

A G E N D A

600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736
TEL 503 797 1542 | FAX 503 797 1793



METRO

Agenda

MEETING: METRO COUNCIL REGULAR MEETING – revised 11/14/2005
DATE: November 17, 2005
DAY: Thursday
TIME: 2:00 PM
PLACE: Metro Council Chamber

CALL TO ORDER AND ROLL CALL

1. INTRODUCTIONS

2. CITIZEN COMMUNICATIONS

3. METRO AUDITOR'S UPDATE

4. CONSENT AGENDA

4.1 Consideration of Minutes for the November 10, 2005 Metro Council Regular Meeting.

5. ORDINANCES – FIRST READING

5.1 **Ordinance No. 05-1097**, Amending the Metro Habitat Conservation Areas Map and Other Maps Related to Title 13 of the Urban Growth Management Functional Plan. Hosticka

6. ORDINANCES - SECOND READING

6.1 **Ordinance No. 05-1089A**, For the Purpose of Amending Chapter 3.01 of the Metro Code (Urban Growth Boundary and Urban Reserve Procedures) and Title 11 (Planning For New Urban Areas) of the Urban Growth Management Functional Plan to Comply With Changes in State Planning Laws, and Declaring an Emergency. McLain

6.2 **Ordinance No. 05-1070A**, For the Purpose of Amending the Urban Growth Boundary to Increase Capacity to Accommodate Growth in Industrial Employment and to Respond to Remand Orders From the Land Conservation and Development Commission. Newman

7. RESOLUTIONS

7.1 **Resolution No. 05-3628**, Designating Council Projects and Confirming Lead Councilors and Council Liaisons Burkholder

**8. EXECUTIVE SESSION HELD PURSUANT TO ORS 192.660(1)(e).
DELIBERATIONS WITH PERSONS DESIGNATED TO NEGOTIATE
REAL PROPERTY TRANSACTIONS.**

8.1 **Resolution No. 05-3630**, For the Purpose of Approving an Application For Easement/Right of Way/Lease to the City of Wilsonville for the Construction of the Boeckman Road Extension Project. Hosticka

9. CHIEF OPERATING OFFICER COMMUNICATION

10. COUNCILOR COMMUNICATION

ADJOURN

Television schedule for Nov. 17, 2005 Metro Council meeting

| | |
|---|---|
| <p>Clackamas, Multnomah and Washington counties, and Vancouver, Wash. Channel 11 -- Community Access Network www.yourtv.org -- (503) 629-8534 2 p.m. Thursday, Nov. 17 (live)</p> | <p>Portland Channel 30 (CityNet 30) -- Portland Community Media www.pcmv.org -- (503) 288-1515 8:30 p.m. Sunday, Nov. 20 2 p.m. Monday, Nov. 21</p> |
| <p>Gresham Channel 30 -- MCTV www.mctv.org -- (503) 491-7636 2 p.m. Monday, Nov. 21</p> | <p>Washington County Channel 30 -- TVC-TV www.tvctv.org -- (503) 629-8534 11 p.m. Saturday, Nov. 19 11 p.m. Sunday, Nov. 20 6 a.m. Tuesday, Nov. 22 4 p.m. Wednesday, Nov. 23</p> |
| <p>Oregon City, Gladstone Channel 28 -- Willamette Falls Television www.wftvaccess.com -- (503) 650-0275 Call or visit website for program times.</p> | <p>West Linn Channel 30 -- Willamette Falls Television www.wftvaccess.com -- (503) 650-0275 Call or visit website for program times.</p> |

PLEASE NOTE: Show times are tentative and in some cases the entire meeting may not be shown due to length. Call or check your community access station web site to confirm program times.

Agenda items may not be considered in the exact order. For questions about the agenda, call Clerk of the Council, Chris Billington, (503) 797-1542. Public hearings are held on all ordinances second read and on resolutions upon request of the public. Documents for the record must be submitted to the Clerk of the Council to be considered included in the decision record. Documents can be submitted by e-mail, fax or mail or in person to the Clerk of the Council. For additional information about testifying before the Metro Council please go to the Metro website www.metro-region.org and click on public comment opportunities. For assistance per the American Disabilities Act (ADA), dial TDD 797-1804 or 797-1540 (Council Office).

BEFORE THE METRO COUNCIL

AMENDING THE METRO HABITAT) Ordinance No. 05-1097
CONSERVATION AREAS MAP AND)
OTHER MAPS RELATED TO TITLE 13 OF)
THE URBAN GROWTH MANAGEMENT) Introduced by Michael Jordan, Chief Operating
FUNCTIONAL PLAN; AND DECLARING) Officer, with the concurrence of David Bragdon,
AN EMERGENCY) Council President

WHEREAS, nature in neighborhoods is critical to maintaining and improving the high quality of life, livability, and standard of living enjoyed by the people of the Metro region; and

WHEREAS, the Metro region places a high priority on the protection of its streams, wetlands, and floodplains to maintain access to nature, sustain and enhance native fish and wildlife species and their habitats, mitigate high storm flows and maintain adequate summer flows, provide clean water, and create communities that fully integrate the built and natural environment; and

WHEREAS, on September 29, 2005, the Metro Council adopted Ordinance No. 05-1077C to establish a regional fish and wildlife habitat protection program; and

WHEREAS, Metro undertook the development of a fish and wildlife habitat protection program as one element of the Nature in Neighborhoods initiative consistent with Statewide Planning Goal 5, which is intended “to protect natural resources and conserve scenic and historic areas and open spaces,” and with Oregon Administrative Rules chapter 660, Division 23, adopted by the Land Conservation and Development Commission to implement Goal 5 (the “Goal 5 Rule”); and

WHEREAS, Metro has completed a region-wide inventory of regionally significant fish and wildlife habitat comprising 80,000 acres that has been located and classified for its ecological value and mapped to provide an information base for the region; and

WHEREAS, Metro’s inventory of regionally significant resources was based on the best available data identifying streams and other habitat areas; and

WHEREAS, after Metro completed its initial inventory of fish and wildlife habitat, the City of Portland completed a project to update the data and maps for streams located within the City of Portland and its urban services boundary adopted pursuant to ORS chapter 195; and

WHEREAS, the City’s updated streams data identifies the locations of streams in the Fanno Creek and Rock Creek watersheds that had not been identified as part of Metro’s original streams inventory; and

WHEREAS, the streams identified in the Fanno Creek and Rock Creek watersheds are comparable to other streams identified by Metro as regionally significant fish and wildlife habitat; and

WHEREAS, Metro has reviewed its analysis of the economic, social, environmental and energy consequences of protecting or not protecting the inventoried habitat and determined that adding the newly identified fish and wildlife habitat resources in the Fanno Creek and Rock Creek watersheds is consistent with this analysis; and

WHEREAS, Metro has concluded that, as a matter of regional equity and policy consistency in the administration of the Nature in Neighborhoods program and for the reasons stated in Ordinance No. 05-1077C for the adoption that program, Metro's allow-limit-prohibit decision and the program adopted by Metro to implement that decision should apply to such newly identified fish and wildlife habitat resources just as it applies to comparable resources throughout the region; and

WHEREAS, the Metro Council also approved certain map revisions in Section 10 of Ordinance No. 05-1077C, as reflected in Exhibit G to that ordinance, and directed Metro staff to prepare final copies of all maps adopted with that ordinance to reflect the map revisions in Exhibit G; and

WHEREAS, Metro staff have made the map revisions as directed in Exhibit G to Ordinance No. 05-1077C, and the map amendments adopted in this ordinance reflect those revisions; and

WHEREAS, Metro has received a request to correct Metro's Regionally Significant Educational or Medical Facilities Map, included in Attachment 7 to Exhibit C of Ordinance No. 05-1077C; now therefore

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. Ordinance No. 05-1077C, the Nature in Neighborhoods ordinance, shall be amended as described in Sections 2 through 7 of this ordinance to add Class I and Class II riparian habitat resources and associated Habitat Conservations Areas in the Fanno Creek and Rock Creek watersheds within the City of Portland, and to approve the final maps that result from the map revisions approved in Exhibit G to Ordinance No. 05-1077C. To the extent that the map revisions described in Exhibit G to Ordinance No. 05-1077C conflict with the map revisions approved in this ordinance, the revisions in this ordinance shall prevail.
2. The Regionally Significant Fish and Wildlife Habitat Inventory Map (the "Inventory Map"), adopted as Exhibit A to Ordinance No. 05-1077C, shall be amended as reflected in Exhibit A to this ordinance.
3. The Habitat Conservation Areas Map, adopted as Attachment 1 to Exhibit C to Ordinance No. 05-1077C, shall be amended as reflected in Exhibit B to this ordinance.
4. The Metro 2004 Wetland Inventory Map, adopted as Attachment 3 to Exhibit C to Ordinance No. 05-1077C, shall be amended as reflected in Exhibit C to this ordinance.
5. The Metro Habitat Urban Development Value Map, adopted as Attachment 4 to Exhibit C to Ordinance No. 05-1077C, shall be amended as reflected in Exhibit D to this ordinance.
6. The Metro Vegetative Cover Map, adopted as Attachment 5 to Exhibit C to Ordinance No. 05-1077C, shall be amended as reflected in Exhibit E to this ordinance.
7. The Metro Habitats of Concern Map, adopted as Attachment 6 to Exhibit C to Ordinance No. 05-1077C, shall be amended as reflected in Exhibit F to this ordinance.

8. The Metro Regionally Significant Educational or Medical Facilities Map, adopted as Attachment 7 to Ordinance No. 05-1077C, shall be amended as reflected in Exhibit G to this ordinance.
9. The Findings of Fact and Conclusions of Law in Exhibit H to this ordinance (the "Findings") are hereby adopted and incorporated by reference into this ordinance. The Findings explain how this ordinance complies with state law, the Regional Framework Plan, and the Metro Code. All attachments to the Findings are part of the Findings and are also hereby incorporated by reference into this ordinance.
10. The provisions of this ordinance are separate and severable. In the event that any one or more clause, sentence, paragraph, section, subsection, or portion of this ordinance or the application thereof to any city, county, person, or circumstance is held invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions of this ordinance or its application to other cities, counties, persons, or circumstances shall not be affected.
11. This ordinance is necessary for the immediate preservation of the public health, safety or welfare of the Metro area in order to ensure timely acknowledgement review of the Nature in Neighborhoods program by the Land Conservation and Development Commission. An emergency is therefore declared to exist and this ordinance shall take effect on December 28, 2005.

ADOPTED by the Metro Council this ___ day of _____, 2005.

David Bragdon, Council President

Attest:

Approved as to form:

Christina Billington, Recording Secretary

Daniel B. Cooper, Metro Attorney

EXHIBIT A—ORDINANCE NO. 05-1097

**REGIONALLY SIGNIFICANT FISH AND WILDLIFE
HABITAT INVENTORY MAP (the “Inventory Map”)**

The Regionally Significant Fish and Wildlife Habitat Inventory Map (the “Inventory Map”) is available for review in the Metro Council’s files (see map labeled “Ordinance No. 05-1077B,” but note that additional revisions were approved as described in Section 10 of Ordinance 05-1077C) or from the Metro Data Resource Center, 600 N.E. Grand Ave., Portland, OR 97232. This map is available via Metro’s website at: www.metro-region.org/nature.

Updated electronic and printed copies of this map to reflect amendments described in Section 1 of Ordinance No. 05-1097, may be viewed at the Data Resource Center or viewed via Metro’s website at: www.metro-region.org/nature beginning November 30, 2005.

EXHIBIT B—ORDINANCE NO. 05-1097

HABITAT CONSERVATION AREAS MAP

The Habitat Conservation Areas Map is available for review in the Metro Council's files (see map labeled "Ordinance No. 05-1077B," but note that additional revisions were approved as described in Section 10 of Ordinance No. 05-1077C) or from the Metro Data Resource Center, 600 N.E. Grand Ave., Portland, OR 97232. This map is also available via Metro's website at: www.metro-region.org/nature.

Updated electronic and printed copies of this map to reflect amendments described in Section 1 of Ordinance No. 05-1097 may be viewed at the Data Resource Center or viewed via Metro's website at: www.metro-region.org/nature beginning November 30, 2005.

EXHIBIT C—ORDINANCE NO. 05-1097

METRO 2004 WETLAND INVENTORY MAP

The Metro 2004 Wetland Inventory Map is available for review in the Metro Council's files (see map labeled "Ordinance No. 05-1077B," but note that additional revisions were approved as described in Section 10 of Ordinance No. 05-1077C) or from the Metro Data Resource Center, 600 N.E. Grand Ave., Portland, OR 97232. This map is also available via Metro's website at: www.metro-region.org/nature.

Updated electronic and printed copies of this map to reflect amendments described in Section 1 of Ordinance No. 05-1097 may be viewed at the Data Resource Center or viewed via Metro's website at: www.metro-region.org/nature beginning November 30, 2005.

EXHIBIT D—ORDINANCE NO. 05-1097

METRO HABITAT URBAN DEVELOPMENT VALUE MAP

The Metro Habitat Urban Development Value Map is available for review in the Metro Council's files (see map labeled "Ordinance No. 05-1077B") or from the Metro Data Resource Center, 600 N.E. Grand Ave., Portland, OR 97232. Electronic and printed copies of maps may be purchased from the Data Resource Center.

Updated electronic and printed copies of this map to reflect the amendment described in Section 8 of Ordinance No. 05-1097 may be viewed at the Data Resource Center or viewed via Metro's website at: www.metro-region.org/nature beginning November 30, 2005.

EXHIBIT E—ORDINANCE NO. 05-1097

METRO VEGETATIVE COVER MAP

The Metro Vegetative Cover Map is available for review in the Metro Council's files (see map labeled "Ordinance No. 05-1077B," but note that additional revisions were approved as described in Section 10 of Ordinance No. 05-1077C) or from the Metro Data Resource Center, 600 N.E. Grand Ave., Portland, OR 97232. This map is also available via Metro's website at: www.metro-region.org/nature.

Updated electronic and printed copies of this map to reflect amendments described in Section 1 of Ordinance No. 05-1097 may be viewed at the Data Resource Center or viewed via Metro's website at: www.metro-region.org/nature beginning November 30, 2005.

EXHIBIT F—ORDINANCE NO. 05-1097

METRO HABITATS OF CONCERN MAP

The Metro Habitats of Concern Map is available for review in the Metro Council's files (see map labeled "Ordinance No. 05-1077B," but note that additional revisions were approved as described in Section 10 of Ordinance No. 05-1077C) or from the Metro Data Resource Center, 600 N.E. Grand Ave., Portland, OR 97232.

Updated electronic and printed copies of this map to reflect amendments described in Section 1 of Ordinance No. 05-1097 may be viewed at the Data Resource Center beginning November 30, 2005.

EXHIBIT G—ORDINANCE NO. 05-1097

**REGIONALLY SIGNIFICANT EDUCATIONAL
OR MEDICAL FACILITIES MAP**

Revised Clackamas Community College facilities map for the Oregon City Campus (Tax Lot Number 32E09C800) to amend Attachment 7 to Exhibit C of Ordinance No. 05-1077C (the Regionally Significant Educational or Medical Facilities Map).

EXHIBIT H—ORDINANCE NO. 05-1097

FINDINGS OF FACT AND CONCLUSIONS OF LAW

[To be drafted prior to final adoption]

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 05-1097 AMENDING THE METRO HABITAT CONSERVATION AREA MAP AND OTHER MAPS RELATED TO TITLE 13 OF THE URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN

Date: November 1, 2005

Prepared by: Paul Ketcham

CONTEXT AND BACKGROUND

On September 29, 2005, Metro Council adopted the Nature in Neighborhoods Ordinance No. 05-1077C to establish a regional fish and wildlife habitat protection program. The intent of the ordinance is to (1) conserve, protect, and restore a continuous ecologically viable streamside corridor system that is integrated with upland wildlife habitat and with the surrounding urban landscape, and (2) to control and prevent water pollution for the protection of public health and safety, and to maintain and improve water quality throughout the region. The ordinance amends Metro's Regional Framework Plan and creates a new Title 13 "Nature in Neighborhoods" of the Urban Growth Management Functional Plan. The ordinance establishes flexible development standards that will protect valuable streamside, wetland, and flood area habitat (Class I and II Riparian Corridors) within the current urban growth boundary and within the current Metro jurisdictional boundary. The ordinance also establishes flexible development standards to protect upland habitat (Class A and B Upland Wildlife Habitat) in future urban growth boundary expansion areas.

The ordinance is designed to help local governments within the Metro boundary meet the requirements of Statewide Planning Goal 5: Natural Resources, Scenic and Historic Areas, and Open Spaces and Statewide Planning Goal 6: Water Quality. Once the Nature in Neighborhoods ordinance is acknowledged by the Land Conservation and Development Commission pursuant to ORS 197.274, cities and counties will have two years to amend their plans and codes to comply with its requirements. Several options for city and county compliance are provided, including a ready-to-implement Model Code. Some cities and counties could rely or expand upon existing programs to meet regional standards.

Of the 80,542 acres in Metro's regionally significant fish and wildlife habitat inventory, 39,299 acres are identified as Class I and II Riparian Corridor habitats which are the highest value streamside areas. Almost all of the Class I and II Riparian Corridor habitats are designated as Habitat Conservation Areas (HCAs).¹ Title 13 development standards apply within HCAs where the Metro Council applied a "limit" decision as provided in the Goal 5

¹ Ordinance 05-1077C Exhibit F, Attachment 5 "September 2004 Habitat Inventory Update." The update data shows 39,274 acres of Class I and II Riparian Corridor habitat designated as HCAs. The difference, 25 acres, was not mapped as HCAs because Metro Council concluded that the economic importance of certain International Marine Terminals far outweighed the environmental importance of the properties as fish and wildlife habitat.

administrative rule (OAR 660-23-040). The standards are designed to first avoid habitat, then to minimize adverse impacts on habitat, and last to mitigate for lost habitat functions.²

CURRENT ACTION

Ordinance No. 05-1097 as recommended by staff would amend Title 13 Nature in Neighborhoods Ordinance No. 05-1077C to ensure its consistent application within the region by including all streams within the Fanno and Rock Creek watersheds inventoried by the City of Portland. When Metro updated its inventory of regionally significant habitat in September 2004, it used the City of Portland's most current stream inventory for all portions of the City except in the Fanno and Rock Creek watersheds. This amendment would rectify this situation and apply the City's updated (2004) stream data for the portions of Fanno and Rock Creek watersheds located within the City and its urban services boundary.³ The amendment is intended to achieve policy consistency and regional equity in the administration of the Nature in Neighborhoods program by applying Title 13 Habitat Conservation Areas and development standards to the newly identified Class I and II Riparian Corridors just as they apply to comparable resources throughout the region.

Ordinance No. 05-1097 also incorporates certain map revisions in Section 10 of Ordinance No. 05-1077C, as contained in Exhibit G to that ordinance. The map revisions approved by Metro Council reflect changes pertaining to the location or existence of streams and wetlands, flood areas, and vegetative cover. Ordinance No. 05-1077C directs Metro staff to prepare final copies of all maps adopted with that ordinance to reflect the map revisions defined in Exhibit G. If approved by Metro Council, these maps will also include the updated stream within the portion of the Fanno and Rock Creek watersheds located within the City of Portland and its urban services boundary.

Alternative courses of action include:

- Do not amend Metro's inventory of Class I and II Riparian Corridors or Habitat Conservation Areas within the Fanno and Rock Creek watersheds study area using City of Portland's updated streams data and instead retain current mapping for the study area; carry out map revisions defined in Exhibit G of Ordinance No. 05-1077C;
- Amend Metro's inventory of Class I and II Riparian Corridors and Habitat Conservation Areas within the Fanno and Rock Creek watersheds study area using City of Portland's updated stream data; carry out other map revisions defined in Exhibit G of Ordinance No. 05-1077C.

² See the Staff Report for Ordinance No. 05-1077 for additional background and explanation of ordinance contents.

³ City of Portland's urban services boundary includes portions of unincorporated Multnomah County. Much of the study area is also located within the service area of Clean Water Services.

ANALYSIS OF THE AMENDMENT

1. Inventory

The Fanno and Rock Creek watersheds located within the City of Portland and its urban services boundary comprise a 6,626 acre study area located on the western slopes of the Tualatin Hills. Most of the study area is located within the Fanno Creek watershed.⁴ These watersheds drain into the Tualatin basin and are generally characterized by steep and forested slopes, steep stream gradients, and soils that are slow to infiltrate rainfall. Some relatively wide, connected, and vegetated riparian corridors remain in portions of the upper watersheds. The predominant use in these watersheds is single family residential, comprising over 80 percent of the watershed area.⁵ Metro's Habitat Inventory Report and the Addendum and Update to that report provide additional information about watershed conditions.⁶

Metro staff applied the same inventory methodology to identify the Class I and II Riparian Corridors within the Fanno and Rock Creek watersheds study area (hereafter referred to as "the study area") as used in developing the regional fish and wildlife habitat inventory.⁷ Metro's September 2004 inventory update contains 30.7 miles of streams and 920 acres of Class I and II Riparian Corridors within the study area.⁸

Incorporating the more detailed City of Portland streams data results in 38.3 miles of streams and 1,096 acres of Class I and II Riparian Corridors in the study area, adding 7.6 miles of new stream miles compared to the Metro inventory update of September 2004.⁹ Applying Metro's inventory methodology using the more detailed stream data results in 816 acres of Class I and II Riparian Corridors that remain unchanged from Metro's 2004 inventory update and the addition of 280 acres of not previously mapped Class I and II Riparian Corridors within the study area (816 acres + 280 acres = 1,096 acres).¹⁰

A map displaying Riparian Class I and II Riparian Corridors using City of Portland's updated stream data is included as Attachment 1 to this Staff Report.

⁴ Approximately 1,200 acres of the 6,626 acre study area are located within the Rock Creek watershed.

⁵ City of Portland Bureau of Environmental Services. 2005. Fanno Tryon Watershed Plan.

⁶ The portion of Fanno Creek watershed within the City of Portland is contained in Metro's Subwatershed #12 (Fanno Creek); the portion of Rock Creek watershed within the City of Portland is contained in Metro's Subwatershed #8 (Beaverton Creek). See Ordinance No. 05-1077C, Exhibit F Attachment 1, Part 1 and 2.

⁷ See Ordinance No. 05-1077C, Exhibit F, Attachment 1 "Metro Habitat Inventory Report" and Attachment 2 "Technical Report."

⁸ Attachment 4 to this Staff Report.

⁹ Attachment 5 to this Staff Report. It should be noted that 7.15 of the 7.6 miles of streams are located outside Class I and II Riparian Corridors identified in Metro's September 2004 inventory update (Stream mile data from Metro Data Resources Center and City of Portland Bureau of Planning).

¹⁰ Attachment 6 to this Staff Report. Using the more detailed City of Portland streams data results in the deletion of some formerly mapped streams and the addition of streams not previously mapped in the 6,626 acre study area. Comparing Attachments 4 and 5 to this Staff Report, the net difference in Class I and II Riparian Corridor acreage using the more detailed City of Portland streams is 176 acres (280 acres of not previously mapped Class I and II Riparian Corridors added as a result of using the City's stream data minus 104 acres of former Class I and II Riparian Corridors deleted).

2. Economic, Social, Environmental, and Social (ESEE) Consequences and Program Decision

Conflicting Uses: Metro's ESEE consequences of allowing, limiting, or prohibiting conflicting uses within Class I and II Riparian Corridors are analyzed in Metro's Phase I and II ESEE Reports. Metro identified conflicting uses within regionally significant fish and wildlife habitat areas by using Metro's seven generalized regional zones as follows: single family residential, multifamily residential, mixed use centers, commercial, industrial, rural, and parks and open spaces. This analysis adequately describes the kinds of conflicting uses occurring within existing and newly added Class I and II Riparian Corridors in the study area.¹¹

Generalized Regional Zoning: Within the 280 acres of newly added Class I and II Riparian Corridors within the study area, single family residential comprises 84% of the generalized regional zoning, and multifamily accounts for another 5% of the total. Remaining generalized regional zoning applying within newly added Class I and II Riparian Corridors includes Parks and Open Space (7%), Commercial (3%) and Rural (1%).¹² On a regional basis, residentially zoned lands represent a smaller proportion of lands within Class I and II Riparian Corridors: 46% are zoned for single family residential use, and another 5% are zoned for multifamily residential use.¹³

Development Status: Within the 280 acres of newly added Class I and II Riparian Corridors within the study area, 47% are developed (with primarily residential uses), 14% are in parks, and 39 % are vacant.¹⁴ Compared to the study area as a whole, 38% of the Riparian Class I and II Corridors are developed, 25% are in parks, and 37% are vacant.¹⁵

Baseline Protection of Class I and II Riparian Corridors: Metro's Phase II ESEE Report defines a baseline from which to measure the ESEE tradeoffs of additional protection proposed for the various alternatives studied. The baseline chosen for the analysis is Metro's Title 3 (Water Quality and Flood Management Plan) because it serves as a proxy for measuring existing levels of protection in a consistent fashion across the region. On a regional basis, 40% of Class I and II Riparian Corridors are covered by Title 3 Water Quality Resource Areas, and another 22% are located within Title 3 Flood Management Areas.¹⁶ Within the newly added Class I and II Riparian Corridors within the study area, only 3% are covered by Title 3 Water Quality Resource Areas (WQRA), and no acres are located in Title 3 Flood Management Areas.¹⁷ This difference points to the fact that most of the newly added

¹¹ Conflicting uses by generalized regional zoning are identified in Ordinance No. 05-1077C, Exhibit F, Attachment 3: Phase I ESEE Analysis, pp. 40-48, and Exhibit F, Attachment 3: Appendix D.

¹² Attachment 7 to this Staff Report.

¹³ Ordinance No. 05-1077C, Exhibit F, Attachment 3: Phase I ESEE Analysis, Table 3-4.

¹⁴ Attachment 6 to this Staff Report. Twenty-nine percent (29%) of the 280 acres of new Class I and II Riparian Corridors within the study area are vacant unconstrained.

¹⁵ Attachment 5 to this Staff Report. Nineteen percent (19%) of the 1097 acres of the Class I and II Riparian Corridors in the study area are vacant unconstrained.

¹⁶ Ordinance No. 05-1077C, Exhibit F, Attachment 5: September 2004 Habitat Inventory Update Table.

¹⁷ Attachment 6 to this Staff Report.

Riparian Class I and II Riparian Corridors in the study area are located in the upper reaches of the Fanno and Rock Creek watersheds where there are no flood areas and where Title 3 WQRA requirements do not apply.

Many local jurisdictions provide protection of streamside areas beyond Metro's Title 3 requirements. Both the City of Portland and the Clean Water Services administer provisions to protect streams that exceed the minimum required by Metro's Title 3 WQRA and FMA performance standards. The City of Portland's existing environmental zoning program includes a protection zone and a conservation zone. Of the 280 acres of new Riparian Class I and II Riparian Corridors within the study area, 150 acres, or 53%, are located within the boundaries of the City's existing environmental zones.¹⁸

Urban Development Value: Metro's ESEE Phase I Report describes the methodology for ranking land based on the economic importance for development. After considerable review by various technical advisory committees and an independent economic advisory board, Metro classified lands as high, medium, low and other urban development value based on 2040 design types, land value and employment. High urban development value includes centers, regionally significant industrial areas, and regionally significant medical and educational facilities; Medium urban development value includes other industrial areas, employment centers, main streets, station communities; Low urban development value includes inner and outer neighborhoods and corridors; Other Areas include parks and open spaces and lands with no design types outside the urban growth boundary.¹⁹

Within the 280 acres of newly added Class I and II Riparian Corridors within the study area, 77% are classified as low urban development value, 4% as medium, 4% as high, and 15% as other areas.²⁰ This distribution reflects that most of the acreage is zoned for residential use or parks. High and medium urban development values are associated with the 10 acres zoned for commercial use.

Analysis of ESEE Consequences of Limiting Conflicting Uses and Program Decision:

Metro's Phase I and II ESEE Reports thoroughly analyze the consequences of a range of regulatory and non-regulatory options and support the Council's decision to designate Habitat Conservation Areas within the region's 39,274 acres of Class I and II Riparian Corridors. These analyses also support a Council decision to apply Habitat Conservation Areas to the 280 acres of newly added Class I and II Riparian Corridors within the study area (these 280 acres comprise less than 1% of all Habitat Conservation Areas within the region). Attachment 2 to the Staff Report is a map showing the location of Habitat Conservation Areas within the study area using City of Portland stream data. Attachment 3 to the Staff Report is a map showing where Habitat Conservation Areas have been removed or added since the September 2004 Metro inventory update using City of Portland's stream data.

¹⁸ City of Portland data, October 2005.

¹⁹ Ordinance No. 05-1077C, Exhibit C, Title 13: Nature in Neighborhoods, Table 3.07-13a: Method for Identifying Habitat Conservation Areas

²⁰ Attachment 8 to this Staff Report.

ANALYSIS/INFORMATION

1. **Known Opposition:** No known opposition to the specific elements in the proposed ordinance, however there has been a substantial public process throughout the course of adopting the Nature in Neighborhoods Ordinance No. 05-1077C. It is likely that there will be some parties who oppose the designation of additional Habitat Conservation Areas within the Fanno and Rock Creek watersheds. There may be some opposition to the final inventory and Habitat Conservation Areas maps based on the specific map revisions included in Exhibit G of Ordinance No. 05-1077C.
2. **Legal Antecedents:** Statewide Planning Goal 5, OAR 660-015-0000(5), and the Goal 5 Rule, OAR 660-023, and specifically OAR 660-023-0080. ORS chapter 197, and specifically ORS 197.274. ORS chapter 268, and specifically ORS 268.380, ORS 268.390, and ORS 268.393. The Metro Charter, Regional Framework Plan, and Metro Code sections 3.07.310 to 3.07.370. Metro Resolutions Nos. 02-3176, 02-3177A, 02-3195, 02-3218A, 03-3332, 03-3376B, 04-3440A, 04-3488, 04-3489A, 04-3506A, 05-3574, 05-3577, and 05-1077C.
3. **Anticipated Effects:** Approval of this ordinance will allow Metro to complete the three-step process for complying with Statewide Land Use Planning Goal 5 and allows Metro to submit a complete package to the Department of Land Conservation and Development for acknowledgement review pursuant to ORS 197.274. Cities and counties would then be required to bring comprehensive plans and implementing ordinances in compliance with Metro's Functional Plan within two years.
4. **Budget Impacts:** There are no known budget impacts beyond those anticipated with the passage of the Nature in Neighborhoods Ordinance No. 05-1077C.

