

A G E N D A

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METRO

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MEETING: METRO POLICY ADVISORY COMMITTEE

DATE: October 26, 2005

DAY: Wednesday, 5:00-7:00 p.m.

PLACE: Metro Council Chamber/Annex

NO	AGENDA ITEM	PRESENTER	ACTION	TIME
	CALL TO ORDER	Kidd		
1	SELF INTRODUCTIONS, ONE MINUTE LOCAL UPDATES & ANNOUNCEMENTS	All		5 min.
2	CITIZEN COMMUNICATIONS FOR NON-AGENDA ITEMS			5 min.
3	CONSENT AGENDA <ul style="list-style-type: none">October 12, 2005	Kidd	Decision	5 min.
4	COUNCIL UPDATE	Hosticka	Update	5 min.
5	ORDINANCE 05-1089 UGB CODE CHANGES	Benner	Action	30 min.
6	ORDINANCE 05-1070 UGB INDUSTRIAL LAND REMAND	Neill	Action	15 min.
7	GROWING INSIDE THE UGB – LESSONS LEARNED <ul style="list-style-type: none">DowntownsHousing/InfillBrownfields	Sherwood/Oregon City Lake Oswego/Portland Neill	Discussion	60 min.

UPCOMING MEETINGS:

MPAC: November 9 & 16, 2005

MPAC Lively Centers, Room 270: October 26, 2005 & November 23, 2005

MPAC Coordinating Committee, Room 270: November 9, 2005; December 14, 2005

For agenda and schedule information, call Kim Bardes at 503-797-1537. e-mail: bardes@metro.dst.or.us

MPAC normally meets the second and fourth Wednesday of the month.

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METRO POLICY ADVISORY COMMITTEE MEETING RECORD

October 12, 2005 – 5:00 p.m.

Metro Regional Center, Council Chambers

Committee Members Present: Nathalie Darcy, Andy Duyck, Dave Fuller, John Hartsock, Laura Hudson, Tom Hughes, Richard Kidd, Charlotte Lehan, Tom Potter, Martha Schrader

Alternates Present: Bob Bailey, Larry Cooper, Shirely Craddick

Also Present: John Anderson, City of Troutdale; Hal Bergsma, City of Beaverton; Ron Bunch, City of Gresham; Carol Chesarek, Citizen; Bob Clay, City of Portland; Valerie Counts, City of Hillsboro; Danielle Cowan, City of Wilsonville; Noelle Dobson, Active Living by Design; Kay Durtschi, MTAC; Meg Fernekees, DLCD; Jon Holan, City of Forest Grove; Jim Jacks, City of Tualatin; Gil Kelley, City of Portland; Wendie Kellingler, Attorney; Norm King, City of West Linn; Stephan Lashbrook, City of Lake Oswego; Irene Marvich, League of Women Voters; Greg Miller, AGC; Pat Ribellia, City of Hillsboro; Paul Savas, Clackamas County; Amy Scheckla-Cox, City of Cornelius; Andy Smith, Multnomah County; Thane Tienson, Landye Bennett; Terry Vanderkooy, City of Gresham; Andrea Vannelli, Washington County

Metro Elected Officials Present: Liaisons – Carl Hosticka, Council District 3; Susan McLain, Council District 4; Robert Liberty, Council District 6 others: Brian Newman, District 2

Metro Staff Present: Kim Bardes, Dick Benner, Andy Cotugno, Chris Deffebach, Mike Jordan, Robin McArthur, Ray Valone, Reed Wagner

1. SELF-INTRODUCTIONS, ONE MINUTE LOCAL UPDATES & ANNOUNCEMENTS

Mayor Richard Kidd, Interim MPAC Chair, called the meeting to order 5:10 p.m.

Interim Chair Kidd asked those present to introduce themselves and to give updates or announcements as pertained to their jurisdiction.

2. CITIZEN COMMUNICATIONS FOR NON-AGENDA ITEMS

There were none.

3. CONSENT AGENDA

Meeting Summary September 28, 2005 and MTAC Appointment:

Motion:	John Hartsock, Clackamas County Special Districts, with a second from Mayor Tom Hughes, City of Hillsboro, moved to adopt the consent agenda with the one revision of an added comment by Lydia Neill regarding the City of Gresham and their desire to include the Stone Road property adjacent to Springwater for consideration for amendment to the UGB Industrial Lands Remand. The MTAC appointment was also ratified by this vote.
Vote:	The motion passed unanimously.

4. COUNCIL UPDATE

Councilor Carl Hosticka reviewed the draft MPAC agenda for the rest of the year. He informed the members that the Metro Council had voted to amend a resolution to deny the Clackamas County application for an exception for Title 3, and they would be taking a formal vote at the Council meeting next week. He said that they would be voting on a resolution the next day regarding a tax study committee on expansion area planning. He announced the open house scheduled at the Hillsboro Civic Center on October 20, 2005 at 5 p.m. to discuss the industrial lands remand and the Chief Operating Officer's recommendation to meet the remand requirements.

5. ORDINANCE 05-1089 UGB CODE CHANGES

Dick Benner, Metro Attorney, referred the members to the packet material, which is attached and forms part of the record. He reviewed that material, specifically the changes to the code, for the members. He said that he would be making some changes to the code based on comments from MTAC and then it would come back to MPAC and on to the Metro Council.

