

BEFORE THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

AN ORDINANCE ADOPTING A FINAL ORDER     )  
AND AMENDING THE METRO URBAN GROWTH     )  
BOUNDARY FOR CONTESTED CASE 87.2:     )  
ANGEL PROPERTY     )

ORDINANCE NO. 88-238

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

Section 1. The Council of the Metropolitan Service District hereby adopts the Findings of Fact in Contested Case 87-2, 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. 79-777, is hereby amended to add the Angel property as shown in Exhibit A of this Ordinance and described in Exhibit C, which are incorporated by this reference.

Section 3. This Ordinance is the Final Order in Contested Case 87-2.

Section 4. Parties to Contested Case 87-2 may appeal this Ordinance under Metropolitan Service District Code Section 2.05.050 and ORS chapter 197.

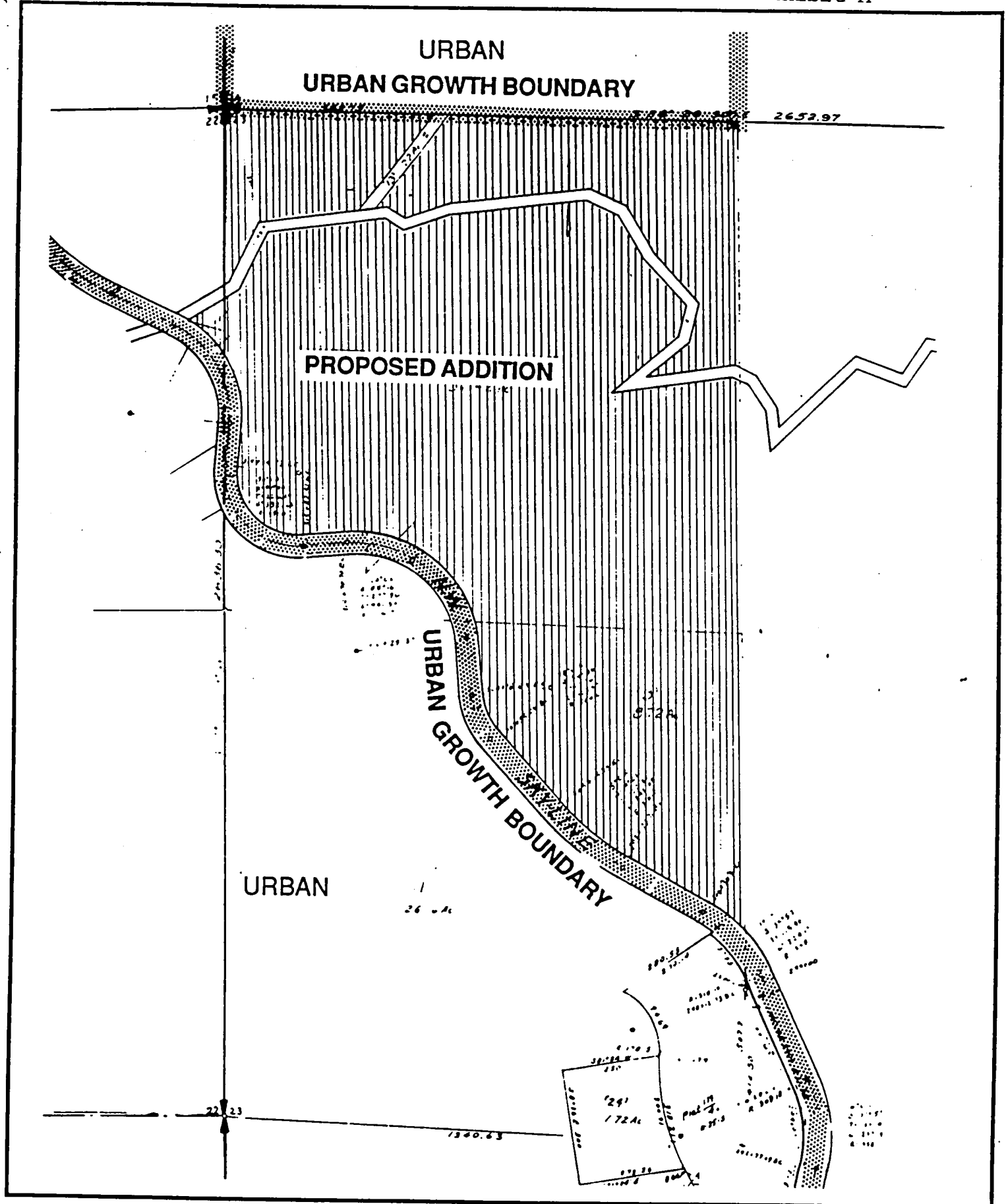
ADOPTED by the Council of the Metropolitan Service District  
this \_\_\_\_\_ day of \_\_\_\_\_, 1988.

NOT ADOPTED  
Mike Ragsdale, Presiding Officer

ATTEST:

\_\_\_\_\_  
Clerk of the Council

JH/gl/8737C/525-01/05/88



Case 87-2

Site map

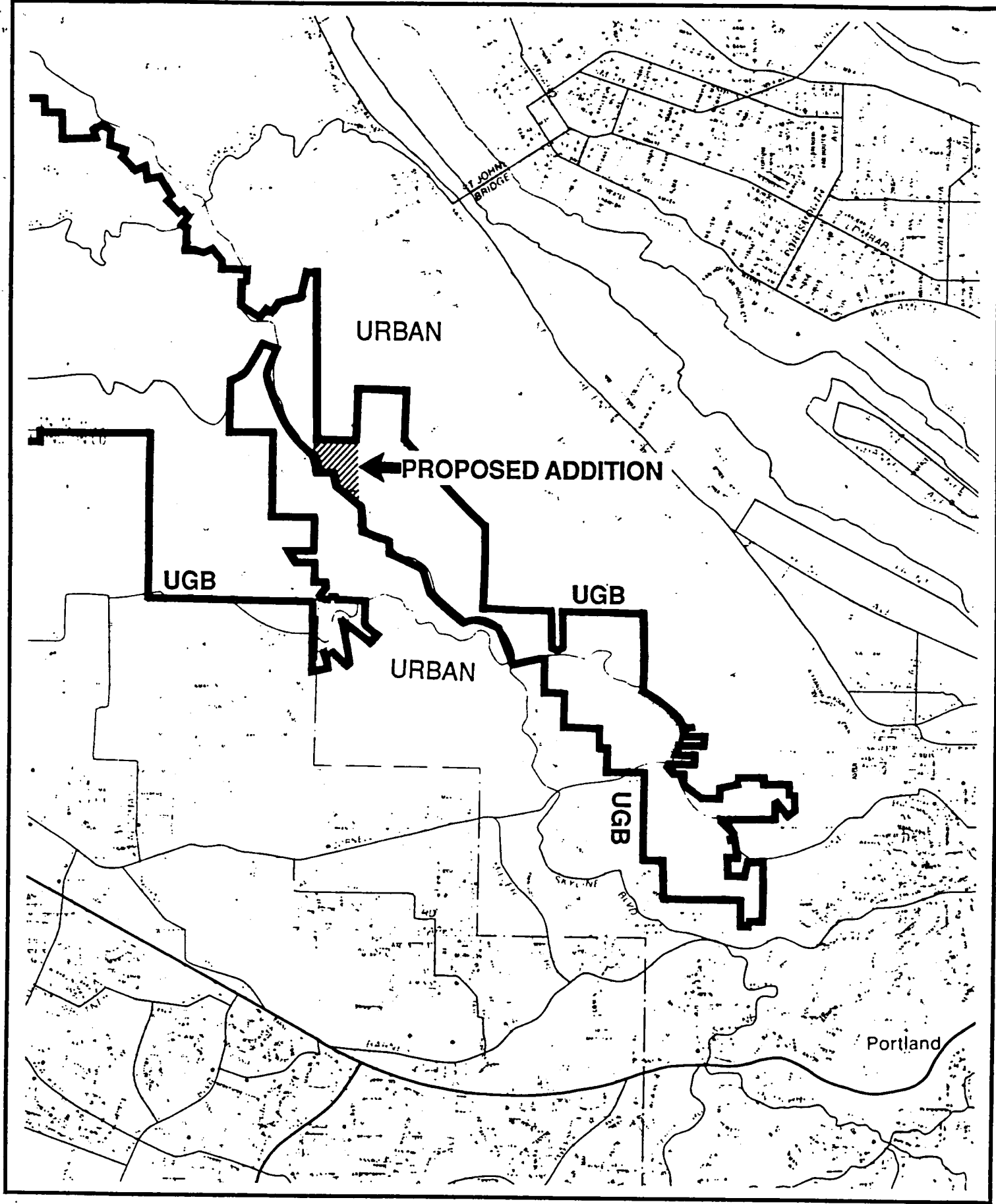


Exhibit A  
Case 87-2

Vicinity map

BEFORE THE METROPOLITAN SERVICE DISTRICT

IN THE MATTER OF THE APPLICATION ) CONTESTED CASE NO. 87-2  
OF JOSEPH W. ANGEL and LYNNE I. )  
ANGEL FOR AN AMENDMENT TO THE ) FINDINGS OF FACT  
URBAN GROWTH BOUNDARY )

I. Nature of the Case

This is a request by property owners to add approximately 42.5 acres to the area within the Urban Growth Boundary. The land is located at the intersection of Skyline Boulevard and Saltzman Road in the northwest section of the City of Portland. Maps showing the land are attached hereto as Exhibits A and B. A legal description of the land is attached hereto as Exhibit C.

The applicants are the owners of the entire area proposed to be brought within the UGB.

The City of Portland has recommended approval of the application to bring the area within the UGB.

II. Proceedings and Record

On September 10, 1987, following publication and mailing of notice and a revised notice to property owners who were identified by applicants or the Hearings Officer as living within 250 feet of the proposed addition area, the Hearings Officer held a hearing on the application at the Metro Center. Stephen T. Janik and Joseph W. Angel testified on behalf of the applicants. Robert H. Chambers and Tom Kramer, neighbors, also testified regarding the application.

