

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

AN ORDINANCE AMENDING METRO)	ORDINANCE NO. 92-461A
ORDINANCE NO. 92-444A, FOR)	
CONTESTED CASE NO. 91-2:)	
FOREST PARK)	

Section 1. On Thursday, February 27, 1992, the Metro Council held a second reading for and adopted Ordinance No. 92-444A, amending the Metro Urban Growth Boundary for Contested Case No. 91-2: Forest Park. The order was adopted upon the condition 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 the Metro Council received no written notification that this condition was met within 90 days of the passage of this ordinance, then no amendment of the urban growth boundary would occur and the petition would be rejected. The 90th day for purposes of this condition falls on May 27, 1992.

Section 2. On or about May 8, 1992, the City of Portland notified Metro and all parties to the case that it needed an extension of the 90-day time limit to complete the Ramsey portion of the transaction. The City stated its belief that additional time would result in the completion of the transaction as envisioned by Ordinance No. 92-444A.

Section 3. On May 18, 1992, the City of Portland formally requested that Metro extend the period for completing the

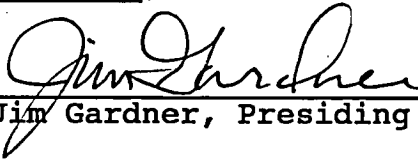
transaction by 180 days, change the word "donation" in Section 3 of Ordinance No. 92-444A to "acquisition" to acknowledge that the City would be more actively involved, and stop the 90-day "clock" in order to allow the Metro Council time to take the actions requested.

Section 4. Metro Ordinance No. 92-444A, Section 3, is hereby amended to read:

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 acquisition by the City of 73 acres referred to as Parcel A; and, at a minimum, the acquisition by 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 of the passage of this ordinance by June 1, 1993, then Metro shall notify the parties to the case and hold a hearing at the next regularly scheduled meeting of the Metro Council to hear why such assurance has not been received, and whether an additional extension of time is justified."

Section 5. Parties to Contested Case No. 91-2 may appeal this Ordinance under Metro Code Section 2.05.050 and ORS Ch. 197.

ADOPTED by the Council of the Metropolitan Service District
this 11th day of June, 1992.



Jim Gardner, Presiding Officer

ATTEST:



Clerk of the Council

ES/es/3/27/92
pa/6/11/92

STAFF REPORT

CONSIDERATION OF AN ORDINANCE AMENDING METRO ORDINANCE NO. 92-444A, FOR CONTESTED CASE NO. 91-2:FOREST PARK

May 15, 1992

Staff: Ethan Seltzer

BACKGROUND AND ANALYSIS:

On February 27, 1992, the Metro Council adopted Ordinance No. 92-444A, amending the Metro Urban Growth Boundary (UGB) for Contested Case No. 91-2:Forest Park. Contested Case No. 91-2 was 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) totaled 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.

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. 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 concerned 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 have been no trade proposal before the Metro Council.

Metro Hearings Officer Chris Thomas concluded that the petition complied with the applicable standards in MC Chapter 3.01, but recommended that the approval not take affect unless, within 90 days of passage of the Ordinance, the Council received 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 was filed, which subsequently became the basis for Council's amendment to the Hearings Officer's recommendation, making the basis for determining "satisfaction" on the part of the City more explicit.

Following adoption of Ordinance No. 92-444A on February 27, 1992, the City and HGW, Inc., had until May 27, 1992, to complete the transaction consistent with the conditions of the UGB amendment. In the ensuing months, both the City and HGW, Inc., have been unable to complete the transaction with the Ramsey family. Nonetheless, the City has reason to believe that it can now pursue the completion of the transaction in a manner that will meet the requirements of the condition if it can have an extension beyond the 90-day time limit imposed by Ordinance No. 92-444A. In addition to an extension for the time limit, the City would also like Section 3 of Ordinance No. 92-444A amended to reflect that the Ramsey property will be acquired by the City in a manner that may not include simple donation.