RECOMMENDED ACTION

Staff recommends that Metro Council approve amendments to Ordinance No. 05-1077C, the Nature in Neighborhoods ordinance, to add Class I and II Riparian Corridors and associated Habitat Conservation Areas in the Fanno Creek and Rock Creek watersheds within the City of Portland and its urban services boundary, and to approve the final maps that result from the map revisions approved in Exhibit G to Ordinance No. 05-1077C.

ATTACHMENTS TO THE STAFF REPORT

Attachment 1: Class I and II Riparian Corridor Inventory Map for Rock and Fanno Creek Watersheds Study Area (Using City of Portland's 2004 Stream Data)

Printed and electronic copies of this map may be viewed and/or obtained at the Data Resources Center. Class I and II Riparian Corridors within the Study Area may be viewed via Metro's website at: www.metro-region.org/nature

Attachment 2: Habitat Conservation Areas Map for Rock and Fanno Creek Watersheds Study Area (Using City of Portland's 2004 Stream Data)

Printed and electronic copies of this map may be viewed and/or obtained at the Data Resources Center. Habitat Conservation Areas within the Study Area may be viewed via Metro's website at: www.metro-region.org/nature

Attachment 3: Habitat Conservation Areas Map for the Fanno and Rock Creek Watersheds Study Area Showing HCAs Removed and Added Since Metro's September 2004 Inventory Update (Using City of Portland's 2004 Stream Data)

Printed and electronic copies of this map may be viewed and/or obtained at the Data Resources Center.

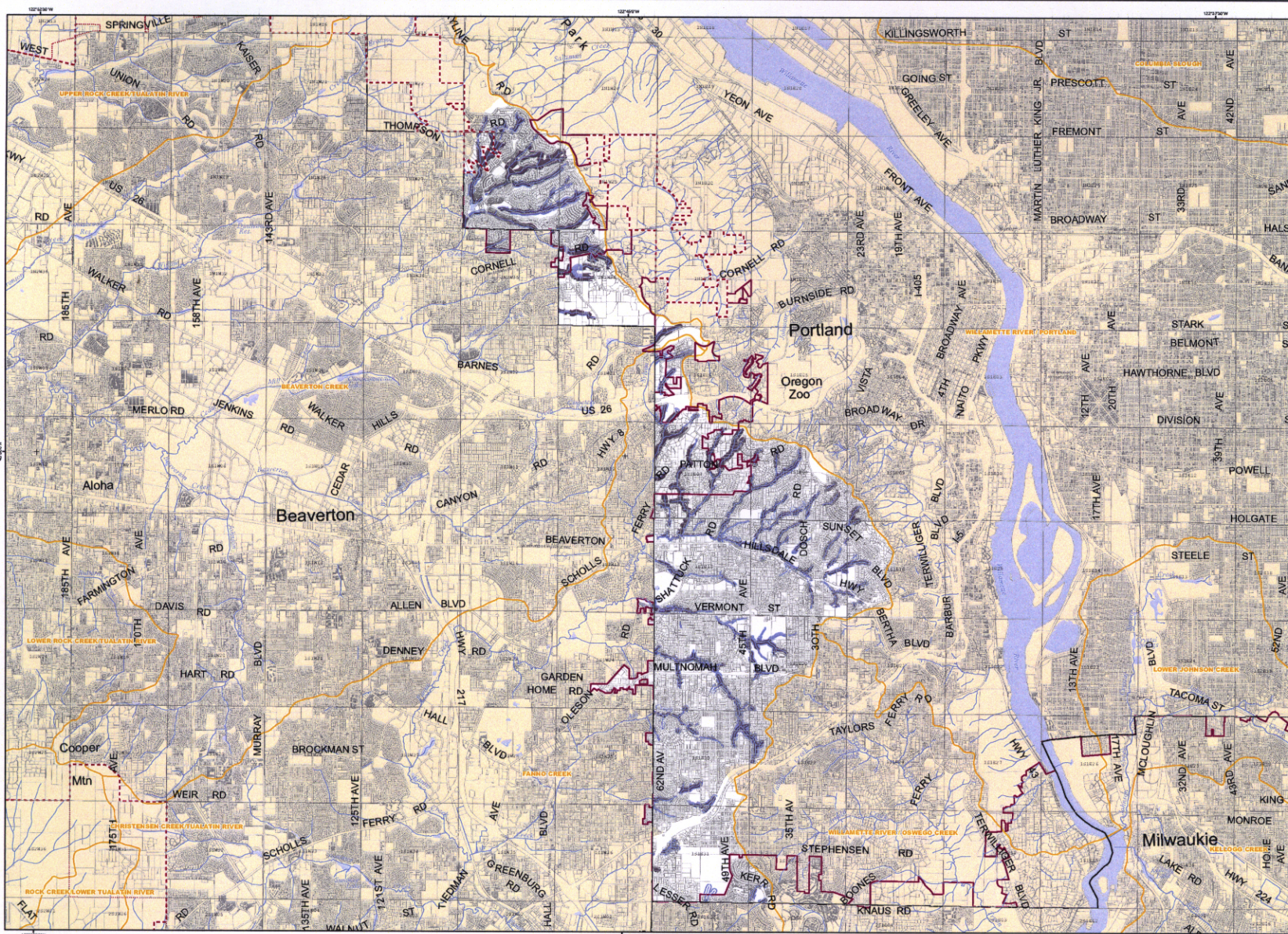
Attachment 4: Acres of Habitat Conservation Areas within the Fanno and Rock Creek Watersheds Study Area (Using Metro September 2004 Data)

Attachment 5: Acres of Habitat Conservation Areas within the Fanno and Rock Creek Watersheds Study Area (Using City of Portland's 2004 Stream Data)

Attachment 6: Acres of New Habitat Conservation Areas within the Fanno and Rock Creek Watersheds Study Area (Using City of Portland's 2004 Stream Data)

Attachment 7: Generalized Regional Zoning for New Habitat Conservation Areas within the Fanno and Rock Creek Watersheds Study Area (Using City of Portland's 2004 Stream Data)

Attachment 8: ESEE Development Values for New Habitat Conservation Areas within the Fanno and Rock Creek Watersheds Study Area (Using City of Portland's 2004 Stream Data)











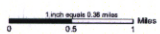
Attachment 1 to Staff Report
Ordinance No. 05-1097

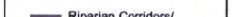
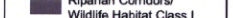
 **Metro Fish and Wildlife
Habitat Protection Program**

**Regionally Significant
Fish and Wildlife Habitat
Inventory Map**

Rock & Fanno Creek Watersheds
Within The City of Portland and it's
Urban Services Boundary

-  Portland City Limit
-  Urban Growth Boundary
-  Metro Boundary
-  County Boundaries
-  Section Lines
-  River & Lake Areas
-  Stream Centerlines
-  Watersheds

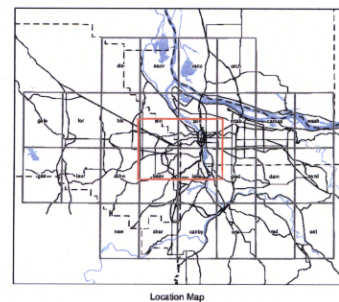


- Fish and Wildlife Habitat**
-  Riparian Corridors/
Wildlife Habitat Class I
 -  Riparian Corridors/
Wildlife Habitat Class II

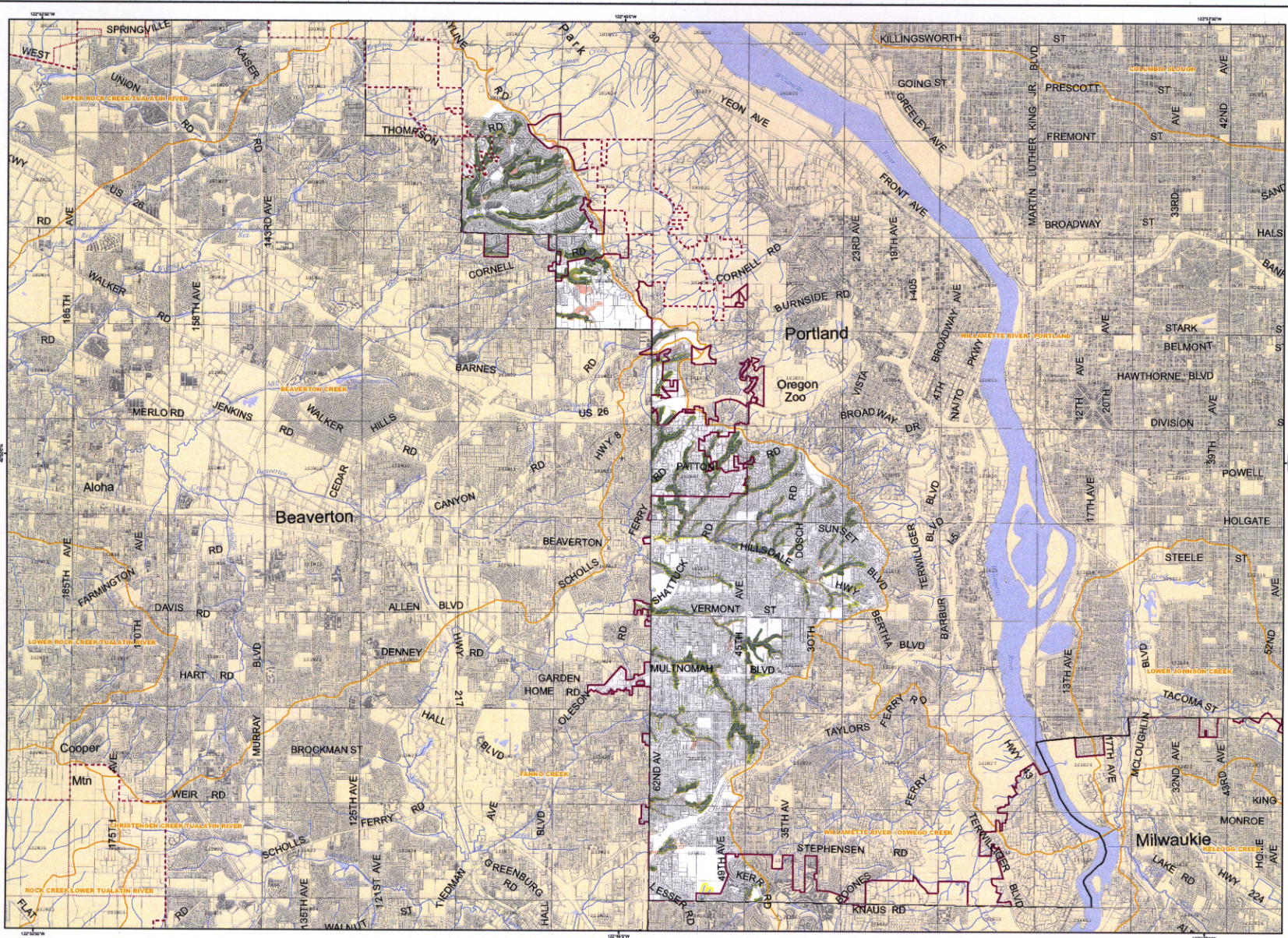
The information on this map was derived from digital databases on Metro's GIS. Care was taken in the creation of this map. Metro cannot accept any responsibility for errors, omissions, or positional accuracy. There are no warranties, expressed or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying this product. However, notification of any errors will be appreciated.

R L I S
REGIONAL LAND INFORMATION SYSTEM

METRO
NATURAL RESOURCES PLANNING
400 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232-2008
TEL: 503.781.1000 FAX: 503.781.1011
WWW.METRO-OR.GOV



Based upon City of Portland 2004 Stream Data



**Metro Fish and Wildlife
Habitat Protection Program**

Habitat Conservation Areas Map

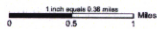
Rock & Fanno Creek Watersheds
Within The City of Portland and it's
Urban Services Boundary

Based upon City of Portland
2004 Streams Data

- Portland City Limit
- Urban Growth Boundary
- Metro Boundary
- County Boundaries
- Section Lines
- River & Lake Areas
- Stream Centerlines
- Watersheds

Conservation Area

- HIGH
- MODERATE
- LOW

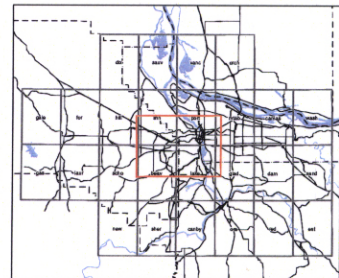


**Attachment 2 to Staff Report
Ordinance No. 05-1097**

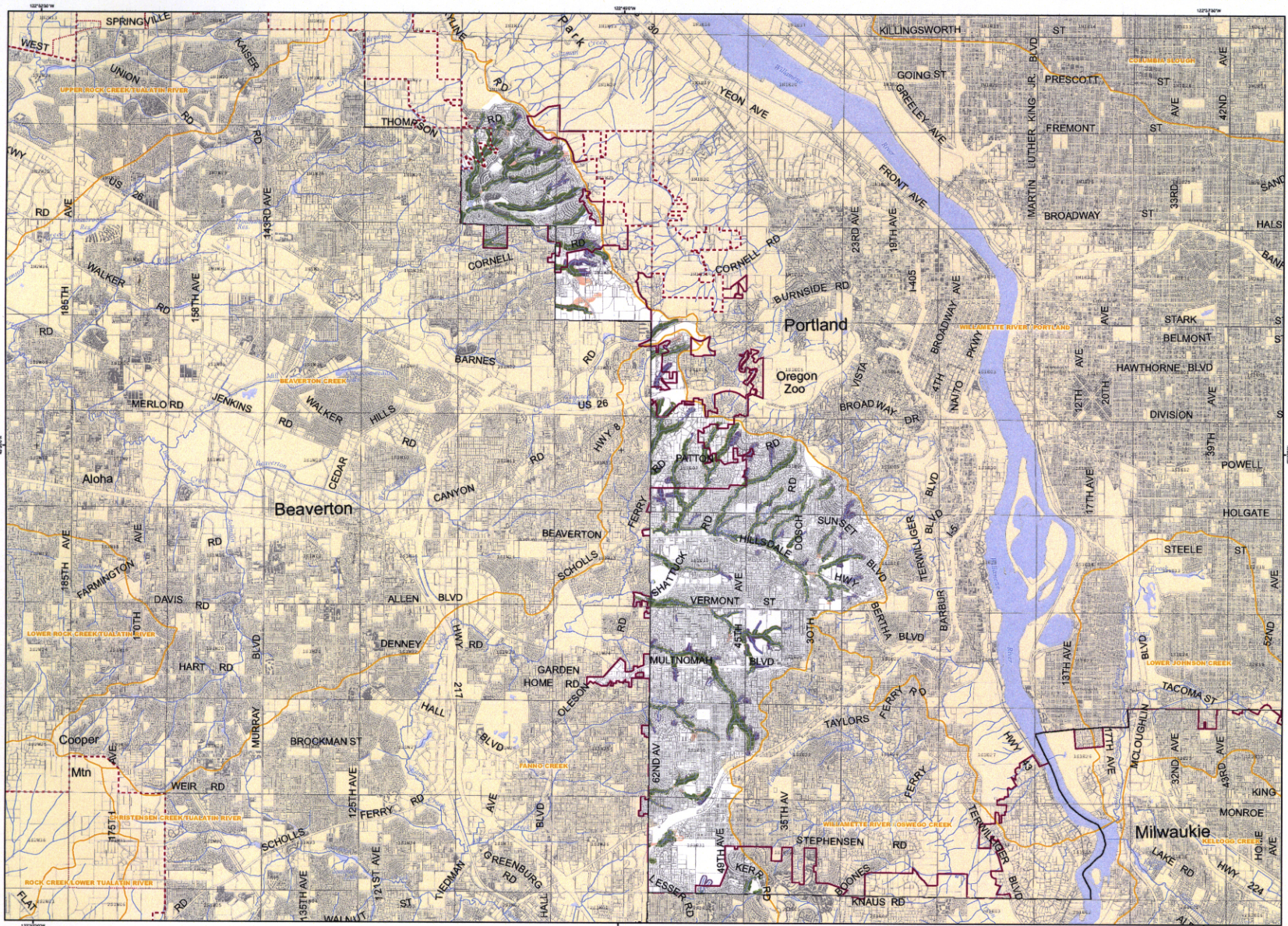
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R L I S
REGIONAL LAND INFORMATION SYSTEM

METRO
NATURAL RESOURCES PLANNING
400 NORTHWEST THIRD AVENUE, SUITE 1000 PORTLAND, OREGON 97208-3008
TEL: 503.251.1000 FAX: 503.251.1011
WWW.METRO-OR.ORG/REGPLANNING



Location Map



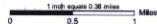
**Metro Fish and Wildlife
Habitat Protection Program**

Habitat Conservation Areas Map

Rock & Fanno Creek Watersheds
Within The City of Portland and it's
Urban Services Boundary

Based upon City of Portland
2004 Streams Data

- Portland City Limit
- Urban Growth Boundary
- Metro Boundary
- County Boundaries
- Section Lines
- River & Lake Areas
- Stream Centerlines
- Watersheds

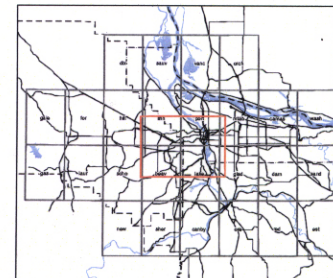


**Attachment 3 to Staff Report
Ordinance No. 05-1097**

**Conservation Area Update
Since September 2004**

- Area Added
- Area Removed
- Area Unchanged

The information on this map was derived from digital databases on Metro's GIS. Care was taken in the creation of this map. Metro cannot accept any responsibility for errors, omissions, or outdated information. There are no warranties, expressed or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying this product. However, notification of any errors will be appreciated.



Location Map

**Attachment 4: - Acres of Habitat Conservation Areas
within Fanno and Rock Creek Watersheds Study Area
(Metro Sept 04 Data)**

| Habitat Class & Habitat Conservation Area (HCA) | Developed | | | Parks | | | Total Devel. & Park Habitat | Vacant | | | | Total Vacant Habitat | Total Devel.,, Parks & Vacant Habitat |
|---|--------------------------|---------------------------|--------------------|--------------------------|---------------------------|--------------------|--------------------------------------|--------------------------|---------------------------|--------------------|----------------------------------|----------------------------|---|
| | Inside Title 3 FMA | Inside Title 3 WQRA | Outside Title 3 | Inside Title 3 FMA | Inside Title 3 WQRA | Outside Title 3 | | Constrained | | | Unconstrained Outside Title 3 | | |
| | | | | | | | | Inside Title 3 FMA | Inside Title 3 WQRA | Outside Title 3 | | | |
| Class I Riparian Corridors | | | | | | | | | | | | | |
| HIGH HCA | 3 | 61 | 149 | 1 | 75 | 114 | 403 | 5 | 63 | 77 | 131 | 275 | 678 |
| MODERATE HCA | 1 | 3 | 1 | 0 | 0 | 0 | 4 | 0 | 1 | 1 | 0 | 1 | 5 |
| LOW HCA | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| <i>Total Acres</i> | 4 | 64 | 149 | 1 | 75 | 114 | 407 | 5 | 64 | 77 | 131 | 276 | 683 |
| Class II Riparian Corridors | | | | | | | | | | | | | |
| HIGH HCA | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 1 |
| MODERATE HCA | 1 | 29 | 88 | 1 | 16 | 41 | 175 | 0 | 8 | 20 | 27 | 54 | 229 |
| LOW HCA | 1 | 3 | 2 | 0 | 0 | 0 | 6 | 0 | 0 | 0 | 0 | 1 | 7 |
| Total Acres | 2 | 32 | 90 | 1 | 16 | 41 | 182 | 0 | 9 | 20 | 27 | 55 | 237 |
| Total Habitat | 5 | 96 | 240 | 1 | 91 | 155 | 589 | 5 | 72 | 97 | 157 | 331 | 920 |

Attachment 5: Acres of Habitat Conservation Areas within Fanno and Rock Creek Watersheds Study Area (Using City of Portland Streams)

| Habitat Class & Habitat Conservation Area (HCA) | Developed | | | Parks | | | Total Devel. & Park Habitat | Vacant | | | | Total Vacant Habitat | Total Devel., Parks & Vacant Habitat |
|---|--------------------|---------------------|-----------------|--------------------|---------------------|-----------------|-----------------------------|--------------------|---------------------|-----------------|-------------------------------|----------------------|--------------------------------------|
| | Inside Title 3 FMA | Inside Title 3 WQRA | Outside Title 3 | Inside Title 3 FMA | Inside Title 3 WQRA | Outside Title 3 | | Constrained | | | Unconstrained Outside Title 3 | | |
| | | | | | | | | Inside Title 3 FMA | Inside Title 3 WQRA | Outside Title 3 | | | |
| Class I Riparian Corridors | | | | | | | | | | | | | |
| HIGH HCA | 4 | 59 | 209 | 1 | 75 | 131 | 479 | 5 | 63 | 89 | 176 | 333 | 812 |
| MODERATE HCA | 1 | 4 | 4 | 0 | 0 | 0 | 9 | 0 | 1 | 2 | 0 | 4 | 13 |
| LOW HCA | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| <i>Total Acres</i> | 4 | 63 | 213 | 1 | 75 | 131 | 487 | 5 | 65 | 92 | 176 | 337 | 824 |
| Class II Riparian Corridors | | | | | | | | | | | | | |
| HIGH HCA | 0 | 1 | 2 | 1 | 16 | 46 | 66 | 0 | 1 | 1 | 2 | 3 | 69 |
| MODERATE HCA | 1 | 23 | 105 | 0 | 0 | 1 | 130 | 0 | 7 | 20 | 31 | 58 | 188 |
| LOW HCA | 1 | 3 | 6 | 0 | 0 | 0 | 10 | 0 | 1 | 1 | 3 | 4 | 14 |
| <i>Total Acres</i> | 2 | 27 | 112 | 1 | 16 | 48 | 206 | 0 | 9 | 21 | 35 | 66 | 271 |
| Total Habitat | 6 | 90 | 325 | 1 | 91 | 179 | 693 | 5 | 73 | 113 | 211 | 403 | 1096 |

**Attachment 6: Acres of New Habitat
Conservation Areas within Fanno and Rock
Creek Watersheds Study Area**

| Habitat Class & Habitat Conservation Area (HCA) | Developed | | | Parks | | | Total Devel. & Park Habitat | Vacant | | | | Total Vacant Habitat | Total Devel, Parks & Vacant Habitat |
|--|--------------------------|---------------------------|--------------------|--------------------------|---------------------------|--------------------|--------------------------------------|--------------------------|---------------------------|--------------------|----------------------------------|----------------------------|---|
| | Inside Title 3 FMA | Inside Title 3 WQRA | Outside Title 3 | Inside Title 3 FMA | Inside Title 3 WQRA | Outside Title 3 | | Constrained | | | Unconstrained Outside Title 3 | | |
| | | | | | | | | Inside Title 3 FMA | Inside Title 3 WQRA | Outside Title 3 | | | |
| Class I Riparian Corridors | | | | | | | | | | | | | |
| HIGH HCA | 0 | 0 | 66 | 0 | 0 | 18 | 86 | 0 | 1 | 17 | 63 | 81 | 167 |
| MODERATE HCA | 0 | 1 | 4 | 0 | 0 | 0 | 4 | 0 | 0 | 2 | 0 | 3 | 7 |
| LOW HCA | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| <i>Total Acres</i> | 0 | 1 | 70 | 0 | 0 | 18 | 90 | 0 | 2 | 19 | 63 | 83 | 174 |
| Class II Riparian Corridors | | | | | | | | | | | | | |
| HIGH HCA | 0 | 0 | 1 | 0 | 1 | 17 | 19 | 0 | 0 | 0 | 1 | 1 | 21 |
| MODERATE HCA | 0 | 2 | 53 | 0 | 0 | 1 | 57 | 0 | 1 | 6 | 14 | 20 | 77 |
| LOW HCA | 0 | 0 | 4 | 0 | 0 | 0 | 5 | 0 | 0 | 1 | 3 | 4 | 9 |
| <i>Total Acres</i> | 0 | 3 | 58 | 0 | 1 | 19 | 81 | 0 | 1 | 7 | 17 | 25 | 106 |
| Total Habitat | 0 | 4 | 128 | 0 | 2 | 37 | 171 | 0 | 2 | 26 | 80 | 108 | 280 |

Attachment 7: - Generalized Regional Zoning for New Habitat Conservation Areas within Fanno and Rock Creek Watersheds Study Area

| Generalized Zoning & Habitat Conservation Area (HCA) | Developed | | | Parks | | | Total Devel. & Park Habitat | Vacant | | | | Total Vacant Habitat | Total Devel., Parks & Vacant Habitat |
|--|--------------------|---------------------|-----------------|--------------------|---------------------|-----------------|-----------------------------|--------------------|---------------------|-----------------|-------------------------------|----------------------|--------------------------------------|
| | Inside Title 3 FMA | Inside Title 3 WQRA | Outside Title 3 | Inside Title 3 FMA | Inside Title 3 WQRA | Outside Title 3 | | Constrained | | | Unconstrained Outside Title 3 | | |
| | | | | | | | | Inside Title 3 FMA | Inside Title 3 WQRA | Outside Title 3 | | | |
| Single Family Residential | | | | | | | | | | | | | |
| HIGH HCA | 0 | 0 | 63 | 0 | 0 | 18 | 82 | 0 | 1 | 15 | 57 | 73 | 155 |
| MODERATE HCA | 0 | 3 | 52 | 0 | 0 | 1 | 56 | 0 | 1 | 7 | 13 | 21 | 77 |
| LOW HCA | 0 | 0 | 2 | 0 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 3 |
| <i>Total Acres</i> | 0 | 3 | 117 | 0 | 0 | 20 | 140 | 0 | 2 | 22 | 70 | 95 | 234 |
| Multi Family Residential | | | | | | | | | | | | | |
| HIGH HCA | 0 | 0 | 2 | 0 | 0 | 0 | 3 | 0 | 0 | 1 | 1 | 2 | 5 |
| MODERATE HCA | 0 | 1 | 4 | 0 | 0 | 0 | 4 | 0 | 0 | 1 | 0 | 1 | 6 |
| LOW HCA | 0 | 0 | 1 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 2 |
| <i>Total Acres</i> | 0 | 1 | 6 | 0 | 0 | 0 | 8 | 0 | 0 | 2 | 2 | 4 | 13 |
| Mixed use | | | | | | | | | | | | | |
| HIGH HCA | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| MODERATE HCA | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| LOW HCA | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| <i>Total Acres</i> | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Commercial | | | | | | | | | | | | | |
| HIGH HCA | 0 | 0 | 1 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 4 | 4 | 6 |
| MODERATE HCA | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| LOW HCA | 0 | 0 | 1 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 2 | 2 | 4 |
| <i>Total Acres</i> | 0 | 0 | 2 | 0 | 0 | 0 | 3 | 0 | 0 | 0 | 7 | 7 | 10 |
| Parks & Open Space | | | | | | | | | | | | | |
| HIGH HCA | 0 | 0 | 1 | 0 | 1 | 17 | 19 | 0 | 0 | 0 | 0 | 0 | 19 |

Attachment 7: - Generalized Regional Zoning for New Habitat Conservation Areas within Fanno and Rock Creek Watersheds Study Area

| Generalized Zoning & Habitat Conservation Area (HCA) | Developed | | | Parks | | | Total Devel. & Park Habitat | Vacant | | | | Total Vacant Habitat | Total Devel., Parks & Vacant Habitat |
|--|--------------------|---------------------|-----------------|--------------------|---------------------|-----------------|-----------------------------|--------------------|---------------------|-----------------|-------------------------------|----------------------|--------------------------------------|
| | Inside Title 3 FMA | Inside Title 3 WQRA | Outside Title 3 | Inside Title 3 FMA | Inside Title 3 WQRA | Outside Title 3 | | Constrained | | | Unconstrained Outside Title 3 | | |
| | | | | | | | | Inside Title 3 FMA | Inside Title 3 WQRA | Outside Title 3 | | | |
| MODERATE HCA | 0 | 0 | 1 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 1 |
| LOW HCA | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| <i>Total Acres</i> | <i>0</i> | <i>0</i> | <i>1</i> | <i>0</i> | <i>1</i> | <i>17</i> | <i>19</i> | <i>0</i> | <i>0</i> | <i>0</i> | <i>0</i> | <i>0</i> | <i>20</i> |
| Rural | | | | | | | | | | | | | |
| HIGH HCA | 0 | 0 | 1 | 0 | 0 | 0 | 1 | 0 | 0 | 1 | 1 | 2 | 3 |
| MODERATE HCA | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| LOW HCA | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| <i>Total Acres</i> | <i>0</i> | <i>0</i> | <i>1</i> | <i>0</i> | <i>0</i> | <i>0</i> | <i>1</i> | <i>0</i> | <i>0</i> | <i>1</i> | <i>1</i> | <i>2</i> | <i>3</i> |
| Total Habitat | <i>0</i> | <i>4</i> | <i>128</i> | <i>0</i> | <i>2</i> | <i>37</i> | <i>171</i> | <i>0</i> | <i>2</i> | <i>26</i> | <i>80</i> | <i>108</i> | <i>279</i> |

Attachment 8: - ESEE Development Values for new Habitat Conservation Areas within Fanno and Rock Creek Watersheds Study Area

| ESEE Development Value | Development Status | | | | | |
|--------------------------|--------------------|--------------|--------------------|----------------------|------------------------|-------------------|
| | Developed | | Vacant | | Total Acres | |
| | <i>Urban</i> | <i>Parks</i> | <i>Constrained</i> | <i>Unconstrained</i> | <i>Dev. & Vac.</i> | <i>% of Total</i> |
| High Development Value | 8 | 0 | 3 | 0 | 11 | 4% |
| Medium Development Value | 3 | 0 | 0 | 7 | 10 | 4% |
| Low Development Value | 120 | 4 | 19 | 72 | 215 | 77% |
| Other Areas (No Value) | 2 | 34 | 5 | 2 | 43 | 15% |
| Total Acres | 133 | 39 | 28 | 80 | 280 | 100% |

3. Anticipated Effects

- A. The granting of the easement will allow for the extension of Boeckman Road, which will serve the Villebois development and the eastside of Wilsonville, and achieve specific goals set forth in Metro's Regional Transportation Plan. Funds for this project were committed by Metro under the MTIP process.
- B. The easement and right of way application request affects multiple interests of the Metro Council in different manners. The easement will impact the Metro natural area it crosses. The only way to avoid such impact is to build a bridge over the entire span of the wetland at more than 1200 feet, which is not feasible economically (increasing the cost to create such a span from \$20 million to \$32.7 million) or legally due to the restrictions on the City's ability to condemn adequate property for such a bridge span.

