

My Inconvenient Garden

I was informed that my private property and my land in Milwaukie, Oregon, is a shared community resource, and that property owners must be subservient to the good of the greater community. I strongly disagree.

Words and photos © Christopher Burkett.

I was a member of the Milwaukie Advisory Group for the past year and a half and participated in the entire process. During that time, I had numerous conversations and email communications with the staff. I found the staff to be courteous and attentive and I'm very thankful that they involved the public in this process.

However, as we worked through the planning process, I came to understand that the planning department had a specific agenda, given to them by Metro, and initiated by the Oregon State Legislature. This agenda is as much political in nature as ecological and represents a radical departure from the principles of private property ownership and individual freedom which is guaranteed by the Constitution of the United States.

I was informed that my private property and my land is a "shared community resource," and that property owners must be subservient to "the good of the greater community." I strongly disagree with this subjugation of my rights as a private property owner. I believe that the sanctity of individual property rights was established when our country was founded and the proper function of government is the preservation of property, not the taking of property. Individuals are the cornerstone and the building blocks of society. It's extremely dangerous to think that when individuals are harmed through bureaucratic deprecation, society in general can benefit. If individuals are harmed, society is harmed.

My wife Ruth and I have lived and worked on our land for many years, as did the people before us, carefully nurturing the soil and plants through many seasons. We know every square inch of our property and how best to be good stewards of it. There



"White Callas at Dawn" This is a clump of callas which I planted, not just for its position on the property, but with the idea of someday photographing it. The soft light comes only from above, as they are placed at the edge of a steep bank with large shrubs behind them and a 60-foot tree just behind where I placed the camera. The calla blossoms that spring were the tallest that they've ever been—over five feet tall.



is no erosion, degradation, or rupture of the local ecological fabric. We plan to spend the rest of our lives here and we know what is best for our land. We do not need or appreciate the government telling us what to do.

The proposed regulations are based upon a generalized averaging of ecological situations and cannot apply to every situation. Being averaged, when they are applied to specific parcels of land, they can be inaccurate and ultimately unscientific and counterproductive. How can Metro claim scientific

accuracy about the intimate details of our homesite without ever setting foot on it or knowing anything whatsoever about its specifically

unique qualities?

Yet these regulations prescribe detailed formulas for "restoration or enhancement" of the ecological health of our land based upon these averaged generalities. Since we are dealing with interactive, highly localized ecological conditions, there is a significant disconnect between generalized theory and observed reality. Also, important aesthetic issues and the property owner's long-range landscape-design plans and desires are not even considered. Actually, homeowners' landscape plans are considered more or less a nuisance by Metro's scientists and something they tiptoe around while they attempt to "educate us" so that we can overcome our "ignorance" and accept the wisdom of their ecological vision.

What follows is a speech I gave to the Planning Commission last March.



“Pascal Lily” This is a delicate perennial flower that I planted underneath a filbert tree. This was the height of its glory, never again flowering so prolifically and gradually diminishing until it disappeared about five years later. OPPOSITE: I am standing underneath the tricolor beech tree, in what the local government calls a “degraded habitat conservation area.” The renovation of this part of the garden included leveling the lawn, which entailed adding a low stone edging on the right side, adding pumice to the soil to improve the drainage, adding stone steps at the back, renovating the small water pool in the front left (you can only see the edge in this photo) and cutting down two overcrowded trees. If these regulations pass, any one of these changes would become nearly impossible to do and would cost at least \$4,000 in fees and a minimum of two months of public notices and hearings.

**March 22, 2011
Milwaukie Planning Commission**

Good evening:
Our property does not need “restoration or enhancement.” It needs protection from oppressive regulatory interference. Let us not be under any illusions. This round of environmental restrictions and regulations is not the end, it is merely part of the beginning. I firmly believe it is a process that will eventually lead to the mandatory conversion of streamside properties to “native-species-only riparian corridors.”

