

BEFORE THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

AN ORDINANCE ADOPTING A FINAL )                   ORDINANCE NO. 88-268  
ORDER AND AMENDING THE METRO URBAN )  
GROWTH BOUNDARY FOR CONTESTED CASE )  
NO. 87-3: BLAZER HOMES, INC. )

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 87-3, 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 Blazer Homes, Inc. 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 87-3.

Section 4. Parties to Contested Case 87-3 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 27th day of October, 1988.

  
Mike Ragsdale, Presiding Officer

ATTEST:

  
Clerk of the Council

I certify this ordinance was not vetoed by the Executive Officer.

By: 

Date: 6/9/89

JH/sm  
0218D/554  
10/04/88

BEFORE THE METROPOLITAN SERVICE DISTRICT  
OF THE STATE OF OREGON

In the matter of the application )  
of BLAZER HOMES, INC. for a ) FINDINGS OF FACT IN  
locational adjustment to the ) CONTESTED CASE  
regional urban growth boundary. ) NO. 87-3

I. Introduction

This cause is before the Council on the petition of Blazer Homes, Inc. ("Petitioner") to add approximately 43.7 acres southeast of Lake Oswego to the regional urban growth boundary (the "UGB"). This matter was originally heard on March 29, 1988 by the Council's Hearings Officer Mr. Christopher P. Thomas. On April 27, 1988, the Hearings Officer published a report recommending that the petition be denied. Petitioner filed exceptions to the Hearings Officer's report and simultaneously requested that the Council admit additional evidence into the record. Opponents Bill and Carole Atherton also filed exceptions. On June 9, 1988, the Council granted Petitioner's request to introduce additional evidence and remanded the cause to the Hearings Officer to consider Petitioner's exceptions and new evidence. After a further hearing on July 11, 1988, the Hearings Officer on July 27, 1988 published "revisions" to his original Report, again recommending denial of the petition.<sup>1</sup> Exceptions were again filed by Petitioner and by Opponents

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<sup>1</sup> The Hearings Officer's first report, entitled "Report and Recommendation of Hearings Officer", will hereinafter be referred to as his "Report". The second report, entitled "Revisions to Report and Recommendation of Hearings Officer", will be referred to as his "Revisions."

Atherton. After hearing the matter September 8, 1988, the Council rejected the recommendation of its Hearings Officer and directed its legal counsel to draft this order approving the urban growth boundary adjustment.

## II. The Record

The record consists of the exhibits identified at pages 2 and 3 of the Hearings Officer's Report, the exhibits identified on pages 1 through 3 of the Hearings Officer's Revisions, and the exceptions of the parties to the Hearings Officer's Revisions. Part II of the Hearings Officer's Revisions, at pp. 3-4, containing his rulings on evidence, are not contested and are adopted as the evidentiary rulings of this Council.

## III. Standards Applicable

Metro Code Section 3.01.040 contains standards for evaluating locational adjustments to the urban growth boundary. That section states:

"(a) As required by subsections (b) through (d) of this section, locational adjustments shall be consistent with the following factors:

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

"(2) Maximum efficiency of land uses. Considerations shall include existing development densities on the area included within the amendment, and whether the amendment would facilitate needed development on adjacent existing urban land.

"(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.

"(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.

"(5) Compatibility of proposed urban uses with nearby agricultural activities. When a proposed adjustment would allow an urban use in proximity to existing agricultural activities, the justification in terms of factors (1) through (4) of this subsection must clearly outweigh the adverse impact of any incompatibility.

"(d) Petitions to add land to the UGB may be approved under the following conditions:

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

"(3) Additions shall not add more than 50 acres of land to the UGB and generally should not add more than 10 acres of vacant land to the UGB. ...[T]he larger the proposed addition, the greater the differences shall be between the suitability of the proposed UGB and suitability of the existing UGB, based upon consideration of the factors in subsection (a) of this section.

#### IV. The Parties' Exceptions

Petitioner has taken the following exceptions to the Hearings Officer's Report and Revisions:

EXCEPTION 1: The hearings officer erred:

(a) In determining that the evidence does not indicate whether the provision of transportation facilities and services

to the site is or will be orderly and economical;

(b) In determining that the evidence did not establish whether there would be a net improvement in efficiency of the transportation facilities and services to the adjoining UGB area;

(c) In failing to find that the provision of transportation facilities and services to the site will be orderly and economical; and that the inclusion of the site in the UGB will result in a substantial and significant improvement in efficiency of the transportation facilities and services to the adjoining UGB area.

EXCEPTION 2: The hearings officer erred in failing to find that school services can be provided to the site in an orderly and economical manner, and addition of the site would result in improved efficiency of school services to the adjoining UGB area. The hearings officer erred in finding to the contrary.