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1           The following documents either are a part of Metro's  
2 public file in this matter or were introduced at the public hearing  
3 before the Hearings Officer:

- 4           Exhibit 1 -- Petition for Locational Adjustment
- 5           Exhibit 2 -- Letter dated July 13, 1987, from  
6                       Austin Moller to Jill Hinckley, with  
                      attached list of owners of property
- 7           Exhibit 3 -- City of Portland Resolution No. 34310
- 8           Exhibit 4 -- Memo dated July 6, 1987, from Jan  
                      Childs to Nancy Dunford
- 9           Exhibit 5 -- Memo dated July 6, 1987, from Jan  
10                     Childs to Mayor Clark and others
- 11          Exhibit 6 -- Memo dated July 6, 1987, from David  
                      Kliwer to Jim Claypool
- 12          Exhibit 7 -- Memo dated July 6, 1987, from Dale  
13                     Jutila to Jim Claypool
- 14          Exhibit 8 -- Memo dated July 1, 1987, from George  
                      Houston to Jim Claypool
- 15          Exhibit 9 -- Memo dated July 6, 1987, from Laurel  
16                     Wentworth to Jim Claypool
- 17          Exhibit 10 -- Letter dated July 1, 1987, from  
18                     Lawretta Morris to Mayor Clark and  
                      others
- 19          Exhibit 11 -- Letter dated July 16, 1987, from  
                      Austin Moller to Jill Hinckley
- 20          Exhibit 12 -- Letter dated July 13, 1987, from  
21                     Donald D. McElory to Austin Moller  
                      with enclosed Request for Comment form
- 22          Exhibit 13 -- Memo to file dated June 22, 1987, from  
23                     Jill Hinckley
- 24          Exhibit 14 -- Metro Ordinance No. 87-224
- 25          Exhibit 15 -- Staff Report dated July 23, 1987, with  
                      attachments

26   /////

- 1 Exhibit 16 -- Notice of Public Hearing  
2 Exhibit 17 -- Notice of Rescheduled Hearing  
3 Exhibit 18 -- Memo dated August 24, 1987, from Jill  
4 Hinckley to Chris Thomas  
5 Exhibit 19 -- Columbia Region Association of  
6 Governments Order No. 78-11  
7 Exhibit 20 -- Map

8 The following documents were submitted after the Hearings  
9 Officer's hearing and are part of Metro's public file in this matter:

- 10 Exhibit 21 -- Exceptions of Applicants Joseph W. and  
11 Lynne I. Angel  
12 Exhibit 22 -- Staff Report dated November 16, 1987  
13 Exhibit 23 -- Memo dated October 15, 1985, from  
14 Eleanore S. Baxendale, General Counsel  
15 Exhibit 24 -- Draft Order No. 87-16  
16 Exhibit 25 -- Draft Findings of Fact, Order  
17 submitted by Stephen Janik

18 The Metro Council held a hearing in this matter on  
19 November 24, 1987. The Hearings Officer, Mr. Thomas, and  
20 Ms. Hinckley gave reports and answered Council members questions.  
21 The applicant appeared through Mr. Joseph W. Angel and Mr. Stephen T.  
22 Janik and gave oral argument.

23 Having heard all the evidence and fully considered this  
24 matter, the Metro Council finds as follows:

25 III. The Site and the Surrounding Area

26 The proposed addition area is located in the northwestern  
27 area of the City of Portland at the intersection of Skyline Boulevard  
28 and Saltzman Road. The area is located east of Skyline Boulevard

1 and contains one single family residence. The applicants also own a  
2 smaller 3 to 4 acre area west of Skyline, which already is inside  
3 the UGB.

4 The proposed addition area lies at the crest of the  
5 Tualatin Hills. The proposed addition area drains primarily to the  
6 southwest, unlike the rest of the land outside the UGB and east of  
7 Skyline, which drains to the east. The surrounding neighborhood  
8 along Skyline Boulevard is rural and is largely undeveloped. There  
9 are, however, a number of parcels that are relatively small, in the  
10 two acre or slightly larger category. Some of these have residences,  
11 though not a large number. There are nine residences within a  
12 quarter mile of the property. This includes the residence that is  
13 on the property.

14 The area immediately north of the property is Forest Park.  
15 Across Skyline Boulevard about a half mile to the south is Skyline  
16 Memorial Gardens, a cemetery.

17 The proposed addition area is zoned FFNR (Farm and Forest  
18 Natural Resources). The applicants' property west of Skyline is  
19 zoned FF. The NR overlay restricts development to one residence per  
20 20-acre lot. Otherwise the FF zone would permit development at a  
21 one residence per two-acre level. If this application were approved,  
22 the applicants probably would develop their two properties west and  
23 east of Skyline Boulevard as a planned unit development.

24 The proposed addition area is improved with a single  
25 family residence. This area is served by a City of Portland water  
26 line that runs along the Skyline right-of-way in front of this

1 property. The proposed addition area is served by City of Portland  
2 police and fire services. Sewer service is by septic tank.

3 The maps and evidence provided by the applicant establish  
4 that the addition area slopes, and therefore drains for sewer  
5 purposes, to the southwest. This is unlike the balance of the land  
6 outside the UGB and east of Skyline which slopes to the east. The  
7 Cedar Mill Trunk has been extended to the Forest Park Estates  
8 project further south of the addition area. When the Forest Park  
9 Estates project is built and the sewer line is extended to the crest  
10 of the hill (Skyline Road), the proposed addition area can be  
11 sewerred because it slopes to the southwest.

12 When CRAG established the UGB in this area, Skyline Road  
13 was used as the UGB boundary line on the assumption that Skyline  
14 approximated the crest of the hill, with properties east of Skyline  
15 sloping to the east where there is no sewer service and with proper-  
16 ties to the east having severe topographic constraints on develop-  
17 ment. These assumptions are not accurate with respect to the  
18 addition area but are accurate with respect to the balance of the  
19 land east of Skyline and outside the UGB.

#### 20 IV. Standards and Findings

21 The standards applicable to the proposed UGB addition are  
22 set out in Metro Code Chapter 3.01. The standards and the findings  
23 related to each of them are as follows:

##### 24 1. Islands: Metro Code Section 3.01.020(d):

25 "No petition will be accepted under this chapter if the  
26 proposed amendment to the UGB would result in an island or  
urban land outside the contiguous UGB or would create an



1 island of non-urban land within the UGB."

2 Finding: The proposed addition would result in an island  
3 of non-urban land within the UGB. This is because the proposed  
4 addition area is part of a neck of non-urban land that extends in a  
5 southeasterly direction into the UGB area in northwest Portland. If  
6 the applicants' property were brought within the UGB, the neck of  
7 land would be cut off, leaving an island of non-urban land to the  
8 southeast. See Exhibit A.

9 The Metro Council, however, in Ordinance No. 87-224,  
10 waived the requirement of Metro Code Section 3.01.020(d). The  
11 "islanding" effect therefore is not a barrier to consideration of  
12 this proposed UGB amendment.

13 2. 50-Acre Limit: Metro Code Section 3.01.020(e):

14 "No petition to add or remove more than fifty acres of  
15 land in one location will be accepted under this  
chapter...."

16 Finding: The proposed addition area is 42.5 acres.  
17 Therefore, the 50-acre maximum is satisfied.

18 3. Governing Body Action: Metro Code Section  
19 3.01.025(a):

20 "[A] petition shall not be accepted and shall not be  
21 considered a completed petition under Section 3.01.020  
22 unless the petition includes a written action by the  
governing body of each city or county with jurisdiction  
over the areas included in the petition which:

- 23 " (1) recommends that Metro approve the petition; or  
24 " (2) recommends that Metro deny the petition; or  
" (3) expresses no opinion on the petition."

25 Finding: Resolution No. 34310 of the City of Portland  
26 recommends that Metro approve the petition. This is the only

1 written action required by this Section. Therefore the governing  
2 body action requirement is satisfied.

3 4. Applicant Ownership: Metro Code Section  
4 3.01.035(a)(2):

5 "A petition may be filed by...The owners of property  
6 included in the petition...."

7 Finding: The applicants own all of the proposed addition  
8 area. Therefore the applicant ownership requirement is satisfied.

9 5. Public Facilities and Services: Metro Code Section  
10 3.01.040(a)(1):

11 "Orderly and economic provision of public facilities and  
12 services. A locational adjustment shall result in a net  
13 improvement in the efficiency of public facilities and  
14 services, including but not limited to, water, sewerage,  
15 storm drainage, transportation, fire protection and  
16 schools in the adjoining areas within the UGB; and any  
17 area to be added must be capable of being served in an  
18 orderly and economical fashion."

19 Finding: Water: The proposed addition area presently is  
20 served by a 16-inch City of Portland water main which extends south  
21 from a reservoir near Germantown Road and Skyline Boulevard. The  
22 main runs along Skyline Boulevard the length of the proposed addi-  
23 tion area and approximately three quarters of a mile beyond to the  
24 south. The City plans to extend this main to the south, to serve  
25 Forest Park Estates, and to construct a new reservoir adjoining the  
26 southeast corner of the property. The proposed addition area thus  
is capable of being served in an orderly and economical fashion. In  
addition, since the area will be using already existing facilities  
and services, inclusion of the area within the UGB would result in  
an improvement in the efficiency of public water facilities and  
services.

1           Finding: Sewerage: The single residence on the property  
2 presently uses a septic tank. The closest sewer trunk is 7,000 feet  
3 from the property. There are three possible ways to provide sewer-  
4 age service to the property. It would be possible, but probably not  
5 desirable, to extend the existing public sewer in NW St. Helens Road  
6 to serve the property. It also would be possible to extend Unified  
7 Sewerage Agency (USA) lines, located to the southwest, to serve the  
8 property. USA does not currently have any plan to do so, however.  
9 The third option, and the most likely, would be to use septic tanks,  
10 sand filters, and other on-site facilities to handle the property's  
11 sewerage needs. The low two-acre-per-unit density established by  
12 the existing FF zoning and the topography of the addition area make  
13 septic tank sewer facilities feasible.

14           Given the likelihood of the third, on-site option, the  
15 area could have its sewerage needs served in an orderly and economi-  
16 cal fashion. There would be no change in the efficiency with which  
17 sewerage facilities would be provided to adjoining urban lands.

18           Finding: Storm Drainage: The property generally has  
19 moderate slopes from east to west, with some ravines to the north.  
20 The general public strategy for drainage for the area is to use  
21 natural drainageways wherever possible. On this property, at antic-  
22 ipated densities, storm drainage probably would be through open  
23 channels and on-site drainage controls. The area thus is capable of  
24 meeting its storm drainage needs in an orderly and economical  
25 fashion. There should not be any effect on the efficiency of public  
26 storm drainage facilities and services.

