

Date: April 12, 2017

From: Steve Barker (Barker Five LLC)

To: Members of the Senate Committee on Environment and Natural Resources

Subject: Include Barker property as Urban Reserves in SB 186

The Barker family would like you to consider the following when you sit down to discuss Senate Bill 186.

Summary of Barker family/property history

- The Barker family property has been in the family for over 110 years (see Figures 1 & 2 for location and Appendix 1 for history of ownership)
 - The first parcel was bought by our grandparents Rose and Kendall Barker in 1905 and the second in 1907
 - The grandparents built their house in approximately 1911 on tax lot 500 (at that time Germantown road was located north of the house)
 - Germantown road was moved south of the house in the 1920's which separated tax lot 500 into 2 parts
 - Parents built their homestead in about 1949 on tax lot 400 Barker family
- Barker family
 - Grandparents
 - Rose Barker (died 1960) – Figure 3
 - Kendal Barker (died 1955) – Figure 3
 - Parents
 - Mary Jane Barker (died 2000) –
 - George Barker (died 1995) – Figure 3
 - Siblings (Barker Five LLC)
 - Margaret Barker, Portland, OR (age 65)
 - Steven Barker, Houston, TX (age 64)
 - Sandy Baker, Portland, OR (age 63)
 - Nancy Miller, Dufur, OR (age 60)
 - Greg Barker, Portland, OR (age 58)

How land use has impacted the Barker family

- Our property currently abuts the Urban Growth Boundary (Bethany Development – see figure 1)

- The Barker property is broken into 4 separate tax lots and is bisected by Germantown Road (Figure 2)
- A large middle school is currently being constructed adjacent to our property
- So we have land designated for high density housing next to us but we can't even break up our land into 5 acre lots so that our siblings would have a place to live where they grew up
 - And to the east of us is the Andrew Acres subdivision which is defined by 5 acre lots
 - There are a lot of groups like Forest Park Neighborhood and a 1000 friends of Oregon who would like to see our land preserved so there would be no further development
 - Most of those people don't have large tracts of land and they want others to pay the price to preserve their status quo
 - Their view is a "NIMBY" mentality
 - Their property ownership doesn't go back 110 years
 - Why don't we have a say in what we can do with our property?
 - How fair is it that we don't have a say in what can be done with our property?
- We're right next to sewage and water infrastructure so why don't we get any consideration to be brought into the UGB or at least be designated Urban Reserves?
 - The reason is that our property is located in Multnomah County and not Washington County and Multnomah County has drawn a line in the sand and they won't budge on this issue
 - Multnomah County wants to keep us as "park space" since we have two creeks on our property
 - Washington County wants to bring our property into the UGB
 - We're fighting against entities like Metropolitan Land Group who have the money and political connections to push their way into the UGB
 - The Barker's don't have those resources
- Parents tried to subdivide the property in 1970 but Multnomah county refused to allow this (before Senate bill 100 in 1973)
 - Senate bill 100 was to protect those properties unduly impacted by this land use bill
 - Where do we fit into this picture?
 - What land use rights do we have?
 - We just keep spending money to fight for our basic rights but no one listens
 - We are the "**Dorothy English**" of the 2010's
 - No one cares about our property rights even though the Barker family has owned this land for over 110 years
 - Now the Barker sibling area all approaching senior status in age and we still have nothing to show for our fight
 - We're getting to old to do anything that we really wanted to do with this property
 - It's been a tremendous battle with Multnomah County and they refuse to budge on any issue

- There is no compromise with these people
- Tax lot 400 and 600 currently only allows one house on 37.36 acres (measure 39)
 - Parents separated their homestead from Tax lot 400 in about 1991 so they could sell their house and move to a retirement community
 - This left the remaining 37.36 acres on tax lot 400 (& 600) as acreage you couldn't put a house on
 - Only through Measure 37 & 39 were we able to get it zoned to put a single house on it
 - This again took a lot of effort and money to get the one house added to this tax lot
- Tax lot 500 and 800 currently only allows one house on 25.22 acres
 - Grandparents house sits on ~1 acre across from the main acreage (24.22 acres) because tax lot 500 is bisected by Germantown road (Figure 2)
 - Germantown road was moved from north of grandparents homestead to south of their house in the 1920's (approximate) leaving the property in two pieces
 - Grandparents homestead should have been separated from the lower 24.22 acres but this is not allowed by Multnomah County.
 - Now we have a 24.22 acre parcel we can't put a house on and it is separated by Germantown road from the grandparents homestead and traffic is extremely busy on Germantown
 - It doesn't make sense to not be able to separate the house from the lower 24.22 acre lot
- Ability to farm on this property
 - No water rights
 - Tax parcels on different sides of Germantown road
 - How do you move farm equipment across Germantown road safely today?
 - Land not suitable for farming
 - Marginal soil types
- Money spent on lawsuits fighting the government
 - CAC meetings
 - The fix was in on this committee
 - Their goal was to keep us as open space
 - We met the factors for Urban Reserves but yet the CAC included us in 9D as open space
 - The Barkers Five LLC fought this and prevailed in the **Oregon Court of Appeals** with a remand for 9D in early 2014
 - We're always fighting to preserve our land rights
 - This cost a lot of money and we're still spending
 - Public records case with Multnomah County
 - Prevailed in a case over access to public records with Multnomah county
 - Multnomah County continues to drag us through the legal muck to prevent anything from happening to our property
- Over the last 25 years have spent a lot on money resolving property fence/line boundaries disputes that were originally established in 1878 from land homesteaders

