefore is likely to remain permanently undeveloped, whether
16 inside or outside the UGB. Thus the deletion of parcel D from
17 the UGB area will not affect land use efficiency on that parcel.
18 Neither will it affect needed development on adjacent existing
19 urban land.

20 Parcel A also has no existing development. Exhibit 5. It
21 therefore can be developed to maximum efficiency. Indeed, Metro,
22 the City, and others previously opposed a planned rural
23 development on Parcel A because they believed that the most
24 efficient use of Parcel A would be urban development.

25 Regarding whether the addition of Parcel A would facilitate
26 needed development on adjacent existing urban land, the adjacent

1 land is zoned for residential farm and forest use. Exhibit 31.
2 It is not yet developed. The addition of Parcel A would provide
3 an additional participant to join owners of this land in sharing
4 the cost of a water line extension from NW Skyline Boulevard
5 (Exhibits 5, 23, 25) and in making transportation improvements in
6 the area (Exhibit 15). Thus the addition of Parcel A would to
7 some degree facilitate needed development on adjacent undeveloped
8 urban land. ("Needed development" means development consistent
9 with the local comprehensive plan. See Metro Ordinance No. 81-
10 105, and in particular its Exhibits F-3, I-1, I-2, and M-2.)

11 (c) Factor 3: Impact Consequences. According to MC §
12 3.01.040(a)(3), a UGB adjustment must be consistent with the
13 following factor:

14 "Environmental, energy, economic and social consequences.

15 Any impact on regional transit corridor development must be
16 positive, and any limitations imposed by the presence of
17 hazard or resource lands must be addressed."

18 (i) Transit Corridor Development. Since Parcel D probably
19 will remain permanently undeveloped whether inside or outside the
20 UGB, its removal from the UGB area is unlikely to have any impact
21 on regional transit corridor development.

22 In the vicinity of Parcel A, the northernmost point
23 receiving mass transit service in the foreseeable future will be
24 the intersection of NW Skyline Boulevard and NW Cornell Road,
25 about 2 1/2 miles south of Parcel A. Exhibits 15, 31. There is
26

1 no indication that the addition of Parcel A to the UGB area will
2 have any impact on regional transit corridor development.

3 Since the proposed trade will have no impact on regional
4 transit corridor development, the first portion of the "impact
5 consequences" factor is not applicable.

6 (ii) Hazard or Resource Lands. Parcel D does not contain
7 any land identified in the City's comprehensive plan as hazard or
8 resource land. The City's Northwest Hills Natural Areas
9 Protection Plan, however, indicates that Parcel D is a high
10 quality resource area. Specifically, Site No. 106, Lower Miller
11 Creek, includes approximately the northern half of Parcel D, and
12 Site No. 107, Miller Creek Headwaters, includes approximately the
13 southern half of Parcel D. Site No. 106 is the highest quality
14 resource site in the study area. The site may be a travel
15 corridor for mammals to and from habitats north of Forest Park.
16 Mammal species known to use the site include black bear, bobcat,
17 beaver, coyote, and deer. Bird species include the pileated
18 woodpecker, red-tailed hawk, great horned owl, great blue heron,
19 and band-tailed pigeon. According to the Draft Plan, the entire
20 site is of very high significance. Site No. 107 is rated only
21 slightly lower than Site 106 as a resource site, ranging from
22 high to moderately high significance. Exhibit 5.

23 Since Parcel D probably will remain permanently undeveloped
24 whether inside or outside the UGB, its deletion from the UGB area
25 will not have any direct impact on the resource value of Sites
26 106 and 107. The shift of the UGB to the area south of Parcel D,

1 however, will mean that areas to the north likely will remain
2 permanently in rural use, rather than being candidates for future
3 addition to the UGB area by virtue of their bordering on the UGB.
4 This will provide some additional security that wildlife flow
5 from the north into Sites 106 and 107 will not be interrupted.

6 Parcel A does not contain any land identified in the City
7 comprehensive plan as hazard land. It does contain 61 acres of
8 steeply sloped land in the northern half of the parcel, with
9 slopes from 30 to 70 percent. The slopes form a ravine for a
10 seasonal watercourse that runs parallel to the northern boundary
11 of the parcel. There is a smaller ravine in the southwestern
12 portion of the parcel. The two ravine areas, which contain most
13 of the trees on the parcel, likely will remain as open space on
14 development of the parcel. Development will occur on the flatter
15 portions of the parcel, which comprise about 40 percent of the
16 land and are either meadow or brush. Exhibit 5.

17 The forested area on Parcel A, in addition to its protection
18 due to the topographic constraints just discussed, also will be
19 protected by the City's Temporary Prohibition of the Disturbance
20 of Forests, contained in Chapter 33.299 of the City Code.
21 Exhibits 5, 25.

22 Thus, if Parcel A is added to the UGB area, the presence of
23 any hazard and resource lands on Parcel A will be addressed in
24 detail at the time of development of the parcel and has been
25 adequately addressed at this stage of the process. If Parcel D

26

1 is deleted from the UGB area, the protection of the high resource
2 values on the parcel will not be impaired and may be enhanced.

3 (iii) Ramsey Properties. As discussed above, City
4 acquisition of all of one of the Ramsey properties and of all or
5 part of the other Ramsey property is an essential part of the
6 overall transaction, of which the UGB trade is a part. The
7 Ramsey properties are critical resources to preservation of the
8 wildlife corridor from the area north of Forest Park into the
9 Park itself. Thus the protection of this resource, through City
10 acquisition and addition to Forest Park, is an additional
11 resource benefit that will be enabled by the UGB trade.

12 (d) Factor 4: Nearby Agricultural Uses. According to MC §
13 3.01.040(a)(5), a UGB adjustment must be consistent with the
14 following factor:

15 "Compatibility of proposed urban uses with nearby
16 agricultural activities. When a proposed adjustment would
17 allow an urban use in proximity to existing agricultural
18 activities, the justification in terms of factors (1)
19 through (4) of this subsection must clearly outweigh the
20 adverse impact of any incompatibility."

21 The proposed adjustment would allow an urban use on Parcel A. To
22 the north of Parcel A, there is an area of land zoned for
23 exclusive farm use that has a 500 foot common boundary with
24 Parcel A. As described above, however, on development, the
25 northern half of Parcel A, which is heavily sloped, will be left
26 as undeveloped forest land. This undeveloped area will provide a

1 forested buffer of approximately 600 feet width between the
2 developed portion of Parcel A and the agricultural land. Because
3 of this, there is no likelihood that an urban use on Parcel A, as
4 proposed, will have an adverse impact on the agricultural land to
5 the north or on any other agricultural use. Section
6 3.01.040(a)(5) therefore is not applicable to the proposed trade.

7 (e) Suitability Determination. Section 3.01.040(c)(3) of
8 the Metro Code requires that in any proposed trade, the proposed
9 addition land must be more suitable for urbanization than the
10 proposed deletion land, taking into consideration the four
11 factors considered above.

12 As has been demonstrated above, Parcel D, the deletion
13 parcel, is not appropriate for urbanization.

14 On the other hand, the urbanization of Parcel A, the
15 addition parcel, will result in a net improvement in the
16 efficiency of public facilities and services in the adjoining
17 areas within the UGB and will facilitate needed development on
18 adjacent undeveloped urban land. Parcel A itself can be serviced
19 by needed public facilities and services in an orderly and
20 economical fashion, and can be developed efficiently. The
21 addition of Parcel A will not affect regional transit corridor
22 development and does not involve hazard lands. Forest resources
23 on Parcel A will be protected. Finally, the addition of Parcel A
24 will not adversely impact nearby agricultural activities.

25 In conclusion, Parcel A, the proposed addition parcel, is
26 more suitable for urbanization than Parcel D, the proposed

1 deletion parcel, taking into consideration the four factors
2 described above.

3 5. Overall Conclusion. Based on the foregoing findings,
4 the application of HGW, Inc. and the City of Portland meets all
5 of the standards that are applicable to UGB trades.

6
7 VI. Late Submittals

8 The hearing officer received two documents after the hearing
9 was closed. The documents are appended to the record as Exhibits
10 33 and 34. Due to lateness, however, these documents are not
11 entitled to consideration as part of the record. Nevertheless,
12 the documents will be addressed briefly here.

13 Exhibit 33 is a letter from Christine and Brian Lightcap,
14 who own property on Newberry Road near Parcel D. They do not
15 offer any evidence, but argue merely that the trade should not be
16 approved, apparently on the basis that Parcel A should be
17 developed under its rural zoning as a buffer between other land
18 and Forest Park; and that the Ramseys should retain their
19 property but sell the Ramsey properties' development rights to
20 other property owners. The essence of their objection appears to
21 be that they oppose the urbanization of Parcel A. The Lightcaps,
22 however, have not stated any basis for opposing the proposed
23 trade that derives from the Metro Code's trade standards, and
24 they have not provided evidence contradicting any of the findings
25 made above. Therefore, even if their letter were part of the

1 record, it would not change the above findings or the
2 recommendation that follows.

3 Exhibit 34 is a letter from Winton Jondahl. Jondahl is
4 concerned that Parcel A not be developed until there are proper
5 public services, such as water, sewers, and storm drainage, to
6 support the development. As the findings above indicate, the
7 record indicates that services to address water, sewerage, and
8 storm drainage needs can be provided in an orderly and economical
9 fashion either by the developer of Parcel A or by the City.
10 Jondahl offers no evidence to contradict this. This is a
11 sufficient showing, for purposes of Metro's approval of a UGB
12 adjustment. Once the adjustment is approved, it is the
13 responsibility of the City of Portland to ensure that the
14 services are provided as part of any development on Parcel A.
15 Thus any condition governing development must be imposed by the
16 City, not Metro. Therefore, even if the Jondahl letter were part
17 of the record, it would not change the above findings or the
18 recommendation that follows.

19

20 VII Condition to Effectiveness of UGB Adjustment

21 As stated above, the City of Portland's participation as a
22 petitioner for the UGB trade is contingent on the Ramsey
23 transaction being part of the overall transaction. If the Ramsey
24 transaction were to fall through, the City would withdraw its
25 participation as a petitioner. Exhibits 24, 26. Also, as stated
26 under Part V(3) above, under MC § 3.01.035(a), Metro would not be

Page

36 - CONTESTED CASE NO. 91-2

HGW.UGB

MOSKOWITZ & THOMAS
Suite 400, 2000 S.W. First Avenue
Portland, Oregon 97201
(503) 227-1116

1 able legally to consider the UGB adjustment application were the
2 City to withdraw as a petitioner. This being the case, the
3 proposed UGB adjustment should not become effective unless and
4 until the Ramsey part of the overall transaction is completed, or
5 its completion is provided for, in a manner satisfactory to the
6 City.

7 To accomplish this, UGB adjustment should not become
8 effective unless the City of Portland files with Metro, within 90
9 days of passage of the ordinance approving the adjustment, a
10 notification that the Ramsey part of the overall transaction has
11 been completed, or its completion has been provided for, in a
12 manner satisfactory to the City. At the UGB adjustment hearing,
13 the parties agreed that the 90-day time period was appropriate.

14 VIII. Recommendation

15 For the foregoing reasons, the petition satisfies the
16 requirements of Metro Code Chapter 3.01. The petition should be
17 approved, provided that the ordinance approving the petition
18 should state that the approval shall not be effective unless the
19 City of Portland has filed with Metro, within 90 days of passage
20 of the ordinance, a written notification that the Ramsey part of
21 the overall transaction has been completed, or its completion has
22 been provided for, in a manner satisfactory to the City.

23 This Report and Recommendation of Hearing Officer should be
24 treated as findings of fact and conclusions for decision-making
25 purposes.
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Dated: November 15, 1991

Respectfully submitted:



Christopher P. Thomas
Hearing Officer

ATTACHMENT A


PARCEL DESCRIPTIONS AND MAPS

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Parcel A: Tax Lot 4, 1N 1W, Section 22, Multnomah County
Parcel B: Tax Lot 2, 1N, 1W, Section 4, Multnomah County
Tax Lot 9, 2N 1W, Section 33, Multnomah County
Block 14, Harborton, Multnomah County

METRO**Memorandum**

Planning and Development
2000 S.W. First Avenue
Portland, OR 97201-5398
(503) 221-1646

DATE: August 26, 1991
TO: Chris Thomas, Hearings Officer
FROM:  Ethan Seltzer, Land Use Coordinator
SUB: Transmittal of Contested Case No. 91-2: Forest Park

This letter will assign you as Hearings Officer in Contested Case Number 91-2, a petition for a locational adjustment (trade) of the Urban Growth Boundary in the vicinity of Forest Park. The petition has been filed by HGW, Inc., and the City of Portland. Richard Whitman, of Ball, Janik, and Novack, is representing HGW and Jim Sjulín, of the Portland Bureau of Parks, is representing the City of Portland.

The hearing on this case has been scheduled for Wednesday, October 2, 1991, beginning at 6:00 pm in the Metro Council Chambers (2000 SW First Avenue, Portland).

I am enclosing all of the materials received to date, a draft of a public notification statement, and my staff report on this case. I will send you any additional materials received by this office as they arrive.

Please give me a call at 220-1537 should you have any questions.

cc: Richard Whitman
Jim Sjulín

NOTICE LIST
 FOR CITY OF PORTLAND/HGW LOCATIONAL ADJUSTMENT APPLICATION
 7/1/91

1. Area to be Removed from UGB.

A. T2N R1W, Section 33

<u>Tax Lot</u>	<u>Owner(s)</u>	<u>Address(es)</u>
<u>2</u>	<u>Sparks, Charles H. and</u> <u>Margaret J.</u>	<u>3132 SE Tolman St</u> <u>Portland, OR 97202</u>
<u>23</u>	<u>Durfee, Henry and Iris</u>	<u>P.O. Box 3424</u> <u>Portland, OR 97208</u>
<u>7</u>	<u>Sivyer, Roland E. and</u> <u>Lucille M.</u>	<u>14000 NW Newberry Rd.</u> <u>Portland, OR 97231</u>
<u>28</u>	<u>Lightcap, Brian W. and</u> <u>Christine A.</u>	<u>13342 NW Newberry Rd.</u> <u>Portland, OR 97231</u>
Block 13 Harborton Subdivision Lots	R34960	
<u>18</u>	<u>City of Portland</u>	<u>1120 S.W. Fifth Avenue</u> <u>Portland, OR 97204</u>
<u>17</u>	<u>"</u>	<u>"</u>
<u>16</u>	<u>"</u>	<u>"</u>
<u>15</u>	<u>"</u>	<u>"</u>
<u>14</u>	<u>"</u>	<u>"</u>

<u>13</u>	<u>City of Portland</u>	<u>1120 S.W. Fifth Avenue</u> <u>Portland, OR 97204</u>
<u>12</u>	<u>"</u>	<u>"</u>
<u>11</u>	<u>"</u>	<u>"</u>
<u>10</u>	<u>"</u>	<u>"</u>
<u>9</u>	<u>"</u>	<u>"</u>
<u>8</u>	<u>"</u>	<u>"</u>

Block 10
Harborton
Subdivision
Lots

R-35960-1660

<u>7</u>	<u>City of Portland</u>	<u>1120 S.W. Fifth Avenue</u> <u>Portland, OR 97204</u>
<u>8</u>	<u>"</u>	<u>"</u>

B. T1N R1W, Section 4

<u>Tax Lot</u>	<u>Owner(s)</u>	<u>Address(es)</u>
<u>18</u>	<u>City of Portland</u>	<u>1120 S.W. Fifth Avenue</u> <u>Portland, OR 97204</u>
<u>3</u>	<u>"</u>	<u>"</u>

Notice List

Page 3

<u>Tax Lot</u>	<u>Owner(s)</u>	<u>Address(es)</u>
<u>21</u>	<u>City of Portland</u>	<u>1120 S.W. Fifth Avenue</u> <u>Portland, OR 97204</u>
<u>4</u>	<u>Joyce Enterprises, Inc.</u> <u>Buckner, Orville</u>	<u>226 N.W. Hermosa</u> <u>Portland, OR 97210</u>
<u>6</u>	<u>Kielhorn, Philip M.</u> <u>Ganger, Roberta G.</u>	<u>24970 S.W. Garden Acres Rd.</u> <u>Sherwood, OR 97140</u>
<u>1</u>	<u>Ramsey, Margaretta E.</u> <u>et al.</u>	<u>Star Route North, Box 38</u> <u>Depoe Bay, OR 97341</u>

2. Area to be Added to UGB.

A. T1N R1W, Section 15

<u>Tax Lot</u>	<u>Owner(s)</u>	<u>Address(es)</u>
<u>13</u>	<u>Ivanka Beovich</u>	<u>11525 NW Springville Rd.</u> <u>Portland 97210</u>
<u>26</u>	<u>John Taylor,</u> <u>Hilda F. Taylor</u>	<u>5805 NW Skyline Blvd.</u> <u>Portland 97229</u>
<u>27</u>	<u>John Taylor</u>	<u>5805 NW Skyline Blvd.</u> <u>Portland 97229</u>
<u>11</u>	<u>Sandra Johnson</u> <u>Max Brown</u>	<u>7608 N. Leonard St.</u> <u>Portland 97203</u>
<u>49</u>	<u>Robert Brown</u> <u>Terry Brown</u>	<u>7617 NW Skyline Blvd.</u> <u>Portland 97229</u>

B. T1N R1W, Section 22

<u>Tax Lot</u>	<u>Owner(s)</u>	<u>Address(es)</u>
<u>35</u>	<u>Bradley Hooper</u> <u>Vivian Hooper</u>	<u>109 Longs Peak Rd.</u> <u>Cheyenne, WY 82001</u>

Notice List

Page 4

<u>Tax Lot</u>	<u>Owner(s)</u>	<u>Address(es)</u>
<u>34</u>	Gerald Docken Jane Docken	Route 4, Box 431 Hillsboro 97123
<u>32</u>	Forest Park Estate Joint Venture	121 SW Morrison, Suite 950 Portland 97204
<u>33</u>	Lyle Dunstan Dorothy Dunstan	5105 NW 137th Ave. Portland 97229
<u>6</u>	Joeseph Kabdebo Camilla Kabdebo Charles Balogh Marie Balogh	725 SW Viewmont Dr. Portland 97225
<u>3</u>	Margaretta Ramsey Logan Ramsey Amanda Ramsey Mary Pope	Star Route North Box 38 Depoe Bay, OR 97341
<u>42</u>	Linus Niedermeyer Trust	5911 SW Virginia St. No. 200 Portland 97201

Bonny Slope
Addition
Lots

<u>1860</u>	Earnest Bennett c/o Gordon Mau & Dolores Mau	14305 SE 61st St. Bellevue, WA 98006
<u>2030</u>	Willard Walstead Hilda Walstead	11631 NW Laidlaw Rd. Portland 97229
<u>1980</u>	Donald Gilbertson Mary Gilbertson	7664 N. Chataugua Blvd. Portland 97217
<u>1990</u>	Dana Diller	18561 S. Ferguson Rd. Oregon City 97045

Notice List

Page 5


<u>Tax Lot</u>	<u>Owner(s)</u>	<u>Address(es)</u>
<u>2060</u>	Paul Barringer c/o William Stoll	1891 Meadow Lane Walnut Creek, CA 94595
<u>2120</u>	Brad Hosler Marjanna Hosler	11351 NW East Rd. Portland 97229
<u>2160</u>	Winton Jondahl Maureen Jondahl	11243 NW East Rd. Portland 97229
<u>2200</u>	Winton Jondahl Maureen Jondahl	11243 NW East Rd. Portland 97229
<u>2420</u>	Gary Ream Mary Ream	8400 SW Homewood Rd. Portland 97225

RMW\FPEPARC\NOTICE.630

METRO

Planning and Development
2000 S.W. First Avenue
Portland, OR 97201-5398
(503) 221-1646

Memorandum

DATE: August 26, 1991
TO: Forest Park File (Contested Case No. 91-2)
FROM:  Ethan Seltzer
SUB: Additions to Notification List

The following names should be added to the notification list for Contested Case No. 91-3 and should receive notice via first class mail:

Richard Whitman
Ball, Janik, and Novack
101 SW Main Street, Suite 1100
Portland, OR 97204-3274

Neighbors West/Northwest
1819 NW Everett Street
Portland, OR 97209

Jim Sjulín
Bureau of Parks
City of Portland
1120 SW Fifth Avenue, Room 1302
Portland, OR 97204

Forest Park Neighborhood Association
c/o Neighbors West/Northwest
1819 NW Everett Street
Portland, OR 97209

Bob Hartford
HGW, Inc.
121 SW Morrison
Portland, OR 97204

Bob Stacey, Planning Director
City of Portland
1120 SW Fifth Avenue, Room 1002
Portland, OR 97204

Forest Park Association
P.O. Box 2413
Portland, OR 97208

NOTICE OF PUBLIC HEARING

METROPOLITAN SERVICE DISTRICT

LOCATIONAL ADJUSTMENT TO THE METRO URBAN GROWTH BOUNDARY

Wednesday, October 2, 1991, at 6:00 pm in the Metro Council Chambers (2000 SW First Avenue, Portland), the Metropolitan Service District (Metro) will hold a public hearing on petition Number 91-2:Forest Park to add approximately 120 acres to and remove approximately 139 acres from the Portland Metropolitan Area Urban Growth Boundary (UGB) (SEE ATTACHED MAP).

The petitioners, HGW, Inc., and the City of Portland, have requested a locational adjustment of the UGB to both protect Forest Park and to allow urban development on lands located south of NW Skyline Boulevard.

The land proposed to be added is located southwest of Skyline Blvd., west of NW Saltzman Road, and north of NW Laidlaw/NW North Roads. The property is currently zoned MUF-19, as described by the Multnomah County Comprehensive Plan. The legal description for the property to be added is 1N, 1W, Section 22, Tax Lot 4.

The land to be removed is located southeast of NW Newberry Road, at the northern end of Forest Park. The land is currently part of Forest Park and is within the City of Portland. The legal description for the property to be removed is portions of 1N, 1W, Section 4, Tax Lot 2; 2N, 1W, Section 33, Tax Lot 9; and Block 14 Harborton Multnomah County.

BACKGROUND

Under ORS 268.390 Metro is responsible for management of the Urban Growth Boundary for the Portland metropolitan area consistent with the Statewide Planning Goals adopted by LCDC. LCDC Goal 14 (Urbanization) lists seven factors that must be considered when an urban growth boundary is amended, and also requires compliance with the standards and procedures for taking a goal exception, as listed in Goal 2 (Land Use Planning).

Metro has adopted standards and procedures for smaller, locational adjustments to its Urban Growth Boundary that LCDC has acknowledged for compliance with the requirements of Goal 14 and Goal 2. These standards and procedures are contained in Chapter 3.01 of the Metro Code and apply to this case. In this instance, the petitioners are proposing a trade according to the criteria outlined in the Metro Code.

Copies of the applicable code sections and the standards for locational adjustments are available from Metro staff.

HEARING

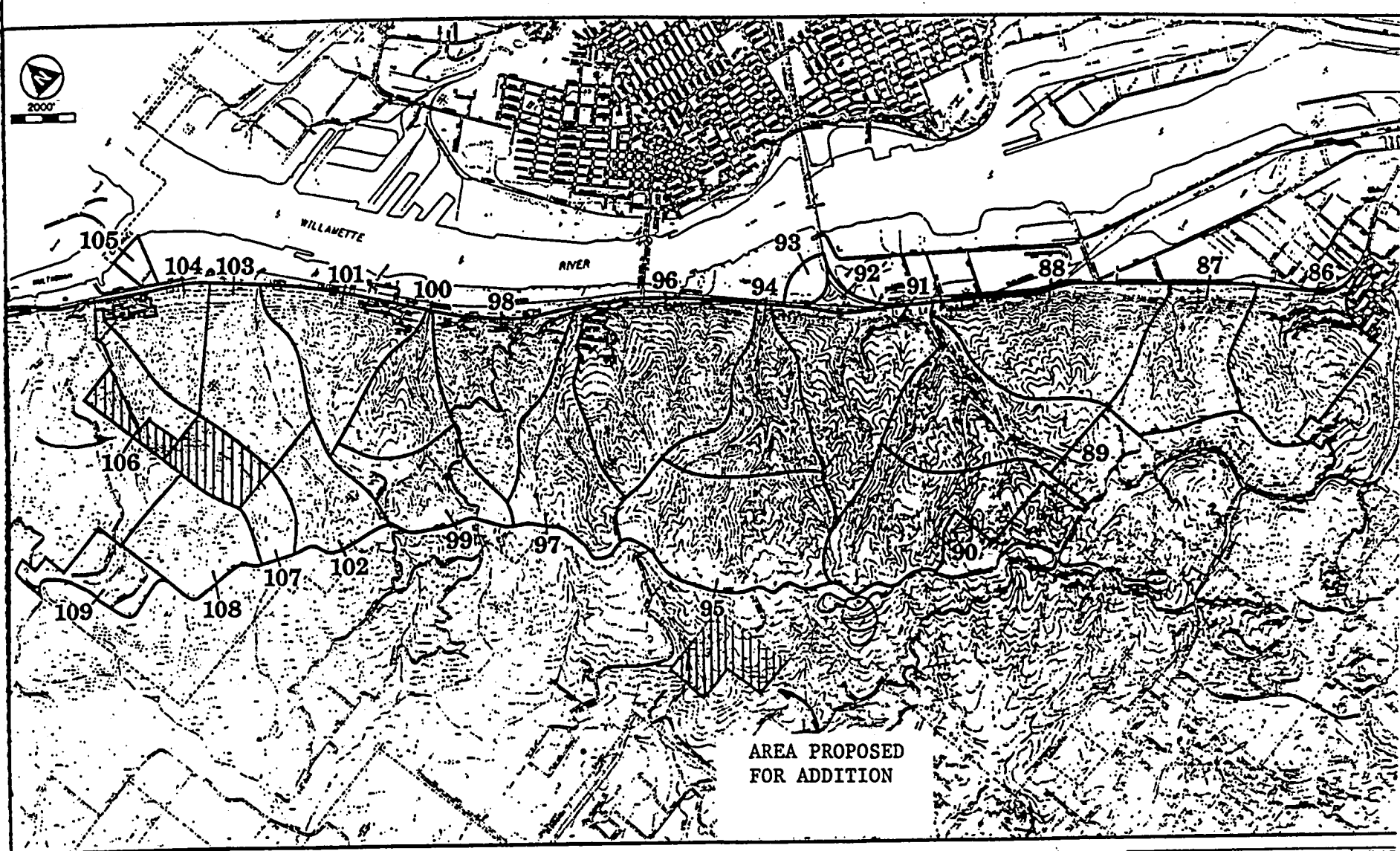
The hearing will be conducted before attorney, Chris Thomas, who has been designated as Hearings Officer by the Metro Council. Procedures for the hearing are those set forth in Metro Code Chapters 2.05 and 3.01. Following the close of the hearing record, the Hearings Officer will prepare a written report and recommendation to the Metro Council recommending that the application be approved or denied. Thereafter, the Council will hold a public meeting and either approve or deny the application or remand the matter to the Hearings Officer for further proceedings. Parties at the hearing may, but need not, be represented by an attorney.

In order to have standing in this case, both before the Metro Council and later, should an appeal result, you must either testify at the hearing or submit written comments to the Hearings Officer prior to the close of the hearing record. Therefore, not participating at this stage of the process could effect your ability to participate at a later date.

The hearing will commence promptly at 6:00 pm and continue until completed. Interested persons may submit additional testimony orally or in writing. Please address written testimony to Chris Thomas, Attorney at Law, 2000 SW First Avenue, Suite 400, Portland, OR 97201. Depending upon the number of persons wishing to testify, the Hearings Officer may impose time limits on testimony. The Hearings Officer may continue the hearing without further notice.

FOR MORE INFORMATION...

For further information about this case, about the standards for approving the request, or about any aspect of the proceeding, please contact Ethan Seltzer, Land Use Coordinator, at the Metropolitan Service District, 2000 S.W. First Avenue, Portland, Oregon 97201-5398, telephone 220-1537. Copies of a summary of hearing procedures and of the Statewide Planning Goals will be mailed upon request, and will be available at the hearing. Other relevant materials may be copied and mailed at cost, or may be reviewed at the Metro Office.



AREA
PROPOSED
FOR
REMOVAL

AREA PROPOSED
FOR ADDITION

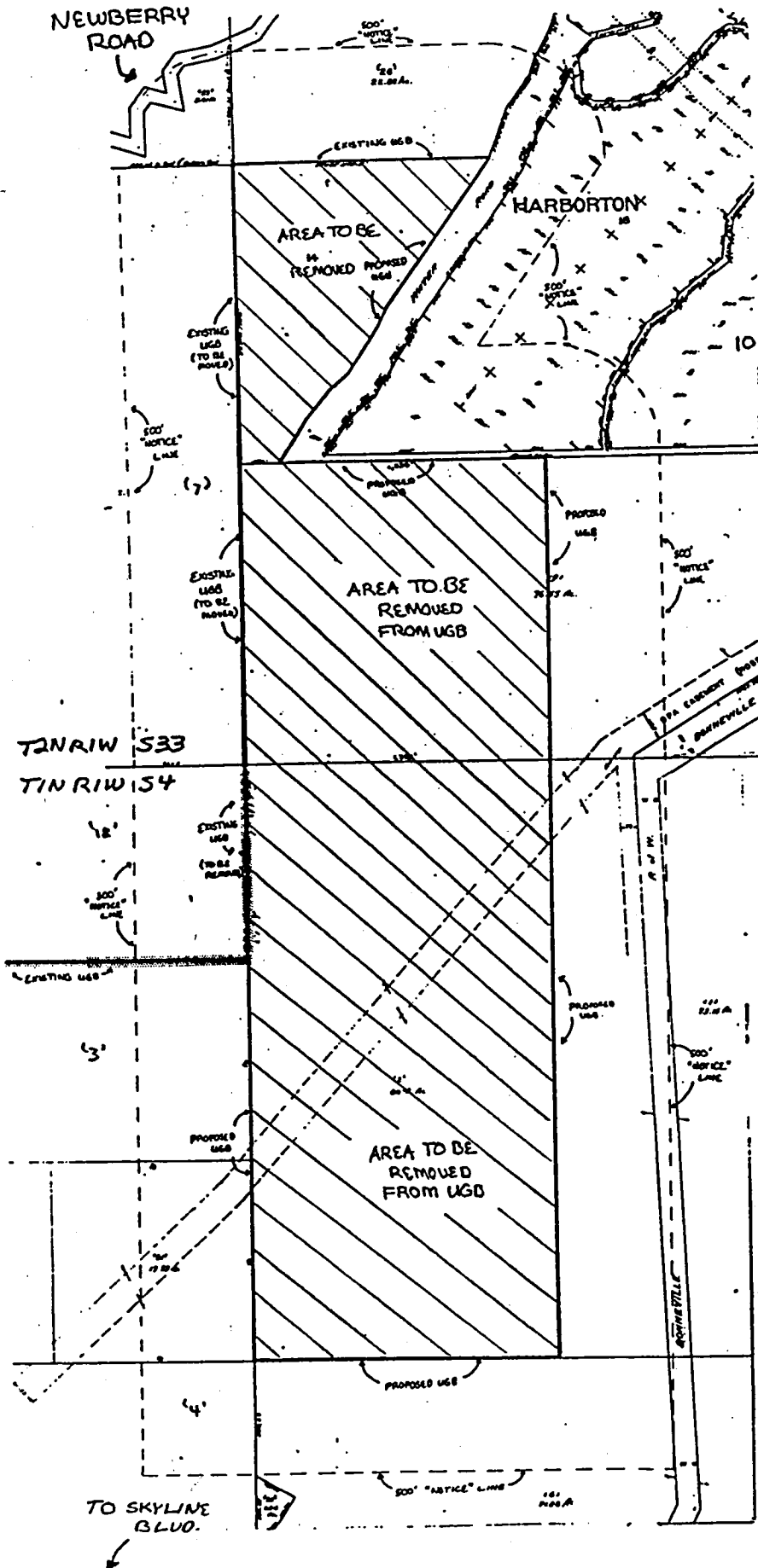


NORTHWEST HILLS
Natural Area Protection Plan

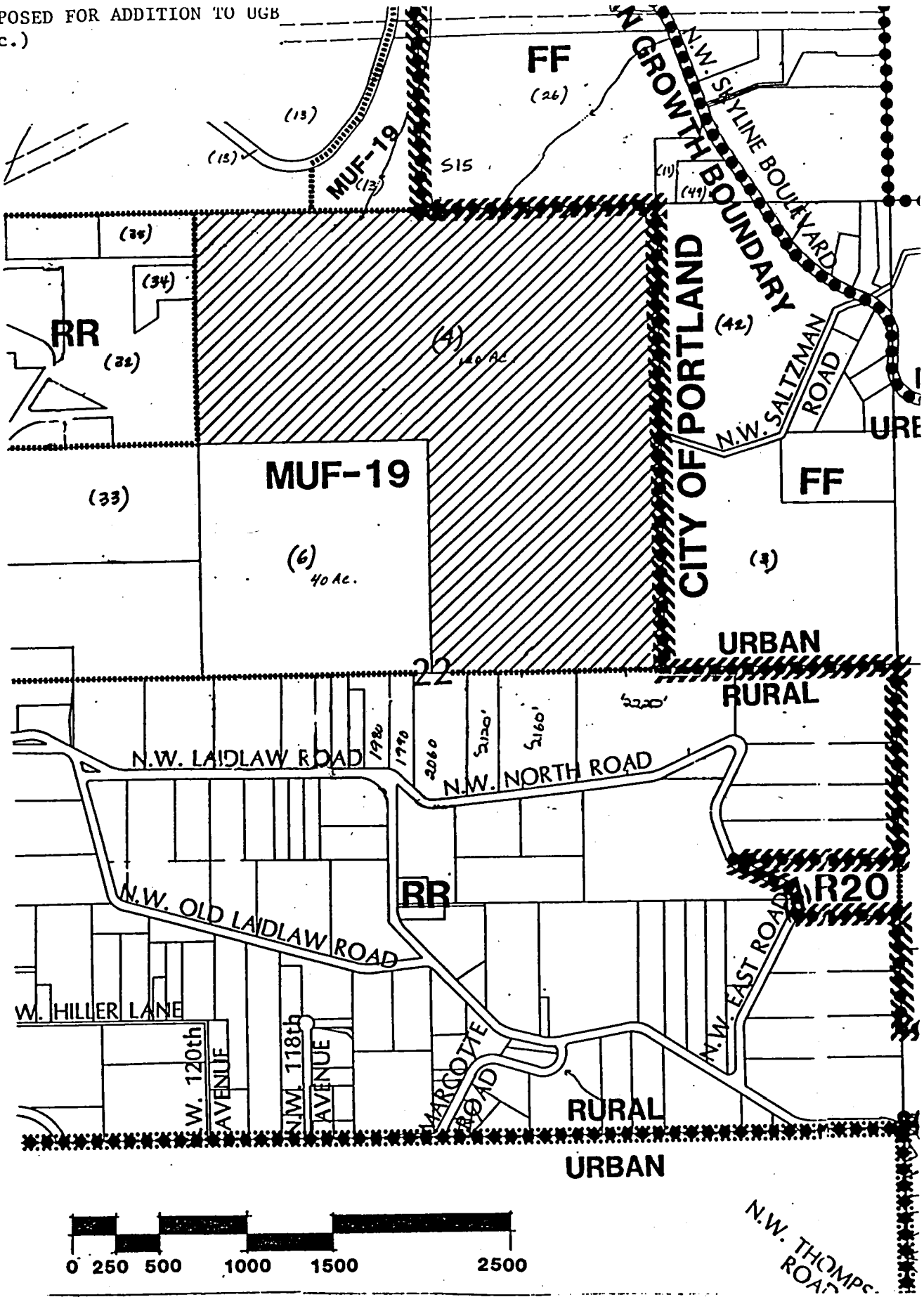
COMPOSITE
SITE MAP

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AREA PROPOSED FOR REMOVAL FROM UGB
(139.8 ac.)



AREA PROPOSED FOR ADDITION TO UGB
(120.0 ac.)



METRO

Planning and Development
2000 S.W. First Avenue
Portland, OR 97201-5398
(503) 221-1646

Memorandum

DATE: August 26, 1991

TO: Chris Thomas, Hearings Officer

FROM: Ethan Seltzer, Land Use Coordinator

SUB: STAFF REPORT ON CONTESTED CASE NO. 91-2, PETITION FROM HGW, INC., AND THE CITY OF PORTLAND FOR A LOCATIONAL ADJUSTMENT OF THE URBAN GROWTH BOUNDARY

Petitioners request the addition of approximately 120 acres to and the removal of approximately 139 acres from the UGB in the vicinity of Forest Park, according to the "trade" provisions of Metro's locational adjustment process. To be approved, the petitioner must demonstrate compliance with the requirements of Chapter 3.01 of the Metro Code. I have reviewed the materials submitted by the petitioners and would like to direct your attention to the following issues for further examination during the hearing on this matter, scheduled for October 2, 1991:

- 1) The position of the City of Portland on the proposed trade makes reference to an agreement attached to City of Portland Ordinance No. 164376 as "Exhibit A". This agreement should be made a part of the record at the hearing. The trade is actually part of a series of actions proposed by HGW, Inc. and the City of Portland to secure several "in-holdings" in Forest Park in public ownership. Staff is under the impression that the City's support is at least partially contingent on the successful acquisition of the in-holdings. In addition, the in-holdings have some bearing on this case in that their addition to Forest Park will result in no net change in residential development potential in the vicinity of the proposed addition. Hence, no additional service demands would result from the trade, if the in-holdings are in public ownership and zoned for open space.
- 2) The criteria for trades are described in Metro Code Section 3.01.040(c). The first requirement is that the proposed trade meets the requirements of paragraph 3.01.040(a)(4). That paragraph outlines the conditions under which lands not excepted from Statewide Planning Goals 3 or 4 can be considered for addition to the UGB through the locational adjustment process. In this instance, the land proposed for addition to the UGB is presently zoned MUF-19 in Multnomah County, a rural resource zone not excepted from Goal 4. On the face of it, this would seem to raise serious concerns about the ability of the proposed addition to meet the first trade criteria.

However, upon closer examination, several questions emerge. First, although forest lands are mentioned in the introductory portion of the paragraph, all further references are to agricultural lands only. As noted in the position taken by Multnomah County, the land proposed to be added has already been found to be unsuitable for agricultural use.

Second, the history of the paragraph begins with the original acknowledgement of the locational adjustment process. At that time, specific findings were made and acknowledged which excluded forest land from consideration. This conclusion remained in place through amendments to the paragraph in 1982 and 1984, until further amendments in 1988 added forest land as an element to be considered. Interestingly, no findings were included with the 1988 amendments, including no findings having to do with reasons for changing the original acknowledgement findings. The Department of Land Conservation and Development made no comments or staff report on the 1988 amendments.

Therefore, at hearing, the Hearings Officer may want to request further discussion of this issue. As noted in the staff report for the 1988 amendments, Metro will be reviewing and revising its UGB amendment procedures during periodic review. That process will come to a conclusion late in 1991, by which time this issue will receive further attention. The Hearings Officer may also want to consider the unique circumstances of this case with respect to the precedential value of an interpretation of the meaning of the paragraph. In this instance, the public purposes of the trade represent a unique use of the UGB trade provisions.

Please feel free to contact me should you have any questions.

BALL, JANIK & NOVACK
ATTORNEYS AT LAW
ONE MAIN PLACE
101 S.W. MAIN STREET, SUITE 1100
PORTLAND, OREGON 97204-3274
TELEPHONE (503) 228-2525
TELECOPY (503) 295-1058

10TH FLOOR, 1101 PENNSYLVANIA AVE. N.W.
WASHINGTON, D. C. 20004
TELEPHONE (202) 638-3307
TELECOPY (202) 783-6947

RICHARD M. WHITMAN

July 1, 1991

BY HAND DELIVERY

Mr. Ethan Seltzer
Land Use Coordinator
Metro
2000 S.W. First Ave.
Portland, OR 97201-5398

Re: City of Portland/HGW, Inc. Application for
Locational Adjustment

Dear Ethan:

Enclosed is the joint application of the City of Portland and HGW, Inc. for a locational adjustment, involving the removal of 139.8 acres from the Urban Growth Boundary, and the addition of 120 acres. Service provider and Multnomah County comments on this application should be forthcoming within the next three weeks. Additional materials may also be submitted regarding the Metro criteria for locational adjustment exchanges.

Thank you for guidance in preparing this application. I look forward to working with you to assure that this application fully complies with the Metro criteria for locational adjustments. I should mention that Jim Sjulín of the City's Parks and Recreation Bureau, and John Sherman of the Friends of Forest Park, have been instrumental in moving this application forward.

Very truly yours,



Richard M. Whitman

Enclosure

cc. Mr. Robert Hartford, HGW (w/enc.)
Mr. Jim Sjulín, City of Portland (w/enc.)
Mr. Robert Stacey, City of Portland (w/enc.)
Mr. Harold Auerbach, City of Portland (w/enc.)
Mr. John Sherman, Friends of Forest Park (w/enc.)

Petition for Locational Adjustment to
Metro's Urban Growth Boundary (UGB) (check one):

addition removal

Note: To add land in one location and remove land in another, please complete one form for the addition and another for the removal.

1. a. Petitioner's name and address:

City of Portland HGW, Inc.
c/o Bureau of Parks and Recreation 121 S.W. Morrison, Suite 950
1120 S.W. Fifth, Room 1302 97204 Portland, OR 97204
Phone number: City: 796-5122 HGW: 227-6593

b. Contact person, if other than petitioner (consultant or attorney) or if petitioner is a local government:

Jim Sjulin, City of Portland, Natural Resources Supervisor
Richard Whitman, HGW, Attorney
Phone number: Sjulin: 796-5122; Whitman: 228-2525

2. What is petitioner's interest in the property:

Property Owner
 Contract Buyer
 Option to buy
 Other legal interest (Specify: _____)
 Local government

3. County in which property is located: Multnomah

4. If the locational adjustment requested were approved, would you seek annexation to (or de-annexation from) a city?

Yes, the City of Portland
 No

5. Description of properties included in the petition (list each lot individually and attach a copy of the appropriate tax assessor's map(s)):

a. Legal Description
(Township, Range,
Section, Lot):

Tax Lot 4, 1N 1W Section 22, Multnomah County

10. How close is the nearest water main? 1400 feet

11. a. Are additional water mains for the area planned?

 Yes X No

b. How close to the property would planned water lines run?

12. Are there any natural or man-made boundaries to development running along or near your property (rivers, cliffs, etc.)?

 X Yes (Describe: a steep ravine with a seasonal watercourse traverses the northern portion of the property.)
Mark location on assessor's map or attach other map or photo.

 No

13. What is the current local plan designation of the property? Multiple Use Forest

14. What is the current local zoning designation? MUF-19

15. Does the comprehensive plan identify any natural hazards in this area?

 Yes (Describe and explain applicable comprehensive plan policies: _____)

 X No

16. Does the comprehensive plan identify any natural or historic resources in this area? No.

 Yes (Describe resources and explain applicable plan policies: _____)

17. How do you plan to develop the property if your petition is approved?

As a low density PUD, with between 25 and 50 residential lots on the flat ridge-top area, and with the remainder of the site in open space. A minimum of 48 acres would be in open space, however the total is likely to be higher. Lot size would be in the vicinity of 1-2 acres.

18. On a separate sheet of paper, please discuss how approval of your petition would comply with each of the applicable standards from the Metro Code (attached green sheets). Only petitions found consistent with these standards may be approved. Metro staff will use the information received from

Petition for Locational Adjustment to
Metro's Urban Growth Boundary (UGB) (check one):

 addition X removal

Note: To add land in one location and remove land in another, please complete one form for the addition and another for the removal.

