

October 21, 2009

To: Canby City Council

Susan Myers 372 SE 13th Place, Canby Oregon. Thank you for this opportunity to speak to you regarding the very important matter of rural reserve designations. As you know this issue has long term implications for the future of Canby. . . what it will look like, the livability of the community and the strength of its core.

First, who am I . . . I am a Montecucco who was born, raised and I chose to raise my family here. I love this community and care deeply for its future. I am participating in updating the TSP and on the LID committee. When I try to grasp how much Canby will change over the next 50 yrs, I consider how much Canby has changed in my lifetime just short of 50 yrs. The population has grown dramatically, more than four times over.

Let me quickly review with you why we are here:

- At the beginning of this process, you correctly identified Northwest Canby as "undesigned". (We understand that while SB 1011 talks about Urban Reserves due to the required process Canby does not have the time to get this done so you are left with asking that this land be left alone . . . meaning "undesigned". Let me take a moment here to **introduce into the record a letter from my brother Steve Montecucco dated May 12, 2009 to the steering committee clearly stating our position.** This letter can be seen on the Metro website. Our family has actively shown its support for the City's position of Undesignating north Canby. Hopefully you have had a chance to read this letter.)
- The County is pushing back.
- Last week when I saw on public access a replay of the City Council ("CC") meeting where you were contemplating your response to the County I clearly heard your desire and belief that it is logical that part of Canby's growth should occur to the northwest with the rivers as the boundaries. Unfortunately, an **understandable yet erroneous assumption was made, that the owners northwest of Canby would object.**

Based upon discussion between city and county staff it appears the county is generally willing to grant undesigned status south of 22nd Ave., because we only had a few days to contact so many people we focused our efforts to the landowners north of 22nd Ave. (**introduce the landowner letter into the record and show the map**) The highlight area represents all the signers of this letter. Please note that any unshaded tax lots are not landowners objecting, we simply did not have time to contact them. All landowners contacted north of 22nd Ave.

wanted the Council and County to know they believe this area should remain undesignated. This is not just the Montecucco family. . . It is Simnitt family, the Andrus Family, the Hauck Family, the Flower Farmer, the Mickelsen Family, Cutsforths family and many more.

- Martha Schrader submitted a letter requesting rural reserve designation on her land. This is possible to achieve. Schrader's land abuts the state park and flood plain; therefore, her property can easily be designated rural reserve.

- I know you are thinking it is too late. The City has already responded to the County. However, I spoke with Charlotte Lehan last Wednesday at a Core 4 meeting. I started to express our position. She stopped me and said I need to start by getting a consensus from the City of Canby before pursuing the matter at the next level. City staff is still trying to nego with the County staff. This matter is not closed.

- **Enter into the record the letter from Clackamas County Farm Buearu dated October 19, 2009. *Read letter.***

So what are we asking for?

- We are asking, in light of a better understanding of the land to the northwest and the absents of the expected legal challenge from the landowners, that you keep northwest Canby as “undesignated” and to fight for it as much as the land to the east. For reasons I will express this land to the northwest does not meet the criteria for Rural Reserve land and better fits Urban Reserve criteria than land to the east.

Why:

1. From the Landowner perspective, Rural Reserve is another layer of control that will lock up their land for 50 years. **When farmland becomes landlocked as this area has due to the natural growth pattern of the City, the landowners need options to manage conflicts with urbanization and relocation economics that a rural reserve designation does not allow.**

Now let's look at SB 1011:

2. We agree the area northwest of Canby is a logical area of growth for the City. This land does not have significant landscape or resources that require preservation via a rural reserve designation as defined in SB1011.

3. SB1011 Sec 2.1.a. **states rural reserves are meant to offer long-term protection to large blocks of land.** In terms of farmland this area is NOT a large block of land. Both Montecucco's and Simnitt's have had to find land to the south and east of Canby requiring farm trucks and semi's to travel though Canby to get to our processing facilities.

4. Per SB 1011, **Urban Reserves should be land outside the UGB for future expansion over a long-term period and the cost-effective provision of public facilities and services within the area when the lands are included within the UGB.** This property meets this criteria. In fact, it is located closer to the sewage treatment plant than the land to the east. It already has natural gas, power, cable and sewer stubs already exist along much of the boundary. In addition, this property has water rights to the Willamette and Molalla rivers and wells that would significantly benefit Canby's water supply helping to support this growth (again a plus that land to the east does not offer. Land to the east has poor water quality wells with much fewer water rights and no access to the Willamette river).

5. Due to its location near the City's UGB on two sides and the availability of providing cost effective infrastructure, current land value of this property has increased beyond that of farmland. This higher than farmland value is a Metro criteria prohibiting from receiving Rural Reserve designation.

