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December 4, 2009

VIA HAND DELIVERY

Metro Core 4 and
Washington County Board of Commissioners
155 N First Avenue
Suite: 300
Hillsboro, OR 97124-3072

Re: Standring/Hartung/Berger Properties and Areas UR-2A and UR-2B

Dear Core 4 and Commission Members:

This firm represents Save Helvetia, a group of individuals committed to preserving Helvetia and the agricultural lands in the Helvetia area. Those lands are the ones designated UR-2B and UR-2A on the Core 4 Area Map, north of US-26 and west of NW Helvetia Road. As explained in greater detail below, this area should be designated for rural reserves as it satisfies all of the rural reserve factors of OAR 660-027-0060. Additionally, this letter responds to opposition testimony presented by Mr. Mark Greenfield dated September 30, 2009 in favor of designating the Standring, Hartung, and Berger (herein after referred to collectively as "Standring") properties located directly west of NW Helvetia Road for urban reserves.

All of the lands included in the UR-2A and 2B designations are functionally critical to the region's agricultural economy and are mapped as Foundation Agricultural Lands by the Oregon Department of Agriculture and Metro. These properties are primarily composed of productive farming operations containing some of the most fertile, well-drained soils in the Metro area. Save Helvetia has submitted evidence that the land north of US-26 has been farmed profitably and successfully for nearly 150 years. The farm uses include dry land farming, vineyards, Christmas tree farms, nurseries and nursery stock, U-Pick farms, pumpkin patches, lavender farms, CSAs (Community Supported Agriculture), dairy and beef farms, walnut and hazelnut farms, equine businesses, ranching and dairy farms, and hay and seed producers. US-26 serves as a long-term hard edge between urban and rural lands allowing the farmers north of US-26 to continue to innovate, diversify, and adapt to provide for the local food supply.



When considered in its entirety and against other lands around the Metro region, the area located north of US-26 and west of NW Helvetia Road is much more suitable for rural reserves designation given its high productivity for farm use and its existing protective boundary ensuring the continued operation and profitability of these agricultural lands. It is true that the most productive farmland is often the easiest to convert to industrial uses – the UR-2A and 2B designated lands are generally flat, have good drainage and, in the case of the Standing properties, are in close proximity to a freeway interchange. But these facts alone do not satisfy the purpose of urban and rural reserves set out first in Oregon Laws 2007, chapter 723 or Senate Bill 1011, and subsequently implemented by OAR Section 660-027 and the various reserve factors discussed in greater detail below.

The Relationship between Urban and Rural Reserves

“Rural reserves” were defined in SB 1011 as well as in OAR 660-027-0005 to “provide long-term protection for agriculture.” The first factor for identifying lands that are suitable for rural reserve protection under OAR 660-027-0060(2) are those lands that are capable of sustaining long term agricultural viability but are under pressure for urbanization due to their proximity to an urban growth boundary (UGB) or because these lands are in close proximity to properties where the fair market value significantly exceeds the agricultural value for farmland. This is exactly the situation affecting the lands north of US-26 and west of Helvetia Road as evidenced by the City of Hillsboro and property owners’ current efforts to obtain urban reserves designation for these lands. According to Mr. Greenfield, the Standing properties are suitable for urbanization because they are adjacent to the UGB and services and facilities can be extended to support an industrial use.¹ These Standing lands, as well as the lands further west, are subject to redevelopment pressure not because they are ill-suited for agricultural preservation, but because they are the next domino in the line to fall to urbanization. After all, these lands are adjacent to the existing urban growth boundary, making the extension of urban services easier than might be the case for other parcels. Designation of these lands for urban rather than rural reserves will only further support an argument that the pressure was too great for the County to withstand.

Ease of urban expansion is not the sole factor for consideration when making urban reserve determinations. OAR 660-027-0040(2) requires that urban reserves be limited to the amount necessary to “accommodate the estimated urban population and employment growth.” Although this does not require mathematical certainty, it does require a connection between the need for additional urban lands and the amount of land designated to meet the need. Based on substantial study, Metro has determined that the current lands, both vacant and suitable for redevelopment, within the existing UGB are very nearly sufficient to accommodate the estimated

¹ This push for an industrial designation comes only 10 years after Standing applied for an exception to develop the subject property for residential use. This suggests that the pressure for urbanization of these lands has been longstanding.



increase in population and employment demand.² Designating the lands west of Helvetia Road as urban reserves undermines that primary purpose set out in OAR 660-027-0040(2) and Metro's findings of need because it allows a local government to consciously and deliberately commit land to urban use by allowing the loss of productive, high-value farmland simply because the land is adjacent to urban development thereby creating conflicts with the pre-existing farm uses, solely upon a finding that it is easy to extend urban services regardless of whether that land is needed for urban use or its suitability for farm use. The sheer convenience of utilities and transportation connections is a circumstance affecting most lands adjacent to the UGB and therefore cannot be the sole basis for their inclusion in this case.