The City has pledged to continue to work with Metro Parks and Greenspaces staff to incorporate additional features into the final design that will further decrease the impact on the site (e.g. additional wildlife crossings, etc.)

The Project represents a high priority regional transportation project and to deny the easement Application would leave the City with no feasible alternative, and would result in a failure to achieve critical regional transportation goals, specifically to provide an east-west connection to accommodate Villebois and other urban expansions on the west side of Wilsonville, relieve congestion on Wilsonville Road and improve multi-modal connectivity in this portion of the region.

- 4. **Budget Impacts** None, except that Metro will be paid the fair market value of the easement, as required under Metro policy and described above.

RECOMMENDED ACTION

In balancing all of the policy objectives of Metro, Chief Operating Officer Michael Jordan recommends that the requested Application be approved, subject to the conditions outlined herein and recommends passage of Resolution No. 05-3630.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING)
CHAPTER 3.01 OF THE METRO CODE) Ordinance No. 05-1089A
(URBAN GROWTH BOUNDARY AND URBAN)
RESERVE PROCEDURES) AND TITLE 11)
(PLANNING FOR NEW URBAN AREAS) OF)
THE URBAN GROWTH MANAGEMENT)
FUNCTIONAL PLAN TO COMPLY WITH)
CHANGES IN STATE PLANNING LAWS; AND)
DECLARING AN EMERGENCY) Introduced by Councilor Susan McLain

WHEREAS, the existing process for expanding the regional urban growth boundary (“UGB”) is so complicated and driven by numbers that it obscures from public understanding the important livability policies in Metro’s Regional Framework Plan and state planning laws; and

WHEREAS, the Oregon Land Conservation and Development Commission amended statewide planning Goal 14 on Urbanization on April 28, 2005, to make expansion of urban growth boundaries more understandable to the public and more efficient for local governments; and

WHEREAS, the Oregon Legislature enacted Senate Bill 1032 in the 2005 legislative session, calling for an efficient quasi-judicial process for considering applications from high growth school districts for sites for new schools; and

WHEREAS, minor adjustments to the regional UGB to conform to new information about the location of the 100-year floodplain should be made only after public notice and consultation with local governments; now, therefore,

THE METRO COUNCIL HEREBY ORDAINS AS FOLLOWS:

1. Metro Code Chapter 3.01, Urban Growth Boundary and Urban Reserve Procedures, is hereby amended as indicated in Exhibit A, attached and incorporated into this ordinance.
2. Title 11, Planning for New Urban Areas, of the Urban Growth Management Code is hereby amended as indicated in Exhibit B, attached and incorporated in this ordinance.
- ~~23.~~ The Findings of Fact and Conclusions of Law, attached and incorporated into this ordinance as Exhibit ~~B~~C, explain how the amendments to Metro Code Chapter 3.01 comply with the Regional Framework Plan and state law.
- ~~34.~~ This ordinance is necessary for the immediate preservation of public health, safety and welfare because Metro’s current process for expanding the UGB is no longer consistent with state law following LCDC’s April 28, 2005, amendments to statewide planning Goal 14. The

amendments to Goal 14 have made the UGB process simpler and more efficient, without weakening the substantive criteria for expansion. There are several possible UGB expansions now pending before the Council. The Council wants the benefits of this simpler state process available as soon as possible to save Metro and the citizens of the region time and money. An emergency is therefore declared to exist. This ordinance shall take effect immediately, pursuant to section 39(1) of the Metro Charter.

ADOPTED by the Metro Council this __ day of _____, 2005.

David Bragdon, Council President

Attest:

Approved as to form:

Christina Billington, Recording Secretary

Daniel B. Cooper, Metro Attorney

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~~ and
- (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 uses 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 five members 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 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 officer 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) and (d) 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 shall notify the applicant of the determination within ten 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 shall 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 affected 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.

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; ~~and~~
- (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)~~ (C) 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.

Exhibit B for Ordinance No. 05-1089A

AMENDMENT TO TITLE 11 OF THE
URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN

TITLE 11: PLANNING FOR NEW URBAN AREAS

3.07.1120 Urban Growth Boundary Amendment Urban Reserve Plan Requirements

All territory added to the Urban Growth Boundary as either a major amendment or a legislative amendment pursuant to Metro Code chapter 3.01 shall be subject to adopted comprehensive plan provisions consistent with the requirements of all applicable titles of the Metro Urban Growth Management Functional Plan and in particular this Title 11. The comprehensive plan provisions shall be fully coordinated with all other applicable plans. The comprehensive plan provisions shall contain an urban growth plan diagram and policies that demonstrate compliance with the RUGGO, including the Metro Council adopted 2040 Growth Concept design types. Comprehensive plan amendments shall include:

- A. Provision for annexation to the district and to a city or any necessary service districts prior to urbanization of the territory or incorporation of a city or necessary service districts to provide all required urban services.
- B. Provision for average residential densities of at least 10 dwelling units per net developable residential acre or ~~lower such other densities which conform to the 2040 Growth Concept Plan design type designation for the area that the Council specifies pursuant to section 3.01.040 of the Urban Growth Boundary Functional Plan.~~
- C. Demonstrable measures that will provide a diversity of housing stock that will fulfill needed housing requirements as defined by ORS 197.303. Measures may include, but are not limited to, implementation of recommendations in Title 7 of the Urban Growth Management Functional Plan.
- D. Demonstration of how residential developments will include, without public subsidy, housing affordable to households with incomes at or below area median incomes for home ownership and at or below 80 percent of area median incomes for rental as defined by U.S. Department of Housing and

Urban Development for the adjacent urban jurisdiction. Public subsidies shall not be interpreted to mean the following: density bonuses, streamlined permitting processes, extensions to the time at which systems development charges (SDCs) and other fees are collected, and other exercises of the regulatory and zoning powers.

- E. Provision for sufficient commercial and industrial development for the needs of the area to be developed consistent with 2040 Growth Concept design types. Commercial and industrial designations in nearby areas inside the Urban Growth Boundary shall be considered in comprehensive plans to maintain design type consistency.
- F. A conceptual transportation plan consistent with the applicable provision of the Regional Transportation Plan, Title 6 of the Urban Growth Management Functional Plan, and that is also consistent with the protection of natural resources either identified in acknowledged comprehensive plan inventories or as required by Title 3 of the Urban Growth Management Functional Plan. The plan shall, consistent with OAR Chapter 660, Division 11, include preliminary cost estimates and funding strategies, including likely financing approaches.
- G. Identification, mapping and a funding strategy for protecting areas from development due to fish and wildlife habitat protection, water quality enhancement and mitigation, and natural hazards mitigation. A natural resource protection plan to protect fish and wildlife habitat, water quality enhancement areas and natural hazard areas shall be completed as part of the comprehensive plan and zoning for lands added to the Urban Growth Boundary prior to urban development. The plan shall include a preliminary cost estimate and funding strategy, including likely financing approaches, for options such as mitigation, site acquisition, restoration, enhancement, or easement dedication to ensure that all significant natural resources are protected.
- H. A conceptual public facilities and services plan for the provision of sanitary sewer, water, storm drainage, transportation, parks and police and fire protection. The plan shall, consistent with OAR Chapter 660, Division 11, include preliminary cost estimates and funding strategies, including likely financing approaches.

- I. A conceptual school plan that provides for the amount of land and improvements needed, if any, for school facilities on new or existing sites that will serve the territory added to the UGB. The estimate of need shall be coordinated with affected local governments and special districts.

- J. An urban growth diagram for the designated planning area showing, at least, the following, when applicable:
 - 1. General locations of arterial, collector and essential local streets and connections and necessary public facilities such as sanitary sewer, storm sewer and water to demonstrate that the area can be served;
 - 2. Location of steep slopes and unbuildable lands including but not limited to wetlands, floodplains and riparian areas;
 - 3. General locations for mixed use areas, commercial and industrial lands;
 - 4. General locations for single and multi-family housing;
 - 5. General locations for public open space, plazas and neighborhood centers; and
 - 6. General locations or alternative locations for any needed school, park or fire hall sites.

- K. The plan amendments shall be coordinated among the city, county, school district and other service districts.

**Exhibit C to Ordinance No. 05-1089A
Findings of Fact and Conclusions of Law**

Metro Code Chapter 3.01 sets forth the process and the criteria for amendments to the urban growth boundary (“UGB”). This chapter is a functional plan that is part of - and implements policies in - the Regional Framework Plan (“RFP”). The chapter also implements state planning laws, including statewide planning Goal 14 (Urbanization), the goal that sets state policy on establishment and change of UGBs in Oregon. Ordinance No. 05-1089A revises Chapter 3.01 (Urban Growth Boundary and Urban Reserve Procedures), for reasons set forth below, and revises one provision in Title 11 (Planning for New Urban Areas) of the Urban Growth Management Functional Plan to conform it to the changes in Chapter 3.01.

The Land Conservation and Development (“LCDC”) amended statewide planning Goal 14 on April 28, 2005. The Commission’s purpose was to simplify the process of amending UGBs, resulting in significant changes to the goal. The code revisions proposed in Ordinance No. 05-1089A (1) bring the Metro UGB code into conformance with the changes to Goal 14 and (2) simplify Metro’s own process and criteria for amendments to the UGB.

The 2005 Legislature enacted Senate Bill 1032 on school siting. HB 1032 calls upon Metro to provide an expeditious process for consideration of UGB expansion for sites for public schools during the period between Metro’s five-year UGB capacity analyses. The proposed code revisions bring the Metro UGB code into conformance with this new legislation (see description of changes to section 3.01.025).

Several Councilors have called for a more formal process for adjustments to the UGB where the boundary is intended to follow the line of the 100-year floodplain. Prior to adoption of Ordinance No. 05-1089A, the practice was to treat an adjustment to reflect new information about the floodplain as “ministerial” (no notice or hearing). Ordinance No. 05-1089A treats such adjustments as “minor adjustments” under sections 3.01.033 and 3.01.035 (notice and opportunity for hearing).

I. SENATE BILL 1032

Ordinance No. 05-1089A revises the procedures for “major amendments” to the UGB by establishing deadlines for completion of each part of the review process. Taken together, these deadlines allow for a final decision by the Metro Council within 125 days of receipt of a complete application. As amended, this process complies with Senate Bill 1032, enacted by the 2005 Legislature.

II. STATEWIDE PLANNING GOALS

Statewide Planning Goal 1 – Citizen Involvement: Metro provided notice of the proposed amendments to stakeholders and the general public by following the notification requirements in its acknowledged code. Metro provided notice to the Oregon Department of Land Conservation and Development Commission as provided in ORS 197.610 and OAR 660-018-0020. Metro sought and received comment from its Metropolitan Policy Advisory Committee and the Metropolitan Technical Advisory Committee, each of which recommended approval with their recommendations (incorporated). On November 10, 2005, the Metro Council held a public hearing on the proposed ordinance. These activities conform to Metro’s code and policies on citizen involvement and comply with Goal 1.

Statewide Planning Goal 2 – Land Use Planning: Metro sought and received comment from the local governments and special districts that comprise the metropolitan region. The Metro Charter provides for a Metropolitan Policy Advisory Committee (“MPAC”) composed principally of representatives of local governments, special districts and school districts in the region. MPAC reviewed Ordinance No. 05-1089A and recommended revisions to the draft, which the Council adopted. The ordinance complies with Goal 2.

Statewide Planning Goal 3 – Agricultural Lands: Ordinance No. 05-1089A protects agricultural land by requiring expansions of the UGB to comply with Goal 14, ORS 197.298 and other state planning laws.

Statewide Planning Goal 4 – Forest Lands: Ordinance No. 05-1089A protects forest land by requiring expansions of the UGB to comply with Goal 14, ORS 197.298 and other state planning laws.

Statewide Planning Goal 5 – Natural Resources, Scenic and Historic Areas, and Open Spaces: Ordinance No. 05-1089A protects natural and cultural resources by requiring expansions of the UGB to comply with Goal 14 and other state and regional planning laws.

Statewide Planning Goal 6 – Air, Land and Water Resources Quality: Ordinance No. 05-1089A protects air, land and water resources quality by requiring expansions of the UGB to comply with Goal 14 and other state and regional planning laws.

Statewide Planning Goal 7 – Areas Subject to Natural Disasters and Hazards: Ordinance No. 05-1089A reduces risk of natural disasters and hazards by requiring expansions of the UGB to comply with Goal 14 and other state and regional planning laws.

Statewide Planning Goal 8 – Recreational Needs: Ordinance No. 05-1089A helps provide recreational needs in the region by requiring expansions of the UGB to comply with Goal 14 and state and regional planning laws.

Statewide Planning Goal 9 – Economic Development: Ordinance No. 05-1089A encourages economic development by requiring expansions of the UGB to comply with Goal 14 and other state planning laws, and by revising the “major amendment” process for expansion of the UGB to make it faster than the current process.

Statewide Planning Goal 10 – Housing: Ordinance No. 05-1089A provides opportunities for the full range of housing types and price/rent levels by requiring expansions of the UGB to comply with Goal 14 and state and regional planning laws and by requiring consideration of equitable distribution of housing in Section 3.01.020(d)(1).

Statewide Planning Goal 11 – Public Facilities and Services: Ordinance No. 05-1089A helps provide efficient urban services to territory added to the UGB by requiring expansions of the UGB to comply with Goal 14, ORS 197.298 and other state and regional planning laws.

Statewide Planning Goal 12 – Transportation: Ordinance No. 05-1089A helps provide efficient transportation services to territory added to the UGB by requiring expansions of the UGB to comply with Goal 14 and other state and regional planning laws.

Statewide Planning Goal 13 – Energy Conservation: Ordinance No. 05-1089A helps conserve energy by requiring expansions of the UGB to comply with Goal 14.

Statewide Planning Goal 14 – Urbanization: Ordinance No. 05-1089A ensures an orderly and efficient transition from rural to urban land use by conforming the Metro UGB code to the amendments to Goal 14 made by LCDC on April 28, 2005, and by adhering to policies in the Regional Framework Plan. The Council amended its process for “major amendments” to conform to Senate Bill 1032 by adding deadlines to ensure that such an amendment can be reviewed and decided within 125 days after receipt of a complete application. The Council retained its “minor adjustment” process for very small adjustments (up to two acres). This process does not require a demonstration of “need”, because it is available only to make the UGB coterminous with nearby property lines or natural or built features and to site roads and lines for public facilities and services. This process has been acknowledged, first by LCDC (Continuance Order, October 19, 1981), and upon revision (reducing the maximum size of a minor adjustment from 50 acres to two acres) in 2002. The “major amendment” and “minor adjustment” processes make the transition from rural to urban land use more orderly and efficient.

Statewide Planning Goal 15 – Willamette River Greenway: Ordinance No. 05-1089A protects the greenway by requiring expansions of the UGB to comply with Goal 14 and other state and regional planning laws.

III. REGIONAL FRAMEWORK PLAN

Policy 1.1 – Urban Form: This policy calls for a compact urban form and affordable housing choices. Ordinance No. 05-1089A implements this policy by requiring consideration of compact urban form in Section 3.01.020(c)(1) and (2).

Policy 1.2 – Built Environment: This policy seeks fair-share and equitable growth. Ordinance No. 05-1089A implements this policy by requiring consideration of equitable and efficient distribution of growth in Section 3.01.020(d)(1).

Policy 1.3 – Affordable Housing: This policy seeks opportunities for a wide range of housing opportunities. Ordinance No. 05-1089A implements this policy by requiring consideration of equitable distribution of housing in Section 3.01.020(d)(1).

Policy 1.4 – Economic Opportunity: This policy seeks equitable distribution of jobs and a mix and balance of jobs with housing. Ordinance No. 05-1089A implements this policy by requiring consideration of equitable distribution of employment in Section 3.01.020(d)(1).

Policy 1.6 – Growth Management: This policy calls for efficient management of urban land, among other things. Ordinance No. 05-1089A implements this policy by requiring consideration of compact urban form in Section 3.01.020(c)(1) and (2).

Policy 1.7 – Urban/Rural Transition: This policy calls for placement of the UGB using natural and built features to provide a clear transition from rural to urban land use. Ordinance No. 05-1089A implements this policy by requiring consideration of transition in Section 3.01.020(d)(5).

Policy 1.9 – Urban Growth Boundary: This policy calls for contribution by new urban development to Centers and achievement of the objectives of the 2040 Growth Concept. Ordinance No. 05-1089A implements this policy by requiring consideration of all the factors in Section 3.01.020 and, with regard to Centers in particular, Section 3.01.020(d)(2).

Policy 1.11 – Neighbor Cities: This policy seeks to maintain a separation between communities in the larger metropolitan region. Ordinance No. 05-1089A implements this policy by requiring consideration of clear transition in Section 3.01.020(d)(5).

Policy 1.12 – Protection of Agriculture and Forest Resource Land: This policy calls for conservation of agricultural and forest land outside the UGB. Ordinance No. 05-1089A implements this policy by requiring consideration of compatibility between urban use and resource use in Section 3.01.020(c)(4) and protection of the region’s most important farmland in Section 3.01.020(d)(3).

Policy 1.13 – Participation of Citizens: Metro provided notice of the proposed amendments to its code by following the notification requirements in its acknowledged code. Metro also provided notice to the Oregon Department of Land Conservation and Development Commission in ORS 197.610 and OAR 660-018-0020. Metro sought and received comment from its Metropolitan Policy Advisory Committee and the Metropolitan Technical Advisory Committee, each of which recommended approval with their recommendations (incorporated). On November 10, 2005, the Metro Council held a public hearing on the proposed ordinance. These activities conform to Metro’s code and Policy 1.13.

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 Amendment Procedures~~
- ~~3.01.020 Legislative Amendment Criteria~~
- ~~3.01.025 Major Amendment Procedures~~
- ~~3.01.030 Criteria for Major Amendment~~
- ~~3.01.033 Minor Adjustment Procedures~~
- ~~3.01.035 Criteria for Minor Adjustments~~
- ~~3.01.037 Roadway Realignment - Administrative Adjustments (repealed Ord. 01-929A §10)~~
- ~~3.01.040 Metro Conditions of Approval~~
- ~~3.01.045 Fees~~
- ~~3.01.050 Hearing Notice Requirements~~
- ~~3.01.055 Public Hearing Rules Before the Hearings Officer~~
- ~~3.01.060 Exceptions to Hearings Officer Decision~~
- ~~3.01.065 Council Action on Quasi-Judicial Amendments~~
- ~~3.01.070 Final Action Notice Requirements~~
- ~~3.01.075 Boundary Line Location Interpretation (repealed Ord. 01-929A §11)~~
- ~~3.01.080 Chapter Regulation Review~~
- ~~3.01.085 Severability~~

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~~

~~— (a) This chapter is established to provide procedures to be used by Metro in making amendments to the Metro Urban Growth Boundary (UGB) adopted pursuant to ORS 268.390(3) and 197.005 through 197.430. The chapter is intended to interpret all criteria and standards for boundary amendments pertaining to Statewide Planning Goals 2 and 14,~~

~~and the Regional Urban Growth Goals and Objectives. Unique circumstances associated with a proposed amendment may require consideration of statewide planning goals other than Goals 2 and 14. This chapter is also established to be used for the establishment and management of Urban Reserves, pursuant to OAR 660-021-000 to 660-21-0100 and RUGGO Objective 22.~~

~~(b) The objectives of the UGB are to:~~

~~(1) Provide sufficient urban land for accommodating the forecast 20-year urban land need, reevaluated at least every five years as set forth in Sections 3.01.015-3.01.020;~~

~~(2) Provide for an efficient urban growth form which reduces sprawl;~~

~~(3) Provide a clear distinction between urban and rural lands;~~

~~(4) Encourage appropriate infill and redevelopment in all parts of the urban region.~~

~~(c) The objectives of the Urban Reserves are to:~~

~~(1) Identify sufficient land suitable for urbanization sufficient to accommodate the forecast needs for a 30 to 50-year interval, reevaluated at least every 15 years;~~

~~(2) Limit the areas which are eligible to apply for inclusion to the Urban Growth Boundary consistent with ORS 197.298, and protect resource lands outside the urban reserve areas;~~

~~(3) Protect lands designated as urban reserves for their eventual urbanization, and insure their efficient urbanization consistent with the 2040 Growth Concept, the RUGGOs and the Urban Growth Management Functional Plan;~~

~~(4) Provide for coordination between cities, counties, school districts, and special districts for planning for the urban reserve areas;~~

~~(5) Ensure a smooth transition to urban development by planning for general governance, public facilities, land uses, and planning for financing the capital needs of the urban development.~~

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) "Gross developable vacant land" means the total buildable land area within the UGB, as compiled by Metro for the purpose of determining the need for changes in the urban land supply. These are lands that can be shown to lack significant barriers to development. Gross developable vacant lands include, but are not limited to, all recorded lots on file with the county assessors equal to or larger than either the minimum lot size of the zone in which the lot is located or the minimum lot size which will be applied in an urban holding zone which:~~

~~———— (1) Are without any structures as corroborated through examination of the most recent aerial photography at the time of inventory; or~~

~~———— (2) Have no improvements according to the most recent assessor records.~~

~~———— (e) "Gross redevelopable land" means the total area of redevelopable land and infill parcels within the UGB including:~~

~~(1) That portion of all partially developed recorded lots, where one-half acre or more of the land appears unimproved through examination of the most recent aerial photography at the time of inventory; and~~

~~(2) All recorded lots on file with the county assessors that are 20,000 square feet or larger where the value of the improvement(s) is significantly less than the value of the land, as established by the most recent assessor records at the time of inventory. Standard measures to account for the capability of infill and redevelopment properties will be developed by Metro to provide a means to define what is significant when comparing structure value and land values; or, when a city or county has more detailed or current gross redevelopable land inventory data, for all or a part of their jurisdiction, it can request that Metro substitute that data for inclusion in the gross developable land inventory.~~

~~(f) "Gross developable land" means the total of gross developable vacant land and gross redevelopable land.~~

(gd) "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 ~~persons~~ properties.

~~(h) "Natural area" means a landscape unit substantially without any human development that is substantially in a native and unaffected state and may be composed of plant and animal communities, water bodies, soil and rock and mitigated habitat. Natural areas must be identified in a city, county or special district open space inventory or plan.~~

~~(i) "Natural feature" means any landscape unit, such as a slope greater than 25 percent, a water body, a floodplain or a forest, that acts as a barrier or transition between human activities.~~

~~(j) "Net acre" for purposes of calculating the total land area within a proposal to amend the UGB means an area measured in acres which excludes:~~

~~(1) Any developed road rights of way through or on the edge of the proposed UGB amendment; and~~

~~(2) Environmentally constrained areas, including any open water areas, floodplains, natural resource areas protected in the comprehensive plans of cities and counties in the region, slopes in excess of 25 percent and wetlands requiring a federal fill and removal permit under Section 404 of the Clean Water Act. These excluded areas do not include lands for which~~

~~the local zoning code provides a density bonus or other mechanism which allows the transfer of the allowable density or use to another area or to development elsewhere on the same site; and~~

~~(3) All publicly owned land designated for park and open space uses.~~

~~(k) "Net developable land" means the total of net developable vacant land and net redevelopable land.~~

~~(l) "Net developable vacant land" means the number of acres that are available for all types of development after the total number of developable acres within the UGB is reduced by the amount of land for the provision of roads, schools, parks, private utilities, churches, social organizations, legally buildable single family lots, and other public facilities.~~

~~(m) "Net redevelopable land" means the amount of land remaining when gross redevelopable land is reduced by the estimated land needed for the provision of additional roads, schools, parks, private utilities and other public facilities. Metro shall determine the appropriate factor to be used for each jurisdiction in consultation with the jurisdiction within which the specific redevelopable land is located.~~

~~(n) "Nonurban land" means land currently outside the UGB.~~

~~(o) "Party" means any individual, agency, or organization who participates orally or in writing in the creation of the record established at a public hearing.~~

~~(p) "Planning period" means the period covered by the most recent officially adopted Metro forecasts, which is approximately a 20 year period.~~

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

(~~r~~f) "Public facilities and services" means ~~sanitary sewers, water service, fire protection, parks, open space, recreation, streets and roads and mass transit~~ stormwater services and transportation.

~~(s) "Regional forecast" means a 20 year forecast of employment and population by specific areas within the region, which has been adopted by Metro.~~

~~(t) "Site" means the subject property for which an amendment or locational adjustment is being sought.~~

~~(u) "Specific land need" means a specific type of identified land needed which complies with Goal 14, Factors 1 and 2 that cannot be reasonably accommodated on urban reserve land.~~

~~(vg) "UGB" means the Urban Growth Boundary for Metro pursuant to ORS 268.390 and 197.005 through 197.430.~~

~~(w) "Urban land" means that land inside the UGB.~~

~~(xh) "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. ~~The purpose of t~~This section is to comply with ORS 197.298 by identifying lands designated urban reserve land by Metro as the first priority land for inclusion in the Metro Urban Growth Boundary 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 areas designated as urban reserves shall be sufficient to accommodate expected urban development for a 30 to 50 year period, taking into account an estimate of all potential developable and redevelopable land within the current Urban Growth Boundary.~~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 shall estimate the capacity of the urban reserves consistent with the procedures for estimating capacity of the urban area set forth in Section 3.01.020.~~The Council may allocate urban reserve areas to different planning periods in order to phase addition of the areas to the UGB.
- (4) ~~The minimum residential density to be used in estimating the capacity of the areas designated as urban reserves shall be an average of at least 10 dwelling units per net developable acre or lower densities which conform to the 2040 Growth Concept~~

~~design type designation for the urban reserve area. The Council shall establish a 2040 Growth Concept design type applicable to each urban reserve area designated.~~

~~(5) The Council may designate a portion of the land required for urban reserves in order to phase designation of urban reserves.~~

~~(6) Metro has designated as urban reserve areas those lands indicated on the 2040 Growth Concept map which was adopted as part of the Regional Urban Growth Goals and Objectives.~~

(c) Plans For Urban Reserve Areas. ~~Subject to applicable law, e~~Cities and counties may ~~prepare and adopt comprehensive plan amendments~~ plan for urban reserve areas, consistent with ~~all provisions of the Urban Growth Management Functional Plan prior to the inclusion of an urban reserve area within the Urban Growth Boundary. Prior to the preparation and adoption of any such comprehensive plan amendments, at the request of a city or county, the Council shall establish the 2040 Growth Concept design types and the boundaries of the area to be planned, if it has not previously done so.~~ the Regional Framework Plan and OAR 660-021-0040, prior to the inclusion of the areas within the UGB.

