

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

AN ORDINANCE AMENDING THE METRO) ORDINANCE NO. 82- 145
URBAN GROWTH BOUNDARY (UGB) IN)
WASHINGTON COUNTY FOR CONTESTED)
CASE NO. 81-8)

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

Section 1. The District Urban Growth Boundary (UGB), as adopted by Ordinance No. 79-77, is hereby amended as indicated in Attachment A of this Ordinance which is incorporated by this reference.

Section 2. In support of the amendment in Section 1 of this Ordinance, the Council hereby adopts findings of fact, conclusions and proposed order in Attachment B of this Ordinance which is incorporated by this reference.

Section 3. In support of the findings of fact, conclusions and proposed order adopted in Section 2 of this Ordinance, the Council hereby designates as the record herein those documents and records submitted before or at the hearing in this matter on February 4, 1982.

Section 4. This Ordinance is the final order in Contested Case No. 81-8 for purposes of Metro Code Section 5.02.045.

Section 5. Parties to Contested Case No. 81-8 may appeal this

Ordinance under 1979 Or. Laws ch. 772.

ADOPTED by the Council of the Metropolitan Service District
this 2nd day of December, 1982.


Presiding Officer

ATTEST:


Clerk of the Council

JC/srb
6874B/318

W 2079'

W 132'	W 132'	W 132'	W 132'	W 132'	E 132'	W 132'	W 132'	99 0'
600	690	500	400	300	200			389° 50' E
3.94Ac	3.94Ac	3.94Ac	3.94Ac	3.94Ac	3.94Ac			

100
66.53Ac

RURAL

PROPOSED ADDITION

URBAN 88-9

182
101
229
(C 512687)
182

E 132' E 132' E 132' E 132' E 132' W 132' E 132' E 132'

S 89° E 660.9' 1/4 SEC COR 389° 44' 401

SEE MAP
2S 1 29D

EXHIBIT A

●●●●● METRO BOUNDARY
 ■■■■■ URBAN GROWTH BOUNDARY (12-21-78)

21801-
2S 1 29A

93

S 2402.6'

BEFORE THE HEARINGS OFFICER
OF THE METROPOLITAN SERVICE DISTRICT

Petition for Locational)	NO. 81-8
Adjustment of Urban Growth)	
Boundary by David and Gerda)	FINDINGS, CONCLUSION AND
Cereghino.)	RECOMMENDATION
<hr/>		

SUMMARY OF REQUEST

This petition is to add portions of two tax lots (TLS) currently divided by the Urban Growth Boundary (UGB). One, TL 101, is a .96-acre parcel which is about two-thirds within the UGB now and would, if this adjustment is approved, be included in its entirety. The other lot, TL 100, is a 66.63-acre parcel, approximately seven acres of which is now within the UGB, and approximately ten additional acres of which is proposed for inclusion for this amendment. The property is located along the urban corridor between Tualatin and Sherwood. The UGB along this stretch follows the U.S.A. boundary which runs parallel to the Southern Pacific Railroad and cuts diagonally through a number of properties in this area that are also oriented toward section lines. The City of Sherwood and Washington County both support this adjustment, and none of the service providers have any objection.

STANDARDS FOR APPROVAL
FINDINGS AND CONCLUSIONS

1. Based upon my review of the matters contained in the case file and the evidence presented at the hearing, I find that I can most efficiently set forth what I believe to be the appropriate standards, findings and conclusions by referencing and incorporating herein portions of the report prepared by Benkendorf & Associates.

2. The standards for approval and the findings regarding these standards contained in the above-referenced report, pages 15-19, are incorporated herein.


3. The specific additional findings of fact contained at pages 20-21, of the above-referenced report are incorporated herein.

4. The conclusions of the above-referenced report contained on pages 21-22, are incorporated herein.

RECOMMENDATION

Based upon the above findings and conclusions, I recommend that the application be approved.

DATED: October 23, 1981.