6. The land north of Canby does not meet the criteria set forth in SB1011 Sec 3 (3).

- Subsec (b) – **Is capable of sustaining long-term ag operations**
 - Which this land does not because it is landlocked. The situation will worsen as the City grows to the east, developing farmland that many of these ag operations are currently using. Costs of transporting crops from fields farther and farther away will make current operations unviable. Conflicts will increase between Canby residents and farms as tractors, trucks, semis and workers have to traverse the entire length of the City many times per day.
- Subsec (c) – **Has suitable soils and available water where needed to sustain long-term ag operations**
 - As the City of Canby takes over County roads within its City limits and UGB, the farms existing water lines that are under these roads will not be allowed to stay. As a result many fields with water rights will no longer have access to the river water making them unsustainable farmland.
 -
- Subsec (d)(A) **The existence of a large block of ag land with a concentration or cluster of farms.**
 - As I mentioned previously, this area does not contain large blocks of ag land nor does it have significant clusters of farms. The businesses that do exist are not related and therefore do not create the synergy contemplated by this criteria.

- Subsec (d) (B) **The adjacent land use pattern including its location in relation to adjacent nonfarm uses and the existence of buffers between ag operations and nonfarm uses.**
 - No such buffers exist resulting in conflicts over noise, dust, dirt, chemicals and smells that are a necessary part of commercial ag operations.
- Subsec (d) (D) **The sufficiency of ag infrastructure in the area.**
 - As the City has grown Ag infrastructure support services have left town. . . moving south to Woodburn and the Mt. Angel areas. Specifically, as an example, Canby Wilco no longer offers a full line of commercial quantity fertilizers and chemicals. It now concentrates on hobby farms and horse owners. This reflects the reality that few commercial farms are now based out of northwest Canby.

While the Dept of Ag has concluded most all land around Canby to be Foundation Farmland, you need to look closer at the long-term viability of this area to the northwest and as I have outlined above it is not viable on a long-term basis.

Including the land to the northwest as undesignated is necessary for Canby's future growth because. . .

- Infrastructure is already available to northward growth.
- If the City grows primarily to the east, our historic downtown will no longer be viable as the town center. The core will move eastward with the growth. The millions of dollars of downtown investments will be wasted. Residents living east will not have easy access to the historic downtown.
- Residential growth to the north is greener. It would require shorter travel distance to the schools and retail areas promoting a healthier, livable and sustainable community.
- By urbanizing the north (including the land by the ferry) the City will finally be able to connect the log trail to the state park. As long as this land is farmed such a connection cannot occur due to significant liability risks.
- Connecting the historic downtown to the Ferry would be a wonderful amenity defining this area, by highlighting its history.

Please note that we are asking that the land clear to the Willamette be undesignated. We challenge this flood plain zoning because it has only flooded in 1964 and then it was a narrow channel. Since then the state park was created, installing a dike. In 1996 this area did not flood and FIMA identifies it as having a .02% chance of flooding on an annual basis. We believe with further analysis much of this land can be developed. We understand there would likely be certain necessary requirements to do so. We would like to opportunity pursue this option. To give us more time, please also identify this land as undesignated.

In conclusion, as I have pointed out the land northwest of Canby does not meet the criteria set forth in SB 1011 for Rural Reserve. By identifying this land as undesignated you will allow Canby to grow to the northwest in a natural, efficient and sustainable manner.

Thank you for your consideration and support.

Enrolled
Senate Bill 1011

Sponsored by COMMITTEE ON JUDICIARY

CHAPTER

AN ACT

Relating to land reserves; creating new provisions; amending ORS 195.145, 197.626 and 221.034; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. As used in sections 1 to 4 of this 2007 Act:

(1) "Rural reserve" means land reserved to provide long-term protection for agriculture, forestry or important natural landscape features that limit urban development or help define appropriate natural boundaries of urbanization, including plant, fish and wildlife habitat, steep slopes and floodplains.

(2) "Urban reserve" means lands outside an urban growth boundary that will provide for:

(a) Future expansion over a long-term period; and

(b) The cost-effective provision of public facilities and services within the area when the lands are included within the urban growth boundary.

SECTION 2. The Legislative Assembly finds that:

(1) Long-range planning for population and employment growth by local governments can offer greater certainty for:

(a) The agricultural and forest industries, by offering long-term protection of large blocks of land with the characteristics necessary to maintain their viability; and

(b) Commerce, other industries, other private landowners and providers of public services, by determining the more and less likely locations of future expansion of urban growth boundaries and urban development.

(2) State planning laws must support and facilitate long-range planning to provide this greater certainty.

SECTION 3. (1) A county and a metropolitan service district established under ORS chapter 268 may enter into an intergovernmental agreement pursuant to ORS 190.003 to 190.130, 195.025 or 197.652 to 197.658 to designate rural reserves pursuant to this section and urban reserves pursuant to ORS 195.145 (1)(b).

(2) Land designated as a rural reserve:

(a) Must be outside an urban growth boundary.

(b) May not be designated as an urban reserve during the urban reserve planning period described in ORS 195.145 (4).

(c) May not be included within an urban growth boundary during the period of time described in paragraph (b) of this subsection.