~~3.01.015 Legislative Amendment Procedures~~

~~(a) The process for determination of need and location of lands for amendment of the UGB is provided in Section 3.01.020.~~

~~(b) Notice shall be provided as described in Section 3.01.050.~~

~~(c) The Council shall initiate Legislative Amendments when it determines pursuant to Goal 14 and Section 3.01.020 that there is a need to add land to the Urban Growth Boundary.~~

~~(d) Before adopting any legislative amendment, Metro shall consult with cities, counties in the Metro Area and MPAC to determine which cities and counties, if any, are prepared to initiate comprehensive plan amendments for urban reserve areas, if they are included, within the Urban Growth Boundary.~~

~~(e) Where a city or county has adopted comprehensive plan amendments for an urban reserve area pursuant to Section 3.01.012(c), the Metro Council shall rely upon the planned status of that urban reserve in considering applicable criteria.~~

~~(f) Legislative amendment decisions shall be based upon substantial evidence in the decision record which demonstrates how the amendment complies with applicable state and local law and statewide goals as interpreted by Section 3.01.020.~~

~~(g) The following public hearings process shall be followed for legislative amendments:~~

~~(1) Metro Council shall refer a proposed amendment to the appropriate Council committee at the first Council reading of the ordinance.~~

~~(2) The committee shall take public testimony at as many public hearings as necessary. At the conclusion of public testimony, the committee shall deliberate and make recommendations to the Council.~~

~~(3) The Council shall take public testimony at its second reading of the ordinance, discuss the proposed amendment, and approve the ordinance with or without revisions or conditions, or refer the proposed legislative amendment to the Council committee for additional consideration.~~

~~(4) Testimony before the Council or the committee shall be directed to Goal 14 and Goal 2 considerations interpreted at Section 3.01.020 of this chapter.~~

~~(h) The Council may approve expansion of 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 subject land that the local government will apply the interim protection requirements set forth in section 3.07.1110 of the Metro Code to that land until Metro annexes the land to the district. 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 applicable to the subject land until Metro annexes that land to the district.~~

~~(i) At least 20 days prior to approving any 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. Copies of the completed report shall be provided to all households located within one mile of the proposed amendment area and to all cities and counties within the district. 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 services and public infrastructure to the area to be added.~~

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 Amendment Criteria~~

~~(a) The purpose of this section is to address ORS 197.298, Goals 2 and 14 of the statewide planning goals and the Regional Framework Plan. This section details a process which is intended to interpret Goals 2 and 14 for specific application to Metro UGB. Compliance with this section shall constitute compliance with ORS 197.298, statewide planning Goals 2 and 14 and the Regional Framework Plan.~~

~~(b) While all of the following Goal 14 factors must be addressed, the factors cannot be evaluated without reference to each other. Rigid separation of the factors ignores obvious overlaps between them. Demonstration of compliance with one factor or subfactor may not constitute a sufficient showing of compliance with the goal, to the exclusion of the other factors when making an overall determination of compliance or conflict with the goal. For legislative amendments, if need has been addressed, Metro shall demonstrate that the priorities of ORS 197.298 have been followed and that the recommended site was better than alternative sites, balancing Factors 3 through 7.~~

~~(1) Factor 1: Demonstrated need to accommodate long range urban population growth.~~

~~(A) Metro shall develop 20 year Regional Forecasts of Population and Employment, which shall include a forecast of net developable land need, providing for coordination with cities, counties, special districts and other interested parties, and review and comment by the public. After deliberation upon all relevant facts, Metro shall adopt a forecast. This forecast shall be completed at least every five years or at the time of periodic review, whichever is sooner. Concurrent with the adoption of Metro's 20 year Regional Forecast, Metro shall complete an inventory of net developable land calculating the supply of buildable land within the Urban Growth Boundary by applying the variables set forth in Chapter 1 of the Regional Framework Plan. Metro shall provide the opportunity for review and comment by all cities and counties in the Metro Area, and by the public.~~

- ~~(i) In calculating the supply of buildable lands in the Urban Growth Boundary, Metro shall estimate the effect, based on the best information available, of changes to zoned capacity that have been adopted and implemented by local governments to comply with the Region 2040 Growth Concept and all titles of the Urban Growth Management Functional Plan.~~
- ~~(ii) Metro shall estimate the number of gross vacant buildable acres within the Urban Growth Boundary.~~
- ~~(iii) Metro shall estimate the number of net vacant buildable acres within the Urban Growth Boundary from the gross vacant buildable acres. The number of acres estimated to be unavailable for housing development shall be subtracted to estimate the net acres, including, but not limited to:
 - ~~(I) Lands in environmentally sensitive areas and lands with slopes equal to or exceeding 25 percent, provided those lands are zoned so as to be unavailable for housing development.~~
 - ~~(II) Lands for streets, schools, parks, churches and social organizations.~~
 - ~~(III) Vacant legally buildable lots zoned for single family residential use.~~~~
- ~~(iv) Metro shall estimate the number of net vacant buildable acres that are available for residential use based on current local government zoning designations. Metro shall also estimate the number of dwelling units that these residentially zoned lands can accommodate under existing zoning designations.~~
- ~~(v) Metro shall reduce the estimated number of dwelling units that can be accommodated on vacant residential lands to account for the following:
 - ~~(I) The number of dwelling units estimated to be lost when property owners do not develop to maximum residential~~~~

~~densities, taking into account zoned minimum densities; and~~

~~(II) If Metro adopts additional measures to increase residential densities inside the existing Urban Growth Boundary, the number of additional dwelling units estimated to be accommodated as the result of the new measures.~~

~~(vi) Metro shall increase the estimated number of dwelling units that may be accommodated on vacant residential lands due to changes in zoning or development patterns, including but not limited to, the following:~~

~~(I) Local adoption of mixed use zoning designations;~~

~~(II) Local adoption of increased residential densities to meet Region 2040 Growth Concept and Title 1 of the Urban Growth Management Functional Plan;~~

~~(III) The estimated number of dwelling units that may be accommodated as a result of redevelopment and infill development and accessory dwelling units;~~

~~(IV) The estimated number of dwelling units allowed on legally buildable lots in environmentally constrained areas;~~

~~(V) Development on vacant and legally buildable lots zoned for single family at a rate of one dwelling unit per lot.~~

~~(B) The forecast and inventory, along with all other appropriate data shall be considered by Metro in determining the need for net developable land. Appropriate data includes, but is not limited to, estimates of the actual density and the actual average mix of housing types of residential development that have occurred within the Urban Growth Boundary since the last periodic review of the Urban Growth Boundary or last five years, whichever is greater. The results of the inventory and forecast shall be compared, and if~~

~~the net developable land equals or is larger than the need forecast, then Metro Council shall hold a public hearing, providing the opportunity for comment. The Council may conclude that there is no need to move the UGB and set the date of the next five year review or may direct staff to address any issues or facts which are raised at the public hearing.~~

~~(C) If the inventory of net developable land is insufficient to accommodate the housing need identified in the 20 year Regional Forecast at the actual developed density that has occurred since the last periodic review of the Urban Growth Boundary, Metro shall:~~

~~(i) Conduct a further analysis of the inventory of net developable land to determine whether the identified need can reasonable be met within the Urban Growth Boundary including a consideration of whether any significant surplus of developable land in one or more land use categories could be suitable to address the unmet forecasted need;~~

~~(ii) Estimate city and county progress toward meeting the target capacities for dwelling units and employment set forth in Title 1 of the Urban Growth Management Functional Plan (Metro Code, Table 3.07 1);~~

~~(iii) Consider amendments to the Urban Growth Management Functional Plan that would increase the number of dwelling units that can be accommodated on residential and mixed-use land within the Urban Growth Boundary;~~

~~(iv) Adopt amendments to the Urban Growth Management Functional Plan that the Metro Council determines are appropriate;~~

~~(v) Estimate whether the increased number of dwelling units accommodated within the Urban Growth Boundary due to amendments to the Urban Growth Management Functional Plan will provide a sufficient number of dwelling units to satisfy the forecasted need;~~

~~(vi) The Metro Council shall hold a public hearing prior to its determination of whether any estimated deficit of net developable land is sufficient to justify an analysis of locations for a legislative amendment of the UGB.~~

~~(D) For consideration of a legislative UGB amendment, Metro Council shall review an analysis of land outside the present UGB to determine those areas best suited for expansion of the UGB to meet the identified need.~~

~~(E) Metro must find that the identified need cannot reasonably be met within the UGB, consistent with the following considerations:~~

~~(i) That there is not a suitable site with an appropriate comprehensive plan designation.~~

~~(ii) All net developable land with the appropriate plan designation within the existing UGB shall be presumed to be available for urban use during the planning period.~~

~~(iii) Market availability and level of parcelization shall not render an alternative site unsuitable unless justified by findings consistent with the following criteria:~~

~~(I) Land shall be presumed to be available for use at some time during the planning period of the UGB unless legal impediments, such as deed restrictions, make it unavailable for the use in question.~~

~~(II) A parcel with some development on it shall be considered unavailable if the market value of the improvements is not significantly less than the value of the land, as established by the most recent assessor records at the time of inventory. Standard measures to account for the capability of infill and redevelopment will be developed by Metro to provide a means to define what is significant when comparing structure value and land values. When a city or county has~~

~~more detailed or current gross redevelopable land inventory data, for all or a part of their jurisdiction, it can request that Metro substitute that data in Metro gross developable land inventory.~~

~~(III) Properly designated land in more than one ownership shall be considered suitable and available unless the current pattern or level of parcelization makes land assembly during the planning period unfeasible for the use proposed.~~

~~(2) Factor 2: Need for housing, employment opportunities and livability may be addressed under either subsection (A) or (B) or both, as described below.~~

~~(A) For a proposed amendment to the UGB based upon housing or employment opportunities Metro must demonstrate that a need based upon an economic analysis can only be met through a change in the location of the UGB. For housing, the proposed amendment must meet an unmet need according to statewide planning Goal 10 and its associated administrative rules. For employment opportunities, the proposed amendment must meet an unmet long term need according to statewide planning Goal 9 and its associated administrative rules. The amendment must consider adopted comprehensive plan policies of jurisdictions adjacent to the site, when identified by a jurisdiction and must be consistent with Metro's adopted policies on urban growth management, transportation, housing, solid waste, and water quality management.~~

~~(B) To assert a need for a UGB amendment based on livability, Metro must:~~

~~(i) Factually define the livability need, including its basis in adopted local, regional, state, or federal policy;~~

~~(ii) Factually demonstrate how the livability need can best be remedied through a change in the location of the UGB;~~

~~(iii) Identify both positive and negative aspects of the proposed UGB amendment on both the~~

~~livability need and on other aspects of livability; and~~

~~(iv) Demonstrate that, on balance, the net result of addressing the livability need by amending the UGB will be positive.~~

~~(3) Factor 3: Orderly and economic provision of public facilities and services. An evaluation of this factor shall be based upon the following:~~

~~(A) For the purposes of this section, economic provision shall mean the lowest public cost provision of urban services. When comparing alternative sites with regard to Factor 3, the best site shall be that site which has the lowest net increase in the total cost for provision of all urban services. In addition, the comparison may show how the proposal minimizes the cost burden to other areas outside the subject area proposed to be brought into the boundary.~~

~~(B) For the purposes of this section, orderly shall mean the extension of services from existing serviced areas to those areas which are immediately adjacent and which are consistent with the manner of service provision. For the provision of gravity sanitary sewers, this could mean a higher rating for an area within an already served drainage basin. For the provision of transit, this would mean a higher rating for an area which could be served by the extension of an existing route rather than an area which would require an entirely new route.~~

~~(4) Factor 4: Maximum efficiency of land uses within and on the fringe of the existing urban area. An evaluation of this factor shall be based on at least the following:~~

~~(A) The subject area can be developed with features of an efficient urban growth form including residential and employment densities capable of supporting transit service; residential and employment development patterns capable of encouraging pedestrian, bicycle, and transit use; and the ability to provide for a mix of land uses to meet the needs of residents and employees. If it can be shown that the above factors of compact form can be accommodated more readily in one area than others, the area shall be more favorably considered.~~

~~(B) The proposed UGB amendment will facilitate achieving an efficient urban growth form on adjacent urban land, consistent with local comprehensive plan policies and regional functional plans, by assisting with achieving residential and employment densities capable of supporting transit service; supporting the evolution of residential and employment development patterns capable of encouraging pedestrian, bicycle, and transit use; and improving the likelihood of realizing a mix of land uses to meet the needs of residents and employees.~~

~~(5) Factor 5: Environmental, energy, economic and social consequences. An evaluation of this factor shall be based upon consideration of at least the following:~~

~~(A) If the subject property contains any resources or hazards subject to special protection identified in the local comprehensive plan and implemented by appropriate land use regulations, findings shall address how urbanization is likely to occur in a manner consistent with these regulations.~~

~~(B) Complementary and adverse economic impacts shall be identified through review of a regional economic opportunity analysis, if one has been completed. If there is no regional economic opportunity analysis, one may be completed for the subject land.~~

~~(C) The long term environmental, energy, economic, and social consequences resulting from the use at the proposed site. Adverse impacts shall not be significantly more adverse than would typically result from the needed lands being located in other areas requiring an amendment of the UGB.~~

~~(6) Factor 6: Retention of agricultural land. This factor shall be addressed through the following:~~

~~(A) Prior to the designation of urban reserves, the following hierarchy shall be used for identifying priority sites for urban expansion to meet a demonstrated need for urban land:~~

~~(i) Expansion on rural lands excepted from statewide planning Goals 3 and 4 in adopted and acknowledged county comprehensive plans. Small amounts of rural resource~~

~~land adjacent to or surrounded by those "exception lands" may be included with them to improve the efficiency of the boundary amendment. The smallest amount of resource land necessary to achieve improved efficiency shall be included;~~

~~(ii) If there is not enough land as described in (i) above to meet demonstrated need, secondary or equivalent lands, as defined by the state, should be considered;~~

~~(iii) If there is not enough land as described in either (i) or (ii) above, to meet demonstrated need, secondary agricultural resource lands, as defined by the state should be considered;~~

~~(iv) If there is not enough land as described in either (i), (ii) or (iii) above, to meet demonstrated need, primary forest resource lands, as defined by the state, should be considered;~~

~~(v) If there is not enough land as described in either (i), (ii), (iii) or (iv) above, to meet demonstrated need, primary agricultural lands, as defined by the state, may be considered.~~

~~(B) After urban reserves are designated and adopted, consideration of Factor 6 shall be considered satisfied if the proposed amendment is wholly within an area designated as an urban reserve.~~

~~(C) After urban reserves are designated and adopted, a proposed amendment for land not wholly within an urban reserve must also demonstrate that the need cannot be satisfied within urban reserves.~~

~~(7) Factor 7: Compatibility of proposed urban development with nearby agricultural activities.~~

~~The record shall include an analysis of the potential impact on nearby agricultural activities including the following:~~

~~(i) A description of the number, location and types of agricultural activities occurring within one mile of the subject site;~~

~~(ii) An analysis of the potential impacts, if any, on nearby agricultural activities taking place on lands designated for agricultural use in the applicable adopted county or city comprehensive plan, and mitigation efforts, if any impacts are identified. Impacts to be considered shall include consideration of land and water resources which may be critical to agricultural activities, consideration of the impact on the farming practices of urbanization of the subject land, as well as the impact on the local agricultural economy.~~

~~(c) The requirements of statewide planning Goal 2 will be met by addressing all of the requirements of Section 3.01.020(b), above, and by factually demonstrating that:~~

~~(1) The land need identified cannot be reasonably accommodated within the current UGB; and~~

~~(2) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts; and~~

~~(3) The long term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in other areas than the proposed site and requiring an exception.~~

~~(d) The proposed location for the UGB shall result in a clear transition between urban and rural lands, using natural and built features, such as roads, drainage divides, floodplains, powerlines, major topographic features, and historic patterns of land use or settlement.~~

~~(e) The Council shall determine whether adding land to the UGB contributes to the purposes of Centers.~~

~~(f) Satisfaction of the requirements of Section 3.01.020(a) and (b) does not mean that other statewide planning goals do not need to be considered. If the proposed amendment involves other statewide planning goals, they shall be addressed.~~

~~(g) Sections 3.01.020(a), (b), (c), (d) and (e) shall be considered to be consistent with and in conformance with the Regional Framework Plan.~~

~~(h) Where efficiencies in the future development of an existing urban reserve are demonstrated, the Metro Council may amend the urban reserve in the same UGB amendment process to include additional adjacent nonresource lands up to 10 percent of the total acreage. Any urban reserve amendment shall demonstrate compliance with the Urban Reserve Rule (OAR 660-021-0030).~~

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 uses 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 Amendment Procedures

~~(a) A city, a county, a special district or a property owner may file an application for a major amendment to the UGB on a form provided for that purpose. 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 Metro Council is completing its five year analysis of buildable land supply under ORS 197.299(1). After receipt of a complete application, the Chief Operating Officer will set the matter for a public hearing and provide notice to the public in the manner set forth in Sections 3.01.050 and 3.01.055.~~

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

~~(c) Upon a request by a Metro Councilor and a finding of good cause, the Metro Council may, by a two thirds vote of the full Council, waive the filing deadline for an application.~~

~~(d) Except for that calendar year in which the Metro Council is completing its five year analysis of buildable land supply, the Chief Operating Officer shall give notice of the March 15 deadline for acceptance of applications for major amendments not less than 120 calendar days before the deadline and again 90 calendar days before the deadline in a newspaper of general circulation in Metro and in writing to each city and county in Metro. A copy of the notice shall~~

~~be mailed not less than 90 calendar days before the deadline to 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.~~

~~(e) The Chief Operating Officer shall submit a report and recommendation on the application to the hearings officer not less than 21 calendar days before the hearing. The Chief Operating Officer shall send a copy of the report and recommendation simultaneously 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 at least seven days prior to the hearing.~~

~~(f) An applicant shall provide a list of names and addresses of property owners for notification purposes, consistent with Section 3.01.055, when submitting an application. The list shall be certified in one of the following ways:~~

~~(1) By a title company as a true and accurate list of property owners as of a specified date; or~~

~~(2) By a county assessor, or designate, pledging that the list is a true and accurate list of property owners as of a specified date; or~~

~~(3) By the applicant affirming that the list is a true and accurate list as of a specified date.~~

~~(g) An applicant may request postponement of the hearing to consider the application within 90 days after filing of the application. The Chief Operating Officer may postpone the hearing for no more than 90 days. If the Chief Operating Officer receives no request for rescheduling within 90 days after the request for postponement, the application shall be considered withdrawn and the Chief Operating Officer shall return the portion of the fee deposit not required for costs assessed pursuant to Section 3.01.045.~~

~~(h) Position of City or County:~~

~~(1) Except as provided in paragraph (4) of this section, an application shall not be considered complete unless it includes a written statement by the governing body of each city or county with land use jurisdiction over the area included in the application that:~~

~~(A) Recommends approval of the application;~~

~~(B) Recommends denial of the application; or~~

~~(C) Makes no recommendation on the application.~~

~~(2) Except as provided in paragraph (4) of this subsection, an application shall not be considered complete unless it includes a written statement by any special district that has an agreement with the governing body of any city or county with land use jurisdiction over the area included in the application to provide an urban service to the area that:~~

~~(A) Recommends approval of the application;~~

~~(B) Recommends denial of the application; or~~

~~(C) Makes no recommendation on the application.~~

~~(3) If a city, county or special district holds a public hearing to consider an application, it shall:~~

~~(A) Provide notice of such hearing to the Chief Operating Officer and any city or county whose municipal boundary or urban planning area boundary abuts the area; and~~

~~(B) Provide the Chief Operating Officer with a list of the names and addresses of persons testifying at the hearing and copies of any exhibits or written testimony submitted for the hearing.~~

~~(4) Upon request by an applicant, the Council may waive the requirements of subsections (1) and (2) of this section if the applicant shows that the local government has a policy not to comment on such applications or that a request for comment was filed with the local government or special district at least 120 calendar days before the request and the local government or special district has not yet adopted a position on the application. The governing body of a local government may delegate the decisions described in paragraphs (1) and (2) of this subsection to its staff.~~

~~(i) The Council may approve expansion of the UGB to include land outside the Metro Area 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.~~

~~(j) The proposed amendment to the UGB shall include the entire right-of-way of an adjacent street to ensure that public facilities~~

~~and services can be provided to the subject property by the appropriate local government or service district in a timely and efficient manner.~~

~~— (k) At least 30 days prior to the first public hearing on an application to amend the UGB to include in excess of 100 acres, the applicant shall prepare a report on the effect of the proposed amendment on existing residential neighborhoods. Metro 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 services and public infrastructure to the area to be added.~~

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 vote of five members 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 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 officer 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 Criteria for Major Amendment

~~— (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 five year analysis of buildable land supply and cannot wait until the next five year analysis. This section establishes criteria for major amendments to the UGB and sets forth how state law applies to these amendments. Metro intends compliance with the criteria of this section to constitute compliance with ORS 197.298, statewide planning Goals 2 and 14 and the Regional Urban Growth Goals and Objectives. Land may be added to the UGB under this section only for the following purposes: public facilities, public schools, natural areas, land trades and other nonhousing needs.~~

~~— (b) The applicant shall demonstrate that the amendment will provide for an orderly and efficient transition from rural to urban use, considering the following factors:~~

~~— (1) Demonstrated need to accommodate long range urban population growth. The Metro Council will consider, based upon evidence in the record, whether the need for the subject land was accommodated at the time of the last legislative analysis of the UGB required by ORS 197.299. If the need was not accommodated in that analysis, the Metro Council will consider whether the need must be met now, rather than at the time of the next legislative amendment, in order to ensure an orderly and efficient transition from rural to urban use.~~

~~— (2) Need for employment opportunities and livability. The Metro Council will consider, based upon evidence in the record, whether the need must be met at a particular location, or in a particular part of the region, in order to secure an employment or livability opportunity that cannot await the next legislative review of the UGB required by ORS 197.299(1), or to ensure the livability of that part of the region.~~

~~— (3) Orderly and economic provision of public facilities and services. The Metro Council will consider, based upon evidence in the record, whether adding the subject land to the UGB, as compared with other land~~

~~that might be added, will result in a more logical extension of public facilities and services and reduce the overall cost of public facilities and services to land already within the UGB.~~

~~(4) Maximum efficiency of land uses within and on the fringe of the existing urban area. The Metro Council will consider, based upon evidence in the record, whether, in comparison with other land that might be added to the UGB, addition of the subject land will better achieve the residential and employment targets and transportation objectives in the 2040 Growth Concept that apply to nearby land within the UGB.~~

~~(5) Environmental, energy, economic and social consequences. The Metro Council will consider, based upon evidence in the record, whether the consequences of addition of the subject land would be, on the whole, more positive than not including the land, and more positive than including other land.~~

~~(6) Retention of agricultural and forest land. The Metro Council will consider, based upon evidence in the record, addition of land designated for agriculture or forestry pursuant to a statewide Goal 3 (Agricultural Land) or Goal 4 (Forest Land) only under the following circumstances:~~

~~(A) There is no land designated as urban reserve land pursuant to OAR 660, Division 021, as exception land pursuant to ORS 197.732(1)(a) or (b), or as marginal land pursuant to ORS 197.247 (1991 Edition) available to accommodate the subject need; or~~

~~(B) There is no land designated urban reserve available to accommodate the subject need, the subject land is not high value farmland as described in ORS 215.710, and the subject land is completely surrounded by exception land; or~~

~~(C) The application identifies a specific type of land need that cannot reasonably be accommodated on land described in (A) or (B) of this paragraph; or~~

~~(D) Future urban services could not reasonably be provided to land described in (A) or (B) of this paragraph.~~

~~(7) Compatibility of proposed urban development with nearby agricultural activities. The Metro Council~~

~~will consider, based upon evidence in the record, whether urban development on the subject land would likely cause a change in farm practices, or an increase in the cost of farm practices, on farms in areas designated for agriculture or forestry pursuant to a statewide planning goal within one mile of the subject land, based upon an inventory and analysis of those practices. The Metro Council will also consider measures that might eliminate or alleviate the potential conflicts with farm practices.~~

~~(c) The applicant shall demonstrate that:~~

~~(1) There is no land within the existing UGB that can reasonably accommodate the subject need;~~

~~(2) The long term environmental, economic, social and energy consequences of addition of the subject land would not be significantly more adverse than the consequence of adding other land;~~

~~(3) The proposed uses of the subject land would be compatible, or through measures can be made compatible, with uses of adjacent land;~~

~~(4) 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;~~

~~(5) The amendment complies with applicable statewide planning goals; and~~

~~(6) 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.~~

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

~~(e) Compliance with the criteria in subsections (b) and (c) of this section shall constitute conformance with the Regional Urban Growth Goals and Objectives.~~

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), (c) and (d) 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 ~~file an application with Metro for initiate~~ a minor adjustment to the UGB by filing an application on a form provided ~~for that purpose~~ 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(~~hd~~).

~~—(b) Upon receipt of a complete application, the Chief Operating Officer shall provide notice of the application to the persons specified in Sections 3.01.050(d)(1) and 3.01.050(d)(3) through (6) to owners of property within 100 feet of the land involved in the application, to the Metro Council and to any person who requests notification of applications for minor adjustments.~~

(~~eb~~) The Chief Operating Officer ~~shall~~ will determine whether ~~the an~~ application is complete and shall notify the applicant of ~~its the~~ determination within ~~seven working ten~~ days after the filing of ~~an the~~ application. If the application is not complete, the applicant shall complete it within 14 days of ~~the Chief Operating Officer's~~

notice of incompleteness. The Chief Operating Officer will dismiss an application and return application fees if ~~it does not receive~~ a complete application is not received within 14 days of ~~its 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 ~~its~~ analysis and conclusions within 90 days of receipt of a complete application. The Chief Operating Officer shall send a copy of ~~its 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 ~~and to each member of the Council~~.

(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 ~~the Chief Operating Officer Metro for that purpose~~ within 14 days ~~of~~ after receipt of the order. ~~In addition, any A~~ member of the Council may request in writing ~~that~~ 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. ~~Following the hearing, the Council shall uphold, deny or modify the Chief Operating Officer's order on the minor adjustment. The Council shall issue an order with its analysis and conclusion 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.~~

(f) Notice to the public of a Council hearing on a proposed minor adjustment to the UGB shall 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 ~~Criteria for~~ Minor Adjustments - Criteria

(a) The purpose of this section is to provide a mechanism to make small changes to the UGB ~~in order~~ 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 ~~boundary~~ 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 ~~make~~ 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 ~~make~~ 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 coterminus 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.

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

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

3.01.040 ~~Metro~~ 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 ~~Urban Growth Boundary area comprehensive plan~~

requirements of Title 11, Planning for New Urban Areas, of the Urban Growth Management Functional Plan (Metro Code Section 3.07.~~1110~~1105 et seq.).

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

- (1) ~~The Council shall consult~~ In consultation with ~~affected~~ affected local governments, ~~and MPAC to determine whether local governments have agreed, pursuant to ORS 195.065 to 195.085 or otherwise, which local government shall adopt comprehensive plan amendments for the area consistent with requirements of the Urban Growth Management Functional Plan (Metro Code Chapter 3.07) and in particular, Title 11 thereof (Metro Code Section 3.07.1110 et seq.). Where the affected local governments have agreed as to which local government or governments shall be responsible, the Council shall so designate. If there is no agreement, then the Council shall, consistent with ORS 195.065 to 195.085, establish a process to determine which local government or governments shall be responsible and at the conclusion of the process, so designate.~~ 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) ~~The Council shall e~~Establish the 2040 Growth Concept design type designations applicable to the land added to the ~~Urban Growth Boundary~~, including the ~~special 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) ~~The Council shall e~~Establish the boundaries of the area that shall be included in the ~~conceptual level of planning required by Title 11. of the Urban Growth Management Functional Plan (Metro Code Section 3.07.1110 et seq.)~~. The boundary of the planning area may include all or part of one or more designated urban reserves.

(4) ~~The Council shall also e~~Establish the time period for city or county compliance with the requirements of ~~the Urban Growth Management Functional Plan (Metro Code Chapter 3.07) and in particular, Title 11, thereof (Metro Code Section 3.07.1110 et seq.); however, the time period shall not be less~~ which shall not be less than two (2) years from the time a local government is designated pursuant to Section 3.01.040(b)(1) above following the effective date of the ordinance adding the area to the UGB.

~~(5) The Council may adopt text interpretations of the requirements of Urban Growth Management Functional Plan (Metro Code Chapter 3.07) and in particular, Title 11 thereof (Metro Code Section 3.07.1110 et seq.) that shall be applicable to the required City or County comprehensive plan amendments. These interpretations may address special land needs that are the basis for the amendment but otherwise such interpretations shall not impose specific locational development requirements. Text interpretations may include determinations that certain provisions of Title 11 are not applicable to specific areas because of the size or physical characteristics of land added to the Urban Growth Boundary.~~

(c) When it adopts a legislative or major amendment ~~adding land~~ 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.

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 costs.~~

(b) The fees for ~~administrative~~ 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) An applicant also shall be charged for the costs of Metro hearings officer as billed for that case and for the costs of public notice.~~

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

(~~e~~d) The unexpended portion of an applicant's deposit, if any, shall be returned to the applicant at the time of ~~a~~ 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.

~~(f) If hearings officer/public notice or administrative 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 Metro Council.~~

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

~~3.01.050 Hearing Notice Requirements~~

~~(a) 45 Day Notice. A proposal to amend the UGB by legislative amendment under Section 3.01.015 or by major amendment under Section 3.01.025 shall be submitted to the director of the Department of Land Conservation and Development at least 45 days before the first public hearing on the matter. The notice shall be accompanied by the appropriate forms provided by the department and shall contain a copy of a map showing the location of the proposed amendment. A copy of the same information shall be provided to the city and county, representatives of recognized neighborhoods, citizen planning organizations and/or other recognized citizen participation organizations adjacent to the location of the proposed amendment.~~

~~(b) Newspaper Ads. A 1/8 page advertisement in a newspaper of general circulation of Metro for all legislative amendments and major amendments. For legislative amendments and major amendments the initial newspaper advertisements shall be published at least 45 days prior to the public hearing and shall include the same information listed in subsection (a).~~

~~(c) Notice of public hearing shall include:~~

~~(1) The time, date and place of the hearing.~~

~~(2) A description of the property reasonably calculated to give notice as to its actual location. A street address or other easily understood geographical reference can be utilized if available.~~

- ~~(3) For major amendments:~~
- ~~(A) An explanation of the proposed action, including the nature of the application and the proposed boundary change.~~
 - ~~(B) A list of the applicable criteria for approval of the petition at issue.~~
 - ~~(C) A statement that the failure of an issue to be raised in a hearing, in person or by letter, 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.~~
- ~~(4) Notice that interested persons may submit written comments at the hearing and appear and be heard.~~
- ~~(5) Notice that the hearing will be conducted pursuant to district rules and before the hearings officer unless that requirement is waived by the Metro Council.~~
- ~~(6) Include the name of the Metro staff to contact and telephone number for more information.~~
- ~~(7) State that a copy of the staff report will be available for inspection at no cost at least seven calendar days prior to the final hearing, and that a copy will be made available at no cost or reasonable cost. Further that if additional documents or evidence is provided in support of the application any party shall be entitled to a continuance of the hearing.~~
- ~~(8) Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.~~
- ~~(d) Not less than 20 calendar days before the hearing, notice shall be mailed to the following persons:~~
- ~~(1) The applicant and owners of record of property on the most recent property tax roll where the property is located.~~
 - ~~(2) All property owners of record within 500 feet of the site. For purposes of this subsection, only those property owners of record within the specified distance from the subject property as determined from the maps and records in the county departments of taxation and assessment are entitled to notice by~~

~~mail. Failure of a property owner to receive actual notice will not invalidate the action if there was a reasonable effort to notify owners of record.~~

~~(3) Cities and counties in Metro, or cities and counties whose jurisdictional boundaries either include or are adjacent to the subject property, and affected agencies who request regular notice.~~

~~(4) The neighborhood association, community planning organization or other citizen group, if any, which has been recognized by the city or county with land use jurisdiction for the subject property.~~

~~(5) Any neighborhood associations, community planning organizations, or other vehicles for citizen involvement in land use planning processes whose geographic areas of interest either include or are adjacent to the site and which are officially recognized as being entitled to participate in land use planning processes by the cities and counties whose jurisdictional boundaries either include or are adjacent to the site.~~

~~(6) The regional representatives of the director of the Oregon Department of Land Conservation and Development and the Oregon Department of Transportation.~~

~~(7) Any other person requesting notification of UGB changes.~~

~~(c) At the conclusion of the hearing, the hearings officer may continue the hearing to a time, place and date certain, without additional notice.~~

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 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 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)(C) 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 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 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 Public Hearing Rules Before the Hearings Officer~~

~~(a) Notice of the hearings governed by this section shall be provided to the applicant and to owners of record of property on the most recent property tax assessment roll where such property is located:~~

~~(1) Within 250 feet of the property which is the subject of the notice where the subject property is outside an~~

~~urban growth boundary and not within a farm or forest zone; or~~

~~(2) Within 500 feet of the property which is the subject of the notice where the subject property is within a farm or forest zone.~~

~~(3) Notice shall also be provided to any neighborhood or community organization recognized by the governing body and whose boundaries include the site.~~

~~(4) If required, the Chief Operating Officer shall also provide notice to the Department of Land Conservation and Development.~~

~~(5) The notice shall:~~

~~(A) Explain the nature of the application and the proposed use or uses which could be authorized;~~

~~(B) List the applicable criteria from the ordinance and the regional framework plan that apply to the application at issue;~~

~~(C) Set forth the street address or other easily understood geographical reference to the subject property;~~

~~(D) State the date, time and location of the hearing;~~

~~(E) State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to the board based on that issue;~~

~~(F) Be mailed at least:~~

~~(i) 20 days before the evidentiary hearing; or~~

~~(ii) If two or more evidentiary hearings are allowed, 10 days before the first evidentiary hearing;~~

