

Panel 3

Concerned Citizens advise Parks Board to recommend dropping RVNA from ORCMP

Our advice regarding River View Natural Area (RVNA) is based on:

- 1. RVNA's Management Plan, approved by city council.
- 2. RVNA's Conservation Easement, signed by Metro, City, State.

THE NOVICK AMENDMENT

RVNA is in the ORCMP because of an amendment to the RVNA Management Plan offered by Commissioner Steve Novick during the approval hearing.

The RVNA Management Plan (RVNAMP) was done scientifically and concluded that trails engineered for mountain biking were not feasible given the main geometric constraints (See Interior Forest below). Before the RVNAMP went to city council, the mountain biking lobby convinced Mayor Hales and Commissioner Novick that RVNA should not be ruled out for cycling *until the future 'ORCMP' had a chance to FURTHER evaluate it*. So, Commissioner Novick introduced an amendment to that effect, and council passed it. The proverbial can was kicked down the hill, and here we are today.

ORCMP had the chance to evaluate RVNA, and they didn't add any new information other than "it is small", and that we would need to figure out a way to prevent too many users from overwhelming it.

INTERIOR FOREST CONSTRAINS TRAIL GEOMETRY in RVNA

RVNA contains an area large enough to be called an Interior Forest. The interior will be off limits to the public, and therefore the main trail must be a perimeter trail, keeping within 200' of the area's outer boundaries. Switchbacks required for the terrain preclude a desirable mountain bike experience. Nor can the geometry support a proper mixed-use wider trail. This was known and stated during the River View Natural Area Management Plan process, by the trail expert and also the project manager. This should have been the end of the story.

River View perimeter trail could be a draw for neighborhood kids, or kids transported to the site to ride. There are three options: bikes only, mixed use, or pedestrian. Bikes-only would not be fair. It would not be prudent (safe) to have mixed use, unless the trails were wide everywhere, which is not possible. PP&R could be sued when the inevitable collision occurs. This leaves only the pedestrian perimeter trail, or some time-based (day-of-week) restrictions on bike vs pedestrian.

You could recommend that RVNA should be a pedestrian access 7 days/week. Do you want to restrict RVNA to pedestrian access two or three weekdays and one day on the weekend, so that Mountain bikes can be used on the other days? (That is the 'best case' if ORC is allowed in RVNA.)

RVNA isn't going to be the EPIC SITE that was wanted in the beginning, so let's hear what they have to say and see if it sounds reasonable. How many kids live within biking distance of River View? Do you include Sellwood? There is no data. How many would be expected to transport kids and bikes? Would shuttles be used between top & bottom? Could lessons be given in River View? How would that affect the over-all experience for other users? What is best for River View Natural Area and the surrounding community?

BUREAU of ENVIRONMENTAL SERVICES disagrees with ORCMP over RVNA.

At the 14th and last meeting of the ORCMP, a memo (BES Memo, from Mike Jordan, November 7, 2017) was read to a silenced room. Some snippets follow:

Nat Lopes of Hi/ride, trail consultant for the ORCP, indicated on a River View site visit that it would be necessary to develop some way of limiting the number of people using the site because its size could not sustain intensive use.

...

Data gaps identified in this plan include baseline water quality and streambank conditions, wetland functions and buffers, and use of the property by wildlife species. Collection and analysis of that data are priority actions in the Natural Area Management Plan and are crucial to informing management decisions, including the extent of public access.

...

BES remains concerned that River View Natural Area is not large enough to support the users expected as a designated property in an off-road cycling network, given the topography, erodible soils, habitat types and above-ground streams. We also believe that adequate time has not been dedicated within the ORCP process to make a sound technical decision about recreational use at this property. Signed, M Jordan.

WHY ALLOW HIKERS AT ALL?

People say "If you care so much about conservation, why not exclude people too?" The Interior Forest will be off limits, but in fact the RVNA-MP data collection is not complete, and that may determine even less pedestrian access than currently planned.