(3) When designating a rural reserve under this section to provide long-term protection to the agricultural industry, a county and a metropolitan service district shall base the des-

ignation on consideration of factors including, but not limited to, whether land proposed for designation as a rural reserve:

(a) Is situated in an area that is otherwise potentially subject to urbanization during the period described in subsection (2)(b) of this section, as indicated by proximity to the urban growth boundary and to properties with fair market values that significantly exceed agricultural values;

(b) Is capable of sustaining long-term agricultural operations;

(c) Has suitable soils and available water where needed to sustain long-term agricultural operations; and

(d) Is suitable to sustain long-term agricultural operations, taking into account:

(A) The existence of a large block of agricultural or other resource land with a concentration or cluster of farms;

(B) The adjacent land use pattern, including its location in relation to adjacent nonfarm uses and the existence of buffers between agricultural operations and nonfarm uses;

(C) The agricultural land use pattern, including parcelization, tenure and ownership patterns; and

(D) The sufficiency of agricultural infrastructure in the area.

(4) The Land Conservation and Development Commission shall, after consultation with the State Department of Agriculture, adopt by goal or by rule a process and criteria for designating rural reserves pursuant to this section.

SECTION 4. (1) A county and a metropolitan service district must consider simultaneously the designation and establishment of:

(a) Rural reserves pursuant to section 3 of this 2007 Act; and

(b) Urban reserves pursuant to ORS 195.145 (1)(b).

(2) An agreement between a county and a metropolitan service district to establish rural reserves pursuant to section 3 of this 2007 Act and urban reserves pursuant to ORS 195.145 (1)(b) must provide for a coordinated and concurrent process for adoption by the county of comprehensive plan provisions and by the district of regional framework plan provisions to implement the agreement. A district may not designate urban reserves pursuant to ORS 195.145 (1)(b) in a county until the county and the district have entered into an agreement pursuant to ORS 195.145 (1)(b) that identifies the land to be designated by the district in the district's regional framework plan as urban reserves. A county may not designate rural reserves pursuant to section 3 of this 2007 Act until the county and the district have entered into an agreement pursuant to section 3 of this 2007 Act that identifies the land to be designated as rural reserves by the county in the county's comprehensive plan.

(3) A county and a metropolitan service district may not enter into an intergovernmental agreement to designate urban reserves in the county pursuant to ORS 195.145 (1)(b) unless the county and the district also agree to designate rural reserves in the county.

(4) Designation and protection of rural reserves pursuant to section 3 of this 2007 Act or urban reserves pursuant to ORS 195.145 (1)(b):

(a) Is not a basis for a claim for compensation under ORS 197.352 unless the designation and protection of rural reserves or urban reserves imposes a new restriction on the use of private real property.

(b) Does not impair the rights and immunities provided under ORS 30.930 to 30.947.

SECTION 5. (1) Sections 1 to 4 of this 2007 Act are added to and made a part of ORS chapter 195.

(2) ORS 195.145 is added to and made a part of sections 1 to 4 of this 2007 Act.

SECTION 6. ORS 195.145 is amended to read:

195.145. (1) To ensure that the supply of land available for urbanization is maintained[,]:

(a) Local governments may cooperatively designate lands outside urban growth boundaries as *[urban reserve areas, subject to ORS 197.610 to 197.625.]* urban reserves subject to ORS 197.610 to 197.625.

(b) Alternatively, a metropolitan service district established under ORS chapter 268 and a county may enter into a written agreement pursuant to ORS 190.003 to 190.130, 195.025 or 197.652 to 197.658 to designate urban reserves. A process and criteria developed pursuant to this paragraph are an alternative to a process or criteria adopted pursuant to paragraph (a) of this subsection.

(2)(a) The Land Conservation and Development Commission may require a local government to designate an urban reserve [area] pursuant to subsection (1)(a) of this section during its periodic review in accordance with the conditions for periodic review under ORS 197.628.

(b) Notwithstanding paragraph (a) of this subsection, the commission may require a local government to designate an urban reserve [area] pursuant to subsection (1)(a) of this section outside of its periodic review if:

(A) The local government is located inside a Primary Metropolitan Statistical Area or a Metropolitan Statistical Area as designated by the Federal Census Bureau upon November 4, 1993; and

(B) The local government has been required to designate an urban reserve [area] by rule prior to November 4, 1993.

(3) In carrying out subsections (1) and (2) of this section:

(a) Within an urban reserve [area], neither the commission nor any local government shall prohibit the siting on a legal parcel of a single family dwelling that would otherwise have been allowed under law existing prior to designation as an urban reserve [area].

(b) The commission shall provide to local governments a list of options, rather than prescribing a single planning technique, to ensure the efficient transition from rural to urban use in urban reserve [areas].

[(4) For purposes of this section, "urban reserve area" means lands outside an urban growth boundary that will provide for:]

[(a) Future expansion over a long-term period; and]

[(b) The cost-effective provision of public facilities and service within the area when the lands are included within the urban growth boundary].

(4) Urban reserves designated by a metropolitan service district and a county pursuant to subsection (1)(b) of this section must be planned to accommodate population and employment growth for at least 20 years, and not more than 30 years, after the 20-year period for which the district has demonstrated a buildable land supply in the most recent inventory, determination and analysis performed under ORS 197.296.

