

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

AN ORDINANCE ADOPTING A FINAL ORDER)
AND AMENDING THE METRO URBAN GROWTH)
BOUNDARY FOR CONTESTED CASE NO. 87-1:)
BULL MOUNTAIN, CHICKEN CREEK AND)
HARBORTON SITES)

ORDINANCE NO. 87-234

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:


Section 1. The Council of the Metropolitan Service District hereby accepts the Hearings Officer's Report and Recommendations in Contested Case No. 87-1 attached as Exhibit B of this Ordinance, which is incorporated by this reference.

Section 2. The District Urban Growth Boundary, as adopted by Ordinance No. 79-77, is hereby amended to remove the areas referred to as the Chicken Creek and Harborton sites and add the area referred to as the Bull Mountain site as shown in Exhibit A of this Ordinance, which is incorporated by this reference.

Section 3. This Ordinance is the Final Order in Contested Case No. 87-1 for the Chicken Creek, Harborton and Bull Mountain sites shown in Exhibit A.

Section 4. Parties to Contested Case No. 87-1 may appeal this Ordinance under Metropolitan Service District Code Section 2.05.050 and ORS Chapter 197.

ADOPTED by the Council of the Metropolitan Service District
this 24th day of November, 1987.


Richard Waker, Presiding Officer

ATTEST:


Acting Clerk of the Council

JH/sm/8360C/517-11/02/87



Vicinity Map

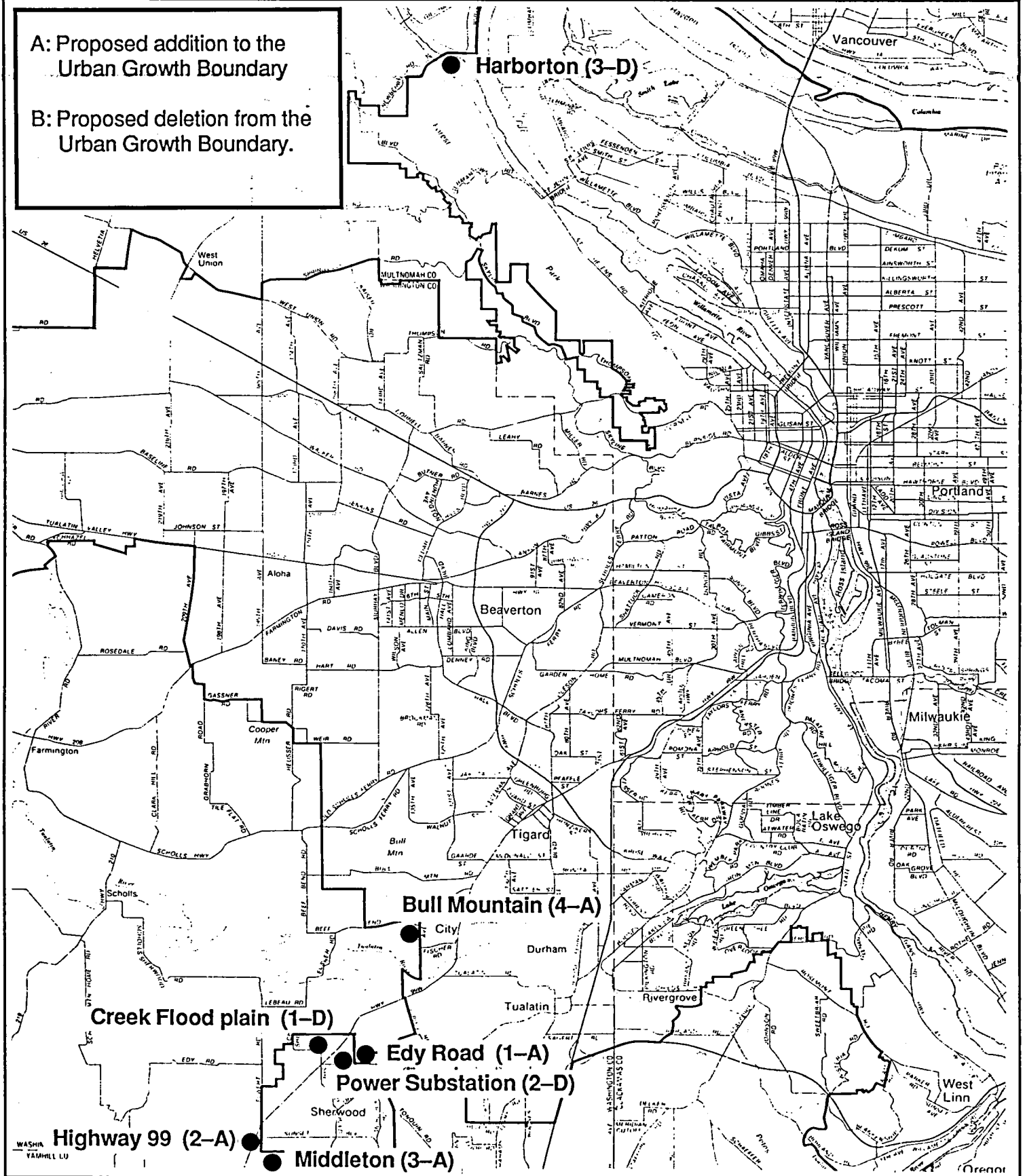
Urban Growth Boundary

Contested Case

87 - 1: Exhibit A

A: Proposed addition to the Urban Growth Boundary

B: Proposed deletion from the Urban Growth Boundary.