EQUITY

One must take a stand: It's of concern that BES rate payers (as majority stakeholders in RVNA) are being held hostage by a group of predominately male mountain bikers between the ages of 20 to 50 years, who ignored private property rights, ignored the conservation easement, claim their sport is passive, and some of whom even think they can ignore the city's mountain biking ban. By sheer size and power, they dominate the trails - moving others aside. Is this inclusionary or equitable?

The city promises a goal of equity and inclusion for all. How many of our citizens, whose rate payer dollars contributed to the majority of the RVNA purchase, will be able to participate in a sport with such a high financial barrier to entry? A sturdy pair of tennis shoes or hiking boots are certainly more affordable for the majority of Portland citizens.

We sincerely hope that the city will consider the welfare for all of our respected, diverse citizens by keeping: *"the more specific purpose of the Easement to prevent any use of, or activity on the Easement area that will impair or interfere with the Conservation Values to preserve, protect, and enhance the characteristics of the RVNA watershed: water quality, connection of riverfront natural areas that function as important corridor/habitat for wildlife/people, the refuge and rearing habitat for salmonids (most of which are federally protected species) along the Willamette River's main stem and botany."* Let's not throw the "baby out with the bathwater."

THE CONSERVATION EASEMENT

Parks Board members should be aware of the River View Natural Area Conservation Easement. This very important document was filed in Multnomah County by Metro attorneys in 2011. The "Easement" contains Covenants, Conditions & Restrictions (CC&Rs) that are legally binding on the Natural Area property. The RVNA Conservation Easement can be viewed under Signed Conservation Easement on this page <https://www.portlandoregon.gov/parks/63868>

Of particular note, are Exhibits C "*Grantor's Prohibited Uses and Activities*" and Exhibit D "*Required Vegetation Stabilization Activities*." And, at page 1, the Recitals at B, C and D, as well as at page 2- 2. Purpose (b) "*Specific Purposes: Conservation Values*" are significant to the conservation values established by the Easement.

The City restricted cycling in RVNA stating (in part) the area is a "*high value resource sensitive for threatened wild life and habitats*" essential to the conservation of Northwest protected species.

The Bureau of Environmental Services was sued in regard to the RVNA purchase citing that BES misused their authority expensing water/sewer rate payer funds (\$6,000,000) to purchase the BES 53.3% stake in RVNA. The issue came before Multnomah County Circuit Judge Bushong on two occasions. Judge Bushong found on those two occasions that BES did not misuse rate payer funds for the RVNA purchase. His finding (in summary) was that the BES purchase was primarily for Portland water quality provided by the natural storm water (management system) flowing through the (RVNA) natural area sub watershed to the Willamette River to the benefit of Portland's BES rate payers.

BES submitted a letter to the Off Road Cycling Master Plan (ORCMP) committee in support of maintaining the ban on MTBs/ORCs in the River View Natural Area on November 17, 2017.

THE CONSERVATION OF RIVER VIEW NATURAL AREA

The Conservation Easement is a legal document filed by METRO's attorneys in Multnomah County Court in 2011, outlined permitted uses states "*Grantor reserves all rights accruing from its ownership of the Property, including the right to engage in or permit or invite others to engage in all uses of the Easement Area that are not inconsistent with the terms of this Easement or expressly prohibited herein. Grantor intends to operate the Property as an open space, natural area. Grantor's permitted uses shall therefore include public access for nature based recreation, such as hiking and nature watching, environmental education and research...*"

This information was published in 2011 by The Bureau of Environmental Services (BES) where BES outlined three top Improvement Strategies (IS) for RVNA: "*Enhance and protect aquatic and terrestrial habitats ... Expansion and development of revegetation projects... Stewardship of the forested portions of the subwatershed that are vital to the protection of valuable habitats and increasing the connectivity between the Westside wildlife corridor and Tryon Creek State Natural Area.*"

RVNA is identified as a subwatershed by the Bureau of Environmental Services. PP&R and everyone concerned with this wonderful area must be held accountable by BES Improvement Strategies (IS) and Metro's Conservation Easement outlined above. And, there is nothing in BES's three top Improvement Strategies (listed above) or Metro's Conservation Easement to support the mountain biking sport as enhancing the RVNA subwatershed.