1. a. Petitioner's name and address:

City of Portland	HGW, Inc.
c/o Bureau of Parks and Recreation	121 S.W. Morrison St.
1120 S.W. Fifth, Room 1302 97204	Portland, OR 97204
Phone number: City: 796-5122	HGW: 227-6593

b. Contact person, if other than petitioner (consultant or attorney) or if petitioner is a local government:

Jim Sjulín, City of Portland, Natural Resources Supervisor
Richard Whitman, HGW, Attorney

Phone number: Sjulín: 796-5122 Whitman: 228-2525

2. What is petitioner's interest in the property:

- Property Owner
- Contract Buyer
- Option to buy
- Other legal interest (Specify: _____)
- Local government

3. County in which property is located: Multnomah

4. If the locational adjustment requested were approved, would you seek annexation to (or de-annexation from) a city?

- Yes, the City of _____
- No (Already within City of Portland)

5. Description of properties included in the petition (list each lot individually and attach a copy of the appropriate tax assessor's map(s)):

a. Legal Description
(Township, Range,
Section, Lot):

TL 2 1N 1W S4; TL 9 2N 1W S 33; Block 14 Harborton
(40 of 76.55ac.) (20 ac.)

10. How close is the nearest water main? Approximately 2500 feet.

11. a. Are additional water mains for the area planned?

 Yes X No

b. How close to the property would planned water lines run?

12. Are there any natural or man-made boundaries to development running along or near your property (rivers, cliffs, etc.)?

 Yes (Describe: Property forms northern boundary of City of Portland's Forest Park. Miller Creek traverses site (perennial stream).)
Mark location on assessor's map or attach other map or photo.

 No

13. What is the current local plan designation of the property? Open Space

14. What is the current local zoning designation? Open Space

15. Does the comprehensive plan identify any natural hazards in this area?

 Yes (Describe and explain applicable comprehensive plan policies: _____)

 X No

16. Does the comprehensive plan identify any natural or historic resources in this area?

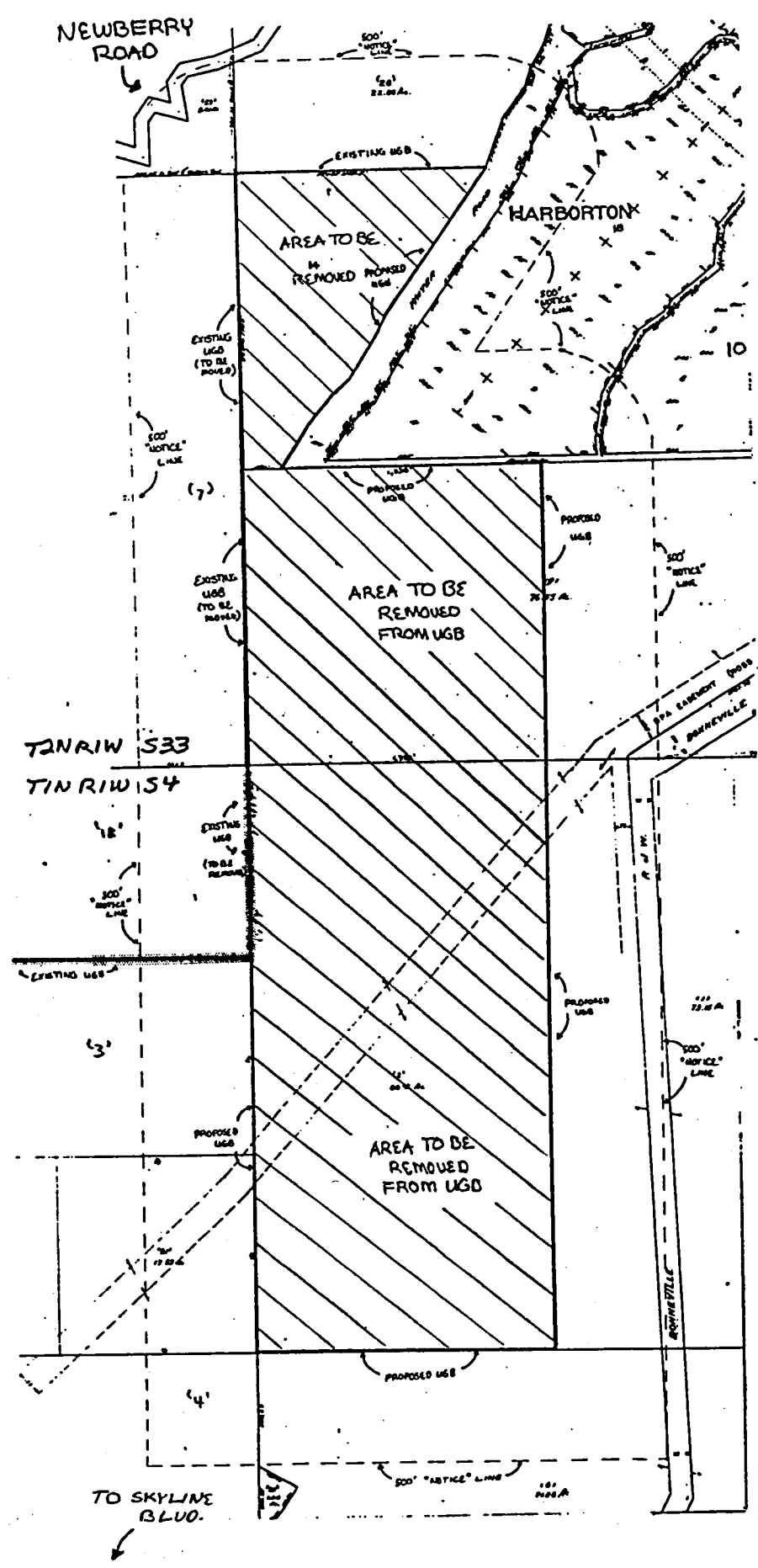
 X Yes (Describe resources and explain applicable plan policies: Proposed NW Hills Protection Plan identifies this area as "the highest quality resource site within the study area." Proposed "EN" designation -- maximum level of protection.)

17. How do you plan to develop the property if your petition is approved?

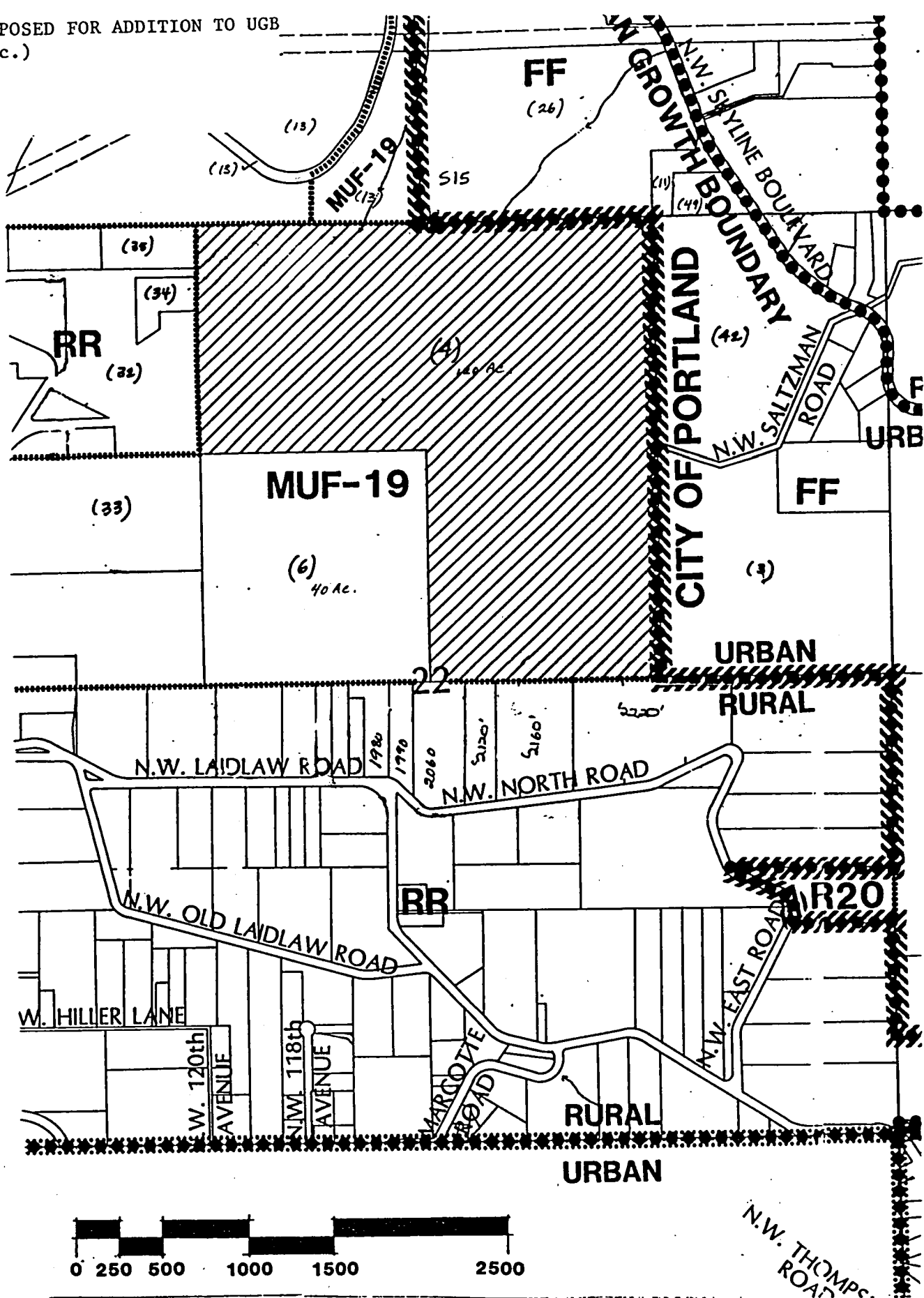
No development is planned.

18. On a separate sheet of paper, please discuss how approval of your petition would comply with each of the applicable standards from the Metro Code (attached green sheets). Only petitions found consistent with these standards may be approved. Metro staff will use the information received from

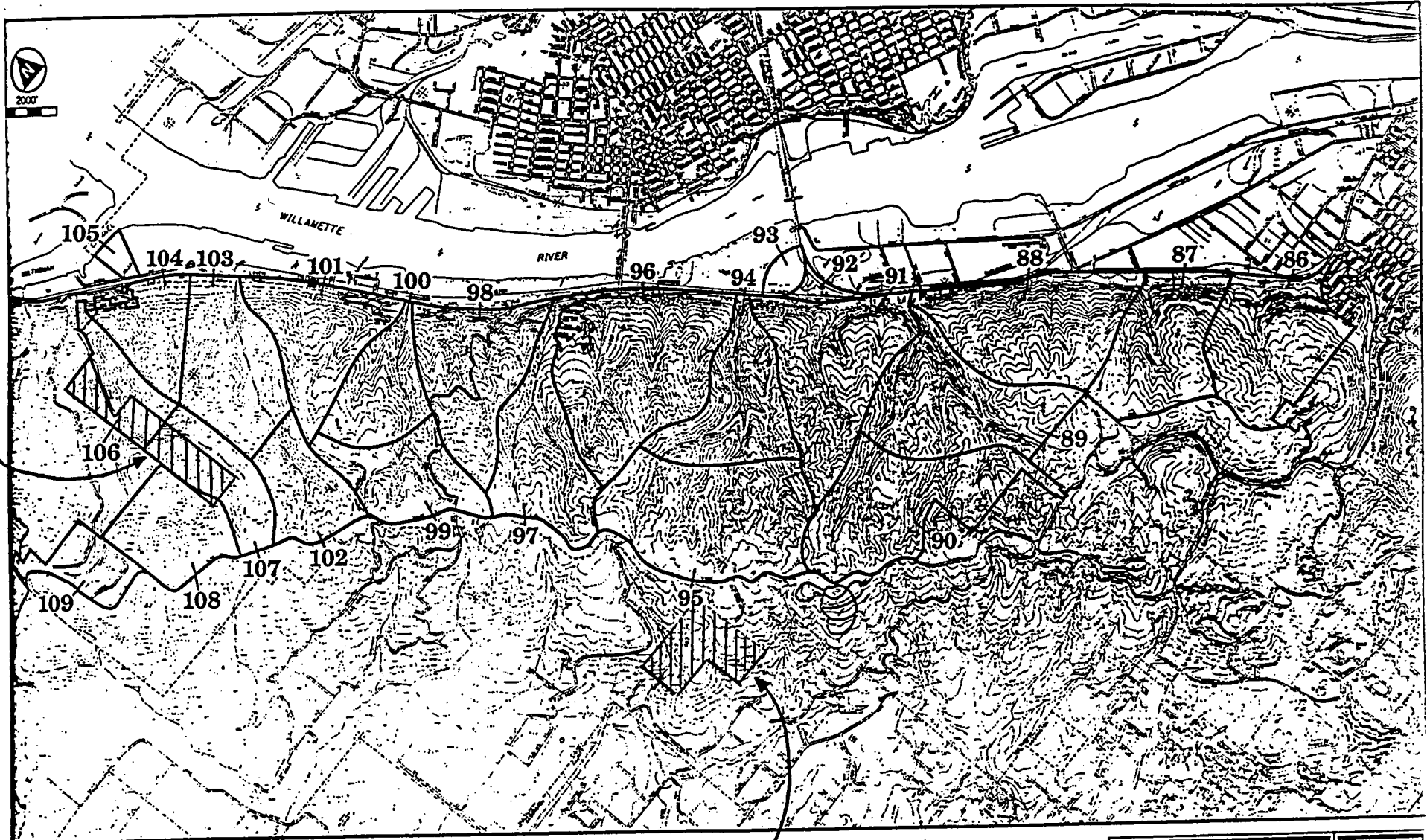
AREA PROPOSED FOR REMOVAL FROM UGB
(139.8 ac.)



AREA PROPOSED FOR ADDITION TO UGB
(120.0 ac.)



AREA PROPOSED FOR REMOVAL

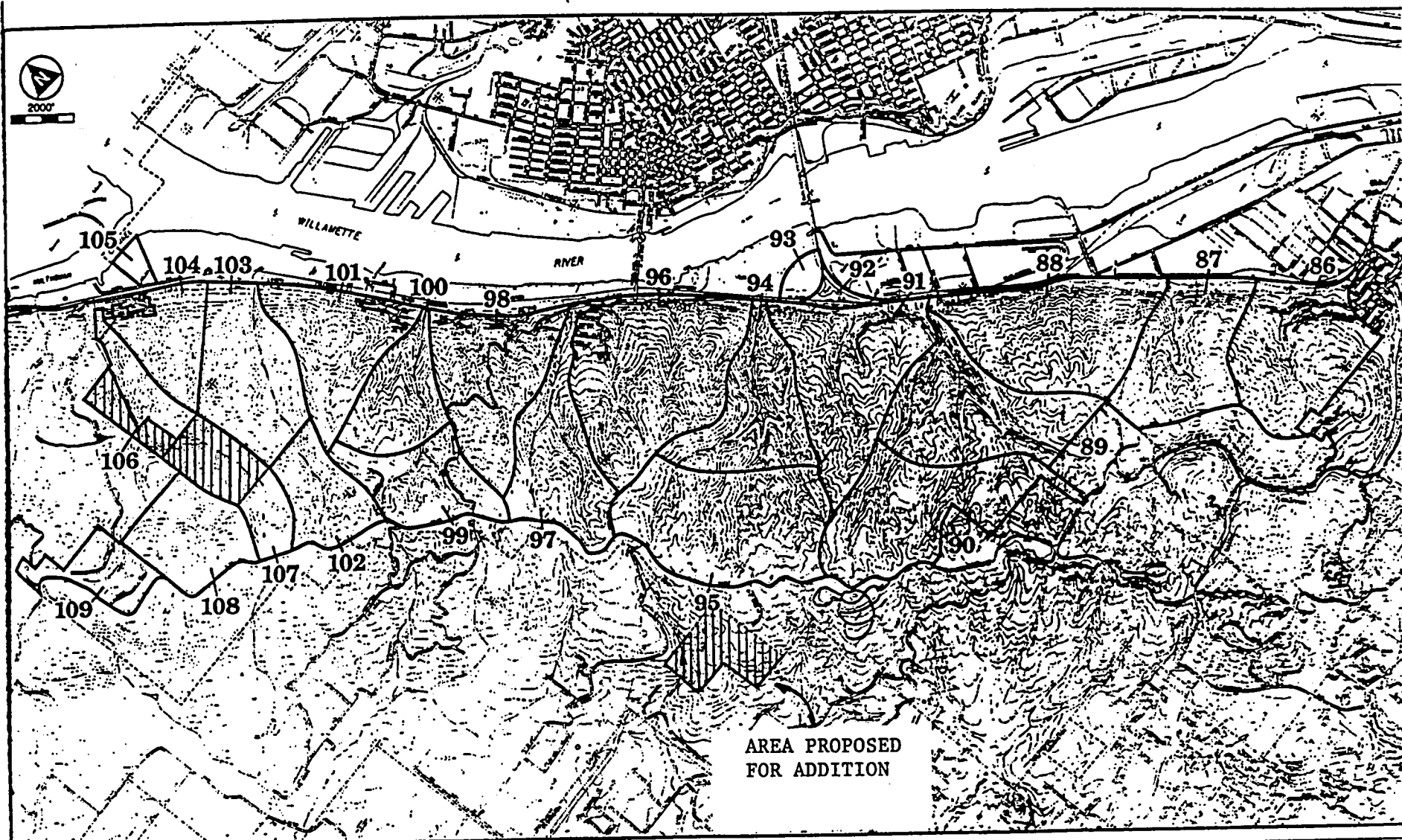


NORTHWEST HILLS
Natural Area Protection Plan

AREA
PROPOSED
FOR
ADDITION

COMPOSITE
SITE MAP

Map
11



AREA PROPOSED FOR REMOVAL

AREA PROPOSED FOR ADDITION



NORTHWEST HILLS

Natural Area Protection Plan

COMPOSITE SITE MAP

M
1

**APPLICANTS' NARRATIVE STATEMENT
FOR CITY OF PORTLAND/HGW LOCATIONAL ADJUSTMENT APPLICATION
7/1/91**

Metro Code Section 3.01.040(c): Standards for UGB "Trades."

1. The Requirements of Paragraph 3.01.040(a)(4) Are Met.

No agricultural lands are proposed to be added to the UGB. Although the 120-acre property proposed for addition contains approximately 20 acres of soils in USDA soils classes I-IV (mostly in IV), this property has been designated for forest rather than agricultural use by Multnomah County. In addition, in a land use proceeding regarding this property last year, the Multnomah County Board of Commissioners found that the property is not suitable for farm use. The remainder of the property proposed for addition is in Class VIe soils, where agricultural use is impracticable. The resource value of the area proposed for removal from the UGB is far higher, based upon a recent City of Portland natural resources inventory, than the resource value of the area proposed for addition.

2. The Net Amount of Vacant Land Proposed to be Added May Not Exceed 10 Acres; Nor May the Net Amount of Vacant Land to be Removed Exceed 50 Acres.

The amount of vacant land to be added is 120 acres; the amount of vacant land to be removed is 139.8 acres. The net amount to be removed is 19.8 acres. This criterion is met.

3. The Land Proposed to be Added is More Suitable for Urbanization than the Land to be Removed, Based Upon Consideration of Each of Factors (1)-(3), and (5) of Section 3.01.040(a).

A. Orderly and Economic Provision of Public Facilities and Services (3.01(a)(1)).

The area proposed for removal is currently zoned for open space and is within the City of Portland's Forest Park. There is no access to the site, and no urban services within the vicinity. It would be very difficult to serve development on this site.

The area proposed for addition is currently zoned MUF-19. Up to six residential units may be developed on the site under its current zoning. Development plans for adjoining properties within the City of Portland are expected to result in road and water service improvements to the boundary of this site. Previous comments from service providers have indicated that public services can be provided to this site.

B. Maximum Efficiency of Land Uses (3.01(a)(2)).

Neither site is developed at this time, although there is already an unimproved access to the site proposed to be added. The addition of the proposed site will mean that some of the costs of developing this area (road improvements and water line extension) can be shared among a far greater number of users.

The area proposed for removal is very unlikely to be developed in the near future due to the difficulty of providing services and its location within the City of Portland's Forest Park. The proposed trade will result in a net increase in the developable area within the City of Portland even though there will be a net reduction in land area within the City.

C. ESEE Consequences (3.01(a)(3)).

a. ESEE Consequences of Adding the City of Portland Property.

The 139.8 acres proposed for removal from the UGB includes the highest quality resource site in the Northwest Hills Study Area. (Site No. 106, City of Portland, Northwest Hills Natural Areas Protection Plan, Discussion Draft (April 1991), at 182-185). In addition, a portion of Site No. 107 is also included in the area to be removed. The predominant natural feature for both sites is Miller Creek, which forms the eastern boundary of the proposed UGB in the northern portion of the area to be removed. The ESEE consequences of limiting conflicting uses (particularly residential use) are described in the Protection Plan, attached to this application as Exhibit E. Removing this site from the UGB will help insure that the property remains as an extremely important link in the wildlife travel corridor between Forest Park and areas to the north and west.

The 120 acres proposed for addition contains 61 acres of steeply-sloped area in the northern 50 percent of the property. Slopes range from 30 to 70 percent, forming a ravine for a seasonal water course which runs parallel to the northern boundary of the site. In addition, there is a smaller ravine in the southwestern portion of the site (approximately 10 percent of the site area). These two areas, forming over one-half of the site, are proposed to remain as open space in conjunction with the planned development of the property. In addition to their steep slopes, these areas also contain the vast majority of the tree cover on the site. The flatter portions are either in meadow or brush. Any development would have to comply with DEQ storm water control regulations for the Tualatin basin. In

Applicants' Narrative
July 1, 1991
Page 3

addition, because this site is proposed for annexation, any development would have to comply with the City of Portland's Goal 8 requirements, including the City's Temporary Prohibition on the Disturbance of Forests.

D. Compatibility with Nearby Agricultural Activities
(3.01(a)(5)).

To the extent there are any existing agricultural activities nearby the property proposed for removal, this action will help buffer those activities from incompatible urban development.

There is one area of EFU-zoned land to the north of the area proposed for addition to the UGB. This property has a common boundary of approximately 500 feet with the site. Because the applicants' proposed use of the property includes the dedication of a common open space area for the ravine in the northern portion of the site, there will be a buffer area of steep, forested open space (with an approximate width of at least 600 feet) between any urban and agricultural uses. The proposal will be as compatible with agricultural use as is the current use. No access is proposed, nor is feasible, on this side of the property to be added.



**NORTHWEST HILLS
NATURAL AREAS PROTECTION PLAN**

DISCUSSION DRAFT

**INVENTORY, ANALYSIS, AND REGULATIONS
for the
PROTECTION OF
WETLANDS, WATER BODIES,
FISH AND WILDLIFE HABITATS,
OPEN SPACE, AND NATURAL AREAS**

**Bureau of Planning
City of Portland
April 1991**

Site Size: 130 acres

Location: West of Firelane 13, east of Newberry Rd, near St. Helens Rd.

Neighborhood: Linnton

Date(s) of Inventory: June 18, 1986; March 6 and August 9, 1990.

Habitat Classification:

Upland Coniferous/Broadleaf Deciduous Forest

Riverine, Upper Perennial Streambed, Unconsolidated Bottom

Permanently Flooded

Types of Resources:

Year-round creek, fish and wildlife habitat, salmonid spawning ground, sensitive fauna species, forest with old growth Douglas fir, open space and groundwater resources.

Scenic, recreational and cultural resources are also present at this site.

Resource Description and Quality:

This is the highest quality resource site within the study area. The site's vegetative cover is predominantly second growth forest with representative stands of each seral stage of the western hemlock upland forest community. A small stand of *old growth* Douglas fir is also present in the lower Miller Creek canyon. Climax forest species such as western hemlock, western red cedar and pacific yew are also well established at the site. Forest cover provides open space, scenic and recreational resources; serves as habitat for resident and migratory wildlife; and helps to balance the local water regimen. Snags, downed logs and woody debris found at the site are critical structural and functional components of the watershed ecosystem. Western wahoo is a prominent component of the riparian plant community. Crane's bill has spread into the lower basin and threatens to dominate the mesic herb community.

The site's year round creek provides habitat for a range of sensitive fauna species including coho salmon³⁰, cutthroat trout, spotted and red-legged frogs. The creek also supports a healthy population of

³⁰ Coho salmon is currently a candidate for listing under the Endangered Species Act.

macroinvertebrates. Mammalian species known to use the area include black bear, bobcat, beaver, coyote and deer. Bird species include pileated woodpecker, red-tailed hawk, great horned owl, great blue heron, band-tailed pigeon, bluebird and a variety of other songbirds. Interspersion with surrounding habitat allows for free migration of wildlife; game trails were identified running parallel and perpendicular to Miller Creek. This site may provide an important travel corridor for mammals to and from habitats north of the city. Traffic along Newberry Road poses a threat to migrating wildlife.

Habitat Rating*

Wildlife Habitat Score: 98		Range for All Sites: 55 to 98
Water	:	High
Food	:	High
Cover	:	High
Interspersion	:	High
Uniqueness	:	High
Disturbance	:	Low

* See WHA survey forms in Appendix B for site assessment and field notes.

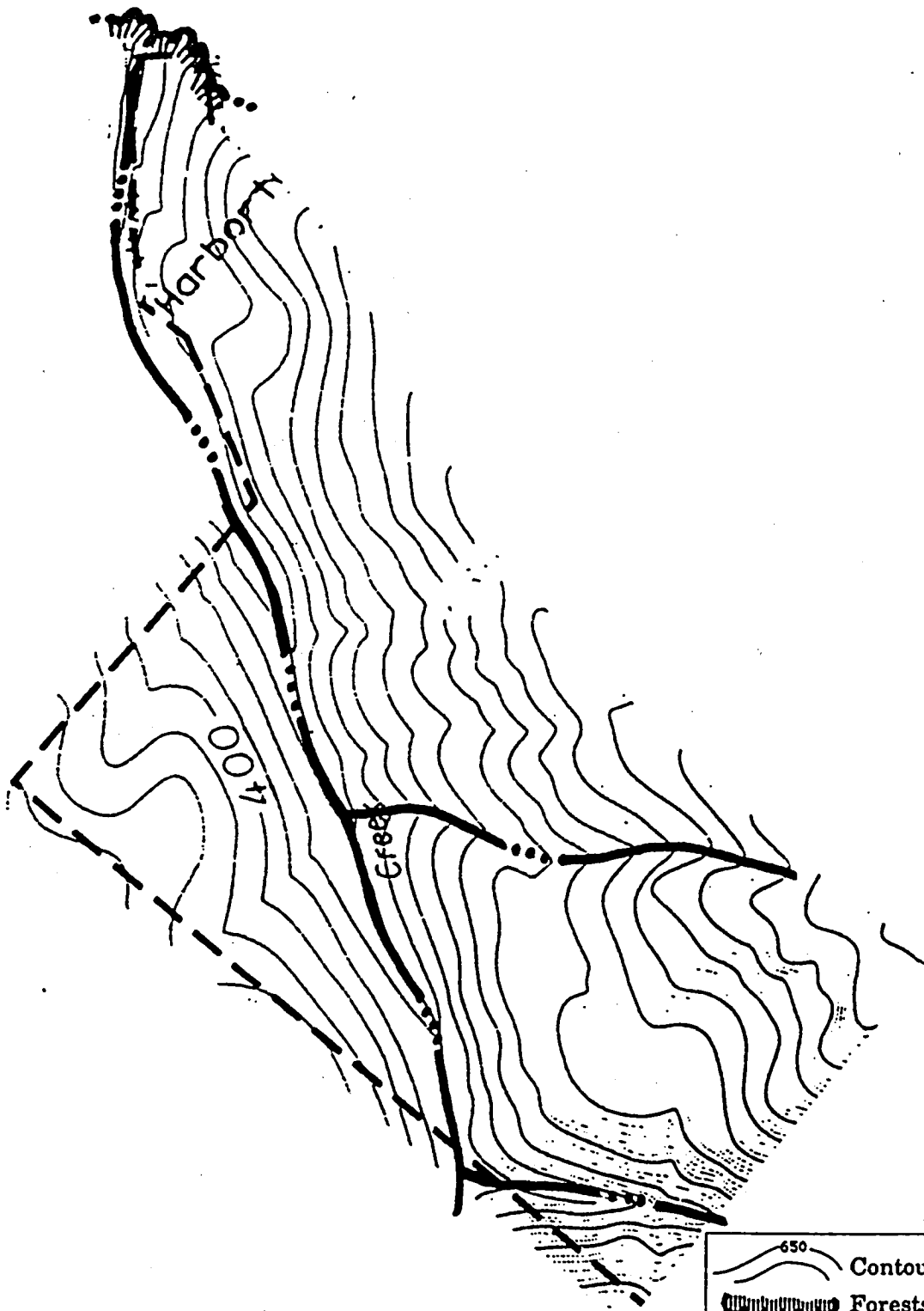
Limited scenic and recreational opportunities are available along Firelanes 12 and 13.

Evidence of cultural resources was uncovered near this site in the 1930's when several projectile points were found by residents along Newberry Road (at the old Biberdorf homestead).

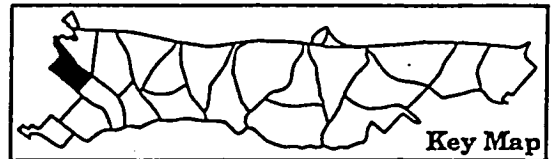
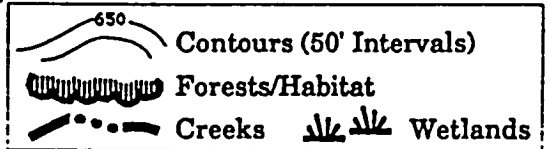
Quantity of Resources:

The creek and its major tributaries total approximately 3.1 miles in length and drain an area of 763 acres, of which approximately 591 acres are included within the Portland city limits. With the exception of the minimal disturbance caused by Firelanes 12 and 13, and a small clearing along the City-County border, all of the site is in forest cover.

Conclusion: The entire site is of very high significance.



1000'



NORTHWEST HILLS
 Natural Area Protection Plan

**Natural Features
 Site Map**

106

Site Specific ESEE Comments Site 106

Conflicting Uses: Potential open space uses.

The entire site is zoned Open Space (OS). The purpose of the Open Space zone is to preserve public and private open and natural areas identified in the Comprehensive Plan. The integrity of the natural area could be jeopardized by used permitted in the Open Space zone such as agriculture, parking lots, cemeteries, and/or golf courses.

Site Size: 184 acres

Location: East of Skyline Blvd, west of Bonneville Rd. and power lines

Neighborhood: Linnton

Date(s) of Inventory: April 5 and December 4, 1990.

Habitat Classification:

Upland Coniferous/Broadleaf Deciduous Forest

Riverine, Intermittent Streambed

Seasonally Flooded

Types of Resources:

Headwaters of year-round creek, wildlife habitat, sensitive fauna, forest, open space and groundwater resources.

The site also provides limited scenic and recreational resources.

Resource Description and Quality:

This site forms the eastern headwaters of Miller Creek which supports runs of native coho salmon and cutthroat trout. Coho is presently a candidate for listing under the Endangered Species Act.

The site's vegetative cover is composed of three principle stages of second growth western hemlock forest: *mid-age conifer*, *conifer topping hardwood* and *hardwood with young conifer*. Climax species such as western hemlock, western red cedar and pacific yew are well established in certain areas, particularly to the east. Forest cover protects watershed resources, serves as habitat for wildlife and provides open space, scenic and recreational resources. Snags, downed logs and woody debris found at the site are critical structural and functional components of the watershed ecosystem. A healthy stand of pacific dogwood is also present at the site. The only known specimens of two orchid family plants--giant rattlesnake-plantain (*Goodyear oblongifolia*) and spotted coral root (*Corallorhiza maculata*)-- within the plan area reside at this site. Non-native plants are present in the cleared areas along the power line right-of-way.

The site provides high quality food and cover for resident and migratory wildlife. The forested creek headwaters provide a seasonal

water source for terrestrial vertebrates and serve a critical function in sustaining proper water quality, temperature and flow levels for fish, amphibian and macroinvertebrate species found in the Miller Creek system. Bird species identified at the site include pileated woodpecker, sharp-shinned and red-tailed hawks, and a variety of songbirds. Animals sited in the area include bobcat, beaver and Townsend chipmunk. The rare spotted frog (*Rana pretiosa*) was also recorded at this site. The site's interspersed forest allows for free migration of wildlife and increases its value as habitat.

Habitat Rating*

Wildlife Habitat Score: 94		Range for All Sites: 55 to 98	
Water	:	High	
Food	:	High	
Cover	:	High	
Interspersion	:	High	
Uniqueness	:	Moderately High	
Disturbance	:	Medium	

* See WHA survey forms in Appendix B for site assessment and field notes.

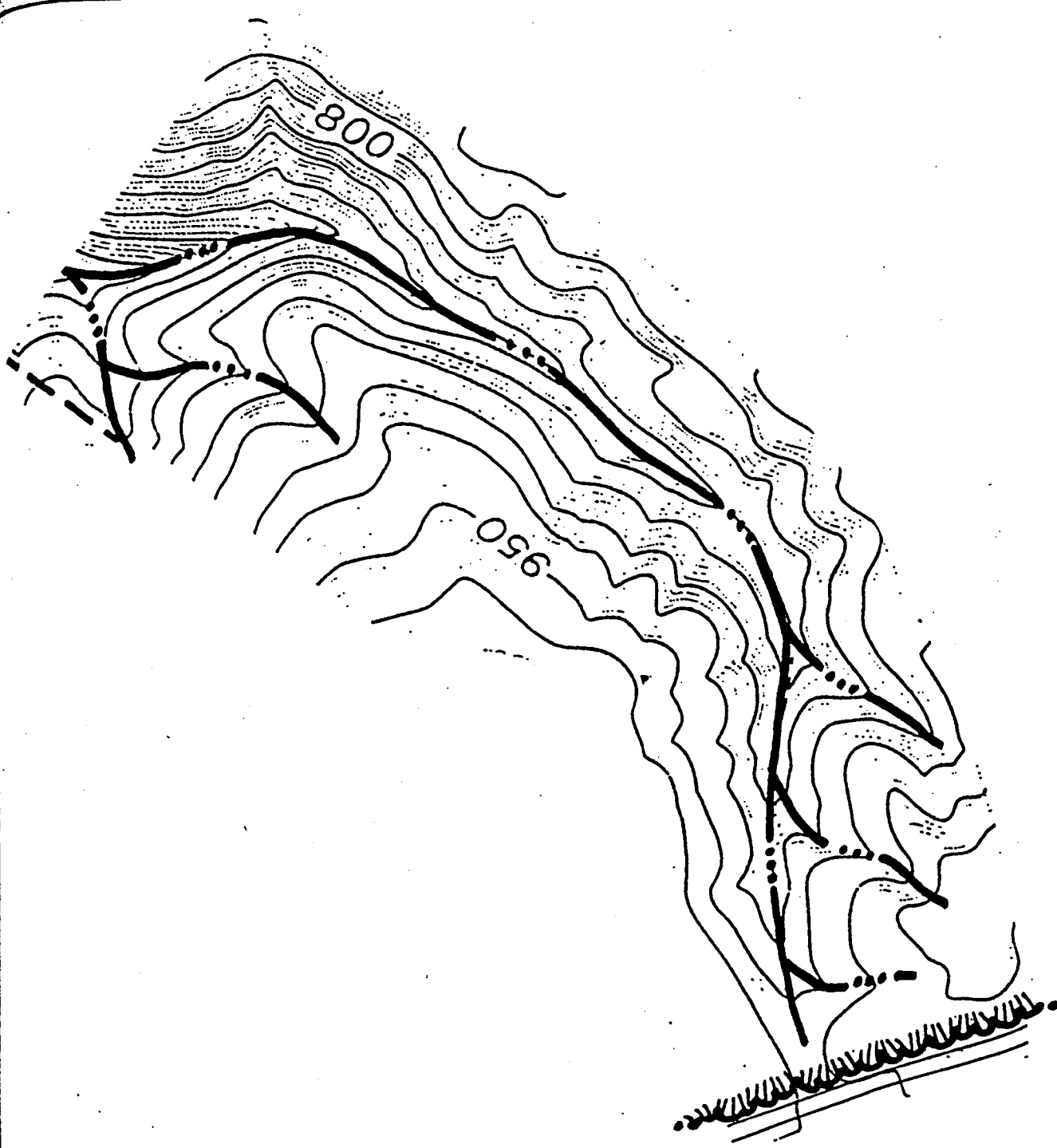
Public access to scenic views and passive recreational opportunities are limited at this site. The completion of a planned extension of the Wildwood Trail (40-Mile Loop) will enhance the site's scenic and recreational resources. Skyline Blvd. is designated as a scenic corridor in the City's *Scenic Resources Protection Plan*.

Quantity of Resources:

This 184-acre site includes a first-order branch of Miller Creek, a 763-acre upper perennial drainage. Roughly 90% of the site is in forest cover. Approximately half of this site is in public open space.


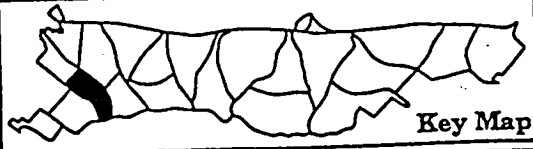



Conclusion:

The creeks, creek tributaries and forested uplands are of high significance. The level ridge top land adjacent to Skyline Boulevard is of moderately high significance.



1000'



 650	Contours (50' Intervals)	
	Forests/Habitat	
	Creeks	
	Wetlands	Key Map

NORTHWEST HILLS
Natural Area Protection Plan

Natural Features
Site Map

107

Site Specific ESEE Comments: Site 107

Conflicting Uses: Residential, agriculture, and forestry

Consequences of Allowing Conflicting Uses: Residential use would interfere with wildlife and habitat. Agriculture and forestry may interfere with wildlife migration, disturb the watershed ecosystem and remove of forest cover. Interference with interspersions with surrounding forest would result in habitat fragmentation.

Consequences of Limiting or Prohibiting Conflicting Use:

Economic Consequences: Resource protection would result in negative consequences. There are .64 acres of land zoned for residential farm/forest use which would not be affected by resource protection measures. Vacant land consists of 153 acres zoned for residential farm/forest use. Agriculture and forestry use may be limited by protection measures.

Social Consequences: Resource protection would result in positive consequences with improved public access to scenic view and recreational opportunities.

Environmental Consequences: Resource protection would result in positive consequences. The Miller Creek watershed and fish and wildlife habitat would be protected.

Energy Consequences: Resource protection would result in positive consequences. Limited or reduced residential energy consumption for heating and cooling systems, transportation or infrastructure use would result in energy savings.

**NOTICE LIST
FOR CITY OF PORTLAND/HGW LOCATIONAL ADJUSTMENT APPLICATION
7/1/91**

1. Area to be Removed from UGB.

A. T2N R1W, Section 33

<u>Tax Lot</u>	<u>Owner(s)</u>	<u>Address(es)</u>
<u>2</u>	<u>Sparks, Charles H. and</u> <u>Margaret J.</u>	<u>3132 SE Tolman St</u> <u>Portland, OR 97202</u>
<u>23</u>	<u>Durfee, Henry and Iris</u>	<u>P.O. Box 3424</u> <u>Portland, OR 97208</u>
<u>7</u>	<u>Sivyer, Roland E. and</u> <u>Lucille M.</u>	<u>14000 NW Newberry Rd.</u> <u>Portland, OR 97231</u>
<u>28</u>	<u>Lightcap, Brian W. and</u> <u>Christine A.</u>	<u>13342 NW Newberry Rd.</u> <u>Portland, OR 97231</u>
Block 13 Harborton Subdivision Lots	R34960	
<u>18</u>	<u>City of Portland</u>	<u>1120 S.W. Fifth Avenue</u> <u>Portland, OR 97204</u>
<u>17</u>	<u>"</u>	<u>"</u>
<u>16</u>	<u>"</u>	<u>"</u>
<u>15</u>	<u>"</u>	<u>"</u>
<u>14</u>	<u>"</u>	<u>"</u>

<u>13</u>	<u>City of Portland</u>	<u>1120 S.W. Fifth Avenue</u>
		<u>Portland, OR 97204</u>
<u>12</u>	<u>"</u>	<u>"</u>
		<u>"</u>
<u>11</u>	<u>"</u>	<u>"</u>
		<u>"</u>
<u>10</u>	<u>"</u>	<u>"</u>
		<u>"</u>
<u>9</u>	<u>"</u>	<u>"</u>
		<u>"</u>
<u>8</u>	<u>"</u>	<u>"</u>
		<u>"</u>

Block 10
Harborton
Subdivision
Lots

R-35960-1660

<u>7</u>	<u>City of Portland</u>	<u>1120 S.W. Fifth Avenue</u>
		<u>Portland, OR 97204</u>
<u>8</u>	<u>"</u>	<u>"</u>
		<u>"</u>

B. T1N R1W, Section 4

<u>Tax Lot</u>	<u>Owner(s)</u>	<u>Address(es)</u>
<u>18</u>	<u>City of Portland</u>	<u>1120 S.W. Fifth Avenue</u>
		<u>Portland, OR 97204</u>
<u>3</u>	<u>"</u>	<u>"</u>
		<u>"</u>

Notice List

Page 3

<u>Tax Lot</u>	<u>Owner(s)</u>	<u>Address(es)</u>
<u>21</u>	<u>City of Portland</u>	<u>1120 S.W. Fifth Avenue</u> <u>Portland, OR 97204</u>
<u>4</u>	<u>Joyce Enterprises, Inc.</u> <u>Buckner, Orville</u>	<u>226 N.W. Hermosa</u> <u>Portland, OR 97210</u>
<u>6</u>	<u>Kielhorn, Philip M.</u> <u>Ganger, Roberta G.</u>	<u>24970 S.W. Garden Acres Rd.</u> <u>Sherwood, OR 97140</u>
<u>1</u>	<u>Ramsey, Margaretta E.</u> <u>et al.</u>	<u>Star Route North, Box 38</u> <u>Depoe Bay, OR 97341</u>

2. Area to be Added to UGB.

A. T1N R1W, Section 15

<u>Tax Lot</u>	<u>Owner(s)</u>	<u>Address(es)</u>
<u>13</u>	<u>Ivanka Beovich</u>	<u>11525 NW Springville Rd.</u> <u>Portland 97210</u>
<u>26</u>	<u>John Taylor,</u> <u>Hilda F. Taylor</u>	<u>5805 NW Skyline Blvd.</u> <u>Portland 97229</u>
<u>27</u>	<u>John Taylor</u>	<u>5805 NW Skyline Blvd.</u> <u>Portland 97229</u>
<u>11</u>	<u>Sandra Johnson</u> <u>Max Brown</u>	<u>7608 N. Leonard St.</u> <u>Portland 97203</u>
<u>49</u>	<u>Robert Brown</u> <u>Terry Brown</u>	<u>7617 NW Skyline Blvd.</u> <u>Portland 97229</u>

B. T1N R1W, Section 22

<u>Tax Lot</u>	<u>Owner(s)</u>	<u>Address(es)</u>
<u>35</u>	<u>Bradley Hooper</u> <u>Vivian Hooper</u>	<u>109 Longs Peak Rd.</u> <u>Cheyenne, WY 82001</u>

Notice List

Page 4

<u>Tax Lot</u>	<u>Owner(s)</u>	<u>Address(es)</u>
<u>34</u>	Gerald Docken Jane Docken	Route 4, Box 431 Hillsboro 97123
<u>32</u>	Forest Park Estate Joint Venture	121 SW Morrison, Suite 950 Portland 97204
<u>33</u>	Lyle Dunstan Dorothy Dunstan	5105 NW 137th Ave. Portland 97229
<u>6</u>	Joeseeph Kabdebo Camilla Kabdebo Charles Balogh Marie Balogh	725 SW Viewmont Dr. Portland 97225
<u>3</u>	Margaretta Ramsey Logan Ramsey Amanda Ramsey Mary Pope	Star Route North Box 38 Depoe Bay, OR 97341
<u>42</u>	Linus Niedermeyer Trust	5911 SW Virginia St. No. 200 Portland 97201
 Bonny Slope Addition Lots		
<u>1860</u>	Earnest Bennett c/o Gordon Mau & Dolores Mau	14305 SE 61st St. Bellevue, WA 98006
<u>2030</u>	Willard Walstead Hilda Walstead	11631 NW Laidlaw Rd. Portland 97229
<u>1980</u>	Donald Gilbertson Mary Gilbertson	7664 N. Chataugua Blvd. Portland 97217
<u>1990</u>	Dana Diller	18561 S. Ferguson Rd. Oregon City 97045

Notice List

Page 5

<u>Tax Lot</u>	<u>Owner(s)</u>	<u>Address(es)</u>
<u>2060</u>	Paul Barringer c/o William Stoll	1891 Meadow Lane Walnut Creek, CA 94595
<u>2120</u>	Brad Hosler Marjanna Hosler	11351 NW East Rd. Portland 97229
<u>2160</u>	Winton Jondahl Maureen Jondahl	11243 NW East Rd. Portland 97229
<u>2200</u>	Winton Jondahl Maureen Jondahl	11243 NW East Rd. Portland 97229
<u>2420</u>	Gary Ream Mary Ream	8400 SW Homewood Rd. Portland 97225

RMW\FPEPARC\NOTICE.630

CALCULATION OF UGB AMENDMENT DEPOSIT

1. Deposit toward Administrative costs (actual costs billed at \$35/hour for Land Use Coordinator time)

Enter \$700 if petition is 20 acres or less,
\$1,400 if more than 20 but less than 50,
\$2,500 if more than 50 acres

2,500

2. Deposit toward Hearings Officer and Public Notice costs (actual costs billed from invoices received)

\$ 1,600

TOTAL

\$4,100

2750B/223



METRO

2000 SW First Avenue
Portland, OR 97201-5398
(503) 221-1646
Fax 241-7417

July 5, 1991

Richard M. Whitman
Ball, Janik, and Novack
101 SW Main Street, Suite 1100
Portland, OR 97204-3274

Executive Officer
Rena Cusma

Metro Council

Tanya Collier
Presiding Officer
District 9

Jim Gardner
Deputy Presiding
Officer
District 3

Susan McLain
District 1

Lawrence Bauer
District 2

Richard Devlin
District 4

Tom DeJardin
District 5

George Van Bergen
District 6

Ruth McFarland
District 7

Judy Wyers
District 8

Roger Buchanan
District 10

David Knowles
District 11

Sandi Hansen
District 12

Dear Richard,

This letter acknowledges receipt of the application of City of Portland and HGW for a locational adjustment of the Metro Urban Growth Boundary. This application will be known as "Forest Park" and has been assigned Case Number 91-2.