Dale M. Hermann
Hearings Officer

D. Compliance with METRO Criteria - Section 8 of METRO Ordinance No. 81-105 contains five criteria to be addressed and considered for any Locational Adjustment to the Regional Urban Growth Boundary. Each criteria is addressed individually in this section.

1. Orderly and Economic Provision of Public Facilities and Services - Water and sanitary sewer services have been planned and programmed for the northeast Sherwood area for several years. A Local Improvement District was formed to facilitate planning and financing of the systems. Service plans were finalized and included in the city's Community Development Plan as the Sewer Service Plan (Figure VII-1) and Water Service Plan (Figure VII-5). In the Sewer Program Priority (Table VII-4), both the Rock Creek Trunk and the Edy Road Lateral which will serve the site are Priority 1 items and are scheduled for completion in 1981. Water service will be available in mid-summer, 1981.

The Edy Road Sewer Lateral will extend eastward from the Rock Creek Trunk at the west property line of Tax Lot 100 along Edy Road to the east property line of the subject site. With the Locational Adjustment, the eight-inch lateral would serve properties on the north side of the road in addition to properties on the south side, increasing the efficiency of the new sewer line. The line size will remain at eight inches.

Assessments through the Rock Creek L.I.D. may be more equitably amortized and additional revenues may be gained from an increased number of hookups, not only for sanitary sewer but for water service. Economically, the Locational Adjustment will benefit the L.I.D. and the city and will create a more efficient use of the programmed services.

Storm drainage is not an issue. Localized drainage will be improved when development occurs. The Rock Creek channel will be used for drainage purposes and will be facilitated by the proximity of the site to the channel.

Fire protection will continue to be provided by the Tualatin Rural Fire Protection District.

Police protection would remain under the jurisdiction of the Washington County Sheriff's Department.

Any development on the site after the Locational Adjustment occurs will result from annexation to the city of Sherwood. All services and facilities will be in place or programmed and proposed development will not adversely impact the services or facilities.

2. Maximum Efficiency of Land Uses - The existing Regional U.G.B. has created an awkward and inefficient development parcel. The area within the U.G.B. not only bisects the only dwelling on the site, but creates an irregularly shaped area. Unusual geometric shapes are unsuitable for industrial purposes.

The Locational Adjustment will not change the southwest and northeast corners. The created parcel north of Edy Road will be sized and shaped to provide a much more efficient use of land for future industrial development within the city in conformance with the city's Community Development Plan.

3. Consequences

- a. Environmental - The Rock Creek Flood Plain is located on the west and north portions of the site area and can be engineered to provide more efficient and effective site and vicinity drainage when development occurs. The site area is not an identified open space or wildlife habitat and the inclusion within the Regional U.G.B. will not create any negative environmental consequences.

- b. Energy - The proximity of the site to existing transportation facilities and all urban services and public utilities will promote the energy conscious use and development of the site within the Regional U.G.B. No negative impact will result from the Locational Adjustment.
 - c. Economic - The Locational Adjustment will create a more efficient development parcel and will lead to a better and more desirable economic benefit for Sherwood, Washington County and the metropolitan area. The more efficiently sized and shaped parcel when appropriately developed and used, will contribute more tax dollars. Use of existing services will also contribute to a better financed service system which will be more economically used. There will be no negative economic consequences resulting from the Locational Adjustment.
 - d. Social - Due to the present lack of development on the site, there will be no social consequences as a result of the Locational Adjustment.
4. Retention of Agricultural Land - The specific site area has never been in agricultural production. Soils information obtained from the Soil Conservation Service indicates that the soils are a combination of clays and clay loams, ranging from capability Class II to Unclassified. The soils are either wet or subject to erosion or both. The site area soils are quite gravelly and contain large stones and boulders not only at the surface but below the surface. A visual survey revealed that boulders up to three feet in diameter are present on the surface.