(5) A district and a county shall base the designation of urban reserves under subsection (1)(b) of this section upon consideration of factors including, but not limited to, whether land proposed for designation as urban reserves, alone or in conjunction with land inside the urban growth boundary:

(a) Can be developed at urban densities in a way that makes efficient use of existing and future public infrastructure investments;

(b) Includes sufficient development capacity to support a healthy urban economy;

(c) Can be served by public schools and other urban-level public facilities and services efficiently and cost-effectively by appropriate and financially capable service providers;

(d) Can be designed to be walkable and served by a well-connected system of streets by appropriate service providers;

(e) Can be designed to preserve and enhance natural ecological systems; and

(f) Includes sufficient land suitable for a range of housing types.

(6) The commission shall adopt by goal or by rule a process and criteria for designating urban reserves pursuant to subsection (1)(b) of this section.

SECTION 7. ORS 197.626 is amended to read:

197.626. A metropolitan service district that amends its urban growth boundary to include more than 100 acres, or that amends the district's regional framework plan or land use regulations implementing the plan to establish urban reserves designated under ORS 197.145 (1)(b), a city with a population of 2,500 or more within its urban growth boundary that amends the urban growth

boundary to include more than 50 acres or that designates urban reserve [areas] under ORS 195.145, or a county that amends the county's comprehensive plan or land use regulations implementing the plan to establish rural reserves designated under section 3 of this 2007 Act, shall submit the amendment or designation to the Land Conservation and Development Commission in the manner provided for periodic review under ORS 197.628 to 197.650.

SECTION 8. ORS 221.034 is amended to read:

221.034. (1) As used in this section:

(a) "Neighboring city" means a city that has any part of its territory situated within three miles of the area proposed to be incorporated.

(b) "Rural unincorporated community" means a settlement with a boundary identified in an acknowledged comprehensive plan of a county and that:

(A) Is made up primarily of lands subject to an exception to statewide planning goals related to agricultural lands or forestlands;

(B) Either was identified in the acknowledged comprehensive plan of a county as a "rural community," "service center," "rural center," "resort community" or similar term before October 28, 1994, or is listed in the Department of Land Conservation and Development's "Survey of Oregon Unincorporated Communities" (January 30, 1997);

(C) Lies outside the urban growth boundary of a city or a metropolitan service district; and

(D) Is not incorporated as a city.

(c) "Urban reserve [area]" has the meaning given that term in [ORS 195.145] **section 1 of this 2007 Act.**

(d) "Urban services" has the meaning given that term in ORS 195.065.

(2) When any of the area proposed to be incorporated as a city lies within an urbanized area, but outside the urban growth boundary of a city or a metropolitan service district:

(a) The area proposed to be incorporated must also be located entirely within a designated rural unincorporated community and contiguous lands subject to an exception to statewide planning goals related to agricultural lands or forestlands.

(b) The petition required by ORS 221.031 must be accompanied by an affidavit, signed by a chief petitioner, stating that:

(A) Ten percent of the electors registered within the area proposed for incorporation favor the incorporation; and

(B) The chief petitioners have engaged the neighboring cities in discussions concerning the effects of the proposed incorporation, including discussions specifically relating to how those cities and the proposed city will allow for expansion of urban growth boundaries and, where applicable, for creation or expansion of urban [reserve areas] **reserves.**

(c) The economic feasibility statement required by ORS 221.035 must:

(A) Indicate that the proposed city must plan for and provide urban services in a cost-effective manner at the minimum level adequate to meet current needs and projected growth;

(B) Contain a proposed permanent rate limit for operating taxes to provide revenues for urban services; and

(C) Indicate that the proposed city must plan for residential development at or above the same urban density planned for an existing city, within the county, that has a similar geographic area within the existing city's urban growth boundary or, for a proposed city within three miles of Metro's boundary, a minimum urban residential density in accordance with a statewide planning goal and rules pertaining to needed housing for cities within Metro's urban growth boundary.

(d) If the proposed city will be required to complete a public facility plan and a transportation systems plan, the proposed city must demonstrate the ability to provide urban services to meet current needs and projected growth. The proposed city may meet this requirement, in whole or in part, by establishing an agreement in principle with a city or a district, as defined in ORS 195.060, to provide the urban services.

(3) If the governing body of a neighboring city determines that the proposed incorporation adversely affects that city, the governing body may ask the county court with which the petition for

incorporation was filed to reject the petition and terminate the incorporation proceedings. The objections by the city to the incorporation shall be heard and considered by the county court at a public hearing held under ORS 221.040.

(4) If, at the hearing held under ORS 221.040, the county court finds that any of the requirements of subsection (2) of this section are not met or that the proposed incorporation will adversely affect a neighboring city, the county court shall provide by order for the termination of the incorporation proceedings. The order shall contain the findings of the county court relating to the proposed incorporation and the reasons for terminating the incorporation proceedings.

(5) In the manner provided in ORS 197.830 to 197.845, the Land Use Board of Appeals shall review, upon the petition of a party to the incorporation proceedings, the order of the county court under subsection (4) of this section.

SECTION 9. (1) Notwithstanding ORS 197.650, a Land Conservation and Development Commission order concerning the designation of urban reserves under ORS 195.145 (1)(b) or rural reserves under section 3 of this 2007 Act may be appealed to the Court of Appeals by the persons described in ORS 197.650.

(2) Judicial review of orders described in subsection (1) of this section is as provided in this section.