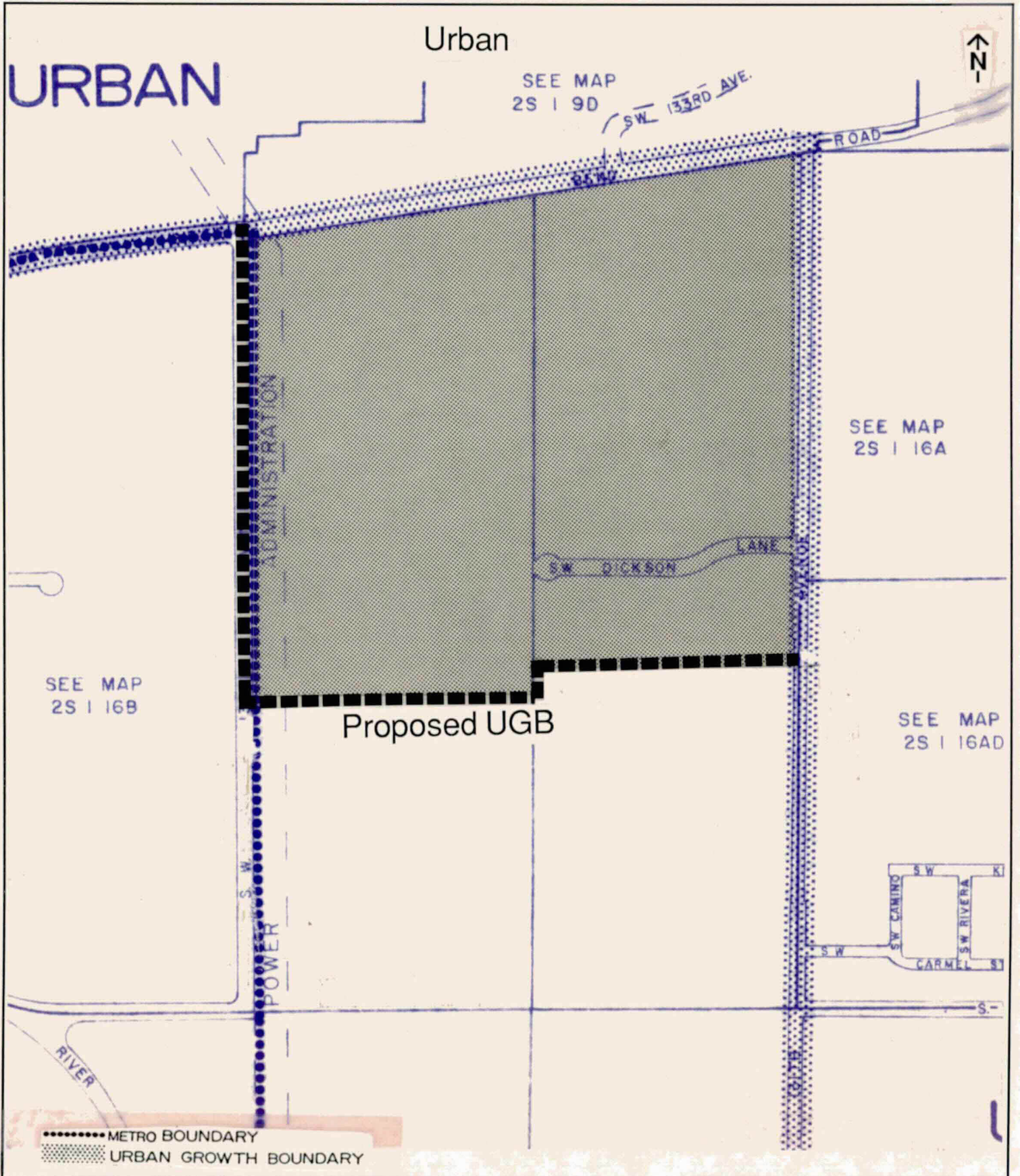


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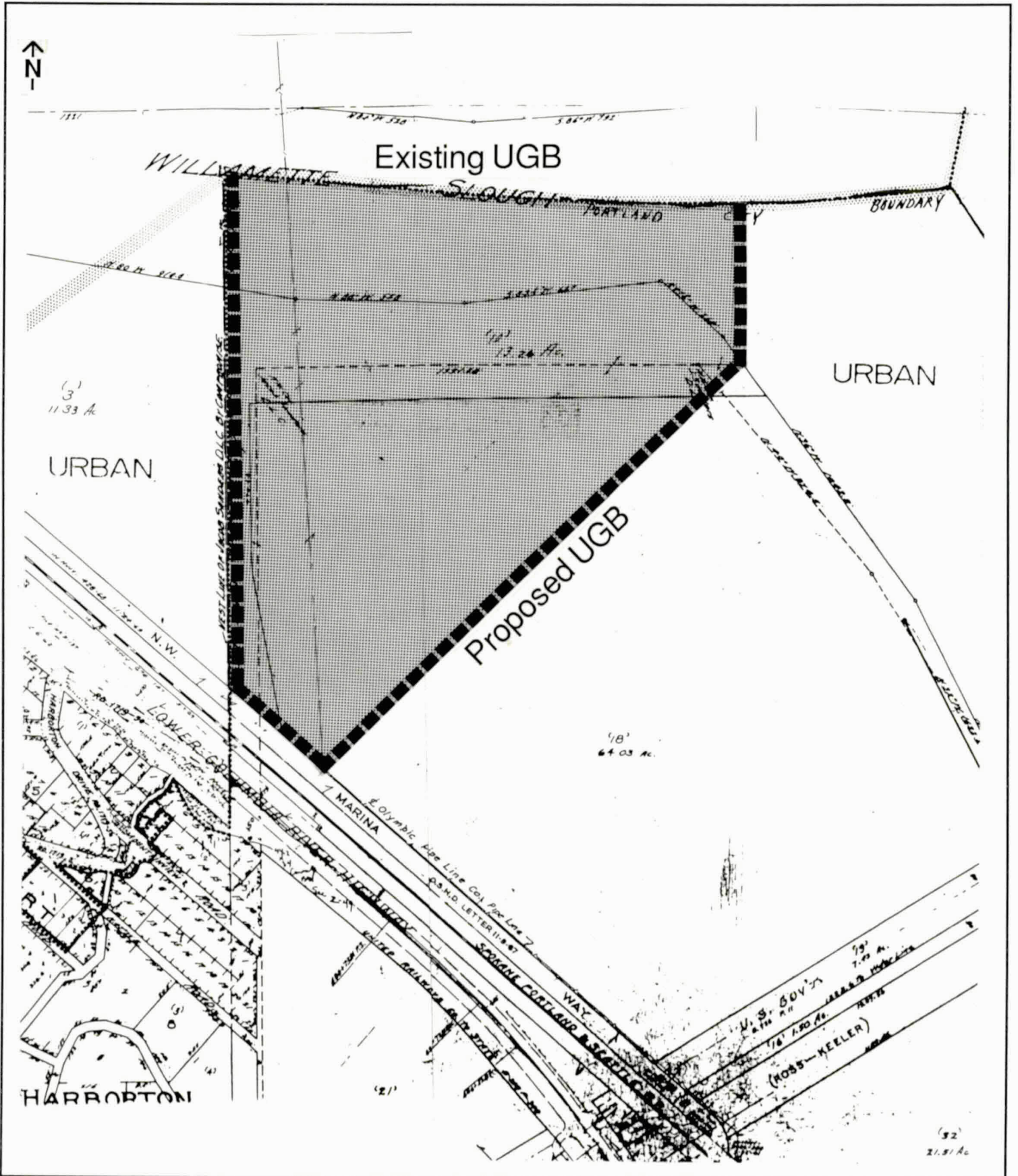
Bull Mountain (4-A)