I have reviewed the application and have determined that the following elements are needed before the application can be accepted as complete:

- 1) City of Portland position on the amendment - I understand that the City has adopted a resolution in support of the amendment. A copy of that resolution will be sufficient.
- 2) Multnomah County position on the amendment - As we discussed, in the past the County has appeared to take an almost administrative route towards taking positions on locational adjustment petitions. Checking with Lorna Stickel, now at the Portland Water Bureau, may help to clarify things.
- 3) Service Provider comments for transportation, water, sewer, storm drainage services, fire, and schools.
- 4) Tax lot maps showing the areas to be added and deleted in red, and tax lots within 500 feet of those boundaries.

It is the responsibility of the petitioner to see that all items noted above are received by this office no later than 5 pm on Monday, July 22, 1991. Failure to complete the application by that deadline will result in the rejection of the petition. Should the petition be completed, Metro will then schedule a hearing before a Hearings Officer no sooner than 45 days from the date on which the application

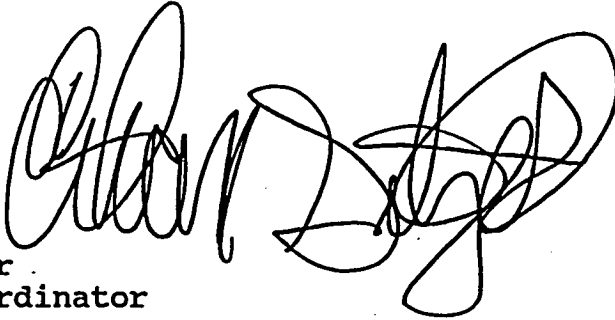
is accepted by Metro as complete.

This letter also acknowledges receipt of your check in the amount of \$4100.00 as a deposit against Metro and Hearings Officer costs in processing this application. The check will not be deposited until Metro accepts the application as complete. If the application is not accepted, your deposit of \$4100.00 will be returned in full.

Finally, I will correspond directly with you regarding this case. If you want correspondence from Metro to you copied to your clients please let me know.

Please feel free to contact me should you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ethan Seltzer', written in a cursive style with large loops and flourishes.

Ethan Seltzer
Land Use Coordinator

BALL, JANIK & NOVACK
ATTORNEYS AT LAW
ONE MAIN PLACE
101 S.W. MAIN STREET, SUITE 1100
PORTLAND, OREGON 97204-3274
TELEPHONE (503) 228-2525
TELECOPY (503) 295-1058

10TH FLOOR, 1101 PENNSYLVANIA AVE. N.W.
WASHINGTON, D. C. 20004
TELEPHONE (202) 638-3307
TELECOPY (202) 783-6947

WILLIAM H. PERKINS

July 22, 1991

BY HAND DELIVERY

Mr. Ethen Seltzer
Metro
2000 SW First Avenue
Portland, OR 97201

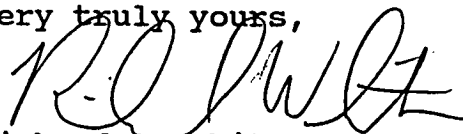
Re: Locational Adjustment

Dear Ethen:

Enclosed is the information you requested to complete the joint application by the City of Portland and HGW, Inc. for a locational adjustment to the urban growth boundary. I believe that remaining the service provider comment forms should be in your possession now.

Please feel free to contact Jim Sjulín if you have any questions regarding this matter. I will be on vacation for the next two weeks.

Very truly yours,



Richard M. Whitman

RMW\blh

Enclosures

cc: Mr. Robert Hartford
Mr. James Sjulín

RMW\BLHFPE\SELTZER.J22

EXHIBIT 8

ORDINANCE No. 164376

RECEIVED

JUN 28 1991

- * Authorize an agreement with Homer G. Williams, Inc. to co-apply for an Urban Growth Boundary Location Adjustment under certain conditions.

The City of Portland ordains:

Section 1. The Council finds:

1. The City would realize benefits to the general public through the acceptance of title to certain properties in and around the City's Forest Park.
2. Homer G. Williams, Inc. (herein referred to as HGW), is willing to provide such benefits subject to final City approval.
3. The Bureau of Parks and Recreation recommends that portions of Forest Park near the northwest boundary of the Park be removed from the Urban Growth Boundary in order to preserve the rural character of the area which enables movement of wildlife into and out of Forest Park.
4. The Bureau of Parks and Recreation and the Bureau of Planning recommend that the City assist in securing the aforementioned public benefits provided by HGW through the City's application for an Urban Growth Boundary Location Adjustment in conjunction with HGW, subject to the success of such application.
5. The Bureau of Parks and Recreation and the Bureau of Planning recommend that the City enter into an agreement with HGW, as substantially represented by Exhibit A, attached, which provides that the City will co-apply with HGW for an Urban Growth Boundary Location Adjustment.

NOW, THEREFORE, the Council directs:

- a. The Mayor is hereby directed to execute an agreement with HGW substantially in accordance with the agreement attached and by reference made a part of the Ordinance; and to co-apply for an Urban Growth Boundary Location Adjustment as provided by the agreement with HGW.

Section 2. The Council declares that an emergency exists in order that the application for an Urban Growth Boundary Location Adjustment can be made in a timely manner; therefore, this Ordinance shall be in full force and effect after its passage by Council.

Passed by the Council, JUN 26 1991

Commissioner Lindberg
Jim Sjulian:sw
June 19, 1991

BARBARA CLARK
Auditor of the City of Portland
By *Britta Olson*
Deputy

BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF MULTNOMAH COUNTY, OREGON

In the Matter of a Proposed Metro Urban)
Growth Boundary Locational Adjustment) **RESOLUTION**
(Trade) for Tax Lot '4', Section 22, T1N, R1W) 91-108

WHEREAS, the City of Portland and HGW have applied to Metro for a locational adjustment to the Urban Growth Boundary (UGB), proposing to trade 139.8 acres of Forest Park property within the UGB for 120 acres adjacent to, but outside of the UGB (*see Exhibits A & B*); and

WHEREAS, pursuant to Metro Code section 3.01, counties are requested to comment on proposed locational adjustments to the Urban Growth Boundary within their jurisdiction; and

WHEREAS, the proposed locational adjustment to the Urban Growth Boundary is entirely within Multnomah County and the Board is asked to respond to the proposal; and

WHEREAS, the City of Portland has designated Forest Park as Open Space for the purpose of providing outdoor recreation, scenic views and vistas and protecting sensitive and fragile environmental areas; and

WHEREAS, it is in keeping with State Land Use Goals and Guidelines and METRO's urban growth boundary policies, land within the UGB should be usable for urban purposes; and

WHEREAS, the property proposed for inclusion into the UGB is in an area of diverse existing and planned land uses, with both resource (farm and forest) and non-resource (urban and rural residential) uses; and

WHEREAS, RPD 1-90 considered a rural residential development of the property proposed for inclusion into the UGB; and

WHEREAS, RPD 1-90 was, in part, denied by the Board of County Commissioners because the site was deemed suitable for forestry purposes; and

WHEREAS, the Board of County Commissioners found in RPD 1-90 that the property proposed for inclusion into the UGB is in the path of urban development approaching from the east, south and west; and

WHEREAS, RPD 1-90 was, in part, denied by the Board of County Commissioners because the rural parcelization as then proposed would have precluded efficient potential future conversion to urban uses; and

WHEREAS, the State of Oregon Land Use Board of Appeals upheld the Board's decision on RPD 1-90;

THEREFORE BE IT RESOLVED, the Multnomah County Board supports the preservation of Forest Park as public open space intended to provide Portland area residents with outdoor recreation opportunities and preserve the area for wildlife and scenic values; and

BE IT FURTHER RESOLVED, the Multnomah County Board supports the use of resource lands for resource purposes unless determined appropriate for other uses; and

BE IT FURTHER RESOLVED, the Board of County Commissioner's requests the Metropolitan Service District, when considering the proposed boundary adjustment, to evaluate the effect of urbanization patterns on adjoining resource lands.

ADOPTED this 18th day of July, 1991.



REVIEWED: John DuBay

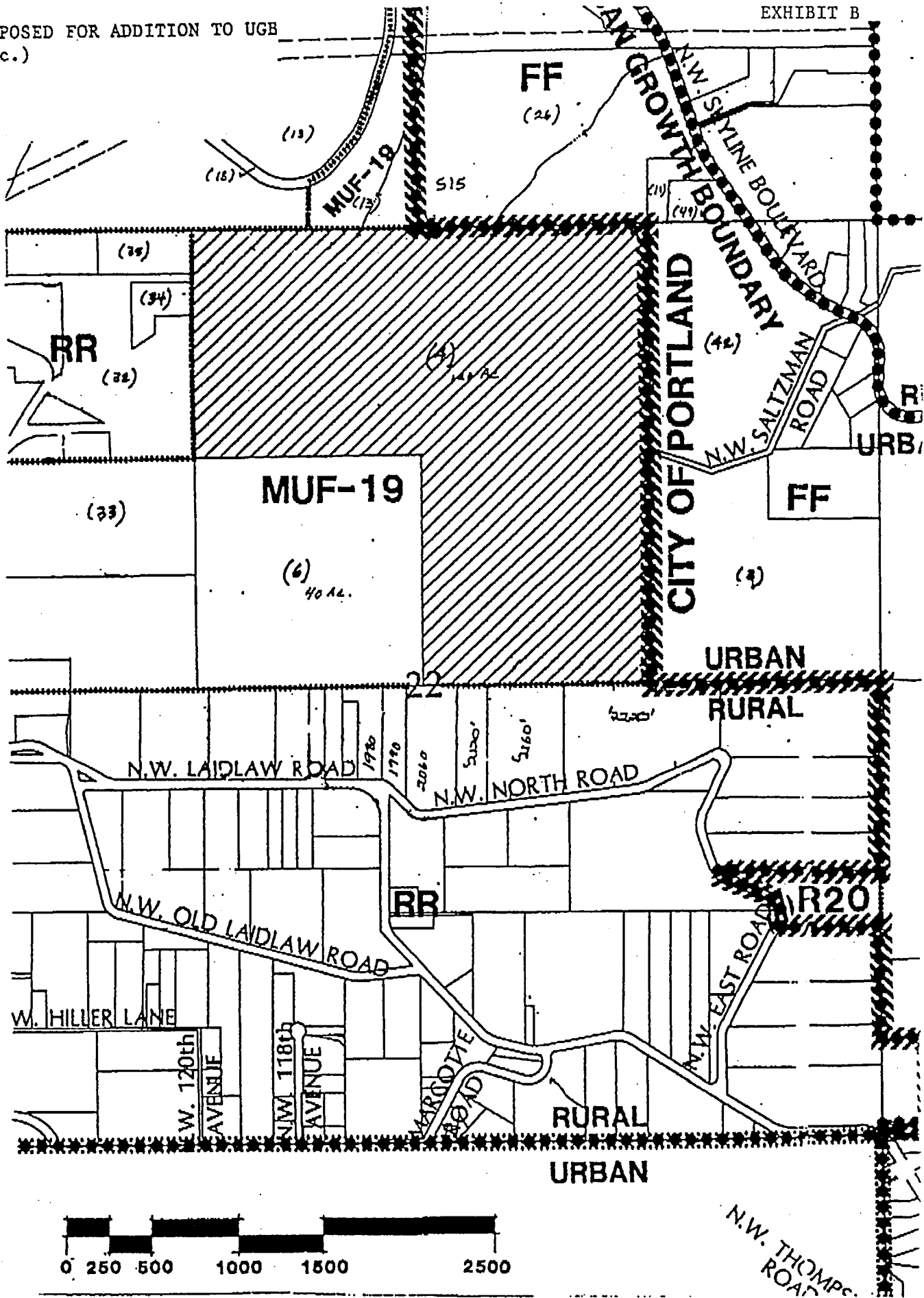
John DuBay, Chief Assistant County Counsel
of Multnomah County, Oregon

By Gladys McCoy

Gladys McCoy, County Chair
MULTNOMAH COUNTY, OREGON

AREA PROPOSED FOR ADDITION TO UGB
(120.0 ac.)

EXHIBIT B



Request for Comment from Service Provider

(Part I to be completed by petitioner and submitted to each service provider listed on "Summary of Requests for Comments from Service Providers." Part II to be completed by the service provider and returned to Land Use Coordinator, Metropolitan Service District, 2000 S.W. 1st Avenue, Portland, Oregon 97201-5398)

Part I

To: City of Portland Water Bureau
Name of Service Provider

From: City of Portland/HGW, Inc.
Name of Petitioner

Attached is a copy of a petition for a locational adjustment to Metro's Urban Growth Boundary (UGB). Please review this petition and submit your comments on it to Metro as soon as possible, but **NO LATER THAN** JULY 22, 1991.

In general, land placed inside the UGB will develop to a residential density of at least four units a net acre or for urban commercial or industrial use, as determined by local zoning. Land outside the UGB cannot be served by sewer, and generally, cannot be developed at more than one unit to the net acre. In reviewing this petition, please consider: (1) whether its approval would make it easier (less expensive) or harder (more expensive) to serve other, adjacent areas for which service is planned or expected; and (2) how easy or difficult it would be to extend your service to the area included in the petition if the petition were approved.

Thank you for your help. Please call the Land Use Coordinator, at Metro, 221-1646, if you have any questions.

Part II

I have reviewed the attached petition for a locational adjustment to Metro's UGB and I:

- Support Approval
- Oppose Approval
- Have No Comment
- Support with Conditions

Comments and explanation (explain any conditions)

(Attach additional pages if needed.)

Signed [Signature]

Date 7/18/91

Title Engineering Technician II

Request for Comment from Service Provider

(Part I to be completed by petitioner and submitted to each service provider listed on "Summary of Requests for Comments from Service Providers." Part II to be completed by the service provider and returned to Land Use Coordinator, Metropolitan Service District, 2000 S.W. 1st Avenue, Portland, Oregon 97201-5398)

Part I

To: Portland School District
Name of Service Provider

From: City of Portland / HGW, Inc.
Name of Petitioner

Attached is a copy of a petition for a locational adjustment to Metro's Urban Growth Boundary (UGB). Please review this petition and submit your comments on it to Metro as soon as possible, but NO LATER THAN July 22, 1991.

In general, land placed inside the UGB will develop to a residential density of at least four units a net acre or for urban commercial or industrial use, as determined by local zoning. Land outside the UGB cannot be served by sewer, and generally, cannot be developed at more than one unit to the net acre. In reviewing this petition, please consider: (1) whether its approval would make it easier (less expensive) or harder (more expensive) to serve other, adjacent areas for which service is planned or expected; and (2) how easy or difficult it would be to extend your service to the area included in the petition if the petition were approved.

Thank you for your help. Please call the Land Use Coordinator, at Metro, 221-1646, if you have any questions.

Part II

I have reviewed the attached petition for a locational adjustment to Metro's UGB and I:

- Support Approval
- Have No Comment (SEE ENCLOSED)
- Oppose Approval
- Support with Conditions

Comments and explanation (explain any conditions)

(Attach additional pages if needed.)

Signed Rep S. Mansueto

Date July 18, 1991

Title DIRECTOR OF PHYSICAL PLANT

**PORTLAND PUBLIC SCHOOLS**

501 North Dixon Street / Portland, Oregon 97227

Mailing Address: P.O. Box 3107 / Portland, Oregon 97208-3107

Phone: (503) 249-2000

PHYSICAL PLANT DIVISIONReg E. Martinson
Director

July 18, 1991

Ethan Seltzer
Land Use Coordinator
Metropolitan Service District
2000 SW First Avenue
Portland, OR 97201-5398

RE: PROPOSED AMENDMENT TO URBAN GROWTH BOUNDARY

Dear Mr. Seltzer:

The addition of area within the Urban Growth Boundary (UGB) on the west side of Skyline Boulevard north of Skyline Memorial Gardens with zoning that permits approximately 45 additional residential units will impact services provided by Portland Public Schools. The area is currently served by Skyline Elementary, West Sylvan Middle School and Lincoln High School. Due to the distance from the developable parcels to the existing schools, future students from the respective attendance areas would qualify for student transportation services. The travel distance from this location is substantial and a burden on students.

As you are aware, there is a critical need for safe walk ways particularly along Skyline Boulevard to accommodate children walking from bus stops and those walking to Skyline School.

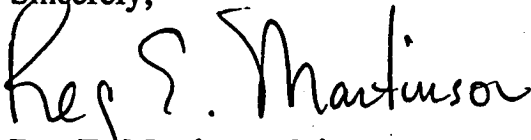
It is estimated that 75-100 or more students would generate from the UGB expansion. The building capacity at Lincoln, West Sylvan, and Skyline adequately houses the respective current enrollment. However, forecasted enrollment levels will cause substantial overcrowding to occur at Lincoln and West Sylvan by the 1995-96 school year. Skyline Elementary is capable of accommodating projected enrollment increases through the forecast.

Page 2
Mr Seltzer
July 18, 1991

The estimated capital impact to Portland Public Schools to provide additional instructional space for students from the UGB expansion is \$260,000. Moreover, annual operational cost increases are anticipated to be \$175,000 - \$200,000 which includes additional instructional staff, general support and student transportation.

I hope this brief analysis will be helpful to you regarding the public school investment and costs necessary to serve this and other Skyline areas. If you have questions or if I be of further assistance please let me know.

Sincerely,

A handwritten signature in cursive script that reads "Reg E. Martinson". The signature is written in dark ink and is positioned above the typed name.

Reg E. Martinson, Director
Physical Plant Division

REM:gal
c: Donald McElroy
Don Jeffery

Request for Comment from Service Provider

(Part I to be completed by petitioner and submitted to each service provider listed on "Summary of Requests for Comments from Service Providers." Part II to be completed by the service provider and returned to Land Use Coordinator, Metropolitan Service District, 2000 S.W. 1st Avenue, Portland, Oregon 97201-5398)

Part I

To: City of Portland - Bureau of Environmental Services
Name of Service Provider

From: City of Portland/HGW, Inc.
Name of Petitioner

Attached is a copy of a petition for a locational adjustment to Metro's Urban Growth Boundary (UGB). Please review this petition and submit your comments on it to Metro as soon as possible, but NO LATER THAN JULY 22, 1991.

In general, land placed inside the UGB will develop to a residential density of at least four units a net acre or for urban commercial or industrial use, as determined by local zoning. Land outside the UGB cannot be served by sewer, and generally, cannot be developed at more than one unit to the net acre. In reviewing this petition, please consider: (1) whether its approval would make it easier (less expensive) or harder (more expensive) to serve other, adjacent areas for which service is planned or expected; and (2) how easy or difficult it would be to extend your service to the area included in the petition if the petition were approved.

Thank you for your help. Please call the Land Use Coordinator, at Metro, 221-1646, if you have any questions.

Part II

I have reviewed the attached petition for a locational adjustment to Metro's UGB and I:

- Support Approval
- Oppose Approval
- Have No Comment
- Support with Conditions

Comments and explanation (explain any conditions)

(Attach additional pages if needed.)

Signed William J. Powell Date 7/19/91
Title Senior Engineer - Development Assistance

Request for Comment from Service Provider

(Part I to be completed by petitioner and submitted to each service provider listed on "Summary of Requests for Comments from Service Providers." Part II to be completed by the service provider and returned to Land Use Coordinator, Metropolitan Service District, 2000 S.W. 1st Avenue, Portland, Oregon 97201-5398)

Part I

To: City of Portland - Office of Transportation
Name of Service Provider

From: City of Portland/HGW, Inc.
Name of Petitioner

Attached is a copy of a petition for a locational adjustment to Metro's Urban Growth Boundary (UGB). Please review this petition and submit your comments on it to Metro as soon as possible, but NO LATER THAN JULY 22, 1991.

In general, land placed inside the UGB will develop to a residential density of at least four units a net acre or for urban commercial or industrial use, as determined by local zoning. Land outside the UGB cannot be served by sewer, and generally, cannot be developed at more than one unit to the net acre. In reviewing this petition, please consider: (1) whether its approval would make it easier (less expensive) or harder (more expensive) to serve other, adjacent areas for which service is planned or expected; and (2) how easy or difficult it would be to extend your service to the area included in the petition if the petition were approved.

Thank you for your help. Please call the Land Use Coordinator, at Metro, 221-1646, if you have any questions.

Part II

I have reviewed the attached petition for a locational adjustment to Metro's UGB and I:

Support Approval

Oppose Approval

Have No Comment

Support with Conditions

Comments and explanation (explain any conditions)

(Attach additional pages if needed.)

Signed

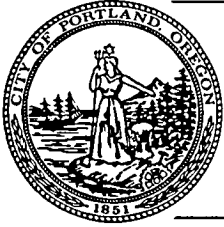
Samuel Mendowitz

Date

July 19 1991

Title

Senior Transp Planner



CITY OF
PORTLAND, OREGON
OFFICE OF TRANSPORTATION

Earl Blumenauer, Commissioner
Felicia Trader, Director
1120 S.W. Fifth Avenue
Suite 702
Portland, Oregon 97204-1957
(503) 796-7016
FAX (503) 796-7576

July 19, 1991

MEMORANDUM

TO: Ethan Seltzer, METRO

FROM: Laurel Wentworth, Transportation Planning

SUBJ: UGB Amendment in Northwest Hills

As per the request received from Richard Whitman of Ball, Janik and Novack, I am responding to the transportation policy/service issues regarding the removal of 140 acres of land from the northern end of the UGB and adding 120 acres to the UGB west of NW Skyline Blvd, and north of the Skyline Memorial Gardens. We understand that a 45 acre dedication and addition to Forest Park is also pending the outcome of this amendment.

Generally, removing the 140 acres from the north edge of the UGB and moving it south adjacent to areas already on the "service edge" should make transportation improvements to these low density residential areas less difficult in the future. We have reviewed several planned unit developments in the area just south of that you anticipate adding to the UGB. We have in all cases, allowed the development to proceed with private streets internal to their developments that connect to the public street system on NW Skyline. Since residential densities are low, we do not foresee transportation capacity problems as a result of the proposed switch of UGB areas.

In establishing Comprehensive Plan and zoning designations in the NW Hills area in 1984, we made a clear decision to locate medium density residential areas as close to NW Skyline Blvd. and NW Cornell Rd. as possible, knowing that this intersection would be the northern most point receiving transit service in the future. The highest residential densities were placed at Sylvan, close to the proposed a light rail/bus station.

We therefore, approve of the proposal to amend the UGB in the manner described by the applicants.

Please call me at 796-7736 if you have questions.

Request for Comment from Service Provider

(Part I to be completed by petitioner and submitted to each service provider listed on "Summary of Requests for Comments from Service Providers." Part II to be completed by the service provider and returned to Land Use Coordinator, Metropolitan Service District, 2000 S.W. 1st Avenue, Portland, Oregon 97201-5398)

Part I

To: City of Portland, Fire Bureau
Name of Service Provider

From: City of Portland/HGW, Inc.
Name of Petitioner

Attached is a copy of a petition for a locational adjustment to Metro's Urban Growth Boundary (UGB). Please review this petition and submit your comments on it to Metro as soon as possible, but NO LATER THAN July 22, 1991.

In general, land placed inside the UGB will develop to a residential density of at least four units a net acre or for urban commercial or industrial use, as determined by local zoning. Land outside the UGB cannot be served by sewer, and generally, cannot be developed at more than one unit to the net acre. In reviewing this petition, please consider: (1) whether its approval would make it easier (less expensive) or harder (more expensive) to serve other, adjacent areas for which service is planned or expected; and (2) how easy or difficult it would be to extend your service to the area included in the petition if the petition were approved.

Thank you for your help. Please call the Land Use Coordinator, at Metro, 221-1646, if you have any questions.

Part II

I have reviewed the attached petition for a locational adjustment to Metro's UGB and I:

- Support Approval
- Oppose Approval
- Have No Comment
- Support with Conditions

Comments and explanation (explain any conditions)

(Attach additional pages if needed.)

Signed Jim Schwager
Title Supervisor Plans Review

Date 7-23-91

AREA PROPOSED FOR ADDITION TO UGB
(120.0 ac.)

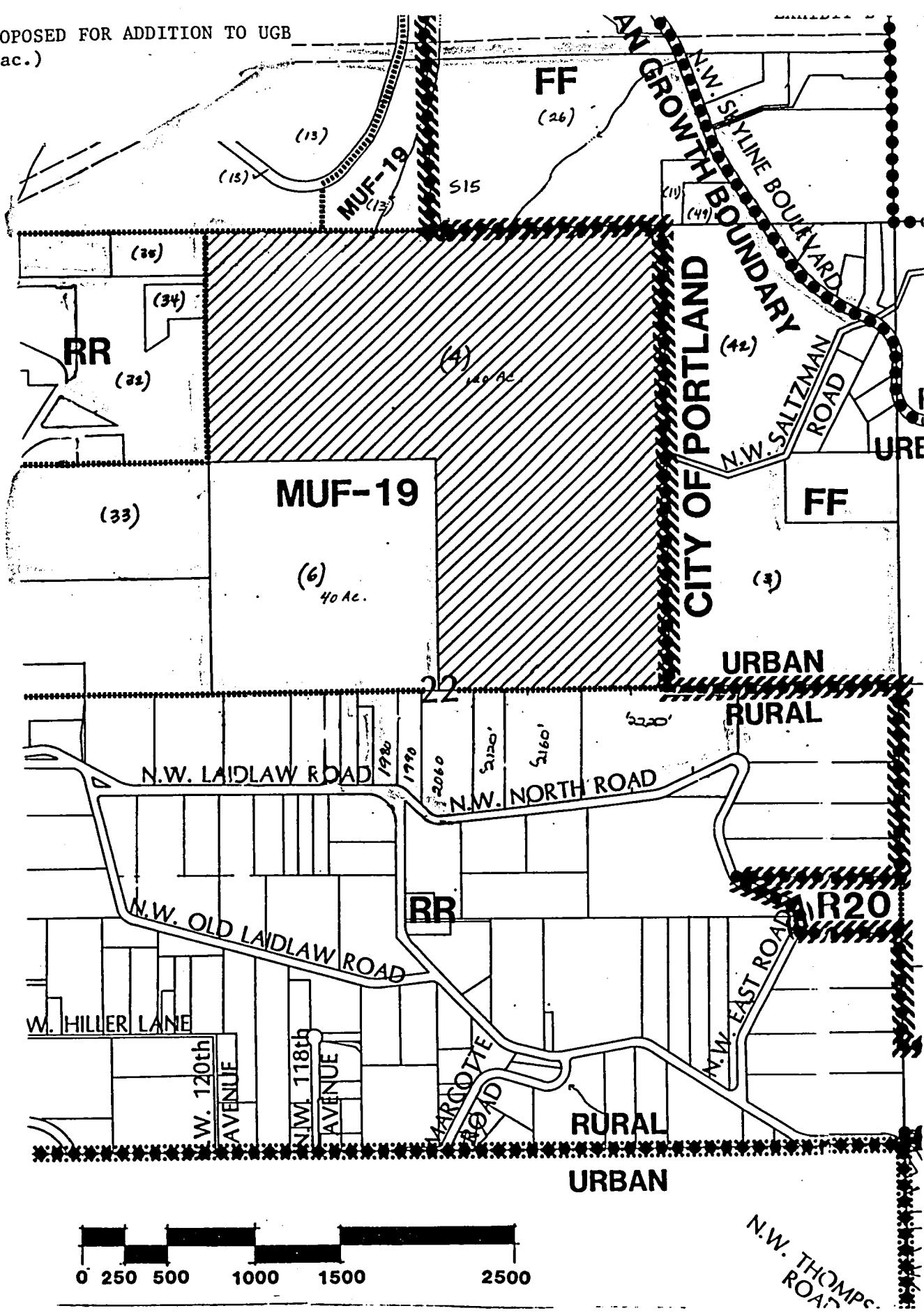
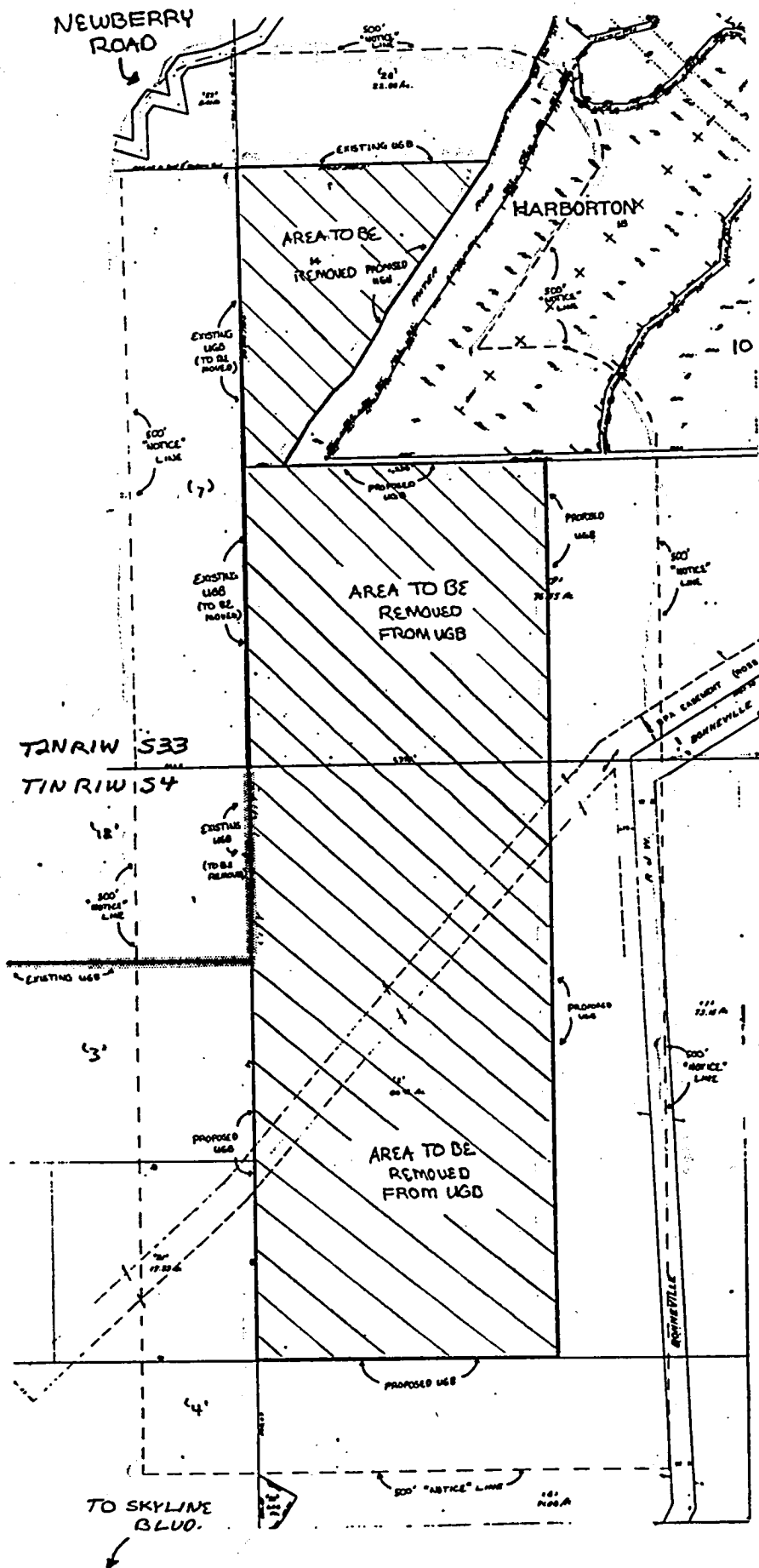


EXHIBIT 17

AREA PROPOSED FOR REMOVAL FROM UGB
(139.8 ac.)



METRO

Planning and Development
2000 S.W. First Avenue
Portland, OR 97201-5398
(503) 221-1646

Memorandum

DATE: July 25, 1991
TO: Richard Whitman
FROM: Ethan Seltzer
SUB: Contested Case No. 91-2: Forest Park

I have reviewed your application for a locational adjustment (trade) and have found it to be complete. The hearing on this case will be held on Wednesday, October 2, 1991 beginning at 6:00 pm in the Metro Council Chambers, 2000 SW First Avenue, Portland. Chris Thomas will be the Hearings Officer for this case. The staff report on this case will be sent to you approximately 20 days prior to the hearing.

Please feel free to call me at 220-1537 should you have any questions.

cc: Chris Thomas

NOTICE OF PROPOSED ACTION

Must be sent to DLCD 45 days prior to the final hearing
See OAR 660-18-020

Jurisdiction METRO

Date Mailed 7/26/91 Local File Number 91-2

Date Set for Final Hearing on Adoption October 2 1991
Month Day Year

Time and Place for Hearing 6:00 PM; METRO Council Chambers, 2000
SW First Avenue, Portland

Type of Proposed Action (Check all that apply)

- | | | |
|--|--|--|
| <input checked="" type="checkbox"/> Comprehensive Plan Amendment | <input type="checkbox"/> Land Use Regulation Amendment | <input type="checkbox"/> New Land Use Regulation |
|--|--|--|

Please Complete (A) for Text Amendments and (B) for Map Amendments

A. Summary and Purpose of Proposed Action (Write a brief description of the proposed action. Avoid highly technical terms and stating "see attached".):

A land trade, processed under METRO's Locational Adjustment Process, which removes 139.8 acres and adds 120 acres to the METRO UGB in the vicinity of Forest Park.

B. For Map Amendments Fill Out the Following (For each area to be changed, provide a separate sheet if necessary. Do not use tax lot number alone.):

Current Plan Designation:	Proposed Plan Designation:
<u>In = rural, Out = urban</u>	<u>In = urban, Out = rural space</u>

Current Zone:	Proposed Zone:
<u>In = MUF-19, Out = open space</u>	<u>N/A</u>

Location: In = TL 4 1N 1W Sec.22 Mult Co Out = TL 2.1N 1W Sec 4 and TL 9.2N 1W Sec 33 and Block 14 Harborton Multnomah County

Acres Involved: In = 120 acres, Out = 139.8 acres

Does this Change Include an Exception? Yes No

For Residential Changes Please Specify the Change in Allowed Density in Units Per Net Acre:

Current Density:	Proposed Density:
_____	_____

List Statewide Goals Which May Apply to the Proposal:

METRO takes the position that Goals, 1, 2, 3, and 14 do not apply directly to locational adjustment proposals but only through the standards and procedures adopted in Chapter 3.01 of the Metro Code, which has been acknowledged.
List any State or Federal Agencies, Local Government or Local Special Service Districts Which may be Interested in or Impacted by the Proposal:

City of Portland, Multnomah County

Direct Questions and Comments To Ethan Seltzer, Land Use Coordinator

METRO; 2000 SW First Ave

Portland, OR 97201

(Phone) 220-1537

Please Attach Three (3) Copies of the Proposal to this Form and Mail To :

Department of Land Conservation and Development
1175 Court Street, N.E
Salem, Oregon 97310-0590

NOTE: If more copies of this form are needed, please contact the DLCD office at 373-0050, or this form may be duplicated on green paper. Please be advised that statutes require the "text" of a proposal to be provided. A general description of the intended action is not sufficient. Proposed plan and land use regulation amendments must be sent to DLCD at least 45 days prior to the final hearing (See OAR 660-18-020).

*** * * FOR DLCD OFFICE USE * * ***

DLCD File Number _____

Days Notice _____

<pa>proposedform

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

AN ORDINANCE AMENDING ORDINANCE)
NO. 81-105, ESTABLISHING PROCEDURES)
FOR LOCATIONAL ADJUSTMENT OF THE)
METROPOLITAN SERVICE DISTRICT'S)
(METRO) URBAN GROWTH BOUNDARY)

ORDINANCE NO. 82-133

Introduced by

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

Section 1. Ordinance No. 81-105 is hereby amended to add the language underlined and delete the language in brackets in the "Amendments to Ordinance No. 81-105" attached as Exhibit A and incorporated herein by this reference.

Section 2. The amendments adopted in Section 1 of this Ordinance shall become effective immediately and shall apply to all petitions filed following the date of adoption.

ADOPTED by the Council of the Metropolitan Service District
this 22nd day of July, 1982.

Cindy Banzer
Presiding Officer

ATTEST:

Sue Hayes
Clerk of the Council

JH/srb
5843B/107
06/18/82

EXHIBIT A

AMENDMENTS TO ORDINANCE NO. 81-105

AMEND SECTION 4(d) TO READ:

(d) No petition will be accepted under this ordinance if the proposed amendment to the UGB would result in [a UGB not contiguous to the existing UGB.] an island of urban land outside the contiguous UGB or would create an island of non-urban land within the UGB.

Explanation: The current language precludes only urban islands outside the UGB; the intent was to preclude non-urban islands within the UGB as well. The proposed amendment to subsection 4(d) would provide for this.

AMEND SECTION 7 TO READ:

(a) A petition may be filed by:

(1) a county with jurisdiction over the property or a city with a planning area that includes or is contiguous to the property; or

(2) the owners of the property included in the petition or a group of more than 50 percent of the property owners who own [not less than] more than 50 percent of the [property] land area in each area included in the petition.

(b) A petition from a city or county pursuant to subsection (a)(1) of this section shall be accepted only if:

(1) the city or county is co-petitioner with a property owner or group of property owners meeting the requirements of subsection (a)(2) of this section; or

(2) the city or county has held a public hearing on its action to initiate a petition, for which notice has been mailed to all property owners in and within 250 feet of the area affected, and has adopted findings that the petition satisfies all applicable standards in Section 8 of this ordinance.

(c) Petitions to extend the UGB to include land outside the District shall not be accepted unless accompanied by:

(1) A copy of a petition for annexation to the District to be submitted to the Portland Metropolitan Area Local Government Boundary Commission pursuant to ORS chapter 199; and

(2) A statement of intent to file the petition for annexation within ninety (90) days of Metro action to approve the petition for UGB amendment, under Section [15] 14(d) of this ordinance.

Adopted as
part of Ord. 82-133

ATTACHMENT B

1. Delete the proposed new Section 7(b), retaining the existing Section 7(b) without renumbering.

2. Delete the proposed amendments to Section 8(c)(2) and 8(c)(4), and replace all of the existing Section 8(c) with the following language:

(c) A petition to remove land from the UGB in one location and add land to the UGB in another location (trades) may be approved if it meets the following criteria:

- (1) Petitions proposing to add any Class I to IV soils not irrevocably committed to nonfarm use shall not be approved unless:
 - (a) the addition is needed to remedy severe service provision or land use efficiency problems in the adjacent urban area; and
 - (b) there are no practical alternatives to the proposed boundary change to solve such problems.

- (2) The net amount of vacant land proposed to be added may not exceed 10 acres; nor may the net amount of vacant land removed exceed 50 acres.

- (3) The land proposed to be added is more suitable for urbanization than the land to be removed, based on a consideration of each of factors (1), (2), (3) and (5) of Section (8)(a).



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

MEMORANDUM

Date: June 30, 1982
To: Metro Council
From: Joe Cortright, Planner

Regarding: Staff Proposed Amendments to Ordinance 82-133

Following the instructions of the Regional Development Committee, staff met with interested parties to discuss Ordinance 82-133, which modifies Metro's standards for approving locational adjustments of the Urban Growth Boundary. This meeting produced several comments on the Ordinance which are summarized on the attached chart. Based on these comments, staff recommends two changes to Ordinance 82-133.

First, staff proposes that the requirement that local governments submitting petitions to amend the UGB not be required to follow Metro-specified notice and hearing requirements. Local planners pointed out that planning commissions and governing bodies already go through locally required procedures before undertaking such land use actions. Any Metro requirements would, therefore, duplicate local practice.

Second, 1000 Friends of Oregon objected to the revised "trade" provisions, maintaining that they inadequately protected agricultural land. Staff proposes to change the Ordinance to provide that land added in trades generally be required to be "committed to non-farm use." The balancing test then applies to the remaining criteria: land use efficiency, service provision, economic, social and environmental consequences and compatibility with farm use. 1000 Friends is satisfied that the proposed language is consistent with LCDC goals. The changes are spelled out in Attachment B.

Attachments

JC:lz

ATTACHMENT A

SUMMARY OF COMMENTS AND STAFF RESPONSE
MEETING OF JUNE 23, 1982

ISSUE RAISED BY COMMENTER

"Islands" of rural land within the UGB may make good planning sense in some circumstances. (Section 4(d))

Vacant land is not defined in the ordinance. This could lead to some confusion (Section 8)

Party status should be automatic for counties affected by proposed UGB amendments. (Sections 5 and 7)

Metro's ordinance is poorly organized and could benefit from renumbering. (General)

The provision for trades does not meet Goal 2. (Section 8(d))

Local governments should not have to meet strict hearing and notice requirements when they sponsor petitions. Such requirements duplicate usual local practice, and are unnecessary. (Section 7(b))

STAFF RESPONSE

Existing policy precludes "islands"; the new language simply clarifies this provision. If necessary, the "islands" policy should be re-examined in a legislative, rather than a quasi-judicial process.