EXCEPTION 3: The hearings officer erred in finding as follows: "Overall, there is only a minor, if any net improvement in the public facilities and services serving adjoining areas within the UGB." The hearings officer erred in failing to find that there is significant net improvement in public facilities and services serving adjoining areas within the UGB. Petitioner takes exception to the hearings officer's recommendation in respect to these findings.

EXCEPTION 4: The hearings officer erred in determining that the proposed UGB is "at best slightly superior to the UGB as presently located" and therefore fails to comply with Metro Code 3.01.040(d)(3), calling for an enhanced showing of superiority of the proposed UGB, as the new area to be included approaches 50 acres.

EXCEPTION 5: The hearings officer erred in determining that "the proposed addition does not appear to include all similarly situated land which could also appropriately be included within the UGB."

Opponents Bill and Carole Atherton's exceptions to the Hearings Officer's Revisions may be summarized as follows. Their first exception is said to be "a conditional one." They object to the Hearings Officer's failure to admit all of their Exhibit 60, and to the Hearings Officer's statement that he would consider it under the doctrine of official notice insofar as it

contains excerpts from the Lake Oswego Comprehensive Plan and documents referenced in that plan. Opponents Atherton stated with respect to this exception, however, that:

"We take no exception to his [the Hearings Officer's] ruling unless petitioner again asks to reopen the hearing. Should petitioner ask to submit additional new evidence we take exception to the Hearings Officer's failure to admit all of Exhibit 60." Atherton Exceptions, p. 1. (Emphasis in original.)

Petitioner did not ask to submit additional new evidence. Since Opponents Atherton stated that this exception would operate only "should petitioner ask to submit additional new evidence," the condition upon which this exception was presented did not occur, and the exception will not be considered.

Opponents Athertons' second exception is to the Hearings Officer's "implied finding" at page 8, line 25 of his Revisions that the proposed development would provide the school district a financial benefit by adding approximately \$20 million in assessed value. The Council does not rely on that finding.

Opponents Athertons' third exception is to the Hearings Officer's finding that street traffic capacity figures for McVey, Overlook, and Westview Drive were not provided. Opponents Atherton correctly point out that such evidence is in the record.

#### V. Description of the Expansion Area

The proposed addition to the UGB is located on the west side of Stafford Road immediately south of the City of Lake Oswego. The site consists of four parcels. Tax Lot 700 is a seven acre parcel with a single family residence. Tax Lot 1000 is a six acre parcel, containing the Bethlehem Baptist Church.

Tax Lot 600 (twenty-one acres), and Tax Lot 1100 (ten acres), are vacant. The site is zoned RRFF-5 by Clackamas County. This zoning permits one single-family dwelling per 5 acres. The site thus could accommodate another six residences given its current ownership pattern. Existing land use planning and zoning establishes that the site is not agricultural resource land.

Immediately north of the site are Lakeridge High School's athletic fields, with Overlook Drive and the balance of the high School to the north of those. To the northwest of the site are the Ridge Lake Park residential subdivision and a Latter Day Saints church. The subdivision and church are inside the current UGB. In the subdivision, St. Clair Drive ends abruptly at the UGB.

To the west of the site is the Ridge Pointe subdivision, which also is inside the current UGB. The subdivision sits on the side of Cooke's Butte, with the proposed addition area sloping downward below the subdivision to Stafford Road. In the subdivision, Ridge Pointe Drive and Meadowlark Lane are stubbed at the UGB.

The Ridge Lake Park and Ridge Pointe subdivisions are not yet fully built out. The homes, especially in Ridge Pointe, are priced well above the average Lake Oswego residence. The zoning is mostly R-15, with a small portion R-10.

To the south of the site, between the site and Childs Road, and beyond Childs Road, the predominant land uses are farm, forest, and rural residential. The zoning is RRFF-5.

Land east of the site, across Stafford road, is zoned Exclusive Farm Use.

Thus the site has a high school to the north; residential subdivisions to the west; farm, forest, and rural residential land to the south; and agricultural land to the east. If the site were brought within the UGB, it probably would be zoned R-10 or R-15, as is surrounding city land. The Hearings Officer determined that if all acreage were used, and if the church were replaced by homes, approximately 75 to 80 homes could be placed at the site.<sup>2</sup>

VI. Water Service Can Be Provided In An Orderly and Economical Manner

A 12-inch water main extends along Stafford Road abutting the proposed addition area, running southward from Overlook Drive to the north of the site, along Stafford Road, and turning eastward onto Rosemont Road to a Portland General Electric substation on Rosemont. The Bethlehem Baptist Church, which is outside the UGB, presently is served from the water line in Overlook Drive, which is inside the UGB. The portion of the water line in Stafford Road that is south of Bethlehem Church and the portion in Rosemont Road are outside the UGB.