Mayor Tom Hughes, City of Hillsboro, said that there was a section where the new language would give specific authority to right conditions on making expansions to the Urban Growth Boundary, whereas the previous language implied that Metro had that authority but did not spell it out. He asked Mr. Benner to explain why Metro would want to spell out specific authority.

Mr. Benner said that Mayor Hughes was talking about 040 in the code that talked about conditions of approval. He said that the Council amended it a couple of years ago to state expressly that the Council could place a condition on taking land in to accomplish the policies of the regional framework plan. He said that the proposed change was to language already in the code that stated that Metro could not put in certain conditions that related to a use. For example: if the Council were to expand the UGB, while working with the priorities and statute, in order to address a specific identified need such as a school, the language in the code today could be interpreted to inhibit the Council from designating a certain 20-acres to only be used for school. The new code language would remove that language so that it was no longer unclear whether or not Council could impose that kind of condition.

Mayor Hughes asked if the current or proposed language allowed for the application of conditions that did not relate directly to the property. For example – bring in a certain property with the condition that the city center rezones the downtown area to include denser residential populations?

Mr. Benner said that the limitation in the current code was that the Council could not add a condition that had nothing to do with the subject of the UGB expansion and the policies in the regional framework plan.

Shirley Craddick, City of Gresham, said that one of the reasons that they had the UGB was to discourage sprawl. She expressed concern that allowing schools outside the boundary would undermine the original intent of the UGB. She asked if there would be a rigorous process before schools could locate outside the UGB area?

Mr. Benner said that the bill 1032 said and the only response that Metro had made to it had to do with the speed of decision-making. Therefore, no criterion had changed to make it easier.

6. GROWING AT THE EDGE

6.1 Concept Planning

Ray Valone, Metro Principal Regional Planner, distributed a handout that summarized the current status of the expansion from 2004. He reviewed the material in that handout, which is attached and forms part of the record.

Bob Bailey, City of Oregon City, said that Oregon City had three (3) substantial areas to be planned. He said that they were at the point where being able to fund a process by which cities felt empowered to have a voice in how they would grow and determining the density that was necessary for everyone's objectives was needed.

Mr. Valone said that one of the other challenges was to balance local and regional needs during the process.

6.2 Expansion Area Planning Fund Committee

Mike Jordan, Metro Chief Operating Officer, said that there were certain elements of the process used to manage the edge that was also used to try to manage positive growth within the centers. He said that Mr. Wagner's proposed tool would be attempting to develop funds in order to help with the concept planning for UGB expansions since lack of funds seemed to be slowing down or stopping that process. Metro Council understood the fiscal stress at the local level for long range planning needed in order to make the expansions happen.

Reed Wagner, Metro Policy Advisor, explained that Metro had pulled a varied group of partners from around the region to discuss the need for funding for concept planning for land brought into the UGB. The need was identified as \$10 million. The tool was identified as a building permit fee. The group/committee discussed various ways to collect a fee for this. He said that if the resolution was passed by the Metro Council this Thursday, then it would establish an 11-member committee that would need to meet several times between now and December 15, 2005 to discuss a recommendation for the Metro Council. If everything moved forward accordingly then the fee could go into effect as early as next year. He said that the discussion group had looked at a three-year increment sun-setting at the end of that period. This would break out to about 3.5 million per year to reach the \$10 million. He said that the average building permit fee, on new development only, would come in at approximately \$300 on a \$250,000 development.

Mr. Jordan referred the members to the draft resolution and materials in the meeting packet and Mr. Wagner reviewed those materials for the members.

Councilor Robert Liberty said that Damascus seemed to have more money to do things than some other areas. He wondered if Mr. Wagner had a per acreage amount.

Mr. Wagner and Mr. Valone said that the range was much too broad to give a valid average.

Councilor Brian Newman said that he had participated with the Tax Study committee and he was pleased to realize that the building industry seemed to see the need for this fee. He said that there had been

concern expressed for how the fee would be structured, whether it would sunset, and how the money would be spent, but overall they seemed to see the need for the fee.

Ms. Craddick said that the City of Gresham had borrowed money to finish their plan and she wondered if this fee would be retroactive.

Interim Chair Kidd said that the committee had suggested sun-setting this fee in 3 years, however, there was another round of possible urban growth expansion in the next 2-5 years. He wanted to know how they would fund those needs for concept planning.

Mr. Jordan said that the suggestion for sun setting was to sunset inside the current UGB that had not been concept planned. The new areas that would benefit from the fee and get planned would retain that fee. The fee would stay on those areas as development occurred which would hopefully help with the next round of expansions. He said that there were a lot of variables involved and there was no guarantee that each cycle of expansion would be substantial enough to fund the next cycle. He said that this tool was a stopgap measure to deal with the 2002 expansion areas. He said that he couldn't imagine having discussion in 2007 about expanding the UGB again when the region hasn't be able to turn dirt in many of the areas already brought into the boundary. The sunset issued was brought in by the development partners who did not want to see this across the region forever. Metro Council had an interest in sun-setting this fee also because Metro has a cap in total expenditures in the Metro charter that would bring Metro to within \$1 million of that cap. He said that the costs of Metro, just like most everyone else, was going up faster than CPI and that cap only goes up by CPI which creates a structural problem within the Metro revenue system. Therefore, that fee would eat up most of the cap for Metro operations.

Interim Chair Kidd said that Damascus had their plan almost ready to go and the new development would be paying into that fee system.

Mr. Jordan said that the Metro Council had not yet received the recommendation from the committee.

