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Gary Shepherd, Senior Assistant Attorney

November 31, 2017

Kate McQuillan
Multnomah County Department of Community Services
Transportation Division - Planning and Development
1600 SE 190th Avenue
Portland, OR 97233

**RE: Preliminary Feasibility Request
Burlington Forest - Platted Public Right of Way Vacation**

Dear Ms. McQuillan:

Metro respectfully requests that the County perform a preliminary feasibility study for vacating platted public right of way in Metro's Burlington Creek Forest.

Background:

Burlington was platted for residential subdivision development in 1909. As was common at the time, the plat was done without consideration of topographical, riparian, and other geographical site limitations. As a result, only a very small portion of the platted property, specifically that east of the railroad line and adjacent to Highway 30, have developed to support residential uses. The remainder of the property, west of the railroad line, remained in commercial forest production. Of note, within the plat, the railroad lines are located in County right of way (platted as Multnomah Avenue). Outside of the plat, the lines are located in State/Oregon Department of Transportation (ODOT)-owned right of way.

The Burlington Plat resulted in a lengthy right of way system being dedicated to the County. Those platted public right of ways remain undeveloped. Today, only forest practice roadways exist. Those forest roads, for the most part, do not align with the public right of way and were never intended as public roads. Attached is an aerial map that depicts the platted right of way and existing forest roads. Also seen is NW McNamee Road to the west, the railroad lines, and the residential development adjacent to Highway 30.

Vacation:

Metro desires to vacate platted right of ways that are not now, nor will they be used for public road uses. Attached is a copy of the Burlington Plat with the public right of way intended for vacation highlighted and identified. The roadway rights of way are 30 feet

wide, and alley rights of way are 15 feet wide. The platted ways are entirely within Multnomah County.

The public rights of way to be vacated can be described with reference to the Burlington Plat (Blocks 1-29 & 36-44 Inclusive) and more particularly as follows:

The portion of platted right of way in Section 20, T2N, R1W, W.M., Multnomah County, Oregon, lying within the Plat of Burlington, described as follows:

- A) Claro Avenue, lying southerly from its westerly intersection line with Multnomah Avenue, its entire length;*
- B) Maduro Drive, lying westerly from its westerly intersection line with Summit Drive (NW McNamee), its entire length;*
- C) Bonito Drive, lying easterly from its easterly intersection line with Summit Drive (NW McNamee), its entire length;*
- D) Burlington Drive, lying westerly from its westerly intersection line with Multnomah Avenue, its entire length;*
- E) Loneta Drive, lying westerly from its westerly intersection line with Multnomah Avenue and easterly from its easterly intersection line with Burlington Drive, its entire length;*
- F) Inspiration Drive, lying easterly from its easterly intersection line with Burlington Drive and northerly from its easterly intersection line with Bonito Drive, its entire length;*
- G) Lanoche Drive, lying westerly from its westerly intersection line with Multnomah Avenue, its entire length;*
- aa) Unnamed alley, lying westerly from its westerly intersection line with Multnomah Avenue and easterly from its easterly intersection line with Bonito Drive, its entire length;*
- bb) Unnamed alley, lying southerly from its southerly intersection line with Summit Drive (NW McNamee) and northerly from its northerly intersection line with Bonito Drive, its entire length;*
- cc) Unnamed alley, lying southeasterly from its southerly intersection line with Bonito Drive and northwesterly from its northerly intersection line with Burlington Drive, its entire length;*
- dd) Unnamed alley, lying westerly from its westerly intersection line with Multnomah Avenue and easterly from its easterly intersection line with Inspiration Drive, its entire length (this alley may contain a Burlington Water District water line which also may extend across Inspiration Drive – and if vacated, legal access for the line would be through an easement);*

ee) *Unnamed alley, lying southerly from its southerly intersection line with Inspiration Drive and northerly from its northerly intersection line with Bonito Drive, its entire length;*

fff) *Unnamed alley, lying southerly from its southerly intersection line with Bonito Drive and northerly from its northerly intersection line with Burlington Drive, its entire length;*