Staff is preparing a definition and a method for calculating "vacant" land to be included in the ordinance.

Metro notified all affected local governments of UGB adjustment petitions. It is their responsibility to participate in the process.

Clearer organization and renumbering will be considered when the ordinance is codified.

See attached amendment. Goal 2 requirement for assessment of alternatives is obviated by the general requirement that land added to the UGB be found to be "committed to non-farm use."

This provision has been deleted from the proposed amendments.

Explanation: The main changes to this section are: (1) to require a higher proportion of property owner support for petitions; or (2) to add some additional requirements for petitions from local governments. Both changes are generally designed to recognize that Metro has made a commitment, in the form of UGB adoption, on which property owners both inside and outside the UGB are encouraged to rely and that this commitment should be modified, in the form of UGB amendment, only with substantial support from affected property owners or in circumstances sufficiently compelling to warrant a local government decision to override the wishes of affected property owners.

AMEND SUBSECTION 8(c)(2) TO READ:

not a duplicate

(2) Consideration of the factors in subsection (a) of this section demonstrate that [it is appropriate that] the land to be added [should be included within the UGB] is more suitable for urbanization than the land to be removed. In making this evaluation, the requirements of subsection (a)(4) of this section may be waived if the land proposed for removal contains an equal or greater amount of Class I-IV soils and is found to have an equal or greater suitability for agricultural use.

AMEND SUBSECTION 8(c)(4) TO READ:

not adopted

(4) Any amount of land may be added or removed as a result of a petition under this subsection but the net amount of vacant land added [or removed] as a result of a petition shall not exceed 10 acres nor shall the total net amount removed exceed 50 acres. Any area in addition to a 10 acre net addition must be identified and justified under the standards for an addition under subsection (d) of this section.

Explanation: Trades were intended to recognize that UGB amendments that would not negatively impact the overall efficiency or effectiveness of the boundary by adding to the size of urban area should be reviewed under different and less stringent standards than those that would. As the ordinance is now written, this is accomplished only by: (1) allowing for consideration of additions of more than fifty acres when proposed as part of a trade; and (2) requiring only that, for trades, consideration of the same standards as used to evaluate additions must demonstrate that it is "appropriate that the land to be added should be included within the UGB" while for additions this consideration must demonstrate that "the proposed UGB [is] superior to the UGB as presently located." This last nuance of difference and the slightly lighter burden of proof it provides, does not make it significantly easier to add less than fifty acres when proposed as part of a trade than when proposed simply as an addition. The change recommended addresses this problem by revising the standards for trades to place less emphasis on the effect of the proposed addition on the efficiency of development of adjacent urban lands and more

emphasis on the effect on overall efficiency resulting from development of the area proposed for addition instead of the area proposed for removal.

AMEND THE LAST SENTENCE OF SUBSECTION 11(a) TO READ:

These notice provisions shall be in addition to the District notice provisions for contested case hearings contained in the District Code Section 5.02.005 and to the notice requirements of OAR 660-18-000.

AMEND SUBSECTION 11(c) TO READ:

(c) Not [more than 20 nor] less than 10 days before the hearing, notice shall be mailed to the following persons:

(1) The petitioner(s).

(2) All property owners of record within 250 feet of the property subject to petition. For purposes of this subsection, only those property owners of record within 250 feet of the subject property as determined from the maps and records in the county departments of taxation and assessment are entitled to notice by mail. Failure of a property owner to receive actual notice will not invalidate the action if there was a reasonable effort to notify record owners.

(3) All cities and counties in the District and affected agencies as determined by the Executive Officer.

Explanation: These changes achieve consistency with the requirements of OAR 660-18-000 regarding 45-day notice to DLCD of proposed amendments of the Urban Growth Boundary.

AMEND SECTION 14 TO READ AS FOLLOWS:

(a) Following public hearings on all petitions for UGB changes, the Council shall act to approve or deny the petitions in whole or in part or approve the petitions [as modified] in whole or in part subject to conditions consistent with the applicable standards in sections 8 through 10 of this ordinance.

(b) Final Council action following a [quasi-judicial] hearing shall be as provided in Code section 5.02.045. Parties shall be notified of their right to review before the Land Use Board of Appeals pursuant to 1979 Oregon Laws, ch 772.

[(c) Final Council action following a legislative hearing shall be by ordinance.]

(c) [(d)] When the Council acts to approve in whole or in part a petition affecting land outside the District:

(1) Such action shall be by resolution expressing intent to amend the UGB if and when the affected property is annexed to the District within six months of the date of adoption of the Resolution.

(2) The Council shall take final action, as provided for in paragraphs (b) and (c) of this section, within thirty (30) days of notice from the Boundary Commission that annexation to the District has been approved.

Explanation: The addition to section (a) is designed to recognize and provide for past Council practice regarding conditions. The deletion of the phrase "as modified" is intended to preclude Council action to modify a petition other than through denial in part and approval in part (i.e., to preclude acting on land not included in the original petition). The remaining deletions remove unnecessary language.

JH/gl
5318B/87
4/30/82

a duplicate of
part of 82-133

G.A



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

MEMORANDUM

Date: July 7, 1982
To: Metro Council
From: Joe Cortright, Development Services Department
Regarding: Amendment to UGB Locational Adjustment Ordinance

Add a new subsection (j) to Section 2, to read as follows:

- (j) "Vacant land" means:
 - (1) for lots of 1 acre or less with a dwelling unit, no vacant land;
 - (2) for lots of 1 acre or less with no dwelling unit, vacant land is the entire lot;
 - (3) for lots in excess of 1 acre, vacant land is the gross area of a lot, less one acre multiplied by the number of dwelling units on the lot, but not less than zero.

A G E N D A M A N A G E M E N T S U M M A R Y

TO: Metro Council
FROM: Regional Development Committee
SUBJECT: An Ordinance Amending Ordinance No. 81-105, Establishing
Procedures for Locational Adjustment of Metro's Urban
Growth Boundary (UGB)

I. RECOMMENDATIONS:

- A. ACTION REQUESTED: Approval of release of Ordinance No. 82-133, an ordinance amending Ordinance No. 81-105, for public hearing and first reading by the Metro Council.
- B. POLICY IMPACT: Release of the ordinance for hearing will authorize staff to issue the 45-day notice required for land use actions post-acknowledgment. The amendments recommended are designed to make minor changes necessary in the locational adjustment process, rather than to undertake any significant change in UGB amendment policy or procedure.
- C. BUDGET IMPACT: None.

II. ANALYSIS:

- A. BACKGROUND: Since adoption of Metro's UGB locational adjustment ordinance, experience has demonstrated a need for alteration of certain procedures and standards contained in the ordinance. Though a comprehensive revision of the ordinance has been discussed, the staff recommends a more limited revision to resolve particular problems. In addition, staff intends to provide the Council and petitioners with a written explanation of the standards and procedures in the ordinance. This explanation should serve to simplify the process as well as a comprehensive revision to the ordinance. Staff will also be proposing changes to the fee schedule and contested case rules which apply to locational adjustments.

The amendments proposed are changes to the procedural requirements, plus a revision of the trade standards to allow more flexibility in comparing the area to be added with the area to be removed.

Exhibit A of the attached ordinance, containing the recommended amendments, also includes for Committee and public reference a brief explanation of each proposed changes. This explanation will be deleted from this Exhibit prior to its adoption.

- B. ALTERNATIVES CONSIDERED: As indicated above, a more comprehensive revision of the locational adjustment ordinance is deemed by the staff to be impractical at this time. Satisfactory results should be achieved from minor alterations in the ordinance and contested case rules plus a narrative description of the standards and procedures.
- C. CONCLUSION: A narrative explanation of the standards, together with the changes proposed in the attached ordinance, appears the most practical and least confusing way to achieve immediate improvement to the locational adjustment process.

JH/srb
5848B/107
06/18/82

A vote on the previous motion to adopt Ordinance No. 82-135, as amended, (Williamson/Kirkpatrick) indicated that the motion passed by the following roll call vote:

Yeas: Banzer, Bonner, Burton, Etlinger, Kirkpatrick,
Rhodes, Schedeen and Williamson.

Nays: Kafoury.

Absent: Berkman, Deines and Oleson.

Coun. Kafoury stated she voted in opposition to the RTP since she feels inadequate consideration has been given to energy supplies, telecommunications, and funding of the elements of the Plan.

6.1 Public Hearing on Ordinance No. 82-133, An Ordinance Amending Ordinance No. 81-105, Establishing Procedures for Locational Adjustments of the Metropolitan Service District's Urban Growth Boundary. (First Reading)

Motion to adopt Ordinance No. 82-133. (Bonner/Etlinger)

Motion to adopt amendments to Ordinance No. 82-133, as outlined in memo from staff dated June 30, 1982; carried unanimously. (Bonner/Kirkpatrick)

Mark Greenfield of 1000 Friends of Oregon stated his organization's concern with land speculation created with the provision for trades of property outside the UGB for property inside the UGB. Mr. Greenfield also stated that Metro should consider adopting standards for major amendments to the UGB.

Coun. Kafoury stated it has been the policy of the Council not to increase the size of the UGB and if standards for major amendments are adopted, the Council will not be limiting the UGB size.

Kevin Hanway, attorney representing the Homebuilders' Association, stated that Metro should consider doing away with trades altogether, because of additional expenses incurred for developing properties.

General discussion.

6.3 Ordinance No. 82-137, An Ordinance Relating to Contested Case Procedures and Amending Metro Code Chapter 5.02. (Second Reading)

Andy Jordan reviewed his memo relating the proposed amendments allowing Council to accept new testimony at its discretion.

Motion to adopt the amendments to Ordinance No. 82-137, as stated in memo from General Counsel dated June 25, 1982 (Williamson/Kirkpatrick); carried by the following vote:

Motion to adopt Resolution No. 82-344; carried unanimously. (Williamson/Kirkpatrick)

6.1 Public Hearing on Ordinance No. 82-136, An Ordinance Relating to Solid Waste Disposal and Amending Ordinance No. 81-111. (First Reading)

Motion to adopt Ordinance No. 82-136. (Rhodes/Deines)

There was no one present who wished to speak during the public hearing.

6.2 Public Hearing on Ordinance No. 82-139, An Ordinance Relating to Personnel and Amending Ordinance No. 81-116. (First Reading)

Motion to adopt Ordinance No. 82-139. (Deines/Williamson)

There was no one present who wished to speak during the public hearing.

6.3 Public Hearing on Ordinance No. 82-140, An Ordinance Relating to the Fiscal Year 1982-83 Budget and Appropriations Schedule; and Amending Ordinance No. 82-132. (First Reading)

Motion to adopt Ordinance No. 82-140. (Deines/Kirkpatrick)

General discussion of Metro's recycling efforts by the Council, Bob Breihof, John Trout, and Pat Stryker.

Presiding Officer stated that the recycling effort and waste reduction program would be discussed thoroughly at the next Council meeting, prior to the adoption of the ordinance, and requested staff to provide additional information on each.

6.4 Ordinance No. 82-133, An Ordinance Amending Ordinance No. 81-105, Establishing Procedures for Locational Adjustment of the Metropolitan Service District's Urban Growth Boundary. (Second Reading)

Geraldine Ball stated her objections to the ordinance's reference to adding or subtracting land from the UGB; she was under the impression that this would permit local governments to annex or de-annex property without notifying property owners.

General Counsel Jordan explained that this ordinance did not dictate how cities and counties conducted annexation proceedings; those procedures are established by state statute.

General discussion of the amendments.

A vote on the previous motion to adopt Ordinance No. 82-133, as amended, (Bonner/Etlinger) indicated that the motion carried unanimously.

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

AN ORDINANCE AMENDING SECTION)
3.01.040 OF THE CODE OF THE)
METROPOLITAN SERVICE DISTRICT)

ORDINANCE NO. 84-174

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

Section 1. The Code of the Metropolitan Service District (Metro) is amended as follows (language to be removed is bracketed; language to be added is underlined):

3.01.040(a)

(4) Retention of agricultural land. When a petition includes land with Class I-IV soils that is not irrevocably committed to non-farm use, the petition shall not be approved unless it is factually demonstrated that: [the existing location of the UGB is found to have severe negative impacts on service or land use efficiencies in the adjacent urban area and it is found to be impractical to ameliorate those negative impacts except by means of the particular adjustment requested.]

- Retention of the agricultural land would preclude urbanization of an adjacent area already inside the UGB, or
- Retention of the agricultural land would prevent the efficient and economical provision of urban services to an adjacent area inside the UGB.

3.01.040(c)

(3) The land proposed to be added is more suitable for urbanization than the land to be removed, based on a consideration of each of factors (1), (2), (3) and (5) of Section [5.07.040(a)] 3.01.040(a).

Section 2. In support of the amendment in Section 1 of this Ordinance, the Council hereby adopts the Findings in Exhibit "A" of this Ordinance which is incorporated by this reference.

Section 3. Persons who participated orally or in writing in the proceedings leading to adoption of this amendment may appeal this

Ordinance under the provisions of ORS 197.830 to 197.845.

ADOPTED by the Council of the Metropolitan Service District
this 5th day of July, 1984.

Corky Kirkpatrick
Presiding Officer

ATTEST:

Emilee Hanover
Clerk of the Council

SS/MB/gl
1270C/382
06/14/84

EXHIBIT "A"

FINDINGS AND CONCLUSIONS

Amending Section 3.01.040 of the Code of
the Metropolitan Service District.

1. Metro's UGB Locational Adjustment Procedures were acknowledged by the Land Conservation and Development Commission (LCDC) in October 1981.
2. The UGB Locational Adjustment Procedures are intended for use in cases dealing with net changes in the UGB of 50 acres or less.
3. Recent experience has shown a certain lack of clarity with regard to that portion of the petition approval standards relating to the Retention of Agricultural Land; specifically use of the phrase "...severe negative impact on service...."
4. Goal 14 requires, in part, with regard to urban growth boundaries that the "...change of the boundaries shall be based upon consideration of the following factors: ...(6) Retention of agricultural land as defined, with Class I being the highest priority for retention and Class VI the lowest priority...."

The amendment to the standard includes consideration of the retention of agricultural land and specifies certain circumstances under which rural land could be converted to urban uses. Under this standard, agricultural land will be retained unless it can be shown that the conversion is necessary for the urbanization of land already inside the UGB or the efficient delivery of services.

5. Goal 3 requires that the conversion of agricultural land to urbanizable land shall be based upon the five factors contained in the goal.

The five factors contained in Goal 3 were addressed in the Findings attached to Metro Ordinance No. 81-105 which was previously acknowledged. Those findings are incorporated by this reference, and are deemed to be unaltered by this amendment.

6. The procedures and requirements contained in Goal 2 must be followed in the review and revision of plans and implementing ordinances.

Local governments and interested parties were given the opportunity to participate in the process of amending this standard. This process included the circulation of a questionnaire on March 15, 1984, review of a draft of the proposed amendment on April 13 and May 17, 1984, and the opportunity for public comment at meetings on May 7 and June 11, 1984.

Conclusion

This amendment provides clarification of the retention of agricultural land standard, and specifies the circumstances under which an amendment to the UGB may be approved. This amendment is responsive to and in keeping with the applicable statewide planning goals.

MB/srb
1270C/373
05/17/84

CONSIDERATION OF ORDINANCE NO. 84-174 FOR THE
PURPOSE OF CLARIFYING A PORTION OF THE CODE OF
THE METROPOLITAN SERVICE DISTRICT, SECTION
3.01.040 - URBAN GROWTH BOUNDARY LOCATIONAL
ADJUSTMENT STANDARDS

Date: May 23, 1984

Presented by: Steve Siegel

FACTUAL BACKGROUND AND ANALYSIS

Recent Urban Growth Boundary (UGB) cases have brought to light a certain lack of clarity with regard to use of the phrase "...severe negative impacts on service...", as it is used in the standards for petition approval. In order to remedy this situation, Metro staff is proposing the attached amendment to Section 3.01.040(a)(4) of the Metropolitan Service District Code.

Drafts of this proposal have been previously reviewed by the local jurisdictions and recent participants to the locational adjustment process. The attached proposal incorporates the comments received during that process.

As a housekeeping matter, the citation at 3.01.040(c)(3) which reads "...of section 5.07.040(a)" should be changed to read "...of section 3.01.040(a)."

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval.

COMMITTEE CONSIDERATION AND RECOMMENDATION

The Regional Development Committee recommended approval of the Ordinance with the following amendments:

1. Bullet #2 under Section 3.01.040(a),
 - The efficient provision of urban services to an area inside the UGB would be impractical without making the subject change.

be substituted with
 - Retention of the agricultural land would prevent the efficient and economical provision of urban services to an adjacent area inside the UGB.

2. Under Section 3.01.040(a)(4) add "it is factually demonstrated that" following "unless."

SS/MB/gl
1270C/382
06/14/84

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June 28, 1984
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8.3 Consideration of Ordinance No. 84-173, relating to the FY 1983-84 Budget and Appropriations Schedule, and amending Ordinance No. 83-153. (Second Reading)

Jennifer Sims, Budget and Administrative Services Manager, stated that all of the changes to the FY 1983 Budget had been reviewed by the Coordinating Committee at their meeting of June 18, 1984. She pointed out there were a typographical error in Exhibit B of the ordinance under Finance & Administration. She said the Revised Appropriation Schedule for Capital Outlay should read \$113,065 and not 0.

The ordinance was read a second time, by title only.

There was no public testimony.

Vote: The vote on the motion to adopt Ordinance No. 84-173, made by Councilors Kelley and Williamson on June 7, 1984, resulted in:

Ayes: Councilors Banzer, Bonner, Deines, Hansen, Kafoury, Kelley, Kirkpatrick, Van Bergen, and Waker.

Nays: None.

Absent: Councilors Cooper, Oleson, and Williamson.

Motion carried, Ordinance adopted.

8.1 Consideration of Ordinance No. 84-174, amending Section 3.01.040 of the Code of the Metropolitan Service District. (First Reading)

Motion: Councilor Kafoury moved adoption of Ordinance No. 84-174. Councilor Bonner seconded the motion.

The ordinance was read the first time, by title only.

Councilor Kafoury reported that the Regional Development Committee recommended adoption of the ordinance as amended. She stated a letter had been distributed from Bob Stacey of 1000 Friends of Oregon which supported the ordinance as amended by the Development Committee (a copy of the letter is attached to the agenda of the meeting).

There was no public testimony.

The ordinance was passed to second reading on July 5, 1984.

7.1 Ordinance No. 84-174, amending Section 3.01.040 of the Code of the Metropolitan Service District. (Clarifying the Code relating to Urban Growth Boundary Locational Adjustment Standards) (Second Reading).

The ordinance was read a second time, by title only.

There was no public testimony.

Vote: The vote on the motion to adopt Ordinance No. 84-174, made by Councilors Kafoury and Bonner on June 28, 1984, resulted in:

Ayes: Councilors Bonner, Cooper, Deines, Hansen, Kafoury, Kelley, Kirkpatrick, Van Bergen, Waker and Williamson.

Nays: None.

Absent: Banzer and Oleson.

Motional carried, Ordinance adopted.

7.2 Ordinance No. 84-175, relating to Public Contract Procedures and amending Code 2.04.001, 002, 003, 005, 010, 015, 020, 030, 035, 040, and 045. (Second Reading).

The ordinance was read a second time, by title only.

There was no public testimony.

Vote: The vote on the motion to adopt Ordinance No. 84-175, made by Councilors Bonner and Kelley on June 28, 1984, resulted in:

Ayes: Councilors Bonner, Cooper, Deines, Hansen, Kafoury, Kelley, Kirkpatrick, Van Bergen, Waker, and Williamson.

Nays: None.

Absent: Banzer and Oleson.

Motion carried, Ordinance adopted.



METROPOLITAN SERVICE DISTRICT
Providing Zoo, Transportation, Solid Waste and
other Regional Services

July 6, 1984

Rick Gustafson
Executive Officer

Metro Council

Corky Kirkpatrick
Presiding Officer
District 4

Ernie Bonner
Deputy Presiding
Officer
District 8

Bob Oleson
District 1

Richard Waker
District 2

Charlie Williamson
District 3

Jack Deines
District 5

George Van Bergen
District 6

Sharron Kelley
District 7

Cindy Banzer
District 9

Bruce Etlinger
District 10

Marge Kafoury
District 11

Gary Hansen
District 12

Ms. Jane McGarvin
Clerk of the Board
Multnomah County
1021 S.W. 4th Avenue
Portland, OR 97204

Dear Ms. McGarvin:

Enclosed are true copies of the following ordinances
adopted by the Council of the Metropolitan Service
District on July 5, 1984:

Ordinance No. 84-174, amending Section
3.01.040 of the Code of the
Metropolitan Service District.

Ordinance No. 84-175, relating to
Public Contract Procedures and Amending
Code Sections 2.04.001, 002, 003, 005,
010, 015, 020, 030, 035, 040 and 045.

Please file these ordinances in the Metro ordinance files
maintained by your county.

Sincerely,

Everlee Flanigan
Clerk of the Council

EF/gl
1591C/D1

Enclosures

527 SW Hall St.
Portland, OR
97201
503/221-1646

Certified A True Copy of the Original Thereof
[Signature]
Clerk of the Council

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF AMENDING)
CHAPTER 3.01 OF THE METROPOLITAN)
SERVICE DISTRICT CODE TO CLARIFY)
STANDARDS AND PROCEDURES FOR)
IDENTIFYING PROTECTED AGRICULTURAL)
LAND)
ORDINANCE NO. 88-261
Introduced by Rena Cusma,
Executive Officer

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

1. That paragraph 3.01.010(i) of the Code of the Metropolitan Service District is amended to read as follows:

[(i) "Irrevocably committed to non-farm use" means, in the case of a plan acknowledged by LCDC, any land for which a Goal No. 3 exception has been approved by LCDC, or in the case of a plan that has not yet been acknowledged by LCDC, land that not possible to preserve for farm use, within the meaning of Goal No. 2, Part 2.]

(j)] (i) "Vacant land" means:

- (1) for lots of one acre or less with a dwelling unit, not vacant land;
- (2) for lots of one acre or less with no dwelling unit, vacant land is the entire lot;
- (3) for lots in excess of one acre, vacant land is the gross area of a lot, less one acre multiplied by the number of dwelling units on the lot, but not less than zero.

2. That paragraph 3.01.040(a)(4) of the Metro Code is amended to read as follows:

(4) Retention of Agricultural Land.

(A) When a petition includes land with Class I - IV soils [that is not irrevocably committed to non-farm use] designated in the applicable comprehensive plan for farm or forest use consistent with the requirements of LCDC Goals No. 3 or 4, the petition shall not be approved unless it is factually demonstrated that:

(i) Retention of the agricultural land would preclude urbanization of an adjacent area already inside the UGB, or

(1) The requirements of paragraph
3.01.040(a)(4) of this chapter are met.


4. Section 3.01.053 of the Metro Code is established to read as follows:

Section 3.01.053 Notice of Proposed Action: For all locational adjustments to the UGB, Metro will issue notice to the Oregon Department of Land Conservation and Development, consistent with the requirements of ORS 197.610 - 197.625 and OAR 660-Division 18.

5. Section 3.01.055(C)(4) of the Metro Code is amended to read as follows:

(4) Oregon Department of Land Conservation and Development.

ADOPTED by the Council of the Metropolitan Service District
this 27th day of October, 1988.



Mike Ragsdale, Presiding Officer

ES/sm
0005D/554
10/14/88

Attest:
A. Marie Nelson
Clerk of the Council



METRO

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

Memorandum

Agenda Item No. 6.4

Meeting Date October 27, 1988

Date: October 14, 1988

To: Metro Council

From: Councilor Jim Gardner, Chair
Council Intergovernmental Relations Committee

Regarding: OCTOBER 11, 1988 INTERGOVERNMENTAL RELATIONS COMMITTEE
REPORT ON COUNCIL MEETING AGENDA ITEM NO. 6.4,
CONSIDERATION OF ORDINANCE NO. 88-261, AMENDING METRO CODE
CHAPTER 3.01 TO CLARIFY STANDARDS & PROCEDURES FOR
IDENTIFYING PROTECTED AGRICULTURAL LAND.

Committee Recommendation: At its October 11, 1988 meeting, the Intergovernmental Relations Committee unanimously voted to recommend Council adoption of Ordinance No. 88-261 attached. All Committee members were present -- Councilors Collier, DeJardin, Knowles, Waker and myself. Councilor Kirkpatrick also attended the meeting.

Issues & Committee Discussion: Rich Carson, Planning & Development Director, and Patrick Lee, Regional Planning Supervisor, presented the ordinance. The attached department staff report provides the background and rationale for this Code amendment. The State Department of Land Conservation & Development (DLCD) worked with the department on the changes; Jim Sitzman, the local DLCD representative met with Metro staff. Ordinance No. 88-261 is intended to clarify protected agricultural land provisions regarding Urban Growth Boundary locational adjustments, but is not intended to open up agricultural land to UGB development. In compliance with the DLCD notice requirement, Metro staff sent the ordinance draft to DLCD 45 days prior to this hearing. Drafts were also sent more recently to 1000 Friends and local jurisdictions' planning agencies for comment; 1000 Friends has not forwarded any comments. Staff incorporated language suggestions from Lorna Stickel, Multnomah County Planning Director. Although an announced public hearing, no citizens testified at the meeting.

Subsequent to the Committee meeting, the Committee Chair spoke with Paul Ketcham of 1000 Friends about this ordinance. Mr. Ketcham indicated he viewed the change as a reasonable solution to the dilemma of small parcels outside the UGB which would not meet the criteria for a formal exception to agricultural land protection standards, yet are already committed to non-farm uses.

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STAFF REPORT

CONSIDERATION OF ORDINANCE NO. 88-261, AMENDING
CHAPTER 3.01 OF THE METROPOLITAN SERVICE DISTRICT
CODE TO CLARIFY STANDARDS AND PROCEDURES FOR
IDENTIFYING PROTECTED AGRICULTURAL LAND

Date: September 30, 1988

FACTUAL BACKGROUND AND ANALYSIS

Metro Code Chapter 3.01, which sets the standards and procedures for locational adjustments of the Urban Growth Boundary (UGB), includes rigorous requirements for including protected farmland within the UGB. As the code is now written, these requirements apply to any land designated for Exclusive Farm Use (EFU) in a county comprehensive plan. Petitioners who wish to avoid application of the standards for protection of farm land to EFU-designated land must request a plan amendment from the County to adopt an exception from the requirements of Goal No. 3 (Agricultural Land) for the property in question.

In most cases, this is the most appropriate procedure. The requirements for demonstrating that property is so committed to development as to make it impractical to try to protect it for agricultural use have probably been more extensively litigated than any aspect of the statewide planning goals, resulting in a highly specialized and complex body of case law in which county planners have necessarily become expert but with which Metro generally has no cause to familiarize itself. The Metro Code requirements, as now written, are designed to rely on County expertise on these matters.

In certain limited circumstances, however, these requirements may impose an unreasonable hardship. Certain types of non-farm uses such as churches and schools are permitted by State statute in EFU zones. Although land developed for these uses is no longer available for farm use, they cannot be included in an exception area because no exception is needed, since such uses are consistent with Goal 3 requirements.

Problems may also occur when a development occupies only a small portion of a larger exception area. Even though that smaller subarea may clearly meet the requirements for demonstrating commitment to non-farm use, county exception procedures may not allow for separate consideration of so small an area. Washington County, for example, generally does not consider exception requests for areas less than 40 acres.

SUMMARY OF FINDINGS

For the reasons discussed in the attached report, Metro makes the following findings in support of the adoption of Ordinance 81-105, consistent with State goal requirements:

- o The goal requirements with which standards for UGB amendment must comply are:
 - (1) the seven factors listed in Goal #14 (Urbanization)
 - (2) the requirements of Goal #14 that UGB amendments follow the procedures and requirements for goal exceptions, provided in Goal #2 (Land Use Planning) including the four factors for consideration listed therein; and
 - (3) the five factors of Goal #3 (Agricultural Land) for the conversion of agricultural land to urbanizable land.
- o These goal requirements will be met if the standards allow for UGB amendment only when:
 - (1) approval is supported by a consideration of the locational factors listed as factors 3 through 7 of Goal #14;
 - (2) the benefits of the amendment, evaluated against considerations required by the goals, outweigh the costs of adding more land than is needed, or removing land assumed to be needed;
 - (3) there are compelling reasons why the amendment should be made in these circumstances based upon the unavailability of suitable alternatives to UGB amendment; and
 - (4) there are no suitable alternative locations for UGB amendment other than the one approved.
- o The standards in Ordinance 81-105 ensure that these requirements will be met whenever land is added, removed, or traded, for the reasons discussed below.

I ADDITIONS

A. BALANCING THE COSTS AND BENEFITS OF SMALL ADDITIONS

- o The standards for additions allow UGB amendment only when benefits of the addition outweigh the costs of adding more land than may be needed to accommodate growth.

1. Standards for an individual addition

- a. Major public facilities
 - o No single addition of 50 acres or less will significantly affect the efficiency of major public facilities.
 - b. Site specific facilities and services
 - o It is inefficient to provide site specific facilities and services to an additional 50 acres of land when the use accommodated by that addition could be provided the same facilities at less cost on land elsewhere within the UGB.
 - c. Environmental and energy consequences
 - o The addition of 50 acres of land adds an extra increment to the energy consumed and air pollutants emitted regionwide.
 - d. Addressing identified costs
 - o The standards for additions ensure that the benefits of an individual addition outweigh the costs identified relative to site specific facilities and services, energy consumption, and air pollution, by requiring that:
 - (i) the addition must benefit land already within the UGB; and
 - (ii) the identified benefits of the addition must increase with the size of the addition.
 - e. Retention of agricultural land
 - o The standards for agricultural land ensure that agricultural land will not be converted for urban use unnecessarily.
2. Why standards adequate to ensure that one individual addition is consistent with Goal #14 are not adequate to ensure that every addition which meets those standards is consistent with Goal #14
- a. Stability
 - o Easy or frequent UGB amendment encourages speculation, which erodes the effectiveness of the UGB.
 - o The standards for additions must therefore ensure that the chances that any particular piece of land outside the UGB could be approved

for inclusion are so small that speculation along the perimeter of the UGB will be held to a minimum.

b. Major public facilities

- o The cumulative effect of a series of small additions may significantly affect the efficiency of major public facilities.
- o The rules for allowing additions to the UGB must also, therefore, provide for some mechanism to evaluate the cumulative effects of additions approved on the overall adequacy of the major public facilities that serve the urban area.

c. Land market

- o The cumulative effect of small additions may be to so increase the supply of urban land as to lower the price of land to a point where lower density development becomes more economical than the densities that the land market would have produced if that amount of land had not been added.
- o Rules for allowing small additions should consider the cumulative consequences on the regionwide density of new development as well.

3. Standards to address cumulative impacts

- o The standards for additions limit the cumulative negative effects of a series of additions by limiting the total amount of land that can be added through locational adjustment.
- o The total amount of land that can be added is limited by:
 - (i) limiting the types of additions that may be approved to cases where an adjustment of 50 acres or less is adequate to solve all identified problems; and
 - (ii) providing for a review of the rules whenever the annual average net addition exceeds 100 acres a year for three or more years.

B. ALTERNATIVE APPROACHES FOR LOCATIONAL ADJUSTMENTS

- o There are no suitable alternatives which would allow for the UGB to be "fine-tuned" through locational

adjustment without adding land that has not found to be needed to accommodate growth.

C. ALTERNATIVE LOCATIONS FOR INDIVIDUAL ADDITIONS

- No alternative location within the UGB will produce the net benefit conferred by an addition that meets all applicable standards.
- No alternative location outside the UGB can produce the benefit conferred to the particular location in which an addition is proposed.
- Agricultural land will be converted to urban use only when the alternative of not amending the UGB to permit the conversion has serious negative consequences which outweigh the benefits of retaining the land for agricultural use.
- Forest lands will be protected as needed by consideration of the environmental and economic consequences of including commercial forest lands within the UGB at the time of UGB amendment and by the application of LCDC Goals #4 and #5 to any other forest lands approved for inclusion, after the UGB has been amended.

II REMOVALS AND TRADES

A. REMOVALS

- Allowing individual removals of up to 50 acres is unlikely to lead to any net reduction in the size of the UGB, since the number of qualified petitions to add land may reasonably be expected to exceed the number of qualified petitions to remove land.
- If there nonetheless should be a net reduction of urban land for three or more consecutive years, the procedures for ordinance review if the net reduction exceeds an annual average of 100 acres a year ensure that the need for land to accommodate growth will be considered before the availability of land for that purpose is significantly threatened.

III PROCEDURAL GOAL REQUIREMENTS

A. CITIZEN INVOLVEMENT

- Citizens have been provided the opportunity to participate in the development of Ordinance 81-105 and will be provided an opportunity to participate in all decisions on locational adjustments made pursuant to this ordinance.

B. INTERGOVERNMENTAL COORDINATION

- o The development of Ordinance 81-105 has been coordinated with all affected governmental agencies, and the ordinance provides for continued coordination on all decisions on locational adjustments made pursuant to it.

Metro finds, therefore, that Ordinance 81-105 complies with all applicable State goal requirements.

INTRODUCTION

Ordinance No. 81-105, establishing procedures for locational adjustment to Metro's Urban Growth Boundary (UGB) is designed to provide for certain types of small amendments to the UGB in a manner consistent with LCDC Goal requirements. These findings discuss each of the goal requirements and show how the ordinance addresses that requirement.

The applicable goal requirements for UGB amendments are as follows (1) the seven factors listed in Goal #14 (Urbanization); (2) the requirements of Goal #14 that UGB amendments follow the procedures and requirements for goal exceptions, provided in Goal #2 (Land Use Planning), including the four factors for consideration listed therein; and (3) the five factors of Goal #3 (Agricultural Land) for the conversion of agricultural land to urbanizable land.

A list of each of these factors, and their relationship to one another, is shown on Table 1 on the next page. Ordinance No. 81-105 lists factors 3 through 7 of Goal #14 and requires that all locational adjustments approved under the ordinance be based on consideration of these five factors (Section 8(a)). As Table 1 shows, consideration of factors 5, 6 and 7 of Goal #14 is also adequate to address factors 3 and 4 of the Goal #2 exception requirements and factors 1, 4 and 5 of the Goal #3 agricultural conversion requirements. The additional requirements for UGB amendments not addressed by the required consideration of factors 3 -7 of Goal #14 are as follows: (1) why the proposed use should be provided for (factor 1 of Goal No. 2), or demonstrated need consistent with LCDC Goals (factor 2 of Goal #3); (2) the unavailability of suitable alternatives (factor 2 of Goal #2 and factor 3 of Goal #3), and (3) the need for land to accommodate growth, as listed in the first two factors of Goal #14. The need for land to accommodate growth would be adequate to show why the proposed use should be provided for or to demonstrate a need for that use and for any large amendment, such a need must be shown. Metro does not believe, however, that the goals require that the need for land to accommodate growth be the only public need considered sufficient to compel UGB amendment in cases where the size of the amendment is so small that its relationship to estimates of land needs cannot be meaningfully evaluated.

Metro has not yet adopted standards and procedures for identifying when additional urban land is needed to accommodate growth. Ordinance #81-105 provides instead for certain types of UGB amendments which Metro finds may be made even when there is assumed to be no additional (or less) land needed to accommodate growth than was estimated in the UGB Findings adopted November, 1979. The current findings, then, are intended to demonstrate how the standards and requirements for locational adjustments included in Ordinance #81-105 to ensure compliance with the goals. Pursuant to the ordinance, the UGB will only be amended when the amendment is supported by consideration of factors 3-7 of Goal #14, and, in

TABLE 1: RELATIONSHIP OF GOAL REQUIREMENTS FOR UGB AMENDMENT

Goal #14(Urbanization)	Goal #3(Agricultural Land)	Goal #2(Land Use Planning) Exceptions
<p>Change of UGBs shall be based on consideration of the following factors:</p>	<p>Conversion of rural agricultural to urban-izable land shall be based on consideration of the following factors:</p>	<p>Compelling reasons and facts for that conclusion...shall include:</p>
<p>1. Demonstrated need to accommodate long range urban population growth requirements consistent with LCDC goals</p>	<p>(2) Demonstrated need consistent with LCDC goals</p>	<p>(a) Why these other uses should be provided for</p>
<p>2. Need for housing, employment opportunities and livability</p>		
<p>3. Orderly and economic provision for public facilities and services</p>		
<p>4. Maximum efficiency of land uses within and on the fringe of the existing urban area</p>		
<p>5. Environmental, energy, economic and social consequences</p>	<p>(1) Environmental, energy, social and economic consequences</p>	<p>(c) What are the long-term environmental, economic, social and energy consequences to the locality, the region or the state from not applying the Goal or permitting the alternative use</p>
<p>6. Retention of agricultural land as defined</p>	<p>(5) Retention of Class I, II, III and IV soils in farm use</p>	
<p>7. Compatibility of the proposed urban uses with nearby agricultural activities</p>	<p>(4) Compatibility of the proposed use with related agricultural land</p>	<p>(d) A finding that the proposed uses will be compatible with other adjacent uses</p>
	<p>(3) Unavailability of an alternative suitable location for the requested use</p>	<p>(b) What alternative locations within the area could be used for the proposed uses</p>

addition: (1) the benefits of the amendment, evaluated against considerations required by the goals, outweigh the costs of adding more land than is needed, or removing land assumed to be needed; (2) there are compelling reasons why the amendment should be made in these circumstances based upon the unavailability of suitable alternatives to UGB amendment, and (3) there are no suitable alternative locations for UGB amendment other than the one approved. Metro finds that this showing is adequate to demonstrate compliance with all applicable goal requirements.

Each of these considerations is addressed in turn for each of three types of UGB amendments allowed as locational adjustments: additions, removals and trades. At the conclusion of this discussion, the procedural requirements of the goals relative to Citizen Involvement (Goal #1) and Intergovernmental Coordination (Goal #2) and the manner in which they have been addressed are summarized.

PART I. ADDITIONS

This part of the findings first addresses the circumstances in which the benefits of small additions outweigh any costs of adding more land than has been found to be needed and shows how the standards for additions limit approval to the appropriate circumstances. The discussion next addresses why there are compelling reasons to allow for approval of additions in these circumstances and why there are no suitable alternatives available.

Balancing the Costs and Benefits of Small Additions

To show when and how the benefits of small additions to the UGB may outweigh the costs of adding more land than has been found to be needed, it is easiest to first evaluate the considerations appropriate to the approval of one addition of 50 acres or less (i.e., assuming this addition were the only one ever to be approved). Once these considerations have been identified, it is necessary to evaluate why standards adequate to justify an addition in a single instance might not be adequate to justify additions in every instance in which those standards were met. Based on this evaluation, the additional standards needed to address cumulative as well as individual impacts of additions are identified.

STANDARDS FOR AN INDIVIDUAL ADDITION

The first two factors of Goal #14 require that the need for land to accommodate growth be considered when an UGB is established or amended in order to keep the UGB as compact as practicable. An ideally compact UGB - one that includes no more land than is needed to accommodate growth - is preferred because:

1. it promotes maximum efficiency of major public facilities;
2. it promotes maximum efficiency of site-specific public facilities and services;
3. it minimizes the energy consumption and air pollution associated with travel within the urban area; and
4. it protects agricultural lands not needed for urban use.

MAXIMUM EFFICIENCY OF MAJOR FACILITIES: The efficiencies achieved for major public facilities and services may be described by saying that limiting the size of the urban area to the amount of land needed for growth ensures that the facilities designed to serve the urban area are no bigger than they need be. A choice between building a sewerage system that serves only a sub-basin of a larger drainage basin or building one to serve the entire basin provides an example of this principle. It is preferable to build the smaller system if the population expected to reside in that sewerage treatment area can be entirely accommodated within the sub-basin, and the if UGB is drawn accordingly to limit the growth to that area rather than to allow it to sprawl throughout the entire basin.

In the Metro urban area, the capacity of all major facilities and services is generally such that 50 acres of development more or less will have no impact on system efficiencies in one way or another. For example, sewerage treatment plants are generally built on an error margin of 10 percent. That is, they can efficiently serve a population 10 percent lower or 10 percent higher than the "design population."

The average population capacity of the sewage treatment areas identified in Metro's "208" Sewage Treatment Plan is about 80,000 people. The roughly 500 people that might be accommodated on 50 acres of land represent just over one-half of 1 percent of the capacity of the smallest system. No one addition would be likely to require any change in system design to accommodate its development. Conversely, the failure of any 50 acres of land already in the UGB to develop would not require any modification in systems design or any inefficiencies in the system as originally designed. The criteria for approval of additions (Section 8, subsections (a) and (d) of the ordinance) ensure that the land added won't necessitate improvements to major public facilities.

Metro finds, therefore, that adding 50 more acres than found to be needed will have no significant effect on the efficiency of major public facilities.

MAXIMUM EFFICIENCY OF SITE-SPECIFIC FACILITIES AND SERVICES: Somewhat more problematical are the site-specific facilities and services needed to serve the property which might be added. This includes the sewer and water lines and roads that will serve the proposed development, as well as police and fire protection for the property.

In general, it is assumed that land added to the UGB will be developed and, all else being equal, some property of comparable size already in the UGB which would otherwise have been needed for urban use will remain undeveloped by the year 2000 in consequence.

In the following discussion the 50 acres being added will be referred to as Parcel A, the unknown land within the UGB for which it is substituting will be referred to as Parcel X.

If it were certain or likely that Parcel X would be located somewhere on the periphery of the urban area, then the only standards necessary to approve the inclusion of Parcel A within the UGB would be those which, hypothetically, justified the inclusion of Parcel X in the first place. In other words, it need only be shown that Parcel A can be efficiently developed and efficiently provided within site-specific public facilities and services. Then even if Parcel X could be developed and served as efficiently, there are no costs to the region if those services are provided to Parcel A instead of Parcel X. The inclusion of factors 3 and 4 from Goal #14 (Section 8(a) (1) and (2) in the ordinance) is adequate to ensure that this is the case.

Since it is impossible to predict meaningfully where Parcel X would be located, however, it is more appropriate to assume the "worst case" - i.e., that Parcel X will be one or a series of passed over properties in the interior of the UGB. In this there are a dual set of costs associated with preferring Parcel A for development over Parcel X. The first is the cost of providing services to Parcel X which remain unused. For example, the sewers, water lines and roads will be run by the property but not used. The second is the set of costs associated with providing services to Parcel A which could be provided more cheaply to Parcel X. For example, a police car or fire engine would need to travel an extra distance to provide service to the development on Parcel A as opposed to the development on Parcel B.

For just one 50-acre addition these costs are small, but they are not entirely insignificant. There must, therefore, be a reason for trading development of Parcel X for development of Parcel A sufficient to outweigh the identified costs to the efficiency of provision of site-specific facilities and services.

ENVIRONMENTAL AND ENERGY CONSEQUENCES: The same is true for the energy and environmental costs of allowing Parcel A to be added. Development of Parcel A over Parcel X (if Parcel X is assumed to be in the interior of the UGB) means an extra increment of distance traveled from or to that development which translates to a very small but at least theoretically measurable increase in energy consumed and pollutants released.

ADDRESSING IDENTIFIED COSTS: It is because of these costs, however small, that Ordinance No. 81-105 establishes additional standards for the approval of additions beyond those provided by consideration of factors 3 and 4 of Goal #14. These additional standards are designed to address factors 1 and 2 of Goal #14 by insuring that the benefits of adding Parcel A outweigh the costs of leaving Parcel X undeveloped if (as is assumed) both are not needed to accommodate growth.