In addition, water lines in the residential subdivisions northwest and west of the site dead end at the combined site/UGB boundaries. These lines include an 8 inch line

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<sup>2</sup> There is no evidence that the church would be moved, or that any of its six-acre site would be developed further. The assumption of 75 to 80 homes is therefore on the high side of what can be expected, by as many as 20 homes.



in Meadowlark Lane, an 8 inch line in Ridge Pointe road, and an 8 inch line in St. Clair Drive.

These water facilities are capable of providing water service to the site in an orderly and economical fashion.

VII. Sewer Facilities and Services Can Be Provided In An Orderly And Economical Fashion

Sewers capable of serving the expansion area are stubbed at the UGB where St. Clair Drive and Ridge Pointe Drive dead end. While waste water from the lower part of the property will need to be pumped, these sewers can be extended to serve the site in an orderly and economical fashion.

VIII. Storm Drainage Facilities and Services Can Be Provided In An Orderly And Economical Fashion

There is a natural drainageway which flows along the mid-point of the expansion area in a north-south direction and continues toward the Tualatin River to the south. This natural drainageway, and a detention facility that would be constructed by petitioner within it, would provide storm drainage facilities and services to the site in an orderly and economical fashion.

IX. Transportation Facilities and Services Can Be Provided In An Orderly And Economical Manner

The proposed addition area is adjacent to Stafford road, a major arterial. Three local streets, Meadowlark Lane, St. Clair Drive, and Ridge Pointe Drive, are stubbed into the north side of the property. Westview Drive, a collector street, is planned in the city's comprehensive plan (see, e.g., page 156) to be extended so that it lies along the southern boundary of the site.

A single family home is assumed to generate 10 vehicle trips per day. See, In re Ray, Metro Contested Case No. 84-1. On this basis, the expansion area, with 80 homes constructed on it, could generate a maximum of 800 vehicle trips per day.<sup>3</sup> The Lake Oswego Comprehensive Plan (at page 156) establishes a policy that local streets, like Meadowlark and Ridge Pointe, should accommodate 1200 vehicle trips per day. Meadowlark and Ridge Pointe currently have 51 and 26 lots along them, respectively. Therefore, these two streets currently have combined unused capacity of 1,630 trips per day. Thus, if 80 homes were built on the expansion area and if every vehicle trip generated used only Ridge Pointe and Meadowlark to enter and exit, Meadowlark and Ridge Pointe would still have unused capacity exceeding 830 trips per day. In other words, Meadowlark and Ridge Pointe have more than twice the capacity needed to carry all the traffic entering and leaving the expansion area if Stafford Road, and the Westview Extension, are not used at all.

The Lake Oswego comprehensive plan contains projections of year 2000 traffic volumes on all major city streets, and of the street improvements necessary to enable major streets to accommodate those volumes. The year 2000 traffic projections were based upon assumptions that the 44-acre site under review herein, the Ray UGB amendment, and a far greater area would develop to urban densities and contribute traffic to this area by the year 2000. Exhibit 60, Appendix I, page 8 contains a map

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<sup>3</sup> See Footnote 2, above

showing the areas the city, in enacting the comprehensive plan, assumed would urbanize by the year 2000. Large areas that the city planners thought would urbanize, including petitioner's site and the Ray parcel, subsequently were excluded from the UGB. In the vicinity of the subject property, most of traffic analysis zones 34 and 35 (are now zoned for 5-acre development) and 40 (now zoned for Exclusive Farm Use (20-acre minimum)), was not included in the UGB. Zones 34, 35 and 40 would, at full development, contribute some 7,178 vehicle trips per day over traffic volumes surveyed in 1976. See Exhibit 60, p. 8. The Ray amendment and this one, which represent only a small fraction of the area of zones 34, 35 and 40, would add a maximum of 1310 trips per day. Thus, a substantial portion of the remaining 5868 trips that the city planners projected for year 2000 will not occur, unless the remainder of zones 34, 35 and 40 are brought into the UGB in the future.

Page 152 of the Lake Oswego Comprehensive Plan contains a map identifying improvements that the city plans to make to all the city's major streets to enable them to accommodate predicted year 2000 traffic loads. In this map, left turn lanes are shown as being added to Stafford Road, and McVey is shown to increase in width from its current two lanes to four with a left turn lane. The city planned these improvements to accommodate urban growth at petitioner's property and the other areas discussed above.

There is no countervailing evidence that the City of

Lake Oswego will not carry out its plans to improve Stafford and McVey as the comprehensive plan states it will. This Council presumes these plans will be carried out.

For these reasons, the Council finds that the streets serving petitioner's site will be capable of accommodating the traffic to be generated from urban development of petitioner's site in an orderly and economical fashion.