On or about May 8, 1992, the City of Portland requested that Metro amend Ordinance No. 92-444A to allow more time for completing the transaction as specified in Section 3 of that Ordinance. The City requested that the Metro Council act on May 14, 1992, at its regularly scheduled meeting, in order to amend the Ordinance before the expiration of the 90-day period on May 27. However, in addition to having missed the agenda deadline for the May 14 Council meeting, the amendment of an Ordinance requires an ordinance, which would entail a second reading no sooner than May 28, 1992, one day after the end of the 90-day period.

The request from the City raises both procedural and substantive issues for Metro. In the past, the Council has avoided attaching conditions to its UGB decisions. The request of the City represents a request for an amendment to a condition, something that our code is silent on. Therefore, in order to adequately prepare the way for Council consideration of the request in a manner that would not prejudice future Council actions, Metro staff advised the City to submit a second letter, received on May 18, 1992, requesting that the 90-day "clock" be stopped in order to allow the Council sufficient time to consider the request.

Executive Officer's Recommendation

The request from the City of Portland for an amendment to Section 3 of Ordinance No. 92-444A will not change the final specifications for the overall transaction or the participation of the City of Portland as an applicant in Metro's UGB proceeding. The Metro Council should adopt Ordinance No. 92-461, granting the request of the City of Portland for amendments to Section 3 of Metro Ordinance No. 92-444A allowing more time and enabling other forms of acquisition besides donation to be used to complete the transaction.



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

May 18, 1992

TO: Ethan Seltzer
Metropolitan Service District
Land Use Supervisor

FROM: Jim Sjulín
Bureau of Parks and Recreation
Natural Resources Supervisor

RE: Amendment of Metro Urban Growth Boundary (UGB), Contested
Case 91-2, Authorized by Metro Ordinance No. 92-444A.

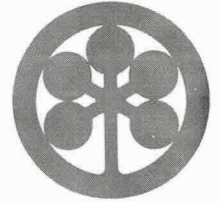
The City of Portland, co-applicant with HGW, Inc. in the above land use action, requests that an immediate stop be placed on the 90 day period established as a special condition for the UGB amendment. The suspension of the clock will allow Metro Council the opportunity to consider an amendment to the condition which extends the period by another 180 days and makes a minor language change. The suspension of the clock also will allow Portland City Council the opportunity to authorize needed action in connection with the condition and the opportunity to execute the action.

The City also requests that Metro staff prepare an amendment to the aforementioned condition which extends the period by an additional 180 days and which changes the word "donation" to "acquisition" within the condition (Section 3 of Metro Ordinance No. 92-444A).

ugbmem.001



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

May 8, 1992

Ethan Seltzer
Land Use Supervisor
Metropolitan Service District
2000 S.W. 1st Avenue
Portland, OR 97201

RE: Amendment of Metro Urban Growth Boundary (UGB), Contested Case
91-2, Authorized by Metro Ordinance No. 92-444.

Dear Mr. Seltzer:

The City of Portland and HGW, Inc., co-applicants for the above referenced Amendment of Metro UGB, request that the period allowed for filing the written notification of satisfaction by the City be extended by an additional 90 days.

Metro Ordinance No. 92-444 provided a 90 day period from the date of passage by the Metro Council. This period will terminate on May 24, 1992. The City and HGW are presently working on a final agreement which will require further City Council authorization. But due to the need for additional actions and negotiations by the City, and due to City Council's schedule, it is necessary to request an extension now. After the City and HGW execute the final agreement, there will be a clear and certain path for the City to obtain satisfaction as anticipated by the Metro Ordinance.

The City and HGW, Inc. request that Metro Council grant this needed 90 day extension at its regular meeting of May 14, 1992. Richard Whitman (representing HGW) and I will be available to attend the Council meeting and will be prepared to respond to any questions or concerns from Metro Council.

Please contact Harry Auerbach at 823-4047 or me at 796-5122 if you have any questions about this matter.