The first set of additional requirements are those that provide that, in considering the maximum efficiency of land use and service efficiency, there must be an identified benefit to land already within the UGB. Section 8(a)(1) requires that the adjustment must improve "facilities and service efficiency in the adjoining areas within the UGB." Section 8(a)(2) provides that the extent to which the adjustment "facilitate(s) needed development on adjacent urban land" must also be considered.

Metro finds that where an addition confers a benefit to land already within the UGB, the increase in the efficiency of the development of that land which results can outweigh the costs of leaving land elsewhere within the UGB undeveloped in consequence.

These standards alone would not ensure consistency with Goal #14, however, if the benefits conferred to adjacent urban land were nonetheless smaller than the costs of developing Parcel A in preference

to Parcel X. It is both conceptually and technically impossible actually to measure these relative benefits and costs. Section 8(d)(3) does, however, establish the additional requirement that, with the exception of additions to remedy mistakes, the larger the size of the parcel to be added, the greater must be the identified benefit.

Additions of 10 acres or less are assumed to entail a cost so small that any identified benefit to the efficiency or effectiveness of the UGB is sufficient to overcome it. But as the size of the addition increases, so must the benefit, in order to ensure that these benefits do indeed outweigh the costs.

RETENTION OF AGRICULTURAL LAND: The fourth major objective of the first two factors of Goal #14 is the preservation of agricultural land. To address this objective, Section 8(a)(4) adds, to the general requirement of factor 6 of Goal #14 that agricultural land be retained, further standards for approval designed to ensure that any addition that would convert agricultural land for urban use is approved only in the most compelling circumstances.

WHY STANDARDS ADEQUATE TO ENSURE THAT ONE INDIVIDUAL ADDITION IS CONSISTENT WITH GOAL #14 ARE NOT ADEQUATE TO ENSURE THAT EVERY ADDITION WHICH MEETS THOSE STANDARDS IS CONSISTENT WITH GOAL #14

The conclusion of the preceding discussion is that Metro finds the standards for approval of the addition of some Parcel A adequate to ensure that (1) there are no costs to major public facilities of that addition, and (2) that the benefits to land use and service efficiencies in that location outweigh the identified costs of leaving some comparable amount of land in some unknown Parcel X within the UGB undeveloped in consequence.

For several reasons this finding is not adequate to ensure that all additions approved subject to the standards already discussed will be consistent with Goal #14. First, there are certain reasons for keeping the UGB unchanged which are independent of the objectives relating to factors 1 and 2 of the goal as discussed above. These objectives would not be jeopardized by one 50-acre addition, but could be jeopardized by a series of such additions. Second, the fact that one 50-acre addition does not affect the efficiency of major public facilities in any way is not sufficient to ensure that a series of such amendments would not. Third, a series of small additions might, cumulatively, effect the land market in such a way that the assumption that the addition of a certain amount of land to the UGB results in a comparable amount of land remaining undeveloped elsewhere within the UGB may no longer hold true.

STABILITY: The importance of keeping the UGB fixed, independent of whether or not additional land is needed, is indicated by the requirement in Goal #14 that all amendments proposed, for whatever reason, only be approved when the procedures and requirements for goal exceptions are followed. The purpose and success of the UGB

hinges on separating urban from non-urban uses. The UGB functions effectively because it creates some certainty about what will and will not be developed. Prices play a key role here. Inside the UGB prices rise, encouraging urban use. Outside the UGB prices drop, allowing and encouraging non-urban uses.

The ability of the UGB to perpetuate this effect on land prices depends on the degree to which it effectively discourages land speculation on land just outside the UGB but otherwise suitable for urban use. If the UGB can be easily amended, for whatever reason, speculation on lands outside the UGB is unavoidable. Developers will purchase the land at non-urban prices in hopes of receiving UGB amendment that will allow it to be sold at urban prices. Such speculation may erode the needed price distinctions between urban and non-urban land to the point where the UGB can no longer operate effectively.

The standards for UGB amendment must, therefore, do more than ensure that each individual addition is justified by a balanced consideration of the seven factors of Goal #14. They must also ensure that the chances that any particular piece of land outside the UGB could be approved for inclusion are so small that speculation along the perimeter of the UGB will be held to a minimum.

IMPACT ON MAJOR PUBLIC FACILITIES: The second important difference between the individual and cumulative impact of small additions is that although 50 acres of land may never affect the adequacy or efficiency of major public facilities, a series of 50-acre additions well may. Obviously, if one hundred 50-acre additions were added in one sewerage treatment area, the 50,000 additional people accommodated would have a significant impact on that sewage treatment plant's capacity. Similarly, if, in consequence, 5,000 acres of land remained undeveloped within a second sewerage treatment area, that system's efficiency would be significantly affected as well. The rules for allowing additions to the UGB must also, therefore, provide for some mechanism to evaluate the cumulative effects of additions approved on the overall adequacy of the major public facilities that serve the urban area.

IMPACT ON THE LAND MARKET: Finally, the effect on the land market of the addition of a substantial amount of land through a series of small additions must also be considered. The discussion above assumed that the effect of adding a certain amount of land in Parcel A would be to leave a comparable amount of land in Parcel X undeveloped elsewhere within the UGB. This assumption holds true only so long as the amount added, whether individually or cumulatively, does not significantly affect the land market. The density of development within the UGB is affected by the cost of land: the more land costs, the greater the incentive to develop it at as high a density as possible. Very small fluctuations in land prices will fall below a threshold of significance in terms of the economics of density decisions. But once this threshold is crossed, a decrease in the price of land will lead to an increase in the amount of land consumed per unit. At this point, it is no longer true that the

addition of land on the periphery of the UGB leaves a comparable amount of land undeveloped in the interior. Instead, some or all of the land in "Parcel X" may be still be developed, but the density of development on that land, and on other properties that will be developed within the UGB, will be lower than if the addition had not been made. Rules for allowing small additions should, therefore, also protect against adding so much land, in total, that the density of new development regionwide would be adversely affected.

STANDARDS TO ADDRESS CUMULATIVE IMPACTS

Ordinance #81-105 addresses the cumulative impacts of additions to the UGB in two ways: (1) by making the standards for individual additions more stringent than would be necessary for any individual addition evaluated in isolation; and (2) by providing a "checkpoint" for a review of cumulative impacts if the amount of land added over time through individual additions exceeds the amount judged tolerable in light of the above considerations.

The additional limits placed on individual additions are: (1) that the addition may not be larger than 50 acres under any circumstances (Section 8(d)(3)), and (2) that the addition proposed must include "all similarly situated contiguous property" Section 8(d)(2)).

If any one proposed addition is evaluated in isolation, there is no reason why the size need be limited to 50 acres nor why the addition need include all land which might appropriately be included in that area. However much land is proposed for addition (and however much might be justified for addition at a later date), the increasing burden of proof ensures that the benefits to the UGB outweigh the costs of leaving land elsewhere undeveloped. These two additional standards together, however, preclude larger additions, whether in one large request or several smaller ones totalling more than the 50 acres, regardless of the benefits of that addition when considered in isolation. The purpose of these additional requirements is to limit both the amount of land in total that can be added through locational adjustment and the extent to which any particular property on the perimeter of the UGB might appear eligible for amendment and so attractive for speculation. This approach thus balances the benefits of individual additions against the costs of adding so much land in total that the efficiency and effectiveness of the UGB is impaired.

Since, however, it is impossible to know how many parcels of land along the perimeter of the UGB may still meet these fairly strict requirements, it was judged to be desirable to add a further safeguard in the event that the number proves larger than anticipated. Thus Section 16 of the ordinance requires that at any time when the average annual net addition is greater than 100 acres for three or more years, the rules will be reviewed to evaluate the impacts of these additions and decide whether and how the ordinance need be revised to ensure the continued approval of additions consistent with the standards does not threaten the broader regional interests

identified in the preceding section. One hundred acres a year is assumed to be a small enough amount to have an insignificant effect on the land market in any one year as well as an insignificant effect on the adequacy or efficiency of major public facilities over 20 years.

Metro finds, therefore, that the standards for adding land as locational adjustments are adequate to ensure that the benefits to the efficiency or effectiveness of the UGB will outweigh both the incremental and cumulative costs of such additions. Approval of additions which meet these standards is, therefore, consistent with a balanced consideration of the seven factors of Goal #14.

Alternative Approaches to Locational Adjustment

Because Goal #14 requires that the requirements for goal exceptions be met whenever the UGB is amended, it is necessary not only to show that an amendment is consistent with Goal #14, but to demonstrate compelling reasons why the amendment should be provided for. Metro finds that the accrual of a net benefit to the efficiency of a the UGB, as required by the standards, is itself a compelling reason for allowing such amendments in the absence of the need for more land, provided there are no suitable alternatives which would allow the benefits of the locational adjustments to be enjoyed without the costs of adding more land than has been found to be needed.

The justification for adding land through locational adjustments is based on the following assumptions:

1. Because the UGB has a 200-mile land perimeter, it was neither possible nor desirable at the time of adoption to ensure that the UGB was placed in the best possible location at every point. There are, therefore, adjustments to the location of the UGB which could be made to increase the efficiency or effectiveness of the UGB at particular points;
2. Because of intrinsic uncertainties in the estimates of land needed to accommodate long-term growth and of the amount of land currently available within the UGB to meet that need, it will never be possible to demonstrate an isolated need for 50 acres or less of additional urban land;
3. Adjustments which would add 50 acres of land or less can, therefore, only be made:
 - a. When a need is found for substantially more land than would be added in any one adjustment of 50 acres or less (e.g., for 1,000 acres or more);
 - or
 - b. In the absence of a demonstrated need for more land.

The UGB may continue to be adequate to meet identified needs for the next 20 years, it would be inappropriate to postpone locational adjustments until more land is found to be needed. In addition, the type of land which is most suitable for addition to meet any needs that may be identified in the future may differ from the type of land appropriate for addition as locational adjustments. Metro finds, therefore, that it is appropriate to make adjustments in the absence of a demonstrated need for more land.

This finding is independent of any previous decisions made at the time of initial UGB adoption since the only other theoretical alternatives for locational adjustment are as follows:

1. To "fine tune" the location of the UGB at every point at the time of initial adoption;
2. To adopt a UGB that contained less land than was estimated to be needed to accommodate growth in order to allow some "give" for fine tuning through the UGB amendment process;

or

3. To adopt and maintain without amendment a boundary that addressed the first two factors of Goal #14 by including as much land as was projected to be needed, but that did not address the next three factors in sufficient detail to ensure that the UGB was placed in the most efficient and effective location at every point.

The first alternative would not be practicable for a UGB with a 200-mile land perimeter. In general, legislative actions involving broad policy issues affecting countless individuals are appropriately handled in a different manner from quasi-judicial action involving discrete decisions affecting individual parties. The adoption of a UGB is intended to effect a broad statement of policy as to how much land should be available for urbanization over the next 20 years, and generally where that new growth should occur. If, in addition, it is also intended to represent a set of specific judgments as to whether each piece of property on each side of the line should be included or excluded, then hearings on each area affected, with notice to all affected property owners, would be essential not only from an equity standpoint (and possibly a legal one), but in order to ensure that all relevant facts had been identified and considered. If such hearings were held on every half-mile increment of the UGB, and if each hearing required 20 hours of staff time and \$500 for a hearings officer, it would take four person-years of staff time and cost \$200,000 for hearings officer time to make all needed adjustments to the UGB prior to its adoption. If the governing body met once a week for a year and did nothing but hear UGB adjustment cases for 3 out of every 4 meetings, and if it were able to hear and act on 10 cases a meeting, it would take a year for the governing body to make decisions on all adjustment cases.

Of course, in many of these cases, the proposed location of the UGB would be clearly the most sensible and might be uncontested by any of the affected parties. Nonetheless, if the opportunity for a hearing on that location were not to be allowed at any time in the future, it would still be necessary to hold the hearing at the time of adoption.

Such an approach would not only be inefficient administratively relative to considering adjustments on a by-request basis, it would be technically difficult, if not impossible, to balance need factors against locational factors when the amount of land within the urban area had not yet been fixed by adoption of a UGB.

The second alternative would be no more appropriate. If a UGB were adopted containing less urban land than was estimated to be needed in order to be able to justify appropriate locational adjustments in the future, this solution would have its own costs. Including less land than needed has negative consequences resulting from excessive market constraint and intrinsic uncertainties relative to efficient service planning. A UGB adopted on that basis would not satisfactorily address the need factors. Instead, it would entail a balancing of the negative impact of including less land than was projected to be needed against the positive impact of maintaining flexibility for adjustments to address locational factors. This approach would thus be no different conceptually from one which provided for a balancing of the negative impacts of including more land than was needed against the positive benefits of making adjustments to increase the UGB's efficiency or effectiveness.

Finally, the third alternative, of avoiding locational adjustments both before and after UGB adoption, is equally unsatisfactory. One of the main objectives of the need factors is to keep the UGB as compact as possible relative to urban development needs in order to encourage more efficient land use and service provision. To require compact development at the possible expense of efficient land use and service provision and particular locations would not be consistent with a balanced consideration of all seven factors of the goal. Indeed, in its acknowledgment of Metro's UGB, LCDC found that certain locational considerations were adequate to counterbalance what the State considered to be the inclusion of more land than was needed to accommodate projected growth (LCDC Compliance Acknowledgment Order of January 1980).

Metro finds, therefore, that there are no suitable alternatives for achieving the benefits of locational adjustment without incurring the costs of adding more land than is needed.

Alternative locations for individual additions

The four considerations for exceptions listed in Goal #2, which Goal #14 requires be addressed whenever a UGB is amended, include consideration of "other alternative locations suitable for the

purposed use." In addition, Goal #3 requires that if agricultural land will be affected, there be no other suitable locations for the proposed use available.

The discussion above addresses why Metro finds that there are generally no suitable alternatives to amending the UGB to add more land than was estimated to be needed at the time the UGB was adopted in cases where the addition confers a net benefit to UGB efficiency. This section addresses if, when and how alternative locations for a particular addition should be considered in order to meet the goal requirements relating to alternatives.

For any UGB amendment under consideration, there can only be two types of alternative locations for the urban use that would be allowed by that amendment: (a) a location already within the UGB; or (b) a location outside the UGB that could accommodate the use if the UGB were amended in that location rather than the one proposed. The purpose of locational adjustments is to solve site-specific problems with the location of the UGB rather than to supply additional land needed to accommodate needed urban uses. Thus, it is assumed that there is an alternative location within the UGB where the development that will be allowed by approval of the amendment would otherwise have occurred--the "Parcel X" in the above discussion. However, for the reasons discussed above, Metro finds that for an amendment which meets the standards for approval, the alternative of developing the unidentified and unidentifiable Parcel X instead of the area to be added is not a suitable alternative because the standards are designed to establish that the benefits of the addition are greater than the benefits of developing Parcel X instead.

Consideration of other possible alternative locations outside the existing UGB where urban use could be provided is unnecessary and inappropriate for two reasons. First, locational adjustments are designed to remedy site-specific problems with the location of the UGB. The only possible alternative UGB amendment which could remedy the identified problems would be one that affected the same area but included more land than had been included in the proposed addition. The standards rule out this possibility by requiring that the proposed addition include all similarly situated contiguous property--i.e., all land that is subject to the same conditions that the addition is intended to address.

Secondly, unlike the situation that occurs with actual goal exceptions, UGB amendments must always meet exception requirements, irrespective of the character of the area affected. In other words, it is not as though amending the UGB in a particular location entails a failure to apply an applicable goal which could be avoided if there were an alternative location for amendment which was consistent with all applicable goals. Thus, even if it were possible to identify an alternative location for the proposed addition, the goals would in no way be better served if the UGB was amended in the second location rather than the first. The application of exception requirements to UGB amendments is not intended to

protect certain locations over others but to ensure that the UGB is not amended at all unless there are compelling reasons to justify doing so. If these reasons justify amendment in the location proposed, the availability of an alternative location for amendment is irrelevant.

In general, then, the only factor that distinguishes any one possible location for UGB amendment from any other, is the presence of locational considerations that demonstrate that the amendment will confer a net benefit to the efficiency of the UGB in a particular location. The only basis for any further distinction is the presence of a natural resource protected by the goals. If agricultural land is included in a proposed addition, then both Goal #3 and Goal #14 require that the need to retain the land for agricultural land be considered before the UGB is amended. In the case of UGB amendments for the purpose of providing additional land to accommodate growth, it is clear what this consideration entails: before agricultural land is used to meet this need, it must be shown that there are no alternative locations where the need for additional land could be met without sacrifice of agricultural land. For locational adjustments, where the need for amendment arises from site-specific considerations inseparable from the proposed location of the addition, it is less clear how the need to retain agricultural land is best balanced against the need for the amendment.

Metro has defined what it believes to be the appropriate tests in Section 8(a)(4) of the ordinance. The standards provided therein are intended to ensure that agricultural land be converted for urban use only in the most extraordinary and compelling circumstances.

The goals do not provide for protection of forest lands comparable to that provided for agricultural lands. Neither Goal #4 nor Goal #14 requires that the need to retain forest lands be considered when a UGB is amended. The probable reason for this apparent inconsistency is that, unlike agricultural land, forest lands can and should be protected even inside a UGB. In other words, even if the UGB were amended to include forest lands, those lands would still be protected by Goal #4 in the manner provided for "urban forest uses." This protection may not be sufficient to ensure that forest lands needed for timber harvesting are protected for this purpose, but any consequences of taking such land out of timber production would be weighed in terms of the environmental and economic consequences, which the ordinance requires be considered (Section 8(a)(3)).

Metro finds, therefore, that the standards for approval of additions are adequate to address the exception requirements of Goal #2, without any further requirement that alternative locations be explicitly considered each time the UGB is amended consistent with those standards.

PART II: REMOVALS AND TRADES

Removals

In general, it is appropriate that there be a somewhat lower burden of proof for the removal of land from the UGB than there is for additions. The removal of land cannot directly threaten the retention of agricultural land. Furthermore, the amount of land removed, if subsequently found to be needed, can be fairly easily replaced through a subsequent addition in the same location or elsewhere. In contrast, it is more difficult to remove while the converse is not true for additions.

The standards for approval of removals (Section 8(b)) ensure that there will be a net benefit to the efficiency or effectiveness of the UGB in the particular location affected. Because no more than 50 acres may be removed in any one amendment, and because 50 acres constitutes no more than a tiny fraction of the "market surplus" land estimated in the UGB Findings to be needed to allow for market flexibility, no individual removal could have any negative consequences on the land market. Nor, for the same reasons discussed for additions, could any individual removal have any negative impacts on the efficiency of the major public facilities that would have served it.

In general, the number of additions are expected to outnumber removals to the extent that a net loss over a period of three or more years is extremely unlikely. If, however, there were a consistent net loss, there would be no negative consequences from that loss unless so much land were removed that the flexibility of the land market were impaired. Although the point at which this may occur, or should be addressed if it does occur has been a source of disagreement between Metro and LCDC, Metro finds that the net removal of 100 acres a year, or 2000 acres over 20 years, is not likely to have a significant effect on land market flexibility. Should the amount of land removed in net exceed this amount, Section 16 of the ordinance requires Metro to re-evaluate the relative cost and benefits of any further removals.

Trades

Trades are nothing more than the removal of land in one location and the net addition of no more than ten acres elsewhere. No individual trade can, therefore, have any significant impact on the total amount of land in the UGB.

Any cumulative increase or decrease in the size of the UGB resulting from trades is addressed in the same manner as any cumulative increase or decrease resulting from additions or removals respectively through the review requirements of Section 16. The standards in Section 8(c) address the locational factors that must be considered to ensure that the efficiency or effectiveness of the UGB is improved by the trade.

PART IV: PROCEDURAL GOAL REQUIREMENTS

Goal #1: Citizen Involvement

The public review process employed in developing the rules for locational adjustments is summarized in the agenda materials listed in Part V of these findings. These materials also include the explanations for each of the decisions made as the ordinance was developed, providing the "feedback mechanism" required by this goal.

The ordinance itself provides for on-going citizen involvement in the UGB amendment process through general notification and public hearings. The required recommendation from the affected jurisdiction allows for citizen participation on a local as well as regional scale.

Metro finds, therefore, that Ordinance 81-105 complies with Goal #1.

Goal #2: Land-Use Planning Coordination

Sections 5 and 6 of the ordinance establish a process for the coordination of a proposed adjustment with all affected local jurisdictions. Section 11 of the ordinance provides for notice to all local jurisdictions and affected agencies to ensure an opportunity for their concerns to be addressed at the Metro hearings.

Metro finds, therefore, that Ordinance 81-105 complies with the coordination requirements of Goal #2.

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2039B/215

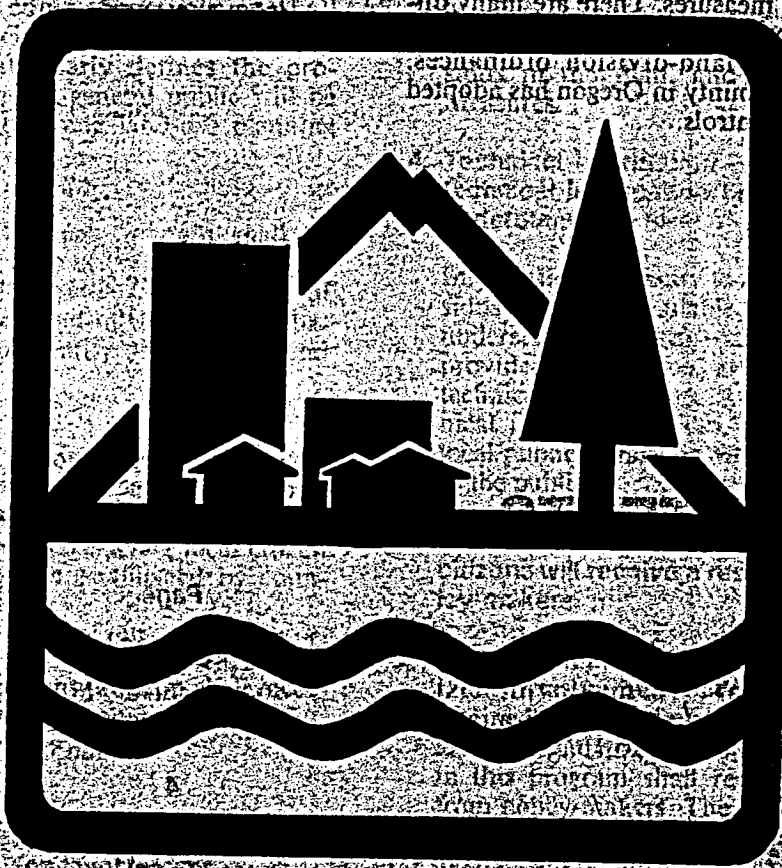
PART IV: LIST OF EXHIBITS

- A. Urban Growth Boundary Findings, Metro, November, 1979
- B. Compliance Acknowledgment Order for Metro's Urban Growth Boundary, LCDC, January, 1980
- C. Areawide Waste Treatment Management Study, Volume 1: Proposed Plan, CRAG, 1977
- D. May 14, 1980 Letter from Wes Kvarsten to Jim Owens, Coordinator, Polk County Department of County Development
- E. Findings, Conclusions and Recommendations of Hearings Officer on Clackamas County's Request for Urban Growth Boundary change West of Marylhurst, in the Southern Subarea, Metro, October, 1980 (See especially pp. 6-7, Conclusion 2(1))
- F. October 31, 1980 memo from Jim Sitzman to Regional Planning Committee regarding Adoption of Rules for Locational Adjustments to Urban Growth Boundary (UGB), with attachments:
 - 1. Schedule for Review and Adoption of Rules for Minor UGB Amendments
 - 2. Task Force on Rules for Locational Adjustments to the UGB
 - 3. Discussion Draft: Rules for Locational Adjustments to Metro's Urban Growth Boundary (UGB), November 3, 1980
- G. Agenda Management Summary from Executive Officer to Regional Planning Committee regarding Procedures for Locational Adjustments to Metro's UGB in December 8, 1980 agenda, with attachments:
 - 1. November 25, 1980 draft of ordinance Establishing Procedures for Locational Adjustments to Metro's Urban Growth Boundary
 - 2. Summary of Response and Recommendations on the Discussion Draft of Proposed Rules for Locational Adjustments to the Urban Growth Boundary, December 1, 1980
 - 3. Appendix A: Survey of Local Jurisdictions: Procedures for Hearing UGB Amendments
 - 4. Appendix B: Written testimony
- H. Minutes of Regional Planning Committee meeting December 9, 1980, public hearing on Rules for Locational Adjustments to the UGB
- I. Agenda Management Summary from Executive Officer to Metro Council regarding Procedures for Locational Adjustments to Metro's Urban Growth Boundary (UGB), for January 8, 1981 agenda, with attachments:
 - 1. Ordinance 81-105

2. Proposed Rules for Locational Adjustments to Metro's UGB, December 29, 1980 staff report
- J. Minutes from January 8, 1981 Council meeting, public hearing on Ordinance 81-105
- K. Agenda Management Summary from Executive Officer to Regional Planning Committee regarding Procedures for Locational Adjustments to Metro's UGB, for January 12, 1981 agenda
- L. Minutes of January 12, 1981 meeting of Regional Planning Committee work session on Ordinance 81-105
- M. Agenda Management Summary from Executive Officer to Regional Planning Committee regarding Procedures for Locational Adjustments to Metro's UGB, for February 12, 1981 agenda, with attachments:
 1. Ordinance 81-105, with additions and deletions recommended by staff
 2. Explanation of recommended amendments to Ordinance 81-105, January 26, 1981
- N. Minutes of February 12, 1981 meeting of Regional Planning Committee, discussion of Ordinance 81-105
- O. Minutes of February 26, 1981 meeting of Metro Council, second reading of Ordinance 81-105
- P. Meeting and correspondence file: Record of public contacts for development of Ordinance 81-105

OREGON'S STATEWIDE PLANNING GOALS

1990



Land Conservation and Development Commission

The following is the state's planning program from the outset. Every city and county has a special committee to monitor and coordinate local planning activities. In planning, the state body, the Citizen Involvement Advisory Committee (CIAC), is divided by region. Each region has participated in all phases of the planning process.

The state's planning program is designed to provide a framework for local planning. It is a comprehensive and coordinated management plan consisting of two main parts: a body of data and information called the state's planning program, and a set of guidelines and procedures for the state's planning process. The state's planning program is the foundation of the state's planning process. It provides a framework for local planning and a set of guidelines and procedures for the state's planning process.

Land Use Planning
 Citizen Involvement
 Forest Land Management
 Agricultural Land
 Wetlands
 Cultural Resources
 Historical Resources
 Archaeological Resources
 Paleontological Resources
 Geologic Resources
 Seismicity
 Air Quality
 Noise
 Visual Quality
 Cumulative Impacts
 Interagency Coordination
 Data Collection
 Reporting
 Evaluation
 Revision

MOSKOWITZ & THOMAS

ATTORNEYS AT LAW
2000 S.W. 1ST AVENUE
SUITE 400
PORTLAND, OREGON 97201
TELEPHONE (503) 227-1116

Christopher P. Thomas

FAX (503) 227-3015

Steven A. Moskowitz

September 24, 1991

To: Ethan Seltzer, METRO Land Use Coordinator
From: Christopher P. Thomas, Hearings Officer *CPT*
Subject: Contested Case No. 91-2

I have a few comments and questions, arising from my review of the record to date, for your consideration prior to the October 2, 1991 hearing:

1. In your August 26, 1991 Staff Report, Section 1, you refer to "in-holdings" in Forest Park. I assume this term refers to privately owned land within the Forest Park boundaries. Please let me know if this is not correct.

2. Please advise the applicants that I would like the City/HGW agreement to be part of the record -- they have included the enabling ordinance for the agreement, but not the agreement itself. If there is a further agreement providing for transfer of the "in-holdings" to the City, I would like to see that also. Finally, on this issue, I would like the applicants to discuss at the hearing whether transfer of the in-holdings to the City is an essential aspect of the proposed UGB amendment.

3. The application indicates that for the deletion land, the nearest sewer is at least 7,000 feet away, and for the proposed addition land at least 8,000 feet away. Please ask the petitioners to provide at the hearing slightly more concrete information.

4. The application refers to City development plans that will bring road and water improvements to the boundary of the proposed addition land. Please ask the applicants to be more definitive of those plans at the hearing. They also should address whether the plans include sewer and any other public facilities.

5. I am wondering whether the proposed addition land can be developed if it is left outside the UGB, and how. Also, if the

proposed deletion land is left inside the UGB, can it be developed, and how? Please ask the applicants to address this at the hearing.

6. The application refers to "DEQ storm water control regulations for the Tualatin basin." Please ask the applicants to provide at the hearing information on what the purpose of those regulations is, at least sufficient to demonstrate that storm water drainage issues will be handled through public or private facilities or through mandated development controls.

7. The application refers to "The City of Portland's Goal 8 requirements, including the City's Temporary Prohibition on the Disturbance of Forests." Please ask the applicants to provide the referenced document at the hearing.

8. Please ask the applicants to be prepared, at the hearing, to show me how the deletion land matches up with Natural Features Site Maps 106 and 107.

9. Multnomah County Resolution 91-108, submitted with the application, refers to the County proceedings in RPD-1. Please ask the applicants to be prepared, at the hearing, to explain the history and relevance of that proceeding.

It will be helpful and will expedite my part of the process if the added information I have requested of the applicants is submitted in writing at the hearing, as well as being addressed orally.

Thank you for your assistance.

Seltzcc.91

Oct 1, 1991

John B. Taylor - Trustee
5805 N.W. Skyline Blvd.
Portland, OR 97229TEL 503-
292-875

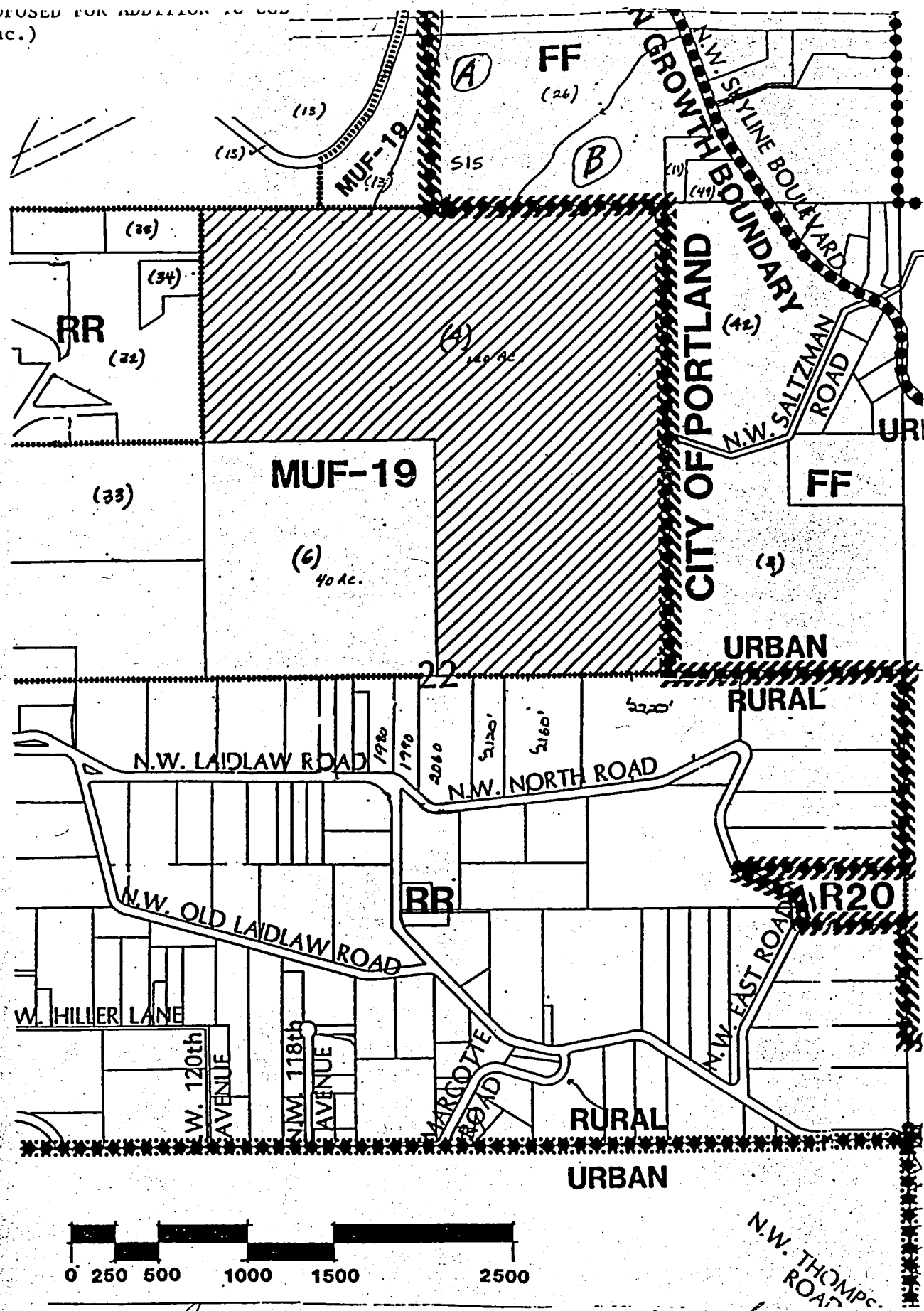
To: Chris Thomas, Attorney at Law
2000 NW First Ave, Suite 400,
Portland, OR 97201.

Written testimony regarding:
Locational Adjustment to the Metro
Urban Growth Boundary.
Hearing Oct. 2 1991, 6 p.m., Metro Council
Chambers -

I Request of locational adjustment by
petitioner H.B.W. Inc. and the City of Portland
Sheldon Taylor Trust U/A dated 4/25/89
John B Taylor Trust U/A " 4/25/89 over the
property abutting a portion of the
area proposed to be included in the
urban growth boundary. The Trustees
recommend approval of the request
of H.B.W. Inc and the City, as the east
boundary of the tract and one-half of the
north boundary is already in the UGB,
and it has access from Skyline by Salzman
Road. We believe growth here would be
desirable. See attached map for property
owned presently by the Trusts

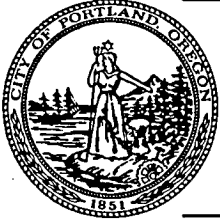
John B Taylor Trustee
Sheldon Taylor, Trustee

AREA PROPOSED FOR ADDITION TO GCD
(120.0 ac.)



(A) Owned by John B Taylor Trust and
Sheda Z Reed Taylor Trust

(B) Owned by John B Taylor Trust



CITY OF
PORTLAND, OREGON
OFFICE OF PUBLIC AFFAIRS

Mike Lindberg, Commissioner
1220 S.W. Fifth Ave.
Portland, OR 97204
(503) 823-4145

October 2, 1991

Christopher Thomas, Hearings Officer
METRO
2000 SW First Ave.
Portland, OR 97201

Subject: HGW Inc./City of Portland Petition For UGB
Locational Adjustment, Case No. 91-2

Dear Mr. Thomas:

I am writing in support of the joint petition for a UGB
Locational Adjustment.

As you know this is one element, but nevertheless a key
element, of a complex agreement which will ultimately assure
the protection of an invaluable piece of Forest Park.

The Portland City Council through its approval of a
preliminary agreement with HGW, Inc. has tried to create a
win/win situation for the citizens of the region where
everyone benefits and no one is penalized. I honestly believe
that this creative solution falls within sound and defensible
planning practice.

Because this petition is made with a very specific outcome in
mind it is our request that any approval be conditioned by the
ultimate completion of an agreement with HGW, Inc. In other
words if such an agreement is not forthcoming we would request
that any approval be retracted.

Thank you for your consideration.

Sincerely,


MIKE LINDBERG
Commissioner of Public Affairs

cc Ethan Seltzer

BALL, JANIK & NOVACK
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10TH FLOOR, 1101 PENNSYLVANIA AVE. N.W.
WASHINGTON, D. C. 20004
TELEPHONE (202) 638-3307
TELECOPY (202) 783-6947

RICHARD M. WHITMAN

October 2, 1991

BY HAND DELIVERY

Mr. Christopher P. Thomas
Moskowitz & Thomas
2000 S.W. First Avenue
Suite 400
Portland, Oregon 97201

Re: City of Portland/HGW Locational Adjustment --
Metro Contested Case No. 91-2

Dear Mr. Thomas:

This submittal is the written response you requested in your letter of September 24, 1991 regarding the above-referenced application. In addition, I am providing a written response to the issues raised in the Metro staff report. The City of Portland is providing additional materials in response to your letter and the staff report.

A. Responses to the Metro Staff Report.

1. Exhibit A to City of Portland Ordinance No. 164376.

A copy of this agreement is attached as Exhibit A.

2. Section 3.01.040(a)(4) of the Metro Code/Retention of Agricultural Lands.

As Metro staff have explained, in 1988 Metro adopted amendments to the locational adjustment process criterion for proposals involving agricultural lands. Although there are no findings accompanying this amendment, it is clear from prior legislative history that Metro requires findings for Section 3.01.040(aa)(4) only when a proposal involves the addition of "agricultural lands" to the Urban Growth Boundary (UGB). The change made in 1988 merely makes this standard applicable to proposals involving "agricultural lands" even where such lands are zoned for forest use. "Agricultural lands" is a term of art under Statewide Goal 3, and Metro's Code clearly makes this criterion applicable only to such lands.

Mr. Christopher Thomas
October 2, 1991
Page 2

Multnomah County has found that the proposed addition lands are not "agricultural lands." The County made the following findings regarding this issue:

"The capability of MUF District lands for farming is defined in MCC § 11.15.2172(C)(2)(a-c). That section states that lands are incapable of sustaining a farm use if there is '[a] Soil Conservation Service Agricultural Capability Class of IV or greater for at least 75% of the lot area."

"Of the 120-acre site, 103 acres (86 percent of the site) have slopes of greater than 15 percent are in an Agricultural Capability Class of IV or greater (see Exhibit 3). These areas also are designated by the Soil Conservation Service as having an erosion hazard. Thus, under the terms of the MCC, the land is incapable of sustaining an agricultural use."

Furthermore, Multnomah County (pursuant to Statewide Goal 3) has defined "Agricultural Land" as "[l]and of predominantly Class I, II, III and IV soils, as identified in the Soil Capability Classification System of the United States Soil Conservation Service." MCC §11.15.0010. The proposed addition land is predominantly in a Soil Capability Class of VI, and as a result is not "agricultural land."

Simply put, because this proposal does not involve the addition of "agricultural lands" to the UGB, Section 3.01(4) does not apply to this application. However, even if this section were to apply, the criteria are met. As described in more detail below, this proposal involves a three-way exchange. The development potential on the third leg of this exchange (the inholdings) will be lost if this proposal is not approved. For this reason, the Metro Code Sections 3.01(A)(ii) and (iii) are also met.

B. Responses to the Request of the Hearings Officer for Additional Information.

1. Are the "in-holdings" referred to in the Metro staff report privately-owned lands within the Forest Park boundaries?

Response: The "in-holdings" referred to in the staff report are indeed privately-owned lands within or adjacent to Forest Park. These in-holdings are the third leg of what is proposed as a three-way exchange (only two of which involve a change in the urban growth boundary). The inholdings consist of

Mr. Christopher Thomas
October 2, 1991
Page 3

two parcels of land, currently owned by the Ramsey family at the northern end of Forest Park. The first parcel is 73 acres, and is entirely surrounded by Forest Park. The second parcel is 46 acres, is bordered by Forest Park on three sides, and extends over 1/2 mile into the Park.

2. Is the transfer of the in-holdings to the City an essential aspect of the proposed UGB amendment?

Response: A copy of the City of Portland/HGW agreement, and a copy of the HGW/Ramsey agreement are attached to this submittal as Exhibits A and B, respectively. These agreements provide for a three-way exchange with the following elements:

- a. Three parcels (with an area of 139 acres) now in Forest Park and owned by the City of Portland will be removed from the Urban Growth Boundary (UGB). This will have three effects: (i) it will provide further protection for the natural resource values of this critical northern end of the Park by further restricting currently-allowed uses that may be incompatible with those values; and (ii) it will assure that regardless of who owns this property, that it remains in resource use; and (iii) it will discourage further extension of the UGB at the northern end of the Park, where there has been heavy logging and development pressure.
- b. The two in-holdings described above (all of the first and a substantial part of the second) will be donated to the City of Portland for inclusion in Forest Park. This leg of the exchange does not involve a change of the UGB, but will remove between 119 and 99 acres (or between 59 and 49 potential dwelling units) from the City's inventory of residential lands.
- c. One parcel (with an area of 120 acres and a development potential of up to 60 dwelling units) will be added to the UGB. The intent of this addition to the UGB is to achieve a net balance in the City's inventory of residential lands, by compensating for the acreage donated to Forest Park.

In sum, the transfer of the in-holdings to the City for inclusion in Forest Park is an essential aspect of the proposed locational adjustment, since it assures that there is no net change in the

Mr. Christopher Thomas
October 2, 1991
Page 4

City's residential lands inventory and no resulting change in service demands.

3. Provide more specific information regarding the availability (or lack thereof) of sewer service to the proposed deletion and addition lands.

Response: The nearest sewer line to the proposed deletion lands is 2,000 feet (in the Linton neighborhood). However, such an extension would require crossing open space lands within Forest Park.

The addition lands are not expected to be served by public sewer. The feasibility of individual septic systems on this parcel was examined in detail in the course of prior land use proceedings, and such systems were found to be feasible and appropriate. This information is contained in the attached Exhibit C.

In the event it becomes necessary to provide public sewer to the proposed addition lands, the nearest public sewer is 5,000 feet away from the parcel. This sewer line is operated by the Unified Sewerage Agency (Rock Creek), and an extension that would bring the line within 1,500 feet of the parcel is identified in the agency's master plan.

4. Provide more specific information regarding road and water improvements that would serve the addition lands.

Response: Skyline Boulevard, a public road under the jurisdiction of the City of Portland, is 1/4 mile east of the boundary of the addition lands. N.W. Saltzman Road, a dedicated and graded 50-foot right-of-way, provides access to the site from Skyline. In prior land use proceedings, the City and Multnomah County approved the use of Saltzman Road for access to the property, on the condition that the owner pay for the cost of improving this road to city standards. This information is contained in the attached Exhibit D.

The City of Portland Water Bureau maintains a 16-inch water main in Skyline Boulevard. Again, in prior land use proceedings involving this property the Water Bureau approved a 6-inch extension from the main in Skyline to serve the property. The distance from Skyline to the property is 1/4 mile. This information is contained in the attached Exhibit E.

5. Can the proposed addition land be developed if it is left outside the UGB, and can the proposed deletion land be developed if it is left inside the UGB?

Responses:

a. Addition Land.

The addition land is zoned for Multiple Use Forestry (19 acres) by Multnomah County. Under the Multnomah County Code (MCC), this property can be developed for residential use, with lot sizes as small as ten acres. MCC § 11.15.2120. An application to develop the property along these lines has been prepared by HGW, but has not yet been submitted to the County.

b. Deletion Land.

The deletion land is zoned as Open Space by the City of Portland. This zoning district allows agricultural use outright, and allows the following as conditional uses: (a) retail sales and services (only in association with a park or open area use); (b) commercial outdoor recreation; (c) utilities; (d) community services; (e) parks (including swimming pools, concession areas, parking areas, and sports fields); (f) cemeteries; (g) golf courses; (h) boat ramps; (i) schools; and (j) radio and television broadcast facilities. PCC § 33.100.100. In addition, as noted in the City's response, if the City were to sell this property it is likely that it would be zoned at a density of one dwelling per every two acres, for a total of 69 potential residential units.