We have been told that “homeowners have nothing to fear,” and that we will be

allowed to maintain “normal lawn and yard landscape planting and maintenance.” And yet these new regulations have provisions which restrict many legitimate home landscape maintenance activities and normal garden adaptations, such as creating patios or pathways, tree pruning, tree removal, disturbance of soil greater than 150 square feet, or the removal of native species weeds. In reality, a close study of the regulated activities and required permits will actually give concerned homeowners much to fear.

In our case, the restrictions contained within these new regulations compromise the use of virtually all of our home property. It is no less intrusive than if the Milwaukie

code enforcement officer came into your home and dictated what colors you could paint your walls, what type of furniture you had to buy, the type of art you could own, what mattress to sleep on, or even what toothbrush to use.

Who could imagine that our government would dare to intrude upon our private lives in such personal and unseemly ways? And yet in our view, these new regulations are just that oppressive when they are applied to our home environment.

The concept of a Habitat Conservation Area, taken as a whole, may provide some benefit to wildlife but what about the conservation of our habitat? Humans are also living



“Eleven Callas and Raindrops”

These are my own flowers, planted in a boggy spot on the land, where they thrive undisturbed. I used my 8x10 camera but had to take it down and set it up about six times, as the rain showers were intermittent. To me, the composition has a feeling of the gentle, quiet flowing of water, coming from a secret spring in the ground.

“Rhododendron Kaleidoscope” This was an established rhododendron, about 35 years old, looking straight down on it from our deck. The trumpet-shaped blossoms when viewed from above reminded me of the patterns you see through a kaleidoscope and gave the image an abstract quality which you don’t usually associate with rhododendrons.



creatures who need protection from significant bureaucratic trespass. Without specific regulatory protection we have a genuine fear that our idyllic home property and the quality of our life will be seriously degraded by the intrusion of local government into the most basic and personal aspects of our lives.

To alleviate homeowners' concerns and provide real protection from bureaucratic intrusion, I suggested to the planning department that homeowners with long-established, fully landscaped grounds be given a Heritage Landscape Easement, which would allow them to maintain their property and protect them from the erosion of their ability to personally care for their land. There is a legal precedent for this type of easement, although in the opposite direction, in the form of a conservation easement. However, the planning department was unwilling to consider anything which might limit their regulatory power in the future, so this idea of a Heritage Landscape Easement was never seriously considered.

Finally, I know that the thoughts and feelings which I am expressing here are likely to have little or no impact on your decision and the proposed regulations will no doubt be approved without any significant changes. Sadly, I believe that our lives will be the worse for it. Nevertheless, I hope you can understand that my wife and I simply want to live undisturbed on our land, at peace with our neighbors and in harmony with nature. It does not seem too much to ask.

Sincerely,

Christopher Burkett

Christopher Burkett was born in 1951 and grew up in the Oregon countryside. His father, grandfather, and others before them were carpenters, farmers and ministers. At 19, he joined a Christian religious order and during his seven years there, he became interested in photography as a means of expressing the grace, light and beauty he saw present in the world of nature. He left the order in 1979 to marry Ruth and pursue his photography full time. He learned the offset printing trade and learned how to create detailed color separations. He has made a living solely from the sale of his fine prints for the last 24 years. His photographs are featured in many public and private fine art collections. Christopher is a recognized national expert in printing Cibachrome. You can learn more at www.christopherburkett.com.



"Pink Camellia" This was a beautiful 20-foot-tall camellia shrub which was planted by the former owners of our property. Unfortunately, it had to be removed when we built our new home. Knowing that, I photographed it in bloom during its last few months, waiting until after a spring rain with soft light to convey its soft, delicate beauty.



This is a 20-foot-tall fragrant rhododendron which is 100 years old. Every spring after the rhodies bloom, I deadhead every blossom by hand but even the 16-foot orchard ladder leaves the top third of this shrub untouched.

GENERAL INFORMATION

When we purchased our property, it was beautiful but overgrown into a veritable jungle. When the original gardener/owner died, his widow sold the property and the new owner just let everything grow untended for 20 years. I spent three years

renovating the grounds, cutting over six tons of brush by hand and planting at least 100 shrubs and 24 trees. Now the local jurisdiction wants to claim 85 percent of our landscaped grounds as a "habitat conservation area" and "water quality resource."