

May 11, 2018

Dear Members of the University Senate:

On March 14, 2018 the University Senate passed resolution US17/18-14, "Withdrawal of the North Campus Conditional Use Permit." I appreciate the University Senate's interest in ensuring that "any future uses for the Riverfront make use of the unique features of the Willamette river and associated habitats;" however, I must reject the resolution as written. While there are numerous "whereas" clauses that are of concern, I reject the resolution based on sections 2.1 and 2.2. After much consideration of the Senate's resolution, I do not believe that it is in the best interest of the University of Oregon to withdraw the current North Campus conditional use permit (CUP) application either in part or in whole.

On February 26, 2018 the university submitted a request to the City of Eugene for a conditional use permit for the North Campus area within the Riverfront Park Special Area Zone (S-RP). Called "North Campus" for the purposes of the land use application, this area of campus consists of approximately 77 acres north of Franklin Boulevard. As there is a significant amount of information about the the CUP found at <https://cpfm.uoregon.edu/north-campus-conditional-use-permit>, I will only provide a few brief pieces of background. The City of Eugene's land-use code for the S-RP zone requires a master site plan to be in place before any development can occur. Specifically it states, "the master site plan for developments proposed within the S-RP zone shall be reviewed through the conditional use permit process provided in this land code."

For historical context: the university purchased the land north of the tracks from the Eugene Sand and Gravel Company in 1968. In 1978, prior to the city's adoption of the S-RP zone, the university developed a plan to use most of the land north of the railroad tracks for recreation fields, and two fields (the current Riverfront Fields) were constructed using student funds. In 1984 the university president and mayor of Eugene saw the land as a way to spur local economic development by attracting clean, knowledge-based industry in the form of a research park, and planning for the park began. In 1988 planning had advanced to the point where the university entered into a cooperative effort with the City of Eugene. In October 1989 a master site plan was in place through an approved CUP, with the city dictating the land-use requirements for development. This previous master site plan expired in 2012 and the university needs a new master site plan to accommodate essential new development and opportunities to meet its mission. The CUP proposal must accommodate the university's potential long-term needs.

The proposed new master site plan is very different from the previous master site plan and much more protective of the natural habitat. While we may disagree on some aspects of the proposal, I believe that there is more that we agree upon. For example, the proposed master site plan commits 25 acres along the entire length of the university's riverfront property to conservation use in addition to other open space. This encompasses a significant portion of the 42 acres north of the railroad tracks, and would

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allow for a visionary design that accommodates and expands upon the educational and research activities that occur in the area today. South of the tracks, an additional 6 acres would be dedicated to conservation.

The master site plan required for the CUP is conceptual and much of it is based on anticipated needs and opportunities, not pre-determined, approved or funded development. Indeed while the university has immediate plans to build a parking structure in the area south of the railroad tracks (which has not been contested), the proposals for areas north of the tracks, including restoring the river's edge, relocating the existing fields, and adding one new recreation field, are based on potential needs and opportunities which may arise, the timing for which are not known. Because the CUP may be in place for more than 20 years, the university must keep the possibilities as broad as allowable. Again, there is no immediate need, or even identified funding, to develop the northern area.

There is a long tradition of the University Senate expressing a strong commitment to how the land in North Campus should be used and the constituencies that should be involved in making that determination. For example, Resolution US98/99-4, passed by the Senate on January 13, 1999, urged the president to “exclude the University-owned lands in the River View and Gateway Sectors from any future commercial development and to designate these lands for open space, recreational fields and natural areas.” Resolution US09/10-11, passed on January 13, 2010, declared the Senate in “opposition to the planned development of the first 4.3-acre increment of the Riverfront Research Park North of the railroad tracks on the South bank of the Willamette River until the University undergoes a student and faculty inclusive, open process for revising the RRP Master Plan.” The 2010 resolution provided further background that “The Campus Planning Committee serves as the primary mechanism for faculty, staff, and student input with regards to University Development, and was not properly consulted with regards to this specific 4.3-acre site.”

Under the leadership of Chair Dean Livelybrooks, the Campus Planning Committee (CPC) helped the office of Campus Planning and Facilities Management (CPFM) undertake a very inclusive process, as requested by the Senate in 2010, to determine the recommendation they would make to me on how to proceed with the CUP for the North Campus. The starting point for any proposed changes to UO's land is the *Campus Plan* and the Framework Vision Project. Both of these are robust documents, developed through comprehensive and inclusive processes that provide principles for ensuring the UO campus maintains both its beauty and function. The Framework Vision Project specifically explores how we can accommodate potential growth in our student population, guidance critical to the future determination on where recreation fields can be located on campus.