Soils mapping of the site did not occur from specific onsite investigation but from aerial photo interpretation and extrapolation of surrounding area soils associations. The Soil Conservation Service does not map units or areas under 10 acres in size on a site specific basis and will not review the

soils on this site. However, based on the soil types and particular characteristics of the area, the inclusion of the site area within the Regional U.G.B. will not adversely impact the agricultural use or potential of the balance of the property. The efficiency of land use and services in the area will be improved as a result of the Locational Adjustment without negatively impacting the retention of agricultural land.

5. Compatibility of Proposed Urban Uses with Nearby Agricultural Activities - The wooded character of the site will allow for effective perimeter buffering.

The only agricultural activity adjacent to the site area is on the same property directly to the north. The existing onion farm is owned by the applicant who desires to separate the farm from the non-farm area. The dwelling and non-farm area is proposed for inclusion within the Regional U.G.B., while the onion farm and farm related structures are specifically proposed to remain outside the U.G.B.

Any development activity on the site will be oriented southward toward Edy Road, away from the agricultural activity to the north. When combined with buffering and setbacks, there will be no adverse impact on nearby agricultural activities and the existing compatibility with agricultural uses will be retained.

E. Section 8, Item d., 2. of Ordinance 81-105

The only similarly situated contiguous land which could also be appropriately included within the Regional U.G.B. under a Locational Adjustment lies to the northeast of the subject site area. Although soils, physical characteristics and existing land uses are similar, the more direct proximity to agricultural activities on two sides, west and north, would create greater impacts on agricultural lands than the subject site. Properties to the west of Rock Creek,

although serviceable and adjacent to the Regional U.G.B., are currently in agricultural production. More importantly, these properties are not contiguous to the existing local U.G.B. or city limits. There is no similarly situated contiguous land which could also be appropriately included within the Regional U.G.B. and subsequently annexed into the city for future industrial development.

IV. SUMMARY

A. Findings of Fact

1. A portion of the site approximately seven acres, is currently within the Regional U.G.B.
2. The entire site, including the area within the Regional U.G.B. will be approximately 18.3 acres, and is contiguous to the existing local U.G.B. and city limits on both the south and east sides.
3. The site is programmed for sanitary sewer and water services, both of which will be provided in 1981.
4. The site has access to Edy Road (C.R. 1070) and the total site area, when combined with the area already within the Regional U.G.B., will have 1,070 feet of frontage on Edy Road.
5. The portion of the site currently within the Regional U.G.B. is designated on Sherwood's Community Development Plan for General Industrial use.
6. The entire site can be easily and effectively provided with all forms of urban services and necessary public utilities.
7. Existing Metropolitan Service District (METRO) and Unified Sewerage Agency (USA) boundaries are the same as the existing Regional U.G.B.
8. Existing Regional U.G.B., METRO and USA boundary placement creates an awkward and inefficient site which does not promote practical and rational land use and development.
9. The existing structures on the site are a single family dwelling and a garage.

10. None of the site has ever been in agricultural production. All agricultural activity occurs to the north on the balance of Tax Lot 100. All farm related structures will remain outside the adjusted U.G.B.
11. Soils range from Class II to Unclassified, but are characterized by wet clayey soils with a predominance of gravel, stones and boulders.
12. The Rock Creek Flood Plain includes the north and west portions of the entire site area, but constitutes less than 50 percent of the total site.

B. Conclusions

1. The current area within the Regional U.G.B. is poorly sized and shaped and cannot be used to maximum efficiency. The Locational Adjustment will create a properly shaped site for industrial purposes.
2. The Locational Adjustment will have no adverse impacts on the environment, social or urban services, energy provision or use and the economic framework of the area.
3. The soils on the site may be of questionable agricultural value, considering the physical characteristics.
4. The Locational Adjustment will not adversely impact any agricultural activities on surrounding properties. Through buffering and setbacks, any future development will retain compatibility with the agricultural character of the balance of the property.
5. The flood plain will not adversely impact the future development of the site.
6. When services become available to the site, the site can be more effectively and efficiently used if the Regional U.G.B. is adjusted and the site is annexed to the city.