Diane Linn, Multnomah County, said she would like to see a specific breakdown of how much would be collected and where the money would go by jurisdiction before a decision could be made. She said she wanted Metro to be sure about reaching for a certain number and making sure that number was what each jurisdiction would really need to make this a successful program.

Mr. Wagner said that the number they had come up with was based on what they had done in the past, the type of planning that they were looking at for the remaining area, but it had not been calculated area by area yet.

6.3 Springwater Community Plan

Ms. Craddick introduced Terry Vanderkooy, New Communities Manager for City of Gresham.

Mr. Vanderkooy reviewed the challenges of developing the Gresham Springwater Community Plan. He said that Gresham had done the concept, implementation and master plans concurrently and he thought that was a good process, which made for a quicker and better product. He said that Gresham was essentially annexation ready in both areas. He said that the City of Gresham had adopted the plans, and they had an intergovernmental agreement with Multnomah County, but there were some technical difficulties regarding city versus county processes of adopting policies and plans.

Councilor Robert Liberty asked about affordable housing.

Mr. Vanderkooy said that he would suggest, in terms of Title 11, that Metro look at the relationship between the housing types requirements and the affordable housing and maybe meld the two. He said that affordable housing tended to be equated for financial as well as other reasons with multi-family, but he said he thought it didn't have to be.

John Anderson, City of Troutdale, said that other states often use a low impact development (LID) approach. This had a financing benefit and created an incentive to getting the assessment reporting which helps to make the decision on how to develop. He asked if City of Gresham had considered that tool.

Mr. Vanderkooy said that was the most likely tool they would use for Happy Valley. He said that with development for the new community areas they would assess all the properties that benefit, the problem was that in the new community areas the farmer was still farming and had no intention of developing their property. At some point someone would offer them enough money that they would sell, but that is not their intention. LID works best for properties that are ready to sell and develop, and not for those who have no intention of selling.

6.4 Damascus Concept Plan

John Hartsock, City of Damascus, reviewed the Damascus Concept Plan challenges.

Andy Cotugno, Metro Planning Director, said that having the vote in Damascus created very different results than what had happened in Gresham and Springwater; he said there seemed to be more public support due to the vote.

There was discussion about public involvement costs and the process and best practices in order to achieve the best possible goals.

There being no further business, Chair Hoffman adjourned the meeting at 7:00 p.m.

Respectfully submitted,

Kim Bardes
MPAC Coordinator

ATTACHMENTS TO THE RECORD FOR OCTOBER 12, 2005

The following have been included as part of the official public record:

AGENDA ITEM	DOCUMENT DATE	DOCUMENT DESCRIPTION	DOCUMENT NO.
#6 Growing at the Edge	October 2005	Title 11 New Area Planning Status Report	101205-MPAC-01

Exhibit A to Ordinance No. 05-1089

AMENDMENTS TO CHAPTER 3.01
URBAN GROWTH BOUNDARY AND URBAN RESERVE PROCEDURES

SECTIONS	TITLE
3.01.005	Purpose
3.01.010	Definitions
3.01.012	Urban Reserve Areas
3.01.015	Legislative Amendments - Procedures
3.01.020	Legislative Amendments - Criteria
3.01.025	Major Amendments - Procedures
3.01.030	Major Amendments - Criteria
3.01.033	Minor Adjustments - Procedures
3.01.035	Minor Adjustments - Criteria
3.01.040	Conditions of Approval
3.01.045	Fees
3.01.050	Notice Requirements
3.01.055	Regular Review of Chapter
3.01.060	Severability

3.01.005 Purpose

This chapter prescribes criteria and procedures to be used by Metro in establishing urban reserves and making amendments to the Metro Urban Growth Boundary (UGB). The chapter prescribes three processes for amendment of the UGB:

- (a) Legislative amendments following periodic analysis of the capacity of the UGB and the need to amend it to accommodate long-range growth in population and employment;
- (b) Major amendments to address short-term needs that were not anticipated at the time of legislative amendments; and
- (c) Minor adjustments to make small changes to make the UGB function more efficiently and effectively.

3.01.010 Definitions

(a) "Council" has the same meaning as in Chapter 1.01 of the Metro Code.

(b) "Compatible," as used in this chapter, is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses. Any such interference or adverse impacts must be balanced with the other criteria and considerations cited.

(c) "Goals" means the statewide planning goals adopted by the Oregon Land Conservation and Development Commission at OAR 660-015-0000.

(d) "Legislative amendment" means an amendment to the UGB initiated by Metro, which is not directed at a particular site-specific situation or relatively small number of properties.

(e) "Property owner" means a person who owns the primary legal or equitable interest in the property.

(f) "Public facilities and services" means sewers, water service, stormwater services and transportation.

(g) "UGB" means the Urban Growth Boundary for Metro.

(h) "Urban reserve" means an area designated as an urban reserve pursuant to Section 3.01.012 of this Code and applicable statutes and administrative rules.

3.01.012 Urban Reserve Areas

(a) Purpose. This section establishes the process and criteria for designation of urban reserves areas pursuant to ORS 195.145 and Oregon Administrative Rules Chapter 660, Division 021.

(b) Designation of Urban Reserve Areas.

(1) The Council shall designate the amount of urban reserves estimated to accommodate the forecast need for a period from 10 to 30 years beyond the planning period for the most recent amendment of the UGB pursuant to ORS 197.299.