6. Provide further information regarding the DEQ storm water regulations for the Tualatin Basin sufficient to demonstrate that storm water drainage issues will be handled through public or private facilities of mandated development controls.

Response: The proposed addition lands are within the Tualatin Basin. Under the DEQ regulations governing storm water quality control for this area (OAR 340-41-455(3)):

"no preliminary plat, site plan, permit or public works project shall be approved by any jurisdiction . . . unless the conditions of the plat, permit or plan approval includes an erosion control plan containing methods and/or interim facilities to be constructed or used concurrently with land development and to be operated during construction to control the discharge of sediment in stormwater runoff."

This regulation then provides a series of specific implementing requirements and standards, which are attached as Exhibit F.

The City of Portland has implemented this regulation in several ways. First, the Bureau of Buildings has adopted standards and requirements governing construction-related storm water impacts. In addition, the Bureau of Environmental Services, in its review of development permits, uniformly requires property owners within the Tualatin Basin to comply with the DEQ implementing regulations, and in cases where site conditions warrant it, imposes additional requirements. The Planning Bureau regularly requires that storm drainage tracts, along existing water courses, be dedicated as storm drainage reserves. An example of typical conditions related to erosion and storm water control is attached as Exhibit G.

7. Provide a copy of Goal 8 of the City of Portland's Comprehensive Plan and a copy of the city's ordinance regarding "Temporary Prohibition on the Disturbance of Forests."

Response: The requested documents are attached as Exhibits H and I, respectively. These land use regulations generally require that any development proposal involving a "forest" contain the following: (a) an inventory of larger trees on the site and of other natural resource features (wetlands and wildlife); (b) measure to protect these features to the extent practicable (while still meeting the City's minimum density requirements).

8. Explain how the proposed deletion lands match with Natural Features Site Maps Nos. 106 and 107.

Response: The northwest quarter and the southern quarter of Site Map No. 106 (the portions west of Miller Creek, including the creek, and the southern 1,000 feet) are included in the deletion lands. The northern two-third of Site Map No. 107 is also included in the deletion lands. Maps showing the approximate boundaries of the deletion lands in relation to these site maps is attached as Exhibit J.

9. Explain the history and relevance of the proceedings involving RPD 89-1.

Response: RPD 89-1 was a proposal by HGW to develop the addition lands as a twelve-lot rural planned development. This proposal was approved by the Multnomah County Planning Commission, but was then denied by the Board of Commissioners. In all, there were four public hearings on this proposal.

Mr. Christopher Thomas
October 2, 1991
Page 7

The proceedings for RPD 89-1 are relevant to this proposal for a locational adjustment in several respects. Most importantly, RPD 89-1 was denied largely on the basis of testimony by the City of Portland, Metro, and neighborhood organizations to the effect that it was more appropriate to develop this property at urban densities, and that the proposed large-lot RPD would preclude future urbanization. This testimony was the primary motivation that then led to the parties negotiating the proposed three-way exchange now before Metro.

In addition, the RPD proceedings are relevant in that Multnomah County made a series of findings in reviewing that proposal that are pertinent here. In particular, the County found that water, road and sewer services were adequate to serve the property, and that the property is not classified as agricultural. These findings go directly to many of the findings required for Metro to approve the proposed locational adjustment. The relevant portions of the record for RPD 89-1 are attached as Exhibit K.

Thank you for this opportunity to respond to your questions regarding this proposal. Additional information will be provided through testimony at this hearing. We feel that this information clearly demonstrates that a positive recommendation regarding this proposal should be given to the Metro Council.

Very truly yours,



Richard M. Whitman

PRELIMINARY AGREEMENT

DATE: June 30, 1991

BETWEEN: THE CITY OF PORTLAND (the "City")

AND: HGW, INC. ("HGW")

RECITALS:

1. HGW, or its successors or assigns (collectively "HGW"), owns certain real property located in Multnomah County, consisting of approximately 120 acres ("Parcel C"), as more particularly described in Exhibit A to this Preliminary Agreement. Parcel C is in an unincorporated area of Multnomah County, outside of the City's Urban Growth Boundary.

2. The City owns certain real property located in Multnomah County, consisting of approximately 140 acres (the "Forest Park Property"), as more particularly described in Exhibit B to this Preliminary Agreement. The Forest Park Property is located inside the City's Urban Growth Boundary. The City desires to remove the Forest Park Property from the City's Urban Growth Boundary, in order to further assure that no development incompatible with Forest Park occurs on or around the Forest Park Property.

3. Mr. Logan Ramsey owns certain real properties located in Multnomah County, including one property containing approximately 46 acres ("Parcel A") and another property containing approximately 73 acres ("Parcel B"), both of which are adjacent to Forest Park (collectively, the "Ramsey Properties").

4. HGW is willing to acquire and donate the Ramsey Properties to the City, if HGW can offset the cost of doing so by increasing the development potential of Parcel C and/or other properties owned, controlled or acquired by HGW. One means of increasing development potential is to include property within the City's Urban Growth Boundary.

AGREEMENTS:

The parties therefore agree as follows:

1. Joint Application to the Metropolitan Service District. HGW and the City agree to prepare and submit a joint application to the Metropolitan Service District ("Metro") for the removal of the Forest Park Property from the City's Urban Growth Boundary (the "UGB"), and for the addition of Parcel C to the UGB, pursuant to Section 3.01 of the Metro Code (the "Locational

Adjustment"). The exact area proposed to be added to be the UGB shall include all or a portion of Parcel C and/or other lands adjacent to Parcel C, but shall not exceed a total area of 120 acres, and shall be generally suited for urban development. The exact area proposed to be removed from the UGB shall include all or a portion of the Forest Park Property and/or other lands adjacent to the Forest Park Property, but shall not exceed 140 acres, nor be less than 120 acres, and shall be generally suitable for resource use. HGW shall be responsible for preparing the application to Metro, and shall pay that portion of the application fee corresponding to the area proposed to be added to the UGB. The City will sign the application as a co-applicant, shall assist HGW in preparing the application to the extent reasonably necessary, shall provide testimony in support of the application to the extent reasonably necessary, and shall pay that portion of the application fee corresponding to the area proposed to be removed from the UGB. HGW and the City agree that the applicants shall request that Metro approve the Locational Adjustment, subject to a condition that the amendments to the UGB shall take effect only upon HGW giving an assurance, reasonably satisfactory to the City, that Parcel A will be donated to the City.

2. Annexation of Parcel C to the City. Upon approval by Metro of the Locational Adjustment, HGW agrees to apply to the Portland Metropolitan Area Local Government Boundary Commission (the "PMALGBC") for annexation to the City of the property added to the UGB (the "Annexation"). The City agrees that, to the extent allowed by law, it will support the Annexation.

3. Donation of Parcel A to the City. Prior to the Locational Adjustment becoming final, HGW agrees to give an assurance, reasonably satisfactory to the City, that Parcel A will be donated to the City, by bargain and sale deed, for public park and conservation purposes, and for inclusion within the City's Forest Park. HGW's obligation to give said assurance to the City shall be contingent upon HGW reaching an agreement, reasonably satisfactory to HGW, with Mr. Logan Ramsey, regarding the donation and the consideration for said donation. The City agrees to accept the donation of Parcel A for public park and conservation purposes, and for inclusion within the City's Forest Park.

4. Purchase of Parcel B by HGW. HGW agrees to use its best efforts to acquire Parcel B prior to December 31, 1997. Any obligation of HGW to acquire Parcel B shall be contingent upon approval, by the City, of one or more Final PUD Plans and Subdivision Plats allowing for the transfer of thirty-six (36) units of residential density from Parcel B to other property or properties owned, controlled, or acquired by HGW (the "Receiving Properties"). The Receiving Properties shall be "Receiving sites," as defined in Section 33.575.030 of the City's Zoning Code, as adopted by the Portland City Council. The parties

understand that HGW may acquire title to portions of Parcel B over time.

5. Donation of Parcel B to the City. Within 30 days of acquiring title to all or a portion of Parcel B, HGW agrees to donate whatever interest it has acquired, by bargain and sale deed, to the City for public park and conservation purposes, and for inclusion within the City's Forest Park. The City agrees to accept the donation of all or a portion of the Parcel B for public park and conservation purposes, and for inclusion within the City's Forest Park.

6. Other Land Use Approvals. To the extent any land use approvals are required to accomplish the donation of all or a portion of the Properties to the City, the City agrees to cooperate with HGW in acquiring such approvals.

7. Definitive Agreement. This Preliminary Agreement is not intended to create any legally binding obligations except as set forth in paragraphs 1, 2 and 3. As soon as possible, but no later than one hundred and eighty (180) days after execution of this Preliminary Agreement, the City and HGW will negotiate and execute an agreement (which shall include as an Exhibit the form of deeds for Parcel A and Parcel B), which, in addition to the provisions in Paragraphs 2 through 6, above, will contain representations, warranties, covenants and conditions which are customary for a transaction of this size and nature (the "Final Agreement"). Both parties will use good faith efforts to negotiate and sign the Final Agreement. In the event the parties are unable to execute the Final Agreement, then this Preliminary Agreement shall terminate. To the extent further agreements are necessary to effect this transaction, the parties will negotiate such agreements in good faith.

8. Amendments. This Preliminary Agreement may be amended or modified only by a writing signed by the parties or their successors.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first shown above.

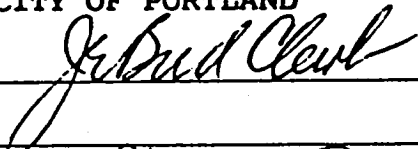
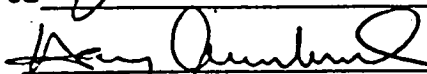
CITY:

THE CITY OF PORTLAND

By

Its

Approved as to Form:



Harry M. Auerbach, City Attorney (Deputy)

HGW:

HGW, INC., an Oregon corporation

By [Signature]
Its President

STATE OF OREGON)
) ss.
County of Multnomah)

The foregoing instrument was acknowledged before me on this 1st day of July, 1991 by J. E. Bud Clark, who is the Mayor of THE CITY OF PORTLAND, on behalf of the City.



[Signature]
Notary Public for Oregon,
My Commission Expires: 9-19-94

STATE OF OREGON)
) ss.
County of Multnomah)

The foregoing instrument was acknowledged before me on this 20th day of June, 1991 by Robert G. Williams, who is the President of HGW, INC., an Oregon corporation, on behalf of the corporation.

[Signature]
Notary Public for Oregon,
My Commission Expires: 4-5-92

EXHIBIT A

A parcel of land in the County of Multnomah and State of Oregon, more particularly described as follows:

The West one-half of the Northeast on-quarter and the Northeast one-quarter of the Northwest one-quarter of Section 22, Township 1 North, Range 1 West of the Willamette Meridian. Said property also being Tax Lot 4, 1N 1W Section 22, Multnomah County, and containing approximately 120 acres.

PROPOSED TO REMOVE FROM UGB

Tax Lot 2 1N 1W Section 4 (1916)	80 acres
Tax Lot 9 2N 1W Section 33 (1816)	40 of 76.55 acres
Block 14 Harborton (1816)	Est. 20 acres
TOTAL	140 acres

Jim Sjulín:sw
June 14, 1991

EXHIBIT B

RAMSEY AGREEMENT



Cascade Earth Sciences, Ltd.

L T D.

3425 Spicer Rd.
Albany, OR 97321
(503) 926-7737

P.O. Box 137
Corbett, OR 97019
(503) 695-5760

P.O. Box 1514
LaGrande, OR 97850
(503) 963-7758

EXHIBIT C

November 30, 1989

Mr. Robert Hartford, PE
Land Development Manager
FPE, Inc.
117 SW Taylor Street
Portland, OR 97204

RE: On-site Sewage Disposal Feasibility for Proposed Skyline Drive/Saltzman Subdivision

Dear Mr. Hartford:

At your request we met last week to conduct a preliminary evaluation of on-site sewage system feasibility at the 120-acre site proposed for development by your company. Soils in the area (Cascade series) occasionally preclude development due to shallow hardpan and drainage limitations. Oregon on-site rules (OAR 340-71) frequently dictate that an alternative system such as a capping fill or sand filter is required under these conditions. This affects the cost of development, particularly in the case of sand filters, which are frequently in the \$7000-\$9000 range.

My observation of site conditions is that even though soils are of the Cascade series, the landscape position (ridgetop) and slopes of less than 12% in many areas make prospects for development quite favorable. The areas we reviewed can definitely be permitted under Oregon rules. The only issue appears to be planning and laying out the development such that the number of sand filter systems and associated costs can be minimized. I estimate possible savings at \$5000-\$8000 per home if standard disposal fields or capping fill systems can be used.

I recommend that we get together again when you're at the point of doing a preliminary development plan. Based on the topographic map and your first choice of building sites, I can suggest locations for detailed evaluation of disposal field feasibility. Given the size and landscape features available, I expect reasonable flexibility to accomplish this.

Feel free to call me at 695-5760 if you have any questions at this point.

Very truly yours,

Steven A. Wilson, CPSS
Soil Scientist

SW/d



CITY OF

PORTLAND, OREGON

OFFICE OF TRANSPORTATION

EXHIBIT D
Earl Blumenauer, Commissioner
Transportation Engineering
1120 S.W. Fifth Avenue
Room 802
Portland, Oregon 97204-1971
(503) 796-7004

January 10, 1990

Lisa Hanf
David Evans & Associates
2828 SW Corbett Avenue
Portland, OR 97201

RECEIVED
JAN 11 1990

Re: Access to Skyline Meadows Subdivision

Dear Lisa:

This just confirms our phone conversation regarding access to the proposed Multnomah County subdivision. NW Saltzman Road, which lies within the City of Portland, may be used for access to the site. Because the right-of-way is currently unimproved, however, it will need to be improved to City standards. Attached is a copy of my memo to Mark Hess of Multnomah County regarding the improvement requirements.

Sincerely,

Glen R. Pierce
Engineering Associate III

cc: Mark Hess, Multnomah County



CITY OF

PORTLAND, OREGON

OFFICE OF TRANSPORTATION

Earl Blumenauer, Commissioner
Transportation Engineering
1120 S.W. Fifth Avenue
Room 802
Portland, Oregon 97204-1971
(503) 796-7004

January 4, 1990

MEMORANDUM

TO: Mark Hess, Multnomah County

FROM: Glen Pierce, Transportation Engineering *ERP*

SUBJECT: RPD 1-90/LD 1-90 Skyline Meadows

Access to this proposed subdivision in Multnomah County would be via NW Saltzman Road, which lies within the City of Portland. NW Saltzman is currently an unimproved right-of-way. Therefore, I request that you require the developer of this project to improve NW Saltzman to City standards as a condition of any approval granted.

As a minimum, the required improvements shall consist of curbs, 28 foot wide hard surface paving, sidewalk, drainage facilities and street lighting. The roadway width may need to be increased to 32 feet wide, depending on whether NW Saltzman is to continue through the site, and on on-street parking needs.

The street improvement must be designed and constructed in accordance with the standards and requirements of the City Engineer. Prior to the approval of the plat, or the issuance of any building permit, the developer should be required to provide this office with a 100% performance guarantee for the necessary street improvement.

Thanks for the opportunity to comment on this proposal.

APPLICATION FOR CERTIFICATION OF WATER SERVICE

CASE NUMBER

DEPT. OF ENVIRONMENTAL SERVICES
 DIVISION OF PLANNING AND DEVELOPMENT
 LAND DEVELOPMENT SECTION

2115 S.E. MORRISON ST.
 PORTLAND, OREGON 97214
 (503) 248-3043

ADDRESS OF SITE _____

LEGAL DESCRIPTION OF SITE Section 22, 1N, 1W T.L. 4

DESCRIPTION OF PROPOSED USE Rural Planned Development

IF RESIDENTIAL USE, DESCRIBE TOTAL NUMBER OF UNITS 12

SOURCE OF WATER: PUBLIC PRIVATE

—TO THE APPLICANT—

ANY LAND USE INVOLVING A NEW OR EXPANDED USE OR INVOLVING CREATION OF A NEW PARCEL REQUIRES ADEQUATE WATER SERVICE. THEREFORE, PLEASE COMPLETE THE APPLICABLE SECTIONS OF THIS FORM.

IF YOU PROPOSE TO USE A PUBLIC WATER SUPPLY, DELIVER THIS FORM TO THE APPROPRIATE WATER DISTRICT PRIOR TO MAKING ANY APPLICATION. AFTER THE WATER DISTRICT REVIEWS AND RETURNS THE FORM TO YOU, INCLUDE IT WITH YOUR APPLICATION.

APPLICANT David Evans & Associates, Inc.

ADDRESS 2828 SW Corbett PHONE 223-6663

CITY Portland ZIP 97201

—TO THE WATER DISTRICT—

THE PROPOSED USE CAN BE ADEQUATELY SERVED WITH WATER AT A PRESSURE OF 110 to 150 PSI. THE DISTRICT WILL PROVIDE SERVICE FROM A 16 INCH LINE LOCATED NW Skvline Blvd.. THE PROPOSED USE SHOULD BE REQUIRED TO MAKE THE FOLLOWING WATER SYSTEM IMPROVEMENTS AS A CONDITION OF APPROVAL:

DATE 10/26/89

Portland Water Bureau
 NAME OF WATER DISTRICT
Hill Hampton
 NAME OF OFFICIAL
Supervising Engineer
 OFFICE HELD BY OFFICIAL

RETURN THIS FORM TO THE APPLICANT

speedimemo.

99379 T

TO Lisa Hanf	DEPT. - LOCATION David Evans & Associates
FROM Hill Hampton, Supervising Engineer	DEPT. - LOCATION Portland Water Bureau
SUBJECT Proposed Waterline Construction - N.W. Saltzman Road	DATE 1/18/96

MESSAGE

The Portland Water Bureau will install water main and fire hydrants in N.W. Saltzman Road between N.W. Skyline Blvd. and the City boundary at the expense of a petitioner.

ORIGINATOR - DO NOT WRITE BELOW THIS LINE

SIGNED *Hill Hampton*

REPLY

DEPT. - LOCATION	SIGNED	DATE
		/ /

REDIFORM 45-470

SEND PARTS 1 AND 3 INTACT - PART 3 WILL BE RETURNED WITH REPLY

POLY PAK (50 SETS)

152

OREGON ADMINISTRATIVE RULES
CHAPTER 340, DIVISION 41 — DEPARTMENT OF ENVIRONMENTAL QUALITY

office of the Department of Environmental Quality.)

Stat. Auth.: ORS Ch. 468

Hist.: DEQ 128, f. & ef. 1-21-77; DEQ 1-1980, f. & ef. 1-9-80;
 DEQ 18-1987, f. & ef. 9-4-87

Minimum Design Criteria for Treatment and Control of Wastes

340-41-455 Subject to the implementation program set forth in rule 340-41-120, prior to discharge of any wastes from any new or modified facility to any waters of the Willamette River Basin, such wastes shall be treated and controlled in facilities designed in accordance with the following minimum criteria. (In designing treatment facilities, average conditions and a normal range of variability are generally used in establishing design criteria. A facility once completed and placed in operation should operate at or near the design limit most of the time, but may operate below the design criteria limit at times due to variables which are unpredictable or uncontrollable. This is particularly true for biological treatment facilities. The actual operating limits are intended to be established by permit pursuant to ORS 468.740 and recognize that the actual performance level may at times be less than the design criteria.):

(1) Sewage wastes:

(a) Willamette River and tributaries except Tualatin River Subbasin:

(A) During periods of low stream flows (approximately May 1 to October 31): Treatment resulting in monthly average effluent concentrations not to exceed 10 mg/l of BOD and 10 mg/l of SS or equivalent control.

(B) During the period of high stream flows (approximately November 1 to April 30): A minimum of secondary treatment or equivalent control and unless otherwise specifically authorized by the Department, operation of all waste treatment and control facilities at maximum practical efficiency and effectiveness so as to minimize waste discharges to public waters.

(b) Main stem Tualatin River from mouth to Gaston (river mile 0 to 65):

(A) During periods of low stream flows (approximately May 1 to October 31): Treatment resulting in monthly average effluent concentrations not to exceed 10 mg/l of BOD and 10 mg/l of SS or equivalent control.

(B) During the period of high stream flows (approximately November 1 to April 30): Treatment resulting in monthly average effluent concentrations not to exceed 20 mg/l of BOD and 20 mg/l of SS or equivalent control.

(c) Main stem Tualatin River above Gaston (river mile 65) and all tributaries to the Tualatin River: Treatment resulting in monthly average effluent concentrations not to exceed 5 mg/l of BOD and 5 mg/l of SS or equivalent control.

(d) Tualatin River Subbasin: The dissolved oxygen level in the discharged effluents shall not be less than 6 mg/l.

(e) Main stem Columbia River:

(A) During summer (May 1 to October 31): Treatment resulting in monthly average effluent

concentrations not to exceed 20 mg/l of BOD and 20 mg/l of SS or equivalent control.

(B) During winter (November 1 to April 30): A minimum of secondary treatment or equivalent control and unless otherwise specifically authorized by the Department, operation of all waste treatment and control facilities at maximum practicable efficiency and effectiveness so as to minimize waste discharges to public waters.

(f) Effluent BOD concentrations in mg/l, divided by the dilution factor (ratio of receiving stream flow to effluent flow) shall not exceed one (1) unless otherwise specifically approved by the Environmental Quality Commission.

(g) Sewage wastes shall be disinfected, after treatment, equivalent to thorough mixing with sufficient chlorine to provide a residual of at least 1 part per million after 60 minutes of contact time unless otherwise specifically authorized by permit.

(h) Positive protection shall be provided to prevent bypassing raw or inadequately treated sewage to public waters unless otherwise approved by the Department where elimination of inflow and infiltration would be necessary but not presently practicable.

(i) More stringent waste treatment and control requirements may be imposed where special conditions may require.

(2) Industrial wastes:

(a) After maximum practicable inplant control, a minimum of secondary treatment or equivalent control (reduction of suspended solids and organic material were present in significant quantities, effective disinfection where bacterial organisms of public health significance are present, and control of toxic or other deleterious substances).

(b) Specific industrial waste treatment requirements shall be determined on an individual basis in accordance with the provisions of this plan, applicable federal requirements, and the following:

(A) The uses which are or may likely be made of the receiving stream;

(B) The size and nature of flow of the receiving stream;

(C) The quantity and quality of wastes to be treated; and

(D) The presence or absence of other sources of pollution on the same watershed.

(c) Where industrial, commercial, or agricultural effluents contain significant quantities of potentially toxic elements, treatment requirements shall be determined utilizing appropriate bioassays.

(d) Industrial cooling waters containing significant heat loads shall be subjected to offstream cooling or heat recovery prior to discharge to public waters.

(e) Positive protection shall be provided to prevent bypassing of raw or inadequately treated industrial wastes to any public waters.

(f) Facilities shall be provided to prevent and contain spills of potentially toxic or hazardous materials and a positive program for containment and cleanup of such spills should they occur shall be developed and maintained.

(3) Non-point source pollution control in the Tualatin River sub-basin and lands draining to

OREGON ADMINISTRATIVE RULES
CHAPTER 340, DIVISION 41 — DEPARTMENT OF ENVIRONMENTAL QUALITY

Oswego Lake:

(a) Subsections (3)(b) of this section shall apply to any new land development within the Tualatin River and Oswego Lake subbasins, except those developments with application dates prior to January 1, 1990. The application date shall be the date on which a complete application for development approval is received by the local jurisdiction in accordance with the regulations of the local jurisdiction.

(b) For land development, no preliminary plat, site plan, permit or public works project shall be approved by any jurisdiction in these subbasins unless the conditions of the plat permit or plan approval includes an erosion control plan containing methods and/or interim facilities to be constructed or used concurrently with land development and to be operated during construction to control the discharge of sediment in the stormwater runoff. The erosion control plan shall utilize:

(A) Protection techniques to control soil erosion and sediment transport to less than one (1) ton per acre per year, as calculated using the Soil Conservation Service Universal Soil Loss Equation or other equivalent methods. See Figures 1 to 6 in Appendix 1 for examples. The erosion control plan shall include temporary sedimentation basins or other sediment control devices when, because of steep slopes or other site specific considerations, other on-site sediment control methods will not likely keep the sediment transport to less than one (1) ton per acre per year. The local jurisdictions may establish additional requirements for meeting an equivalent degree of control. Any sediment basins constructed shall be sized using 1.5 feet minimum sediment storage depth plus 2.0 feet storage depth above for a settlement zone. The storage capacity of the basin shall be sized to store all of the sediment that is likely to be transported and collected during construction while the erosion potential exists. When the erosion potential has been removed, the sediment basin, or other sediment control facilities, can be removed and the site restored as per the final site plan. All sediment basins shall be constructed with an emergency overflow to prevent erosion or failure of the containment dike, or

(B) A soil erosion control matrix derived from and consistent with the universal soil equation approved by the jurisdiction or the Department.

(c) The Director may modify Appendix 1 as necessary without approval from the Environmental Quality Commission. The Director may modify Appendix 1 to simplify it and to make it easier for people to apply.

(d) Subsection (3)(e) of this section shall apply to any new land development within the Tualatin River and Oswego Lake subbasins, except:

(A) Those developments with application dates prior to June 1, 1990. The application date shall be the date on which a complete application for development approval is received by the local jurisdiction in accordance with the regulations of the local jurisdiction.

(B) One (1) and two (2) family dwellings on existing lots of record.

(c) Sewer lines, water lines, utilities or other land development that will not directly increase nonpoint source pollution once construction has been completed and the site is either restored to or not altered from its approximate original condition.

(D) If the Environmental Quality Commission determines that a jurisdiction does not need to require stormwater quality control facilities for new development.

(E) When a jurisdiction adopts ordinances that provide for a stormwater quality program equivalent to subsection (e) of this section. Ordinances adopted to implement equivalent programs shall:

(i) Encourage on-site retention of stormwater, require phosphorus removal equivalent to the removal efficiency required by subsection (e) of this section, provide for adequate operation and maintenance of stormwater quality control facilities, and require financial assurance, or equivalent security that assures construction of the stormwater quality control facilities required by the ordinance.

(ii) If the ordinances provide for exemptions other than those allowed for by paragraphs (B) and (C) of this subsection, the ordinances shall provide for collection of in-lieu fees or other equivalent mechanisms that assure financing for and construction of associated, off-site stormwater quality control facilities. No exemption shall be allowed if the jurisdiction is not meeting an approved schedule for identifying location of the off-site stormwater quality control facility to serve the development requesting an exemption.

(e) For new development, no plat, site plan, building permit or public works project shall be approved by any jurisdiction in these subbasins unless the conditions of the plat, permit or plan approval require permanent stormwater quality control facilities to control phosphorus loadings associated with stormwater runoff from the development site. Jurisdictions shall encourage and provide preference to techniques and methods that prevent and minimize pollutants from entering the storm and surface water systems. Permanent stormwater quality control facilities for phosphorus shall meet the following requirements:

(A) The stormwater quality control facilities shall be designed to achieve a phosphorus removal efficiency as calculated from the following equation:

$$R_p = 100 - 24.5/R_v$$

Where:

R_p = Required phosphorus removal efficiency

R_v = Average site runoff coefficient

The average site runoff coefficient can be calculated from the following equation:

$$R_v = (0.7 \times A_1) + (0.3 \times A_2) + (0.7 \times A_3) + (0.05 \times A_4) + (A_5 \times 0.0)$$

Where:

OREGON ADMINISTRATIVE RULES
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A₁ = fraction of total area that is paved streets with curbs and that drain to storm sewers or open ditches.

A₂ = fraction of total area that is paved streets that drain to water quality swales located on site.

A₃ = fraction of total area that is building roof and paved parking that drains to storm sewers.

A₄ = fraction of total area that is grass, trees and marsh areas.

A₅ = fraction of total area for which runoff will be collected and retained on site with no direct discharge to surface waters.

(B) A jurisdiction may modify the equation for R_v to allow the application of additional runoff coefficients associated with land surfaces not identified in this subsection. The Department shall be notified in writing whenever an additional runoff coefficient is used. The use of additional runoff coefficients shall be based on scientific data. The jurisdiction shall discontinue use of an additional runoff coefficient if the Department objects to its use in writing within 10 days of receiving notification.

(C) The stormwater quality control facilities shall be designed to meet the removal efficiency specified in paragraph (A) of this subsection for a mean summertime storm event totaling 0.36 inches of precipitation with an average return period of 96 hours.

(D) The removal efficiency specified in paragraph (A) of this subsection specify only design requirements and are not intended to be used as a basis for performance evaluation or compliance determination of the stormwater quality control facility installed or constructed pursuant to this subsection.

(E) Stormwater quality control facilities required by this subsection shall be approved by a jurisdiction only if the following are met:

(i) For developments larger than one acre, the plat or site plan shall include plans and a certification prepared by an Oregon registered, professional engineer that the proposed stormwater control facilities have been designed in accordance with criteria expected to achieve removal efficiencies for total phosphorus required by paragraph (A) of this subsection.

(ii) The plat or site plan shall be consistent with the area and associated runoff coefficients used to determine the removal efficiency required in paragraph (A) of this subsection.

(iii) A financial assurance, or equivalent security acceptable to the jurisdiction, shall be provided by the developer with the jurisdiction that assures that the stormwater control facilities are constructed according to the plans established in the plat or site plan approval. Where practicable, the jurisdiction shall combine the financial assurance required by this rule with other financial assurance requirements imposed by the

jurisdiction.

(iv) Each jurisdiction which constructs or authorizes construction of permanent stormwater quality control facilities, shall file with the Department, an operation and maintenance plan for the stormwater quality control facilities within its jurisdiction. The operation and maintenance plan shall allow for public or private ownership, operation, and maintenance of individual permanent stormwater quality control facilities. The jurisdiction or private operator shall operate and maintain the permanent stormwater control facilities in accordance with the operation and maintenance plan.

(f) Except as required by paragraph (D) of this subsection, the jurisdiction may grant an exception to subsection (e) of this section if the jurisdiction chooses to adopt and, on a case-by-case basis, impose a one time in-lieu fee. The fee will be an option where, because of the size of the development, topography, or other factors, the jurisdiction determines that the construction of on-site permanent stormwater treatment systems is impracticable or undesirable.

(A) The in-lieu fee shall be based upon a reasonable estimate of the current, prorated cost for the jurisdiction to provide stormwater quality control facilities for the land development being assessed the fee. Estimated costs shall include costs associated with off-site land and rights-of-way acquisition, design, construction and construction inspection.

(B) The jurisdiction shall deposit any in-lieu fees collected pursuant to this paragraph in an account dedicated only to reimbursing the jurisdiction for expenses related to off-site land and rights-of-way acquisition, design, construction and construction inspection of stormwater quality control facilities.

(C) The ordinance establishing the in-lieu fee shall include provisions that reduce the fee in proportion to the ratio of the site's average runoff coefficient (R_v), as established according to the equation in subparagraph (A), to 0.70.

(D) No new development shall be granted an exemption if the jurisdiction is not meeting an approved time schedule for identifying the location for the off-site stormwater quality control facilities that would serve that development.

(g) The Department may approve other mechanisms that allow jurisdictions to grant exemptions to new development. The Department shall only approve those mechanisms that assure financing for off-site stormwater quality control facilities and that encourage or require on-site retention where feasible.

(h) Subsection (b) of this section shall apply until a jurisdiction adopts ordinances that provide for a program equivalent to subsection (b) of this section, or the Environmental Quality Commission determines such a program is not necessary when it approves the jurisdiction's program plan required by OAR 340-41-470(3)(g).

Stat. Auth.: ORS Ch. 468

Hist.: DEQ 128, f. & ef. 1-21-77; DEQ 16-1989, f. & cert. ef. 7-31-89 (and corrected 8-3-89); DEQ 30-1989, f. & cert. ef. 12-14-89

A reduction of street standards is appropriate in the instance of the internal private, discontinuous, streets. The specifics of this site create other than a normal situation; grading should be minimized. A reduction of the street standards for improvement to NW Cornell Road is appropriate for the same reasons, but even more importantly, grading and fill of the south edge of this site will be damaging to the identified natural features (drainage courses, forest, understory, habitat). The widening of the NW Cornell Road travel surface should be only to the minimum necessary to provide service (i.e., pedestrian, bicycle and automobile).

The land proposed for development, the northern two-thirds of the site, is not without certain impediments to development. Care must be taken to minimize grading and prevent erosion or pollution to on-site or down-stream drainage courses and property. Care must be taken that homes constructed here will be safe and usable for years to come. Controls on development are suggested by various bureaus and included in this report as conditions of approval.

One lot, the proposed Lot 5, does not meet the lot standards required by the R10 zone. It may be that a minor reconfiguration of the street alignment can eliminate this problem, if not, a variance from the regulations of 34.60.030 must be sought and approved, prior to final plat approval.

Ninety-five percent of the proposed lots meet the criteria for exemption from standard solar design lots, due to slope. Many of these lots will, regardless, be well suited for development compatible with the use of solar energy.

Tree preservation and tree loss mitigation, as proposed by this application, is sufficient to comply with Goal 8 of the Portland Comprehensive Plan and with Chapter 33.299, Temporary Prohibition on the Disturbance of Forests.

The proposal is not in conflict with the Northwest Hills Study, or the applicable goals and policies of the Portland Comprehensive Plan.

IV. TENTATIVE STAFF RECOMMENDATION (may be revised upon receipt of new information at any time prior to the Hearings Officer's decision)

- Approval of the proposed zone change in compliance with the comprehensive plan, from RF to R10; and
- Approval of the proposed 59-lot subdivision.

Both approvals are subject to the following conditions:

- A. A new public street, generally as shown on the Tentative Plan (Exhibit 5b), will be constructed through the north portion of the site linking NW Skyline Boulevard with Forest Heights Phase VI. Near its intersection

- NW Skyline, the new street right-of-way will be contiguous with the property immediately north of the site in order to provide future access for that property. At the intersection with NW Skyline, the new road will have an angle of approach of not less than 80 degrees, unless otherwise approved by the City Engineer. The public street will be 28 feet wide within a 40-foot-wide right-of-way, unless otherwise approved by the City Engineer, and will be improved to city standards with curbs, paving, drainage, 5-foot-wide sidewalk on at least one side, and street lighting.
- B. One-foot-wide reserve strips will be required wherever the public street abuts adjacent undeveloped property.
 - C. The private road system will be separated from the new public road by a standard concrete driveway approach. Private roads must be designed and constructed to the requirements of the Bureaus of Buildings and Fire.
 - D. Private road access to NW Skyline Boulevard for Lots 21, 23 and 25 is acceptable, provided the road connections to NW Skyline Boulevard are perpendicular, unless otherwise approved by the City Engineer.
 - E. The NW Cornell Road frontage will be improved to city standards between NW Skyline Boulevard and the improved road section near the NW Miller Road intersection. Unless otherwise approved by the City Engineer, the improvements will consist of curb, drainage facilities, sidestrip paving, 5-foot sidewalk, retaining structures as necessary, and street lighting as necessary. The curb will generally be located at 14 feet from the existing NW Cornell Road centerline, with an appropriate transition to the wider roadway section at NW Miller Road, to provide one travel lane accommodating on-street bicycle usage.
 - F. A public pedestrian easement will be provided as shown on the Tentative Plan (Exhibit 5b) connecting to the commercial property at the NW Cornell Road/Skyline Boulevard intersection.
 - G. Street and storm sewer waivers of remonstrance will be executed to provide for possible future participation in improvements to NW Skyline Boulevard.
 - H. The installed water delivery system will be capable of providing 1,000 GPM for one-story dwellings and 1,250 GPM for two-story dwellings at 20 PSI residual. The fire hydrant supplying the required fire flow must be located within 500 feet of the last approved point of access, provided that point is not further than 150 feet from the furthest point of the structure, measured at ground level.
 - I. This site will be served by a regulated connection to the existing 12-inch water main in NW Skyline Boulevard.

- J. A public water main may be installed only in the proposed public right-of-way. Proposed Lots 1 through 13 and 59 may be served by the proposed public water main along their frontage with the public right-of-way. Proposed Lots 21, 23 and 25 may be served by the existing water main in NW Skyline Boulevard, at their frontage with that right-of-way. Proposed lots with frontage only along a proposed private street may be provided water service by a master meter located along the frontage of the private street entrance and the proposed public right-of-way. All parties receiving their water through the master meter must form an organization in which one party is responsible for paying the water bill for the entire organization.
- K. Water for fire fighting may be provided by hydrants in the proposed public right-of-way, with a private fire service off the public water main for the private streets.
- L. Private pressure regulators will be required on some individual dwelling services.
- M. Each lot will be connected to a public sanitary sewer, as approved by the Bureau of Environmental Services.

Public sewer easements, on private property, will be dedicated separately through the City Right-of-Way Agent or on the plat, as approved by the Bureau of Environmental Services. Minimum public sewer easement width is 15 feet, additional width may be required. Private sewer easements will be provided where necessary to ensure legal access for connections to sanitary and storm sewers with approval of the Plumbing Division, Bureau of Buildings. All necessary private easements will be shown on the final plat.

Public sanitary sewer easements for public sewer access to the public sewer on this site, will be required (location to be determined).

- N. Each lot will have direct access to public storm sewer, a private storm sewer, or a watercourse, as approved by the Bureau of Environmental Services.

Natural water courses on this site will be protected by drainage reserve. Each drainage reserve will be at least 30 feet wide, 15 feet on each side of the centerline of the water course, as approved by the Bureau of Environmental Services. All drainage reserve easements will be shown on the final plat, and will be accompanied on the plat by the following statement:

"This storm drainage reserve will remain in natural topographic condition. No private structures, culverts, excavations or fills will be constructed within the drainage reserve unless authorized by the City Engineer."

Public street improvements (i.e., NW Cornell Road and Skyline Boulevard) will require public storm sewers. Public storm sewer easements from the public streets to the approved water courses on site will be required. Private street improvements will require a private storm sewer and storm sewer waivers.

- O. Drainage calculations, upstream and downstream of the site, are required. Review and approval will be required prior to approval of a grading plan.
- P. An erosion control plan, as approved by the Bureau of Environmental Services, in accord with OAR 340-41-455, is required prior to issuance of a grading plan or final plat approval.
- Q. An operation and maintenance plan for privately maintained stormwater quality control facilities will be approved by the Bureau of Environmental Services, prior to issuance of a grading plan or final plat approval.
- R. A final geotechnical report will include recommendations for all grading work, including that for the private streets. This report must be submitted prior to issuance of a grading permit.
- S. A building permit from the Bureau of Buildings is required for all clearing, grading and private street construction.
- T. Building permit plans are to include complete grading and street construction plans as well as measures for providing erosion control as required by the City of Portland "Erosion Control Plans Technical Guidance Handbook".
- U. The private street(s) will be designed in accordance with City of Portland "Standard Construction Specifications" or to a comparable design life as approved by the Bureau of Buildings.
- V. All plans will be prepared by a civil engineer registered in Oregon. The civil engineer will perform special inspections to monitor all grading, erosion control and street construction. A testing agency may be used upon approval of the Bureau of Buildings. Upon completion of the work, the design engineer is to provide the Bureau of Buildings with a summary report of compliance.

- W. Building permits will be required for all retaining walls over 4 feet high. Submittal plans are to be prepared by a structural engineer registered in Oregon. The building permit submittals will include certified plans and calculations.
- X. The area noted as "Common Space" on Exhibit 5a, attached, shall remain in common undivided ownership.
- Y. Proposed Lot 5 must be reconfigured to accommodate a 100-foot lot depth or a variance must be applied for and approved, prior to final approval of this plat.
- Z. Development of all lots within the "s" overlay zone map designation will require compliance with the regulations of Section 33.480.040, of the Scenic Resource Overlay Zone. Development of a common access road to Lots 21, 23 and 25, will preserve, to the extent possible, the 20-foot scenic buffer along NW Skyline Boulevard. Plans for development of this common access must be approved by the Bureau of Planning prior to issuance of a grading permit.
- AA. The final plat shall include the statement: **"This plat is subject to the conditions imposed by the City of Portland in Planning Bureau File No. LUR 91-00373-ZC-SU."**
- BB. A maintenance and ownership agreement, for the proposed private streets, including any common access serving Lots 21, 23 and 25, will be executed prior to final plat approval. A maintenance and ownership agreement, for the proposed Tract A, common open area, will be executed prior to final plat approval. These maintenance and ownership agreements will be approved by the City Attorney. The maintenance agreement for the open area will incorporate Recommendations No. 3, 5 and 9, and the second sentence in Recommendation No. 8, of the Natural Resource Assessment of the Parcel D' Site, Exhibit 8b, attached to this report.
- CC. The property owner is to contact the Real Estate Division of the Water Bureau to determine if a "Statement of Conditions" regarding water rights is applicable. If one is required, the bureau will make it available and the property owner will sign and record it, and reference it on the final recorded plat or map at the time of recording.
- DD. Permittee(s) must comply with the provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the city.
- EE. A building permit or an occupancy permit must be obtained from the Bureau of Buildings at the Permit Application Center on the first floor

of the Portland Building, 1120 SW Fifth Avenue, Portland, Oregon
97204, 796-7310, before carrying out this project, in order to assure that
all conditions imposed here and all requirements of the pertinent
building codes are met.

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NOTE: This report is a recommendation to the Hearings Officer by the Bureau of Planning. The Hearings Officer may adopt, modify or reverse this recommendation, and, within 17 days of the close of the hearing, will mail a copy of the written decision to the City Auditor, the applicant and the owner (if different) and to any person or recognized organizations who responded in writing to the notice, testified at the hearing, or requested notice of the decision. Decisions of the Hearings Officer may be appealed to City Council by the applicant, the owner, and those who have testified in writing or orally at the hearing, provided that the testimony was directed to a specific approval criterion. Appeals must be filed with the Bureau of Planning at the Permit Center (First Floor, Portland Building) on the forms provided by the bureau. Any appeal must be filed by 4:30 p.m. on the last day to appeal shown on the first and last pages of the Hearings Officer's report. An appeal fee of \$1,145.00 will be charged (one-half of the application fee for this case).

S. Gerber:ht
July 17, 1991

(117 Staff Report Disk 1)

8 ENVIRONMENT

GOAL:¹⁹

- 8 **Maintain and improve the quality of Portland's air, water and land resources and protect neighborhoods and business centers from detrimental noise pollution.**

POLICIES -- AIR QUALITY:

- 8.1 **Interagency Cooperation - Air Quality**
Continue to cooperate with public agencies concerned with the improvement of air quality, and implement state and regional plans and programs to attain overall state and federal air quality standards. Cooperate and work with Metro and the State Department of Environmental Quality in efforts to reach attainment of federal ambient air quality standards for ozone by 1987 and carbon monoxide by 1982.
- 8.2 **Downtown Air Quality**
The revised Downtown Parking and Circulation Plan will guide future city efforts on attaining air quality standards in the central business district and allow for expanded employment and housing opportunities downtown.
- 8.3 **Air Quality Maintenance Strategies**
Develop strategies that will allow for economic growth and air quality improvements in air quality problem areas identified outside of downtown.
- 8.4 **Ride Sharing**
Promote use of ride sharing and public transit throughout the metropolitan area.

POLICIES & OBJECTIVES -- WATER QUALITY:

- 8.5 **Interagency Cooperation - Water Quality**
Continue cooperation with federal, state and regional agencies involved with the management and quality of Portland's water resources.
- 8.6 **Wastewater Systems**
Operate, plan and regulate wastewater systems as designated in Metro's "Waste Treatment Management Component."

¹⁹ Amended by Ordinance No. 153326, June 1982

8.7 Land Use and Capital Improvements Coordination
Maintain coordination of land use planning and capital improvement to insure the most efficient use of the city's sanitary and stormwater run-off facilities.