7. Frontage on Edy Road will allow for a more feasible industrial development and use of the site area.
8. The Locational Adjustment of the Regional U.G.B. is logical, rational and complies with the criteria specified in METRO Ordinance No. 81-105.

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

A RESOLUTION OF INTENT TO APPROVE)	RESOLUTION NO. 82-294
A PETITION BY DAVID AND GERDA)	
CEREGHINO FOR AN URBAN GROWTH)	Introduced by the
BOUNDARY LOCATIONAL ADJUSTMENT)	Regional Development
AND TO AMEND THE BOUNDARY UPON)	Committee
ANNEXATION TO METRO)	

WHEREAS, David and Gerda Cereghino have submitted a request for a locational adjustment to the Urban Growth Boundary (UGB) in Washington County; and

WHEREAS, Such request was given a contested case hearing before a Metro Hearings Officer on October 8, 1981; and

WHEREAS, The Hearings Officer has submitted Findings, Conclusions and Recommendations; and

WHEREAS, The Council has reviewed and agrees with the Findings, Conclusions and Recommendations as submitted by the Hearings Officer; and

WHEREAS, Section 14(d) of Ordinance No. 81-105 provides that "when the Council acts to approve...a petition affecting land outside the District...such action shall be by resolution expressing intent to amend the UGB if and when the affected property is annexed to the District..."; and


WHEREAS, The requested adjustment is not within the Metro District; now, therefore,

BE IT RESOLVED,

1. That the Council hereby declares its intent to approve the petition and to amend the Urban Growth Boundary as indicated in Exhibit A hereto following annexation of that property to Metro.

2. That the approval and adoption indicated in section 1 of this Resolution shall be by ordinance and that such ordinance shall be the Final Order in Contested Case No. 81-8 for purposes of judicial review.

ADOPTED by the Council of the Metropolitan Service District this 4th day of February, 1982.



Presiding Officer

JH:le
4444B/259
1/7/82

STAFF REPORT

Agenda Item No. 5.4

Meeting Date December 2, 1982

AMENDING THE URBAN GROWTH BOUNDARY (UGB) TO ADD
PROPERTY OWNED BY GERDA CEREGHINO (CONTESTED CASE
NO. 81-8)

Date: September 30, 1982

Presented by: Joseph Cortright

FACTUAL BACKGROUND AND ANALYSIS

On February 4, 1982, the Council approved Resolution No. 82-294, expressing its intent to approve a UGB amendment in Contested Case 81-8, following the annexation of the Cereghino property to the city of Sherwood. On September 16, 1982, the Portland Metropolitan Area Boundary Commission approved that annexation. The attached Ordinance amends the Boundary and is the final action in this case.

This Ordinance implements an adopted Council policy position and has no budget impact.

EXECUTIVE OFFICER'S RECOMMENDATION

Adoption of this ordinance is consistent with the Council intent expressed in Resolution No. 82-294.

COMMITTEE CONSIDERATION AND RECOMMENDATION

On October 11, 1982, the Regional Development Committee voted to recommend passage of Ordinance No. 82-145 by the Council.

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Councilor Burton stated that as the Chair of the Services Committee he had been trying to get a handle on the decision process for the Energy Recovery Facility. He said he thought the decision was supposed to be made by the end of the year but now understood that that wasn't the case.

Dan Durig stated there was a commitment for a 60 day public review process which wouldn't begin until the contracts were complete and initialed by the Executive Officer. He said the completion of the contracts might not occur until December or maybe even January. Mr. Durig also pointed out that the solid waste option meetings should be concluded before public hearings were set for the Energy Recovery Facility.

Councilor Burton stated that he thought WFI was dragging their feet and that interest rates were down now and an opportunity for those low rates may be missed. Councilor Bonner agreed with Councilor Burton and suggested the decision regarding the solid waste options should be made before the end of the year.