(2) The Council shall estimate the capacity of urban reserve areas consistent with the estimate of the capacity of land within the UGB.

(3) The Council may allocate urban reserve areas to different planning periods in order to phase addition of the areas to the UGB.

(4) The Council shall establish a 2040 Growth Concept design type applicable to each urban reserve area designated.

(c) Plans For Urban Reserve Areas. Cities and counties may plan for urban reserve areas, consistent with the Regional Framework Plan and OAR 660-021-0040, prior to the inclusion of the areas within the UGB.

3.01.015 Legislative Amendments - Procedures

(a) The Council shall initiate a legislative amendment to the UGB when required by state law and may initiate a legislative amendment when it determines there is a need to add land to the UGB.

(b) Except as otherwise provided in this chapter, the Council shall make a legislative amendment to the UGB by ordinance in the manner prescribed for ordinances in Chapter VII of the Metro Charter. For each legislative amendment, the Council shall establish a schedule of public hearings that allows for consideration of the proposed amendment by MPAC and other advisory committees and the general public.

(c) Notice to the public of a proposed legislative amendment of the UGB shall be provided as prescribed in section 3.01.050 of this chapter.

(d) Prior to the final hearing on a proposed legislative amendment of the UGB in excess of 100 acres, the Chief Operating Officer shall prepare a report on the effect of the proposed amendment on existing residential neighborhoods. The Chief Operating Office shall provide copies of the report to all households located within one mile of the proposed amendment area and to all cities and counties within the district at least 20 days prior to the hearing. The report shall address:

- (1) Traffic patterns and any resulting increase in traffic congestion, commute times and air quality;
- (2) Whether parks and open space protection in the area to be added will benefit existing residents of the district as well as future residents of the added territory; and
- (3) The cost impacts on existing residents of providing needed public facilities and services, police and fire services, public schools, emergency services and parks and open spaces.

(e) The Council shall base its final decision on information received by the Council during the legislative process.

(f) The Council may amend the UGB to include land outside the district only upon a written agreement with the local government that exercises land use planning authority over the land that the local government will apply the interim protection requirements set forth in section 3.07.1110 of the Metro Code to the land until the effective date of annexation of the land to the Metro district. A city or county may adopt an amendment to its comprehensive plan pursuant to section 3.07.1120 of the Metro Code prior to annexation of the land to the district so long as the amendment does not become applicable to the land until it is annexed to the district.

3.01.020 Legislative Amendments - Criteria

(a) The purpose of this section is to identify and guide the application of the factors and criteria for UGB expansion in state law and the Regional Framework Plan. Compliance with this section shall constitute compliance with statewide planning Goal 14 and the Regional Framework Plan.

(b) The Council shall determine whether there is a need to amend the UGB. In determining whether a need exists, the Council may specify characteristics, such as parcel size, topography or proximity, necessary for land to be suitable for an identified need. The Council's determination shall be based upon:

- (1) Demonstrated need to accommodate long-range urban population, consistent with a 20-year population forecast coordinated with affected local governments; or
- (2) Demonstrated need for land suitable to accommodate housing, employment opportunities, livability or uses such as public facilities and services, schools, parks, open space, or any combination of the foregoing in this paragraph; and
- (3) A demonstration that any need shown under paragraphs (1) and (2) of this subsection cannot reasonably be accommodated on land already inside the UGB.

(c) If the Council determines there is a need to amend the UGB, the Council shall evaluate areas for possible addition to the UGB, and, consistent with ORS 197.298, shall determine which areas are better considering the following factors:

- (1) Efficient accommodation of identified land needs;
- (2) Orderly and economic provision of public facilities and services;
- (3) Comparative environmental, energy, economic and social consequences; and
- (4) Compatibility of proposed urban use with nearby agricultural and forest activities occurring on farm and forest land outside the UGB.

(d) If the Council determines there is a need to amend the UGB, the Council shall also evaluate areas for possible addition to the UGB and, consistent with ORS 197.298 and statewide planning Goal 14, shall determine which areas are better, considering the following factors:

- (1) Equitable and efficient distribution of housing and employment opportunities throughout the region;
- (2) Contribution to the purposes of Centers;
- (3) Protection of farmland that is most important for the continuation of commercial agriculture in the region;
- (4) Avoidance of conflict with regionally significant fish and wildlife habitat; and

- (5) Clear transition between urban and rural lands, using natural and built features to mark the transition.

3.01.025 Major Amendments - Procedures

(a) A city, a county, a special district or a property owner may initiate a major amendment to the UGB by filing an application on a form provided by Metro. The Chief Operating Officer will accept applications for major amendments between February 1 and March 15 of each calendar year except that calendar year in which the Council is completing its analysis of buildable land supply under ORS 197.299(1).

(b) Except for that calendar year in which the Council is completing its analysis of buildable land supply, the Chief Operating Officer shall give notice of the March 15 deadline for applications for major amendments not less than 120 days before the deadline and again 90 days before the deadline in a newspaper of general circulation in Metro and in writing to each city and county in Metro and anyone who has requested notification. The notice shall explain the consequences of failure to file before the deadline and shall specify the Metro representative from whom additional information may be obtained. Upon a request by a Metro Councilor and a finding of good cause, the Metro Council may waive the deadline by a two-thirds vote of the full Council.

(c) With the application, the applicant shall provide the names and addresses of property owners for notification purposes, consistent with Section 3.01.050(b). The list shall be certified as true and accurate as of the specified date by a title company, a county assessor or designate of the assessor or the applicant.