~~(G) Include the name of a Metro representative to contact and the telephone number where additional information may be obtained;~~

~~(H) State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are~~

~~available for inspection at no cost and will be provided at reasonable cost;~~

~~(I) State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at reasonable cost; and~~

~~(J) Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.~~

~~(6) The failure of the property owner to receive notice as provided in this section shall not invalidate such proceedings if the Chief Operating Officer can demonstrate by affidavit that such notice was given. The notice provisions of this section shall not restrict the giving of notice by other means, including posting, newspaper publication, radio and television.~~

~~(b) All applications for a major amendment accepted under this chapter shall receive a contested case hearing according to the following rules:~~

~~(1) Hearings officers shall be selected by Metro pursuant to the provisions of Section 2.05.025(a) of the Metro Code.~~

~~(2) Parties to the case shall be defined as being any individual, agency, or organization who participates orally or in writing in the creation of the record used by the hearings officer in making a decision. If an individual represents an organization orally and/or in writing, that individual must indicate the date of the organization meeting in which the position presented was adopted. The hearings officer may request that the representative explain the method used by the organization to adopt the position presented. Parties need not be represented by an attorney at any point in the process outlined in this subsection and elsewhere in this chapter.~~

~~(3) At the time of the commencement of a hearing, the hearings officer shall provide the following information to parties:~~

~~(A) A list and statement of the applicable substantive criteria and procedures for notice and conduct of local quasi-judicial land use hearings provided that failure to provide copies~~

~~to all those present shall not constitute noncompliance with this subsection; and~~

~~(B) A statement that testimony and evidence must be directed toward the criteria or other specific criteria which the person believes apply to the decision; and~~

~~(C) A statement that the failure to raise an issue accompanied by statements or evidence sufficient to afford the decision-maker and the parties an opportunity to respond to the issue precludes appeal.~~

~~(4) (A) Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence, arguments or testimony regarding the application. The hearing may be continued for a reasonable period as determined by the hearings officer. The hearings officer shall grant such request by continuing the public hearing pursuant to paragraph (B) of this subsection or leaving the record open for additional written evidence, arguments or testimony pursuant to paragraph (C) of this subsection.~~

~~(B) 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. An opportunity shall be provided at the continued hearing for persons to present and rebut new evidence, arguments and testimony. If new written evidence is submitted at the continued hearing, any person may request, prior to the conclusion of the continued hearing, that the record be left open for at least seven days to submit additional written evidence, arguments or testimony for the purpose of responding to the new written evidence.~~

~~(C) If the hearings officer leaves the record open for additional written evidence or testimony, the record shall be left open for at least seven days. Any participant may file a written request with the hearings officer for an opportunity to respond to new evidence submitted during the period the record was left open. If such a request is filed, the hearings officer shall reopen the record pursuant to subsection (11) of this section.~~

- ~~(D) Unless waived by the applicant, the local government shall allow the applicant at least seven days after the record is closed to all other parties to submit final written arguments in support of the application. The applicant's final submittal shall be considered part of the record, but shall not include any new evidence.~~
- ~~(5) Failure of the applicant to appear at the hearing without making arrangements for rescheduling the hearing shall constitute grounds for immediately denying the application.~~
- ~~(6) The hearing shall be conducted in the following order:~~
- ~~(A) Staff report.~~
- ~~(B) Statement and evidence by the applicant in support of a petition.~~
- ~~(C) Statement and evidence of affected persons, agencies, and/or organizations opposing or supporting the petition, and/or anyone else wishing to give testimony.~~
- ~~(D) Rebuttal testimony by the applicant.~~
- ~~(7) The hearings officer shall have the right to question any participant in the hearing. Cross examination by parties shall be by submission of written questions to the hearings officer. The hearings officer shall give parties the opportunity to submit such questions prior to closing the hearing.~~
- ~~(8) The hearings officer may set reasonable time limits for oral testimony and may exclude or limit cumulative, repetitive, or immaterial testimony.~~
- ~~(9) A verbatim audio tape or video tape, written, or other mechanical record shall be made of all proceedings, and need not be transcribed unless necessary for review upon appeal.~~
- ~~(10) The burden of presenting evidence in support of a fact or position in the contested case rests on the applicant. The proponent of a proposed UGB amendment shall have the burden of proving that the proposed amendment complies with all applicable standards.~~
- ~~(11) The hearings officer may reopen a record to receive evidence not available or offered at the hearing. If~~

~~the record is reopened, any person may raise new issues which relate to the new evidence before the record is closed.~~

~~(12) An issue which may be the basis for an appeal to the Land Use Board of Appeals shall be raised not later than the close of the record at or following the final evidentiary hearing on the proposal before the Metro Council. Such issues shall be raised and accompanied by statements or evidence sufficient to afford the governing body, planning commission, hearings body or hearings officer, and the parties an adequate opportunity to respond to each issue.~~

~~(13) All documents or evidence relied upon by the applicant shall be submitted to the Chief Operating Officer and be made available to the public.~~

~~(14) Applications may be consolidated by the hearings officer for hearings where appropriate. Following consultation with Metro staff and prospective applicants, the hearings officer shall issue rules for the consolidation of related cases and allocation of charges. These rules shall be designed to avoid duplicative or inconsistent findings, promote an informed decision-making process, protect the due process rights of all parties, and allocate the charges on the basis of cost incurred by each party.~~

~~(c) Within 30 calendar days following the close of the record, the hearings officer shall prepare and submit a proposed order and findings, together with the record compiled in the hearing and a list of parties to the case, to the Chief Operating Officer. Within seven (7) working days of receiving the materials from the hearings officer, the Chief Operating Officer, or designate, shall furnish the proposed order and findings to all parties to the case. Accompanying the proposed order and findings shall be notification to parties which includes:~~

~~(1) The procedure for filing an exception and filing deadlines for submitting an exception to the proposed order and findings of the hearings officer. Parties filing an exception with Metro must furnish a copy of their exception to all parties to the case and the hearings officer.~~

~~(2) A copy of the form to be used for filing an exception.~~

~~(3) A description of the grounds upon which exceptions can be based.~~

~~(4) A description of the procedure to be used to file a written request to submit evidence that was not offered at the hearing, consistent with Metro Code Sections 2.05.035(c) and (d).~~

~~(5) A list of all parties to the case.~~

~~(d) Once a hearings officer has submitted the proposed order and findings to the Chief Operating Officer, the Chief Operating Officer, or designate, shall become the custodian of the record compiled in the hearing, and shall make the record available at Metro offices for review by parties.~~

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 Exceptions to Hearings Officer Decision~~

~~(a) Standing to file an exception and participate in subsequent hearings is limited to parties to the case.~~

~~(b) Parties shall have 20 calendar days from the date that the proposed order and findings are mailed to them to file an exception to the proposed order and findings of the hearings officer with Metro on forms furnished by Metro.~~

~~(c) The basis for an exception must relate directly to the interpretation made by the hearings officer of the ways in which the application satisfies the standards for approving an application for a UCB amendment. Exceptions must rely on the evidence in the record for the case. Only issues raised at the evidentiary hearing will be addressed because failure to raise an issue constitutes a waiver to the raising of such issues at any subsequent administrative or legal appeal deliberations.~~

~~(Ordinance No. 92-450A, Sec. 1. Amended by Ordinance No. 01-929A, Sec. 9; Ordinance No. 02-972A, Sec. 1.)~~

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.

~~3.01.065 Council Action On Quasi-Judicial Amendments~~

~~(a) The Council may act to approve, remand or deny an application in whole or in part. When the Council renders a decision that reverses or modifies the proposed order of the hearings officer,~~

~~then, in its order, it shall set forth its findings and state its reasons for taking the action.~~

~~(b) Parties to the case and the hearings officer shall be notified by mail at least 10 calendar days prior to Council consideration of the case. Such notice shall include a brief summary of the proposed action, location of the hearings officer report, and the time, date, and location for Council consideration.~~

~~(c) Final Council action following the opportunity for parties to comment orally to Council on the proposed order shall be as provided in Code Section 2.05.045. Parties shall be notified of their right to review before the Land Use Board of Appeals.~~

~~(d) Comments before the Council by parties must refer specifically to any arguments presented in exceptions filed according to the requirements of this chapter, and cannot introduce new evidence or arguments before the Council. If no party to the case has filed an exception, then the Council shall decide whether to entertain public comment at the time that it takes final action on an application.~~

~~(e) Within 20 days from the day that the proposed order and findings of the hearings officer are mailed to them, parties may file a motion to reopen the record to receive admissible evidence not available at the hearing. The motion shall show proof of service on all parties. The Council shall rule on such motions with or without oral argument at the time of its consideration of the case. An order approving such a motion to reopen the record shall remand the case to the hearings officer for evidentiary hearing. When the Council or the hearings officer reopens a record to admit new evidence, arguments or testimony, any person may raise new issues which relate to the new evidence, testimony or criteria for decision making which apply to the matter at issue.~~

~~(f) 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 calendar days of notice that all required annexations have been approved.~~

~~(g) When the Council is considering an ordinance to approve an application, it shall take all public comment at its first reading of the ordinance, discuss the case, and then either pass the ordinance to second reading or remand the proposed order and findings of the~~

~~hearings officer to the Metro Attorney or the hearings officer for new or amended findings. If new or amended findings are prepared, parties to the case shall be provided a copy of the new order and findings by mail no less than seven calendar days prior to the date upon which the Council will consider the new order and findings, and parties will be given the opportunity to provide the Council with oral or written testimony regarding the new order and findings.~~

~~3.01.070 Final Action Notice Requirements~~

~~(a) Metro shall give each county and city in Metro notice of each amendment of the UGB. Mailing the notice required by Ballot Measure 56 (Nov. 1998) [ORS Chapter 268] or ORS 197.615 shall satisfy this subsection.~~

~~(b) For the local government designated as having the responsibility for land use planning for the area(s) added to the UGB, Metro shall provide an additional notice stating the time period for completing comprehensive plan amendments for the area.~~

~~3.01.080 Chapter Regulation Review~~

~~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. This chapter shall be submitted upon adoption to the Land Conservation and Development Commission for acknowledgment pursuant to ORS 197.251, as an implementing measure to Metro UGB. Amendments to this chapter shall be submitted to the Department of Land Conservation and Development pursuant to the requirements of OAR 660 Division 18 as appropriate.~~

~~3.01.085 Severability~~

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

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING THE) ORDINANCE NO. 05-1070A
METRO URBAN GROWTH BOUNDARY TO)
INCREASE CAPACITY TO ACCOMMODATE)
GROWTH IN INDUSTRIAL EMPLOYMENT ~~IN~~)
~~RESPONSE~~ AND TO RESPOND TO REMAND)
ORDERS FROM THE LAND CONSERVATION)
AND DEVELOPMENT COMMISSION) Introduced by the Metro Council

WHEREAS, the Metro Council added capacity to the regional urban growth boundary (“UGB”) to accommodate growth ~~in industrial employment~~ employment and housing by Ordinances No. 02-969B (For the Purpose of Amending the Urban Growth Boundary, the Regional Framework Plan and the Metro Code in Order to Increase the Capacity of the Boundary to Accommodate Population Growth to the Year 2022), No. 02-983B (For the Purpose of Amending the Urban Growth Boundary to Add Land for a Specific Type of Industry Near Specialized Facilities North of Hillsboro), No. 02-990A (For the Purpose of Amending the Urban Growth Boundary to Add Land in Study Areas 47 and 48, Tigard Sand and Gravel Site) and No. 04-1040B (For the Purpose of Amending the Metro Urban Growth Boundary, the Regional Framework Plan and the Metro Code to Increase the Capacity of the Boundary to Accommodate Growth in Industrial Employment); and

WHEREAS, on July 22, 2005, LCDC issued its “Partial Approval and Remand Order 05-WKTASK-001673” that approved most of the Council’s decisions in Ordinance No. 04-1040B, but returned the matter to the Council for completion of several tasks; and

WHEREAS, on October 31, 2005, LCDC issued its “Partial Approval and Remand Order 05-WKTASK-001688” that approved most of the Council’s decisions in Ordinance No. 02-969B, but returned the matter to the Council for reconsideration of inclusion of two areas in the UGB to provide capacity for housing; and

WHEREAS, the Council completed the analysis and evaluation required by LCDC’s order; and

WHEREAS, the Council consulted its Metropolitan Policy Advisory Committee and the 25 cities and three counties of the metropolitan region and considered comments and suggestions prior to making this decision; and

WHEREAS, the Council may seek voter approval of a mechanism that would make properties included within the UGB subject to an assessment in order to capture a portion of the increase in value caused by inclusion in the UGB for purposes of completing comprehensive planning necessary to urbanize the properties; and

WHEREAS, prior to making this decision, the Council sent individual mailed notification to the owners and neighbors of properties considered for inclusion in the UGB, held a public hearing on November 10, 2005, and considered the public comment; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. The Metro UGB is amended to include those lands shown on the package of maps Exhibit "A", with the designated 2040 Growth Concept design type, subject to the conditions set forth in Exhibit "B". Exhibits "A" and "B" are attached and incorporated into this ordinance by this reference.
2. The Metro UGB is amended to exclude the portions of Study Areas 37 and 94 that were added to the UGB by Ordinance No. 02-969B to provide capacity for housing, and to exclude a portion of the Cornelius Study Area that was added to the UGB by Ordinance No. 04-1040B, both shown on the package of maps Exhibit "A."
- ~~23.~~ The 2002-2022 *Urban Growth Report: An Employment Land Need Analysis*, adopted by Ordinance No. 02-969B on December 5, 2002, and revised on June 24, 2004, is further revised and attached and incorporated into this ordinance as Exhibit "C".
- ~~34.~~ The Findings of Fact and Conclusions of Law in Exhibit "D", attached and incorporated into this ordinance, explain how this ordinance complies with state law, the Regional Framework Plan and the Metro Code.

ADOPTED by the Metro Council this 17th day of November, 2005.

David Bragdon, Council President

Attest:

Approved as to form:

Christina Billington, Recording Secretary

Daniel B. Cooper, Metro Attorney

Ordinance No. 05-1070A
Exhibit A

**These maps will be available at the
Metro Council meeting.**

PLACEHOLDER

Exhibit B to Ordinance No. 05-1070[A](#)
Conditions of Approval

A. Evergreen Area

1. The City of Hillsboro, in coordination with Washington County and Metro, shall complete the planning required by Metro Code Title 11, Urban Growth Management Functional Plan (“UGMFP”), section 3.07.1120 (“Title 11 Planning”) for the Evergreen area shown on Exhibit “A” to this ordinance. The city shall ensure that planning for the Evergreen area is coordinated with planning for the Helvetia area added to the UGB by Ordinance No. 04-1040B. The city or county shall complete Title 11 planning within ___ years after the effective date of this ordinance.

2. The city shall apply the 2040 Growth Concept design types shown on Exhibit “A” of this ordinance to the planning required by Title 11 for the study area.

3. The city shall apply the interim protection standards in Metro Code Title 11, UGMFP, section 3.07.1110, to the Evergreen area until the effective date of the comprehensive plan provisions and land use regulations are adopted to implement Title 11.

4. The city shall adopt provisions – such as setbacks, buffers and designated lanes for movement of slow-moving farm machinery – in its land use regulations to enhance compatibility between industrial uses in the Evergreen area and agricultural practices on adjacent land outside the UGB that is zoned for farm or forest use.

5. In the course of Title 11 planning, the city shall comply with the Regional Framework Plan, as implemented by Title 13 (“Nature in Neighborhoods”) of the UGMFP for the protection of fish and wildlife habitat in the Evergreen area.

6. In the course of Title 11 planning, the city shall develop a lot/parcel reconfiguration plan that results in at least one parcel in the Evergreen area that is 100 acres or larger in size. After reconfigurations, the parcel may be divided pursuant to the provision to the provision of section 3.07.420E or 3.07.430D, whichever is applicable.

B. Cornelius Area

1. The City of Cornelius, in coordination with Washington County and Metro, shall complete the planning required by Metro Code Title 11, UGFMP, section 3.07.1120 (“Title 11 Planning”) for the Cornelius area shown on Exhibit “A” to this ordinance. The city or county shall complete Title 11 planning within ___ years after the effective date of this ordinance.

2. The city shall apply the 2040 Growth Concept design types shown on Exhibit “A” of this ordinance to the planning required by Title 11 for the study area.

3. The city shall apply the interim protection standards in Metro Code Title 11, UGMFP, section 3.07.1110, to the Cornelius area until the effective date of the comprehensive plan provisions and land use regulations are adopted to implement Title 11.

4. The city shall adopt provisions – such as setbacks, buffers and designated lanes for movement of slow-moving farm machinery – in its land use regulations to enhance compatibility between industrial uses in the Cornelius area and agricultural practices on adjacent land outside the UGB that is zoned for farm or forest use.

5. In the course of Title 11 planning, the city shall comply with the Regional Framework Plan, as implemented by Title 13 (“Nature in Neighborhoods”) of the UGMFP for the protection of fish and wildlife habitat in the Cornelius area.

C. Terminal 6 Area

1. The City of Portland shall complete the planning required by Metro Code Title 11, UGMFP, section 3.07.1120 (“Title 11 Planning”) for the Terminal 6 area shown on Exhibit “A” to this ordinance. The city shall complete Title 11 planning within two years after the effective date of this ordinance.

2. The city shall apply the 2040 Growth Concept design type shown on Exhibit “A” of this ordinance to the planning required by Title 11 for the area.

STAFF REPORT

ORDINANCE NO. 05-1070, FOR THE PURPOSE OF AMENDING THE METRO URBAN GROWTH BOUNDARY TO INCREASE CAPACITY TO ACCOMMODATE GROWTH INDUSTRIAL EMPLOYMENT IN RESPONSE TO REMAND FROM THE LAND CONSERVATION AND DEVELOPMENT COMMISSION.

Date: October 13, 2005

Prepared by: Lydia M. Neill
Principal Regional Planner

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 analysis and findings are discussed within this staff report to demonstrate that Metro complies with the Statewide and regional land use laws.

ANALYSIS/INFORMATION

Metro undertook an evaluation of the UGB as part of Periodic Review in 2002. This review process involved technical evaluation, study of options to increase capacity and add land to meet the 20-year forecast for future population and employment growth. Metro conducted an extensive public involvement program to engage stakeholders, local elected officials and citizens in the decision making process. To complete Periodic Review, Metro held over a dozen meetings and workshops, provided notice of the decision in several publications and mailed over 70,000 brochures to property owners, local governments and community planning organizations. The Metro Council added 18,638 acres in 2002 primarily to meet the residential and employment needs for the planning period from 2002-2022. In 2004 the remaining industrial land was added to the UGB (1,956 acres).

Notice has also been provided to areas under consideration to satisfy the remand order. A newspaper notice was published on September 26, 2005. A newsletter style notice was provided to approximately 1,900 property owners per Metro code requirements to all property owners within 500 feet of areas under consideration. A workshop will be held on October 20, 2005 in the Hillsboro Civic Center building to provide an opportunity for citizens to review maps, receive copies of the staff report, comment and ask questions of staff.

As part of the LCD's review and acknowledgement of these decisions made by the Metro Council the following Remand Order has been issued. Remand Order 05-WK TASK-001673 approved most of Metro's actions to complete Periodic Review on June 24, 2004. The remand order identified a number of items that require providing additional information to justify Metro's actions.

LCDC acknowledged the following elements of the 2004 decision:

- Inclusion of industrial land in the following areas: Damascus West, Beaver Creek, Quarry, Coffee Creek, Tualatin and Helvetia;

- Change of the designation from residential to industrial for 90 acres of land located south of Gresham that was included in the UGB in December 2003;
- Amendments to Title 4 to protect industrial lands and establish regionally significant industrial areas and the designation of those areas;
- Amendments to the Regional Framework Plan Policy 1.12 to protect agriculture and forest resource lands;
- Removal of three parcels near King City from the UGB (tax lots 1300, 1400 and 1500); and
- The completed Housing Needs Analysis.

Order 05-WKTASK-0015254 requires Metro to address the following six issues. Each of the issues is discussed in detail in the following section of the staff report and recommendation from the Chief Operating Officer. A summary of the issues that will be addressed in this staff report is as follows:

1. Ensure that an adequate amount of land is deducted for infrastructure including streets;
2. Amend the 2002-2022 Employment Urban Growth Report: An Employment Land Needs Analysis (Employment UGR) to reconcile the difference in the refill rate from 50 to 52 percent;
3. Demonstrate that the demand for large lots has been satisfied as identified in the Employment Urban Growth Report;
4. Clarify whether 70 percent of the land need for warehouse and distribution is satisfied on vacant land inside of the UGB or land recently added to the UGB;
5. Recalculate the total need for industrial land based on the items above and demonstrate how the land need will be met; and
6. Demonstrate how the locational factors in Goal 14 have been met in reaching the decision to bring a portion of the Cornelius area into the UGB.

Summary of the Actions to Satisfy the Remand

The proposed recommendation from the Chief Operating Officer satisfies each of these issues contained in the remand work order and will be satisfied by the following actions:

- Include an additional 198 acres 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;
- 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
- 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; and
- Provide additional findings to demonstrate that all of the locational factors in Goal 14 were balanced in reaching the decision to include the Cornelius area into the UGB.

¹ Future streets have been deducted from net acres.

Each of the tasks in the remand work order is discussed in more detail in the following Staff Report.

1. Ensure that the amount of land added to the UGB under Task 2 includes an adequate amount of land for public infrastructure including streets:

Metro applied a methodology to deduct for the loss of land due to the public infrastructure (streets). All other utilities such as sanitary sewer, domestic water, natural gas, cable phone and electric are accounted for and contained within the typical dedication for streets. This methodology for accounting for street right of way was consistent with that used in previous urban growth reports to account for streets and is based on lot size. The total reduction in buildable acres by accounting for street right of way is 198 acres.

The 2002 Alternative Analysis methodology did not include a deduction for streets on lands that were being considered purely for industrial purposes. This was due in part to the single purpose for which the land was being considered and because of the variability of building types and uses that might occur on this land which would make it difficult to assess an appropriate deduction. Metro has assumed that other public infrastructure including sanitary sewer, natural gas, electric, cable, phone and domestic water are accounted for within any dedications of public right of way for streets or in easements, which do not impact the buildable land, supply. Most development includes a standard seven-foot public utility easement along the frontage of all lots that is available if needed for electrical, water, cable, fiber optics and sanitary sewer. Because these easements are located within areas that are typically set aside for required building setbacks no deduction has been made in buildable lands for sanitary sewer or domestic water. Major public utility easements for BPA and natural gas transmission lines have been deducted from buildable lands because of the size of these easements and the restrictions on uses within these areas that are necessary due to safety concerns.

Methodology

To make an appropriate deduction for street right of way, which as the discussion above indicates that the land needs for other utilities are included and for consistency with previous UGB assessment work, the methodology adopted and acknowledged in the 1997 and 2002 Residential and Employment Urban Growth Reports (UGR's) will be replicated. The methodology used in the UGR (1997 and 2002) to determine net vacant buildable land included the following deductions for streets based on the size of the tax lot: lots under 3/8th of an acre at 0 percent, lots from 3/8th of an acre up to one acre at 10 percent; and all lots over one acre in size at 18.5 percent. Applying this methodology to the areas included in the UGB for industrial purposes in 2004 decreased the net buildable land available by 198 acres. This results in a need to add 198 net acres of additional buildable land to the UGB to meet the 20-year land supply requirement.

Table 1 contains the deductions necessary for streets based on the size of the lots located in each expansion area (2004 and 2005). The total acres lost to streets for the lands included in the UGB, in 2004 is based on the methodology discussed above, totals 198 net acres. Table 1 also shows that the same methodology, when applied to the Evergreen Study area results in a loss of 108 acres.

Table 1. Deductions for Streets in 2004 and 2005 Expansion Areas

| EXPANSION AREAS | Total Acres | Net Acres² | Reduction for Streets | Tier and Designation | 2040 Design Type |
|-----------------------------------|--------------------|------------------------------|------------------------------|-----------------------------|-------------------------|
| 2004 Expansion Areas | | | | | |
| Damascus West | 102 | 58 | 11 | Tier 4 -Resource | Industrial |
| Tualatin | 646 | 273 | 66 | Tier 1-Exception | Industrial |
| Quarry (partial) | 354 | 190 | 46 | Tier 4 -Resource | Industrial |
| Beavercreek | 63 | 25 | 5 | Tier 4 -Resource | Industrial |
| Coffee Creek (partial) | 264 | 78 | 19 | Tier 1 - Exception | Industrial |
| Cornelius (partial) | 261 | 114 | 23 | Tiers 1 & 5 - Mixed | RSIA |
| Helvetia (partial) | 249 | 121 | 28 | Tiers 1 & 3 - Mixed | RSIA |
| TOTAL | 1,939 | 859 | 198 | | |
| 2005 Expansion Areas | | | | Tier 1 & 5 Mixed | RSIA-partial |
| Evergreen (partial) | 624 | 348 | 108 | | |
| TOTAL Including 2005 Areas | 2,563 | 1,207 | 306 | | |

2. Amend the Employment UGR as necessary to incorporate any changes to assumptions in the analysis to reconcile the change in the commercial refill rate to 52 percent from 50 percent:

After much policy discussion regarding emerging trends of the conversion of traditional manufacturing-based industrial jobs to a more knowledge based economy that relies on building types and densities that more closely resemble commercial office, the Metro Council adopted a commercial refill rate of 52 percent. As a result, the Employment UGR has been amended to reflect the adoption of a 52 percent refill rate.

Refill Data

The Employment UGR uses both MetroScope modeling data and historic data to define a range of assumptions to assess the capacity of land available in the UGB to accommodate population and employment growth. The Employment UGR discusses both the results of MetroScope modeling and the observed historic average for refill activity. MetroScope is an integrated land use and transportation model that incorporates historic data to estimate the effects of policy changes and land additions to the UGB. In modeling of a base case scenario, which is an estimate of applying existing policies, MetroScope indicated an average commercial refill rate of 50 percent. The refill rate is the share of region’s demand for employment land that is met by infill and redevelopment.

The observed refill rate, computed from several studies on refill activity during the 1990’s, was an average of 52 percent. The difference between the 50 percent rate in the UGR and the observed rate of 52 percent is minimal and can be understood by examining market activity and policies that are currently in place. Using the observed refill rate (52 percent) rather than the modeled rate means that effectively there is more commercial

² Net acres include: deductions for streets, Title 3, floodplain and slopes.

land available to satisfy the portion of industrial demand that is most similar to commercial office.

Applying the Refill Rate

Assuming an increased refill rate is consistent with regional policies and programs that encourage development in the region's regional and town centers. Typically, town and regional center redevelopment is at greater densities that result in a compact urban form. Metro has developed several new programs to encourage development in centers, urban investment and redevelopment of brownfield sites. All of these actions support more efficient utilization of the region's land supply and higher refill rates over time.

The conversion of older industrial areas to higher density uses and the cross-consumption of industrial areas for commercial uses were well documented in the MetroScope base case modeling and also in observed building permit activity. In addition, the Metro Council received testimony from industrial users and real estate professionals that trends indicate that future industrial users will use and occupy building space differently from the past. In today's market, Industrial operations are more likely to contain more office and product development type functions rather than traditional manufacturing that requires raw material storage and the use of heavy equipment.

After much discussion regarding emerging trends of the conversion of traditional manufacturing-based industrial jobs to a more knowledge based economy that relies on building types and densities that more closely resemble commercial office, the Metro Council adopted commercial refill rate of 52 percent. As a result, the Employment UGR has been amended to reflect the adoption of a 52 percent refill rate. The amendment to the Employment UGR is provided in Attachment 1. As indicated in the Supplemental Staff Report, June 21, 2004, adopted by Ordinance No. 04-1040B, applying the observed refill rate of 52 percent to the total adjusted demand for commercial land, which was estimated at 4,757 net acres results in a surplus of 178 net acres of land that has been applied to reduce the industrial land deficit.

3. Demonstrate the supply of large lots inside of the UGB is sufficient to meet the demand for large lots identified in the Employment UGR and either demonstrate how the need can be accommodated within the existing UGB or whether additional parcels are obtained by adding land to the UGB:

The need for large lots (50 to 100 plus acre categories) has been met by examining the land supply in the UGB including the expansion areas added in 2002, 2004 and a condition to form a 100 acre lot in the 2005 expansion areas. This study included an examination of all adjoining tax lots under the same ownership and compared the size of these lots to the demand for lots in the 50 to 100 acre categories. The result is that the 100-acre category demand has been met and there is a surplus of four lots in the 50 to 100 acre category.

Lot Size by Sector

Metro examined the need for large lots of industrial land to meet the warehouse/distribution, tech-flex and manufacturing sectors for expansion and retention purposes. The Employment UGR discussed the need for industrial land in terms of lot size, building types, employment sectors and densities. The need for large lots for industrial purposes in the region has been discussed and examined in great length over the last several years. As a result of this work including studies such as the Regional

Industrial Land Study completed in 1999 the methodology for assessing the industrial land supply was modified in the Employment UGR.

The Employment UGR indicated a need for 10 lots within the 50 to 100 acre range and 4 lots in the 100 plus acre size range. The demand for these large lots (50 acres and greater) can be satisfied on existing land located within the UGB or on new land that was added to the UGB in 2002, 2004 and 2005 expansions.

2005 Study of Lots Under the Same Ownership

Metro completed an aggregation study of tax lots that were located in the Alternative Analysis study and the 2002, 2004 expansion areas that were most suitable for industrial development.³ Additional analysis was performed in 2005 to consider the likelihood of consolidation to produce larger lots for development based upon the existing ownership patterns in the 2002, 2004 and 2005 expansion areas. The study used Regional Land Information System (RLIS) data that included size of parcels, location and ownership based on information provided by the county tax assessor's offices. The most conservative approach considered only contiguous tax lots under the same ownership. All contiguous tax lots under the same ownership were considered to be available to be consolidated for development purposes.

Using this method most likely under-estimates the possibility of forming larger parcels for development because some aggregation will undoubtedly occur on lots under different ownership as well. This analysis is considered a surrogate for the status of legal lots for development purposes because this information is not obtainable for a study of this size. Obtaining legal lot status would require a title research for every tax lot in the study. Tax lots may be created or split only for tax purposes and not necessarily for sale which may give the impression that there are actually fewer large legal lots of record available.