X. School Facilities And Services Can Be Provided In An Orderly And Economical Fashion

The undisputed evidence is that junior and senior high school students from the proposed area can be accommodated by Waluga Junior High and Lakeridge High School, in an orderly and efficient manner. Opponents to this application questioned whether elementary school students could be so served. It is clear they can be.

As the Hearings Officer recognized, three of Lake Oswego's seven elementary schools are overcrowded, and four have additional capacity. The school district has been studying this situation for a year and on May 16, 1988 adopted a set of recommendations for short and long term solutions. These short and long-term actions ensure that this site can receive elementary school services in an orderly and economical manner.

The expansion area is within the attendance boundary of Westridge Elementary School, one of the elementary schools with excessive enrollment. In a May 17, 1988 letter, Assistant School Superintendent James H. Schell states that by adjusting attendance boundaries, students from the proposed UGB area can be

sent to Hallinan Elementary School, which is not overcrowded, rather than to Westridge Elementary School. Hallinan School, at 16800 Hawthorne Dr., is actually closer to the proposed UGB area than is Westridge, at 3400 Royce Way. Mr. Schell states:

"As a result of the work of our Elementary Enrollment Committee, created to study a preexisting enrollment surge, we now have information that allows us to say that this school district could not only handle new secondary students, but could as well accommodate new elementary children by adjusting attendance boundaries and sending these children from the area of the development to Hallinan School rather than to Westridge." (Emphasis supplied.)

Mr. Schell states that by such attendance boundary adjustment, by reopening the now closed Palisades School, or by moving all sixth grade students to middle level schools, the district could "serve the land adjacent to Stafford Road in the same orderly and efficient manner that characterizes our service to all our schools." This demonstrates that elementary school students from the proposed UGB area can be served by the Lake Oswego schools in an orderly, economical fashion, without adversely affecting school services to areas currently within the UGB.

The evidence shows that Lake Oswego is a growing community with a growing elementary school enrollment, and that in the long term additional funds will be needed by the school district to serve that expanding student population. The evidence also clearly shows that these long term growth and funding requirements will exist whether this proposed UGB expansion is permitted or not, and would not be materially affected by approval of this proposal.

The Council finds, based on Assistant Superintendent Schell's statement, that students from the expansion area can be served in an orderly, efficient and economical fashion, as are other Lake Oswego children. The Council further finds that the Lake Oswego School District provides excellent school facilities and services to its students.

XI. Police and Fire Protection Facilities and Services Can Be Provided In An Orderly and Economical Fashion

The site is within the Tualatin Rural Fire District service area, at the most northwesterly corner of the District. The site is close to Lake Oswego fire facilities.

The evidence establishes that the site can be served with fire facilities and services in an orderly and economical manner. There does not appear to be any impact on the efficiency of fire facilities and services to adjoining areas within the UGB.

The Lake Oswego police do not anticipate any problem serving the area either during construction or following development. The evidence established that police services can be provided to the site in an orderly and economical manner.

XII. Addition Of This Site Would Result In A Net Improvement In The Efficiency of Public Facilities And Services In Adjoining Areas Within the UGB

This locational adjustment would result in substantial improvement in public facilities and services within the existing UGB. Specifically, it would result in the following improvements:

a. Water Service. Inclusion of this site in the UGB would allow the dead end lines in Meadowlark Lane, Ridge Pointe Road, and St. Clair Drive to be looped. This would: improve fire flows to the surrounding subdivisions currently within the UGB; provide improved water pressure to those subdivisions; reduce sedimentation in water lines and thus reduce the need for periodic manual cleaning of the lines by opening the lines at their stubs or at hydrants; increase the efficiency of the lines by spreading their utilization over a larger population.

b. Sewer Service. An approximately 15-acre area immediately north of petitioner's site, between the site and Overlook Drive, has no sewer service even though it is within the UGB. The area is too low to be served by gravity flow or by an existing pump station. If petitioner's site were brought with the UGB, the new pump station that would be added would serve this presently unserved area. Moreover, addition of this site to the UGB would improve the efficiency of the gravity flow system serving the Ridge Pointe subdivision by adding more users to the system.

c. Streets and Traffic. Development of the site will permit completion of Meadowlark Lane, St. Clair Drive, and Ridge Pointe Drive, which are currently stubbed at the UGB. It would therefore increase the traffic bearing capacity and utilization of those existing roadways within the UGB, and, hence, their efficiency.

Development of the site will facilitate completion of Westview road, which dead-ends southwest of the site. Since Petitioner would dedicate right-of-way for the Westview extension, and construct much of the roadway at its own expense, development of Petitioner's site would make completion of Westview much easier and less expensive for the City. The completion of Westview would provide residents of large residential areas southwest of the site inside the UGB with direct access to Stafford Road, which they do not now have, and would reduce travel distance and time from these residential areas to Stafford Road.