(d) The applicant shall provide a written statement from the governing body of each city or county with land use jurisdiction over the area and any special district that has an agreement with that city or county to provide an urban service to the area that it recommends approval or denial of the application. The Council may waive this requirement if the city, county or special district has a policy not to comment on major amendments, or has not adopted a position within 120 days after the applicant's request for the statement. The governing body of a local government may delegate the decision to its staff.

(e) The Chief Operating Officer will determine whether an application is complete and will notify the applicant of the determination within seven working days after the filing of the application. The Chief Operating Officer will dismiss an application and return application fees if a complete application is not received within the 14 days after the notice of incompleteness.

(f) Within 14 days after receipt of a complete application, the Chief Operating Officer will:

- (1) Set the matter for a public hearing before a hearings officer for a date no later than 55 days following receipt of a complete application; and
- (2) Notify the public of the public hearing as prescribed in section 3.01.050 of this chapter.

(g) The Chief Operating Officer shall submit a report and recommendation on the application to the hearings officer not less than 15 days before the hearing and send copies to the applicant and others who have requested copies. Any subsequent report by the Chief Operating Officer to be used at the hearing shall be available to the public at least seven days prior to the hearing.

(h) If the proposed major amendment would add more than 100 acres to the UGB, then the Chief Operating Officer shall prepare a report on the effect of the proposed amendment on existing residential neighborhoods in the manner prescribed in section 3.01.015(d).

(i) An applicant may request postponement of the hearing within 20 days after filing a complete application. The Chief Operating Officer may postpone the hearing for no more than 60 days. If the applicant fails to request rescheduling within 90 days after the request for postponement, the application shall be considered withdrawn and the Chief Operating Officer will return the unneeded portion of the fee deposit assessed pursuant to Section 3.01.045.

(j) Participants at a hearing before a hearings officer need not be represented by an attorney. If a person wishes to represent an organization orally or in writing, the person must indicate the date of the meeting at which the organization adopted the position presented.

(k) Failure of the applicant to appear at the hearing shall be grounds for dismissal of the application unless the applicant requests a continuance. The applicant has the burden of demonstrating that the proposed amendment complies with the criteria.

(l) The hearings officer will provide the following information to participants at the beginning of the hearing:

- (1) The criteria applicable to major amendments and the procedures for the hearing;
- (2) A statement that testimony and evidence must be directed toward the applicable criteria or other criteria the person believes apply to the proposal; and
- (3) A statement that failure to raise an issue in a manner sufficient to afford the hearings office and

participants an opportunity to respond to the issue precludes appeal of that issue.

- (m) The hearing shall be conducted in the following order:
- (1) Presentation of the report and recommendation of the Chief Operating Officer;
 - (2) Presentation of evidence and argument by the applicant;
 - (3) Presentation of evidence and argument in support of or opposition to the application by other participants; and
 - (4) Presentation of rebuttal evidence and argument by the applicant.

(n) The hearings officer may grant a request to continue the hearing or to leave the record open for presentation of additional evidence upon a demonstration that the evidence could not have been presented during the hearing. If the hearings officer grants a continuance, the hearing shall be continued to a date, time and place certain at least seven days from the date of the initial evidentiary hearing. A reasonable opportunity shall be provided at the continued hearing for persons to present and rebut new evidence.

(o) If new evidence is submitted at the continued hearing, the hearings officer may grant a request, made prior to the conclusion of the continued hearing, to leave the record open to respond to the new evidence. If the hearings officer grants the request, the record shall be left open for at least seven days. Any participant may respond to new evidence during the period the record is left open.

(p) Cross-examination by parties shall be by submission of written questions to the hearings officer. The hearings officer shall give participants an opportunity to submit such questions prior to closing the hearing. The hearings officer may set reasonable time limits for oral testimony and may exclude or limit cumulative, repetitive, or immaterial testimony.

(q) A verbatim record shall be made of the hearing, but need not be transcribed unless necessary for appeal.

(r) The hearings officer may consolidate applications for hearing after consultation with Metro staff and applicants. If the applications are consolidated, the hearings officer shall prescribe rules to avoid duplication or inconsistent findings, protect the rights of all participant, and allocate the charges on the basis of cost incurred by each applicant.

(s) Within 15 days following the close of the record, the hearings officer shall submit a proposed order, with findings of fact and conclusions of law and the record of the hearing, to the Chief Operating Officer, who shall make it available for review by participants.

(t) Within seven days after receipt of the proposed order from the hearings officer, the Chief Operating Officer shall set the date and time for consideration of the proposed order by the Council, which date shall be no later than 40 days after receipt of the proposed order. The Chief Operating Officer shall provide written notice of the Council meeting to the hearings officer and participants at the hearing before the hearings officer, and shall post notice of the hearing at Metro's website, at least 10 days prior to the meeting.

(u) The Council shall consider the hearings officer's report and recommendation at the meeting set by the Chief Operating Officer. The Council will allow oral and written argument by participants in the proceedings before the hearings officer. The argument must be based upon the record of those proceedings. Final Council action shall be as provided in Section 2.05.045 of the Metro Code. The Council shall adopt the order, or ordinance if the Council decides to expand the UGB, within 15 days after the Council's consideration of the hearings officer's proposed order.