1           Finding: Transportation: The likely development on the  
2 property, if brought within the UGB, would generate approximately  
3 180 additional trips per day, with approximately 20 being during the  
4 p.m. peak hour. The immediately abutting roads appear capable of  
5 handling these trips. The trips, however, will be dispersed from  
6 these roads to the various other roads that connect to Skyline  
7 Boulevard. Looking to year 2005 traffic volume projections and  
8 capacities, there will be severe traffic congestion generally in the  
9 West Hills and particularly on Cornell Road, Burnside Street, and  
10 Sunset Highway, all of which will be at or above capacity if kept in  
11 their current condition. The small number of additional trips from  
12 the proposed addition area would add to this congestion, though the  
13 incremental congestion would be very small relative to the overall  
14 problem. The applicants, as a condition to developing their  
15 property, might have to make payments or take other measures to  
16 mitigate the impact of development on the transportation system. It  
17 also appears that it will be necessary for there to be major public  
18 transportation improvements in the West Hills generally, regardless  
19 of whether this site is developed.

20           In this context, it is likely that the property, if  
21 developed, could be served in an orderly and economical fashion.  
22 There should not be any significant effect on the efficiency of  
23 public transportation facilities and services.

24           Finding: Fire Protection: There is a fire hydrant on  
25 Skyline Boulevard at the south end of the proposed addition area.  
26 Three City of Portland fire stations presently are able to serve the

1 area. The Portland Fire Bureau also plans to build a new station  
2 near Skyline Boulevard and Thompson as Forest Park Estates is  
3 developed to the south. Thus the property is capable of receiving  
4 fire protection in an orderly and economical fashion. Inclusion of  
5 the property within the UGB also should result in a slight net  
6 improvement in the efficiency of public fire protection facilities  
7 and services by increasing the number of residences served by exist-  
8 ing and planned stations.

9       Finding: Schools: The area is served by the Portland  
10 School District, with the schools specifically serving the area  
11 being Skyline (grades K-5), West Sylvan Middle School (grades 6-8),  
12 and Lincoln High School. Likely development of the property would  
13 not have a significant impact on the schools. The property thus is  
14 capable of receiving school service in an orderly and economical  
15 fashion. Inclusion of the property within the UGB also should  
16 result in a slight net improvement in the efficiency of public  
17 school facilities and services by increasing the number of resi-  
18 dences served by existing schools.

19       Finding: Conclusion: In conclusion, regarding Metro Code  
20 Section 3.01.040(a) (1), the proposed addition of land to the UGB  
21 would result in improvements in the efficiency of public water,  
22 fire, and school facilities and services in the adjoining areas with  
23 the UGB. The addition would result in no change in the efficiency  
24 of public sewerage, storm drainage, and transportation facilities  
25 and services. Thus overall, there would be an improvement in the  
26 efficiency of public facilities and services. In addition, the

1 proposed additional area is capable of being served by these facili-  
2 ties and services in an orderly and economic fashion.

3 6. Land Use Efficiency: Metro Code Section  
4 3.01.040(a)(2):

5 "Maximum efficiency of land uses. Considerations shall  
6 include existing development densities on the area  
7 included within the amendment, and whether the amendment  
8 would facilitate needed development on adjacent existing  
9 urban land."

10 Finding: The proposed addition area has only one resi-  
11 dence. Its presence would not interfere with efficient development  
12 of the rest of the property. If brought within the UGB, likely  
13 development would include fewer than 20 additional residences and  
14 perhaps one or two more if developed as a planned unit development  
15 (PUD) together with applicants' property west of Skyline Boulevard.  
16 Since the proposed addition area and the property west of Skyline,  
17 already within the UGB, are under a single ownership, common  
18 development as a PUD would allow more flexibility in development  
19 design and thus facilitate development of that portion of the  
20 property now within the UGB.

21 There is no evidence that the property west of Skyline  
22 could not presently be developed by itself. Thus although bringing  
23 the proposed addition area within the UGB would facilitate needed  
24 development of the west-of-Skyline property, the extent of facilita-  
25 tion does not appear to be great.

26 7. Consequences: Metro Code Section 3.01.040(a)(3):

"Environmental, energy, economic and social consequences.  
Any impact on regional transit corridor development must  
be positive and any limitations imposed by the presence of

hazard or resource lands must be addressed."

Finding: Inclusion of the proposed addition area within the UGB would not impact any regional transit corridor development. Approval of the application would have no significant energy or social impact. Economically, approval might make development of applicants' west-of-Skyline property more efficient. Since the west-of-Skyline property is small, this economic consequence would be small.

The proposed addition area does have an NR (Natural Resources) overlay. The City has applied the NR overlay to all its land outside the UGB and its application to this property thus does not necessarily indicate the presence of any special resources. In any case, any environmental consequence of development would be fully assessed and mitigated as part of the City's permit approval process.

8. Agricultural Land: Metro Code Section 3.01.040(a)(4):

"Retention of agricultural land. When a petition includes land with Class I-IV soils that is not irrevocably committed to non-farm use, the petition shall not be approved unless it is factually demonstrated that:

- " - Retention of the agricultural land would preclude urbanization of an adjacent area already inside the UGB, or
- " - Retention of the agricultural land would prevent the efficient and economical provision of urban services to an adjacent area inside the UGB."

Finding: Metro Code Section 3.01.010(i) defines the term "irrevocably committed to non-farm use." That section states:

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1           "'Irrevocably committed to non-farm use' means, in the  
2           case of a plan acknowledged by LCDC, any land for which a  
3           Goal No. 3 exception has been approved by LCDC...."

4           The City of Portland has a plan acknowledged by LCDC. In  
5           its acknowledgement order, LCDC provided that Goal 3 (Agricultural  
6           Lands) does not apply within the City of Portland. In effect, this  
7           is an approval by LCDC of a Goal 3 exception for all land in the  
8           City that otherwise would be agricultural land. Thus the proposed  
9           addition area is "irrevocably committed to non-farm use." Therefore  
10          the requirement of Metro Code Section 3.01.010(i) is not applicable.

11           9.   Nearby Agriculture: Metro Code Section  
12               3.01.040(a)(5):

13           "Compatibility of proposed urban uses with nearby agricul-  
14           tural activities. When a proposed adjustment would allow  
15           an urban use in proximity to existing agricultural activi-  
16           ties, the justification in terms of factors (1) through  
17           (4) of this subsection must clearly outweigh the adverse  
18           impact of any incompatibility."

19          Finding: There are no nearby agricultural activities that  
20          would be adversely affected by urban development of the proposed  
21          addition area. Therefore the requirement of Metro Code Section  
22          3.01.040(a)(5) is satisfied.

23           10. Superiority: Metro Code Section 3.01.040(d)(2):

24           "[T]he proposed UGB must be superior to the UGB as  
25           presently located based on a consideration of the factors  
26           in subsection (a). The minor addition must include all  
27           similarly situated contiguous land which could also be  
28           appropriately included within the UGB as an addition based  
29           on the factors in subsection (a)."

30          Finding: Based on the findings set out in Part IV(5)-(9)  
31          above, the proposed UGB is superior to the UGB as presently located.

32          /////



1           As to bringing contiguous land within the UGB, a proposed  
2 UGB that includes contiguous land also would be slightly superior to  
3 the UGB as presently located. The superiority would be even less  
4 than for the proposed addition area, however, because the contiguous  
5 land presumably is not under common ownership with other west-of-  
6 Skyline land. Because the land use efficiencies achieved through  
7 common development of the entire parcel contribute to a finding that  
8 this petition should be approved, contiguous land not now split by  
9 the UGB could not appropriately be included within the UGB.

10           11. Relative Superiority: Metro Code Section  
11           3.01.040(d)(3):

12           "Additions shall not add more than 50 acres of land to the  
13 UGB and generally should not add more than 10 acres of  
14 vacant land to the UGB...[T]he larger the proposed addi-  
15 tion, the greater the differences shall be between the  
16 suitability of the proposed UGB and suitability of the  
17 existing UGB, based upon the consideration of the factors  
18 in subsection (a) of this section."

19           Finding: As stated above, the proposed UGB is superior to  
20 the UGB as presently located. The proposed addition area, however,  
21 is 42.5 acres of which 41.5 is considered vacant. See Metro Code  
22 Section 3.01.010(j)(3). The Hearings Officer found that the degree  
23 of superiority was "slight" while the land area is large.

24           The Hearings Officer found that under Metro Code Section  
25 3.01.040(d)(3), there is a stated preference against additions of  
26 vacant land in excess of 10 acres. The farther an addition moves  
above 10 vacant acres, and the closer the addition moves towards  
50 acres, the greater must be the advantage of the proposed UGB  
compared to the current UGB. The Hearings Officer went on to hold

1 that the issue in this case was whether the degree of superiority of  
2 the UGB including the addition area was sufficiently great to  
3 justify inclusion of this relatively large parcel. The Council  
4 agrees that that is the usual test to be applied under Metro Code  
5 Section 3.01.040(d)(3), but the Council finds that there are reasons  
6 in this case which warrant application of less severe test than  
7 usual.

8 Metro Code Section 3.01.040(d)(3) was adopted by this  
9 Council in Ordinance No. 81-105, which has been acknowledged by  
10 LCDC. The Council's intent and purpose in adopting Ordinance  
11 No. 81-105, and in establishing the rule applied by the Hearings  
12 Officer, was stated in the findings for Ordinance No. 81-105 as  
13 follows:

14 "But as the size of the addition increases, so must the  
15 benefit, in order to ensure that these benefits do indeed  
outweigh the costs." (Emphasis added)

16 The full text of the Council's findings makes clear that  
17 the costs at issue are those associated with providing services to  
18 land already within the boundary that will, in theory, remain  
19 undeveloped as the result of adding unneeded land. These findings  
20 also note, however, in the sentence immediately preceding the one  
21 quoted above, that:

22 "Additions of 10 acres or less are assumed to entail a  
23 cost so small that any identified benefit to the  
24 efficiency or effectiveness of the UGB is sufficient to  
overcome it."

25 The UGB Findings adopted by the Council in November 1979  
26 assume an average density of new development of 6.23 units per net

1 acre, or roughly five units per gross acre. On the subject of  
2 property, however, the unavailability of sewers for the foreseeable  
3 future and the applicable Portland zoning regulations limit the  
4 density of development to one house per two net acres, or less than  
5 20 units altogether. This level of development could be accommo-  
6 dated on an average of about three acres elsewhere within the UGB.