Standring and other proponents of urbanization would have you consider the urban reserve factors of ORS 660-027-0050 independently from the rural reserve factors, emphasizing that they do not include inquiries regarding agricultural suitability. However, OAR 660-027-0040(10) requires that both the urban and rural reserve factors must be applied "concurrently and in coordination with one another." As such, it is improper to solely consider the ease of urbanization without simultaneously considering whether these same lands might be more suitable for rural land protections. Washington County staff has noted that "the requirement to accommodate urban land need was the deciding element in choosing between an Urban Reserve designation rather than Rural Reserve designation, where the underlying suitability analysis would otherwise support either designation."³ As will be explained in greater detail below, this is not a case where the land satisfies both urban and rural factors. Rather, the concurrency obligation requires deciding whether the land more closely satisfies rural objectives over urban and if so, the land must be protected for agricultural purposes consistent with the rural reserve factors.

Areas UR-2A and 2B Are Not Suitable for Urban Reserves

Save Helvetia has submitted testimony explaining why urban reserve factors of OAR 660-027-0050 are not satisfied for Areas UR-2A and 2B. The following is a short summary of this testimony as it relates to the factors:

These Lands are Ill-Suited for Large Lot Industrial Development and Lack Infrastructure

Standring notes that the property is suitable for industrial development because it is held in large parcels by owners willing to develop it for industrial use along with its proximity to infrastructure, most notably the Shute Road Interchange. First, lot sizes and the desires of the current property owners are not factors to consider when considering suitability for urban

² Metro has projected that the urban reserve designation should encompass 15,700 to 29,100 acres for the entire region. Meanwhile, Washington County asserts that it alone needs 34,000 acres.

³ Staff Report to Washington County Reserves Coordinating Committee dated Sept. 23, 2009.



reserves under OAR 660-027-0050. Moreover, testimony has been submitted that the Standing property is not the most suitable 100+ acre site for industrial / employment use. Rather, the "St. Mary's property" located just south of the Tualatin Valley Highway consists of 467 acres and is under a single ownership. It alone could supply 4 to 5 large 100+ acre industrial uses. It is located in the employment corridor between Beaverton and Hillsboro, has road access from two state highways, is accessible by rail, is in close proximity to commuter rail and most importantly, is located near residences providing a greater integration between existing housing and employment opportunities.

Mr. Greenfield tries to distinguish his clients' properties from other properties within the proposed urban reserve areas by claiming that these other lands are "not adjacent or close to existing public services and will require costly service expansion over time." However, by definition, all lands adjacent to the UGB will eventually have services nearby that can be extended simply as a result of the adjacency. Further, the attorney's statement fails to note that none of the utilities identified as available to serve the Helvetia area currently exist and, although they are planned for by the 2008 Helvetia Concept Plan, their construction is uncertain and their funding is not secure. Future development will pay for these planned extensions, up to Helvetia Road and, if approved as urban reserves, beyond. These infrastructure costs will be passed on to employers which will, in turn, be passed on to workers (as lower wages) and tax payers (assuming projects are publicly funded). The best way to avoid additional infrastructure costs is to direct industrial development within the existing UGB onto vacant buildable lands, through Brownfield cleanup or redevelopment where utilities already exist. OAR 660-027-0050(1) requires that the local governments use rural reserves to make "efficient use of existing and future public and private infrastructure investment." The focus should first be on meeting the need with the existing infrastructure before moving on to that which is planned in the future. Designating the area west of Helvetia Road as urban reserves fails to adequately consider those areas with existing infrastructure, or island areas within the Beaverton to Hillsboro employment corridor that could serve the need, before moving on to consider ease of expansion in the future once utility stubs are located on adjacent properties.

As explained by the Save Helvetia representatives, the Waible Creek basin drains several thousands of acres of land in Central Helvetia and not just the Standing properties. This testimony goes on to explain that the surface water drains to the east because of field tiling on the parcels that directs water in a south-easterly direction. Field tiling can carry sub-surface water in whatever direction it was installed. Therefore, drainage patterns cannot be used to determine the areas suitable for urban reserves designation.

As for the Shute Road interchange, ODOT has explained that expansion of the roadway is necessary to serve development south and east of Helvetia Road - not a new urban area north