(v) The Council may approve expansion of the UGB to include land outside the Metro jurisdictional boundary only upon a written agreement with the local government that exercises land use planning authority over the subject land that the local government will apply the interim protection requirements set forth in Section 3.07.1110 of the Metro Code until Metro annexes the subject land to Metro. A city or county may approve an amendment to its comprehensive plan, pursuant to Section 3.07.1120 of the Metro Code so long as the amendment does not become effective until Metro annexes the subject land to Metro.

3.01.030 Major Amendments - Criteria

(a) The purpose of the major amendment process is to provide a mechanism to address needs for land that were not anticipated in the last analysis of buildable land supply under ORS 197.299(1) and cannot wait until the next analysis. Land may be added to the UGB under this section only for the following purposes: public facilities and services, public schools, natural areas, land trades and other nonhousing needs.

(b) The applicant shall demonstrate that the proposed amendment to the UGB will provide for an orderly and efficient transition from rural to urban land use and complies with the criteria and factors in subsections (b) and (c) of Section 3.01.020 of this chapter. The applicant shall also demonstrate that:

- (1) The proposed uses of the subject land would be compatible, or through measures can be made compatible, with uses of adjacent land;
- (2) The amendment will not result in the creation of an island of urban land outside the UGB or an island of rural land inside the UGB; and

- (3) If the amendment would add land for public school facilities, a conceptual school plan as described in Section 3.07.1120(I) has been completed.

(c) If the Council incidentally adds land to the UGB for housing in order to facilitate a trade, the Council shall designate the land to allow an average density of at least 10 units per net developable acre or such other density that is consistent with the 2040 Growth Concept plan designation for the area.

3.01.033 Minor Adjustments - Procedures

(a) A city, a county, a special district, Metro or a property owner may initiate a minor adjustment to the UGB by filing an application on a form provided by Metro. The application shall include a list of the names and addresses of owners of property within 100 feet of the land involved in the application. The application shall also include the positions on the application of appropriate local governments and special districts, in the manner required by Section 3.01.025(d).

(b) The Chief Operating Officer will determine whether an application is complete and notify the applicant of the determination within seven working days after the filing of the application. If the application is not complete, the applicant shall complete it within 14 days of notice of incompleteness. The Chief Operating Officer will dismiss an application and return application fees if a complete application is not received within 14 days of the notice of incompleteness.

(c) Notice to the public of a proposed minor adjustment of the UGB shall be provided as prescribed in section 3.01.050 of this chapter.

(d) The Chief Operating Officer shall review the application for compliance with the criteria in section 3.01.035 of this chapter and shall issue an order with analysis and conclusions within 90 days of receipt of a complete application. The Chief Operating Officer shall send a copy of the order to the applicant, the city or county with jurisdiction over the land that is the subject of the application, to each member of the Council and any person who requests a copy.

(e) The applicant or any person who commented on the application may appeal the Chief Operating Officer's order to the Metro Council by filing an appeal on a form provided by Metro within 14 days after receipt of the order. A member of the Council may request in writing within 14 days of receipt of the order that the decision be reviewed by the Council. The Council shall consider the appeal or Councilor referral at a public hearing held not more than 60 days following receipt of a timely appeal or referral.

(f) Notice to the public of a Council hearing on a proposed minor adjustment to the UGB be provided as prescribed in section 3.01.050 of this chapter.

(g) Following the hearing, the Council shall uphold, deny or modify the Chief Operating Officer's order. The Council shall issue an order with its analysis and conclusions and send a copy to the appellant, the city or county with jurisdiction over the land that is the subject of the application and any person who requests a copy.

3.01.035 Minor Adjustments - Criteria

(a) The purpose of this section is to provide a mechanism to make small changes to the UGB to make it function more efficiently and effectively. It is not the purpose of this section to add land to the UGB to satisfy a need for housing or employment. This section establishes criteria that embody state law and Regional Framework Plan policies applicable to minor adjustments.

(b) Metro may adjust the UGB under this section only for the following reasons: (1) to site roads and lines for public facilities and services; (2) to trade land outside the UGB for land inside the UGB; or (3) to make the UGB coterminous with nearby property lines or natural or built features.

(c) To approve a minor adjustment to site a public facility line or road, or to facilitate a trade, Metro shall find that:

- (1) The adjustment will result in the addition to the UGB of no more than two net acres for a public facility line or road and no more than 20 net acres in a trade;
- (2) Adjustment of the UGB will make the provision of public facilities and services more efficient or less costly;
- (3) Urbanization of the land added by the adjustment would have no more adverse environmental, energy, economic or social consequences than urbanization of land within the existing UGB;
- (4) Urbanization of the land added by the adjustment would have no more adverse effect upon agriculture or forestry than urbanization of land within the existing UGB;
- (5) The adjustment will help achieve the 2040 Growth Concept;
- (6) The adjustment will not result in an island of urban land outside the UGB or an island of rural land inside the UGB; and
- (7) If the adjustment is to facilitate a trade, the adjustment would not add land to the UGB that is currently designated for agriculture or forestry pursuant to a statewide planning goal.

(d) To approve a minor adjustment to make the UGB coterminous with property lines, natural or built features, Metro shall find that:

- (1) The adjustment will result in the addition of no more than two net acres to the UGB;
- (2) Urbanization of the land added by the adjustment would have no more adverse environmental, energy, economic or social consequences than urbanization of land within the existing UGB;
- (3) Urbanization of the land added by the adjustment would have no more adverse effect upon agriculture or forestry than urbanization of land within the existing UGB;
- (4) The adjustment will help achieve the 2040 Growth Concept; and
- (5) The adjustment will not result in an island of urban land outside the UGB or an island of rural land inside the UGB.