Urban Growth Boundary
Contested Case
87 - 1: Exhibit A



Harborton (3-D)

Urban Growth Boundary
Contested Case
87-1: Exhibit A



STAFF REPORT

Agenda Item No. 9.5, 10.1

Meeting Date Nov. 12, 1987

CONSIDERATION OF ORDINANCE NO. 87-234, ADOPTING A FINAL ORDER AND AMENDING THE METRO URBAN GROWTH BOUNDARY IN CONTESTED CASE NO. 87-1 FOR THE CHICKEN CREEK, HARBORTON AND BULL MOUNTAIN SITES (FIRST READING), AND CONSIDERATION OF RESOLUTION NO. 87-222, FOR THE PURPOSE OF INITIATING ANNEXATION TO METRO AND EXPRESSING COUNCIL INTENT TO AMEND THE URBAN GROWTH BOUNDARY IN CONTESTED CASE NO. 87-1 FOR THE EDY ROAD, HIGHWAY 99W, MIDDLETON AND SUBSTATION SITES

Date: November 2, 1987

Presented by: Jill Hinckley

FACTUAL BACKGROUND AND ANALYSIS

Contested Case No. 87-1 is a petition from Columbia-Willamette Development Company and others to add four sites to the regional UGB in "trade" for the removal of three other sites. The location of all sites are shown in the maps attached as Exhibit A. Three of the sites proposed for addition and two of those proposed for removal are located near the city of Sherwood, who is a co-petitioner. The remaining site proposed for addition is at S.W. 131st and Beef Bend Road south of Bull Mountain in Washington County; for removal, at Harborton in the City of Portland. Columbia-Willamette is the development subsidiary of Portland General Electric (PGE), which owns a portion of the Beef Bend Road site, the Harborton site, and one of the sites proposed for removal near Sherwood.

The Beef Bend Road site alone was previously considered for addition as Contested Case No. 84-2. Order No. 86-5, adopted January 9, 1986, by the Council of the Metropolitan Service District (Metro), accepted the Hearings Officer's findings that the petitioners had not presented sufficient justification for so large an addition, but encouraged refileing of the petition as a part of a trade under 3.01.040(c), as petitioners have done. It should be noted, however, that Order No. 86-5 merely indicated the Council's judgment at that time that there was nothing in its adopted findings to preclude future approval of an amendment to include the Beef Bend Road site as part of a trade if the applicable standards were met. It is now up to the Council to determine whether those standards have indeed been met.

Washington County supports approval of this petition. The City of Portland adopted a neutral position.

A hearing on this petition was held before Metro Hearings Officer Chris Thomas on July 20, 1987. The record was closed September 2, 1987, upon receipt of a slightly revised proposal regarding land to be added and removed. The Hearings Officer's Report was issued on September 28, 1987, and parties given until October 19, 1987, to file any exceptions to that report.