Sincerely,


Jim Sjulip
Natural Resources Supervisor

c: Richard Whitman

Certified True Copy of the Original Thereof
Pauline Allen
Clerk of the Council

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

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.

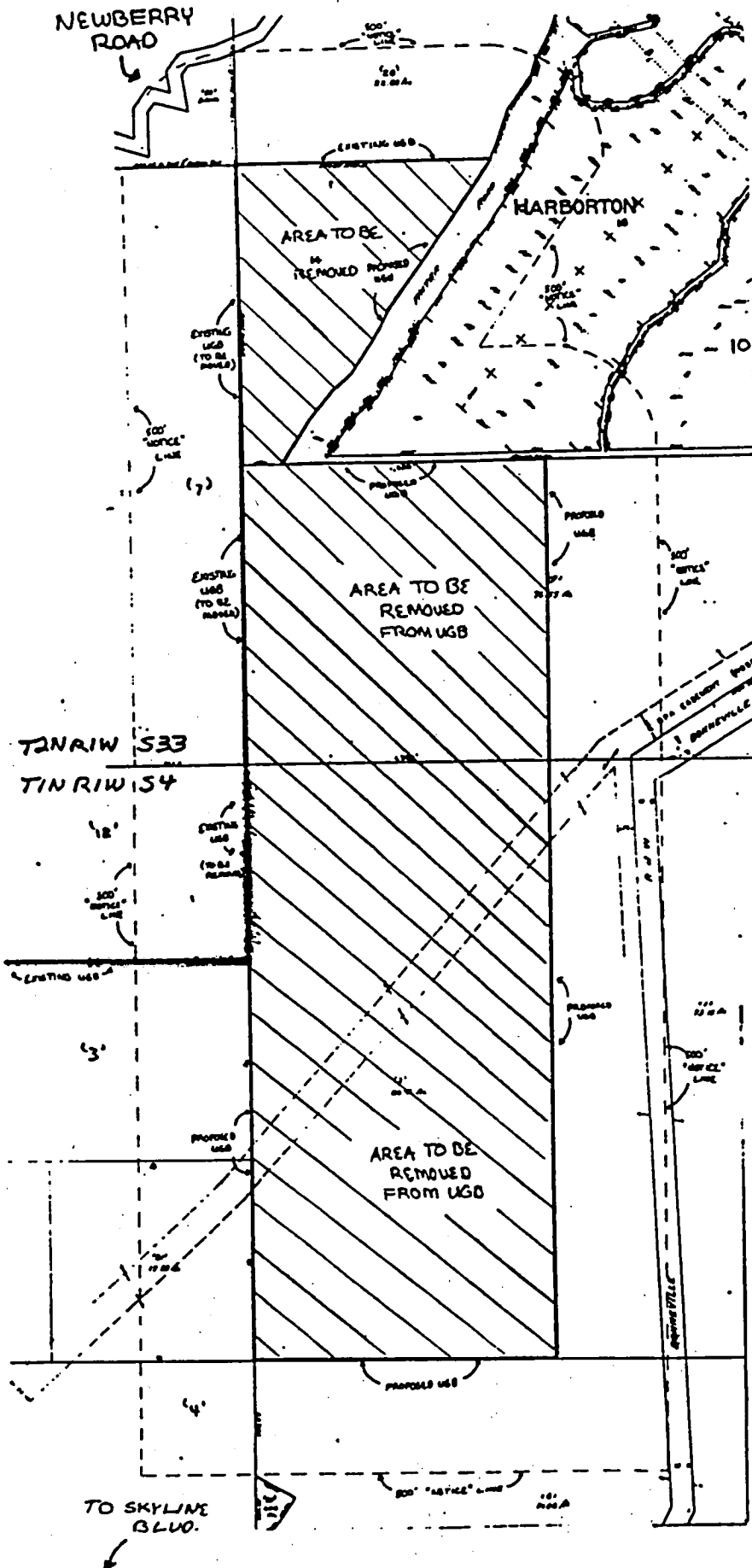
The exception filed by Mr. Rochlin agrees with the Hearings Officer's conclusion but proposes stricter conditions pertaining to the exact nature of the property to be conveyed by HGW, Inc., to the City of Portland.

