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October 13, 2016

Springfield City Council and Lane County Board of Commissioners  
c/o City of Springfield Planning Department  
225 Fifth Street  
Springfield, Oregon 97477

Re: Springfield 2030 Refinement Plan; UGB Expansion for Goal 9 Land; Seavey Loop Area

Dear City Councilors and County Commissioners:

We submit this letter and attachments on behalf of Johnson Crushers International (JCI) and the Willamette Water Company for submission into the record for the Springfield 2030 Refinement Plan Update and Proposed Expansion of the Urban Growth Boundary (UGB) proceedings. Both parties have actively participated in the City's efforts throughout the development of the proposal before you, as evidenced by the attached letters and the involvement in last year's Seavey Loop area stakeholder working group meetings.

This letter summarizes key points from those letters, and discusses evidence submitted during last month's joint hearing and issues raised during the course of the UGB expansion process. For your convenience attached hereto are: Attachment 1, Letter to Joint Governing Bodies, August 22, 2016; Attachment 2, Letter to Joint Governing Bodies, February 5, 2014; Attachment 3, Letter to Joint Planning Commissions, February 17, 2010; and Attachment 4, Springfield Community Enterprise Zone Map. The 2010 and 2014 letters contain their identified exhibits; the exhibits for the 2016 letter were submitted prior to the public hearing.

### **ORS 197.298 compels the City to include the Seavey Loop Area in the UGB expansion proposal.**

As a review of the attached documents reveals, our main point throughout the UGB expansion process has been consistent and unwavering. Under the ORS 197.298 statutory priorities scheme for UGB expansion, any proposal for the City of Springfield to expand its UGB for employment land purposes that does not include the Seavey Loop area is unlikely to survive appellate review. The Seavey Loop area contains not only exception areas dedicated to employment uses, it contains more exception areas than any other area under consideration. Furthermore, agricultural lands within the study area contain soils of poorer quality, and thus higher priority, than the areas proposed for inclusion.

While the ORS 197.298 priority scheme often has not corresponded with local governments' preferences for how they wish to grow, time and time again LCDC and the Court of Appeals have held that the legislature has made its intention to protect resource land clear through the priority scheme and that governing bodies must respect that intention. Those appellate bodies have held that any effort to vary from that scheme, whether through the application of Goal 14 locational factors or exceptions to the priorities scheme provided under ORS 197.298(3), faces a very daunting task that will be subject to meticulous review. The cities of McMinnville, Bend, Woodburn, Newberg and Coburg, among others, have tried and failed to deviate substantially from the priority scheme. Springfield is setting a course that will have it joining that list.

**Public facilities and services do not form a basis for excluding the Seavey Loop Area.**

While the findings before you purport to not consider the cost of providing public facilities and services to the various areas, there is evidence in the record that the rough costs were evaluated, which begs the question of whether it has factored into the recommendation. As the Court of Appeals made clear in *1000 Friends of Oregon v. LCDC (McMinnville)*, 244 Or App 239, 275-76, 259 P3d 1021 (2011), the cost of providing public facilities and services such as transportation and water cannot form the basis upon which to exclude higher-priority lands under the ORS 197.298/Goal 14 framework. There are no physical barriers that prevent the provision of public facilities and services to the Seavey Loop area.

Another public facilities and services issue that came up early in the proceeding is the City's requirement that all facilities and services be City services. LCDC addressed that express issue in its review of the City of Bend's UGB expansion proposal. In that decision, attached to our 2014 submittal, LCDC concluded that Bend's requirement that an area be serviceable by water and sanitary services and that it be within the regional stormwater plan service area was appropriate, but that the requirement that those systems be "city" systems was not. As our 2010 letter explains, there are existing water facilities that provide water throughout the Seavey Loop area adequate to accommodate any UGB expansion. Those existing water facilities cannot be ignored in the UGB expansion analysis.

**The joint governing bodies should reconsider including Goshen in the UGB expansion.**

Early last year during the Seavey Loop stakeholders meetings, there was discussion of the possibility of including Goshen in the City's UGB expansion proposal. The stakeholders were informed that the governing bodies had considered that idea and concluded not to pursue it. We believe that the governing bodies should reconsider whether Goshen, in conjunction with Seavey Loop, offers the best solution for the City to accommodate its employment land needs in view of the statutory priorities.

As the county's efforts to develop and implement Goshen's G.R.E.A.T. plan demonstrate, Goshen is a valuable location to develop industrial uses of the type identified by the City of Springfield. Additionally, Goshen is already part of the Springfield Community Enterprise Zone. See attached Attachment 4. Not only does the Seavey Loop Area connect to both the existing UGB on the north and Goshen to the south, Goshen consists of exception areas that, like

most of the Seavey Loop area, are the highest priority for UGB expansion under the statutory priority scheme. Last, while there is some concern about the linear expansion of the UGB along I-5, prior decisions discussed in the attached letters have concluded that the form of urban growth is an insufficient reason to deviate from the priority scheme.

The governing bodies should reconsider their prior decision and consider including Goshen in the UGB expansion decision.

**The governing bodies should instruct staff to revisit the vacant lands inventory.**

The September 12, 2016 letter submitted to the governing bodies from 1000 Friends of Oregon raises a significant number of issues related to the *Commercial and Industrial Buildable Lands Inventory* (CIBL) and *Economic Opportunities Analysis* (EOA). While we disagree in general with 1000 Friends about the amount of land and number of sites the City needs to meet its employment land needs, we are concerned by 1000 Friends' allegations that the City's analysis did not include consideration of specific sites.

LCDC remanded the City of Newberg UGB decision, in part, because the city failed to explain why identified vacant sites were not included in the buildable lands inventory. While we have not verified whether 1000 Friends' contentions that the BLI does not include the identified sites is accurate, their credibility as an organization justifies taking their claims seriously. We note that, given the unfortunate length of time required by the UGB expansion planning process, the site specific analysis contained in the BLI may be grossly out-of-date. It may well be that sites that were developed and in use at the time of the study are now vacant, and vice versa.

The joint governing bodies may wish to consider instructing staff to update the BLI.

**Conclusion**

We understand that this has been a long and challenging process for both the City of Springfield and its County partner. However, we feel compelled to urge the governing bodies to reconsider the proposal as it now stands and to send it back to staff to make the recommendation consistent with the ORS 197.298 statutory priority scheme as it has been interpreted and applied by LCDC and the Court of Appeals.

On behalf of our clients, we hereby request notice and a copy of the decision.

Thank you for your consideration.

Sincerely,

*Bill Kloos*

Bill Kloos

Cc: Jeff Schwartz, Johnson Crushers International

Willamette Water Company

Mary Bridget Smith, Springfield City Attorney (via e-mail)

Andy Clark, Lane County Legal Counsel (via e-mail)

**Attachments**

Attachment 1, Letter to Joint Governing Bodies, August 22, 2016

Attachment 2, Letter to Joint Governing Bodies, February 5, 2014, with exhibits

Attachment 3, Letter to Joint Planning Commissions, February 17, 2010, with exhibits

Attachment 4, Springfield Community Enterprise Zone Map