- Lost 8 feet along the west edge of tax lot 400 in the early 1990s (neighbors fence was on our property)
- Gained 0.46 acres along the east edge of tax lot 500 in about 2008 when it was discovered that our fence was on the adjacent property (that is why the survey on tax lot 801 is so sinuous because it is aligned to old fence posts that could be found)
- The point is that we're still resolving property issues left over from the original homesteaders in 1878 but we don't have any rights to do anything with our property present day
- Senate Bill 186
 - Now we see that people in the "L" are proposed to be brought into the UGB and we sit here with an Oregon court of appeals decision in our favor (the remand) and nobody wants to even talk about us
 - It's been two years since we won the Oregon Court of Appeal case but nothing has happened
 - How fair is that?
 - We want some action taken to resolve our issue before the "L" gets any consideration
 - We want some fairness to be given to us by our governing bodies
 - We certainly haven't gotten any justice in past
- Rural Reserves designation
 - If we are left with an Rural Reserve designation that will mean that nothing can be done with our land for another 50 years
 - So the Barker siblings will all be dead and their heirs will have to own the property for over 160 years before anything can be done with it
 - That does not seem fair to us

Thank you for your consideration in these matters

Steve Barker

Metro Urban and Rural Reserve Map 2017

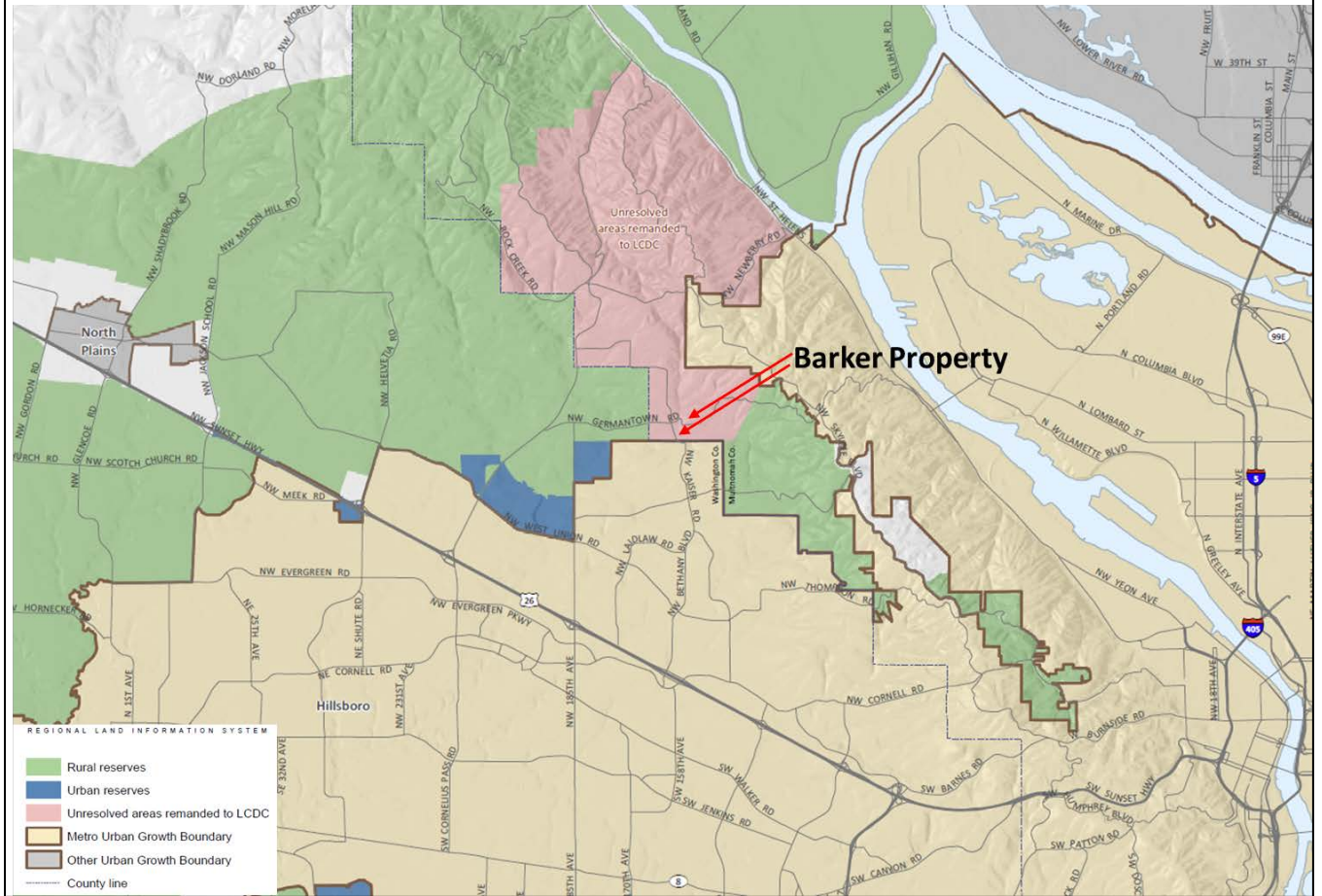


Figure 1: Location of Barker property

Appendix 1

History of Barker Family Ownership – Measure 39 Letter from our Attorney November 2006

The Barker family has owned the subject properties for over 100 years (now over 110 years). Tax Lots 400 and 600 were purchased in 1905, while Tax Lot 500 (Lower Pasture) were purchased in 1906. See Chain of Title Report. For the entire 100-year period, the properties have always been owned by the Barker family. The form of ownership has changed several times, but the properties were never owned by non-family members.

The term “Barker Family” means Kendal Barker and Rose Oester Barker (“Grandparents”); George Hirt Barker and Mary Jane Barker (“Mother and Father”); and Steven Barker, Sandra Barker Baker, Margaret R. Barker, Gregory Barker and Nancy Miller Barker (“Barker Children”). The term “Property” means Parcel I (TL 400), Parcel II (TL 500), and the Homestead Property.