7 As a result, the costs of this addition, measured in terms  
8 of the internal service inefficiencies that result from any expan-  
9 sion of the fringe, are minor enough to require only such minor  
10 benefits as would normally be sufficient to justify a three acre  
11 addition. The benefits of this addition are improved utilization of  
12 all available services, coupled with enhanced efficiency of develop-  
13 ment for the portion of the property now within the UGB. These  
14 benefits are sufficient to justify the addition given its low  
15 proposed density of development.

#### 16 V. Order

17 Based on the foregoing findings, the Council concludes  
18 that the application satisfies the applicable criteria and that the  
19 addition area should be included in the UGB and the UGB amended to  
20 include the additional area.

21 /////  
22 /////

23 JH/gl  
24 8731C/518

LEGAL DESCRIPTIONPARCEL I:

The Northwest quarter of the Northwest quarter of Section 23, Township 1 North, Range 1 West, of the Willamette Meridian EXCEPTING THEREFROM that portion thereof taken for roads and highways, ALSO EXCEPTING that parcel deeded to John W. Cox and Louine E. Cox, husband and wife, by instrument recorded May 10, 1956, Book 1783, Page 366, Deed Records, in the County of Multnomah and State of Oregon;

PARCEL II:

All that portion of the Southwest one-quarter of the Northwest one-quarter of Section 23, Township 1 North, Range 1 West of the Willamette Meridian, lying Northeasterly of the Northeasterly line of Skyline Boulevard, as said road is now laid out and established, in the County of Multnomah and State of Oregon;

PARCEL III:

Part of the Northeast quarter of Section 22, Township 1 North, Range 1 West, of the Willamette Meridian, in the County of Multnomah and State of Oregon, described as follows:

At the intersection of the East line of said Section 22, and the center line of N.W. Saltzman Road (County Road No. 466); thence Southwesterly along center line of Saltzman Road to an intersection with the center line of N.W. Skyline Boulevard (Road No. 1295); thence Southeasterly along the center line of said N.W. Skyline Boulevard to an intersection with the East line of said Section 22; thence North along the East line of said Section 22; to the place of beginning; SUBJECT TO the right of the public to roads.

Draft of Minutes  
Metro Council Meeting  
November 24, 1987

Note: Tape 4, Side 1 (near the end): November 24, 1987.

Ms. Hinkley introduces the hearings officer, Chris Thomas, regarding item 10.2, Consideration of Order No. 87-16, in the Matter of Contested Case No. 87-2, a Petition for a Locational Adjustment of the Urban Growth Boundary by Joseph and Lynn Angel. He will explain his report to you first.

Chris Thomas: My name is Chris Thomas, Suite 400, 20000 S. W. First. This piece of land, I think you have in your material and I report and recommendation at the tail end there is a map which will help you see where the piece of land is. It is out Skyline Boulevard in northwest Portland. As you may know, the UGB out in that area is drawn so that there is a neck of land that comes in in that area on the north side of Skyline. Apparently one of the reasons why the line was drawn there originally was to maintain the area north of Skyline somewhat of the natural state in the vicinity of Forest Park.

The fundamental nature of this case has to do with the provision for the additional parcels of land coming within the UGB and if you recall, that old case, those of you who were here for the original UGB case, the provision provides that ordinarily additions to the UGB should not include more than ten acres of vacant land, but then they do allow more than ten acres to come in. The provision indicates that the closer the increase in acreage is to the 50 acres, the greater must be the improvement in the urbanizations situation addressing the different criteria having to do with the efficiency of public facilities and services and the efficiency land use development.

I found, in reviewing the material the evidence in this case that there are some improvements that would be gained in services if this land were brought within the UGB. Those are primarily in the area of fire services, water, and school services. Essentially the facilities exist, the capital facilities already exist to service this land. If it were brought in there would not need to be any additional capital facilities built, so if the land were developed as urban land, and those facilities that exist could be used more efficiently.

Essentially we would be talking about the site which might presently be able to supporting two and a half acres could hold two residences because it is zoned FF&R. The natural

resources overlay says that you can only have one residence per 20 acres. If that were brought within the UGB, the City of Portland has indicated that if they would take away the NR overlay which then would allow it to be developed on a residence for two acres basis. So, there could be a total of 21 residences. There is one there now. In addition, the owners of this property own immediately across Skyline Boulevard, a parcel which has three or four acres and they have presumably developed as a planned unit development so they might be able to put as many as 22 residences on this property.

The conclusion that I reached was that the improvement and efficiency of those three areas of public facilities and services, schools, fire and water, would only be slight improvements because of the level of development that they would be able to put on the property is not that great. And consistent with the conclusion in the earlier PGE case and the staff work that was done and was presented to you at that time, I concluded that a slight improvement and efficiency is not enough to meet the standards for bringing parcels into the UGB of this size, which is 42 1/2 acres, is fairly large. So, essentially for that simple reason there just wasn't enough of an improvement.

I have recommended that you not approved this particular one. I might comment that if they were to come back with a trade, it might be a different situation. But this is the way your rules are written. And what I tried to do was to apply them the way they are.

Waker: This is somewhat of a judgment call?

Thomas: This kind of case is always a judgement call, although frankly this one, from my perspective the gain in efficiency is not very great. This one was not that difficult of a judgment in my mind. It was not, for example, as difficult as the original PGE one was where I felt there were more gains in efficiency than in this case.

Waker: Thank you. Let me lay out for the Council what are choices or options are. We have two options. Option No. 1 is to move to adopt the hearing officer's recommendation, without a hearing. If we wish to hear from the applicant and their representative, then we must have a motion to do so, based on our rules. The choices are either to hear an oral argument and then decide what to do or just simply decide what to do. Clear?

Councilor Kelley: I would so move. Van Bergen seconded.

Vote: All Councilors present voting aye.

Note Tape #4 Side 2, November 24, 1987

Janik: Thank you members of the Council for this opportunity to speak to you. I am Stephen Janik and I am a lawyer representing the applicant Mr. Joe Angel. Joe is here and I would like to have him first describe briefly for you the property in question and the history with respect to that and the predicament we find ourselves in.

Angel: If you would like to find this map, I think I can explain what some of the history is. As you know, that last time that I was here I explained my frustration and found out that our property, or at least a portion of it, is outside of the Urban Growth Boundary and went about trying to figure out how to rectify this. The key to understanding this is to understand that this property is within the city limits of Portland. It was annexed into the city limits of Portland with the understanding and the promise that we would receive the services by annexing into the City of Portland. When the water line was run from Germantown Road south to our property and actually the water line ends at my property, about where it says Urban Growth Boundary. And does not run on further down towards the City, so this section between my property and the City is without water until you get down onto Thompson Road somewhere. Those people are all on well water. So, the whole stretch along Skyline was brought into the City in 1968 by the property owners petitioning the City of Portland to come on to water because they were all on well water. When I found out that for some reason our property had been split, I heard various stories about how that could have happened, how it might have happened, and that whether it was a mistake or whether the line had been drawn wrong is immaterial that I would have to qualify under this petition that we are now going through to rectify the problem. But, Metro made it clear that they really couldn't do anything until they had some sort of statement out of the City of Portland saying that the policy was that this was urban land. So that there wasn't some misunderstanding from the City jurisdiction about what they intended from our property. So, as part of the West Hills study that went through the Planning Bureau at the City of Portland, I petitioned the City and Planning staff to make that statement about my property. As a member of the Planning Commission, I had to excuse myself from all of the proceedings, but the Planning Commission absent myself, did vote to do exactly that. They put in policy language into the West Hills Study and that became part of the comprehensive plan. My property was indeed suppose to be urban, continued to be urban and was intended to have urban services. Later on in the year, the City went through an urban services boundary study. Again, the same issue came up and again the City, through the City Council and the Planning Commission, confirmed that the

intention was that the urban services boundary should include my property within.

So, we come to you so we could come to the Metro staff and the hearings officer with that policy statement by the City Council, by the Planning Commission on two different issues. We specifically took our property and what we think was originally a mistake to them and got that affirmative policy statement made. Now we can come to you and we feel that the standards by which we had to go before the hearings officer are a little bit peculiar in that those standards were set up for an entirely different process. In other words, a process where land is outside of the City limits. Which, in this case we are not, we are inside the City limits.

So, I will let Stephen tell you his ideas as they relate to the legal questions. But that is essentially the process that we have come through until now, and it has taken about three years for us to sit here in front of you.

Janik: I guess Councilor Van Bergen characterized the UGB here as some kind of a trail left by a camel and a condition that we hope will never the end. Maybe we are the hoof print of the camel. But let me pose for you the facts of the predicament we find ourselves in.

My client's property, 42 acres, is outside the UGB. As land outside the UGB it ought to look, smell like, taste like, and act like land outside the UGB. But it has the following characteristics. It is all within the City of Portland. It now presently receives City water, fire, police protection. It is developed with a residence, it is part of a larger parcel, the portion of the larger parcel that is in the UGB does not have any of those characteristics. So the part that is not developed is in the UGB, the part that is developed and serviced is outside the UGB. Now, that may be the wanderings of the camel or it may be the historical kinds of political decisions that one ought to cut a rough boundary down Skyline to create the UGB. Whatever that history might have been, there clearly was not any kind of policy focusing on my client's property. So the problem we bring to you is, I guess what that addresses not only your standards, but sort of the integrity of what you really mean when you talk about having urbanized and urbanized land within the UGB. Quite simply, the City has looked at this, as Mr. Angel indicated, very carefully and says that this kind of land ought to be urban land FF2, 2 acre minimum lot size density. The infrastructure, the efficiency of which you are trying to protect, is basically already there. We are, in fact, dealing with the awkward situation of land that does not have non-urbanizable characteristics, in fact it has urban characteristics sitting outside of the UGB.



Now we went to the hearings officer and Mr. Thomas, I must say, did I thought a particularly thorough job, of doing a very difficult task. That task is how do you relate urban efficiencies to a property that already has urban services but is outside the UGB. It is easy when the property doesn't have urban services. Then you can look at it and say, well, bring it in, it is going to do the following things. But he did the very difficult task and he did it very thoroughly. His conclusion was yes, this will improve efficiencies. Where he was hung up, was, he said it seems to me that it doesn't improve it enough. And I guess he laid the appropriate foundation for your decision, which is a judgment call. As to how much is enough, given the unusual circumstances of property that has urban services, which is idiosyncratically outside the urban boundary. I don't want to spend any time going over the issues that he adjudicated on how we improve the efficiencies. I want to simply focus on that judgment call and how I think you should properly interpret your standards.