Presiding Officer Banzer stated there were significant decisions to be made on ERF at the polls on Tuesday and perhaps the discussion should take place after the election.

The Council recessed at 8:55 p.m. and reconvened at 9:05 p.m.

6.2 Public Hearing on Ordinance No. 82-145, An Ordinance amending the Metro Urban Growth Boundary (UGB) in Washington County for Contested Case No. 81-8. (First Reading)

Councilor Bonner stated that the ordinances (82-145 and 82-147) were the result of a resolution of intent already adopted by the Council on two urban growth matters, Schoppe Acres and the Cereghino case.

Motion to adopt Ordinance No. 82-145 (Bonner/Williamson).

Joseph Cortright stated that a request had been received from the Department of Land Conservation and Development to hold the second reading of the ordinances for 45 days to comply with the State's post-acknowledgement procedures.

There was no one present to testify on this ordinance.

Councilor Rhodes inquired if the people involved in the case were in support.

Mr. Cortright stated that a representative of the applicant was present and that the applicant had asked that the Council follow through on the Resolution of intent.

The ordinance was passed to second reading on December 2, 1982.

6.2 Ordinance No. 82-145, amending the Metro Urban Growth Boundary (UGB) in Washington County for Contested Case No. 81-8. (Second Reading)

Deferred until December 2, 1982.

6.3 Ordinance No. 82-147, approving in part the City of Portland's petition for locational adjustment of Metro's Urban Growth Boundary (UGB) for the area known as Schoppe Acres. (Second Reading)

Deferred until December 2, 1982.

7.1 Citizen Involvement in the Budget Process for FY 1983-84.

Councilor Deines presented his report on Citizen Involvement in the Budget Process for FY 1983-84, as contained in the agenda of the meeting. He said most of the points were agreed to by the Coordinating Committee although there was no formal recommendation from the Committee.

Motion to adopt the report (Deines/Burton).

Councilor Etlinger stated he was going to vote against the proposal because he felt there were groups outside Metro who should be reviewing the budget, such as the Metro Citizens League.

The vote on the motion resulted in the following:

Ayes: Councilors Bonner, Burton, Deines, Oleson, Rhodes, Schedeen, and Banzer.
Nays: Councilor Etlinger
Absent: Councilors Berkman, Kafoury, Kirkpatrick, and Williamson.
Abstention: None.

7.2 First Quarter Financial Report.

The First Quarter Financial Report was distributed to the Council members and Don Carlson reviewed the highlights of the major areas contained in the report.

Councilor Burton suggested that the Council be given time to fully read the report and ask questions at a later date.

It was agreed that the report would be placed on the Coordinating Committee's agenda for November 15, 1982.

5.4 Ordinance No. 82-145, amending the Metro Urban Growth Boundary (UGB) in Washington County for Contested Case No. 81-8. (Cereghino Property) (Second Reading)

Councilor Bonner presented the Committee report.

There was no Council discussion.

Vote: The vote on the motion to adopt Ordinance No. 82-145 resulted in.

Ayes: Councilors Banzer, Berkman, Bonner, Deines, Etlinger, Kirkpatrick, Rhodes, Schedeen, and Williamson.

Nays: Councilor Kafoury

Abstention: None.

Absent: Councilors Burton and Oleson.

Motion carried, Ordinance adopted.

6. Executive Officer's Report.

There was no Executive Officer's Report.

7. Committee Reports.

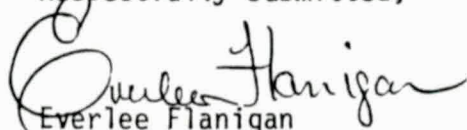
Presiding Officer Banzer reminded Council members of the Legislative Reception to be held on Monday, December 6, 1982 from 5:30 to 7:30; and of the staff Christmas Party on December 11th.