8.8 Groundwater Protection ²⁰
Conserve domestic groundwater and surface water resources from potential pollution through a variety of regulatory measures relating to land use, transportation, and hazardous substances.

Objectives:

- A. Hazardous substances**
Control the storage, manufacture, use, transportation, and disposal of hazardous substances, especially in groundwater sensitive areas used for water supplies.
- B. Groundwater sensitive areas**
Conserve groundwater sensitive areas, such as aquifer recharge areas and areas of influence.

POLICIES & OBJECTIVES-- LAND RESOURCES:

8.9 Open Space
Protect Portland Parks, cemeteries and golf courses through an Open Space designation on the Comprehensive Plan Map.

8.10 Drainageways ²¹
Regulate development within identified drainageways

Objectives:

- A. Stormwater runoff**
Conserve and enhance drainageways for the purpose of containing and regulating stormwater runoff.
- B. Wildlife**
Conserve and enhance the use of drainageways where appropriate as wildlife corridors which allow the passage of wildlife between natural areas and throughout the city, as well as providing wildlife habitat characteristics including food, water, cover, breeding, nesting, resting, or wintering areas.

8.11 Willamette River Greenway
Protect and preserve the natural and economic qualities of lands along the Willamette River through implementation of the city's Willamette River Greenway Plan.

²⁰ Added by Ordinance No. 160890, June 1988

²¹ Amended by Ordinance No. 160890, June 1988

8.12 National Flood Insurance Program

Retain qualification in the National Flood Insurance Program through implementation of a full range of floodplain management measures.

8.13 Natural Hazards

Control the density of development in areas of natural hazards consistent with the provisions of the City's Building Code, Chapter 70, the Floodplain Ordinance and the Subdivision Ordinance.

8.14 Natural Resources ²²

Conserve significant natural and scenic resource sites and values through a combination of programs which involve zoning and other land use controls, purchase, preservation, intergovernmental coordination, conservation, and mitigation. Balance the conservation of significant natural resources with the need for other urban uses and activities through evaluation of economic, social, environmental, and energy consequences of such actions.

Objectives

- A. Acquisition Program for Significant Resources**
Prepare and maintain a long-range list of properties in order of priority desirable for public acquisition in order to insure long term natural resource conservation.
- B. Intergovernmental Coordination**
Notify and coordinate programs with affected local, state, and federal regulatory agencies of development proposals within natural resource areas.
- C. Impact Avoidance**
Where practical, avoid adverse impacts to significant natural resources.
- D. Mitigation**
Where adverse impacts cannot be practicably avoided, require mitigation or other means of preservation of important natural resource values. The following order of locational and resource preference applies to mitigation:
 - 1. On the site of the resource subject to impact, with the same kind of resource;
 - 2. Off-site, with the same kind of resource;
 - 3. On-site, with a different kind of resource;
 - 4. Off-site, with a different kind of resource.
- E. Soil Erosion Control**
Protect natural resources where appropriate from sediment and other forms of pollution through the use of vegetation, erosion control measures during construction, settling ponds, and other structural and non-structural means.

²² Policy 8.13 Sensitive Natural Areas deleted and Policies 8.14 through 8.18 added by Ordinance No. 160890, June 1988

8.15 Wetlands/Riparian/Water Bodies Protection

Conserve significant wetlands, riparian areas, and water bodies which have significant functions and values related to flood protection, sediment and erosion control, water quality, groundwater recharge and discharge, education, vegetation, and fish and wildlife habitat. Regulate development within significant water bodies, riparian areas, and wetlands to retain their important functions and values.

Objectives

- A. Wetland/water body Buffer**
Conserve significant riparian, wetland, and water body natural resources through the designation and protection of transition areas between the resource and other urban development and activities. Restrict non-water dependent or non-water related development within the riparian area.
- B. Water Quality**
Maintain and improve the water quality of significant wetlands and water bodies through design of stormwater drainage facilities.
- C. Stormwater and Flood Control**
Conserve stormwater conveyance and flood control functions and values of significant riparian areas within identified floodplains, water bodies, and wetlands.

8.16 Uplands Protection

Conserve significant upland areas and values related to wildlife, aesthetics and visual appearance, views and sites, slope protection, and groundwater recharge. Encourage increased vegetation, additional wildlife habitat areas, and expansion and enhancement of undeveloped spaces in a manner beneficial to the city and compatible with the character of surrounding urban development.

Objectives

- A. Wetland/water body Buffer**
Provide protection to significant wetland and water body natural resources through designation of significant upland areas as a buffer between the resource and other urban development and activities.
- B. Slope Protection and Drainage**
Protect slopes from erosion and landslides through the retention and use of vegetation, building code regulations, erosion control measures during construction, and other means.
- C. Wildlife Corridors**
Conserve and enhance drainageways and linear parkways which have value as wildlife corridors connecting parks, open spaces, and other large wildlife habitat areas, and to increase the variety and quantity of desirable wildlife throughout urban areas.

8.17 Wildlife

Conserve significant areas and encourage the creation of new areas which increase the variety and quantity of fish and wildlife throughout the urban area in a manner compatible with other urban development and activities.

Objectives

- A. **Natural resource areas**
Regulate activities in natural resource areas which are deemed to be detrimental to the provision of food, water, and cover for fish and wildlife.
- B. **City-wide**
Encourage the creation or enhancement of fish and wildlife habitat throughout the city.
- C. **City Parks**
Protect existing habitat and, where appropriate, incorporate new fish and wildlife habitat elements into park plans and landscaping.

8.18 Natural Resources Management Plans ²³

The development of natural resource management plans for large parcels or areas is encouraged. Overlapping plan and permit requirements for natural resource management plans and developments therein will be minimized. Plans approved through the regulations of the Environmental zones are deemed to be in compliance with Policies 8.9 through 8.17.

POLICIES & OBJECTIVES – NOISE:

8.19 Noise Abatement Construction Requirements

Reduce and prevent excessive noise and vibration in attached residential dwelling through construction requirements.

8.20 Noise Abatement Strategies

Reduce and prevent excessive noise levels from one use which may impact another use through on-going noise monitoring and enforcement procedures.

8.21 Portland International Airport Noise Impact Area ²⁴

Ensure compatible land use designations and development within the noise impacted area of the Portland International Airport while providing public notice of the level of aircraft noise and mitigating the potential impact of that noise within the area.

²³ Amended by Ordinance No. 163608, November 1990

²⁴ Added by Ordinance No. 158055, December 1985

Objectives:

- A.** Promote land use compatibility within the noise impact area by prohibiting new residential development in areas within the 1977 Ldn 68 or higher noise contour and by limiting the maximum residential zoning and Comprehensive Plan Map designations to R10 in R-designated areas and R1 in C-zoned areas located between the 1983 Ldn 65 and the 1977 Ldn 68 noise contours.
- B.** Minimize the potential impact of aircraft noise on those living and working within the noise impact area by requiring sound insulation to achieve a day/night average interior noise level of 45 dBA for most structures.
- C.** Provide documentation of the level of aircraft noise to developers of residential property within the noise impact area and require their acknowledgment and acceptance of that level of aircraft noise through the completion of a noise disclosure statement and the dedication of a noise easement to the Port of Portland prior to construction.

POLICIES -- AGGREGATE RESOURCES ²⁵

- 8.22 Aggregate Resources**
Protect aggregate resources sites for current and future use, where there are no major conflicts with urban needs, or these conflicts may be resolved.
- 8.23 Aggregate Mining Impacts**
Ensure that the development of aggregate resources limits adverse environmental impacts and impacts on adjacent land uses as practically as possible.
- 8.24 Reclamation of Aggregate Sites**
Ensure the reclamation of mining sites in a manner compatible with the surrounding land uses, natural conditions and public safety.

POLICIES - RF EMISSIONS: ²⁶

- 8.25 Visual Impacts**
Reduce the visual impact of radio and television broadcast facilities in close proximity to residential areas.
- 8.26 Health and Safety**
Protect the health and safety of the citizens from the adverse impacts of radio and television broadcast emissions.

25 Added by Ordinance No. 153326, June 1982

26 Added by Ordinance No. 160049, August 1987

EXHIBIT A

CHAPTER 33.299
TEMPORARY PROHIBITION ON THE DISTURBANCE OF FORESTS

Sections:

- 33.299.010 Purpose
- 33.299.020 Definition
- 33.299.030 Prohibition
- 33.299.040 Exceptions to Prohibition
- 33.299.050 Enforcement of Prohibition
- 33.299.060 Expiration of Prohibition

33.299.010 Purpose

The purpose of this Chapter is to prohibit the disturbance of forests pending the establishment of permanent regulations.

33.299.020 Definition

For the purpose of this Chapter the term "forest" means any grove or stand of 100 or more trees, *more than five feet high*, predominated by tree species native to the Pacific Northwest, in which the average size of the 25 largest native trees is greater than nine inches in diameter at five feet above the ground, and in which the tree cover extends over an area larger than two acres ~~within any single lot or within contiguous lots in common ownership.~~

33.299.030 Prohibition. The following activities are prohibited in forests within the areas designated as the Tualatin River Basin, N.W. Hills Natural Areas, S.W. Hills Natural Areas, Johnson Creek, ~~Baleh Creek Watershed~~, and East Buttes and Uplands as shown in the map at the end of this Chapter:

- A. Herbicide application;
- B. Burning of vegetation; and
- C. Cutting, damaging, or removing vegetation.

33.299.040 Exceptions to the Prohibition

Notwithstanding the general prohibition of Section 33.299.030 above, the following activities are allowed:

- A. Any activity ~~on a lot~~ *within an ownership which was two acres or smaller in area on January 1, 1991;*
- B. Cutting, damaging, or removing of nonnative landscape vegetation;

EXHIBIT A

- C. Cutting, damaging, or removing of Himalayan blackberry (*Rubris discolor*), evergreen blackberry (*Rubris laciniatus*), tansy ragwort (*Senecio jacobaea*), western clematis (*Clematis lingusticiflora*), Traveler's joy (*Clematis vitalba*), and English ivy (*Hedera helix*);
- D. Cutting or removing of any tree by the City Forester for reasons of safety;
- E. Any activity necessary to protect or maintain an existing improvement;
- F. Any activity authorized by a land use decision accepted and recorded before the effective date of this ordinance;
- G. Any activity authorized by a public works permit issued before the effective date of this ordinance;
- H. Any activity authorized by a tree planting, pruning, or removal permit issued before the effective date of this ordinance;
- I. Any activity authorized by a tree preservation condition of an approved plat accepted and recorded before the effective date of this ordinance; and
- J. Any activity, use of land, or division of land authorized by the City Council, the City Land Use Hearings Officer, the City Engineer, or *through a type II procedure* by the City Planning Director on or after the ~~effective date of this ordinance~~ *January 1, 1991*, in which the authorization contains tree preservation conditions necessary to comply with Goal 8 of the Portland Comprehensive Plan.

33.299.050 Enforcement of the Prohibition

In the event the Director of the Bureau of Planning learns or has information that leads the Director to believe a violation of this ~~section~~ *chapter* has or is likely to occur, the Director may inform the Commissioner in Charge who may thereafter authorize the filing of such civil actions by the City Attorney as the Commissioner and City Attorney deem appropriate.

33.299.060 Expiration of Prohibition

This Chapter shall cease to have force and effect on ~~July 1, 1991~~ *November 18, 1991*.

EXHIBIT B

The following are provisions of the Environment Goal which serve as the approval criteria. The complete language may be found in Goal 8 of the Comprehensive Plan.

1. **Groundwater Sensitive Areas.** Conserve groundwater sensitive areas, such as aquifer recharge areas and areas of influence.
2. **Impact Avoidance.** Where practical, avoid adverse impacts to significant natural resources.
3. **Mitigation.** Where adverse impacts cannot be practicably avoided, mitigate the loss of significant natural resources. The following is the order of preference for mitigation:
 - On the site of the resource subject to impact, with the same kind of resource; then
 - Off-site, with the same kind of resource; then
 - On-site, with a different kind of resource; and last
 - Off-site, with a different kind of resource.
4. **Slope Protection and Drainage.** Protect slopes from erosion and landslides through the retention and use of vegetation, erosion control measures during construction, and other means.
5. **Soil Erosion Control.** Protect natural resources from sediment and other forms of pollution through the use of vegetation, erosion control measures during construction, settling ponds, and other structural and non-structural means.
6. **Storm Water and Flood Control.** Conserve storm water conveyance and flood control functions and values of significant riparian areas within identified floodplains, water bodies, and wetlands.
7. **Storm Water Runoff.** Conserve and enhance drainage ways for the purpose of containing and regulating storm water runoff.
8. **Uplands Protection.** Conserve significant upland values related to:
 - Wildlife
 - Aesthetics and visual appearance
 - Slope protection, and
 - Groundwater recharge.
9. **Water Quality.** Maintain and improve the water quality of significant wetlands and water bodies through design of storm water drainage facilities.

EXHIBIT B

10. **Wetlands, Riparian Areas, Water Bodies, and Buffers.** Conserve wetlands, riparian areas, and water bodies which have significant functions and values. Significant values and functions include the following:

- Flood protection,
- Sediment and erosion control,
- Water quality maintenance and enhancement
- Groundwater recharge and discharge,
- Education,
- Vegetation, and
- Fish and wildlife habitat.

Protect these areas with upland buffers. Do not allow non-water dependent or non-water related development within riparian buffers.

11. **Wildlife.** Conserve drainage ways and linear parkways which have value as wildlife corridors connecting parks, open spaces, and other large wildlife habitat areas. Enhance habitat to increase the variety and quantity of desirable wildlife throughout urban areas. The following are significant wildlife habitat characteristics:

- Food sources;
- Water sources; and
- Cover types.

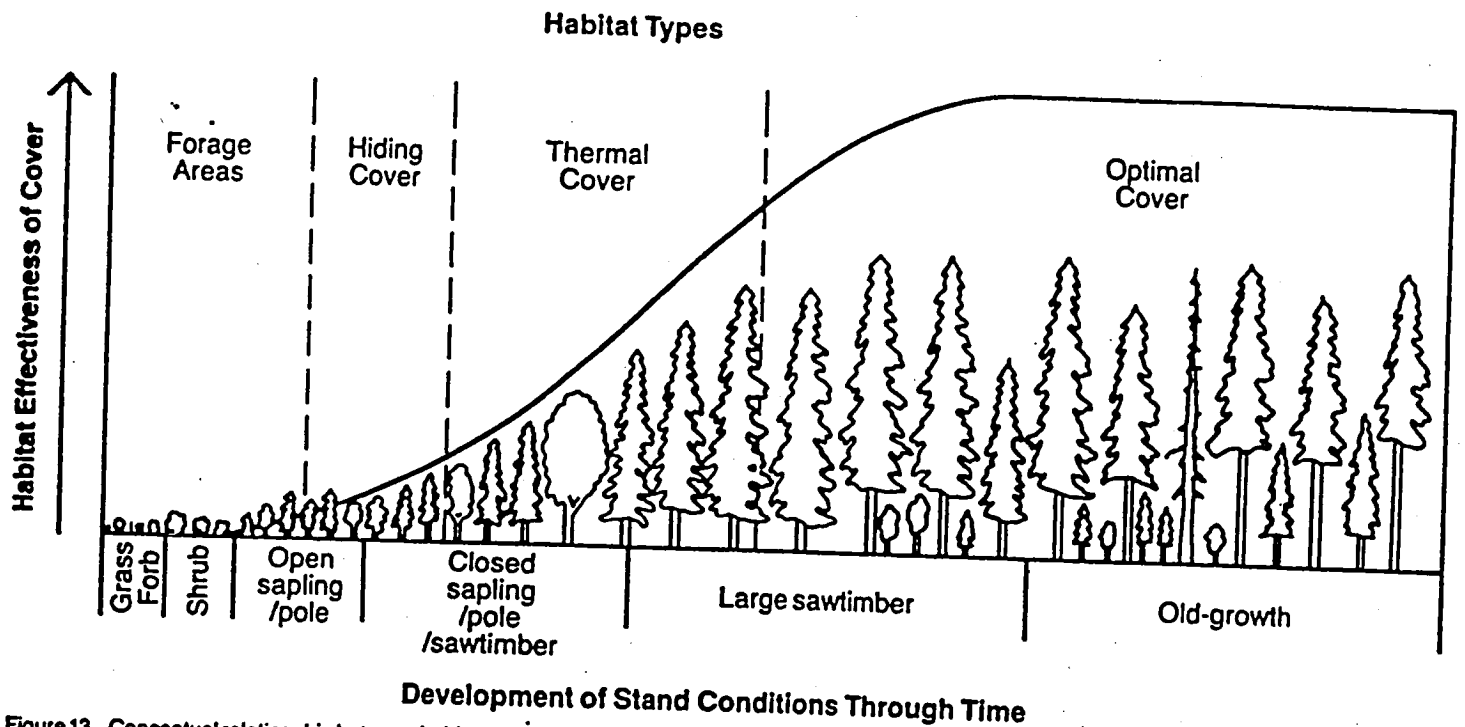


Figure 13. Conceptual relationship between habitat effectiveness of cover areas and development of cover types and stand conditions through time.

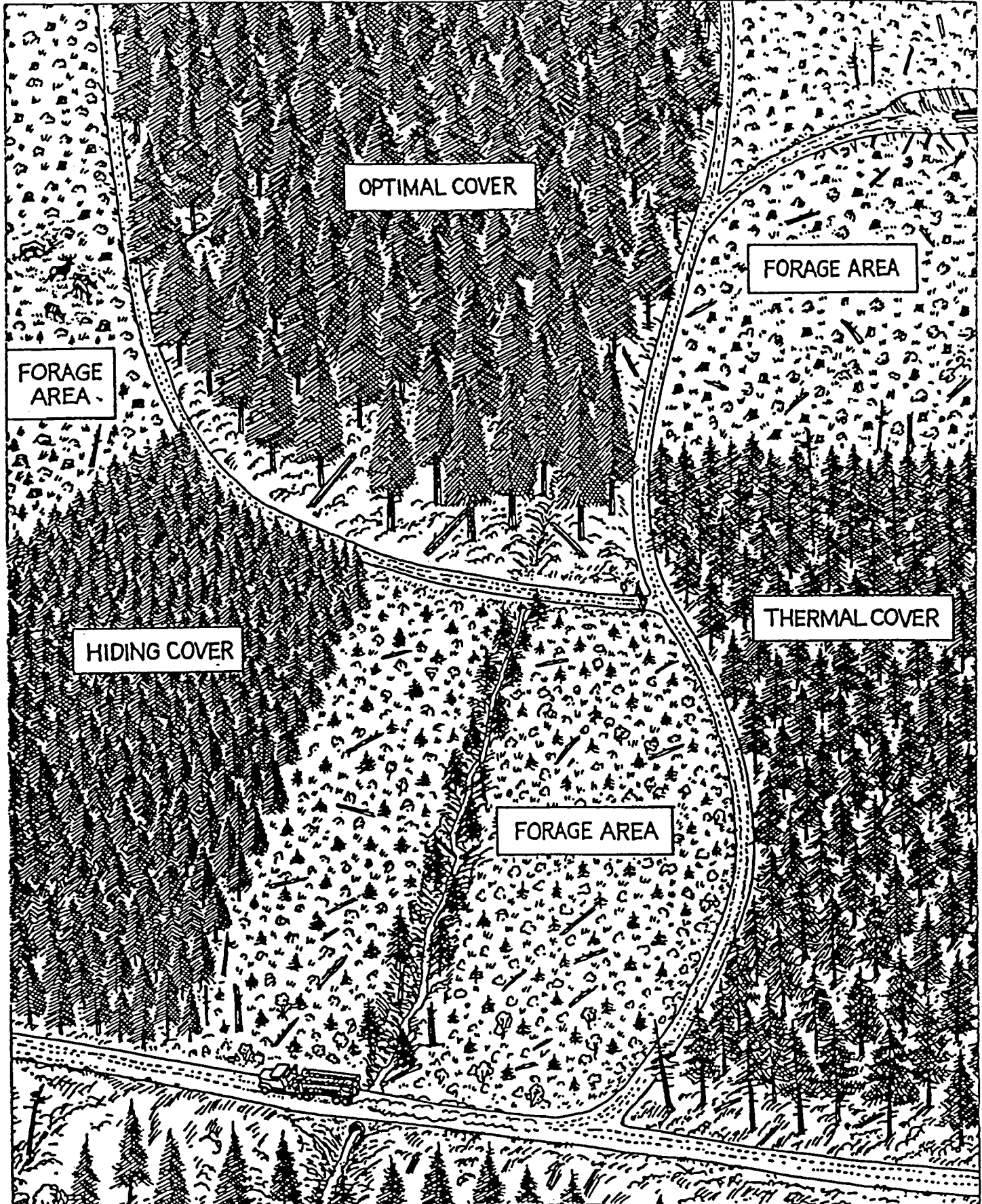
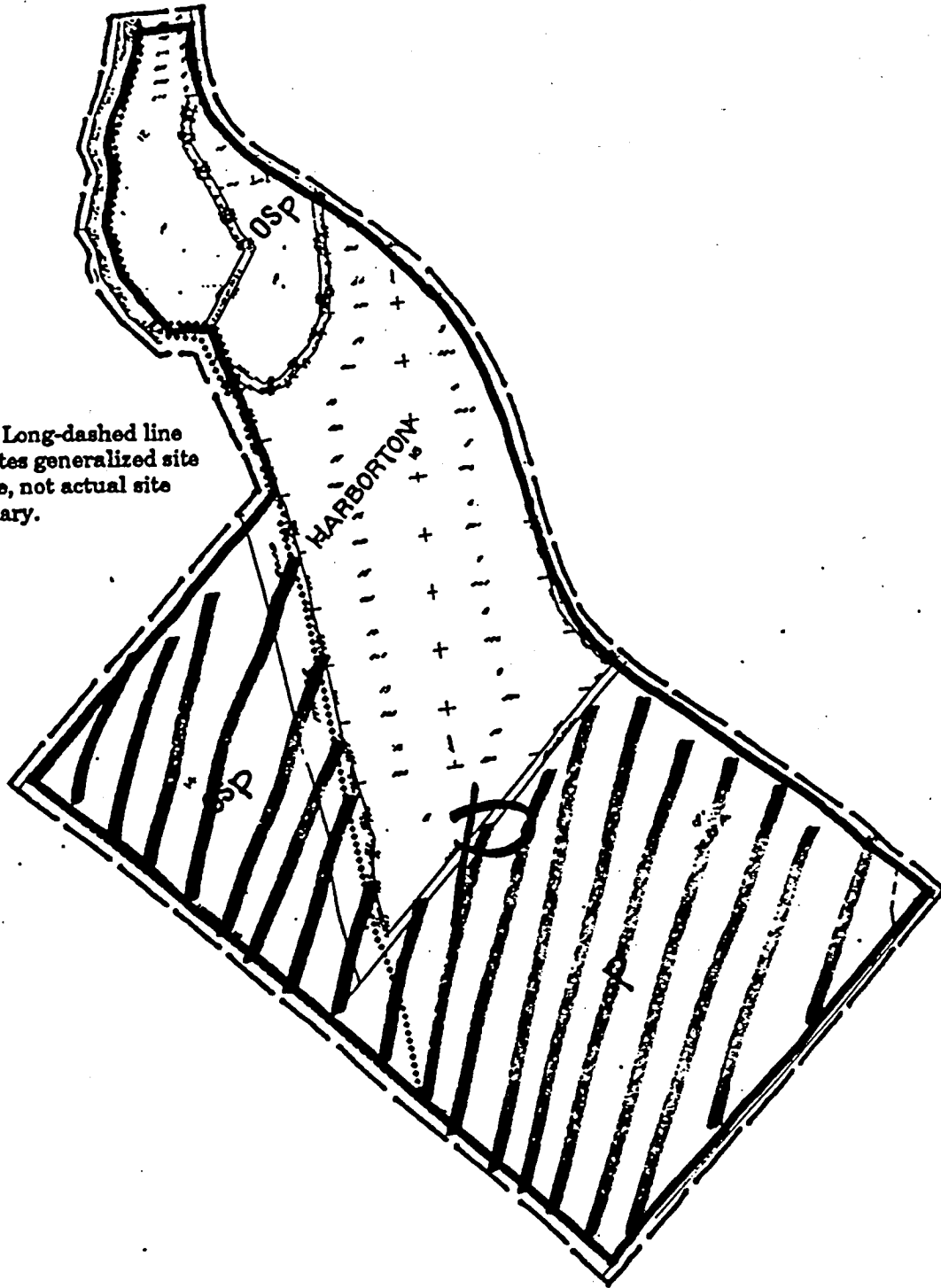


Figure 1. Landscape view of a managed forest in western Oregon.

Note: Long-dashed line indicates generalized site outline, not actual site boundary.



1000'

P	Proposed Environmental Protection Overlay Zone
/ / / / /	Proposed Environmental Conservation Overlay Zone

Key Map

NORTHWEST HILLS
 Natural Area Protection Plan

**Proposed Zoning
 Site Map**

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PRELIMINARY AGREEMENT

DATE: June __, 1991

BETWEEN: THE CITY OF PORTLAND (the "City")

AND: HGW, INC. ("HGW")

RECITALS:

1. HGW, or its successors or assigns (collectively "HGW"), owns certain real property located in Multnomah County, consisting of approximately 120 acres ("Parcel C"), as more particularly described in Exhibit A to this Preliminary Agreement. Parcel C is in an unincorporated area of Multnomah County, outside of the City's Urban Growth Boundary.

2. The City owns certain real property located in Multnomah County, consisting of approximately 140 acres (the "Forest Park Property"), as more particularly described in Exhibit B to this Preliminary Agreement. The Forest Park Property is located inside the City's Urban Growth Boundary. The City desires to remove the Forest Park Property from the City's Urban Growth Boundary, in order to further assure that no development incompatible with Forest Park occurs on or around the Forest Park Property.

3. Mr. Logan Ramsey owns certain real properties located in Multnomah County, including one property containing approximately 46 acres ("Parcel A") and another property containing approximately 73 acres ("Parcel B"), both of which are adjacent to Forest Park (collectively, the "Ramsey Properties").

4. HGW is willing to acquire and donate the Ramsey Properties to the City, if HGW can offset the cost of doing so by increasing the development potential of Parcel C and/or other properties owned, controlled or acquired by HGW. One means of increasing development potential is to include property within the City's Urban Growth Boundary.

AGREEMENTS:

The parties therefore agree as follows:

1. Joint Application to the Metropolitan Service District. HGW and the City agree to prepare and submit a joint application to the Metropolitan Service District ("Metro") for the removal of the Forest Park Property from the City's Urban Growth Boundary (the "UGB"), and for the addition of Parcel C to the UGB, pursuant to Section 3.01 of the Metro Code (the "Locational

Adjustment"). The exact area proposed to be added to be the UGB shall include all or a portion of Parcel C and/or other lands adjacent to Parcel C, but shall not exceed a total area of 120 acres, and shall be generally suited for urban development. The exact area proposed to be removed from the UGB shall include all or a portion of the Forest Park Property and/or other lands adjacent to the Forest Park Property, but shall not exceed 140 acres, nor be less than 120 acres, and shall be generally suitable for resource use. HGW shall be responsible for preparing the application to Metro, and shall pay that portion of the application fee corresponding to the area proposed to be added to the UGB. The City will sign the application as a co-applicant, shall assist HGW in preparing the application to the extent reasonably necessary, shall provide testimony in support of the application to the extent reasonably necessary, and shall pay that portion of the application fee corresponding to the area proposed to be removed from the UGB. HGW and the City agree that the applicants shall request that Metro approve the Locational Adjustment, subject to a condition that the amendments to the UGB shall take effect only upon HGW giving an assurance, reasonably satisfactory to the City, that Parcel A will be donated to the City.

2. Annexation of Parcel C to the City. Upon approval by Metro of the Locational Adjustment, HGW agrees to apply to the Portland Metropolitan Area Local Government Boundary Commission (the "PMALGBC") for annexation to the City of the property added to the UGB (the "Annexation"). The City agrees that, to the extent allowed by law, it will support the Annexation.

3. Donation of Parcel A to the City. Prior to the Locational Adjustment becoming final, HGW agrees to give an assurance, reasonably satisfactory to the City, that Parcel A will be donated to the City, by bargain and sale deed, for public park and conservation purposes, and for inclusion within the City's Forest Park. HGW's obligation to give said assurance to the City shall be contingent upon HGW reaching an agreement, reasonably satisfactory to HGW, with Mr. Logan Ramsey, regarding the donation and the consideration for said donation. The City agrees to accept the donation of Parcel A for public park and conservation purposes, and for inclusion within the City's Forest Park.

4. Purchase of Parcel B by HGW. HGW agrees to use its best efforts to acquire Parcel B prior to December 31, 1997. Any obligation of HGW to acquire Parcel B shall be contingent upon approval, by the City, of one or more Final PUD Plans and Subdivision Plats allowing for the transfer of thirty-six (36) units of residential density from Parcel B to other property or properties owned, controlled, or acquired by HGW (the "Receiving Properties"). The Receiving Properties shall be "Receiving sites," as defined in Section 33.575.030 of the City's Zoning Code, as adopted by the Portland City Council. The parties

understand that HGW may acquire title to portions of Parcel B over time.

5. Donation of Parcel B to the City. Within 30 days of acquiring title to all or a portion of Parcel B, HGW agrees to donate whatever interest it has acquired, by bargain and sale deed, to the City for public park and conservation purposes, and for inclusion within the City's Forest Park. The City agrees to accept the donation of all or a portion of the Parcel B for public park and conservation purposes, and for inclusion within the City's Forest Park.

6. Other Land Use Approvals. To the extent any land use approvals are required to accomplish the donation of all or a portion of the Properties to the City, the City agrees to cooperate with HGW in acquiring such approvals.

7. Definitive Agreement. This Preliminary Agreement is not intended to create any legally binding obligations except as set forth in paragraphs 1, 2 and 3. As soon as possible, but no later than one hundred and eighty (180) days after execution of this Preliminary Agreement, the City and HGW will negotiate and execute an agreement (which shall include as an Exhibit the form of deeds for Parcel A and Parcel B), which, in addition to the provisions in Paragraphs 2 through 6, above, will contain representations, warranties, covenants and conditions which are customary for a transaction of this size and nature (the "Final Agreement"). Both parties will use good faith efforts to negotiate and sign the Final Agreement. In the event the parties are unable to execute the Final Agreement, then this Preliminary Agreement shall terminate. To the extent further agreements are necessary to effect this transaction, the parties will negotiate such agreements in good faith.

8. Amendments. This Preliminary Agreement may be amended or modified only by a writing signed by the parties or their successors.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first shown above.

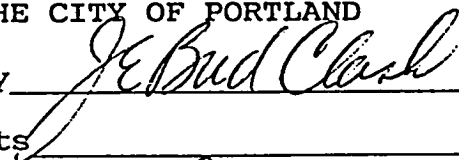
CITY:

THE CITY OF PORTLAND

By

Its

Approved as to Form:


Harry M. Auerbach, City Attorney (Deputy)

HGW:

HGW, INC., an Oregon corporation

By [Signature]

Its President

STATE OF OREGON)
)
County of Multnomah) ss.

The foregoing instrument was acknowledged before me on this 1st day of July, 1991 by G. E. Bud Clark, who is the Mayor of THE CITY OF PORTLAND, on behalf of the City.



[Signature]
Notary Public for Oregon,
My Commission Expires: 9-19-94

STATE OF OREGON)
)
County of Multnomah) ss.

The foregoing instrument was acknowledged before me on this 28th day of June, 1991 by Homer S. Williams, who is the President of HGW, INC., an Oregon corporation, on behalf of the corporation.

[Signature]
Notary Public for Oregon,
My Commission Expires: 4-5-92

TO: SJULIN

**CHAPTER 33.299
TEMPORARY PROHIBITION ON THE DISTURBANCE OF FORESTS**

(Added by Ord. No. 163727, effective 1/1/91.)

Sections:

- 33.299.010 Purpose
- 33.299.020 Definition
- 33.299.030 Prohibition
- 33.299.040 Exceptions to Prohibition
- 33.299.050 Enforcement of Prohibition
- 33.299.060 Expiration of Prohibition

33.299.010 Purpose

The purpose of this Chapter is to prohibit the disturbance of forests pending the establishment of permanent regulations.

33.299.020 Definition

(Amended by Ord. No. 164243, effective 5/29/91.) For the purpose of this Chapter the term "forest" means any grove or stand of 100 or more trees, more than five feet high, predominated by tree species native to the Pacific Northwest, in which the average size of the 25 largest native trees is greater than nine inches in diameter at five feet above the ground, and in which the tree cover extends over an area larger than two acres.

33.299.030 Prohibition.

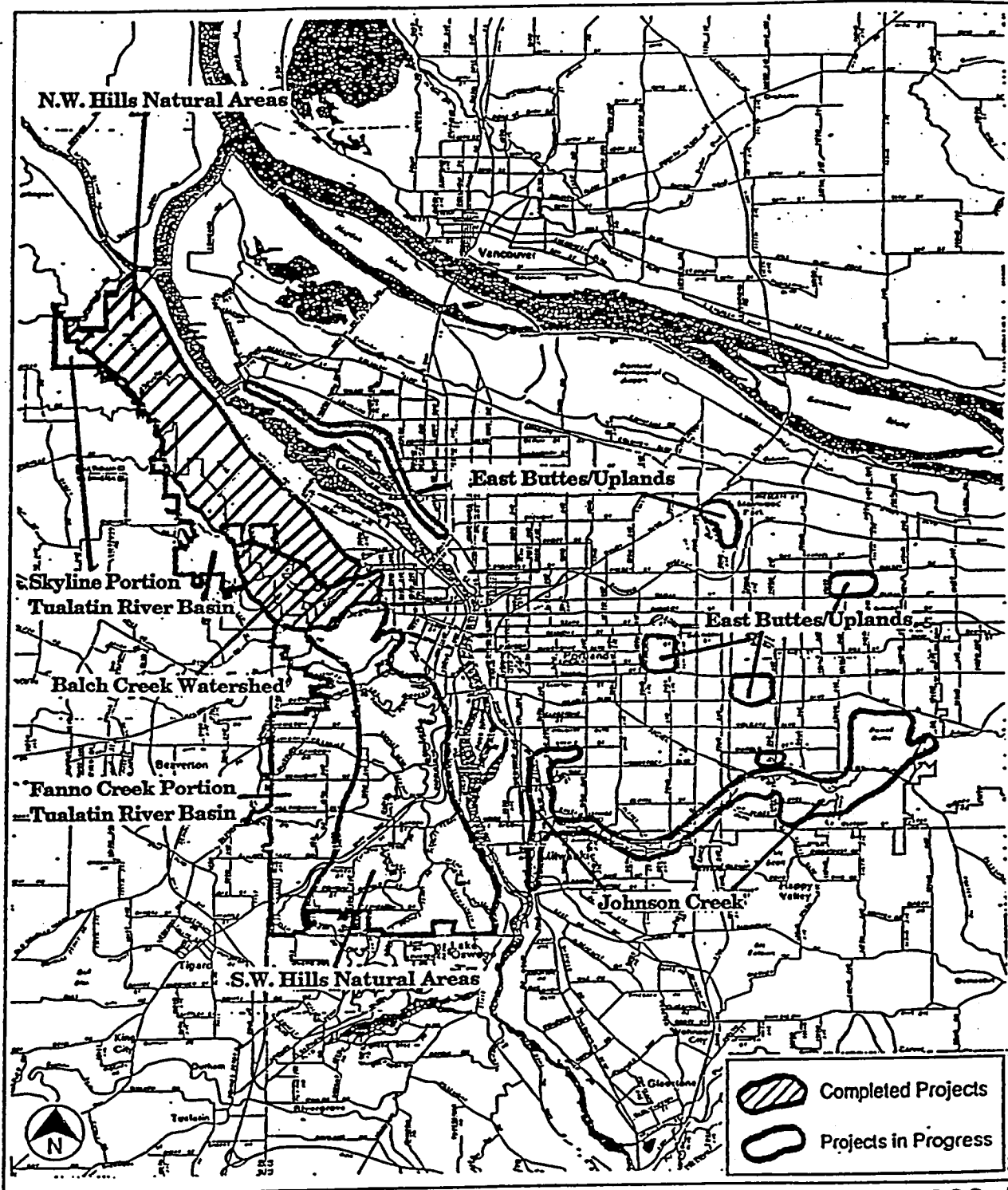
(Amended by Ord. No. 164243, effective 5/29/91. Amended by Ord. No. 164517, effective 7/31/91.) The following activities are prohibited in forests within the areas designated as the Tualatin River Basin, S.W. Hills Natural Areas, Johnson Creek, and East Buttes and Uplands as shown in the map at the end of this Chapter.

- A. Herbicide application;
- B. Burning of vegetation; and
- C. Cutting, damaging, or removing vegetation.

33.299.040 Exceptions to the Prohibition

(Amended by Ord. No. 164243, effective 5/29/91.) Notwithstanding the general prohibition of Section 33.299.030 above, the following activities are allowed.

- A. Any activity within an ownership which was two acres or smaller in area on January 1, 1991;
- B. Cutting, damaging, or removing of nonnative landscape vegetation;
- C. Cutting, damaging, or removing of Himalayan blackberry (*Rubris discolor*), evergreen blackberry (*Rubris laciniatus*), tansy ragwort (*Senecio jacobaea*), western clematis (*Clematis lingusticiflora*), Traveler's joy (*Clematis vitalba*), and English ivy (*Hedera helix*);



Map 299-1
**Temporary Prohibition on the
 Disturbance of Forests**

Bureau of Planning • City of Portland, Oregon



CITY OF
PORTLAND, OREGON
OFFICE OF PUBLIC AFFAIRS

Mike Lindberg, Commissioner
1220 S.W. Fifth Ave.
Portland, OR 97204
(503) 823-4145

October 2, 1991

Christopher Thomas, Hearings Officer
METRO
2000 SW First Ave.
Portland, OR 97201

Subject: HGW Inc./City of Portland Petition For UGB
Locational Adjustment, Case No. 91-2

Dear Mr. Thomas:

I am writing in support of the joint petition for a UGB
Locational Adjustment.

As you know this is one element, but nevertheless a key
element, of a complex agreement which will ultimately assure
the protection of an invaluable piece of Forest Park.

The Portland City Council through its approval of a
preliminary agreement with HGW, Inc. has tried to create a
win/win situation for the citizens of the region where
everyone benefits and no one is penalized. I honestly believe
that this creative solution falls within sound and defensible
planning practice.

Because this petition is made with a very specific outcome in
mind it is our request that any approval be conditioned by the
ultimate completion of an agreement with HGW, Inc. In other
words if such an agreement is not forthcoming we would request
that any approval be retracted.

Thank you for your consideration.

Sincerely,

Mike Lindberg
MIKE LINDBERG
Commissioner of Public Affairs

cc Ethan Seltzer

The Oregonian

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THURSDAY, JULY 18, 1991

EXHIBIT 27

As we live and breathe: Time to protect NW hills

The way Portland will live and breathe is tied closely to the fate of the city's green northwest corridor that has Forest Park as its core.

The City Council will consider a protection plan for those wooded hills July 24. What it does can be a useful model statewide for applying Goal 6 of the state's land-use goals—the one that directs every city and county to conserve its open space and protect natural and scenic resources in balance with human and social values. How local governments are to meet the goal is only dimly understood.

In question is the leafy ridge that rises about 1,000 feet above the Willamette River. Northwest Skyline Boulevard runs along its summit and Northwest St. Helens Road is at its eastern foot.

As long ago as 1903 the Olmstead brothers, in their pioneering city plan for Portland, said of that hillside, "There are a succession of ravines and spurs covered with remarkably beautiful primeval woods."

It is true that some people look upon such woods merely as a troublesome encumbrance standing in the way of more profitable use of the land, but future generations

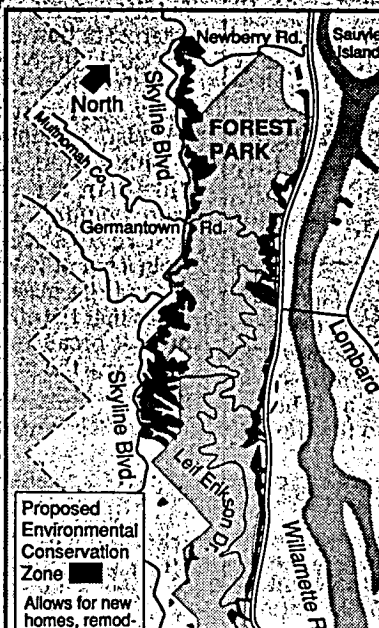
calls on the best use of each part of each tract.

It leaves unchanged or slightly changed the zoning of some established neighborhoods and industrial areas, mostly on the lower slopes near St. Helens Road, also known as U.S. 30. For the rest it recommends one or the other of two kinds of zoning protection.

In the Environmental Conservation zone the plan would allow new houses, remodeling and even some logging, provided developers took care not to damage the nearby forest or watershed. One of the interesting tests would be that no development could harm the habitat or interfere with the travel corridors of any of five indicator species.

The chosen animals are the pileated woodpecker, Roosevelt elk, sharp-shinned hawk, white-footed vole and red-legged frog. The list in itself hints at the wide variety of wildlife that depends on the woods, but the animals were chosen not only for themselves but also because where they can live, a wide variety of other creatures can live also.

To the land with the highest natural values the planners



in 1948 took a big step toward that dream by establishing Forest Park. Much of its 4,200 original acres had been subdivided or logged, but had fallen back into public hands during the Depression for non-payment of taxes.

Owners of the land in that zone could visit their property and could prevent, or try to prevent, the public from entering it, but they could make little other use of it.

That history leaves Forest Park and the surrounding wild land still vulnerable. Remaining private holdings bite into its edges, and are scattered through the park itself. The pressure to cut the trees and build houses increases as Portland grows.

Some of that land now is zoned for housing — a total of 55 building sites. To try to compensate for the loss of each building right, the plan would offer the landowner a transfer of development rights, or TDR.

The so-called Northwest Hills Natural Areas Protection Plan is an attempt to balance those values while there is still time.

The owner of a TDR could sell it to another owner in a designated district along Skyline Boulevard outside the environmentally sensitive area. Each TDR would allow the buyer to put one more housing unit on the buyer's property than its zoning otherwise would permit, provided the Planning Commission agreed that the development would be compatible with adjoining property.

It is no mere whim of local bureaucrats. The state Land Conservation and Development Commission acknowledged Portland's comprehensive plan in 1981, but, at the same time LCDC told the city to do more to meet the aims of Goal 5.

The logic of confining the transfer to the Skyline neighborhood, Planning Director Robert Stacey said, is that the increased housing density there would be a trade-off for the benefit the neighborhood receives from the increased protection of its natural setting.

The Planning Bureau has been working on that assignment since 1987, not only for the Northwest hills but also for other important open spaces in the city such as Rocky Butte and Johnson Creek. The plan for the Northwest hills already has the approval, after public hearings, of the Planning Commission.

Portland used the TDR idea once before, to preserve low-rent housing in old downtown hotels. The city allowed hotel owners to sell their development rights to someone building high-rise office space elsewhere.

The plan covers about 6,000 acres. About 4,500 of them are part of Forest Park, which has been enlarged since 1948. The rest are private. The Planning Bureau drew its boundaries around the forested land as far north as the city limits on the east side of the ridge, together with lands at the top that drain into the woods and eventually into the Willamette River.

The risk that no market will develop for TDRs, or that owners will refuse to sell them and instead will sit on their land, are among the question marks in the plan. But Stacey believes the rights will be salable.

It divided the tract into 24 sites, and inventoried the animals, birds, plants and natural and historic features in each. Some of the findings are intriguing: here an old homestead, there a prehistoric campsite. Some of the streams hold cutthroat trout, and one has a run of coho salmon.