In a trade, the main issue is whether the properties proposed to be added are more suitable for urbanization than those proposed for removal, based upon consideration of the standards listed in Metro Code Section 3.01.040(a). The Hearings Officer finds that this is the case, and accordingly recommends that the petition be approved. Although several individuals testified in opposition to the petition or expressed concern about it, no exceptions were filed. Metro Code Section 2.05.035 allows the Council to hear oral argument only when exceptions have been filed. Since none were in this case, no public testimony will be taken.

One unusual feature of the case should be noted. A special standard (Metro Code Section 3.01.040(c)(1)) applies to land with Class I-IV soil that is not "irrevocably committed to non-farm use." Metro Code Section 3.01.010(i) defines this last phrase as "in the case of a plan acknowledged by LCDC, any land for which a Goal No. 3 exception has been approved by LCDC...." All but one of the proposed additions had previously had an approved Goal No. 3 exception taken for them. The Edy Road site, however, is part of a large area zoned for Exclusive Farm Use. Although the local jurisdiction -- in this case Washington County -- is usually responsible for adopting any Goal No. 3 exceptions, this was not practicable in this case. Instead, Metro itself provided LCDC staff notice of the proposed exception (see pp. 38-39 of the Hearings Officer's Report for a summary of the process). Under post-acknowledgment procedures, as provided for in OAR 600 Division 18, LCDC must be considered to have "approved" the exception whenever DLCD does not testify in opposition at the exceptions hearing, whether the hearing is before Metro or Washington County. Accordingly, staff believes that Metro can fulfill the terms of Metro Code Section 3.01.010 by itself adopting the Goal No. 3 exception for the Edy Road site, as provided in Resolution No. 87-222.

Of the seven sites affected, one of the proposed additions (Bull Mountain) and two of the proposed removals (the Chicken Creek Floodplain and Harborton) are within the Metro boundary and so can be approved by ordinance. The remaining sites require Metro annexation prior to adoption of a final order effecting the proposed changes. In consequence, initial action by the Council on these properties would be by Resolution of Intent to approve the proposed changes once the land annexes to Metro. Because the findings the Council is asked to adopt address the entire petition as a whole, action on all sites included in the petition is included in this agenda item. However, because it is the ordinance that will adopt the findings for all sites, the resolution should not be acted upon until the Council has first acted on adoption of the ordinance, scheduled for November 24.

EXECUTIVE ORDER NO. 38

SUBJECT: ADMINISTRATIVE INTERPRETATION OF THE URBAN GROWTH BOUNDARY
AS ADOPTED FOR CONTESTED CASE NO. 87-1: BULL MOUNTAIN SITE

AUTHORITY: Metro Code 3.01.015

EFFECTIVE DATE: Upon Signing

Background

On November 24, 1987, the Council of the Metropolitan Service District adopted Ordinance No. 87-234 adopting a final order and amending the Urban Growth Boundary for three sites included in Contested Case No. 87-1. One of these was the Bull Mountain site (site 4-A), located southwest of 131st Avenue and Beef Bend Road in Washington County. The map amending the boundary at this site is attached to this order as Exhibit A; the legal description, adopted as Attachment A to the Hearings Officer's Report, is attached to the order as Exhibit B.

The map and legal description differ regarding the western boundary of the amendment: the map follows the western edge of the Bonneville Power Administration power line easement; the legal description follows the eastern edge.


Petitioner Portland General Electric petitioned only for inclusion of land to the eastern edge of the easement. Its calculations of total land being added were based on that line, and no additional land may be added without violating the site standards for trades.

The map adopted by the Council was prepared during a transition period for the map section by new staff. The use of the western border of the easement appears to have been a simple mapping error.

Conclusion and Order

The record of intent to follow the eastern edge of the Bonneville Power Administration power line easement is clear. The Urban Growth Boundary map should, therefore, be revised to move the Urban Growth Boundary 100 feet to the east from the western to the eastern edge of the Bonneville Power Administration power line easement.