gg) *Unnamed alley, lying easterly from its southerly intersection line with Burlington Drive and westerly from its westerly intersection line with Bonito Drive, its entire length;*

hh) *Unnamed alley, lying easterly from its easterly intersection line with Burlington Drive its entire length;*

ii) *Unnamed alley, lying southeasterly from its southeasterly intersection line with Inspiration Drive and northwesterly from its northwesterly intersection line with Lanoche Drive, its entire length;*

jj) *Unnamed alley, lying easterly from its easterly intersection line with Bonito Drive and westerly from its westerly intersection line with Lanoche Drive, its entire length.*

Ownership:

The vacation would be proposed for the platted right of way that is adjacent or through the following Metro properties:

2N1W19-00500; 2N1W20B-00200; 2N1W20BC-01300; 2N1W20BC-01400; 2N1W20B-00100; 2N1W20BC-00800; 2N1W20BC-01200; 2N1W20BC-01000; 2N1W20BC-00900; 2N1W20B-00500; 2N1W20B-00600; 2N1W20B-00400; 2N1W20B-00300; 2N1W20C-00500; 2N1W20C-00400; 2N1W20C-00100; 2N1W20BD-03700; 2N1W20C-00600; 2N1W20C-00300; 2N1W20C-00200; 2N1W20C-00700; 2N1W20-00400.

The vacation would be proposed for the platted right of way that is adjacent to the following property, owned by others:

PGE property: 2N1W20BC-01100 (Plat Block 23, Lot 6)(approximately 200 feet of frontage on platted right of way);

Burlington Water District (BWD) property: 2N1W20BD-03800 (Plat Block 40, Lot 16)(60 feet of frontage on platted right of way);

ODOT property: 2N1W20-00500. This property is developed with railroad lines and is the west of the western end of platted Multnomah Avenues. Metro seeks to vacate Lanoche Drive, west of and which T's into the ODOT right of way. Depending on where the road is vacated, ODOT may or may not be an abutting owner.

It is anticipated that a vacation petition with 100% of the abutting ownership interests and covering 100% of the land area will be submitted.

Vacation is in the Public Interest:

The area served by the public right of way is zoned Commercial Forest Use (CFU). Except for two small inholdings (one owned by PGE and the other by the Burlington Water District), the property is owned by Metro. Metro manages the property for forest uses. There is no expected residential development that would be served by the road system. The CFU zoning, environmental overlays, and topographical limitations cannot support residential development and would prevent a roadway from being developed in its platted area.

The existing public right of way is not maintained or developed and serves no county road purpose or other public purpose, with one small exception. There appears to be an existing Burlington Water District water line that may be located within right of way that extends from the water district tank, across platted Inspiration Drive, and down the platted alley to the Multnomah Avenue right of way. Otherwise, the rights of way are not needed for any current or foreseeable public purpose. Topographical, environmental and other physical constraints prevent these local access right of ways from being developed. No County funds are spent on the right of ways proposed for vacation. The County's transportation system and transportation system plans are not adversely impacted by the intended vacation. A vacation will not affect any existing or planned county public facilities or transportation services for the area.

The existing forest practices road provides sufficient access to support uses on Metro property, PGE property, Burlington Water District property, and the PGE and BPA easements. A vacation is not removing legal access to the two PGE and BWD properties. Those properties are not currently served and cannot be served by a public road developed within the boundaries of the platted right of way.

The vacation is proposed to allow Metro to manage the entire property for forest uses, including large blocks of unfragmented habitat. This property has been historically managed for timber production, with most of the site having been clear cut on more than one occasion, including the county-owned rights of way.

Ownership of vacated property:

Ownership of the property encumbered by the county right of way will vest as provided for by law.

Prior vacations in Burlington:

Metro is aware of two prior vacations approved for the Burlington Plat, most recently in Order 92-138. The vacation order legally describes the platted streets being vacated similar to how Metro has described the proposed vacations above. A copy of Order 92-138 is attached.

If you have any question or concerns, please contact me directly at 503-797-1600 or gary.shepherd@oregonmetro.gov. I thank you for your time and assistance with these matters.

