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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



and west of US-26.⁴ Again, simply because an urban scale intersection is proposed, does not mean that the land surrounding the interchange is suitable or necessary for urban development. Moreover, US-26 (or, perhaps, Waible Creek to the south) serves as a much better boundary between farm uses to the north and urban uses to the south than Helvetia Road would be (or no buffer at all should the Standing urban reserves designation go forward).

OAR 660-027-0050(4) describes urban reserve lands as being “walkable and served with a well-connected system of streets, bikeways, recreation trails and public transit” and yet nothing about the area north of US-26, especially when dominated by a large freeway interchange, suggests that development of this area will provide any of the multi-modal opportunities identified by this factor. Metro's recently-approved HCT (High Capacity Transit) plan has the closest stop/station at Cornelius Pass and West Union - about two miles away - not within the recommended one-half mile walking distance to HCT designed to make communities livable. Developing the area north of US-26 will pull valuable transportation dollars from the HCT corridors in Hillsboro that serve economically viable densities of riders, diluting valuable funding for areas more in need of HCT. Urbanizing this area will be entirely auto-focused with no realistic alternative transportation opportunities. Housing for workers employed in the area north of US-26 will be located some distance away, only increasing the commuter-related traffic congestion that is already stifling the County. Locating additional industrial lands will serve to further separate uses contravening the purpose identified in OAR 660-027-0005 that urban and rural reserve decisions result in the creation of “livable communities.”

Urbanizing these Lands Will Adversely Affect Farm Practices and Natural Landscape Features

Mr. Greenfield claims that removal of the Standing properties from the agricultural land supply would have minimal impact on the value of agricultural land and the continuation of surrounding agricultural activities. No evidence supports this assertion. Rather, as noted by Mr. Angelo, planning consultant to Mr. Standing, the key to improving the interface between urban and agricultural lands is providing an adequate buffer between the two uses. Redesignating Areas UR-2A and 2B for urban uses would remove the existing buffer between farm and urban uses provided by US-26, a four-lane highway and replace it with West Union Road, a two lane rural road to the north. Similarly, the Standing proposal would entirely eliminate any boundary between farm and urban uses in the east/west direction, currently buffered by Helvetia Road, by

⁴ The Coalition for a Livable Future, in its critique of the RTP (p.18 of attached document), points out that, "As a result of the legislative earmarking in the Jobs and Transportation Act (2009), ODOT was required to allocate a significant portion of its budget to five “modernization” projects, leaving ODOT with more limited discretion to include road preservation and bridge projects. Not including the Columbia River Crossing, almost 9% of ODOT’s RTP budget (\$139 million) are legislative earmarks. An example of one such project is the expensive interchange on US Highway 26 at Shute Rd (\$45 Million, #11178), which is not among the region’s greatest needs." See US-26; Shute Road Interchange Project Description.



moving the boundary one parcel further west directly adjacent to the Grossen's 126 acre family farm. Additional urbanization of lands north of US-26 will result in spillover traffic using rural roads impacting agricultural use of the roads for slower moving farm vehicles. For these reasons, this area cannot be designed to "minimize adverse effect on farm and forest practices" and fails to satisfy OAR 660-027-0050(8). In addition, as the "Helvetia Industrial Area" east of Helvetia Road is developed, roads should be designed to carry traffic east and south only, away from the agricultural zone, to prevent the negative impacts of spillover traffic.

Richard Whitman, Director of LCDC (Land Conservation and Development Commission) said at the October 14, 2009 meeting of the Reserves Steering Committee that its experience in other parts of the state shows that resource lands put into Urban Reserves cease to be managed as resource lands. This record contradicts a Hillsboro and Washington County argument that agricultural lands can continue to be productive inside Urban Reserves. The joint state agency letter dated October 14, 2009, page 5, refers to this truism: "Similarly, once lands are designated as urban reserves they are unlikely to be managed for the long-term investments needed for working farm or forest operations."

The primary objective for designating land within reserve areas as provided by OAR 660-027-0005(2) includes "protection of the important natural landscape features that define the region for its residents." The overwhelming amount of evidence shows that the agricultural area surrounding historic Helvetia provides a sense of place not only to Helvetia residents but to the County as a whole. The Standing properties serve as the key gateway to the unblemished vistas and rolling hills of Helvetia. The low density rural development in the area allows visitors to walk back in time and behold activities that have sustained Northwestern Oregon for generations. This rural landscape is a key defining feature for Washington County and for that reason should be preserved.

Helvetia Road is now the first opportunity to view farmland when leaving the urban area westbound on US-26, the most heavily traveled route in Washington County that is actively subject to urban designation. Helvetia Road also provides the first view from US-26 of forested Tualatin Mountains, stately Oregon white oak savannas (some as old as 500 years), historic, majestic 60-foot tall Swiss Linden trees (dating from 1892) dotting the original Swiss settlers' farms, and historic, active, productive Century Farms.