Executive Officer's Recommendation

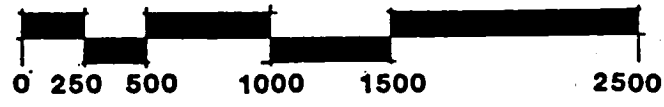
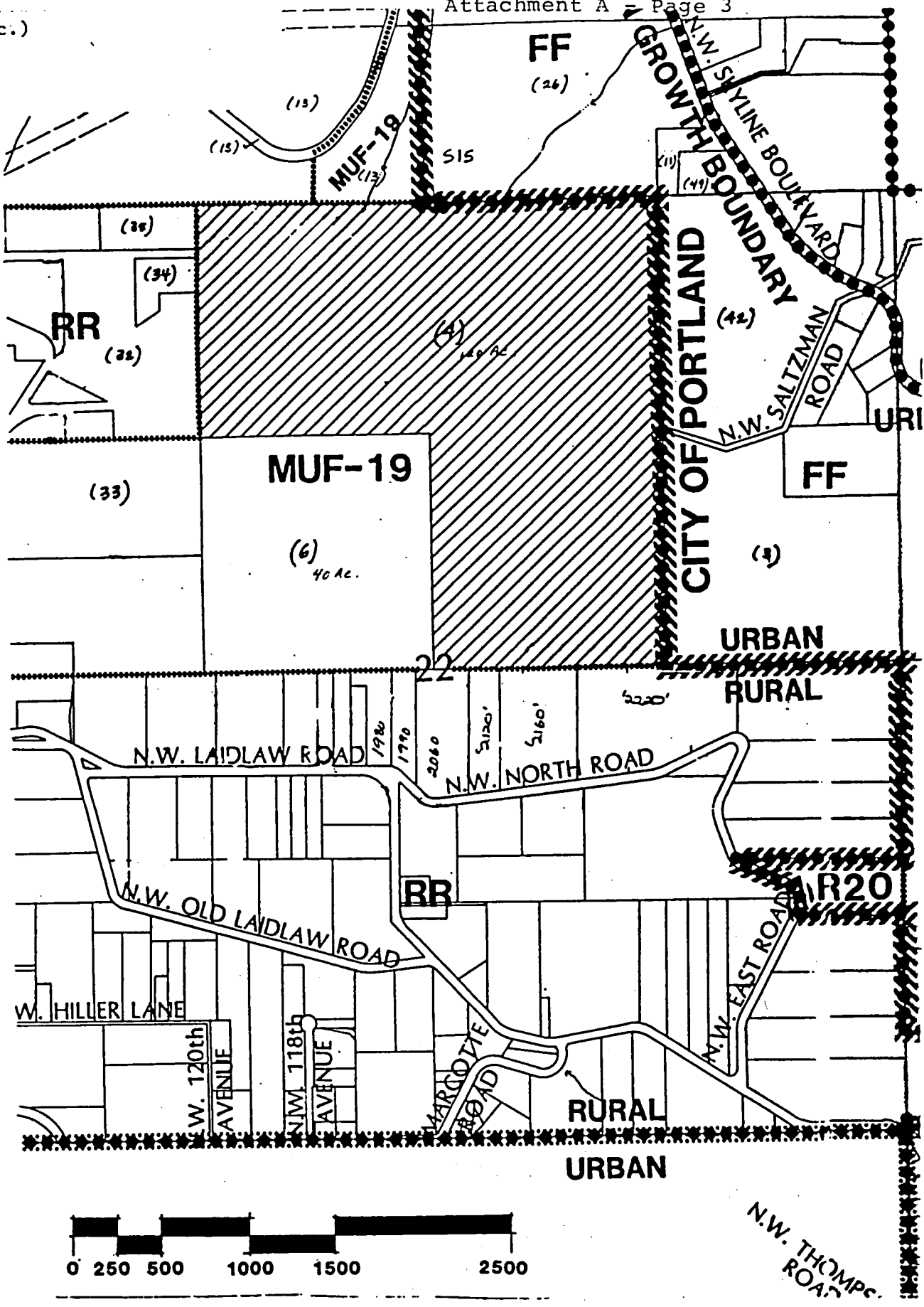
The Metro Council should accept the recommendation of the Hearings Officer, including the condition as proposed. The appropriate place to raise the issue of the satisfaction of the City of Portland with the final transaction is with the City, not Metro.