Development of the site would also permit development of four currently landlocked lots in the Ridge Pointe subdivision, within the UGB, by providing them street access via Westview.

d. Police Protection. The Westview extension and other street improvements would improve police access to adjacent areas currently within the UGB, and thereby improve the efficiency of police services.

e. Storm Water Drainage. Drainage systems in the UGB would be improved in efficiency by the substitution of a large basin in the proposed addition for existing, small, hard-to-maintain basins within the UGB. The proposed addition area is well suited for this facility because of the main drainageway within it.

f. Conclusion. For the foregoing reasons, this UGB adjustment would result in a substantial net improvement in the



efficiency of public facilities and services in adjoining areas within the UGB.

XIII. The Proposed UGB Is Superior To The UGB As Presently Located Based On A Consideration Of The Factors In MC Section 3.01.040(a)

The Council adopts the findings of the Hearings Officer as stated in numbered paragraphs 2, 3, 4 and 5 a pp. 24-25 of the Hearings Officer's Report.<sup>4</sup>

The City of Lake Oswego supports the petition. The Council finds that the recommendations of the City, as the local land use planning authority and service provider, should be considered as a factor to weighing in favor of concluding that the net superiority of the UGB adjustment is sufficient to justify granting the petition. Based on the Council's findings, the Council concludes that the proposed UGB is greatly superior to the existing UGB based on a consideration of the factors in MC Section 3.01.040(a). Because of the substantial improvements that would result in traffic, water, sewer, storm sewer, and police facilities and services to adjoining areas currently within the UGB, the UGB as proposed is sufficiently more suitable than the existing UGB, based upon consideration of the factors in MC Section 3.01.040(a), that even though its size approaches the 50-acre limit for locational adjustments, we find that it is justified.

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<sup>4</sup> Those paragraphs are uncontested.

#### XIV. Similarly Situated Contiguous Land

MC Section 3.01.040(d)(2) requires locational adjustments to include all similarly situated contiguous land which could also be appropriately included within the UGB as an addition based on the factors in 3.01.040(a). On this issue the Hearings Officer held against Petitioner stating that "there appears to be no reason why the area south of the site, at least to Childs Road, should not also be included." Report, p. 26. The Hearings Officer is incorrect.

The arguments for inclusion of the subject property do not apply to the area to the south. The proposed area would increase efficiency of services within the UGB in respect to sanitary sewer, water facilities, police protection, transportation, and storm water drainage. The addition of the area south to Childs road would not add to the efficiency of any of these systems within the UGB. Thus, the inclusion of the area south to Childs Road could not be supported by the arguments which support the inclusion of the subject property. Therefore, this other area is not "similar" property which "could ... be appropriately included within the UGB as an addition based on the factors in subsection (a)." Metro Code Section 3.01.040(d)(2). Furthermore, there is no other contiguous property suitable for inclusion which is not included in the area which is the subject of the petition.

The proposal enhances sanitary sewer efficiency within the existing UGB because two areas within the UGB cannot now be

served with sewer in an orderly and efficient way; but, by placing a pump station at the topologically appropriate location, which is within the proposed area for inclusion, these areas within the UGB can be served (and so, also, can the area proposed for inclusion). A pump station in that location, the most efficient for service to existing UGB areas, implies and supports sewers in the proposed area. On the other hand, properties to the south drain away from this area and could not be served by the proposed new pump.

While a new pumping station could be located elsewhere to serve a larger area outside the present UGB than the applicant proposes, the more distant pumping station would not add any more to the efficiency within the UGB than would a pumping station within the more modest UGB adjustment which the Petitioner seeks. The inclusion of a south-to-Childs-road area would be unnecessary to UGB service and therefore the "subsection (a)" factor supporting the petition, here, would not apply to a request to include this additional, more distant area.

The Hearings Officer recognized (Report, p. 14) and the Council finds, that the inclusion of the proposed area would enhance water service efficiency within the UGB by allowing extension of the dead-end lines along Ridge Pointe and Ridge Lake Park, and looping these lines. This would improve fire flows in the UGB, improve water pressure in the UGB, and reduce maintenance of the existing dead-end lines. The inclusion of the area south of petitioner's site would do nothing to contribute to

these advantages. That area is not part of the water line system involved in the improvements. Hence, in this respect also, the south area, not proposed for inclusion in the UGB, cannot be "appropriately included within the UGB ... based on the factors in subsection (a)" although the presently proposed land can appropriately be so included.