SO ORDERED this 8th day of March, 1988.



Rena Cusma, Executive Officer

JH/sm
8965C/518
03/02/88

STAFF REPORT

Agenda Item No. 9.4, 10.1

Meeting Date Nov. 24, 1987

CONSIDERATION OF ORDINANCE NO. 87-234, ADOPTING A FINAL ORDER AND AMENDING THE METRO URBAN GROWTH BOUNDARY IN CONTESTED CASE NO. 87-1 FOR THE CHICKEN CREEK, HARBORTON AND BULL MOUNTAIN SITES (SECOND READING), AND CONSIDERATION OF RESOLUTION NO. 87-822, FOR THE PURPOSE OF INITIATING ANNEXATION TO METRO AND EXPRESSING COUNCIL INTENT TO AMEND THE URBAN GROWTH BOUNDARY IN CONTESTED CASE NO. 87-1 FOR THE EDY ROAD, HIGHWAY 99W, MIDDLETON AND SUBSTATION SITES

Date: November 13, 1987

Presented by: Jill Hinckley

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Of the seven sites affected, one of the proposed additions (Bull Mountain) and two of the proposed removals (the Chicken Creek Floodplain and Harborton) are within the Metro boundary and so can be approved by ordinance. The remaining sites require Metro annexation prior to adoption of a final order effecting the proposed changes. In consequence, initial action by the Council on these properties would be by Resolution of Intent to approve the proposed changes once the land annexes to Metro. Because it is the ordinance that will adopt the findings for all sites, the resolution should not be acted upon until the Council has first acted on adoption of the ordinance scheduled for November 24.

JH/sm
8359C/517
11/13/87



METRO

2000 S.W. First Avenue
Portland, OR 97201-5398
503/221-1646

November 30, 1987

Mr. John Kauffman
County Clerk
Clackamas County Courthouse
8th and Main
Oregon City, OR 97045

Dear Mr. Kauffman:

Enclosed is a true copy of the following Ordinance adopted by the Metro Council. Please file this Ordinance in the Metro file maintained by your county.

Ordinance No. 87-234, An Ordinance Adopting a Final Order and Amending the Metro Urban Growth Boundary for Contested Case No. 87-1: Bull Mountain, Chicken Creek and Harborton Sites.

Sincerely,

Sandy Stallcup
Acting Clerk of the Council

SS:pa

Enclosure

Metro Council

Richard Waker
Presiding Officer
District 2

Jim Gardner
Deputy Presiding
Officer
District 3

Mike Ragsdale
District 1

Corky Kirkpatrick
District 4

Tom DeJardin
District 5

George Van Bergen
District 6

Sharron Kelley
District 7

Mike Bonner
District 8

Tanya Collier
District 9

Larry Cooper
District 10

David Knowles
District 11

Gary Hansen
District 12

Executive Officer
Rena Cusma



METRO

2000 S.W. First Avenue
Portland, OR 97201-5398
503/221-1646

November 30, 1987

Mr. Charles D. Cameron
County Administrator
Washington County Courthouse
150 North First Avenue
Hillsboro, OR 97123

Dear Mr. Cameron:

Enclosed is a true copy of the following Ordinance adopted by the Metro Council. Please file this Ordinance in the Metro file maintained by your county.

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Sincerely,

Sandy Stallcup
Acting Clerk of the Council

SS:pa

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Larry Cooper
District 10

David Knowles
District 11

Gary Hansen
District 12

Executive Officer
Rena Cusma



METRO

2000 S.W. First Avenue
Portland, OR 97201-5398
503/221-1646

November 30, 1987

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

Dear Ms. McGarvin:

Enclosed is a true copy of the following Ordinance adopted by the Metro Council. Please file this Ordinance in the Metro file maintained by your county.

Ordinance No. 87-234, An Ordinance Adopting a Final Order and Amending the Metro Urban Growth Boundary for Contested Case No. 87-1: Bull Mountain, Chicken Creek and Harborton Sites.

Sincerely,

Sandy Stallcup
Acting Clerk of the Council

SS:pa

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