The Washington County Oregon Visitors Association and ODOT have invested in signage and publicity to promote the Helvetia loop as part of its "Vineyard and Valley" Scenic Tour Route. NW Helvetia Road, starting at the US-26 exit, is the beginning of the Helvetia portion of the scenic tour, proceeding north past the Standing properties and continuing past the Helvetia Tavern, winding west to Jackson Quarry Road, then to Jackson School Road and across US-26 to the south. ODOT provided funds as part of its "Discover Oregon Scenic Byways" program. Developing the Standing properties would destroy the pastoral vistas of rural



farmland that is part of the attraction of Helvetia's countryside and Helvetia's recognized sense of place throughout the Metro region.

Areas UR-2A and 2B Designated as Rural Reserves

As explained above, the quality of the soils, the hydrology and the lack of urban development in the area west of Helvetia Road make this area “capable of sustaining long term agricultural operations” appropriate for rural reserves designation as defined by OAR 660-027-0060(2)(b) and (d).

Areas UR-2A and 2B are Suitable to Sustain Long-Term Agricultural Operations

OAR 660-027-0060(2)(b) through (d) identify factors related to determining whether the area can sustain long-term agricultural activities taking into account soils, “available water where needed,” farm clusters, land use and ownership patterns, and infrastructure. The residents of the Greater Helvetia area north of US-26 have farmed profitably and successfully for the last 150 years. They follow traditional dry land agricultural practices to grow wheat, oats, clover, grass seed and hay, all without irrigation. They also are adapting, diversifying and innovating to new markets and techniques to produce new crops from the productive lands north of US-26. They have created a thriving economy of agriculture-based businesses that capitalize on the fertile soils and available water creating foundation agriculture lands. The Standing properties are currently used for grass seed farming. This evidence establishes that even though many parcels lack irrigation rights, water is available “where needed.”

Testimony also shows that the farmers of Helvetia are able to make a profit even when their parcels are smaller than the minimum 80 acres parcel size typical for Exclusive Farm Use zoning. Farming multiple parcels is a common practice throughout Washington County. Moreover, when discussing land size, OAR 660-027-0060(2)(d)(A) requires consideration of “the existence of a large block of agricultural...land with a concentration or cluster of farm operations.” Nothing in this rule requires consideration of lot size, nor does it set a minimum lot size for determining whether land can be profitably farmed. Rather, the factor requires consideration of whether a small parcel is located in an area that is largely agricultural in nature and is thereby clustered with other farm activities or whether it is isolated and therefore, would not prove as reliable for sustained agricultural uses. The Helvetia area farms are aggregated to result in a cohesive agricultural whole. Finally, by leasing small parcels the farmers of Helvetia are able to diversify and readily adapt to changing markets, prices, consumer preferences and climate events.

Areas UR-2A and 2B Constitute Important Natural Landscape Features

OAR 660-027-0060(3) identifies factors important for identifying those areas suitable for rural reserve designation as important landscape features. Factor (3)(e) includes those areas that



“provide a sense of place for the region” and as explained above, Helvetia and the farmland surrounding it serves this purpose. In addition, southern portions of the Standing property serve an important floodplain purpose for the Waible Creek drainage basin. The lower Standing parcel contains old growth woodland of Oregon White Oak trees which are important in their own right but also serve as a cultural heritage site for the Atfalati people, a tribe subsequently joined within the Confederated Tribes of the Grand Ronde, who inhabited the area before Helvetia’s Euro-American settlement.

Conclusion

The overarching objective when designating urban and rural reserves is using these designations in a way that “best achieves livable communities, the viability and vitality of the agricultural and forest industries and protection of the important natural landscape features that define the region for its residents.” Livable urban communities are best served by integrated residential and employment opportunities served by multi-modal opportunities including walking and bicycling as well as mass transit. These features are not, and will not be present in Areas UR-2A and 2B. Livable communities are those that will strengthen and complement existing urban areas and do not detract from their success. Designating Areas UR-2A and 2B for urban uses will only work to further distance workers from their homes and increase overall vehicle miles traveled. Livable communities are those that embrace attributes that define a region for its residents, such as making a rural agrarian lifestyle and the fruits of farm labor available not only to those who live in Helvetia but to those who drive along US-26. From their car, visitors can witness the rolling hills and the loamy smell of a recently tilled farm of Helvetia, experiencing agricultural activities that make Washington County unique. Unlike urban uses that can locate anywhere, farming is dependent on the land. Farmers cannot survive in the face of urban employment expansion when utilities are close and easily convertible. US-26 provides an appropriate permanent barrier between rural and urban uses that, along with the farming activities, should be supported through the designation of the lands north of US-26 and west of Helvetia Road as rural reserves.

Sincerely,

GARVEY SCHUBERT BARER

By

Carrie A. Richter

cc: Ed Sullivan
Clients