Sincerely,

A handwritten signature in black ink, appearing to read 'G Shepherd', with a stylized flourish at the end.

Gary Shepherd
Office of Metro Attorney

Burlington Right-of-Ways



Metro



Metro owned TLIDS

- 1) 2N1W19 -00500 *
- 2) 2N1W20B -00200
- 3) 2N1W20BC -01300
- 4) 2N1W20BC -01400
- 5) 2N1W20B -00100
- 6) 2N1W20BC -00800
- 7) 2N1W20BC -01200
- 8) 2N1W20BC -01000
- 9) 2N1W20BC -00900
- 10) 2N1W20B -00500
- 11) 2N1W20B -00600
- 12) 2N1W20B -00400
- 13) 2N1W20B -00300
- 14) 2N1W20C -00500
- 15) 2N1W20C -00400
- 16) 2N1W20C -00100
- 17) 2N1W20BD -03700
- 18) 2N1W20C -00600
- 19) 2N1W20C -00300
- 20) 2N1W20C -00200
- 21) 2N1W20C -00700
- 22) 2N1W20 -00400*

0 0.1 0.2 0.3 Miles

map produced: 11/29/2017

taxlots

- Metro
- Burlington Water District (2N1W20BD -03800)
- ODOT (2N1W20 -00500*)
- PG&E (2N1W20BC -01100)

* portion of taxlot

- Forest practice road
- Proposed vacate of right-of-way
- Right-of-way

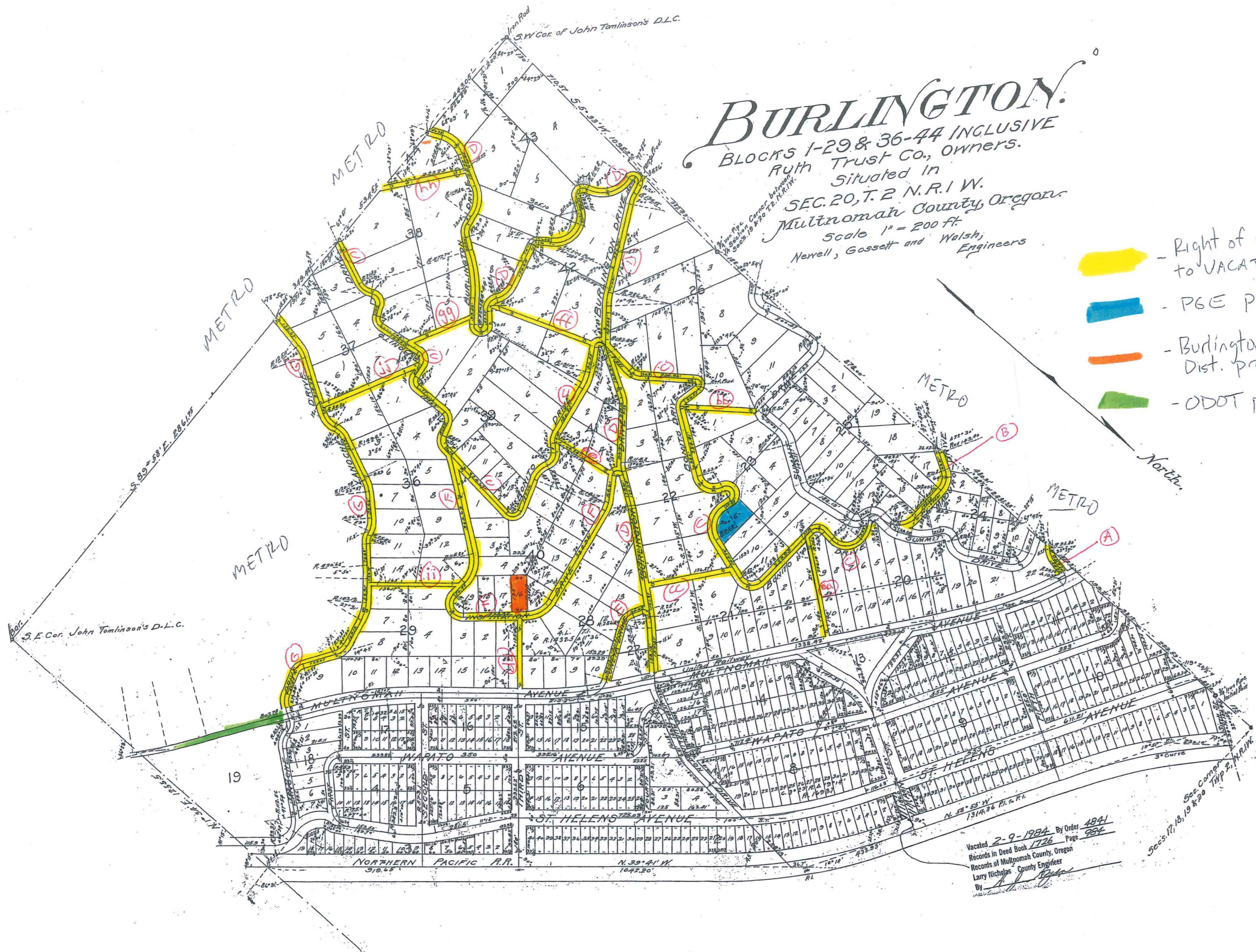
BURLINGTON.