Councilor Etlinger reported on the regional ad hoc jail committee meeting and said the group had unanimously supported an effort of the Association of Oregon Counties to issue a letter to all the County Commissioners in the area stating that the ad hoc committee recommended that Metro be asked to issue revenue bonds to finance a jail.

Councilor Berkman made comments regarding the recent Oregonian articles about him and informed the Council that he would respond to those articles in a public forum the next week. He said he would try to advise each Councilor personally of his decision to resign or not.

There being no further business, the meeting was adjourned at 9:44 p.m.

Respectfully submitted,


Everlee Flanigan
Clerk of the Council

ORDINANCE NO. 82-145

TITLE An Ordinance amending the Metro
Urban Growth Boundary (UGB) in Washington
County for Contested Case No. 81-8.

DATE INTRODUCED November 4, 1982

FIRST READING November 4, 1982

SECOND READING December 2, 1982

DATE ADOPTED December 2, 1982

DATE EFFECTIVE January 1, 1983

ROLLCALL

	Yes	No	Abst.	
Burton				absent
Oleson				absent
Williamson	X			
Berkman	X			
Kirkpatrick	X			
Deines	X			
Rhodes	X			
Schedeen	X			
Bonner	X			
Banzer	X			
Etlinger	X			
Kafoury		X		



METROPOLITAN SERVICE DISTRICT
527 S.W. HALL ST., PORTLAND, OR. 97201, 503/221-1646

December 6, 1982

Rick Gustafson
EXECUTIVE OFFICER

Metro Council
Cindy Banzer
PRESIDING OFFICER
DISTRICT 9

Bob Oleson
DEPUTY PRESIDING
OFFICER
DISTRICT 1

Charlie Williamson
DISTRICT 2

Craig Berkman
DISTRICT 3

Corky Kirkpatrick
DISTRICT 4

Jack Deines
DISTRICT 5

Jane Rhodes
DISTRICT 6

Betty Schedeen
DISTRICT 7

Ernie Bonner
DISTRICT 8

Bruce Etlinger
DISTRICT 10

Marge Kafoury
DISTRICT 11

Mike Burton
DISTRICT 12

Mr. George Poppen
County Clerk
Clackamas County Courthouse
906 Main
Oregon City, Oregon 97045

Dear Mr. Poppen:


Enclosed are true copies of the following ordinances adopted by the Council of the Metropolitan Service District on December 2, 1982:

Ordinance No. 82-145, An Ordinance amending the Metro Urban Growth Boundary (UGB) in Washington County for Contested Case No. 81-8.

Ordinance No. 82-147, An Ordinance approving in part the City of Portland's petition for Locational Adjustment of Metro's Urban Growth Boundary (UGB) for the area known as Schoppe Acres.

Please file these copies in the Metro ordinance files.

Sincerely,


Everlee Flanigan
Clerk of the Council

Enclosures



METROPOLITAN SERVICE DISTRICT

527 S.W. HALL ST., PORTLAND, OR, 97201, 503/221-1646

December 6, 1982

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DISTRICT 11

Mike Burton
DISTRICT 12

Ms. Jane McGarvin
Clerk of the Board
Multnomah County Courthouse
1021 S.W. Fourth Avenue, Room 606
Portland, Oregon 97204

Dear Ms. McGarvin:

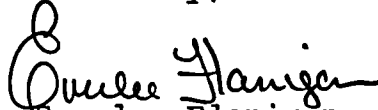
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527 S.W. HALL ST., PORTLAND, OR. 97201, 503/221-1646

December 6, 1982

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Bruce Etlinger
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Marge Kafoury
DISTRICT 11

Mike Burton
DISTRICT 12

Mr. Gordon Mulleneaux
Washington County Administrator
150 North First, Room 418
Hillsboro, Oregon 97123

Dear Mr. Mulleneaux:

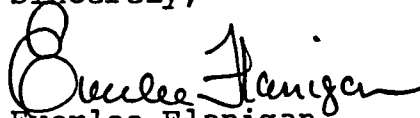
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