The city does have a special obligation to landowners whose property is surrounded by city park and would be made almost unusable by the new restrictive zoning. Stacey estimated there are about 10 of those landholdings, totaling about 100 acres.

Eagles soar between the ridge and Sauvie Island nearby. Deer and elk drift through the trees on animal trails that connect with the Coast Range. Someday a similar trail connection may be possible for humans.

Surprisingly, the city never has had a plan for adding key pieces to Forest Park, and it has no established method for paying for them. The City Council should look honestly at that obligation and develop a way of meeting it. It also should be mindful of the rights of affected owners both within the Park and along Skyline.

And all of this within the Portland city limits.

Its hearing July 24 may suggest other needed adjustments. But the underlying idea of protecting the priceless natural resources of the Northwest hills is unarguable. The City Council should foster it.

Next, as state law requires, the planners examined the trade-offs among the values of each site — economic, social, environmental and energy. Their plan makes judgment

Vertical text on the right edge of the page, including a large 'E' and 'L' at the bottom.

UGB Exchange Testimony, 10/2/91

Arnold Rochlin
Rt 2 Box 58
Portland, 97231 289-2657

I'm speaking in favor of the proposal, but with serious reservations.

The parties apparently have not concluded all necessary contracts to effect all of the conditions understood to be the basis for the city and county's recommendation of approval. I understand that HGW has undertaken to acquire property owned by the Ramsey Family, designated parcels A and B in a June, 1991 preliminary agreement signed by the mayor and Homer Williams. HGW essentially proposed to certainly acquire the 46 acre parcel A, and to make efforts to acquire the 73 acre parcel B, and donate both to the city. This donation would take place upon or shortly after HGW's property, Parcel C, is brought into the UGB and annexed to the city. The property near Newberry Rd. is involved, as some land next to the current UGB boundary would have to be moved out.

HGW now has a somewhat different proposal. Parcel B would be acquired now, a tremendous improvement over the meaningless "maybe" of the original. On the negative side, HGW will acquire only part of Parcel A, perhaps 20 to 30 acres, at least that part of Parcel A within the environmental protection zone. As the EP zone suggests, this is the part of the land most important to preserve from development. HGW will be prepared to promptly donate both parcels, upon attaining their goal of moving their land inside the UGB and annexation. One small caveat. All of the land HGW promises to donate has been zoned EP since the June agreement. So long as the Northwest Hills Protection Plan is not found unconstitutional, and the city does not change it, it is substantially impossible to subdivide or build on, thus not posing a clear environmental threat. (The Protection Plan is currently under challenge by Mr. Ramsey.) Further, HGW may intend to transfer density rights from some or all of the acquired property to other HGW holdings. This would further devalue the donation. Under these circumstances, assessing the value of the proposed donation is a guessing game. My feeling is that this is an attractive offer, and it should be supported.

I understand that HGW has not yet concluded a final contract with the Ramsey's, nor have they reached a final agreement with the city. As all the evidence is not available, it would seem impossible for you to conclude a hearing today, at least with a decision of approval. I'm not familiar with the laws governing this procedure, but two options may be open:

Approval with conditions specifying that HGW must show with certainty their ability to deliver the Ramsey property. It would be necessary to define terms to a degree of specificity that would enable you to reconvene this hearing and readily determine whether or not the conditions had been met. Without such specificity there would be substantial risk of disputes.

The other option is to continue this hearing with no decision. Allow all parties to complete negotiation of contracts and agreements, and come back to you for a decision.

I prefer the continuance option, as it leaves the parties flexibility, and avoids any dispute over whether some party has or has not substantially complied with your conditions. The plain fact is, that events are not ripe for this hearing.

If there is to be any further hearing, I request that you ask all parties to deliver copies of any agreements, contracts, and other relevant documents to the witnesses appearing today, at least 10 days before such hearing. If privacy is an issue, I would not mind if money amounts are replaced with some symbol, such as 3 dollar signs. The contracts and agreements are essential to a determination of the public good, and therefore to meaningful public participation.

Arnold Rochlin

**EXHIBIT 29 IS A MAP THAT IS TOO LARGE FOR
REPRODUCTION...IT IS AVAILABLE AT THE
METRO OFFICES FOR REVIEW**

9/13/91

Postmark or Date
Return Receipt showing to whom,
Date, and Address of Delivery
TOTAL Postage and Fees

1.00
3.29

RECEIPT FOR CERTIFIED MAIL
NO INSURANCE COVERAGE PROVIDED
NOT FOR INTERNATIONAL MAIL
(See Reverse)

P 551 544 995

2000 1st, SUITE 400
Portland, Oregon 97201

EXHIBIT 30

FOR YOUR INFORMATION I
SOLD MY PORTLAND OREG. PROPERTY
LAST YEAR - RECORDS SHOULD
HAVE BEEN UPDATED BY NOW -

Sincerely

BRAD HOOPER

EXHIBIT 30

**Metropolitan Service District
Public Hearing**

Date: 10/2/91

Name: EARL M. GROVE

PLEASE PRINT

Address: 607 N.W. SKYLINE CREST

PORTLAND OR 97229

SUBJECT OF HEARING

UGB ADJUSTMENT FOR TDR

(RAMSEY/WILLIAMS)

EXHIBIT 32

Mr. Chris Thomas
Attorney at Law
2000 SW First Avenue, Suite 400
Portland, Oregon 97201

Christine and Brian Lightcap
13342 NW Newberry Rd.
Portland, Oregon 97231

October 2, 1991

Re: Metro UGB Case 91-2

Dear Mr. Thomas:

Thank you for consenting to read our comments, even though we were not able to arrive at the hearing before closure. We have a point of view not expressed by any of the given testimony, but one which needs to be heard.

We understand the urgency to protect specific areas of Forest Park from development and the need for those areas to be gathered within the actual boundaries of the park. However, the urgency of the case does not warrant setting a precedent which will further erode the effectiveness of properly managed MUF-19 lands.

There are landowners who live within the UGB, but manage their lands in the true sense of farm/forest and not in the sense of real-estate speculation. A more effective protection for the park would be to offer these persons the opportunity to sell their development rights, to leave the UGB, and to receive TAX RELIEF which recognizes the advantage their land stewardship offers the park environment. Our property does not fall into this category, but we know several landowners who would be candidates. The exchange of properties such as these would be a truly significant and equitable boundary adjustment.

Instead, this proposal rewards property owners who have thumbed their noses at the intent of MUF-19. They have never planted a tree or enhanced the environmental and productive value of their land, much less filed a land management plan with the Soil and Water Conservation District. They have never been satisfied with the ample profits they would have received had they subdivided to minimum-allowable acreage and sold to those who are content to live within the intent of MUF-19 zoning.

This proposal says to these speculators, we'll give you an easy out for your greed—just find a part of a park which is not threatened by urban growth (Laurelhurst? Macleay?) and remove it from the UGB so that you can come in and develop to your pocketbook's content. Never mind that your development will further grieve those laboring hard and long to protect Forest Park through their own land stewardship. Never mind that your development will further stress the dwindling buffer of managed lands which keep the park from being a sterile island in a sea of housing developments.

To locate an equitable in/out UGB trade would have taken energy, diplomacy and environmental awareness and dedication beyond the level of this hoax. This proposal opens one more door for those who do not understand the value of MUF-19 to the urban environment. MUF-19 is much more than a real-estate holding technique and needs to be recognized and valued for its true environmental value to the community.

Sincerely,

Christine & Brian Lightcap
Christine and Brian Lightcap

EXHIBIT 34

PRECISION REFRIGERATION, INC.

14275 N.W. SCIENCE PARK DRIVE

PORTLAND, OR 97229

(503) 627-0742

FAX (503) 626-8443

TO: *M.S.D.*

FROM: *Winton*

ATTN: *ETHAN SELLNER*

DATE: *10/3/91*

SUBJECT:

TOTAL # OF PAGES INCLUDING COVER:

MESSAGE:

As discussed the following letter.

Thank you



October 3, 1991

Mr. Ethan Seltzer
Land Use Coordinator
Metropolitan Service District
2000 S.W. First Ave.
Portland, Oregon 97201-5398

Dear Mr. Seltzer;

Unfortunately I was required to make an unexpected business trip on Tuesday October 1, 1991 and missed the hearing conducted at 6:00 pm on October 2, 1991 regarding petition Number 91-2. I was planning to attend the meeting regarding the proposed land use changes and subsequent development of the land currently zoned MUF-19 located southwest of Skyline Blvd., west of NW Saltzman road, and North of NW laidlaw/NW North Roads.

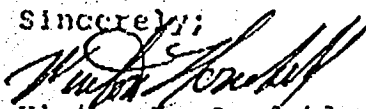
As the owner of the land directly south of the property in consideration of the petition we have some concerns. Planned expansion of the Urban growth boundaries is expected. However uncontrolled development of areas that do not have proper utilities such as sewer, storm drains and water or if the development effects areas which do not have the above services is of course not acceptable.

At this time we do not have any of the above services, development of the above indicated property in excess of the current zoning would of course create a potential problem with our well water and the future wells on adjoining lots.

In the event that the area is brought into the UGR we strongly support the various agencies and commissions to do so with certain conditions. At a minimum those conditions should include no change in current zoning until the area receiver the proper services to insure environmental and health issues.

Again thank you for reviewing this and we apologize for not being able to attend the meeting as planned.

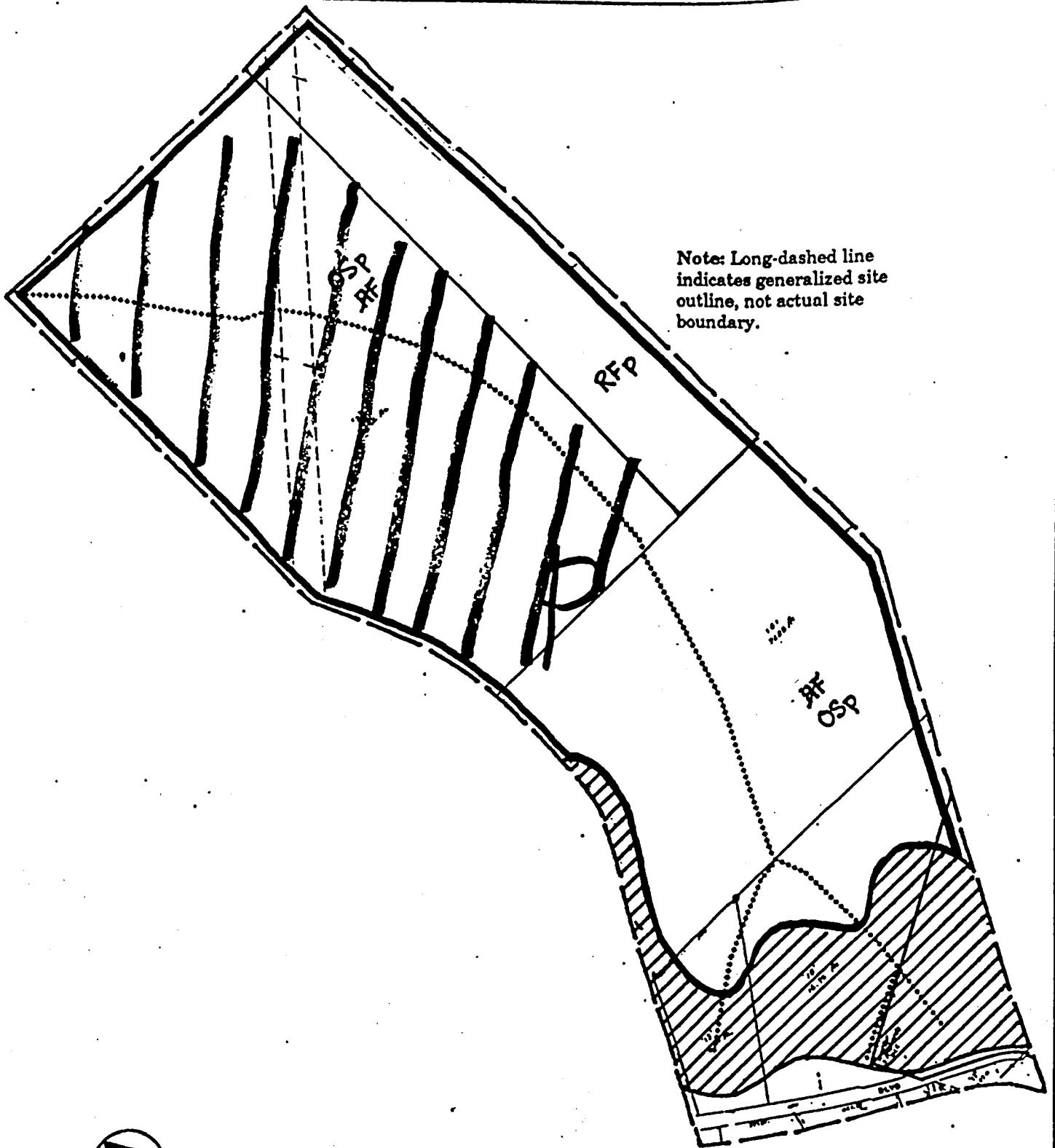
Sincerely;



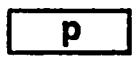
Winton L. Jondahl
11743 NW East Rd.
Portland, Oregon 97229

**UN-NUMBERED EXHIBIT...LARGE DISPLAY MAP OF
ALL PARCELS INVOLVED IN THE TRANSACTION**

Note: Long-dashed line indicates generalized site outline, not actual site boundary.



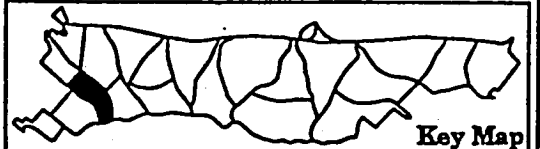
1000'



Proposed Environmental Protection Overlay Zone



Proposed Environmental Conservation Overlay Zone



Key Map

NORTHWEST HILLS

Natural Area Protection Plan

Proposed Zoning Site Map


107

and the resultant perched water table from December through April. Some windthrow of trees is possible because of restricted rooting depth. When the soil is wet, the use of some conventional logging systems is limited. Roads and landings can be protected from erosion by constructing water bars and by seeding cuts and fills. All-season roads on this soil need a heavy base of rock.

This soil is along a fringe area that is transitional from valley to forested hills. Openland and woodland are almost equal in extent. A wide variety of grain and grasses along with shrubs and trees furnish good food and cover for wildlife. Resident and seasonal wildlife in areas of this soil include black-tailed deer, Roosevelt elk, black bear, coyote, bobcat, raccoon, skunks, foxes, opossum, rabbits, squirrels, mice, moles, and gophers. Common birds are hawks, owls, jays, ravens, crows, vultures, woodpeckers, insect eaters, mourning doves, band-tailed pigeon, ruffed grouse, blue grouse, mountain quail, California quail, ring-necked pheasant, and many kinds of small birds. Potential is good for building ponds for fish and wildlife on this soil. Ponds have been built, and fish production generally is good in these ponds. Most of the potential for wildlife habitat depends on the management of existing plant communities, but some potential depends on growing desirable vegetation.

Increased population growth has resulted in increased homesite construction on this soil. The main limitations for urban development are the seasonal water table, slow permeability, and a fragipan at a depth of 20 to 30 inches. Dwellings and roads must be designed to offset these limitations. Excavation during summer is difficult because of the strongly compacted fragipan. A seasonal water table is perched on top of the fragipan and requires drainage for best results with basements and crawl spaces. Septic tank absorption fields do not function properly during rainy periods because of wetness and slow permeability. Drainage is required for best results with lawn grasses, shade trees, ornamental trees, shrubs, vines, and vegetables, and irrigation during summer is desirable. Recreational uses are limited by the seasonal high water table. Plants that tolerate droughty conditions should be selected if irrigation is not provided.

This soil is in capability subclass IIIw.

 7C—Cascade silt loam, 8 to 15 percent slopes. This somewhat poorly drained soil is on convex side slopes of broad, rolling ridgetops. This soil formed in silty materials. Elevation is 250 to 1,400 feet. The average annual precipitation is 50 to 60 inches, the average annual air temperature is 50 to 54 degrees F, and the frost-free period is 165 to 210 days.

Typically, the surface layer is dark brown silt loam about 8 inches thick. The subsoil is dark brown silt loam about 19 inches thick. The substratum is a dark brown, mottled, silt loam fragipan to a depth of 60 inches or more.

Included with this soil in mapping are areas of Goble and Cornelius soils and other Cascade soils. The includ-

ed soils make up as much as 10 percent of this unit. Also included in Tps. 1 N. and 1 S., R. 1 E., are areas of Cascade soils, but in places these soils have basalt bedrock at a depth of 40 to 60 inches.

Permeability is slow. Effective rooting depth is 20 to 30 inches. Available water capacity is 5 to 7.5 inches. Water-supplying capacity is 17 to 19 inches. Runoff is medium, and the hazard of erosion is moderate. A water table is at a depth of 18 to 30 inches from December through April.

This soil is used for farming, timber production, urban development, and wildlife habitat.

This soil is suited to farming. If this soil is drained, most climatically adapted crops do well. The major crops are grain, berries, vegetables, nursery stock, hay, and pasture. Irrigation during summer is required for maximum production of most crops. Returning all crop residue to the soil and including grasses, legumes, or grass-legume mixtures in the cropping system help maintain fertility and tilth. If the soil is to be left bare during winter, it should be fertilized and planted to a cover crop in fall. Grassed waterways help control erosion in drainageways. Limiting tillage to seedbed preparation and weed control helps to control runoff and erosion. A cloddy condition helps protect the soil from erosion during rainy periods.

Excessive cultivation can result in formation of a tillage pan in this soil. Subsoiling is required to break up this pan and is more successful if done when the soil is dry than when wet.

The soil has a perched water table in winter and early in spring. Tile systems are difficult to install because of shallow depth to the hardpan. Tile systems are installed across the slope to intercept ground water. Subsoiling should be across the tile lines. Sprinkler irrigation can be used to increase crop production in dry periods in summer. Water needs to be applied slowly to prevent runoff. Grain and grass crops respond to nitrogen. Legumes respond to phosphorus, potassium, sulfur, and lime and in places, to boron. Berries respond to nitrogen phosphorus, potassium, and sulfur and in places, to boron.

The vegetation in areas not cultivated is Douglas-fir, western redcedar, red alder, grand fir, western hemlock, bigleaf maple, willow, Pacific dogwood, wild cherry, western hazel, thimbleberry, salal, vine maple, trailing blackberry, Cascade Oregon-grape, swordfern, common snowberry, roses, forbs, and grasses.

This soil is suited to Douglas-fir. The site index for Douglas-fir on this soil ranges from 150 to 165. Base on a site index of 157, this soil is capable of producing about 10,720 cubic feet from a fully stocked stand of 71 year old trees, or 63,280 board feet (international rule, one-fourth inch kerf) of merchantable timber from a fully stocked stand of 80-year old trees. Brushy species, including salal, Cascade Oregon-grape, and common snowberry, restrict natural regeneration of Douglas-fir.

The main limitations to timber production are the slowly permeable fragipan at a depth of 20 to 30 inch

and the resultant perched water table from December through April. Some windthrow of trees is possible because of restricted rooting depth. When the soil is wet, the use of some conventional logging methods is limited. Roads and landings can be protected from erosion by constructing water bars and by seeding cuts and fills. All-season roads on this soil need a heavy base of rock.

This soil is along a fringe area that is transitional from valley to forested hills. Openland and woodland are almost equal in extent. A wide variety of grain and grasses along with shrubs and trees furnish good food and cover for wildlife.

Resident and seasonal wildlife in areas of this soil include black-tailed deer, Roosevelt elk, black bear, coyote, bobcat, raccoon, skunks, foxes, opossum, rabbits, squirrels, mice, moles, and gophers. Common birds are hawks, owls, jays, ravens, crows, vultures, woodpeckers, insect eaters, mourning dove, band-tailed pigeon, ruffed grouse, blue grouse, mountain quail, California quail, ring-necked pheasant, and many kinds of small birds. Potential is good for building ponds for fish and wildlife on this soil. Ponds have been built, and fish production is generally good in these ponds. Most of the potential for wildlife habitat depends on the management of existing plant communities, but some potential depends on growing desirable vegetation.

Increased population growth has resulted in increased homesite construction on this soil (fig. 6). The main limitations for urban development are the seasonal high water table, slow permeability, low strength, a fragipan at a depth of 20 to 30 inches, and slopes of 8 to 15 percent. Dwellings and roads need to be designed to offset these limitations. Excavating during summer is difficult because of the strongly compacted fragipan. A seasonal water table is perched on top of the fragipan and requires drainage for best results with basements and crawl spaces. Septic tank absorption fields do not function properly during rainy periods because of wetness and slow permeability. Drainage is required for best results with lawn grasses, shade trees, ornamental trees, shrubs, vines, and vegetables, and irrigation during summer is desirable. Recreational uses are limited by slope and a seasonal high water table. Plants that tolerate droughty conditions should be selected if irrigation is not provided.

This soil is in capability subclass IIIe.

7D—Cascade silt loam, 15 to 30 percent slopes. This somewhat poorly drained soil is on convex side slopes of broad, rolling ridgetops. This soil formed in silty materials. Elevation is 250 to 1,400 feet. The average annual precipitation is 50 to 60 inches, the average annual air temperature is 50 to 54 degrees F, and the frost-free period is 165 to 210 days.

Typically, the surface layer is dark brown silt loam about 8 inches thick. The subsoil is dark brown silt loam about 19 inches thick. The substratum is a dark brown,



Figure 6.—Homesites on Cascade silt loam.

mottled, silt loam fragipan to a depth of 60 inches or more.

Included with this soil in mapping are areas of Goble and Cornelius soils and other Cascade soils. The included soils make up as much as 15 percent of this map unit. Also included in Tps. 1 N. and 1 S., R. 1E., are areas of Cascade soils, but in places these soils have basalt bedrock at a depth of 40 to 60 inches.

Permeability is slow. Effective rooting depth is 20 to 30 inches. Available water capacity is 5 to 7.5 inches. Water-supplying capacity is 17 to 19 inches. Runoff is medium, and the hazard of erosion is high. A water table is at a depth of 18 to 30 inches from December through April.

This soil is used for farming, timber production, urban development, and wildlife habitat.

The native vegetation is Douglas-fir, western redcedar, red alder, grand fir, western hemlock, bigleaf maple, willow, Pacific dogwood, wild cherry, western hazel, thimbleberry, salal, vine maple, trailing blackberry, Cascade Oregon-grape, roses, swordfern, common snowberry, forbs, and grasses.

This soil is suited to Douglas-fir. The site index for Douglas-fir on this soil ranges from 150 to 165. Based on a site index of 157, this soil is capable of producing about 10,720 cubic feet from a fully stocked stand of 70-year old trees, or 63,280 board feet (international rule, one-fourth inch kerf) of merchantable timber from a fully stocked stand of 80-year old trees. Brushy species, in-

cluding salal, Cascade Oregon-grape, and common snowberry, restrict natural regeneration of Douglas-fir.

The main limitations for timber production are the slowly permeable fragipan at a depth of 20 to 30 inches and the resultant perched water table from December through April. Some windthrow of trees is possible because of the restricted rooting depth. When the soil is wet, the use of some conventional logging methods is limited. Roads and landings can be protected from erosion by constructing water bars and by seeding cuts and fills. All-season roads on this soil need a heavy base of rock.

This soil is poorly suited to farming. If this soil is drained, most climatically adapted crops do well. The major crops are grain, hay, and pasture. Irrigation during summer is required for maximum production of most crops. Returning all crop residue to the soil and including grasses, legumes, or grass-legume mixtures in the cropping system help maintain fertility and tilth. Tilling and planting across the slope help reduce runoff and erosion. If the soil is to be left bare over winter, it should be fertilized and planted to a cover crop in fall. Grassed waterways help control erosion in drainageways. Limiting tillage to seedbed preparation and weed control helps control runoff and erosion. A cloddy condition helps protect the soil from erosion during rainy periods.

Excessive cultivation can result in the formation of a tillage pan in this soil. Subsoiling is required to break up this pan and is more successful if done when the soil is dry than when wet. The soil has a perched water table in winter and early in spring. Tile systems are difficult to install because of shallow depth to the hardpan. Tile systems are installed across the slope to intercept ground water. Subsoiling should be across the tile lines. Sprinkler irrigation can be used to increase crop production in dry periods in summer. Water needs to be applied slowly to prevent runoff. Grain and grass crops respond to nitrogen. Legumes respond to phosphorus, potassium, sulfur, and lime and in places, to boron. Berries respond to nitrogen, phosphorus, potassium, and sulfur and in places, to boron.

This soil is along a fringe area that is transitional from valley to forested hills. Openland and woodland are almost equal in extent. A wide variety of grain and grasses along with shrubs and trees furnishes good food and cover for wildlife.

Resident and seasonal wildlife in areas of this soil, include black-tailed deer, Roosevelt elk, black bear, coyote, bobcat, raccoon, skunks, foxes, opossum, rabbits, squirrels, mice, moles, and gophers. Common birds are hawks, owls, jays, ravens, crows, vultures, woodpeckers, insect eaters, mourning dove, band-tailed pigeon, ruffed grouse, blue grouse, mountain quail, California quail, ring-necked pheasant, and many kinds of small birds. Most of the potential for wildlife habitat depends on the management of existing plant communities, but some potential depends on growing desirable vegetation.

Increased population growth has resulted in increased homesite construction on this soil. The main limitations for urban development are a seasonal high water table, slow permeability, low strength, a fragipan at a depth of 20 to 30 inches, and slopes of 15 to 30 percent. Dwellings and roads need to be designed to offset these limitations. Excavating during summer is difficult because of the strongly compacted fragipan. Slumping is possible in areas of cut and fill, and additional maintenance is required for banks, roads, and building foundations. A seasonal water table is perched on top of the fragipan and requires drainage for best results with basements and crawl spaces. Septic tank absorption fields do not function properly during rainy periods because of wetness, steep slopes, and slow permeability. Drainage is required for best results with lawn grasses, shade trees, ornamental trees, shrubs, vines, and vegetables, and irrigation during summer is desirable. Recreational uses are limited by the seasonal high water table. Plants that tolerate droughty conditions should be selected if irrigation is not provided.

This soil is in capability subclass IVe.

7E—Cascade silt loam, 30 to 60 percent slopes. This steep, somewhat poorly drained soil is on side slopes of broad, rolling ridgetops. This soil formed in silty materials. Elevation is 250 to 1,400 feet. The average annual precipitation is 50 to 60 inches, the average annual air temperature is 50 to 54 degrees F, and the frost-free period is 165 to 210 days.

Typically, the surface layer is dark brown silt loam about 8 inches thick. The subsoil is dark brown silt loam about 19 inches thick. The substratum is a dark brown mottled, silt loam fragipan to a depth of 60 inches or more.

Included with this soil in mapping are areas of Goble, Cornelius, Saum, and Wauld soils and other Cascade soils. The included soils make up as much as 15 percent of this unit. Also included in Tps. 1 N. and 1 S., R 1 E. are areas of Cascade soils, but in places these soils have basalt bedrock at a depth of 40 to 60 inches.

Permeability is slow. Effective rooting depth is 20 to 30 inches. Available water capacity is 5 to 7.5 inches. Water-supplying capacity is 17 to 19 inches. Runoff is rapid, and the hazard of erosion is high. A water table is at a depth of 18 to 30 inches from December through April.

This soil is used for timber production, urban development, and wildlife habitat.

The native vegetation is Douglas-fir, western redcedar, red alder, grand fir, western hemlock, bigleaf maple, willow, Pacific dogwood, wild cherry, western haze thimbleberry, salal, vine maple, trailing blackberry, Cascade Oregon-grape, roses, swordfern, common snowberry, forbs, and grasses.

This soil is suited to Douglas-fir. The site index for Douglas-fir on this soil ranges from 150 to 165. Based on a site index of 157, this soil is capable of producing

about 10,720 cubic feet from a fully stocked stand of 70-year old trees, or 63,280 board feet (international rule, one-fourth inch kerf) of merchantable timber from a fully stocked stand of 80-year old trees. Brushy species, including salal, Cascade Oregon-grape, and common snowberry, restrict natural regeneration of Douglas-fir.

The main limitations to timber production are the slowly permeable fragipan at a depth of 20 to 30 inches and the resultant perched water table from December through April. Some windthrow of trees is possible because of restricted rooting depth. Because of the steep slopes, such logging methods as aerial, high-lead or skyline should be used for tree harvesting. Roads and landings can be protected from erosion by constructing water bars and by seeding cuts and fills. Slumping occurs on road cuts and requires additional maintenance. All-season roads on this soil need a heavy base of rock.

This soil is along the fringe of the valley in areas which are transitional from valley to forested hills. The extent of openland and woodland is almost equal. A wide variety of grain and grasses along with shrubs and trees furnishes good food and cover for wildlife.

Resident and seasonal wildlife in areas of this soil include black-tailed deer, Roosevelt elk, black bear, coyote, bobcat, raccoon, skunks, foxes, opossum, rabbits, squirrels, mice, moles, and gophers. Common birds are hawks, owls, jays, ravens, crows, vultures, woodpeckers, insect eaters, mourning dove, band-tailed pigeon, ruffed grouse, blue grouse, mountain quail, California quail, ring-necked pheasant, and many kinds of small birds. Most of the potential for wildlife habitat depends on the management of existing plant communities.

Increased population growth has resulted in increased homesite construction on this Cascade soil. This soil has severe limitations for dwellings and roads because of depth to the hardpan, slopes of 30 to 60 percent, and a seasonal high water table. Dwellings and roads need to be designed to offset these limitations. Excavating during summer is difficult because of the strongly compacted hardpan. A seasonal water table is perched on top of the hardpan in this soil and requires drainage for best results with basements and crawl spaces. If adequate drainage is not provided, areas of cut and fill slump in places and cause additional concerns in landscaping, road construction, and maintaining building foundations. Septic tank absorption fields do not function properly during rainy periods because of wetness, slope gradient, and slow permeability. Drainage is required for best results with lawn grasses, shade trees, ornamental trees, shrubs, vines, and vegetables, and irrigation during summer is desirable. Plants that tolerate droughty conditions should be selected if irrigation is not provided. Recreational uses are limited by the seasonal high water table.

This soil is in capability subclass VIe.

8B—Cascade-Urban land complex, 0 to 8 percent slopes. This complex consists of somewhat poorly drained Cascade soils. In most areas of this complex,

the soils have been graded, cut, filled, or otherwise disturbed. This complex is on convex side slopes of broad, rolling ridgetops. Areas are generally irregular in shape and 15 to 100 acres in size. The Cascade soils and Urban land are in such an intricate pattern or so small in area that to separate them in mapping was not practical. Elevation is 250 to 1,400 feet. The average annual precipitation is 50 to 60 inches, the average annual air temperature is 50 to 54 degrees F, and the frost-free period is 165 to 210 days.

About 20 percent of this complex are areas of Cascade soils that are relatively undisturbed. Typically, the surface layer is dark brown silt loam about 8 inches thick. The subsoil is dark brown silt loam about 19 inches thick. The substratum is a dark brown, mottled, silt loam fragipan to a depth of 60 inches or more.

About 30 percent of this complex are areas of Cascade soils that have been disturbed. These soils have been covered by as much as 20 inches of fill material, or as much as 30 inches of the original profile has been removed by cutting or grading. The fill material is generally from adjacent areas of Cascade soils that have been cut or graded.

About 40 percent of this complex is Urban land. The areas are largely covered by concrete, asphalt, buildings, or other impervious surfaces that so obscure or alter the soils that their identification is not feasible.

Included with this complex in mapping are areas of Goble and Cornelius soils and steeper Cascade soils. The included soils make up about 10 percent of this map unit.

In areas where the soils are relatively undisturbed, permeability is slow and available water capacity is 5 to 7.5 inches. In areas dominated by cuts, fills, and Urban land permeability and available water capacity are variable. Undisturbed areas of Cascade soils have a water table within a depth of 30 inches during December to April. The water table is perched on the fragipan. Runoff is slow, and the hazard of erosion is slight.

Areas of this complex that have not been disturbed include yards and openland around and between buildings. The main limitations to urban development are the seasonal high water table, the slow permeability, and a fragipan at a depth of 20 to 30 inches. Excavating during summer is difficult because of the strongly compacted fragipan. A seasonal water table is perched on top of the fragipan and requires drainage to be provided for best results with basements and crawl spaces.

Large areas of this map unit are artificially drained by sewer systems, gutters, drainage tiles, and surface ditches. Septic tank absorption fields do not function properly during rainy periods because of wetness and moderately slow permeability. Drainage is required for best results with most lawn grasses, shade trees, ornamental trees, shrubs, vines, and vegetables, and irrigation during summer is desirable. Plants that tolerate a seasonal water table and droughty conditions should be selected if drainage and irrigation are not provided. Rec-



METRO

2000 SW First Avenue
Portland, OR 97201-5398
(503) 221-1616
Fax 241-7417

January 22, 1990

Mark Hess
Multnomah County Planning Department
2115 SE Morrison Street
Portland, Oregon 97214

Re: RPD 1-90, #109
LD 1-90, #109

Executive Officer
Rena Cusma

Metro Council

Mike Ragsdale
Presiding Officer
District 1

Sharron Kelley
Deputy Presiding
Officer
District 2

Lawrence Bauer
District 2

Jim Gardner
District 3

Richard Devlin
District 4

Tom DeJardin
District 5

George Van Bergen
District 6

Judy Wyers
District 8

Tanya Collier
District 9

Roger Buchanan
District 10

David Knowles
District 11

Cary Hansen
District 12

Dear Mr. Hess,

I am writing on behalf of Rena Cusma, Executive Officer, to express Metro's opposition to the proposed change in zoning from MUF-19 to MUF-19, RPD, and concurrent development approval for a 12-lot land division for the 120 acre site located approximately at 11000 NW Saltzman Road. We make this recommendation for the following reasons:

- 1) Metro is currently in to process of developing and Urban Growth Management Plan. The plan is intended to offer the Metro Council a policy framework for its consideration of proposals to amend the urban growth boundary, and to give local governments and special districts an integrating structure for regional planning efforts. One of the critical urban growth issues that Metro has targeted is the relationship between urban development inside the urban growth boundary and non-resource related rural residential development outside and adjacent to the boundary.

Metro is concerned that rural residential development adjacent to the urban growth boundary, of the type proposed here, will serve as a barrier to future expansion of the urban area on lands most appropriate for that purpose. It is highly unlikely that new development on relatively small rural parcels can ever be redeveloped to urban densities.

Parcelization of the type sought here will only force future urban expansion to lands protected for resource use. The pattern of this kind of activity throughout the region is leading to growth management by default, rather than through a careful and considered policymaking process.

- 2) This proposal, and others like it, do not support Metro's adopted and acknowledged objectives pertaining to the development of a compact urban growth form. To the contrary, by seeking extraterritorial extensions of urban services to support the proposed development and by creating a lotting pattern which, according to the materials presented in the staff report, is neither supportive of forest use or of the present rural land development pattern in the vicinity, this proposal would contribute to the conversion of rural land at the urban growth boundary to a residential, non-resource based use.

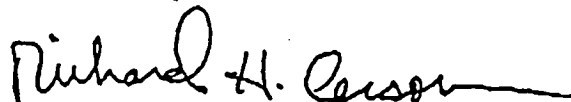
It is impossible to regard this proposal as simply a rural planned development that is not directly related to the adjacent urban area. In fact, the applicant admits that the development of the site would occur as the market permits, that market being the housing market in the Portland metropolitan area.

Consequently, this proposal contributes to the conversion of rural resource land to residential uses at a pace and of a type governed by what seem to be primarily urban circumstances. If this is an appropriate use for the land in question, then that decision should be made through regional consideration of urban land needs. To do otherwise is to contribute to a pattern of sprawl on the urban edge which doesn't appear to serve either long-term rural resource or urban needs.

In conclusion, I believe that the staff recommendation should be supported, and the proposal rejected.

Thank you for the opportunity to comment.

Sincerely,



Richard H. Carson, Director
Planning and Development Department

cc: Steve Janik

C(2) Utilize as gross site acreage, land generally unsuited for agricultural or forest uses, considering the terrain, adverse soil conditions, drainage or flooding, vegetation or the location or size of the tract;

Agricultural Capability:

The capability of MUF District lands for farming is defined in MCC § 11.15.2172(D)(2)(a-c). That section states that lands are incapable of sustaining a farm use if there is "[a] Soil Conservation Service Agricultural Capability Class of IV or greater for at least 75% of the lot area."

Of the 120-acre site, 103 acres (86 percent of the site) have slopes of greater than 15 percent and are in an Agricultural Capability Class of IV or greater (see Exhibit 3). These areas also are designated by the Soil Conservation Service as having an erosion hazard. Thus, under the terms of the MCC, the land is incapable of sustaining an agricultural use.

Conclusion.

For the above reasons, the site is generally unsuited to agricultural use.

Forestry Capability:

The capability of RPD lands in an MUF District for forestry is defined in two parts. First, the MUF District standards establish a process for demonstrating unsuitability. MCC § 11.15.2172(D)(2)(a-c). That section states that lands are incapable of sustaining a forest use if there is a "[c]ertification by the Oregon State University Extension Service, the Oregon Department of Forestry, or a person or group having similar expertise, that the land is inadequate for forest uses" and the person or group states the basis for the conclusion.

Secondly, the RPD section of the MCC lists the substantive criteria that are to be considered in evaluating suitability. MCC § 11.15.7750(B). These criteria are: terrain, adverse soil or land conditions, drainage or flooding, vegetation or the location or size of the tract. These criteria are evaluated for their effect on the viability of commercial forest uses as described in the Applicant's proposal at pages 14-15.

The Applicant's consultants have documented the constraints imposed on forest use of the site by terrain, adverse soil and land conditions, drainage and the existing vegetation (Reference Applicant's Appendices D and E). In sum, the combination of the existing non-commercial vegetative cover, the need to clear and replant, steep slopes and drainage which limit available management practices under the Forest Practices Act, would result in cost that preclude a viable commercial forest use on this site. Additional constraints on commercial forest uses are imposed by conflicts between necessary manage-



CITY OF PORTLAND
BUREAU OF PARKS AND RECREATION

1120 S.W. 5TH, ROOM 1302
PORTLAND, OREGON 97204-1933
(503) 796-5193



MIKE LINDBERG, Commissioner

CHARLES JORDAN, Director

October 2, 1991

TO: Chris Thomas, Hearings Officer
Metropolitan Service District

FROM: Jim Sjulín, Natural Resources Supervisor
City of Portland
Bureau of Parks and Recreation

RE: Urban Growth Boundary Locational Adjustment
Contested Case No. 91-2

Referring to Ethan Seltzer's memorandum to you, dated August 26, 1991; and referring to your memorandum to Ethan Seltzer, dated September 24, 1991, Bureau of Parks and Recreation is able to respond to a number of the questions and issues raised.

First, with reference to Mr. Seltzer's memo:

1. Staff's impression of City support is correct. The City's support of the locational adjustment is contingent upon the transfer of certain Forest Park in-holdings to the City for addition to Forest Park and subsequently rezoned for open space. (The contingent nature of the City's support is made clear by the "Preliminary Agreement" entered into by the co-applicants.) Further, it is the intent of the City that there shall be no net change in the residential development potential in the vicinity of the proposed locational adjustment.

2. No comment.

Second, with reference to your memo:

1. Your understanding of the term "in-holdings" appears to be correct.
2. Attached to this memo is the "Preliminary Agreement" as authorized by the ordinance and subsequently executed. At this time the Preliminary Agreement remains in force

and has not been amended or superseded by any other agreement. However, the City and the co-applicant do anticipate the development and execution of a final agreement. The City regards the transfer of in-holdings to the City as an essential part of the Preliminary Agreement and of any agreement which amends or supersedes the Preliminary Agreement.

3. No comment.
4. No comment.
5. No comment on the addition land.

The deletion land, if sold by the City or returned to Multnomah County and subsequently sold by the County, would likely be rezoned to Farm and Forest with an environmental zone overlay. With the e-zone overlay, the deletion land would likely be approved only for partial development. In addition, a number of transferrable development rights equal to the number of development units lost due to the e-zone would be issued to the landowner. The landowner could then apply these development rights elsewhere within the NW Hills Plan District. In this event, the resulting number of residential development units would equal 69 from the 139.8 acres of deletion land.

In addition, the Preliminary Agreement indicates that the City's co-applicants will secure all or portions of certain Forest Park in-holding properties and will transfer those properties to the City. The in-holding properties are presently within the UGB and are zoned Farm and Forest. If the City receives those properties from the co-applicant, the properties will be added to Forest Park and no residential development will take place. The in-holding properties are zoned Farm and Forest with some e-zone overlay, and total 119 acres. Therefore, there is a maximum of 59 residential units on the in-holding properties.

6. No comment.
7. The City's "Temporary Prohibition on the Disturbance of Forests" is attached.
8. No comment at this time.
9. No comment.

The City would again like to make it clear that the City's participation in and support of the application for the UGB

Locational Adjustment is contingent upon assurance acceptable to the City that the co-applicant will transfer certain Forest Park in-holdings to the City. At this time there is no such assurance in hand, nor has there been any amendment to the Preliminary Agreement, nor is there any final agreement superseding the Preliminary Agreement.

It is the City's understanding, however, that the likelihood of a final agreement in this regard between the co-applicants is high.

Therefore, in consideration of the above information which identifies the potential benefits for Forest Park and the potential benefits for orderly development within the region, the City asks that the Hearings Officer recommend approval of the UGB Locational Adjustment and add as a condition of approval that the co-applicants shall execute a final agreement on transfer of certain Forest Park in-holdings property to the City. If such final agreement is not forthcoming, then the City requests that the application for UGB Locational Adjustment be null and void. As a measure of fairness with respect to the number of residential units allowed to be added to the addition land, the City recommends that you consider the number of residential units removed from development through the transfer of property to the City for addition to Forest Park. This number would become available only after the co-applicants execute the anticipated final agreement.

ORDINANCE No. 164376

RECEIVED

JUN 28 1991

* Authorize an agreement with Homer G. Williams, Inc., to co-apply for an Urban Growth Boundary Location Adjustment under certain conditions.

The City of Portland ordains:

Section 1. The Council finds:

1. The City would realize benefits to the general public through the acceptance of title to certain properties in and around the City's Forest Park.
2. Homer G. Williams, Inc. (herein referred to as HGW), is willing to provide such benefits subject to final City approval.
3. The Bureau of Parks and Recreation recommends that portions of Forest Park near the northwest boundary of the Park be removed from the Urban Growth Boundary in order to preserve the rural character of the area which enables movement of wildlife into and out of Forest Park.
4. The Bureau of Parks and Recreation and the Bureau of Planning recommend that the City assist in securing the aforementioned public benefits provided by HGW through the City's application for an Urban Growth Boundary Location Adjustment in conjunction with HGW, subject to the success of such application.
5. The Bureau of Parks and Recreation and the Bureau of Planning recommend that the City enter into an agreement with HGW, as substantially represented by Exhibit A, attached, which provides that the City will co-apply with HGW for an Urban Growth Boundary Location Adjustment.

NOW, THEREFORE, the Council directs:

- a. The Mayor is hereby directed to execute an agreement with HGW substantially in accordance with the agreement attached and by reference made a part of the Ordinance; and to co-apply for an Urban Growth Boundary Location Adjustment as provided by the agreement with HGW.

Section 2. The Council declares that an emergency exists in order that the application for an Urban Growth Boundary Location Adjustment can be made in a timely manner; therefore, this Ordinance shall be in full force and effect after its passage by Council.

Passed by the Council, JUN 26 1991

Commissioner Lindberg
Jim Sjulín:sw
June 19, 1991

BARBARA CLARK
Auditor of the City of Portland
By *Britta Olson* Deputy