The existing boundary is inefficient for water service, because the Bethlehem Church site (served extra-territorially by the City system) is outside the UGB, and a 12-inch water main in Stafford Road (outside the UGB) is underutilized. The proposed inclusion rationalizes the UGB in these respects, bringing the existing water main and the Church into the UGB, and taking up the unused capacity in the water main. These observations support this application. They do not apply to the area south of the proposed addition.

The inclusion of the proposed area facilitates the prompt completion of Westview at reduced public expense and the completion of existing roads in subdivisions in the UGB, with significant net advantages to transportation systems in the UGB. The inclusion of the area to the south would add nothing to transportation systems in the UGB. Again, the basis for inclusion of the proposed area is inapplicable to the area to the south, and therefore it must follow that the area to the south is not a "similar" parcel which "could ... be appropriately included within the UGB as an addition based on the factors in subsection (a)." Metro Code Section 3.01.040(d)(2).

The improvement of Westview Road would also improve the provision of police services in the area. Because the area to the south would not assist the improvement of Westview, it also would not bring about an improvement of police service within the UGB, unlike the proposed addition.

Drainage systems in the UGB would be improved in efficiency by the substitution of a large basin in the proposed addition, for existing, small and difficult to maintain basins within the UGB. The area proposed for addition is uniquely apt for this facility because it happens to contain the major storm water drainageway for this area of the city. The area to the south would not be necessary for this purpose. Therefore, improved storm drainage is a reason for granting the petition as it is, but not a basis for approving further addition of territory to the south.

The only contiguous area which the Hearings Officer suggested might qualify as similar and appropriate for inclusion under the same "subsection (a)" factors, was the area to the south, as far as Childs road. This area, though contiguous, is dissimilar and not appropriate for inclusion for the reasons stated here.

The only other contiguous area is to the east, across Stafford Road. In addition to the dissimilarities pointed out above between the proposed addition and the land to the south, there is an extremely important difference between the eastern territory and the subject property: the large parcels of land

east of Stafford are resource lands zoned Exclusive Farm Use and planned for agriculture use, a far more restrictive zoning classification than the Rural five-acre zoning of the area for proposed inclusion. There is no suggestion by the Hearings Officer or any party that the eastern area is similar to the subject area, or similarly appropriate for inclusion in the UGB.

Petitioner initially intended to apply for the inclusion of only Tax Lot 600 (20.83 acres) and Tax Lot 700 (7.05 acres). At the urging of the City Council of Lake Oswego (see, Resolution R-88-8), Petitioner included the additional land in other ownership bringing the subject application up to 43.7 acres. We conclude that the City of Lake Oswego's action shows that, in the view of the City, the 43.7 acres represents the complete block of similarly situated property appropriate for inclusion in the UGB as "forming a logical boundary extension." (L.O. Resolution R-88-8).

Petitioner has included all territory which is contiguous, similarly situated, and appropriate for inclusion under the Metro criteria. The Hearings Officer erred in finding otherwise, and in failing to find that the petition complies with Metro code Section 3.01.040(d)(2).

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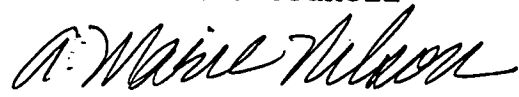
XV. Conclusion and Order

For the foregoing reasons, this petition for locational adjustment satisfies all applicable legal requirements and it should be, and hereby is, granted.

DATED: October 27, 1988.

By Order of the Metropolitan  
Service District Council

By



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

The Council granted the petition  
by adoption of Ordinance No. 88-268  
attached.

Contested Case No. 87-3

Exhibit C

**Legal Description:**

T2S R1E, Section 16C, T.L. 600 and  
Section 16CA T.L. 700, Section 16D, T.L.s  
1000 and 1100