ES/es
1/28/92

EXHIBIT A

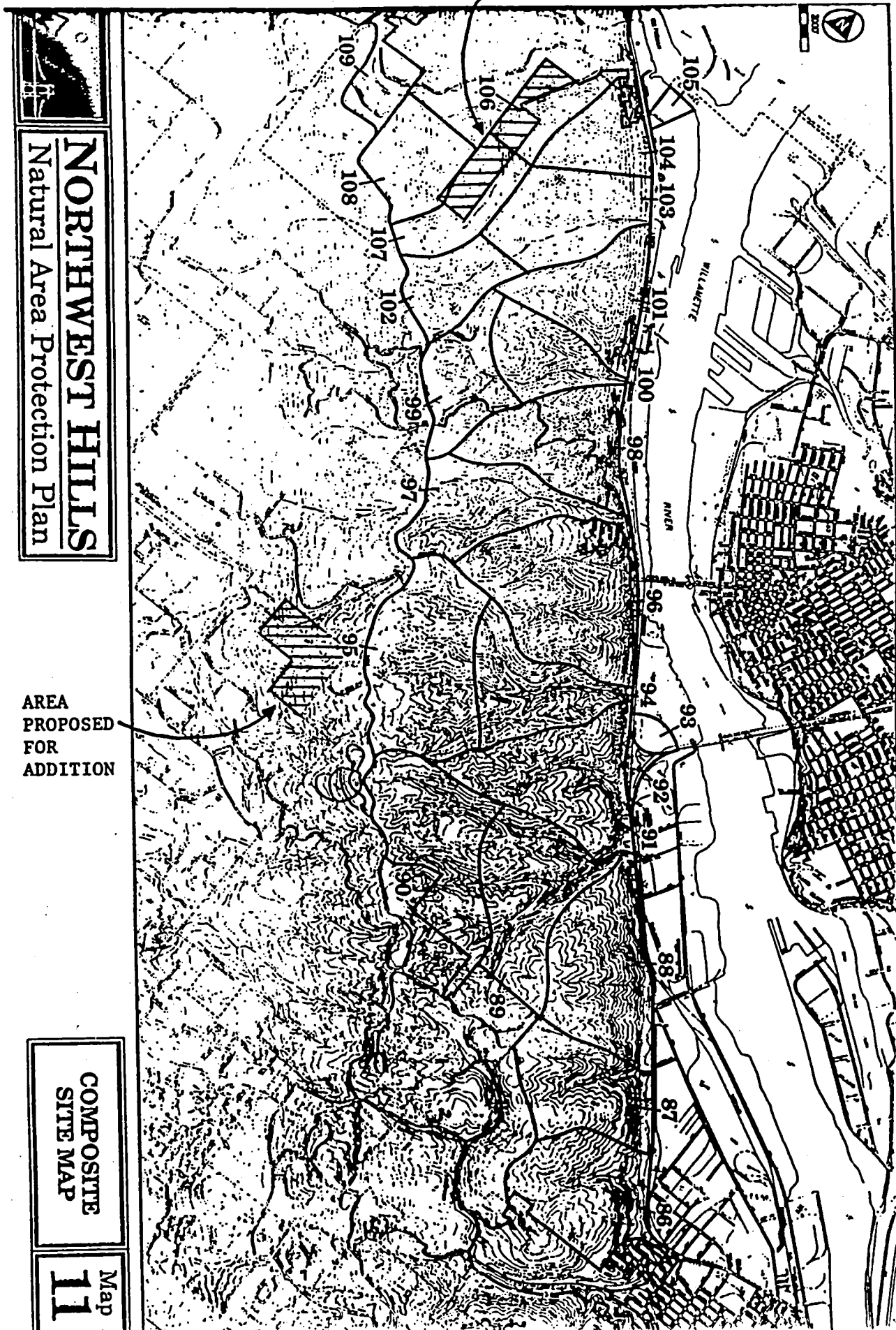


(120.0 ac.)