The crux of the problem is you drew up some standards that presumed that the land that you would be dealing with outside of the UGB would not have the characteristics of land that was already serviced and developed. So, when you develop the standards, you are looking with an eye toward "what do we expect when we are bringing new development land--new development potential into the UGB. And that test was, we are going to inspect a certain level of improvement of efficiency of provision of urban services. But I would suggest to you that the idea of the degree of efficiency that is required before something comes in changes when the land that is going to come in and already has those urban services.

Now in response to that argument, Mr. Thomas did not agree with that and Ms. Hinkley wrote a memorandum in anticipation on tonight's hearing. Her response was to say if that argument is correct, maybe it forms the basis for mending your standards. I would agree with that. And I think it also forms the basis for you to make an intelligent interpretation of your standards in terms of the purposes of the UGB and what you are trying to accomplish. There is just not much in the way of a limitation on your ability to interpret your own standards.

In light particular facts, guided by the goals that you are trying to accomplish. Ms. Hinkley did a very useful thing for all this, she attached a memo from Ms. Baxendale, in which she summarized other UGB adjustment cases under 50 acres. The critical point in that memorandum is it talked about the trade-offs between costs of urban services and efficiency improvements in urban services. What is missing from Chris Thomas' analysis is that there is no trade-off in this case. There are no costs. There are not costs to bring

property that already has urban services into the Urban Growth Boundary and that is why this is an unusual case. That is why the normal standards that you apply where you are balancing costs versus efficiencies are not exactly applicable here. Here we have an equation where the costs are virtually nothing. The hearings officer has found efficiencies and improvements. Why shouldn't that land come in? On the other hand, you are dealing with land that does not have urban services. Then you would have costs and then you would weigh and then the larger the land, the larger the costs and the greater the degree of efficiency you would be looking for. But that is not the circumstance here. The cases that were referred to in Ms. Baxendale's memo looked at lot sizes or parcel sizes and individual justifications. But what that memo doesn't analyze is how many urban services are already there at those properties.

So, in conclusions, whenever you draw an urban growth boundary, it is a broad brush stroke. And you do your very best. And there are bound to be situations like this that come before you for individual attention. We think that common sense, planning integrity in terms of what you are trying to accomplish with the UGB dictates that this property be included. It would look pretty absurd for Metro to say that the property that has urban services and that is partially developed should stay out of the UGB. And the reason, well, it has no cost in coming into the UGB, but it just quite wasn't good enough. And to articulate the precision of that standard, it seems to me, to be very illusive. Because the services are there, there is not cost to METRO. The hearings officer has already shown that there will be an improvement in efficiencies. And after three years of trying to get this accomplished, we would very much appreciate it if you would allow this land to come in. Thank you.

Waker: Questions of Mr. Janik or Mr. Angel?

Kelley: I seem to be missing some information in my packet and I want to apologize for . I understand that the irony effect is one \_\_\_\_ that for us to consider that is a concern of mine. I am concerned about this map, and Joe if you could put on your planning commission hat and would refer to the west hills study again, was there any discussions or was there to be anything in my packet with regards to the future of this land which is rural and apparently an island which is a concern of mine. I mean, in terms of logic, that doesn't make much sense to me.

Angle: Well, there was a discussion and it was part of the urban services boundary. I can show you approximately here and it is outside the UGB, the water tower on Skyline, it will take water from my property off all the way down

south to the tops of the roads and down in there as least as it relates to (unintelligible)...

The development of the Forest Park Estates property as part of the City, has agreed to put this water tower and water line over here next to my property and bring mine down Skyline. So I think, in fact it was discussed and the intention is to bring services eventually to that section of Skyline. Now where it goes on down your map, I can't, with any precision, speak to that. Maybe Steve can.

Janik: Councilor Kelley, we brought to Metro, I guess in July, the request to process this even though we would technically create an island and Metro agreed that the request to process this, even though we would technically create an island, and Metro agreed. And among the \_\_\_\_\_ we made \_\_\_\_\_ I would like to use this map. The vast majority of this "island of land" right here, is appropriate to be treated differently because it drains off in this direction .

I can speak with some authority, because this area from here down to here is Forest Park Estates \_\_\_\_\_ line for over a decade now. That property has a natural resource overlay, it is not serviced. The majority of Forest Park estates is down here and it is serviced by line coming up here in this direction. This drains in the other direction. So among the good planning reasons why this is different is because and why it is of no consequence to the island is because it is going to have a much different profile in terms of urban services. It is going to have to have water that will be accepted from this point in this direction. The sewer lines will have to be brought up from this direction for which there is no authorization or there will have to be authorization to pump over the hill and to go into the gravity liens down here. So that in terms of your reasoning for not creating an island, you don't want to preclude the island from getting service, yet topographically and physically this is much different that this property here.

The unusual thing is that Mr. Angel's property, right about here, the 42 acres \_\_\_\_\_ is not going to be as it slopes down west and that is where the break-point of the topography is.

Kelley: Is there any future plans for re-designating this plan or some other kind of use?

The islanded area?

Kelley: Right.

Janik: Yes, right now there is no plan, there is no request before the city during the northwest hills study area, consideration, this property was not given any kind of resolution by the city council like Mr. Angel's property was

that it be brought into the urban growth boundary, that the NR overlay theory move or anything like that. And it will not be for many, many years until the Forest Park Estate project that has been approved by the City, which would provide for 2605 housing units, it won't be until many years after that project is started that the islanded area that lies over the crest of the hill will be suitable to baring it back to the city and to you for any kind of urban designation.

There simply is no proposal to that effect and I would not anticipate any for at least five years.

Angel: One thing that I would like to point out to you is, since you weren't here is that the intersection of Skyline and Saltzman the historical property division in that area has been somewhere between one and two acres. It doesn't show it on this map, but historically that has been the way property was divided up and that is how homes are built. Most of those one and two acre pieces have homes on them and are developed that way.

Janik: Councilor Kelley, the facts that Mr. Angel is referring to are in the record and the other mapping we submitted as far as the application. It shows the one and two acre parcelization and the residences that exist right across the street.

Kelley: Okay. I just want to make sure that I am not any more confused than I started out being. What you are referring to is what is \_\_\_ now calling rural or on the other side of the urban growth boundary and what you seem to be saying to me is that property is now zoned one home per two acres? Or is it agriculture forest with one home per twenty acres? I guess I want that clarification.

Janik: What I am saying to you is...

Kelley: If the development is

Janik: The factual situation, beside for the planning situation is that you have properties that are across the street from Mr. Angel that are in the urban growth boundary that have a parcelization pattern of one to two acres and there are homes on those. So that tells you what actually exists out there.

Kelley: But the other is still one in twenty.

Janik: No, I believe it is City. Jill, is it City F-2?

Hinkley: All the property, or most of the property in this area is zones in an FS zone. That is basically one home per two acres. Except if it is outside of the urban growth

boundary, the city has applied a natural resources overlay zone and that does restrict development to one house on twenty.

Kelley: So what has occurred. What the reality is supposed to be.

Janik: I think if I could summarize, we are saying the following thing. If you are west of Skyline, we are not, you are in the city, in the urban growth boundary and you are two acres. That is the minimum lot size. If you walk across Skyline to our property, you are in the City, outside the urban growth boundary, but there is a house up there and there is water line and we are being told that we have one house for every 20 acres. We would like to be one house for every two acres. Because just like our neighbors across the street, we have got a house there, we have a water line, City fire, City police. That is the case in a nutshell.

Waker: The boundary has been like this since 1978.

Hinkley: The boundary was first drawn in 1976, but the west hills was a place of study area and that study area did not lead to the \_\_\_\_\_ until 1978.

Janik: And I might add that the reason that this area was put in the study area went back to the Forest Park Estates case, where, at that time there was a parcel called Parcel A that drained down to the southwest. It was going to be developed. There is a Parcel B that is an island that is this islanded area. That Parcel B is a candidate for public acquisition and inclusion in Forest Park itself. It was put in a study area at that time initially. The CRAG, as I recall, Jill, made the decision that the public acquisition did not come through there was no way to service it and therefore Skyline was chosen as the urban growth boundary line so that the property lying to the east, which is this island area, outside the UGB.

Waker: Has the City of Portland changed its position from 1978 to 1987 on this property?

Janik: Yes, they have. Because they supported CRAG's determination on an NR overlay at that time. Now you have the City Council's Resolution in front of you saying that at least \_\_\_\_ aid this piece of property ought to be in the urban growth boundary at a minimum of two acres.

Waker: And were there services added from 1978 to 1987 or was the situation physically about the same then as it is now?

Janik: I think the physical situation is the same, but the intellectual focus is more precise.

Angel: I would like to say something because I don't want you to be confused. I think the difference was if you are taking about the Forest Park Estate's piece that was put in the un-urbanized area, that was not every in the City, I don't believe, Is it Steve? My property, ever since it has been in the city, I think the city has seen it as urban land because it is within the city limits.

Waker: But they didn't object to it at all in 1978, apparently.

Angel: Well, I think that according to the City the NR was put on int was that they happened at that point to fine out that the urban growth boundary split my property and they simply put NR on anything that was outside the boundary as a reaction to the line.

Knowles: Mr. Janik, I am sure that you haven't had anything to do with changing intellectual focus of the City with respect to this particular.

Angel: That is how I get paid. Not a bad way to do it either.

Knowles: I have a couple of questions for staff. One is the hearings officer report indicates that the Metro Code does not permit re-drawing the UGB, even if the current location represents an incorrect planning decision and we can argue about whether those are designated. And it references Chapter 301. I haven't been here long enough to know what all of the references are, but I assume that refers to all of the provisions which are contained in the findings and fact preceding that statement report.

Hinkley: I am not exactly sure what your question is, but I am going to jump in and clarify and comments which is that there is a provision of the code which allows for corrections of mistake. But that is limited to a circumstance where the only way we define a mistake is that you have to be able to show a clear legislative intent to have placed the boundary in a specific other location. That has not been alleged in this case. They have said they don't think...Had CRAG or Metro looked more closely at this case, they might have chosen to have placed the boundary differently, but no one has actually said that there has been a mistake in that sense.