The City banned MTB use in RVNA stating (in part) the area is a "*high value resource sensitive for threatened wild life and habitats*" essential to the conservation of Northwest protected species. See <https://www.portlandoregon.gov/parks/article/520979>

Off road cyclists have continued to ride in RVNA, as well as deface trails, destroy important habitat by digging, deface and remove PP&R signage. This behavior argues against their responsibility.

There is an important distinction between street bicycling, recreational bicycling, and Off Road Cycling/MTBing. The former two being more passive in nature while Off Road Cycling/MTBing is undeniably active.

As such, Off Road Cycling/MTBing belongs in an appropriate sporting arena like Gateway Green or in areas where the geology, wildlife, botany and overall environment can take the abuse of ORC/MTB riders and their heavy equipment. River View Natural Area is not appropriate nor is it legal according to the CC&Rs in the RVNA Conservation Easement for any of the three types of bicycling listed above and specifically NOT for ORC extreme sports.

CLOSING THOUGHTS: DIRT LAB and FOREST PARK are good things, but differnt!

On January 23rd, 2018, we noticed a Northwest Trail Alliance post published to the bike community on BikePortland.org. Quote:

"the Dirt Lab has reinvigorated riding and advocacy, and there's much good yet to come of it— in Forest Park, River View Natural Area, Washington Park, and drizzled across the smaller parks in Portland. Icing that cake is our sweet partnership with Metro...."

Let us make a distinction between "Dirt Lab", which is the nick name for Gateway Green and Portland's natural areas, i.e. Forest Park and the River View Natural Area. (We are not aware of the parameters for Washington Park or other small Portland parks mentioned in NWTa post.) It is interesting to note NWTa's claim of a cozy relationship with METRO "*who'll soon be bringing delectable riding.*" Where exactly does that lead a diversified public?

Gateway Green was specifically constructed as an appropriate "sport arena" for mountain bike enthusiasts of all ages. It is a terrific asset for Portland's bike community. On the other hand, Forest Park and the River View Natural Area are natural areas, wildlife corridors and extremely important watersheds to the Willamette River. The intended use for those areas is outlined by -- in the case of Forest Park:

"Remarkably, the city of Portland is the only urban area in the nation that has preserved by land-use law a park designated as "wilderness." Forest Park has held the distinction of being reserved as a wild place since its conception by John Olmsted, 114 years ago. Early founder Fred Cleator, whose work gave us the Pacific Crest Trail, wrote that Forest Park should always remain a "wilderness park for wilderness values."

For 69 years, that philosophy has remained intact — in 1995 becoming land-use law and the state's environmental code:

"Ordinance No. 168509 protects Forest Park stating as its highest goal the preservation of the park's ecological health, flora, fauna and wilderness qualities." (Marcy Houle, "The Portland Tribune" 2/14/2017.)

RECOMMENDATION

If you can recommend RVNA be dropped:

- A. RVNA Management Plan may go forward. (The ammendment should be stricken.)
- B. Trails and facilities can be planned for pedestrian use.
- C. NWTa may complain to LUBA, but we feel the conservation easement would prevail.

If RNVA is *not* dropped:

- A. RVNA Management Plan would have to be re-opened in years to come, and effort must be re-made to determine a perimeter trail with dozens of awkward- to-ride switchbacks.
- B. Must consider a Trail Day schedule - open house, community input, etc.
- C. Must establish criteria for deciding success or failure of trail sharing. Possible failure.
- D. May be a citizen lawsuit and/or clash of government bureaus.

If you make NO recommendation, that just leaves it to the commissioners to have to decide. Your role is to advise. The Parks Board can make a recommendation that will help our city commissioners rule on this. You could take several votes to see if you have a consensus or split. Let someone write a minority opinion.

Somehow, this sounds awfully "busy" for a place that has other purposes, and the primary purpose for humans is to have quiet experiences - hiking, bird watching and listening, and observing nature. Our hope is that you can recommend dropping RVNA from ORCMP, so that both RVNA and ORCMP can move ahead.

Thank you for considering this, and thanks for your service on the Parks Board.

John E Miller
Alexandra P Clarke

March 23, 2018.

I have this on-line as well.