(3) Jurisdiction for judicial review is conferred upon the Court of Appeals. A proceeding for judicial review may be instituted by filing a petition in the Court of Appeals. The petition must be filed within 21 days after the date the commission delivered or mailed the order upon which the petition is based.

(4) The filing of the petition, as set forth in subsection (3) of this section, and service of a petition on the persons who submitted oral or written testimony in the proceeding before the commission are jurisdictional and may not be waived or extended.

(5) The petition must state the nature of the order the petitioner seeks to have reviewed. Copies of the petition must be served by registered or certified mail upon the commission and the persons who submitted oral or written testimony in the proceeding before the commission.

(6) Within 21 days after service of the petition, the commission shall transmit to the Court of Appeals the original or a certified copy of the entire record of the proceeding under review. However, by stipulation of the parties to the review proceeding, the record may be shortened. The Court of Appeals may tax a party that unreasonably refuses to stipulate to limit the record for the additional costs. The Court of Appeals may require or permit subsequent corrections or additions to the record. Except as specifically provided in this subsection, the Court of Appeals may not tax the cost of the record to the petitioner or an intervening party. However, the Court of Appeals may tax the costs to a party that files a frivolous petition for judicial review.

(7) Petitions and briefs must be filed within time periods and in a manner established by the Court of Appeals by rule.

(8) The Court of Appeals shall:

(a) Hear oral argument within 49 days of the date of transmittal of the record unless the Court of Appeals determines that the ends of justice served by holding oral argument on a later day outweigh the best interests of the public and the parties. However, the Court of Appeals may not hold oral argument more than 49 days after the date of transmittal of the record because of general congestion of the court calendar or lack of diligent preparation or attention to the case by a member of the court or a party.

(b) Set forth in writing and provide to the parties a determination to hear oral argument more than 49 days from the date the record is transmitted, together with the reasons for the determination. The Court of Appeals shall schedule oral argument as soon as is practicable.

(c) Consider, in making a determination under paragraph (b) of this subsection:

(A) Whether the case is so unusual or complex, due to the number of parties or the existence of novel questions of law, that 49 days is an unreasonable amount of time for the parties to brief the case and for the Court of Appeals to prepare for oral argument; and

(B) Whether the failure to hold oral argument at a later date likely would result in a miscarriage of justice.

(9) The court:

(a) Shall limit judicial review of an order reviewed under this section to the record.

(b) May not substitute its judgment for that of the Land Conservation and Development Commission as to an issue of fact.

(10) The Court of Appeals may affirm, reverse or remand an order reviewed under this section. The Court of Appeals shall reverse or remand the order only if the court finds the order is:

(a) Unlawful in substance or procedure. However, error in procedure is not cause for reversal or remand unless the Court of Appeals determines that substantial rights of the petitioner were prejudiced.

(b) Unconstitutional.

(c) Not supported by substantial evidence in the whole record as to facts found by the commission.

(11) The Court of Appeals shall issue a final order on the petition for judicial review with the greatest possible expediency.

(12) If the order of the commission is remanded by the Court of Appeals or the Supreme Court, the commission shall respond to the court's appellate judgment within 30 days.

SECTION 10. Notwithstanding ORS 195.145 (4), if urban reserves are designated by a metropolitan service district and a county pursuant to ORS 195.145 (1)(b) on or before December 31, 2009, the urban reserves must be planned to accommodate population and employment growth for at least 20 years, and not more than 30 years, after the 20-year period for which the district has demonstrated a buildable land supply in the next inventory, determination and analysis required under ORS 197.299 on or after the effective date of this 2007 Act.

SECTION 11. The Land Conservation and Development Commission shall adopt the goals or rules required by section 3 of this 2007 Act and by the amendments to ORS 195.145 by section 6 of this 2007 Act not later than January 31, 2008.

SECTION 12. This 2007 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect on its passage.

RECEIVED
OCT 21 2009
CITY OF CANBY

October 19, 2009

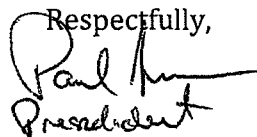
To: Canby City Council
Clackamas County Commission
Core 4

RE: Land Northwest of Canby Designation

Clackamas County Farm Bureau supports the landowners' request that the land north of Canby be "undesigned" land. When farmland becomes landlocked as this area has due to the natural growth pattern of the City of Canby, the landowners need options to manage conflicts with urbanization and relocation economics that a rural reserve designation does not allow.

We agree the area northwest of Canby is a logical area of growth for the City of Canby. This land does not have significant landscape, soils, or resources that require preservation via a rural reserve designation. Due to its location near the City of Canby the current land value of this property has increased beyond that of farmland. In large part this increase in land value is due to location near the City's UGB, sewage treatment plant and it contains water sources that will assist in the City's future growth. In addition, this area is already served by natural gas, cable and power.

While the Farm Bureau of Oregon may have made a general statement in support of Rural Reserves, we want to clarify our support for this particular EFU zoned area be assigned "undesigned" status.