Knowles. Okay, now failing to meet that test, then all that is left is meeting the specifications that are addressed in the hearings officer's report. Secondly, I recall our action in waiving the requirement of the code which says that no petition will be accepted or that would create an island, UGB, is there, apart from that sort of threshold requirement,

is there some sort of provision in our code which addresses that as a standard, rather than a threshold requirement?

Hinkley: No. It would appear only through your evaluation of the impact on service efficiency.

Knowles: Is it fair for us sitting in the capacity that we are now to consider that to be a policy statement or some sort of expression of intent with respect to dealing with these types of petitions. I am struggling. I mean, obviously, quite frankly, that particular criteria appeals to me as a matter of policy, but I am certain whether we can apply it in making this case in making this decision.

Hinkley: I don't think you can apply it directly. I don't think it was included in the code as a statement of policy and in any case you have waived in as applying to this case. I think, to the extent you have concerns about the situation created by the island, you can likely relate those concerns to the standards that deal with questions like these deficiencies and the affects on similar, or the inclusion of similar situated contiguous land.

Knowles: And so, the proper and formal way to address that concern is that it is going to have the kind of negative impacts on urban growth boundary and on those areas that remain outside of the urban growth boundary within that island.

Gardner: I am very bothered by what I perceive as the fundamental argument of the applicant in the space that this land has access to urban services. And it urbanizable or should be classified as urban. It seems to me that when you draw a boundary and you say that the land inside the boundary is urban and that outside the boundary is rural, at some point where all of the urban land has been provided with services, then all of the land just across the boundary, at that point, is going to have access to urban services. So I guess I am having trouble distinguishing this parcel or this application by that criteria. It seems to me that that is always going to exist where there is a boundary and where urban services are provided on one side and not on the other. The land across the boundary has access. Likewise, the whole question of efficient provision of services is nearly always going to be present where you have again urban land with services adjacent to non-urban land without services. Up to you reach the point where your water system and your sewer system, your schools, your fire protection are at absolute capacity, anything short of that plan, by bringing in additional land, you are going to increase the efficiency in providing those services to the conglomerate that might be. The idea that this parcel because it is right on the boundary and because the urban land has the services provided, therefore it is bringing in the rest of the parcel

you increase the efficiency. And obviously the less the parcel has access, seems to trouble me as the basis on which we could change the UGB. I am also, I guess, a little bothered by the contention that by changing the boundary in this case we are correcting a mistake. I think that some of the lines we used, the lines were drawn wrong. There was an erroneous planning decision or inadvertent decision. Without actually going back to the record at the time the UGB was set up, but the hearings officer's report seems to make it pretty clear that Skyline Boulevard was chosen as a boundary. It did not just happen. The zig-zag nature of the line has a lot to do with the curving nature of the road in that area. And that any time you draw a boundary, you are either going to follow a road, which is not good in most cases to be straight, given our topography, or you are going to follow a property line, which also in most cases is not going to be straight, given the topography in the west hills. So the idea that we have an anomaly situation here with a very erratically drawn boundary, I just don't think has been proven. Or has even been demonstrated.

Janik: Can I respond Mr. Gardner?

Gardner: Yes.

Janik: We have not argued to you that the boundary line was erroneously drawn as a justification for what we are seeking here. We have not made that the basis for a request or application. That was Mr. Angel's opinion as a property owner, but it is not the legal basis. You don't have to define that in order to grant what we want. We have discussed the history of why that line may have been drawn, to impart respond to the concerns about that islanding because that line was intended to be recognition of where the topography changes. Now that is why we got into those arguments. We are not trying to convince you that there's an error. We are not trying to get under those standards. Those thoughts came in for other purposes. Your comment about anybody on the edge of the Urban Growth Boundary is always going to claim access to the services. That is not what we are saying here. We are saying the property that is outside has those services. Not has access to them, but has them. And that is the big difference. The very property that we are talking about has those services. You turn on the water tap and out comes city water. That is not access to, or readily available. That is why we are saying this is an anomalous situation. But the property that is outside has a house, has the services; but it is outside the UGB. So we are not arguing to you that you should take property just because it has access. Our basis in argument is that it is, in fact, has the services.

Bonner: I feel fully elucidated on this and I think that we should vote.



Waker: Would you offer a motion?

Bonner moved that we support our hearings officer in this matter.. Seconded by Councilor Collier.

Moved and seconded to adopt Order No. 87-16 the hearing officer's recommendation.

Hinkley: I assume that the intent of the motion is to adopt order 16 whereby you would accept the hearing officer's recommendation.

Waker: Additional discussion?

Van Bergen: For clarification I recommend that if we vote no against this motion, would there then be a need for another motion to approve the petition of the applicant?

Waker: I would think that in the event we vote no, that we are going to have to seek some findings that would support an opposite vote and in that case I would suggest that we ask the applicant to come back with an order that would give us sufficient grounds to make a vote.

Additional discussion on the motion?

Cooper: In reading the hearings officer's report, and going through almost on every issue in the findings that he found for the applicant except for one. And then we get hung up on the word "compelling" and I don't really know what that totally means, but you look at the boundary of that whole thing and I agree with George, they just don't make any sense. I think we are going to be dealing with a lot of these. It makes to me a lot of sense to support the applicant. And even then, the stock about the city in making that whole area and changing it. That is what makes sense to me.

Knowles. I guess my response to that would be, I mean, clearly, there are some good arguments here, but we ought not to deal with these adjustments in a piecemeal fashion. I think that that is what we are doing. If we approve just one piece, if there is a case to be made, that that piece ought to be and the case can be made for that entire            perhaps the City ought to be coming to us and initiating the UGB amendment. But if we deal with this on a piece meal basis, my fear is that we are going to be having repeated petitions in areas like that. I think we need to maintain the integrity of that boundary, at least until we can take a comprehensive look at that entire area.

Cooper: That's well and good, but I guess when is that going to happen. And until we wait for somebody and I guess you

are assuming the city, to initiate that, it could be years. I think our charge right now is to deal with these as they come along. If they make sense, then we do it piece meal. And all of these items in the hearings officer's report, with the exception of one, which I think is relatively minor, are in favor of the applicant. And I guess that is my contention.

Gardner: The hearing officer in these cases has to look at each service separately and say will addition of this property and within the UGB result in a great efficiency in fire. And he has to look at the services that are available and what impact that would have. Then he has to come into the next one. And in each of them, all of them, we found that there was either no impact or a slight improvement. So by reading the record and sort of keeping score, you say will the applicant won every one of them. The broader issues that went into the conclusion at the end is that is the improvement big enough in each of those areas to justify bringing in 42 1/2 acres. With, in the past, applied the standard that the code sets out. That is a sliding scale. An increasing burden of proof. So that when you are bringing in far more than 10 acres, there should be, to balance that, a much greater improvement in the efficiency in the services. So I guess, what we see is a scorecard where almost every service is improved, but just be a little. And, yes, my feeling is that the some effect of a lot of minor improvements is still a minor improvement, not a major improvement. And it seems to be the conclusion of the hearings officer.

Ragsdale: \_\_\_\_\_ at Metro, I received the authority to set the urban growth boundary in the 1975 session of the legislature. In that particular session I sat on the Senate law and government committee and that legislation was before my committee and I had the interesting position to be the swing vote on the legislation to decide whether it would go to the floor or not. I finally allowed to let the legislation go to the floor of the senate based on a commitment that I got from the people who were lobbying for the legislation that they would make the process at Metro workable for individuals like Mr. Angel to be able to get a logical and reasonable amendment to the Urban Growth Boundary and not have to put through a lot of bureaucratic nightmare and take three to five years to be able to deal with it.

I find that some of the language that I am really looking at very closely as the first time as a result of this application to be onerous to the degree that Mr. Angel and others like him do not have a straight-forward process. I am most particular concerned with our code section 301 and 3.01.04 (d)3, which sets the standards that Councilor Gardner talked about. I do not believe that that meets the tasks that was the legislative intent when Metro was given the

authority to set urban growth boundaries to make it straightforward for people like Mr. Angel to get his amendment. I believe that this is an appropriate, logical, reasonable, intelligent request that Mr. Angel has brought forward to us. For that reason I am going to honor what I believe is the old legislative intent when Metro got this authority, and recognize that I have got a little trouble with that one section of our code.

Hansen: I think the key to this is that it is a judgment call. Are their improvements in services enough to justify adding the land? With just a little real simple arithmetic, I come up with at \$100,000 per lot of improvements to be added, over \$2 million dollars increase to the property tax roll. To help us pay for the services that are already there. I think that is a significant improvement to the efficiency in service. The services are there it is just a matter of choice of what is totally utilized. And I think I will be able to support this almost totally on that basis. That the services are there and we can get the maximum out of them without having to create new schools or new roads. They are there now.

Waker: Are we ready to vote?

Note: Tape #5, Side One, November 24, 1987.

Waker: In effect for this addition to the UGB, you should vote no on the motion and if you are against this addition you should vote yes. Is everybody clear about that? Will the Clerk call the roll.

Ayes: Bonner, Collier, Gardner, Knowles

Nayes: Cooper, DeJardin, Hansen, Kelley, Ragsdale,  
Van Bergen, Waker

Absent: Kirkpatrick

Motion failed.

Waker: The presumption I would make would be then that we should seek to have the applicant prepare a different order that would amend the Urban Growth Boundary with appropriate findings and bring it back before the Council at the next available opportunity.

Kelley: In the findings on the issue of water and its relevance not only to the applicant, but the effect that it would have on the people who would be technically islanded, it doesn't seem to me in reading that that issue was addressed. Would that be supportive of what I think I hear in terms of what the Council members are saying. Do you

understand what I am saying? When I asked the question about the effect of this islanding, and it was in regards to two things: in services and land-use planning and the future of that property, the response I got was that one of the applicant's requirements for the development of that property would be to provide a water tower which would apparently provide water service for all of the people. Did I understand that correctly?

Angel: The City is going to provide a water tower in conjunction.

Kelley: Would that be an appropriate issue to be addressed because of the vote, Chris?

Thomas: I am not sure that I understand your question, but let me take a stab. One, I did not worry about islanding generally, because you had made a decision on that, but I think it is correct to say that the fact that you have created an island or that you do create an island won't make any difference to the rest of the land that is in that new island. It is going to be in the same situation it has been in. Logic probably would indicate it. You will over time get applications to come in to extend the water main down Skyline and you probably ought to anticipate that. That is probably something which having that narrow neck down there would cause to happen anyway. These people happen to have both sides of the road which is the only reason. Well, anybody who is right there to help create the island at this point. In that sense, in terms of the islanders, there is no damage is done one way or the other. Whatever damage there was from having that neck was there already, in terms of logic of services. Does that answer your question?