AREA PROPOSED FOR REMOVAL

EXHIBIT A



NORTHWEST HILLS
Natural Area Protection Plan

AREA
PROPOSED
FOR
ADDITION

COMPOSITE
SITE MAP

Map
11

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

AN ORDINANCE AMENDING METRO)	ORDINANCE NO. 92-461
ORDINANCE NO. 92-444A, FOR)	
CONTESTED CASE NO. 91-2:FOREST)	
PARK)	

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

Section 1. On Thursday, February 27, 1992, the Metro Council held a second reading for and adopted Ordinance No. 92-444A, amending the Metro Urban Growth Boundary for Contested Case No. 91-2: Forest Park. The order was adopted upon the condition 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 the Metro Council received no written notification that this condition was met within 90 days of the passage of this ordinance, then no amendment of the urban growth boundary would occur and the petition would be rejected. The 90th day for purposes of this condition falls on May 27, 1992.

Section 2. On or about May 8, 1992, the City of Portland notified Metro and all parties to the case that it needed an extension of the 90-day time limit to complete the Ramsey portion of the transaction. The City stated its belief that additional time would result in the completion of the transaction as envisioned by Ordinance No. 92-444A.

Section 3. On May 18, 1992, the City of Portland formally requested that Metro extend the period for completing the transaction by 180 days, change the word "donation" in Section

3 of Ordinance No. 92-444A to "acquisition" to acknowledge that the City would be more actively involved, and stop the 90-day "clock" in order to allow the Metro Council time to take the actions requested.

Section 4. Metro Ordinance No. 92-444A, Section 3, is hereby amended to read:

"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 acquisition~~ **by** the City of 73 acres referred to as Parcel A; and, at a minimum, the ~~donation to acquisition~~ **by** 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~~ **by December 11, 1992**, then no amendment of the urban growth boundary shall occur and the petition will be rejected. "

Section 5. 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.

Jim Gardner, Presiding Officer

ATTEST:

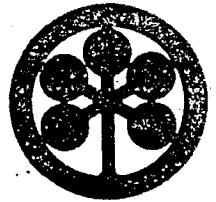
Clerk of the Council

ES/es3/15/92



CITY OF PORTLAND
BUREAU OF PARKS AND RECREATION

1120 S.W. 5TH, ROOM 1302
PORTLAND, OREGON 97204-1933
(503) 796-5193



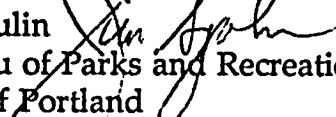
MIKE LINDBERG, Commissioner

CHARLES JORDAN, Director

February 3, 1993

RECEIVED
FEB 03 1993

TO: John Fregonese
Land Use Planning Supervisor
Metro

FROM: Jim Sjulín 
Bureau of Parks and Recreation/Natural Resources Program
City of Portland

RE: Case 91-2: Forest Park.
Metro Ordinance 92-461A (adopted June 11, 1992)

The City of Portland and HGW, Inc., co-applicants in the above land use case, will not be able to meet conditions of the UGB adjustment authorized by Metro Council.

The City of Portland hereby notifies Metro of its withdrawal from the land use action.

The Bureau of Parks and Recreation offers its apologies to Metro Council and Metro staff for time and interest invested in this case.

C: Harry Auerbach, Deputy City Attorney
Bob Hartford, HGW, Inc.
Richard Whitman, Ball Janik & Novack
John Sherman, Friends of Forest Park