Respectfully,

President

Clackamas County Farm Bureau

October 17, 2009

RECEIVED

OCT 21 2009

CITY OF CANBY

Canby City Council
182 N. Holly Street
Canby, OR 97013

RE: North of Canby Undesignated vs Rural Reserve

Dear Councilors:

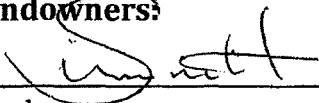
We the undersigned being the landowners of property north of Canby UGB and south of the Willamette River are compelled to express our strong desire for our property to be "undesignated" land.

The assumption has always been Canby would grow to the north over time. As you know, Canby is slated for 250% residential growth over the next 50 years. We want you, the Canby City Council, to clearly understand we will not oppose such growth occurring north of Canby. This area is a logical location for future residential growth with the Molalla and Willamette rivers as the natural boundaries.

A Rural Reserve designation is too restrictive and limits the natural long-term growth of Canby for 40 or 50 years. We respectfully request the City of Canby strongly oppose Rural Reserve designation on the property north of Canby.

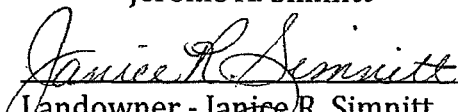
Respectfully,

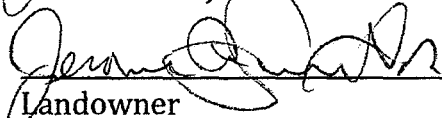
Landowners:


Landowner 31E28B 00800, 01100, 00900, 00801, 00700,
01401, 01501, 00100, 00200, 00300

- Jerome A. Simnitt

Tax Lots


Landowner - Janice R. Simnitt 31E28B 00800, 01100, 00900, 00801, 00700,
Tax Lots


Landowner 31E28B 01401, 01501, 00100, 00200, 00300,
00701

- Jerome A. Simnitt, Jr.

Tax Lots

Roberta A. Simmitt 31E28B 00701
Landowner ROBERTA A. SIMMITT Tax Lots

Frances J. Brockman 31E28B 00901
Landowner FRANCES J. BROCKMAN Tax Lots

Jeffrey E. Brockman 31E28B 00901
Landowner JEFFREY E. BROCKMAN Tax Lots

Kathleen M. Parker 31E21CA00601
Landowner Kathleen M. Parker Tax Lots

Bruce W. Parker 31E21CA 00601
Landowner Bruce W. Parker Tax Lots

Jason Montecucco 31E21 00701
Landowner Jason Montecucco Tax Lots

Brian Montecucco 31E21 00702 31E21 00701
Landowner Brian Montecucco Tax Lots

Samuel J. Hauch 31E28B 2100
Landowner Samuel J. Hauch 31E28B 1900 Tax Lots

Carol G. Koepplin 31E21 00400
Landowner Carol G Koepplin Tax Lots

Julie F. Madeira 31E21 00302
Landowner Julie F. Madeira Tax Lots

Allan Olson 31E29A 00100
Landowner ALLAN OLSON Tax Lots

Adrian Fisher 31E29A 00500
Landowner ADRIAN FISHER Tax Lots

Gregory R. Nemyre 31E21 1900
Landowner GREGORY R. NEMYRE Tax Lots

Louie Garre 31E28B 601, 1200
Landowner LOUIE GARRE Tax Lots

Kathleen Cutsforth 31E21 1600
Landowner Kathleen Cutsforth Tax Lots

Paul S. Montecucco 31E21 00300, 00301, 00700, 02300, 02400;
Landowner 31E28A01500; 31E28B 01700,
- Paul S. Montecucco 01800, 02200, 02500; 31E28C 00100, 00800;
31E29 00101; 31E29A 00101, 00800;
Tax Lots

R. Frances Montecucco 31E21 00300, 00301, 00700, 02300, 02400;
Landowner 31E28A01500; 31E28B 01700,
- R. Frances Montecucco 01800, 02200, 02500; 31E28C 00100, 00800;
31E29 00101; 31E29A 00101, 00800;
Tax Lots

Virgil Montecucco 31E21 00300, 00700, 02300, 02400;
Landowner 31E28B 01700, 01800, 02200,
- Virgil Montecucco 02500; 31E28C 00100, 00800; 31E29 00101;
31E29A 00101, 00800
Tax Lots

Edward Montecucco 31E28B 02600; 31E28A 00600;
Landowner 31E28B 02700; 31E21 02401; 31E21 00701
- Edward Montecucco Tax Lots

Paul A. Montecucco 31E28B 02600; 31E21 02500; 31E28A00600,
Landowner 31E28B 02700; 31E21 00701
- Paul A. Montecucco Tax Lots

Steve Montecucco 31E28A 01400; 31E28A 00600,
Landowner 31E28B 02700; 31E21 00701;
- Steve Montecucco 31E20 01001, 01101, 01203; 31E29 00103
Tax Lots

Marilyn Montecucco 31E21 02401; 31E21CA00600, 00602;
Landowner - Marilyn Montecucco 31E20 01001, 01101, 01203; 31E29 00103
Tax Lots

Jan Montecucco 31E20 01001, 01101, 01203; 31E29 00103
Landowner - Jan Montecucco 31E21 02500
Tax Lots