Ragsdale: Presiding Officer, would it be appropriate to move approval of the applicants of the applications intent, subject to revised findings?

Waker: Yes.

Motion: Councilor Ragsdale moved, Councilor Gardner seconded to approve Joseph and Lynn Angel's petition to amend the Urban Growth Boundary with findings to be adopted at a later date by Council

Moved and seconded to approve the amendment to the Urban Growth Boundary with findings to be adopted later.

Waker: Discussion:

Bonner: I think that our vote to pull the rug out from under our hearings officer is a serious mistake. And what I think we are saying in effect here is that we are a soft touch for

any kind of piece-meal adjustment to the urban growth boundary. The Urban Growth Boundary was drawn the way it was, by whomever, for specific reasons and by the actions that we have taken tonight we are essentially saying to people, come on in, you want to change the Urban Growth Boundary, walk in the door and we will change it. For that reason I intend to vote against the motion that is now before us.

Gardner: Assuming that the motion before us is not met, and the later meeting, the findings come back to us, what would be the nature of our decision at that point, to adopt the findings or would it in effect be an entirely new vote on the issue.

Waker: Presumably, if we did not like the findings, then we would have discussion about the findings and do whatever we would do. I think that what Councilor Ragsdale purposed was to give us an indication that we are attempting--the majority--attempting to approve this amendment to the UGB subject to findings which the applicant should be prepared to defend, if necessary.

Gardner: I want to follow up on that for a moment given that method that is what I thought to be the case then I guess I would urge that in the absence of those finding it is premature for us to make our decision without even seeing the basis for this. I urge that we wait until we see the findings and have a chance to analyze them ourselves and decide at that time how valid we think they are.

Knowles: I have a question for Counsel. Can we do what has been proposed, because it doesn't really constitute approval or denial of an order?

Cooper: This is an order amending your--the question in front of me is amending the Urban Growth Boundary. It is a land use decision. It is appealable to LUBA. Until you have findings and a final order doing something, you don't have anything that will trigger that time line. Now you could make a tentative decision now, subject to adoption of findings, but you are going to have to go back and look at those findings and actually do it all over again.

Knowles: Let me ask Mr. Janik. Do you need some sort of indication from this Council. Is there something that you are doing that requires us to speak before we actually have the findings before us?

Janik: What I need is probably not quite the right way to phrase the question. It would be desirable for us to get an indication about your sentiments. Then we would have to submit the findings to you. Nothing you do tonight is binding until you approve those findings. This is the

Knowles: You clearly have a majority.

Janik: The usual kind of ...usually, what you get is a decision that gives you some direction and then you go out and find it. You know that it is a tentative decision subject to the size of the body coming back, so we would prefer not to have the matter left in limbo. Procedurally nothing has occurred.

Bonner: We have simply overruled our hearings officer. and I have a question for Ms. Hinkley. Do we have an underlying procedure for looking at urban growth boundary changes. Does somebody look at this thing every now and then and say maybe we ought to justify it.

Hinkley: Do you mean is there another way other than through the petition process by which means Metro would evaluate the overall... The Council can initiate consideration of a change at any time. It would more commonly occur as part of the periodic review on the Urban Growth Boundary, but it is not something that staff is currently planning on doing at any time.

Bonner: Period review of the Urban Growth Boundary, that is not a structured procedure which occurs within a given framework.

Hinkley: We have a date by which we are required to submit certain findings to LCDC and those findings have to address the criteria in the State statutes that deal primarily with changing of circumstance.

Bonner: When does that occur?

Hinkley; Our current date is this February, but we will be applying for an extension.

Waker: There is a motion on the floor to approve this subject to review and adoption of final findings. Additional discussion? Clerk, please call the role.

Ayes: Cooper, DeJardin, Hansen, Kelley, Ragsdale, Van Bergen, Waker

Nayes: Bonner, Collier, Gardner, Knowles

Absent: Kirkpatrick

Motion is passed.

Janik: I would like to ask a question. I assume that I should submit my proposed findings to your legal counsel, Mr. Cooper.

Waker: I believe that will be appropriate. It is in all of our best interests to get the findings as best we can make them.

Van Bergen: What we have done is performed the typical quasi-judicial role here. I don't feel uncomfortable about that at all nor do I think that Mr. Thomas should feel uncomfortable about it. That happens to he and I all the time. I think that what might be of some benefit to us is quarterly or something of that nature that we got some kind of report as to where we are with how many of these things are on deck. How many of these things Jill is dealing with. Not in any great detail, but just a simplified version of it and where we are with the current ones before LUBA and what not. My questions particularly now having this been done is work now or is it over with.

Hinkley: No. It is a long way from being over with. We had our second full day of hearings. They ran until 8 o'clock Friday night. The hearings officer has given the parties an additional month to submit findings and it will be another two months from that time until it comes to the Council for action.

Van Bergen: The more we think about this the more proficient we are going to become.

Waker; I think the biggest difficulty here is that it took six or seven years to get an Urban Growth Boundary in the first place and I don't know how many hours and dollars worth of effort and a review would indicate a like effort. We don't have the resources to do it, so it is a real problem.

#### 11. COMMITTEE REPORTS

Metropolitan Exposition-Recreation Commission (MERC).

Councilor Ragsdale announced that he had copies available of the questions which would be submitted to the candidates for MERC for those interested.

Waker: There being no further business, the meeting is adjourned.

9:05, November 24, 1987.  
S. Stallcup



**METRO**

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

# Memorandum

Agenda Item No. \_\_\_\_\_

Meeting Date \_\_\_\_\_

Relating to **Ordinance No. 88-238**

Date: January 5, 1988

To: Metro Council

From: Daniel B. Cooper, General Counsel *DBC*

Regarding: RECOMMENDED FINDINGS FOR CONTESTED CASE NO. 87-2

The Findings of Fact attached to Ordinance No. 88-238 as Exhibit B represent my recommended revisions to the draft Findings submitted on behalf of petitioners Joseph W. Angel and Lynne I. Angel in Contested Case 87-2.

JH/gl  
8775C/D2

*NOT ADOPTED*



MINUTES OF THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

February 11, 1988  
Regular Meeting

Councilors Present: Mike Bonner, Larry Cooper, Tom DeJardin,  
Jim Gardner, Gary Hansen, Sharron Kelley,  
Corky Kirkpatrick, David Knowles, Mike  
Ragsdale, George Van Bergen and Richard  
Waker

Councilors Absent: Tanya Collier

Also Present: Rena Cusma, Executive Officer  
Dan Cooper, General Counsel

Presiding Officer Ragsdale called the regular meeting to order at  
5:35 p.m.

1. RECONSIDERATION OF ORDINANCE NO. 88-238, An Ordinance Adopting  
a Final Order and Amending the Metro Urban Growth Boundary for  
Contested Case No. 87-2: Angel Property

The Presiding Officer announced that at the January 28 meeting, the Council failed to adopt a motion that would have adopted Ordinance No. 88-238. Councilor Knowles had served notice at that meeting he would move to reconsider the ordinance on February 11.

Councilor Knowles said he had decided not to move to reconsider the matter. Dan Cooper, General Counsel, then summarized the status of Contested Case No. 87-2 and the options before the Council. Because the Council had not adopted Ordinance No. 88-238 or Order No. 88-16, the case remained undecided. On February 25, the Council would again have the opportunity to decide whether to adopt the Hearings Officer's recommendation to deny the applicant's petition or to adopt findings prepared by the General Counsel in support of amending the Urban Growth Boundary. The decision had to be made by the Council in its capacity as a quasi-judicial board and according to Metro's adopted standards and procedures.

A discussion followed regarding whether information disclosed at the January 28 meeting by Councilor Collier would cause procedural problems because that information had not been submitted to the Hearings Officer. Mr. Cooper explained the petitioner had the right to request the Council send the case back to the Hearings Officer for the purpose of re-opening the record.

Presiding Officer Ragsdale announced the matter of Contested Case No. 87-2 would be on the February 25 Council agenda.

2. INTRODUCTIONS

None.

3. WRITTEN COMMUNICATIONS TO COUNCIL ON NON-AGENDA ITEMS

Presiding Officer Ragsdale reported he had received a letter dated January 10, 1988, from James Ross of the Land Conservation and Development Commission relating to Contested Case No. 87-2.

4. CITIZEN COMMUNICATIONS TO COUNCIL ON NON-AGENDA ITEMS

Dale Sherbourne, 3638 S.W. Corbett, Portland, testified that Metro should solve the region's solid waste disposal problems by promoting recycling, especially in the schools. He also supported composting technology and local solutions to the region's disposal problems.

5. COUNCILOR COMMUNICATIONS

None.

6. EXECUTIVE OFFICER COMMUNICATIONS

6.1 Consideration of Resolution No. 88-864, for the Purpose of Securing General Purpose Landfill Disposal for Solid Waste Disposal from the Portland Metropolitan Region;

Consideration of Resolution No. 88-865, for the Purpose of Notifying the Environmental Quality Commission that the Bacona Road Site is Not Needed;

Consideration of Resolution No. 88-866, for the Purpose of Suspending Memorandum of Understanding Negotiations with Combustion Engineering for a RDF Facility, Pending Approval of a Facility Site in Columbia County; and

Consideration of Resolution No. 88-867, for the Purpose of Continuing Memorandum of Understanding Negotiations with Riedel Environmental Technologies for a Mass Composting Facility

Executive Officer Cusma introduced the resolutions by explaining that for the last ten years, the region had been looking for the solution to its solid waste problem. She recommended the Council help solve the problem by accepting the bid from Oregon Waste Systems to construct and operate a landfill near Arlington, Oregon, in Gilliam County. Built into the bid would be the flexibility to

6.2 Consideration of a Contracts with JBL&K and the Waddell  
Organization for Development and Administration of an Insurance  
Program for the Oregon Convention Center Project

Councilor Cooper, Councilor Convention Center Committee Chair, reported the committee unanimously recommended the Council approve the contracts. Tuck Wilson, Convention Center Project Director, reviewed highlights of staff's written report as updated at the meeting.