Table 2 below assessed the available land supply by lot size and demonstrated that the supply for lots within the 50 to 100 acre size range exceeded the need when contiguous lots under the same ownership were examined. The supply in the 100 plus acre size range will be met with a condition proposed for the 2005 expansion areas to form at least one 100-acre lot for development through consolidation. Table 2 compares the available land supply by lot size and year with the demand for large lot industrial land.

³ Industrial Land Aggregation Methodology, Test and Results, September 24, 2003, Ordinance No. 04-1040B, Appendix Item m.

Table 2. Demand and Supply Comparison to Meet Need for Large Lots

| Supply-Availability of Land | 50-100 acre lots | 100 plus acre lots |
|---|-------------------------|---------------------------|
| 2000 UGB ⁴ | 3 | 0 |
| 2002 Expansion areas ⁵ | 6 | 2 |
| 2004 Expansion areas ⁶ | 3 | 1 |
| 2005 Expansion Areas⁷ | 2 | 1 |
| <i>Total</i> | 14 | 4 |
| DEMAND FOR LAND | 10 | 4 |
| <i>Surplus</i> | 4 | 0 |

In addition to meeting the need for large lots by examining tax lots under common ownership the potential for aggregation between separate owners was considered but the results were not included in Table 2. In the 2002, 2004 and 2005 expansion areas there are numerous parcels of land that exceed 30 acres in size that are located adjacent to large lots. These situations provide good opportunities to form larger development areas to supplement the need for large lots.

The conditions applied to the Evergreen area include a consolidation requirement as a condition of approval to form at least one 100-acre development area to satisfy the 100 plus acre large lot requirement. The study area contains a number of medium to large tax lots (between 20 to 50 acres). The area contains one 48 acre and 36-acre tax lots. The area also contains five 20-acre tax lots that could be consolidated into larger lots. The majority of the medium to large tax lots are either vacant or contain single-family residential uses and low value agricultural outbuildings.

Table 2 illustrates that the demand for large parcels will be met through land available inside of the UGB in 2000 and through UGB expansions in 2002, 2004 and 2005.

4. Clarify whether 70 percent of the land for warehousing and distribution uses applies to all vacant industrial land or only to the need to add land to the UGB:

Based on an examination of the land supply inside of the UGB (including the 2002, 2004 and proposed 2005 expansion areas) there is sufficient land available to demonstrate that 70 percent of the total need for warehouse and distribution uses has been satisfied. A total of 77.6 percent of the land inside of the UGB is available for warehouse and distribution use.

⁴ See Employment UGR page 32, Table 17- Metro UGB Industrial Inventory Less Commercial Development (Potentially Available Industrial Land). Page 34, footnote 23. The supply was adjusted for commercial consumption of industrial land, for the consumption of land from the 2000 vacant land inventory to the beginning of the forecast period (2002) and land consumed up to the point where this report was published.

⁵ The 2004 expansion areas had conditions of approval that required aggregation to form larger lots for development. The three areas contain the following conditions: 1) Springwater- form the largest number of parcels 50 acres or larger, 2) Shute Road- form at least one 100 acre or larger lot or three 50 acre or larger lots and 3) Tigard Sand and Gravel- form at least one 100 acre or two 50 acre lots. These conditions have been included in the estimates for providing large lots.

⁶ A 96.20 acre lot under a single ownership is assumed to satisfy the 100-acre lot size requirement.

⁷ The 2005 expansion areas have conditions of approval requiring consolidation of lots to form at least one 100-acre development area in order to meet the need for large lots. A 48-acre lot is assumed to meet the 50 to 100 acre lot size requirement.

The Employment UGR segregated the demand for industrial land into three sectors; 1) warehouse/distribution, 2) tech flex and 3) general manufacturing. The Employment UGR forecasted that 70 percent of the total vacant industrial land need is for warehouse and distribution type industries. The 2004 Industrial Land Alternatives Analysis study areas were examined based on the following locational factors: 1) transportation access within two miles of an interchange; 2) location within one mile of other industrial areas and; 3) a minimum size of 300 acres for the formation of new industrial areas. Different industries have different needs for access or proximity to suppliers. Because of the nature of the warehouse and distribution industry good access to major arterials, highways and freeways on transportation routes that are located adjacent to non-residential uses is key. Access to these types of facilities through residential areas is not desirable due to potential conflicts and travel patterns.

2005 Analysis of Warehouse and Distribution Opportunities

A more specific analysis was conducted to identify the key site characteristics necessary for location of warehouse and distribution uses. This analysis consisted of examining several studies that have been conducted to understand the value of the distribution industry to the regional economy and a GIS based study of employment data and industrial land and infrastructure locations.

State Employment 202 Data

An examination of the covered State Employment 202 data reveals that there are concentrations of distribution and logistics firms (warehouse/distribution and wholesale trade) inside the existing UGB along I-5, I-84, Highway 217, Highway 212/224, Highway 30, adjacent to Port Terminal facilities, Columbia Boulevard and on marine Drive.⁸ This data was mapped and compared to the region's industrial and vacant land base and arterial/highway base to indicate where existing firms have chosen to locate. The patterns and concentrations of wholesale trade and warehouse and distribution firms reveals information on the importance of transportation, zoning requirements and some suppliers are needed to serve the population base. Wholesale trade firms are located throughout the region but are heavily concentrated in the same locations as distribution and logistics firms. It is estimated that 75.4 percent of firms of these types are located within a distance of one-mile from the transportation corridors discussed above. The one-mile limit was selected for analysis because of the concentration of existing firms around interchange locations and Port facilities instead of a two-mile limit that was recommended in interviews conducted with industrial users as part of a locational and siting study.⁹

Freight movement is generally concentrated along I-5, I-84 and I-205 within two miles of an interchange. Highway 26 is much less desirable for regional warehouse/distribution uses because of congestion and distance from Port facilities, except for localized warehouse and distribution functions are important for serving the population located west of the Willamette River as well as the industrial base that stretches from Hillsboro to the Tualatin/Wilsonville area.

Localized warehouse and distribution functions serve firms located in existing industrial areas in key transportation corridors (I-5, I-84 and I-205) or adjacent to Port facilities but

⁸ Port terminal facilities: terminal 2, 4, 5 and 6.

⁹ Industrial Land and Siting Factors memorandum included in Metro Ordinance 04-1040B, Appendix A, item o.

they may also provide support for commercial users and the population base located throughout the UGB. Warehouse and distribution functions may include movement of goods from local suppliers, product shipments and retail/wholesale activities. This demand for localized warehouse and distribution services (firms) corresponds to the demand for a relatively high number of lots in the under one to 10 acre category range. In fact, 93 percent of the overall demand for warehouse and distribution land is expected to be satisfied on smaller lots (under 10 acres).

Port of Portland Study on Economics of the Distribution Industry

The Port of Portland conducted a study titled The Economic Impacts of the Value Added Regional Distribution Industry In The Portland Area (EVD Study). The EVD Study provides information on the industry sectors within the distribution and logistics industry, job densities, salaries, revenue estimates and types of operations that produce spin-off economic impacts. The study was based on interviews with 67 different firms to collect data on job densities, induced job effects, wages and salaries and to produce an income multiplier for the value added benefits of the distribution industry. The information presented in this study is pertinent to the discussion of whether the region's land supply is adequate to meet the land needs of the warehouse and distribution sector which has been forecasted to consume up to 70 percent of the need for vacant industrial land.

The study found that there are nine key distribution sectors located in our region and they include: apparel, food products, local food distribution, beverage, paper/paper products, steel and metal, lumber/forest products, general retail/wholesale and miscellaneous bulk distribution. This shows the diversity of the distribution and logistics industry, confirms some of the land size requirements discussed in the Employment UGR and affirms how this industry is dispersed throughout the region depending upon the needs of a particular type of firm. These industries use both local and regional distribution transportation networks to transload, package and ship products within the region. Some of these firms take advantage of the region's port, air cargo, steamship service and rail networks.

Testimony During 2004 Expansion Process

No conditions of approval were imposed on areas brought into the UGB for industrial purposes to require that the areas specifically be used for this warehouse and distribution use. Rather, these areas will be permitted to respond to the needs of the market as the economy evolves over the planning period. Metro Council heard testimony from local governments, industry experts and economic development professionals that employment land needs and firm location decisions are changing quickly. The land and structure needs of a particular industry are responding to the demands of international business cycles and as a result the local land supply needs to be responsive.

How Land Meets Warehouse/Distribution Needs

Demand for warehouse and distribution purposes is generated by the need to support industrial users, suppliers and the wholesale distribution needs generated from localized population centers. This premise is supported by the findings from the Port of Portland's study, an examination of State 202 data and research conducted for the 2004 decision. The UGB contains approximately 10,589 gross vacant industrial acres or 60 percent of vacant industrial land that could be used for warehouse and distribution purposes due to the proximity to Port facilities and the freeway system discussed above (one-mile).¹⁰ This land combined with the land added to the UGB in 2002 and 2004 in the Damascus and

¹⁰ 2002, 2004 and proposed 2005 expansion areas.

Tualatin areas will be available to meet the need for vacant industrial land for warehouse and distribution purposes (3,204 gross vacant acres) at approximately 77.6 percent. The Damascus area (roughly 12,000 gross acres) is being concept planned for a full range of urban uses including residential, industrial and employment. An environmental impact statement (EIS) is being prepared to determine the best alignment for the first phase of the Sunrise Corridor to provide transportation access to this area. Phase I of the Sunrise Corridor extends from I-205 to 172nd Avenue and will increase accessibility to planned industrial areas. As this area urbanizes and a range of uses from residential, commercial and industrial locate in this area the demand for warehouse and distribution uses to serve both industrial uses and the derived demand from residential development at urban densities will increase. This assertion is confirmed through the examination of State Employment 202 data that demonstrated a strong correlation between population, highway access and an industry base and warehouse and distribution uses. The need for warehouse and distribution land is satisfied on all vacant land located within the UGB by establishing that 77.6 percent of the vacant industrial land supply is available for warehouse and distribution use.

5. Based on the analysis of items 1-4 above recalculate the total industrial supply and demand and compare with the identified land need of 1,180 net acres:

The total need for industrial demand is re-calculated at 331 net acres and is proposed to be met by including a portion of the Evergreen area in the UGB. The total industrial land need was calculated by meeting the shortfall in the need for industrial land of 133 acres and making up the reduction of net buildable land for public infrastructure of 198 net acres.

20-Year Land Supply and Demand

The UGB expansion completed in 2004 did not fully satisfy the requirements for a providing a 20-year supply of industrial land. The total net supply was short 133 acres of industrial land. With the proposed 2005 expansion the shortfall in the overall need for industrial land and the compensation for the reduction in buildable lands for streets a 20-year supply will be provided. Taking into account the deduction for public infrastructure including streets in all areas that have been added to the UGB in 2004 the total unsatisfied need for land is 331 net acres.¹¹ Table 3 describes the accounting of the demand for land, supply and deductions for infrastructure. With the proposed expansion of the UGB in the Evergreen area a 20-year supply of industrial land will be provided. Discussion of which study areas were considered, the Factors in State law (Goal 14) that must be addressed and a comparison with Metro policies follows.

Table 3. Reconciliation of Land Supply to Meet the Need for Industrial land

| | Net Acres |
|--|--------------|
| <i>Demand for Industrial Land</i> ¹² | 1,180 |
| 2004 UGB Amendments | (1,047) |
| Increase in the Demand for Land based on a reduction for streets ¹³ | 198 |
| DEFICIT | 133 |
| TOTAL REMAINING DEMAND | (331) |
| Proposed 2005 UGB Expansion ¹⁴ | 348 |
| NET DIFFERENCE BETWEEN SUPPLY AND DEMAND | 17 |

Discussion of Areas Considered to Meet the 20 Year Supply of Industrial Land

In 2004 the Metro Council analyzed twelve resource land study areas that contain mostly Class II soils only after including suitable exception land areas and resource land areas of less capable soils (Class III & IV soils). The soil types in Table 4 are based on the total acreage in the study areas, including exception lands. After analysis of soil types the areas were evaluated according to Goal 14 and Metro Policies.

Table 4. Soil Class by Study Area

| Area | Total Acres | Class I | | Class II | | Class III | | Class IV | | Except. Land | |
|------------------------|-------------|---------|----|----------|----|-----------|----|----------|---|--------------|----|
| | | ac. | % | ac. | % | ac. | % | ac. | % | ac. | % |
| Cornelius (partial) | 261 | 2 | 0 | 143 | 55 | 77 | 30 | 0 | 0 | 148 | 57 |
| Cornelius (full area) | 1,154 | 2 | 0 | 634 | 55 | 346 | 30 | 0 | 0 | 228 | 20 |
| Evergreen (partial) | 624 | 1 | 0 | 333 | 60 | 37 | 7 | 0 | 0 | 218 | 35 |
| Evergreen (full area) | 985 | 14 | 1 | 591 | 60 | 69 | 7 | 1 | 0 | 305 | 31 |
| Farmington | 690 | 0 | 0 | 568 | 82 | 90 | 13 | 0 | 0 | 102 | 15 |
| Forest Grove East | 836 | 11 | 1 | 691 | 83 | 134 | 16 | 0 | 0 | 74 | 9 |
| Forest Grove West | 477 | 0 | 0 | 340 | 71 | 128 | 27 | 0 | 0 | 0 | 0 |
| Helvetia ¹⁵ | 1,273 | 192 | 15 | 719 | 56 | 353 | 28 | 0 | 0 | 76 | 6 |
| Hillsboro South | 715 | 36 | 5 | 526 | 74 | 152 | 21 | 0 | 0 | 0 | 0 |
| Jackson School Rd | 1,046 | 1 | 0 | 833 | 80 | 121 | 12 | 12 | 1 | 129 | 12 |
| Noyer Creek | 359 | 0 | 0 | 301 | 84 | 44 | 12 | 1 | 0 | 61 | 17 |
| West Union | 1,451 | 6 | 1 | 666 | 46 | 674 | 46 | 70 | 5 | 21 | 1 |
| Wilsonville East | 881 | 0 | 0 | 719 | 82 | 66 | 7 | 23 | 3 | 16 | 2 |
| Wilsonville South | 1,178 | 10 | 1 | 1,074 | 91 | 29 | 2 | 0 | 0 | 196 | 17 |

Statewide Planning Goals 14 and 2

The Metro Council compared the twelve resource land study areas with Class II soils using the “locational” factors in Goal 14 (factors 3-7) to address serviceability, environmental, social, economic, energy and agricultural impacts. Goal 14- Urbanization provides for an orderly and efficient transition from rural to urban use. The goal defines the use of urban growth boundaries as a tool to identify and separate urbanizable land

¹² Title 4 policy savings, application of a 52 percent refill rate, adjustments to the UGB in 2002 and application of the commercial land surplus have reduced demand for Industrial land.

¹³ 2004 expansion area reduction in buildable lands

¹⁴ The adjustment to the UGB at terminal 6 will not add any developable land to the regions industrial land supply.

¹⁵ 249 acres of land were added to the UGB and acknowledged by LCDC in 2005.

from rural lands. Changes the UGB shall be based upon the balancing of the following factors:

- demonstration of the need for land based on population and growth forecasts for housing, employment and livability purposes;
- maximizing the efficiency of land uses within and on the fringe of the existing urban area;
- evaluating the environmental, energy, economic and social consequences;
- retention of agricultural land with class I being the highest priority for retention and class VI being the lowest; and
- demonstration of compatibility or urban uses with nearby agricultural activities.

Goal 14 describes a number of requirements that must be met that may be in conflict with one another. The Goal does not contemplate satisfying all elements of those requirements but instead requires a balancing of impacts.

Goal 2 part II -Exceptions, governs land use planning and applies to the UGB amendment process because it establishes a land use planning process, a policy framework and a basis for taking exceptions to the goal. An exception can be taken if the land is physically developed or irrevocably committed to uses not permitted by the goal, as well as the policies in the Regional Framework Plan (RFP) and the Regional Transportation Plan (RTP). A comparison of study area by locational factors is shown in Table 4.

Table 4. Goal 14 Locational Factor Scores

| Area | Locational Factor Scores | | | | | | |
|------------------------|--------------------------|-----------|-----------|----------|----------|----------|-------------|
| | Trans. | Sewer | Water | Storm | Environ. | SEE | Agriculture |
| Cornelius (partial) | Easy | Easy | Easy | Easy | Moderate | Low | Moderate |
| Evergreen (partial) | Moderate | Difficult | Easy | Easy | Moderate | Moderate | Moderate |
| Farmington | Moderate | Difficult | Easy | Easy | Moderate | Moderate | High |
| Forest Grove East | Moderate | Easy | Moderate | Easy | Moderate | High | High |
| Forest Grove West | Moderate | Easy | Moderate | Easy | Moderate | High | High |
| Helvetia ¹⁶ | Moderate | Moderate | Easy | Easy | Moderate | High | High |
| Hillsboro South | Moderate | Difficult | Easy | Easy | Low | Moderate | Moderate |
| Jackson School Rd | Moderate | Difficult | Easy | Easy | Low | High | High |
| Noyer Creek | Easy | Difficult | Moderate | Easy | Low | Moderate | Low |
| West Union | Moderate | Moderate | Moderate | Easy | High | High | High |
| Wilsonville East | Moderate | Difficult | Difficult | Moderate | Low | High | High |
| Wilsonville South | Difficult | Difficult | Difficult | Moderate | Low | High | High |

Application of Metro Policies

In addition to weighing and balancing of the Goal 14 locational factors in Table 4 to determine which areas are able to satisfy the demand for land for industrial purposes most efficiently, with the least amount of impacts and for consistency with adopted Metro policies. Metro’s management of the UGB is guided by standards and procedures that are consistent with the policies identified in Sections 1 through 6 of the Regional Framework Plan (RFP) and the Regional Transportation Plan (RTP). These policies were formulated to guide the decision-making regarding expansion of the UGB, growth management, protection of natural resources, providing an efficient transportation system and to

¹⁶ 249 acres of land were added to the UGB and acknowledged by LCDC in 2005.

provide definition to the urban form for the region. The policies listed below do not take precedence over criteria in state law but can be applied within the decision-making process to lands that are similarly situated between soil classes. The twelve areas under consideration that are discussed above are similarly situated lands that may meet the region's need for industrial land. Metro policies are combined with the Goal 14 Factors in nine comprehensive factors in Table 5 to aid in balancing and choosing the areas for inclusion in the UGB. Applicable Metro policies are listed below and then summarized in Table 5.

Regional Framework Plan, Section 1: Land Use

This section contains specific goals and objectives adopted to guide Metro in future growth management land use planning. Listed below in full or in part are the policies that are expressly or implicitly apply to this UGB expansion decision.

Policy 1. Urban Form

The quality of life and the urban form of our region are closely linked. The Growth Concept is based on the belief that we can continue to grow and enhance livability by making the right choices for how we grow. The region's growth will be balanced by:

- Maintaining a compact urban form, with easy access to nature;
- Preserving existing stable and distinct neighborhoods by focusing commercial and residential growth in mixed-use centers and corridors at a pedestrian scale;
- Assuring affordability and maintaining a variety of housing choices with good access to jobs and assuring that market-based preferences are not eliminated by regulation; and
- Targeting public investments to reinforce a compact urban form.

Policy 1.2 Built Environment

Development in the region should occur in a coordinated and balanced fashion as evidenced by:

- Taking a regional "fair-share" approach to meeting the housing needs of the urban population.
- Providing infrastructure and critical public services concurrent with the pace of urban growth and that supports the 2040 Growth Concept.
- Continuing growth of regional economic opportunity, balanced so as to provide an equitable distribution of jobs, income, investment and tax capacity throughout the region and to support other regional goals and objectives.
- Coordinating public investment with local comprehensive and regional functional plans.
- Creating of a balanced transportation system, less dependent on the private automobile, supported by both the use of emerging technology and the location of jobs, housing, commercial activity, parks and open space.

Policy 1.4 Economic Opportunity

Metro should support public policy that maintains a strong economic climate through encouraging the development of a diverse and sufficient supply of jobs, especially family wage jobs, in appropriate locations throughout the region. In weighing and balancing various values, goals and objectives, the values, needs, choices and desires of consumers should also be taken into account. The values, needs and desires of consumers include:

- Low costs for goods and services;
- Convenience, including nearby and easily accessible stores; quick, safe, and readily available transportation by all modes;

- A wide and deep selection of goods and services;
- Quality service;
- Safety and security; and
- Comfort, enjoyment and entertainment.

Expansions of the UGB for industrial or commercial purposes shall occur in locations consistent with this plan and where, consistent with state statutes and statewide goals an assessment of the type, mix and wages of existing and anticipated jobs within subregions justifies such expansion. According to the Regional Industrial Land Study, economic expansion of the 1990s diminished the region’s inventory of land suitable for industries that offer the best opportunities for new family-wage jobs. Sites suitable for these industries should be identified and protected from incompatible uses.

Policy 1.4.1 Industrial Land

Metro, with the aid of leaders in the business and development community and local governments in the region, shall designate as Regionally Significant Industrial Areas those areas with site characteristics that make them especially suitable for the particular requirements of industries that offer the best opportunities for family-wage jobs.

Policy 1.4.2 Industrial Land

Metro, through the Urban Growth Management Functional Plan, and local governments shall exercise their comprehensive planning and zoning authorities to protect Regionally Significant Industrial Areas from incompatible uses.

Policy 1.6 Growth Management

The management of the urban land supply shall occur in a manner consistent with state law that:

- Encourages the evolution of an efficient urban growth form;
- Provides a clear distinction between urban and rural lands;
- Supports interconnected but distinct communities in the urban region;
- Recognizes the inter-relationship between development of vacant land and redevelopment objectives in all parts of the urban region; and
- Is consistent with the 2040 Growth Concept and helps attain the region’s objectives.

Policy 1.7 Urban/Rural Transition

This policy states “There should be a clear transition between urban and rural land that makes best use of natural and built landscape features and that recognizes the likely long-term prospects for regional urban growth.

- *Boundary Features* – The Metro UGB should be located using natural and built features, including roads, rivers, creeks, streams, drainage basin boundaries, floodplains, power lines, major topographic features and historic patterns of land use or settlement.”

Policy 1.9 Urban Growth Boundaries

It is the policy of Metro to ensure that expansions of the UGB help achieve the objectives of the 2040 Growth Concept. When Metro expands the boundary, it shall determine whether the expansion will enhance the roles of Centers and, to the extent practicable, ensure that it does. The regional UGB, a long-term planning tool, shall separate urbanizable from rural land and be based in aggregate on the region’s 20-year projected

need for urban land. The UGB shall be located consistent with statewide planning goals and these RUGGOs and adopted Metro Council procedures for UGB.

Policy 1.11 Neighbor Cities

This policy states “Growth in cities outside the Metro UGB, occurring in conjunction with the overall population and employment growth in the region, should be coordinated with Metro’s growth management activities through cooperative agreements which provide for:

- *Separation* – The communities within the Metro UGB, in neighbor cities and in the rural areas in between will all benefit from maintaining the separation between these places as growth occurs. Coordination between neighboring cities, counties and Metro about the location of rural reserves and policies to maintain separation should be pursued.”

Policy 1.12 Protection of Agriculture and Forest Resource Lands

This policy states “Agricultural and forest resource land outside the UGB shall be protected from urbanization and accounted for in regional economic and development plans consistent with this plan. However, Metro recognizes that all the statewide goals, including Statewide Planning Goal 10, Housing and Goal 14, Urbanization, are of equal importance to Goal 3 Agricultural Lands and Goal 4, Forest Lands which protect agriculture, and forest resource lands which protect agriculture and forest resource lands. These goals represent competing and, sometimes, conflicting policy interests which need to be balanced.

- *Choosing Among Resource Lands* – when the Metro Council must choose among agricultural lands of the same soil classification for addition to the UGB, the Metro Council shall choose agricultural land deemed less important for the continuation of commercial agriculture in the region.
- *Rural Reserves* – Metro shall enter into agreements with neighboring cities and counties to carry out Council policy on protection of agricultural and forest resource policy through the designation of Rural Reserves and other measures.
- *Neighboring Counties* – Metro shall work with neighboring counties to provide a high degree of certainty for investment in agriculture and forestry and to reduce conflicts between urbanization and agricultural and forest practices.”

Policy 1.13 – 1.13.3 Citizen Participation

The following policies relate to participation of Citizens:

Metro will encourage public participation in Metro land use planning, follow and promote the citizen participation values inherent in RUGGO Goal 1, and encourage local governments to provide opportunities for public involvement in land use planning and delivery of recreational facilities and services.

Policy 2.1 Regional Transportation Plan, Inter-governmental Coordination

Coordinate among the local, regional and state jurisdictions that own and operate the region’s transportation system to better provide for state and regional transportation needs. These partners include the cities and counties of the region, Metro, the Oregon Department of Transportation (ODOT), the Oregon Department of Environmental Quality, the Port of Portland and Tri-Met. Metro also coordinates with RTC, C-Tran, the Washington Department of Transportation (Wash-DOT), the Southwest Washington Air Pollution Control Authority (SWWAPCA) and other Clark County Governments on bi-state issues.

Policy 3. Urban Form

“Facilitate implementation of the 2040 Growth Concept with specific strategies that address mobility and accessibility needs and use transportation investments to leverage the 2040 Growth Concept.”

Metro Code 3.01.020(b) through (e)

The code establishes criteria that are based upon the Goal 14 factors discussed on pages 11 and 12. These policies are applicable to the UGB expansion process and guide decision-making between similarly situated lands.¹⁷ Goal 14 requires a weighing and balancing of a number of different factors to decide which lands are most suitable for urbanization.

The following factors have been combined with RFP and RTP policies and factors cited in Goal 14 to compare areas under consideration in the decision to expand the UGB.

Combined Goal 14 and Analysis of Metro Policies

The Factors in Goal 14 were combined with Metro’s policies in the RFP and RTP into nine combined Factors for analysis purposes shown in Table 5. Based on the weighing of these nine Factors in the twelve study areas the recommendation includes parts of the Evergreen and Cornelius study areas. A discussion of the remaining ten areas that were not recommended to be included in the UGB follows the combined Factor analysis.

¹⁷ Similarly situated lands are those lands that are located within the same Tier classification. For example, if Metro Council was deliberating between exception lands (Tier 1) they would be able to apply Policy 1.1 that discusses neighboring cities and maintaining a physical separation of communities within the Metro UGB.

Table 5. Preliminary Combined Goal 14 and Metro Policy Factors¹⁸

| Area | Policy Factors | | | | | | | | | |
|------------------------|--|--|---|----------|---|---|---|--|--|---|
| | Factor 1 | Factor 2 | Factor 3 | | Factor 4 | Factor 5 | Factor 6 | Factor 7 | Factor 8 | Factor 9 |
| | Efficient accommodation of identified land needs | Orderly & economic provision of public facilities & services | Comparative environmental energy, economics & social consequences ¹⁹ | | Compatibility of urban uses with farm & forest uses outside the UGB | Equitable & efficient distribution housing and employment throughout the region | Contribution to the purposes of centers | Protection of farmland to commercial agriculture in the region | Avoidance of conflicts with regionally significant fish and wild habitat | Separation of communities & a clear transition from rural to urban uses |
| | | Adverse | Benefit | | | | | | | |
| Cornelius (partial) | High | high | moderate | high | low | high | high | low | moderate | moderate |
| Cornelius (remainder) | moderate | moderate | moderate | moderate | low | high | moderate | moderate | moderate | low |
| Evergreen (partial) | High | moderate | moderate | high | moderate | moderate | high | high | low | moderate |
| Farmington | Low | moderate | moderate | moderate | low | low | moderate | moderate | high | low |
| Forest Grove East | moderate | moderate | moderate | moderate | low | high | moderate | low | moderate | low |
| Forest Grove West | Low | moderate | moderate | moderate | low | high | moderate | low | moderate | low |
| Helvetia ²⁰ | moderate | moderate | moderate | moderate | low | low | moderate | moderate | moderate | moderate |
| Hillsboro South | moderate | moderate | low | low | moderate | moderate | moderate | low | high | high |
| Jackson School Rd | moderate | moderate | low | moderate | low | low | moderate | moderate | moderate | low |
| Noyer Creek | Low | moderate | low | low | high | moderate | moderate | moderate | low | high |
| West Union | Low | moderate | high | low | low | low | moderate | high | low | moderate |
| Wilsonville East | Low | difficult | low | moderate | low | moderate | moderate | low | moderate | moderate |
| Wilsonville South | Low | difficult | low | low | low | low | low | low | moderate | low |

Although no one area meets all of the combined factors in Table 5, the Evergreen and the Cornelius areas satisfy a greater number of the combined factors. The Noyer Creek area satisfied a number of the factors but is an unsatisfactory candidate for meeting the region’s industrial land need based on concept planning for the 12,000 acre area as a town center with a mix of uses including residential, commercial, employment and a small amount of land for industrial purposes.

¹⁸ Based on the evidence in the record as of October 13, 2005.

¹⁹ For details of the environmental, energy, economic and social consequences for individual areas see Table 4.

²⁰ 249 acres of land were added to the UGB and acknowledged by LCDC in 2005.

Ten Study Areas Rejected From Consideration

Ten of the twelve areas that were considered for UGB expansion were rejected after weighing the impact on agriculture, natural resources, ability to efficiently provide services, suitability for industrial purposes and conformance with Metro policies.²¹ A brief description of these areas and a locational factor comparison that includes ease of servicing and the impacts of urbanization are discussed below.

Noyer Creek

The Noyer Creek area was eliminated from consideration because this area is part of the secondary study area for the Damascus Boring Concept Plan effort and it is anticipated that it may become part of the Damascus town center which includes a range of uses including residential, commercial, employment and a small amount of industrial. This area is likely to contain very little land that is suitable for industrial development because of its distance from transportation facilities and lack of continuity with other planned industrial areas.

Wilsonville South and East

The Wilsonville South and East areas were identified by the City of Wilsonville as being difficult to serve with infrastructure. The City expressed a concern that the community has a disproportionate amount of employment and was seeking a better balance between jobs and housing. No portion of these areas is adjacent to industrial uses located inside of the UGB. Conflicts with adjoining residential neighborhoods (Wilsonville East) would reduce the efficiency of the area for industrial purposes. Wilsonville South intrudes into neighboring cities land and fails to establish a clear boundary between urban and rural uses. The Wilsonville South area is separated from the City by the Willamette River and is inconsistent with RFP policies 1 and 1.6 that require maintenance of a compact urban form. The Wilsonville South area contains some of the State's most productive agricultural lands, which would be adversely impacted by urbanization.