Landowner	Tax Lots
Arbie B. Irwin	31E 28A 01600
Landowner	Tax Lots
Roy A. Lohse	31E 28B 00702
Landowner	Tax Lots
Darlene Lohse	31E 28B 00702
Landowner	Tax Lots
Edna H. Hopper	31E 28B 00500, 00400
Landowner	Tax Lots
Eleanor C. Zieg	31E 21 02100
Landowner	Tax Lots
Q. W. Wain	31E 28B 01500
Landowner	Tax Lots
Sally Carter Main	31E 28B 01301, 01300
Landowner	Tax Lots
Kenneth L. Johnson	31E 28B 02201
Landowner	Tax Lots
Daniel W. Lundy	31E 29A 00700
Landowner	Tax Lots
Barbara J. Lundy	31E 29A 00700
Landowner	Tax Lots
Jacqueline J. Rymasz	31E 28B 00600
Landowner	Tax Lots 31E 20 01302, 01301
H. James Michelson	31E 28 01300, 01200 31E 28B 01600
Landowner	Tax Lots
Duane L. Seeger	31E 21 12401
Landowner	Tax Lots
William C. Reif	31E 29A 401
Landowner	Tax Lots

En Enterprises, INC J.C. Olsen President
Landowner Tax Lots 31E28B 2300, 2400

Landowner	Tax Lots
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Heirs for "Undesignated"

We, some of the heirs (of legal voting age) to the land north of Canby, wish to express our support for our future property to be "undesignated" land. The above letter expresses our position. We believe our opinion is relevant, as we will likely own this land within the next 50 years. We strongly oppose this land receiving Rural Reserve designation and respectfully ask for your support and diligent efforts to see that such a designation does not occur.

Respectfully,

Heirs to the land north of Canby:

<u>Jos. P. Simmitt</u>	<u>Jerome A. & Janice R. Simmitt</u>
Heir	Current Landowner(s)
<u>Katherine L. Simmitt</u>	<u>Jerome A. and Robertah Simmitt</u>
Heir	Current Landowner(s)
<u>Susan Myers</u>	<u>Paul S., R. Frances & Steve Montecucco</u>
Heir	Current Landowner(s)
<u>Richard Montecucco</u>	<u>Edward & Marilyn Montecucco</u>
Heir	Current Landowner(s)
<u>Melinda L. Montecucco</u>	<u>Paul S. & R. Frances, Steve Montecucco</u>
Heir	Current Landowner(s)
<u>Karen E. Phillips</u>	<u>Virgil A. Montecucco</u>
Heir	Current Landowner(s)
<u>Janell Phillips</u>	<u>Virgil A. Montecucco</u>
Heir	Current Landowner(s)
<u>Kristi Marten</u>	<u>Paul A. and Jan Montecucco</u>
Heir	Current Landowner(s)

Amanda R. Hachely

Heir

Elizabeth M. Simnith

Heir

Heir

Heir

Heir

Heir

Heir

Heir

Heir

Heir

Heir

Heir

Heir

Jerome A. and Roberta A. Simnith

Current Landowner(s)

Jerome A. & Roberta A. Simnith

Current Landowner(s)

Current Landowner(s)

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October 20, 2009

RECEIVED

OCT 20 2009

CITY OF CANBY

City Council, City of Canby
182 N. Holly Street
Canby, OR 97013

RE: Andrus Family Requests Undesignated Status for North Canby Rural Area

Councilors:

We urge the City Council to keep rural land north of downtown Canby as Undesignated."

The Andrus family has been part of the business and farming community in Canby for 85 years. We disagree with any proposal to designate the land north of the City of Canby as Rural Reserve for two reasons: 1) negative effect on the vitality of Canby's historic downtown and city center; and, 2) negative impact on the future use of privately owned farm land which is already adjacent to urban development and adjacent to the City.

If you plan to have all of the future development go to the east of Canby's downtown core area, you will move the city center towards the highway, 99E. Failure to balance the East Reserve development with an equal and opposite North/West Reserve development moves the city center out of the traditional and historic downtown core area.

Our family owns 8 of 67 total lots in Pruneland Subdivision located in North Canby. Our property encompasses approximately 50 acres adjacent to Maple Street. The UGB runs the length of our property on the east side and along a portion of the south side, with residential development all along. In the early 1970's Gordon Andrus paid the City of Canby to install sewer stub outs on the eastern side of our 4 Eastern Pruneland lots and told us that the stub outs are to the property line. He paid extra for that.

Pruneland Subdivision was platted into 67 4.88+acre parcels in 1891.

Based on pertinent sections of SB 1011 there is a clearer case for our farm land property to be designated Urban Reserve rather than Rural Reserve. We believe our property and other lots comply with the finding in the Legislature's bill as a "*more likely area for urban expansion*." However, we are asking only that our property remain as Undesignated.

Four of our lots on the west side contain residences, prior dairy and bottling facilities for the family business Hillcrest Dairy, and the slaughterhouse/meat packing plant that was integral to Canby Frozen Food Lockers' operations (now Fisher's Meats).

All 8 of our lots are served by telephone, cable and electric and 7 lots have natural gas.

All 8 lots are either developed or have utilities for development.