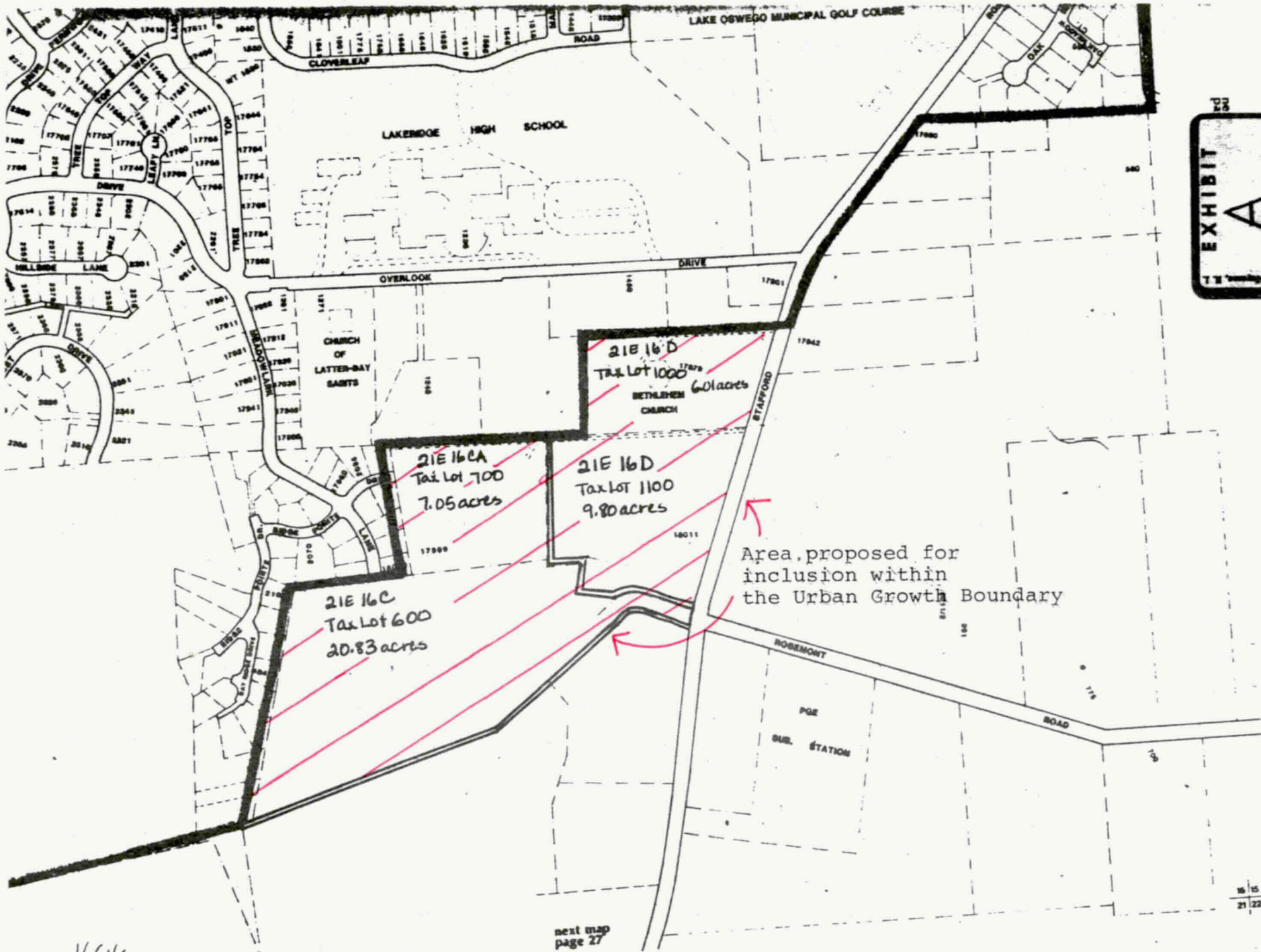


EXHIBIT  
A  
1968 Amended

Area proposed for inclusion within the Urban Growth Boundary

next map page 27

15 15 next map  
21 22 page 28

16/11

Ord. #88-268

William O. and Carole C. Atherton  
1670 Fircrest Dr.  
Lake Oswego, Oregon 97034

October 5, 1988

Mr. Dan Cooper  
Chief Counsel  
Metro  
2000 S.W. First Avenue  
Portland, Oregon 97201

RECEIVED  
OCT 7 1988  
TIME 1:00 pm  
METRO SERVICE DISTRICT  
CITY OF PORTLAND GENERAL COUNCIL

Dear Mr. Cooper:

Re: Blazer Homes Petition for a Locational Adjustment, Contested  
Case No. 87-3

Per your telephone conversation with Carole Atherton, this is to notify you that we cannot be present at Metro's October 13, 1988 meeting because we will be out of the country.

We will, however, be present at Metro's October 27 meeting and would like an opportunity to address the council at that time.

Sincerely,



Carole C. Atherton



William O. Atherton



# METRO

2000 SW First Avenue  
Portland, OR 97201-5398  
(503) 221-1646  
Fax 241-7417

October 27, 1988

The Honorable Mike Ragsdale  
Presiding Officer  
Metropolitan Service District  
2000 S. W. First Avenue  
Portland, OR 97201-5398

Dear Councilor Ragsdale:

Executive Officer  
Rena Cusma

Metro Council

Mike Ragsdale  
Presiding Officer  
District 1

Corky Kirkpatrick  
Deputy Presiding  
Officer  
District 4

Richard Waker  
District 2

Jim Gardner  
District 3

Tom DeJardin  
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Sharron Kelley  
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Mike Bonner  
District 8

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Larry Cooper  
District 10

David Knowles  
District 11

Gary Hansen  
District 12

Re: Agenda Item 6.3, Blazer Homes

Pursuant to Metro Code Section 2.05.045(b), the Council must allow parties "an opportunity to comment orally" on this matter. This ordinance is a revision to the recommended order from the Hearings Officer that would have denied the application to amend the Urban Growth Boundary. The Council has adopted a motion requiring the Office of General Counsel to prepare findings that would support the adoption of the requested amendment to the Urban Growth Boundary. At this time the matter is in front of the Council for second reading, and possible adoption.