Motion: Councilor Cooper moved, seconded by Councilor Waker, to approve the contracts with JBL&K and the Waddell Organization.

Councilors Waker and Van Bergen, both members of the Convention Center Committee, endorsed approval of the two contracts, explaining they had been carefully reviewed by the Committee and would save the District money over the long term.

Vote: A vote on the motion resulted in all nine Councilors present voting aye. Councilors Bonner, Hansen and Ragsdale were absent.

The motion carried and the two contracts were approved.

7. ORDINANCES

7.1 Consideration of Ordinance No. 88-238, for the Purpose of  
Adopting a Final Order and Amending the Urban Growth Boundary  
for Contested Case No. 87-2: Angel Property (Second Reading)

The Clerk read the ordinance by title only a second time.

Motion to Adopt Ordinance: A motion to adopt the ordinance was received at the meeting of January 14, 1988, from Councilors Waker and Kelley.

Dan Cooper, General Counsel, reported he had nothing new to report since he delivered staff's report at the first reading of the ordinance on January 14. He noted all Councilors had received a letter from the Department of Land Conservation and Development dated January 27, 1988, stating the DLCD had decided not proceed with an appeal should the Council approve this amendment to the UGB.

Councilor Knowles reported that on January 14 he had indicated his problems with the findings prepared by staff. He explained that as a quasi-judicial body the Council had an obligation to regard land use laws and procedures as they were written, not as the Council wanted them to be. By waiving its Code requirement in the Angel

Case the Council had not waived its policy but had merely desired to give the petitioner his "day in court." He also questioned whether the applicant's petition had met the Code requirements. The Hearings Officer's report had not demonstrated to the Councilor's satisfaction that inclusion of the property in the UGB would result in improved urban services. He challenged Councilors to view the case on its merits and not adopt the ordinance. He said he was prepared to move to table the ordinance and direct staff to send the matter back to the Hearings Officer.

Councilor Collier said she had been reviewing the case and questioned whether the types of urban services proposed -- specifically fire hydrants -- would actually constitute adequate urban services. Steve Janik, an attorney representing the petitioners, strongly objected to the fact that Councilor Collier was reporting to the Council on new facts not previously heard by the Hearings Officer. Dan Cooper, General Counsel, determined it was appropriate for Mr. Janik to raise a formal objection but it was also appropriate for Councilor Collier to disclose any new information to the Council if she would be using that information to make her final decision.

Councilor Collier reported she had been researching whether adequate emergency medical services could be provided the property in question. She had determined expending public funds to improve the property would not result in adequate urban services.

Councilor Van Bergen thought the only issue the Council could decide was whether to include the land within the UGB. The Council had no business deciding how the property should be used, he said. Councilor Gardner agreed, adding that when the Council decided whether to include the land in the UGB it must do so by applying standard tests.

First Motion to Table: Councilor Knowles moved, seconded by Councilor Bonner, to table Ordinance No. 88-238; to adopt the Hearings Officer's original report on Contested Case No. 87-2 including Findings and Order denying application; and directing Council staff to prepare a resolution stating the Council's intent to examine the entire Skyline Boulevard "neck" within the UGB as part of the upcoming UGB review process.

Councilor Hansen objected to the motion and questioned whether a motion to table an issue could be combined with requests for other specific actions to be taken. He thought it unfair the Council would not be able to discuss those requests for action.



Withdrawal of First Motion to Table: Councilors Knowles and Bonner withdrew the first motion to table Ordinance No. 88-238.

Second Motion to Table: Councilor Knowles moved, seconded by Councilor Gardner, to table Ordinance No. 88-238.

Vote on the Second Motion to Table: A vote resulted in:

Ayes: Councilors Bonner, Collier, Gardner, Kirkpatrick and Knowles

Nays: Councilors Cooper, DeJardin, Hansen, Kelley, Van Bergen and Waker

Absent: Councilor Ragsdale

The motion failed.

Vote on the Motion to Adopt the Ordinance: A roll call vote resulted in:

Ayes: Councilors Cooper, DeJardin, Hansen, Kelley, Van Bergen and Waker

Nays: Councilors Bonner, Collier, Gardner, Kirkpatrick and Knowles

Absent: Councilor Ragsdale

The motion failed. At least seven affirmative votes are required to adopt an ordinance.

Motion to Continue the Ordinance: Councilor Waker moved, seconded by Councilor Hansen, to continue the ordinance to a second reading on February 11, 1988.

Councilor Knowles did not think the motion in order since the Council's vote had resulted in failure to adopt the ordinance. Deputy Presiding Officer Kirkpatrick called a recess at 7:25 p.m. for the purpose of consulting with General Counsel on the matter. The meeting reconvened at 7:30 p.m. Counsel determined the effect of the vote to adopt the ordinance had resulted in the Council not adopting the ordinance. The matter could therefore not be continued to a second reading. Rather, the Ordinance had to be reintroduced for a first reading and public hearing and proper notice had to be served to the public and press. He also advised the Council that Contested Case No. 87-2 had not be disposed of -- the Council had

not adopted the Hearings Officer's report nor had it adopted staff's findings.

Explaining it was his intent to dispose of the case as a service to the petitioner, Councilor Knowles served notice he would move to reconsider the ordinance at the February 11 Council meeting. Councilor Gardner requested Councilors receive copies of the Hearings Officer's findings in order to prepare for the possible reconsideration.

8. RESOLUTIONS

8.1 Consideration of Resolution No. 88-832, for the Purpose of Establishing Council Policy Regarding Long-Term Agreements for Solid Waste Landfill, Transfer Station, Transportation or Alternative Technology Services

Councilor Hansen, Chair of the Council Solid Waste Committee, reported the Committee had unanimously recommended adoption of the resolution.

Councilor Gardner said he had initially introduced the resolution because he wanted the Council to be able to influence policy issues for significant solid waste projects at the time bids or requests for proposals were being developed.

Motion: Councilor Gardner moved, seconded by Councilor Hansen, to adopt Resolution No. 88-832.

Councilor Hansen, responding to concerns raised before the Solid Waste Committee, explained the resolution in no way was intended to apply to disposal services.

Mr. Cooper reported the resolution was intended to address projects that would extend beyond one budget year. Projects of one budget year or less could be entered into by the Executive Officer without Council approval subject to the provisions of Metro's Contract Rules.

Councilor Bonner commended Councilor Gardner and the Solid Waste Committee for developing the resolution. He thought the new policies would serve to keep the Council informed of and participating in important project decisions.

In response to Councilor Collier's question, Councilor Gardner explained the bid for out-of-region landfill services was presented to the Solid Waste Committee for review and comment but the Committee had no clear authority to mandate policy changes. The matter was not presented to the Committee as an action item.

Vote: A vote on the motion resulted in all twelve Councilors voting aye.

The motion carried and the contract was unanimously approved.

10. ORDINANCES

10.1 Consideration of Ordinance No. 88-238, for the Purpose of Adopting a Final Order and Amending the Metro Urban Growth Boundary for Contested Case No. 87-2: Angel Property (Second Reading)

The Clerk read the Ordinance a first time by title only. The Presiding Officer announced the Council was considering the ordinance in its capacity as a quasi-judicial body and the ordinance was not subject to the Executive Officer's veto.

Dan Cooper, General Counsel, reported he had prepared the findings attached to the ordinance as instructed by the Council at its meeting of November 24, 1987. At that meeting, the Council had failed to adopt Order No. 87-16 which had included the Hearings Officer's findings. Mr. Cooper also noted the Council had received a letter from the Department of Land Conservation and Development (DLCD) raising objections to the Council's process in considering the Angel case. Mr. Cooper had no recommendation regarding the DLCD's objections.

Motion: Councilor Waker moved, seconded by Councilor Kelley, to adopt Ordinance No. 88-238.

A discussion followed about whether a public hearing was required for the ordinance. A public hearing had been conducted before the Hearings Officer on the case. Mr. Cooper explained, however, that Metro's rules and state law required a public hearing be conducted for all ordinances. If new evidence were to be received as part of the public hearing, that information should be referred back to the Hearings Officer, he explained. The Presiding Officer then opened the public hearing.

Steve Janik, the applicant's attorney, said he wished to address the Council concerning the DLCD's letter and would not introduce new evidence regarding the Angel case. He reported he had just received the letter and was confident once he had an opportunity to talk with DLCD representatives, their concerns would be addressed.

Councilor Gardner asked if the DLCD letter should be made part of the official record and whether it contained evidence that would influence the case. Mr. Cooper said he would answer the question at the next Council meeting because he had just received the letter that afternoon.



Councilor Knowles said after reviewing the Findings of Fact, he was convinced the Council's decision not to adopt the Hearings Officer's findings was contrary to Metro law. He thought the Findings were "tortured and convoluted" in an effort to comply with the Council's request. They did not protect UGB policies, he said. Councilor Knowles urged the Council to follow its law and send the matter back to the Hearings Officer in order for the DLCD letter to be incorporated into the record. He thought the DLCD had grounds for appeal.

Motion: Councilor Knowles moved to return the matter to the Hearings Officer along with any information submitted by the DLCD and for the Hearings Officer to make a new recommendation for Council consideration. Councilor Collier seconded the motion.

At the request of Mr. Cooper, Presiding Officer Ragsdale called a recess at 7:45 p.m. to determine whether the above motion was proper. The meeting reconvened at 7:55 p.m.

Withdrawal of Motion: Councilors Knowles and Collier withdrew the above motion because Counsel determined it was improper.

Mr. Cooper explained that if the majority of the Council did not vote to adopt the ordinance, then a motion could properly be made to refer the matter back to the Hearings Officer which would include specific instructions to the Hearings Officer.

Presiding Officer Ragsdale closed the public hearing and announced the second reading of the ordinance was scheduled for January 28, 1988.

10.2 Consideration of Ordinance No. 88-237, for the Purpose of Establishing an Office of General Counsel to Provide Legal Advice and Assistance to the Metropolitan Service District (Second Reading)

The Clerk read the ordinance a second time by title only. Presiding Officer Ragsdale announced the ordinance was subject to the Executive Officer's veto.

Motion: A motion to adopt Ordinance No. 88-237 was made by Councilor Collier and seconded by Councilor DeJardin at the first reading of the ordinance on December 22, 1987.

Presiding Officer Ragsdale noted staff had received a request from citizen Claire Green asking that a second public hearing be scheduled at this meeting in addition to the hearing conducted on