CPFM began its initial scoping work on the CUP in May 2016. The CPC was the first step in this phase with two meetings taking place on May 5, 2016 and May 16, 2016. The public process started in July 2017. As Dr. Dean Livelybrooks, Chair of the CPC, noted in an email to Senate President Sinclair on April 12, 2018:





“The Campus Planning Committee considered riverfront development during 5 meetings, open to the public, over a period spanning, approximately, one and three-quarters years. During the early phase of consideration Campus Planning staff met either one-on-one or in small groups with individuals known to have strongly-held viewpoints regarding riverfront development. Adjustments were made to the planning moving forward based on these meetings. Two open houses were held in November 2017 and January, 2018 that resulted in the collection of over 80 comments. Through this process the CPC undertook a sustained and thorough investigation of issues around development of the UO riverfront, allowing opportunities for many, sometimes opposing, points of view to be heard.”

The public process to draft the master site plan included in the CUP resulted in numerous changes and refinements to ensure a high priority was placed on addressing the essential needs of the university’s mission and its students as well as the ecological, educational, and aesthetic value of the Willamette River. In response to stakeholder and wider community feedback, the university revised and clarified the Master Site Plan in the following ways:

- Created a development setback of 200 feet from the river top of bank (no buildings or recreation fields allowed within setback; code-required setback is 100 feet);
- Further reduced the proposed coverage (maximum footprint) of potential buildings;
- Further reduced the proposed height of potential buildings east of the Frohnmayer Bridge;
- Reduced the quantity of allowable recreation fields from five (as identified in the Framework Vision Project) to three;
- Added an additional bike path option further from the river’s edge;
- Committed to treating stormwater runoff from potential fields;
- In addition to meeting code, committed to further strategies to mitigate impacts of field and bike path lighting; and
- Committed to restoring the river’s edge and Millrace conservation area as funds are available, and implementing an Integrated Pest Management Program to manage the areas.

Decisions such as moving the setback to 200 feet from top of bank demonstrate UO’s commitment to this important resource as city code requires only a 100-foot setback from top of bank. The 100-foot setback is also what was originally requested in Senate Resolution US 98/99-3, “Recommendations Concerning the Riverfront Research Park.” Despite this change, I understand that there are still concerns about the potential ecological impacts that artificial turf and lighting at the recreation fields may have on the area. I agree that this issue needs further study before proposing any construction project for recreation fields north of the railroad tracks.

The Senate’s resolution calls upon the university to withdraw the portion of the CUP covering the area north of the railroad tracks. The resolution goes on to say that in the case that it is not possible to withdraw a portion of the CUP, then the full CUP should be withdrawn. Unfortunately, neither option is viable because they both pose too significant a risk to the timeline and entire process for accommodating university immediate needs in the area south of the railroad tracks.

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The primary advocates for the resolution have provided additional background information that they believe justifies being able to split the S-RP into multiple master site plans. However, further research indicated that “it is more likely than not” that the land-use board and courts would require a single master plan for the Research Park area. The initial concept of splitting the master site plans in two appears to have been supported by an email exchange between Senate Vice President Bill Harbaugh and Nick Gioello, an associate planner in the Planning Division of the City of Eugene. In an email dated March 12, 2018, Mr. Gioello states, “the University could submit two (or more) separate CUP applications for different areas of the site. As well, it is permissible to submit one CUP for the entire site.” Vice President Harbaugh shared this information with members of my administration shortly after he received it from Mr. Gioello and we began to immediately research if the city had changed the position it had held since the original CUP for the S-RP zone was put into place in 1989. Mike Harwood, Associate Vice President for Campus Planning and Facilities Management, received the following email from Denny Braud, Executive Director for the Planning and Development Department for the City of Eugene, on March 14, 2018:

“I asked the City Attorney’s Office whether they interpret EC 9.3725 to require the University of Oregon to obtain a single conditional use permit (CUP) that covers the entire Riverfront Research Park area, or if EC 9.3725 would allow for two or more CUPs covering different portions of the Research Park.

It is my understanding that until very recently, communications between the University and city staff assumed that the University would apply for a single CUP for the entire Research Park property. Within the last few days, Planning staff looked specifically at the question of whether EC 9.3725 requires a single CUP and concluded that EC 9.3725 could allow two or more CUPs for different portions of the Research Park property.

EC 9.3725 requires that “[t]he master site plan for developments proposed within the S-RP zone [Riverfront Park Special Area Zone] shall be reviewed through the conditional use permit process provided in this land use code.” EC 9.3725 then goes on to outline the approval criteria applicable to the CUP review. EC 9.3725 does not explicitly answer the question of whether a single master plan (and a single CUP to implement that master plan) is required, but the City Attorney’s office thinks it more likely than not that LUBA or a court would interpret the phrase “the master site plan for developments proposed within the S-RP zone” to require a single master plan approved via a single CUP.