The Barker Family has owned the Property for over 100 years. At all times material, the Barker Family were “owners” of the Property. The Barker Family has had complete ownership and control over the Property at all times material. This ownership and control was complete and was the fulfillment and execution of the plan of ownership for the Property as originally contemplated and implemented by Grandparents, Mother and Father. This plan and agreement of ownership has been executed and faithfully followed by the Barker Children.

Shortly after the marriage of the Grandparents, the Grandparents purchased Parcel I from the Linder Family in 1905. The Linder Family acquired the Property from the United States government in 1878. In October of 1906, Grandfather purchased Parcel II

from the Linder Family. In 1921, he conveyed Parcel II to himself and his wife so that the Grandparents owned Parcel II.

In 1948 shortly after their marriage, Mother and Father purchased Parcel I from Grandparents. In September of 1960, Father inherited Parcel II from Grandmother's estate.

In December of 1972, Mother and Father created a Holding Company known as Barker Investment Company, which was subsequently incorporated. The owners of the Property were Mother, Father and the Barker Children. The Holding Company held title to the property in Trust for the benefit of the then 7 members of the Barker Family.

In 1988, the Holding Company was dissolved and the 7 Barker Family members changed the method by which title to the Property would be held. The 7 family members became tenants in common with the same percentage of ownership as their ownership in the Holding Company.

In 2002, for purposes of succession planning and asset protection planning, the Barker Children agreed to have Barker Investment Five, a general partnership comprised of the Barker Children, hold title to Parcel II in Trust for the benefit of the Barker Children.

In March of 2006, for purposes of succession planning and asset protection planning, the Barker Children agreed to have Barkers Five, LLC hold title to Parcel II in Trust for the benefit of the Barker Children. As shown on the attached LLC documents, the Capital Contribution of each of the Barker Children was their interest in the property.

At all times material subsequent to December 1, 1972, the Barker Children have held an ownership interest in the Property both directly and indirectly, and as third party

beneficiaries, Trust beneficiaries or direct beneficiaries of the succession plan and agreement of the Grandparents, Mother and Father.

Even as the owners of the company, the Barkers had an estate in the property itself. *City of Klamath Falls v. Bell*, 7 Or.App. 330, 490 P.2d 515 (1971). This interest became a fee interest when the company dissolved in 1988.