Giving parties the opportunity to comment on the revised order at this time allows parties to present their views to the Council on the issues of whether the order that is now in front of the Council, in fact, carries out the Council's adopted motion for approval in an accurate and appropriate fashion. Unless the Council decides otherwise the opportunity for oral comments is not intended to give parties the opportunity to re-argue the case that was previously considered by the Council. Rather, comments should be confined to the narrow questions of whether the findings and ordinance in front of the Council carryout the intent of the Council. The issue in front of the Council is are these findings the ones the Council wishes to adopt in approving the ordinance.

Yours very truly,

Daniel B. Cooper  
General Counsel



# METRO

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

January 5, 1989

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

Dear Mr. Kauffman:

Enclosed are true copies of the following ordinances adopted by the Metro Council. Please file these ordinances in the Metro file maintained by your county.

- \* 88-261, For the Purpose of Amending Chapter 3.01 of the Metropolitan Service District Code to Clarify Standards and Procedures for Identifying Protected Agricultural Land
- \* Ordinance No. 88-263, An Ordinance Amending Ordinance No. 88-247 Revising the FY 1988-89 Budget and Appropriations Schedule for the Purpose of Additional Staffing and Capital Purchases in the Transportation Department
- \* Ordinance No. 88-266, For the Purpose of Adopting the Regional Solid Waste Management Plan and Rescinding Prior Solid Waste Plan Provisions
- \* Ordinance No. 88-268, An Ordinance Adopting a Final Order and Amending the Metro Urban Growth Boundary for Contested Case No. 87-3: Blazer Homes, Inc.
- \* Ordinance No. 88-270, An Ordinance Amending Ordinance No. 88-247 Revising the FY 1988-89 Budget and Appropriations Schedule to Provide Funding for Legislative Expenditures and Increased National Association of Regional Council Dues
- \* Ordinance No. 88-272, An Ordinance Amending Ordinance No. 88-247 Revising the FY 1988-89 Budget and Appropriations Schedule to Provide Funding for Increase in Oregon Laborer's Trust Health Care Premiums

#### Metro Council

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Presiding Officer  
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Gary Hansen  
District 12

Executive Officer  
Rena Cusma

John Kauffman  
January 5, 1989  
Page 2

- \* Ordinance No. 88-273, For the Purpose of Amending Ordinance No. 88-266B (Relating to the Adoption of the Solid Waste Management Plan) By Establishing Enhancement Fees for Solid Waste Facilities and Adding Land Use Goal Findings
- \* Ordinance No. 88-274, An Ordinance Amending Ordinance No. 88-247 Revising the FY 1988-89 Budget and Appropriations Schedule to Provide Funding for an Analysis for a Publicly Owned Metro East Transfer & Recycling Center
- \* Ordinance No. 88-276, For the Purpose of Adding Section 5.01.085 to the Metro Code Relating to Franchise Agreements
- \* Ordinance No. 88-277, An Ordinance Amending Ordinance No. 88-247 Revising the FY 1988-89 Budget and Appropriations Schedule to Reorganize Metro's Word Processing Function
- \* Ordinance No. 88-278, For the Purpose of Amending Metro Code Chapter 5.02 Relating to Solid Waste Rates
- \* Ordinance No. 88-279, An Ordinance Amending Chapter 2.04 of the Metro Code Relating to Metropolitan Exposition-Recreation Commission Contract Procedures

Sincerely,



A. Marie Nelson  
Clerk of the Council

AMN:gpwb

enclosure





# METRO

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

January 5, 1989

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

Dear Mr. Cameron:

Enclosed are true copies of the following ordinances adopted by the Metro Council. Please file these ordinances in the Metro file maintained by your county.

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Charles D. Cameron  
January 5, 1989  
Page 2

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Sincerely,



A. Marie Nelson  
Clerk of the Council

AMN:gpwb

enclosure



# METRO

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

January 5, 1989

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

Dear Jane,

Enclosed are true copies of the following ordinances adopted by the Metro Council. Please file these ordinances in the Metro file maintained by your county.

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Jane McGarvin  
January 5, 1989  
Page 2

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Sincerely,



A. Marie Nelson  
Clerk of the Council

AMN:gpwb

enclosure