At the time the ordinance creating what ultimately became the Riverfront Park Special Area Zone was adopted, both the City and the University agreed (via intergovernmental agreement) that the entire Research Park area would be subject to a single master plan. That master plan was adopted in 1988, and the City approved a CUP for the master plan in 1989. Both the intergovernmental agreement and the 1989 CUP have since expired. Although the language of EC 9.3725 is somewhat ambiguous, given the legislative history and the plain language of EC



9.3725, the City Attorney's Office thinks it is more likely than not that LUBA or a court would interpret EC 9.3275 to require a single master plan for the Research Park area."

After receiving this information from Mr. Braud and after additional conversations between UO General Counsel Kevin Reed and the City Attorney's Office that echoed the sentiments expressed by Mr. Braud, we engaged expert land use attorneys within Eugene to seek additional guidance on this topic. After significant review, it is clear that there is a high likelihood that more than one master plan will not be allowed, which creates too much risk for the university. Getting through the city process only to have the CUP rejected on the basis that we must submit only one master site plan could add over a year to the timeline for the parking structure and cost \$1,500,000 or more of scarce university funds. The CUP process requires, at a minimum, time to develop and compile the application materials (including technical drawings, studies, and demonstrating compliance with the approval criteria in the code), a pre-application meeting with the city, a neighborhood meeting, completeness review upon submitting the initial application materials, time to complete additional items requested as part of the completeness review, a final completeness review, a public notice period, a public hearing with the City hearings official, a public notice of decision, and an appeal period. While this additional time would not delay plans for the area north of the railroad tracks as additional recreation field capacity will likely not be needed for at least another 8-10 years, we do need to proceed with building the parking structure in the area south of the tracks as soon as is possible.

The university has made some missteps through this process. I understand that several of the faculty who have a strong interest in the development of this area are frustrated that they were not informed that the CUP was being submitted to the city the same day that they were meeting with others in my administration on this topic. I apologize for this oversight. I am also aware that many on campus feel that this process could have been more robust. I have heard complaints that not enough was done to advertise the time and place of meetings, that conversations happened at inconvenient times for faculty and students, and that discussions were missing on, as Senate President Sinclair stated, "an academic vision." No changes will be made to the area north of the railroad tracks until we have an amended *Campus Plan*, and I commit to ensuring a robust process for amending the *Campus Plan* will take these concerns into consideration. Also, I can commit that I will not propose a privately controlled on-campus construction project, known as a "Track C" project per the *Campus Plan*, in the area north of the tracks. A "Track C" project allows the university president the opportunity to determine whether a project must follow the standard process in the *Campus Plan*.

Several suggestions have been made recently regarding different ways to approach the potential future need for recreation fields such as partnerships with nearby high schools or additional locations accessible by EmX. While I cannot comment on the viability of these options, I can commit that the first step in the process to amend the *Campus Plan* to incorporate the area north of the tracks will be to complete a study that would look more closely at options available to us on where to locate additional recreation fields and potential partnerships. The study will be consistent with *Campus Plan* principles and take into account factors such as safety, proximity to students, operations, costs, environmental



impacts, neighborhood impacts, and zoning limitations. While this study will be managed by CPFM, its scope will be informed by advice and feedback from the CPC. As the CPC is critical to this next step, we will wait until the fall to initiate the study.

On April 4, 2018, Melanie Muenzer, associate vice president and vice provost for academic initiatives who serves as the administration's liaison to the University Senate, sent an email to members of the CPC asking the committee to hold off on any discussions related to the CUP or the North Campus until I had made my decision on how to proceed with the resolution. As such I will be asking CPFM to initiate the study on the recreation fields. I expect the CPC to be directly engaged by providing feedback and advice throughout the study. CPFM will be responsible for presenting the results of the study to campus to interested parties, including the University Senate. I am asking the CPC to help assist them with that effort. Moving forward, findings from the study shall inform future *Campus Plan* amendments. I will expect the CPC to again engage in a robust discussion with internal and external stakeholders on this issue, including ensuring that any public meetings are not held at inconvenient times for faculty and students.

The *Campus Plan* amendment process shall occur before any development or improvements take place in the area north of the tracks. Please note that I would not expect new recreation fields to be proposed until we have determined that there is funding and our enrollments are increasing on such a trajectory that the fields would be needed.

Again, thank you for your dedication to our campus.

Sincerely,



Michael H. Schill
President and Professor of Law