Farmington and Hillsboro South

The Farmington and Hillsboro South areas contain large parcels that are currently engaged in commercial agriculture and would have a high impact on farming. The shape of the Farmington area creates a long border between agricultural uses to the east and provides limited opportunities for buffers. The Farmington area includes most into the territory between the UGB and neighboring cities. A portion of the Hillsboro South area is located in the Tualatin Valley Irrigation District, which expands the viability for agriculture due to the increase in types of crops that can be grown.

Forest Grove East and West

Forest Grove East and West areas have very high impacts on nearby agricultural activities and both areas are located in the Tualatin Valley Irrigation district. The core agricultural area located to the north would be negatively impacted due to traffic and the intrusion of urbanization into the large agricultural area that extends north to Highway 26 and beyond. The majority of the Forest Grove East area is separated from the city by a natural resource area that makes the provision of urban services difficult. The majority of both of these areas (East and West) are not located within one mile of an industrial district making the viability of the area

²¹ Twelve areas that contained Class II soils were considered suitable industrial development in the 2002 Alternative Analysis Report: Evergreen, Cornelius, Farmington, Forest Grove East, Forest Grove West, Jackson School Road, Noyer Creek, Helvetia, Hillsboro South, West Union, Wilsonville East and Wilsonville South.

poor and will not improve the efficiency of the industrial land inside of the UGB. Both of these areas intrude into the territory of the neighboring cities.

Cornelius (remainder of the study area)

The remaining portion of the Cornelius study area (north of exception areas proposed for inclusion) that has not been proposed to be included in the UGB extends to the north into a large expanse of agricultural land. This land is in productive agricultural use and contains a number of larger parcels that are currently being farmed. This core agricultural area would be significantly impacted if this area were to be urbanized. The northern portion of the Cornelius site intrudes into the neighboring cities territory and do not establish a clear boundary between urban and rural uses.

Jackson School Road

The Jackson School Road area is disconnected from existing industrial areas within the UGB and urbanization of this area will have potential impacts on a large expanse of agricultural land located west and north of the site. This area contains large parcels of land that are currently in agricultural use. The area is located adjacent to a residential neighborhood to the south, which will cause conflicts with industrial users. This area would intrude into the territory between the neighboring cities.

Helvetia

Urbanization of the remaining portion of the Helvetia area not included in the UGB in 2004 would significantly impact a core agricultural area located to the north of Highway 26. There are no suitable buffers within or at the edge of the study area that can be established to limit impacts on the core agricultural area and also intrudes into the neighboring cities territory (North Plains).

West Union

The West Union does not contain enough usable acreage to make this area suitable for industrial development. The area is bi-sected by a large natural resource area and steeper slopes make this area difficult to develop for industrial use and as a result has been found to have the worst combination of adverse and beneficial consequences. A portion of the area contains Class III soils but this area is unsuitable for industrial development. An area of class I soils is located adjacent to the existing UGB and is the most developable portion of the site.

Conclusion of Factor Analysis

When the factors in Goal 14 and when Metro polices are applied the Evergreen and Cornelius areas clearly stand out as one of the best possible choices for inclusion in the UGB to meet the region's need for industrial land. The specific characteristics of how the Evergreen area is most suitable for industrial purposes is discussed below. A similar discussion on the Cornelius area is found on page 21.

Evergreen Expansion Area

The proposed UGB expansion in the Hillsboro area (portion of the Evergreen Study Area) would meet the overall demand for industrial land by including 348 net acres of land, shown in Attachment 2. This area can be more efficiently served with the fewest adverse consequences of any area considered for UGB expansion.

Pro's of Inclusion

- Meets short-term land needs for industrial
- Helps satisfy the need of large lots
- Has a natural feature that can be used as a buffer between farmland

- Located adjacent to an established industrial area
- Has fewer impacts to agricultural uses than other Class II farmlands
- Contains 218 acres exception lands (35 percent of the area)
- Easy to serve with water
- Eases conflicts between potential residential uses and the airport
- Identified by the Department of Agriculture to have the least impacts on agriculture

Con's of Inclusion

- Not likely to be used to meet the demand for warehouse and distribution uses unless it meets a localized need
- Has impacts on commercial agriculture by pushing urban development further into the agricultural base in Washington County and may isolate the area north of Gulch/Waible Creek
- Rated as difficult to serve for sanitary sewer

The Evergreen expansion area would address short-term land needs, it has a sufficient lotting pattern to meet the demand for large lots (50 to 100 acre parcels) with an aggregation condition, it has similar or fewer impacts on farmland compared to other suitable Class II farmlands areas under consideration and it is ideally suited for industrial use due to the proximity to an established industrial land base.

This area was supported by testimony from the City of Hillsboro for inclusion in the UGB in a letter received from the City dated September 2, 2005 in Attachment 3. This area is ideally situated due to its proximity to other industrial uses located south and west of the site and its location adjacent to the high-tech crescent that stretches from Hillsboro, along the Highway 217 through Tualatin and into Wilsonville. The letter also speaks to the progress the City has made in achieving 2040 Regional Center objectives to encourage development of housing at greater densities, balancing jobs and housing and the location of employment uses in areas with access to transit. The City discusses the synergistic effects of locating additional industrial land in the Evergreen area and the positive effects this would have on development in the Hillsboro Regional Center.

The proximity of this site to services is key for the short-term timely development of the site for industrial uses. Most major public facilities are available in Evergreen Road and are sized adequately for industrial development. The site has good access to Highway 26. ODOT submitted testimony that this development would have moderate impacts on the interchange at Shute and Highway 26. These impacts would be addressed during Title 11 planning for the area under Title 11 of the Urban Growth Management Functional Plan if it is included in the UGB.

The proposed area is located west and north of the Shute Road expansion area that was added to the UGB in 2002 making this a logical extension of this existing industrial area. The land is also best suited for industrial development due to its proximity to the Port of Portland airport facilities and the airport runway protection zone (RPZ) that is located to the west and southwest. Federal Aviation Authority (FAA) regulations favor industrial versus residential use in this area. The Port of Portland has acquired a number of parcels in this area for development purposes, protection of the RPZ and future airport expansion. The developable parcels currently under Port ownership are located west of Sewell Road along Evergreen Road.

Although the area contains some Class II farmland (333 gross acres) it is non-irrigated and is not within the Scoggins Irrigation District (SID). Irrigation allows cultivation of a wider variety of crops including nursery stock, which is one of Oregon's highest dollar per acre

agricultural products. Lack of irrigation reduces the viability of the proposed area for commercial agriculture, compared to other areas of Class II soils under consideration that do have irrigation rights. The Evergreen area (partial) contains 1 acre of Class I, 333 acres of Class II, 37 acres of Class III and 0 acres of Class IV farmland. The Evergreen area (partial) has the lowest percentages of the highest value soil classes (classes I and II) than all other areas except West Union.

The nearly surrounded nature of the agricultural lands in the Evergreen area (between the UGB on the east and south and exception lands to the west), potential for good edges, moderate level of small parcels and the and the fact that the area is not in an irrigation district are the primary reasons that this area received consideration.

Proposed Adjustment to the UGB

The Port of Portland has requested that the UGB be adjusted to become coterminous with the existing City Portland boundary that currently extends into the Columbia River to include a dock facility that serves Terminal 6. Terminal 6 is located adjacent to Kelley Point Park to the west and south of the western tip of Hayden Island. Extending the UGB from the top of bank into the river does not add industrial land to the UGB but facilitates providing services to the dock and enhances the capability of the deepwater port terminal. Making the UGB and the City line coterminous eliminates any potential conflicts with extending services to the dock facility.

With the addition of the proposed Evergreen expansion area and the proposed adjustment to the UGB at Terminal 6, the UGB would contain a 20-year supply of land for industrial purposes.

6. Refine the analysis that shows how Metro balanced the locational factors in Goal 14 (factors 3 through 7) in reaching the decision to add the Cornelius area into the UGB and also explain why the economic consequences outweigh the retention of agricultural land and compatibility with adjacent agricultural uses:

A portion of the Cornelius study area was included in the UGB in 2004 by the Metro Council after considerable study of similar areas and through the examination of applicable policies and agency objectives. New information has been prepared that supports our recommendation to include this area in the UGB for industrial purposes.

Cornelius

The proposed UGB expansion in the Cornelius area meets the need for industrial land by including 114 net acres of land. A portion of the area is located adjacent to the City's industrial park and can be efficiently provided urban services.

Pro's of Inclusion

- Contains 148 acres of exception lands (57 percent of the total land) which is the highest priority of land available for inclusion in the UGB
- Farmland located between exception area has been minimized and this land is needed to efficiently provide services to the exception areas
- Provide an increase to the City's tax base which will provide revenues for basic City services
- A portion of the area to be added is adjacent to an area that is already zoned for industrial development
- Area has been identified as easy to serve for water, sewer and storm water services and creates an efficient use of services inside the existing UGB and the proposed area

- Council Creek provides a buffer between farm uses to the north at the west end of the expansion area and further east it provides a buffer between residential uses

Con's of Inclusion

- The farmland located north of the Council Creek is an important agricultural area that could be negatively impacted by urban development

In 2004 the Metro Council analyzed study areas that contain Class II soils only after including in the UGB suitable exception land areas and resource land areas of less capable soils. The Council compared resource land study areas with Class II soils using the “locational” factors in Goal 14 (factors 3 through 7) and the policies in the Regional RFP to reach a decision to add a portion of the Cornelius study area to the UGB. The Cornelius area contains 2 acres of Class I, 143 acres of Class II, 77 acres of Class III, 0 acres of Class IV lands. The Cornelius area has the lowest percentages of the highest value soil classes (class I and II) than all other areas except West Union. See Table 6. on page 19 for a full comparison of soil types between areas that were considered for industrial expansion. Staff reports and findings that accompanied Ordinance No. 04-1040B, which added a portion of the Cornelius study area, contain the information and analysis to explain the Council’s decision. This section of the staff report will emphasize new information regarding the portion of the Cornelius study area included in the UGB. Based upon this information it is proposed that the Council once again include this area in the UGB.

The proposed portion of the Cornelius study area (261 acres) contains 148 acres of exception lands, the highest priority for lands for expansion of the UGB and 113 acres of farmland. A map of the proposed area has been included in Attachment 4. The Supplement to the Alternatives Analysis, in Attachment 5 notes that the resource lands included in this expansion area are either bordered by Council Creek on the north (western half of the area), which forms an excellent buffer between the proposed industrial use and agricultural activities, or is located between two exception areas that act as “bookends” for the farmland portion of the area that lies north of Council Creek (50 acres). The exception lands contain rural residential uses that reduce the viability of this farmland portion of the study area for commercial agriculture.

Inclusion of the farmland located between the two exception areas will make the provision of water, sewer transportation services more efficient for the entire expansion area. Extension of streets into the exception areas alone (if the intervening EFU area was not included in the UGB) would limit the accessibility of fire and life safety vehicles and place additional demands on the local street system to the south. Inclusion of the two resource land parcels would make the provision of public facilities and services to industrial areas in the two exception land portions more efficient and orderly. Looping water and sewer lines through the EFU area to serve exception areas is consistent with good engineering practices for service delivery and maintenance of systems. The western resource land portion of the area is located adjacent to an industrially zoned area inside the UGB, which allows for the efficient provision of services to the new industrial area outside the UGB.

The City of Cornelius has provided Metro with additional information regarding the availability of services and the planned infrastructure to serve the expansion area in a letter dated September 12, 2005 from the City in Attachment 5. The letter details transportation improvements water and sewer line efficiencies within the exception areas, intervening resource lands and within the existing UGB. Information was also provided on existing farm practices within the proposed area and the value of this area as industrially designated land to the City for both economic and social purposes. The letter states that with the construction of new OTIA funded bridges in 2006 and 2007 across Council Creek at Susbauer and Cornelius-

Schefflin Roads the proposed area will have all urban services available to the proposed area (streets, water, sanitary sewer and storm sewer).

Through the implementation of Title 11 planning by the City of Cornelius, natural resource impacts and level of service impacts on Tualatin Valley Highway will be addressed. In addition, the financially constrained and the priority system in Metro's RTP include several projects that will address congestion issues in this area.

In addition to meeting the demands for industrial land by including this area in the UGB the area has positive economic and social implications for the City of Cornelius. The close proximity to the City's main street will enhance existing development and provide additional employment opportunities for city residents. Adding jobs to a community that has more housing than jobs provides an opportunity to decrease trips to other parts of the region for employment. The City has the longest average commute in the region. The positive economic implications of including 261 acres of industrial land are significant for a community that ranks nearly last (23rd out of the 24 cities) in the region in total taxable real market value and real property value per capita.²² A city's tax base determines what resources are available for community services like police, fire, planning, libraries, social services and governance. The city's tax base is heavily weighted toward residential, which typically requires more services per dollar generated of tax revenue than industrial areas creating an even greater drain on municipal finances.

The RFP and statewide planning Goal 14 require the Council to weigh the consequences of inclusion of the proposed Cornelius area with RFP policies and Goal 14's "locational" factors and with other possible areas. This report recommends that the Council again include this part of the Cornelius study area rather than other Class II farmland under consideration, weighing Factors 1- Efficient Accommodation of Identified Land Needs, Factor 2- Orderly and Economic Provision of Services, Factor 3- Environmental, Energy, Economic and Social Consequences, Factor 4- Compatibility of Urban Uses with Farm Uses, Factor 5- Equitable Distribution of Housing and Employment, Factors 6- Contribution to Centers, Factor 7- Protection of Farmland to the Commercial Agriculture, Factor 8- Avoidance of Conflicts with Regionally Significant Fish and Wildlife and Factor 9- Separation of Communities. Likewise, the report recommends weighing RFP Policies 1.2.1(c) Regional Balance and Equity, 1.3.1(c) and 1.4.2 Balance of Jobs and Housing. The need for industrial development in this part of the region and the ability to bring development to the proposed area efficiently outweighs the small loss to the commercial agricultural base compared to other resource land areas that contain Class II soil.

The conclusions that are discussed above are based on new information submitted into the record by the City of Cornelius and resulting from additional staff analysis to reaffirming the decision to add this area to the UGB for industrial purposes. This action best supports the policies in the Regional Framework Plan, balances the community and the region's need to provide a sufficient land supply for the 20-year planning period and complies with State law.

Design Types for Proposed Areas

Both the Cornelius and the Evergreen areas are proposed to be assigned an industrial design type. An industrial design type is consistent with the stated need for industrial land.

²² 2004 Performance Measures Report, page 19 and 20.

Conditions of Approval

Several policy issues related to Ordinance 05-1070 have been raised following the release of the Chief Operating Officers recommendation to the Metro Council. In addition to the standard conditions that are included in Ordinance 05-1070 to address functional plan requirements the following issues have been raised and discussed as possible conditions of approval:

1. Include a fiscal sharing requirement between the City of Hillsboro and Washington County to address the tax base inequity between cities;
2. Direct all commercial uses including hospitals and schools to the Regional Center and Station areas to ensure that these areas will be used solely for industrial purposes;
3. Provide notice to all property owners within the expansion areas that Metro is considering adoption of a windfall tax that would apply to these areas in the future;
4. Designate all or a portion of the Evergreen expansion area as a Regionally Significant Area (RSIA) to ensure that the area will be protected for industrial purposes;
5. Require that the City of Hillsboro plan to accommodate a portion of the demand for housing that may be generated from adding the Evergreen area to the UGB;
6. Requirement that the habitat area adjacent to Waible/Gulch Creek be restored.

These possible conditions of approval will be discussed at the public hearing scheduled on November 10, 2005.

Known opposition:

Several property owners have expressed opposition to the proposed expansion area. 1000 Friends of Oregon and the Washington County Farm Bureau have expressed opposition to both the expansion adjacent to the City of Cornelius and the Evergreen Road expansion areas. The owners of the Langdon Farms area located south of Wilsonville have expressed opposition to Metro's failure to include the Langdon Farms area into the UGB for industrial purposes.

Legal Antecedents: none

Anticipated Effects:

Acknowledgement by LCDC is expected upon adoption of the UGB amendments and submittal of all remand requirements to complete Periodic Review.

Budget Impacts:

No budget impacts resulting from this decision are anticipated.

RECOMMENDED ACTION

Approval of Ordinance No. 05-1070 to expand the UGB and provide additional findings necessary to satisfy the conditions of the Remand Order 05-WKTASK -001673 received from LCDC.

Attachment 1: Addendum to the 2002-2022 Urban Growth Report: An Employment Land Needs Analysis, September 2005

Attachment 2: Map of Proposed Evergreen Expansion Area

Attachment 3: Letter from City of Hillsboro, dated September 2, 2005

Attachment 4: Map of Proposed Cornelius Expansion Area

Attachment 5: Addendum to the Alternatives Analysis, September 2005

Attachment 6: Letter from the City of Cornelius, dated September 12, 2005

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2002-2022 Urban Growth Report: An Employment Needs Analysis September 2005 Addendum

Background

In August 2002, the 2002-2022 Employment Urban Growth Report (Employment UGR) was prepared to assess supply and demand for employment uses for the period between 2002-2022 as part of Metro's periodic review of the urban growth boundary(UGB). This report was updated in December 2002 and was adopted by the Metro Council on June 24th as part of Ordinance 1040B to fulfill the agency's responsibility for maintaining a 20 year supply of land within the urban growth boundary.

The Land Conservation and Development Commission (LCDC) remanded a portion of Metro's decision that was part of Ordinance 1040B which adopted the Employment UGR and the commercial refill rate assumptions. Remand Order number 05-WKTASK-001673 required the 2002-2022 Employment UGR to be amended as necessary to incorporate any changes to assumptions to reconcile the change in the commercial refill rate to 52 percent. The reasons for the adjustment of the commercial refill rate from 50 to 52 percent are contained in this September 2005 Addendum to the Employment UGR. As part of the review of the information contained in the adopted Employment UGR and through testimony that was submitted into the record an adjustment was made to the commercial refill rate. This adjustment to the commercial refill rate has implications on how the demand for industrial demand is met.

Data Sources in the Employment UGR

The range of refill rates (50-52 percent) were estimated by using MetroScope, an integrated land use and transportation forecast model and by examining historical data. The refill rate is a forecast parameter that Metro policy makers and local governments can influence through policy and market incentives. An initial "base case" scenario was run in MetroScope to estimate future land needs and indicated an average refill rate of 50 percent through the year 2022. The "base case" scenario assumes land use and transportation policies in effect today will continue in future years. In other modeling scenarios completed prior to adoption of the Employment UGR several alternative growth scenarios suggested that commercial refill rates could fluctuate depending on the land use assumptions used in the MetroScope model.

Historical estimates of the commercial refill rate occurring in the Metro area were measured at a rate of 52 percent during the mid- 1990's. The historical refill rate is based on GIS information, county assessment records and building permit reports provided by local governments.

How Changes in Refill Rates Affect the Demand for Industrial Land

Refill occurs on land that Metro already considers already developed. The change in the commercial refill rate from 50 to 52 percent that is used in the Employment UGR has land supply affects. The supply or inventory of vacant land is unaffected by adjustments to the commercial refill rate.

Industrial land demand is unaffected by commercial refill rate changes, but the industrial need (i.e. shortages) can be satisfied by assuming a different refill rate. The Metro Council assumed that the excess commercial capacity or savings from assuming a higher commercial refill rate will offset a portion of the shortfall of industrial land. The adoption of the change to the refill assumptions was based on testimony by industry experts and economic development professionals. The nature of industrial jobs are changing and is moving towards a more knowledge based economy that has different space requirements. In the future more industrial users are expected to have more office type space requirements and as a result industrial jobs are

increasingly accommodated in buildings and spaces that are customarily associated with commercial office uses.¹

In general, the change in the commercial refill rate reduces the projected land demand for commercial users. In turn, the higher refill rate implies that both commercial and industrial users would conceivably find additional redevelopment opportunities in outmoded buildings. A slightly higher refill rate has the desired effect of reducing the demand for vacant land, potentially increases redevelopment in centers and increases job densities.

Changing the commercial refill rate to 52 percent lowers the demand for vacant commercial land by almost 200 net acres of land (174 acres). The 174 In 2004 the Metro Council study areas that contain Class II soils in priority only after including in the UGB suitable “exception areas” and areas of less capable soils. The Council compared study areas with Class II soils using the “locational” factors in Goal 14 (factors 3-7) and the policies in the Regional Framework Plan (RFP) to reach a decision to add a portion of the Cornelius study area to the UGB.² net acres of savings is transferred to accommodate a portion of the demand for industrial land.

As a result of this adjustment to the commercial refill rate the land demand estimates reported in the Employment UGR have been amended. The following tables replace tables found in the Employment UGR (pages 38 to 43) beginning in the Commercial Land Need Assessment section.

Table 19 summarizes the parcel size and demand estimates for commercial demand.

Table 19 Revised

| Number of Tax Lots - Demand | | Acres Demand (net acres) | |
|-----------------------------|-------------------|------------------------------|-------------------|
| Net Demand adj. for Refill | | Acres Demand adj. for Refill | |
| | Commercial | | Commercial |
| under 1 acre | 5,819 | under 1 acre | 2,909.4 |
| 1 to 5 | 241 | 1 to 5 | 665.1 |
| 5 to 10 | 28 | 5 to 10 | 212.0 |
| 10 to 25 | 19 | 10 to 25 | 326.5 |
| 25 to 50 | 6 | 25 to 50 | 211.9 |
| 50 to 100 | 5 | 50 to 100 | 375.0 |
| 100 or more | - | 100 or more | 0.0 |
| | 6,117 | | 4,700.0 |

Table 20 shows a summary detail of commercial demand by building type – commercial, retail and institutional users. This table describes the breakdown by lot size and number of lots by building type.

¹ See “ A Review of Information Pertaining to regional Industrial Lands”, Ordinance 1040B, Appendix A, item p, and 2002-2022 Urban Growth Report: An Employment Lands Needs Analysis, June 24, 2004, Supplement.

² Twelve areas that contained class II soils were considered suitable industrial development in the 2002 Alternative Analysis Report: Evergreen, Cornelius, Farmington, Forest Grove East, Forest Grove West, Jackson School Road, Noyer Creek, Helvetia, Hillsboro South, West Union, Wilsonville East and Wilsonville South.

Table 20 Revised

| NUMBER OF LOTS NEEDED BY PARCEL SIZE & BUILDING TYPE - 2000-2022 | | | | |
|---|---------------|---------------|----------------|--------------|
| | office | retail | med/gov | Total |
| under 1 | 3,581 | 1,395 | 842 | 5,819 |
| 1 to 5 | 81 | 103 | 58 | 241 |
| 5 to 10 | 9 | 6 | 13 | 28 |
| 10 to 25 | 4 | 1 | 13 | 19 |
| 25 to 50 | 1 | 0 | 5 | 6 |
| 50 to 100 | 2 | 0 | 3 | 5 |
| 100 plus | 0 | 0 | 0 | 0 |
| | 3,678 | 1,505 | 934 | 6,117 |

Adjusted for Refill

In Chart 9, the commercial land demand is depicted in total – including the component of demand that is composed of refill. Note that demand that is accommodated through refill does not consume vacant land, so in later tables the commercial and industrial demand ignore any reference to refill. Chart 9 and Table 24 are shown for completeness purposes to illustrate the total demand that exists for commercial uses. Chart 10 nets out the refill component and shows only the net demand for vacant commercially zoned land.

Chart 9 Revised

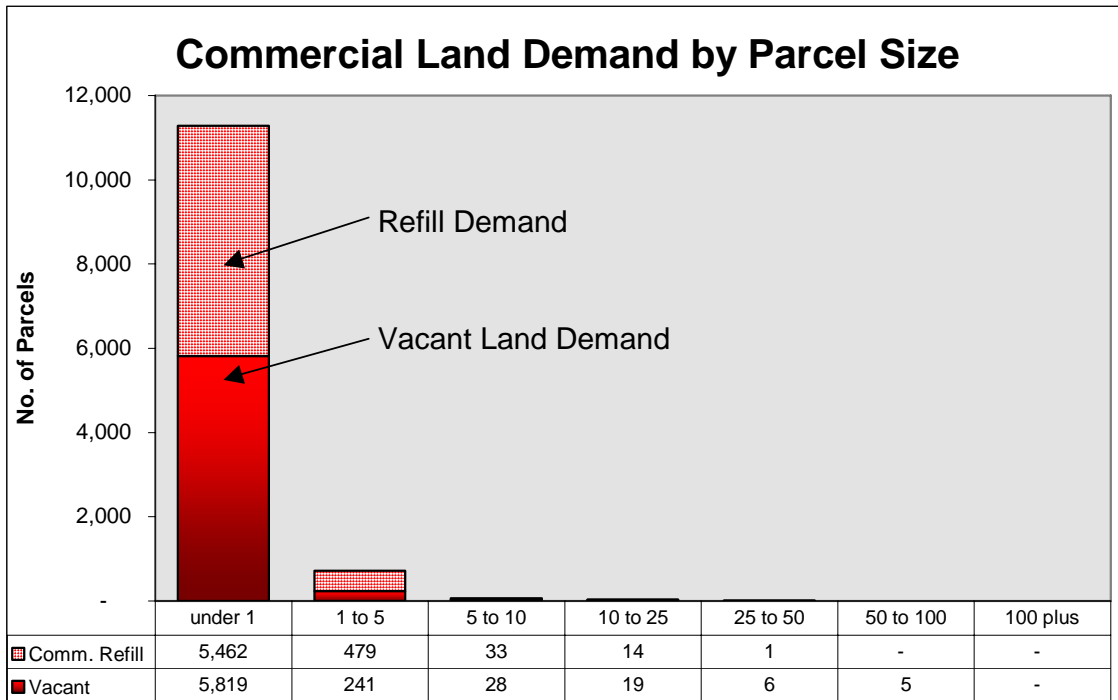


Chart 10 Revised

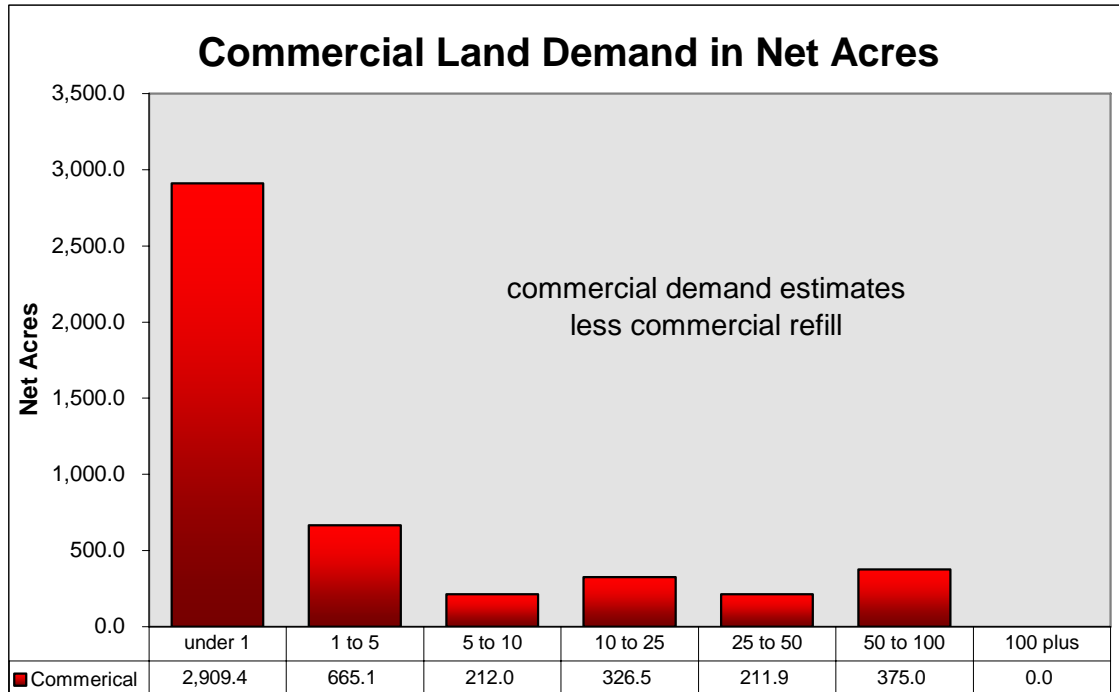


Table 24 Revised

| Commercial Land Need Surplus | | | | | | | | |
|-------------------------------------|----------------|------------|------------|-----------|----------|-----------|----------|----------------|
| COMMERCIAL by No. of Lots | | | | | | | | |
| | under 1 | 1 to 5 | 5 to 10 | 10 to 25 | 25 to 50 | 50 to 100 | 100 plus | TOTAL |
| Vac. Supply | 3,373 | 917 | 151 | 57 | 12 | 7 | | 4,517 |
| Demand | 5,819 | 241 | 28 | 19 | 6 | 5 | | 6,117 |
| vacant | 11,280 | 719 | 61 | 33 | 7 | 5 | | 12,105 |
| refill | (5,462) | (479) | (33) | (14) | (1) | | | (5,988) |
| net need | (2,446) | 676 | 123 | 38 | 6 | 2 | 0 | (1,600) |

| COMMERCIAL by Net Acres | | | | | | | | |
|--------------------------------|------------------|----------------|--------------|--------------|--------------|-------------|------------|----------------|
| | under 1 | 1 to 5 | 5 to 10 | 10 to 25 | 25 to 50 | 50 to 100 | 100 plus | TOTAL |
| Vac. Supply | 951.9 | 2,076.3 | 976.0 | 793.1 | 371.4 | 465.1 | 0.0 | 5,633.9 |
| Demand | 2,909.4 | 665.1 | 212.0 | 326.5 | 211.9 | 375.0 | | 4,700.0 |
| vacant | 5,640.2 | 2,157.6 | 457.2 | 569.8 | 258.8 | 375.0 | | 9,459 |
| refill | (2,730.8) | (1,435.5) | (245.2) | (243.3) | (46.9) | | | (4,702) |
| net need | (1,957.5) | 1,411.2 | 764.0 | 466.6 | 159.5 | 90.1 | 0.0 | 933.9 |

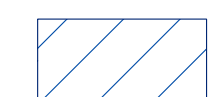


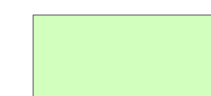

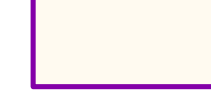
Conclusion

In the Addendum to the Employment UGR dated September 2005, the total commercial demand was adjusted from an estimated 4,874 net acres to 4,700 net acres due to the change in the commercial refill rate from 50 to 52 percent. The resulting surplus of 174 net acres has been applied to the industrial land deficit on a one to one basis. This change in the commercial refill rate recognizes changes that are taking place in the marketplace and does not result in a shortage in the supply of commercial land or comprise Metro's ability to meet the 20-year land supply requirement.