(e) Where the UGB is intended to be coterminous with the 100-year floodplain, as indicated on the map of the UGB maintained by Metro's Data Resource Center, Metro may adjust the UGB in order to conform it to a more recent delineation of the floodplain. To approve such an adjustment, Metro shall find that:

- (1) The delineation was done by a professional engineer registered by the state of Oregon;
- (2) The adjustment will result in the addition of no more than 20 net acres to the UGB;
- (3) The adjustment will help achieve the 2040 Growth Concept; and
- (4) The adjustment will not result in an island of urban land outside the UGB or an island of rural land inside the UGB.

(f) If a minor adjustment adds more than two acres of land available for housing to the UGB, Metro shall designate the land to allow an average density of at least 10 units per net developable acre or such other density that is consistent with the 2040 Growth Concept designation for the area.

(g) The Chief Operating Officer shall submit a report to the Council at the end of each calendar year with an analysis of all minor adjustments made during the year. The report shall demonstrate how the adjustments, when considered cumulatively, are consistent with and help achieve the 2040 Growth Concept.

3.01.040 Conditions of Approval

(a) Land added to the UGB by legislative amendment pursuant to Section 3.01.015 or by major amendment pursuant to Section 3.01.025 shall be subject to the requirements of Title 11, Planning for New Urban Areas, of the Urban Growth Management Functional Plan (Metro Code chapter 3.07.1105 et seq.).

(b) Unless a comprehensive plan amendment has been previously approved for the land pursuant to Section 3.01.012(c), when the Council adopts a legislative or major amendment to the UGB, the Council shall:

- (1) In consultation with local governments, designate the city or county responsible for adoption of amendments to comprehensive plans and land use regulations to allow urbanization of each area added to the UGB, pursuant to Title 11. If local governments have an adopted agreement that establishes responsibility for adoption of amendments to comprehensive plans and land use regulations for the area, the Council shall assign responsibility according to the agreement.
- (2) Establish the 2040 Growth Concept design type designations applicable to the land added to the UGB, including the specific land need, if any, that is the basis for the amendment. If the design type designation authorizes housing, the Council shall designate the land to allow an average density of at least 10 units per net developable acre or such other density that is consistent with the design type.
- (3) Establish the boundaries of the area that shall be included in the planning required by Title 11. The boundary of the planning area may include all or part of one or more designated urban reserves.
- (4) Establish the time period for city or county compliance with the requirements of Title 11 which shall not be less than two years following the effective date of the ordinance adding the area to the UGB.

(c) When it adopts a legislative or major amendment to the UGB, the Council may establish conditions that it deems necessary to ensure that the addition of land complies with state planning laws and the Regional Framework Plan. If a city or county fails to satisfy a condition, the Council may enforce the condition after following the notice and hearing process set forth in section 3.07.870 of the Urban Growth Management Functional Plan.

(d) When the Council acts to approve an application with a condition that requires annexation to a city, a service district or Tri-Met:

- (1) Such action shall be by resolution expressing intent to amend the UGB if and when the affected property is annexed to the city, the district or Tri-Met within six months of the date of adoption of the resolution.
- (2) The Council shall take final action, as provided for in paragraphs (c) and (d) of this section, within 30 days of notice that all required annexations have been approved.

3.01.045 Fees

(a) Each application submitted by a property owner or group of property owners pursuant to this chapter shall be accompanied by a filing fee in an amount to be established by resolution of the Council. Such fees shall not exceed the actual costs of Metro to process an application. The filing fee shall include administrative costs and the cost of a hearings officer and of public notice.

(b) The fees for costs shall be charged from the time an application is filed through mailing of the notice of adoption or denial to the Department of Land Conservation and Development and other interested persons.

(c) Before a hearing is scheduled, an applicant shall submit a fee deposit.

(d) The unexpended portion of an applicant's deposit, if any, shall be returned to the applicant at the time of final disposition of the application. If hearings costs exceed the amount of the deposit, the applicant shall pay to Metro an amount equal to the costs in excess of the deposit, prior to final action by the Council.

(e) The Council may, by resolution, reduce, refund or waive the fee, or portion thereof, if it finds that the fee would create an undue hardship for the applicant.

3.01.050 Notice Requirements

(a) For a proposed legislative amendment under section 3.01.015, the Chief Operating Officer shall provide notice of the hearings in the following manner:

- (1) In writing to the director of the Department of Land Conservation and Development at least 45 days before the first public hearing on the proposal;

- (2) In writing to the local governments of the Metro area at least 30 days before the first public hearing on the proposal; and
- (3) To the general public by an advertisement no smaller than 1/8-page in a newspaper of general circulation in the Metro area and by posting notice on the Metro website.