In addition, Andrus Enterprise, LLC recently constructed a two-story office and professional building at 227 NW 3rd Avenue, in Canby's downtown core area. We began this project after informal discussions over a couple of years with the City's planning

department and with downtown economic development representatives. We moved forward, in part, because we believed in the City's commitment to the vitality of the downtown core, the professional district around Wait Park, and likely future expansion to the North.

Pertinent citations:

SB 1011 SECTION 2. The Legislative Assembly finds that:

(1) Long-range planning for population and employment growth by local governments can offer greater certainty for:

(a) The agricultural and forest industries, by offering long-term protection of large blocks of land with the characteristics necessary to maintain their viability; and

(b) Commerce, other industries, other private landowners and providers of public services,

by determining the more and less likely locations of future expansion of urban growth boundaries and urban development

(2) State planning laws must support and facilitate long-range planning to provide this greater certainty.

SB 1011 SECTION 3.

(3) When designating a rural reserve under this section to provide long-term protection to the agricultural industry, a county and a metropolitan service district shall base the designation on consideration of factors including, but not limited to, whether land proposed for designation as a rural reserve:

(a) Is situated in an area that is otherwise potentially subject to urbanization during the period described in subsection (2)(b) of this section, as indicated by proximity to the urban growth boundary and to properties with fair market values that significantly exceed agricultural values;

(d) Is suitable to sustain long-term agricultural operations, taking into account: (B) The adjacent land use pattern, including its location in relation to adjacent nonfarm uses and the existence of buffers between agricultural operations and nonfarm uses;

That is to say: Since there is no buffer between North Canby and the City of Canby and the since the fair market value (for development) significantly exceeds the agricultural value, by law North Canby cannot be included in a Rural Reserve.

Therefore we request that the City refuse to enter into any agreement with the Clackamas County that does not leave North Canby as Undesignated, or place it in an Urban Reserve.

SB 1011 SECTION 4.

(a) Is not a basis for a claim for compensation under ORS 197.352 unless the designation and protection of rural reserves or urban reserves imposes a new restriction on the use of private real property.

Sincerely,

Esther Andrus Nelson

503-224-1671; 503-266-8933

Submitted
5/26/

May 12, 2009

RECEIVED

OCT 20 2009

CITY OF CANBY

Dear rural/urban reserve committee,

The Montecucco family appreciates your concern regarding the urban and rural reserve areas near Canby. However, we do not want our property placed in the rural reserve for reasons I will explain.

As you know, for this area Montecucco Farms, LLC. is a large fresh vegetable farm. As the city of Canby grows it becomes more and more difficult to do business with hundreds of neighbors bordering our fields and what used to be farm roads. Every season we are receiving more and more complaints of dirt on the roads, dust, smells from the fields, noise and slow tractors on the roads. One woman even filmed our crew parking in our field behind a City of Canby "No Parking" sign and then reported the incident to the police. At times it feels like harassment.

Our farm is growing year by year and there is no more land available in this area. We have had to purchase land farther south and east requiring that we haul our equipment from field to field and that we drive constantly between fields. This is inefficient not to mention environmentally irresponsible. To have our fields all in one large block or within a short distance would be optimal.

The soils in the Canby area are good but unfortunately the entire city of Canby sits on the best of those soils. The soils near the Canby Ferry are marginal at best due to drainage or due to slope. These soils would not be considered some of the best in Oregon. The soil under the City of Canby, with irrigation and modern fertilizers, would be considered one of the best in the state. However, these soils are not optimal for organic production, as you may know. Keeping the soils high in organic material and the amount of irrigation required are difficult to maintain for organic vegetable production, a direction farming is moving.

By being able to sell this property at a value higher than farmland would sell, our farm would be able to move to another area of the state, purchase land and afford to move the entire operation. If this land was to sell with only the value of farmland, then Montecucco Farms, LLC. will probably only be briefly mentioned in the history of Canby and fade from memory.

In reference to the area as a "hole in the donut" of rural reserves, the City of Canby borders our farm on two very long sides, and the City has its utilities at our doorstep. The costs and the environmental impact of extending those utilities, roads and services into this area would be minimal. By incorporating this area into the City of Canby it would also benefit the Clackamas County Sheriff's Department who have admitted to us that the area is not patrolled because of poor access. They say the Canby Police will patrol the area but the Canby Police say they do not have the resources to patrol outside of the city limits. At our last emergency involving a death of an employee, the Canby Fire

Department arrived within five minutes; Clackamas County Sheriff did not arrive for forty-five minutes. I won't mention the multiple times the Sheriff did not show up when called.

The Montecucco family started farming in the Reed College area. As the area developed the farm moved to where I-205 is near the airport and then in the 1930s moved to Parkrose. When the community encroached again, the farm moved to Canby where it has prospered and grown since 1959. The farm would like the opportunity and option to move and expand when the time is right. There are no plans to develop or move the farm at this time, but we want to keep the option open for our success and the benefit of the local and state economies. By putting this land into rural reserve our options are limited and the farm will probably die on the vine.

Please let me know if you have any questions or need any clarification of our opinion on this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Steve Montecucco".

Steve Montecucco
Montecucco Farms, LLC.