BLOCKS 1-29 & 36-44 INCLUSIVE
Ruth Trust Co., Owners.

Situated in
SEC. 20, T. 2 N. R. 1 W.
Multnomah County, Oregon.

Scale 1" = 200 ft.
Newell, Gossett and Walsh,
Engineers

- Right of way to VACATE
- PGE property
- Burlington Water Dist. property
- ODOT property



Vacated 2-9-1984 By Order 484
Records in Deed Book 1726 Page 284
Records of Multnomah County, Oregon
Larry Nicholas County Engineer
By *[Signature]*

Secs 17, 18, 19 & 20 T2P2, N1W1E

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

| | | |
|-----------------------------------|---|--------|
| In the Matter of Vacation of |) | |
| Second Street in Section 20, |) | ORDER |
| T2N, R1W, W.M., Multnomah County, |) | |
| <u>Oregon/Vacation No. 5000</u> |) | 92-138 |

A Consent to Vacation in proper legal form from Charles C. and Julie V. Morrow and Agency Creek Management Company, for vacation of a portion of Second Street, in Section 20, T2N, R1W, W.M., Multnomah County, Oregon, more specifically described following, has been filed herein; and

It appearing that the petition contains the signatures of the owners of 100% of the abutting property; and

It further appearing that the Director of Environmental Services has investigated the advisability of vacation the aforementioned undeveloped public road, which is unnecessary for any public purpose, and the Director has filed a report indicating that the proposed vacation is in the public interest, and recommends that said right-of-way be vacated, subject to certain conditions, said portion of right-of-way being more particularly described as follows:

Part of Second Street in Section 20, T2N, R1W, W.M., Multnomah County, Oregon, lying within the Plat of Burlington, described as follows:

That part of Second Street lying southerly of the southerly line of Wapato Drive and northerly of the northerly line of Multnomah Avenue.

It further appearing that the Board of County Commissioners considered the report and recommendation of the Director of Environmental Services, and no written or oral objections were filed or heard; and

It further appearing that the vacation would be in the public interest; and

It further appearing that, in accordance with the Oregon law, the Board of County Commissioners has determined that no further notice be given or hearing held in this matter;

ORDER
Vacation No. 5000

IT IS THEREFORE ORDERED, that the above described undeveloped public road be,
and the same is, hereby vacated as a dedicated street.

FURTHER ORDERED, that the Order of Final Vacation be recorded in the Deed
Records of Multnomah County, Oregon.

DATED this 6 day of August, 1992.



REVIEWED,

LAURENCE KRESSEL
County Counsel
for Multnomah County, Oregon

By Peter Livingston
Peter Livingston

BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Gladys McCoy
GLADYS McCoy/Chair