(b) For a proposed major amendment under section 3.01.025, the Chief Operating Officer shall provide notice of the hearing in the following manner:

- (1) In writing at least 45 days before the first public hearing on the proposal to:
 - (A) The applicant;
 - (B) The director of the Department of Land Conservation and Development;
 - (C) The owners of property that is being considered for addition to the UGB; and
 - (D) The owners of property within 250 feet of property that is being considered for addition to the UGB, or within 500 feet of the property if it is designated for agriculture or forestry pursuant to a statewide planning goal;
- (2) In writing at least 30 days before the first public hearing on the proposal to:
 - (A) The local governments of the Metro area;
 - (B) A neighborhood association, community planning organization, or other organization for citizen involvement whose geographic area of interest includes or is adjacent to the subject property and which is officially recognized as entitled to participate in land use decisions by the cities and counties whose jurisdictional boundaries include or are adjacent to the site, and to any other person who requests notice of amendments to the UGB; and
- (3) To the general public by posting notice on the Metro website at least 30 days before the first public hearing on the proposal.

(c) The notice required by subsections (a) and (b) of this section shall include:

- (1) A map showing the location of the area subject to the proposed amendment;
- (2) The time, date and place of the hearing;
- (3) A description of the property reasonably calculated to give notice as to its actual location, with street address or other easily understood geographical reference can be if available;
- (4) A statement that interested persons may testify and submit written comments at the hearing;
- (5) The name of the Metro staff to contact and telephone number for more information;
- (6) A statement that a copy of the written report and recommendation of the Chief Operating Officer on the proposed amendment will be available at reasonable cost 20 days prior to the hearing; and
- (7) A general explanation of the criteria for the amendment, the requirements for submission of testimony and the procedure for conduct of hearings.
- (8) For proposed major amendments only:
 - (A) An explanation of the proposed boundary change;
 - (B) A list of the applicable criteria for of the proposal; and
 - (C) A statement that failure to raise an issue at the hearing, orally or in writing, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes an appeal based on the issue.
- (9) For the owners of property described in paragraph (b)(1)(iii) of this section, the information required by ORS 268.393(3).

(d) For a proposed minor adjustment under section 3.01.033, the Chief Operating Officer shall provide notice in the following manner:

- (1) In writing to the director of the Department of Land Conservation and Development at least 45 days before the issuance of an order on the proposal;

- (2) In writing at least 20 days before the issuance of an order on the proposal to:
 - (A) The applicant and the owners of property subject to the proposed adjustment;
 - (B) The owners of property within 500 feet of the property subject to the proposed adjustment;
 - (C) The local governments in whose planning jurisdiction the subject property lies or whose planning jurisdiction lies adjacent to the subject property;
 - (D) Any neighborhood association, community planning organization, or other organization for citizen involvement whose geographic area of interest includes the area subject to the proposed amendment and which is officially recognized as entitled to participate in land use decisions by the city or county whose jurisdictional boundary includes the subject property; and
 - (E) Any other person requesting notification of UGB changes.

(e) The notice required by subsection (d) of this section shall include:

- (1) A map showing the location of the area subject to the proposed amendment;
- (2) A description of the property reasonably calculated to give notice as to its actual location, with street address or other easily understood geographical reference can be if available;
- (3) A statement that interested persons may submit written comments and the deadline for the comments;
- (4) The name of the Metro staff to contact and telephone number for more information; and
- (5) A list of the applicable criteria for of the proposal.

(f) The Chief Operating Officer shall notify each county and city in the district of each amendment of the UGB.

3.01.055 Regular Review of Chapter

The procedures in this chapter shall be reviewed by Metro every five years, and can be modified by the Council at any time to correct any deficiencies which may arise.

3.01.060 Severability

Should a section, or portion of any section of this chapter, be held to be invalid or unconstitutional, the remainder of this chapter shall continue in full force and effect.

M E M O R A N D U M

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METRO

Date: October 19, 2005

TO: MPAC

FROM: Lydia Neill, Principal Regional Planner

RE: MTAC Recommendation on LCDC Remand on Industrial Land (Ordinance 05-1070)

Background

The Land Conservation and Development Commission (LCDC) met on November 3, 2004 to consider acknowledgement of Metro's urban growth boundary (UGB) decision on industrial land. The Commission heard arguments from objectors as well as Metro before issuing a Partial Approval and Remand Order 05-WK TASK- 001673 on July 22, 2005. The order was received on July 25, 2005. The order requires Metro to complete the remand work and submit it to Department of Land Conservation and Development (DLCD) by December 1, 2005.

Chief Operating Officers Recommendation

The Chief Operating Officers recommendation includes:

- Add 348 net acres of the Evergreen Study area to the UGB to meet the need for a 20 year supply of land and mitigate the loss of 198 acres for streets;¹
- Demonstrate that all of the locational factors in Goal 14 were balanced in reaching the decision to include the Cornelius area into the UGB;
- Additional 198 acres be added to ensure that adequate land has been allotted for infrastructure (streets);
- Provide additional information to explain that the commercial refill rate of 52 percent corresponds to the observed refill rate, which reduces the need for industrial land;
- Include the Port of Portland land located adjacent to Hayden Island;
- Provide additional information on how the demand for large lots (50 to 100 plus acres) can be met when adjacent tax lots under the same ownership are aggregated and a condition is placed on the Evergreen area to form a one hundred acre lot;
- Provide additional analysis to explain how 70 percent of the demand for warehouse and distribution land is met inside of the UGB and in expansion areas.

Action

MPAC reviewed the recommendation on September 29, 2005 and discussed the remand in general at their August and September meetings. MTAC reviewed the recommendation on September 21st and October 5th and has forwarded their recommendation to MPAC for their consideration. In particular, MTAC was supportive of inclusion of the Evergreen, Cornelius and Port of Portland areas in the urban growth boundary (UGB).

¹ Future streets have been deducted from net acres.