Ordinance 05-1070
Attachment 2

2005 UGB Expansion

Evergreen
with Stream Boundary

-  Evergreen Study Area
-  Modeled Title 3
-  Study Area Boundary
-  Resource Land
-  Exception Land
-  UGB

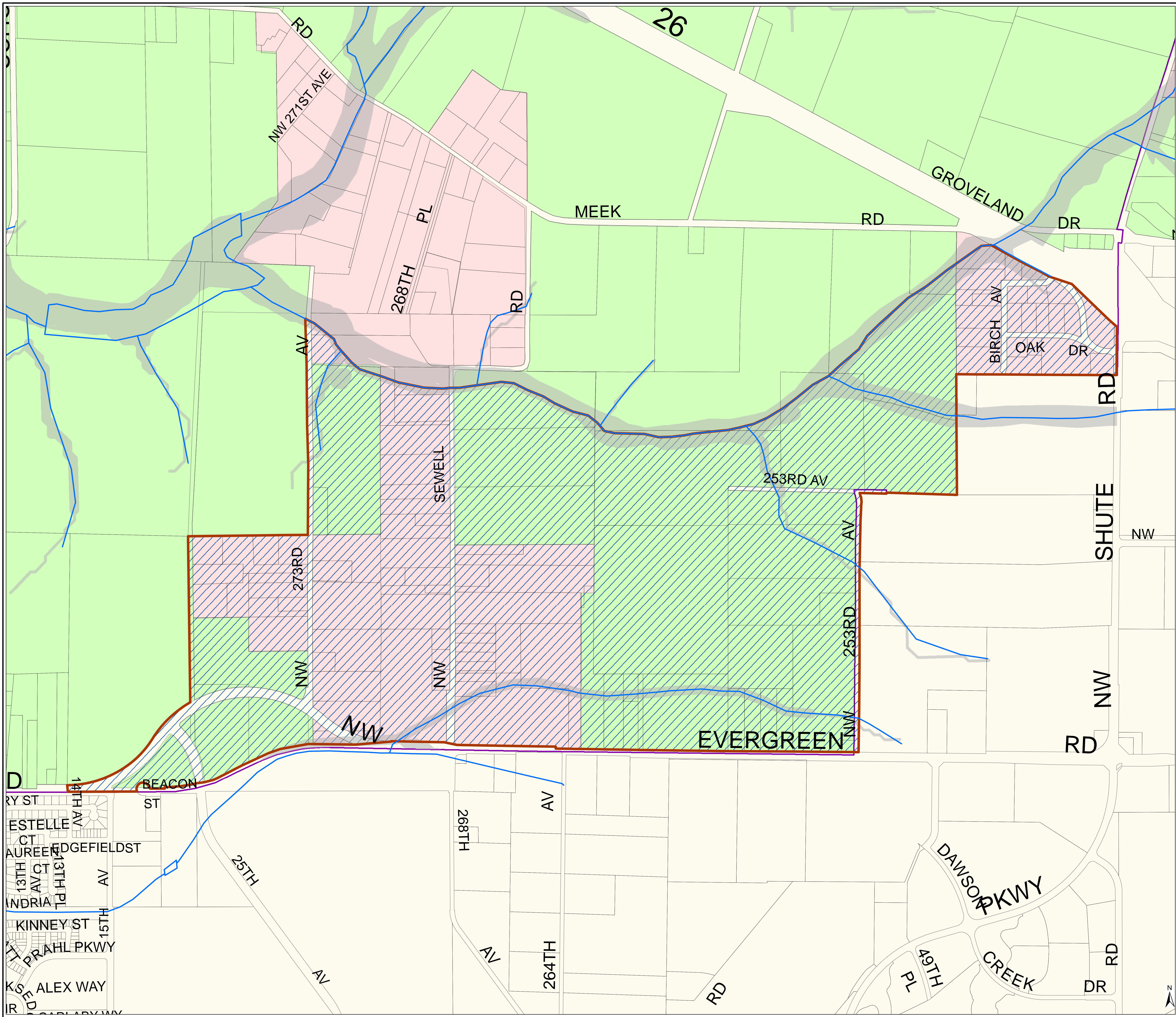
Total Acres = 624

Exception Land = 218 ac.
Resource Land = 374 ac.

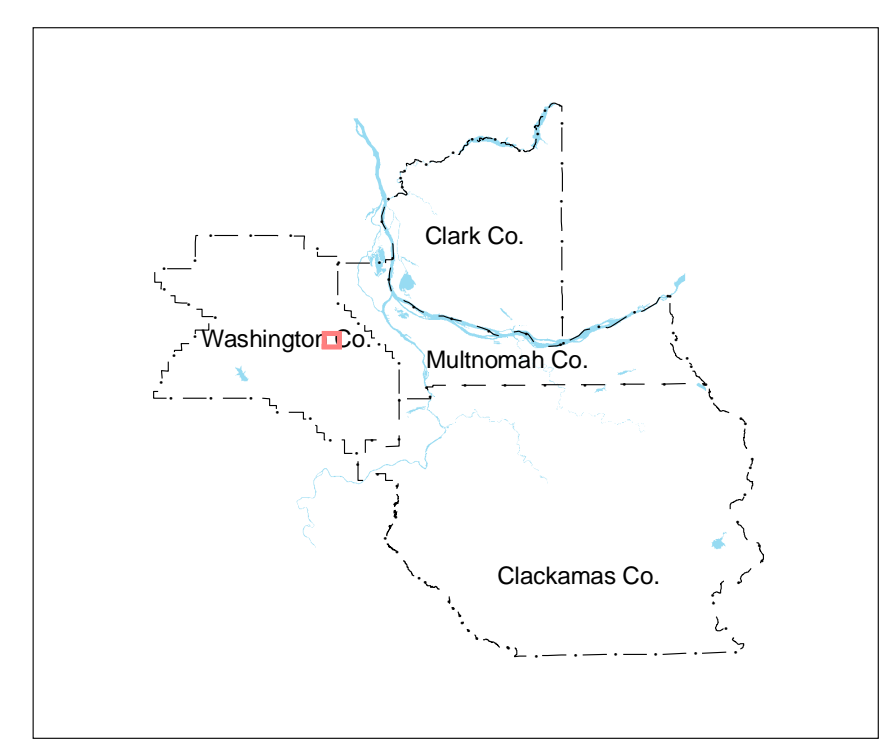
Gross Buildable Acres = 456

Deduction for Future Streets = 108 ac.

Net Buildable Acres = 348 ac.



The information on this map was derived from digital databases on Metro's GIS. Care was taken in the creation of this map. Metro cannot accept any responsibility for errors, omissions, or positional accuracy. There are no warranties, expressed or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying this product. However, notification of any errors will be appreciated.



METRO DATA RESOURCE CENTER
 600 NORTHEAST GRAND AVENUE PORTLAND, OREGON 97232-2736
 TEL: (503) 797-1742 FAX: (503) 797-1909
 dc@metro.dst.or.us www.metro-region.org

CITY OF HILLSBORO



Via: Electronic Transmission

September 2, 2005

Hon. David Bragdon, President
Hon. Brian Newman, Councilor
Metro Council
600 NE Grand Avenue
Portland, OR 97232

RE: City Program for 2040 Centers Development.

Gentlemen:

Thanks for visiting me yesterday at our new Civic Center. Our discussions of several matters, including some aspects of the 2004 LCDC UGB Remand Order were very informative and productive. We should have more such talks more often.

Yesterday, you asked about our progress toward achieving 2040 Regional Urban Center objectives that apply to Downtown Hillsboro and other parts of Hillsboro. I summarize below projects and actions we have taken in recent years toward Downtown Hillsboro revitalization and upcoming projects and actions we expect to take very soon toward that end.

1. In the early 1990s we adopted *Downtown Hillsboro Station Community* development policies and flexible mixed use development regulations. These measures increased the dwelling unit capacities and building height limits within the Regional Center to allow more than 2,000 additional housing units within this Center. (See Hillsboro 1998 Functional Plan Compliance Report.)
2. In 1997, a City-Downtown property owners/business working partnership completed a jointly-funded (est. \$12 million total value) *Downtown Core Area Local Improvement District (LID)*. This project widened sidewalks and simultaneously upgraded underground and street public infrastructure and utilities that now contain adequate capacities to support multi-story mixed uses within our Downtown Core Area.

3. Aided by a DLCD Technical Assistance Grant, we completed in 2002 a *Downtown Hillsboro Redevelopment Market Feasibility Analyses* jointly undertaken by the City and a Downtown stakeholders advisory committee. This project by E.D. Hovee and Co. identified and ranked six (6) "Priority Redevelopment Sites" within our Downtown Core (ranking the First Interstate Bank Site as No. 1 Priority). For each priority site, the project presented conceptually-designed mixed-use projects (and corresponding financial pro forma sheets) that a concurrent market study (also done as a part of this project) showed could be supported by the local and regional economy at that time. This project reported two major hurdles standing in the way of such Downtown redevelopment. These are inadequate downtown parking under existing land use codes and inadequate assessed property values of existing Downtown properties to support conventional redevelopment financing. Two upcoming projects listed below will address and, hopefully, find solutions to these hurdles.
4. Two years ago, the City completed a \$4 million renovation of a former church donated to the City which is now the *Glenn & Viola Walters Cultural Arts Center*. Located on Main Street, this Center anchors the east end of the Downtown Core Area. It provides a center for public and private arts and cultural exhibits and events.
5. The City acquired ownership of a building space on Main Street at the center of the Downtown Core that was the site of the *Town Theater* in the heyday of Downtown Hillsboro. Community-based uses are intended for this site provided severe structural limitations to building space renovations and remodeling can be overcome.
6. This year the City completed construction of the two largest projects in its *Civic Center Master Plan*: a \$36 million *City Civic Center* and the 90-units, affordable housing *City Center Apartments*. Located on Main Street, the Civic Center houses most of the City's agencies, a new *Starbucks* coffee shop and ground level, 20,000 sq. ft. space designed and targeted for *private restaurant* use. Development of a 30-unit, *Market Housing Project* on City Downtown property located across the street from the Civic Center and City Center Apartments is the only incomplete Civic Center Master Plan project.
7. Since 2000 weekly *Tuesday Markets and Saturday Markets* during the Spring and Summer take place on Main Street in the Downtown Core. These are sponsored primarily by the Downtown Hillsboro Business Association with weekly co-sponsors by other Downtown and community businesses.
8. Earlier this month, our City Council approved the immediate hiring a long-budgeted, full-time *Downtown Hillsboro Project Manager* and hiring of this position in the City's Economic Development Department will be advertised in September. The responsibilities of this Project are listed on the sheet accompanying this letter.

9. This month, the Cities of Hillsboro and Beaverton was informed that their joint application for an ODOT/TGM Grant to conduct and complete a *Beaverton/Hillsboro Downtown Parking Solutions* was approved for Grant funding. For both Cities, the main focus of this project is to develop effective alternative solutions to chronic inadequate downtown parking in both downtown core areas under existing land use codes. Such solutions likely will include, code adjustments, feasible shared parking facilities and/or structured parking facilities. For Downtown Hillsboro, this project hopefully will remove the greatest current barrier to private redevelopment, expansions and improvements to Downtown properties and business spaces.
10. After consultation with DLCD, the City is preparing a DLCD Technical Assistance Grant Application to fund a *Downtown Hillsboro Core Area Renaissance Project* which will prescribe how to generate Core Area economic revitalization to be driven in large part by a 24/7 presence in the Core Area of arts- and culture-related (broadly defined) commerce, public art and other like-kind places, activities and events. If funded, this Project will seek to emulate the successful steps taken by other Cities and urban places (i.e., Tacoma, WA, Austin, TX, and the Albina, Pearl District, NW 23rd and Hawthorne Blvd. communities in Portland) to spur urban center revitalization driven by creative businesses and activities.

In addition to our intensive efforts to revitalize the core of our Downtown Regional Center as the crucial initial, we have had significant success and progress in achieving 2040 Center objectives within our two Town Centers, Tanasbourne and Orenco. The successes of the *Orenco Town Center and Village* are widely known and need not be repeated here. Recently, our Tanasbourne Town Center has begun to take off.

Last year, *The Shops at Tanasbourne* retail center core of the Town Center open its door and has been economically successful to date. *Kaiser Medical* will build a major *medical clinic and outpatient medical center* next to its current clinic in the Town Center. *Standard Insurance, Inc.* has acquired existing flex offices and will build additional flex office buildings within the Tanasbourne Center to house some of its business sections to be relocated from its Downtown complex. Higher density housing and mixed use developments are being constructed in the "*Tanasbourne Center Superblock*" located directly across Cornell Road from the Shops at Tanasbourne in accordance with our acknowledged Tanasbourne Town Center Plan.

Finally, our *South Hillsboro Concept Plan*, which designs the development of another 2040 Town Center within the 1400-acre South Hillsboro Area, was completed several years to satisfy Metro Title 11 Concept Planning requirements upon inclusion of the entire South Hillsboro Area into the Metro UGB. A copy of that Plan is being transmitted to you along with a hard copy of this letter by courier. As described at p. 81 of the Plan, the overall South Hillsboro development concept incorporates four unique and distinct neighborhoods:

Hon. David Bragdon and Brian Newman

September 2, 2005

Page 4

- One town center known as Ladd-Reed in the northeast corner.
- One neighborhood/mainstreet center known as Gordon Creek, to the northwest.
- One neighborhood/mainstreet center known as Butternut Creek, to the southeast.
- One low density area known as Hazeldale to the south.
- Future implementation of the South Hillsboro Concept Plan, including Areas 69 and 71 which were added to the UGB in 2002, would provide approximately 6700 more residential units.

If the South Hillsboro Area were added to the Metro UGB, the area would provide additional residential capacity to accommodate housing demand generated within new industrial areas also added to the UGB and City. We have always said that jobs/housing imbalance in the City would be significantly reduced but not eliminated if housing were developed within the South Hillsboro Area. The imbalance is a natural and predictable outcome of Hillsboro's recognized role as a regional (and county) employment center that will likely always attract more workers than can be accommodated in housing units within the City.

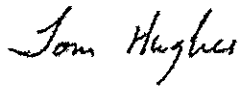
It is wrong to assume that, beyond the South Hillsboro Area, the City will pursue more residential UGB expansions to attain a perfect jobs/housing balance within our City limits. The actual "housing shed" for the regional and county-wide employment center in our City extends well beyond those limits. It encompasses existing residential areas throughout urban Washington County as well as newly-added UGB areas like the Bethany area which will add around 3500 additional units. It also encompasses existing and new residential areas in other Westside cities such as Forest Grove, North Plains, and Beaverton that also may have existing capacity. Recent employment studies (i.e., Joe Cortright, 2004) confirm that many residents in these jurisdictions work in the regional employment center in our City. It is reasonable to assume more of the same if new industrial sites are added to the UGB and regional employment center.

Continued investment in a multi-modal transportation system that connects these areas with the regional employment center is a strategy that merits added focus. The City continues to pursue efficiencies in development of neighborhoods, such as Witch Hazel Village, that will create vibrant pedestrian and bicycle friendly communities with an average density of 10 dwelling units per net acre, while providing adequate parks and open space and appropriate mixed use opportunities. We will continue to seek strategies that can reasonably provide housing choices for those who choose to live and work in Hillsboro, recognizing that attaining an equally balanced jobs/housing ratio is not a realistic (or perhaps even advisable) land use objective.

Hon. David Bragdon and Brian Newman
September 2, 2005
Page 5

I hope this information is helpful in your upcoming Council's Industrial UGB Remand deliberations as they may relate to our City. Please let me know if you need more information.

Sincerely,

A handwritten signature in cursive script that reads "Tom Hughes". The signature is written in dark ink and is positioned to the left of a vertical line.

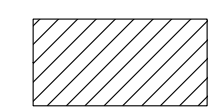
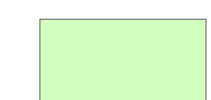


Tom Hughes
Mayor

Attachment and Enclosure.

Ordinance 05-1070
Attachment 4

2005 UGB Expansion

Cornelius

-  Cornelius
-  Resource Land
-  Exception Land
-  UGB

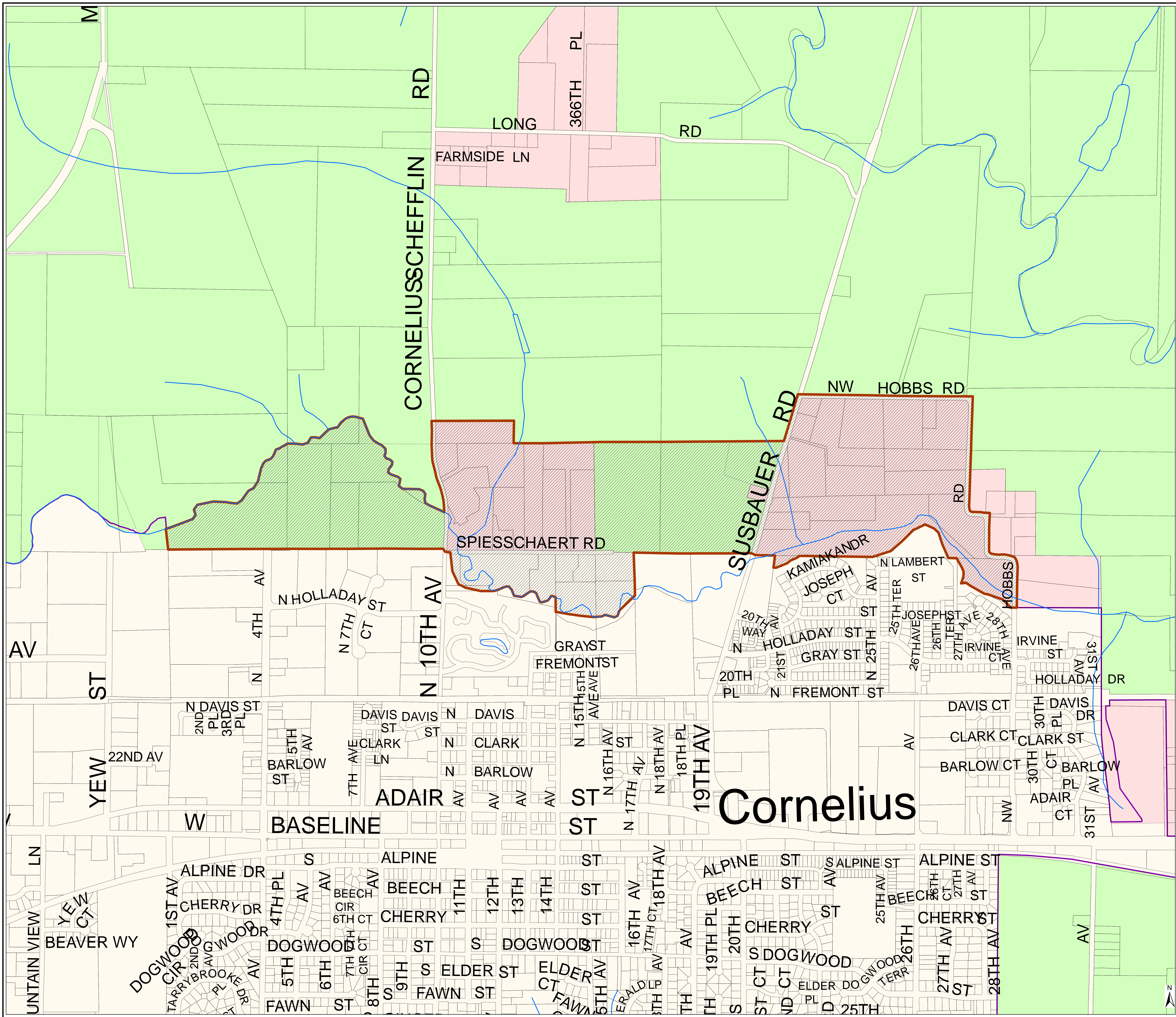
Total Acres = 261

Exception Land = 154 ac.
Resource Land = 107 ac,

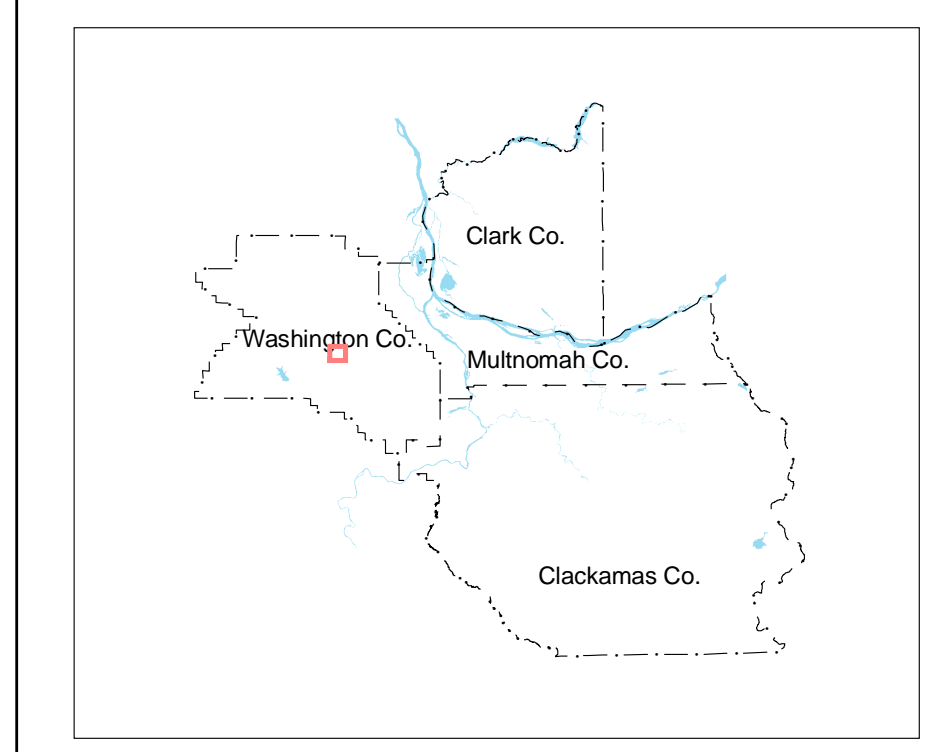
Gross Buildable Acres = 137

Deduction for Future Streets = 46 ac.

Net Buildable Acres = 91 ac.



The information on this map was derived from digital databases on Metro's GIS. Care was taken in the creation of this map. Metro cannot accept any responsibility for errors, omissions, or positional accuracy. There are no warranties, expressed or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying this product. However, notification of any errors will be appreciated.



Location Map



METRO DATA RESOURCE CENTER
 600 NORTHEAST GRAND AVENUE PORTLAND, OREGON 97232-2736
 TEL: (503) 797-1742 FAX: (503) 797-1909
 drc@metro.dst.or.us www.metro-region.org

**Addendum to the Alternatives Analysis
September 2005**

Addendum to the Alternatives Analysis

| Evergreen Expansion Area | | Gross Vacant Buildable Acres | | 431 |
|--------------------------|-----|------------------------------|----|-----|
| Total Acres | 587 | Public Land Acres | 0 | |
| Total Acres in Parcels | 556 | Total Developed Acres | 90 | |
| Resource Land Acres | 339 | Total Constrained Acres | 35 | |

General Site Description

The Evergreen Expansion Area is located north of the City of Hillsboro, north of NW Evergreen Road. To the south and east is the UGB; to the north is Highway 26 and to the west is rural land. The Hillsboro Regional Center is approximately 4 miles southwest of the area via NW Evergreen Road and NW Glencoe Road. The expansion area is composed of two sections; a small 35 acre (parcels) section composed of rural residences focused on NW Oak Drive and NW Birch Avenue near the Shute Road interchange on Highway 26 and a large 521 acre (parcels) section north of NW Evergreen Road in the vicinity of NW Sewell Road, both of which provide access to the area. The two expansion areas total 587 acres in size (parcels and street right-of-way) and contain both non-resource land and resource land.

Parcelization, Building Values, Development Patterns

This study area of 587 acres contains 105 tax lots or portions of tax lots that vary in size from less than one acre to approximately 48 acres in size. There is one parcel greater than 40 acres in size, one between 30 and 40 acres, three between 20 and 30 acres, and eleven between 10 and 20 acres in size. Seventy-eight parcels, or seventy-four percent are less than 5 acres in size and twenty-three parcels or twenty-two percent are less than one acre in size. Many of these small parcels are located in the small expansion area section near Highway 26 and NW Shute Road and along NW Sewell Road in the larger section. Seventy-four of the one hundred and five parcels have residences ranging in value from \$40,000 to \$322,000 with twenty-one valued greater than \$150,000. In general, the entire area is open and involved in agricultural activity or functions as a pocket of rural residences.

Physical Attributes (Power lines, Easements, Airport Fly-over Zones)

A power line runs in an east west direction through the center of the larger section of expansion area. There are no other utility lines running through the area. The area is adjacent to the Hillsboro Airport runway protection zone.

Public Services Feasibility

The City of Hillsboro and Clean Water Services are the service providers for this area.

- **Water:** There is a 66-inch distribution line in NW Evergreen Road adjacent to the large expansion area. Pressure reducing valves are in place throughout the line to provide distribution capabilities. This expansion area is easy to serve.
- **Sewer:** Service to this area is separated into two districts. Existing 18 and 21-inch gravity sewers that are located approximately 1,400 feet to the south may serve the southeast corner of the larger expansion area. Serving the remaining portion of the expansion area by gravity would require extensive downstream improvements or construction of new sewers through a developed residential area, as there are no existing large diameter sewers available. This area would be difficult to serve.

- **Stormwater:** Stormwater from new development will be required to be treated with detention, water quality facilities or both. The responsibility for the required treatment will be with the developer, thus impacts to downstream facilities will be minimal. Water quality sensitive areas will have vegetated corridor standards applied to them. This area is easy to serve.

Transportation Services

This area received a moderate overall transportation rating due to a moderate availability level of transportation facilities, a relatively low expected volume to capacity ratio on adjacent arterials and major collectors, and moderate environmental factors. This area did receive a difficult score for a high potential trip generation rate. ODOT has expressed concerns that industrial expansion in the NW Shute Road area may affect the nature and cost of needed interchange improvements both at NW Shute Road and NW Cornelius Pass Road. ODOT would like to see an Interchange Area Management Plan for NW Shute Road be prepared as part of the Title 11 planning for the area. Additional widening of US 26 west of NW 185th Avenue may be needed in the future, but this is not currently identified in the Regional Transportation Plan.

Agricultural Analysis

Zoning

The small section of the expansion area is a pocket of exception land zoned AF 5. The larger area contains exception land zoned AF 5 along NW Sewell Road and resource land zoned EFU and AF 20 by Washington County. To the west is resource land zoned EFU and a pocket of exception land zoned AF10 near the intersection of NW Evergreen Road and NW Glencoe Road. To the north is Highway 26 that separates the area from a large expanse of EFU zoned land. The UGB is to the south and east.

Current Agricultural Activity

The small expansion area near the Shute Road interchange contains no agricultural activity. Over half of the larger expansion area is currently being used for field crop activities and there also are a few forested areas. Approximately 53 acres of exception land are actively farmed. Adjacent land to the east within the UGB is in agricultural production and is primarily field crops. To the west is a large area of field crops. To the north is Highway 26 that separates the area from a large expanse of agricultural land mostly in field crop production. There are seven place of use water permits identified by the Oregon Water Resources Department (WRD) within the expansion area. Six are for irrigation and one for nursery use. These seven places of use permits represent less than a quarter of the study area land. There are ten points of diversion water permits identified by the WRD within the expansion area. Nine of the diversions are for irrigation and one is for storage.

Agricultural Compatibility

Urbanization of this area for industrial uses would result in an increase in traffic on NW Evergreen Road and NW Sewell Road and to a lesser extent on NW Meek Road and possibly NW Jackson School Road. This increased traffic on NW Jackson School Road could have an effect on the transport of agricultural goods between the current UGB and US Highway 26 to the north as well as on NW Evergreen Road. This increase in traffic could also have an impact on the normal movement of farm equipment on these two roadways, although both roads currently carry a heavy load of non-farm vehicle trips that already impact the movement of goods and equipment. Urbanization of this area would bring new development directly adjacent to actively farmed areas to the north and west. Issues relating to complaints due to noise, odor, and the use of pesticides and fertilizers

may occur in these areas. Such complaints are less likely to arise however, from industrial areas than from residential areas. There is extensive farmland to the north across Highway 26, but the highway acts a buffer for this area. The adjacent agricultural activity within the UGB is expected to cease or continue on a smaller scale as the area urbanizes.

Gulch Creek flows east to west across the northern edge of the expansion area prior to flowing into Waible Reservoir to the west. A tributary to Gulch Creek flows briefly through the eastern edge and an unnamed stream flows west through the southern portion of the large expansion area. Beyond the expansion area the unnamed stream flows through agricultural land that is in the UGB on Port of Portland property associated with the Hillsboro Airport. Urbanization of this area will result in increased impervious surface area that may diminish water quality and increase the chance of flooding downstream however; Waible Reservoir may provide some flood control for the downstream farmland. Increased flow may affect the downstream agricultural activities on the Port of Portland property. Urbanization of this area may have an affect on the value of the adjacent land involved in agricultural activities to the north and west. Specifically, the land between the expansion area, Highway 26 and the remaining exception land may be the most threatened as it will be more isolated from the larger expanse of agricultural land to the west. Highway 26 provides a buffer for the agricultural land north of the highway and to a lesser extent the remaining exception land provides a buffer to the agricultural land to the west. In addition, the Hillsboro Airport runway protection zone may also provide a level of protection for the land to the west. The remaining adjacent land in agricultural production is already inside the UGB. Urbanization of this area may be perceived as a continued process of urbanization of the farming community north of NW Evergreen Road. Overall, urbanization of this area would have a moderate impact on adjacent agricultural activity to the north and west.

Environmental Social Energy Economic Analysis

General Character of the Area

The large section of the expansion area can be characterized as flat, open land with the vast majority in agricultural production. There are a number of rural residences along NW Sewell Road. A pocket of rural residences makes up the small section of expansion area near the Shute Road interchange.

Environmental

Gulch Creek flows east to west across the center of the study area toward Waible Reservoir to the west for approximately 0.5 miles. A tributary to Gulch Creek measures approximately 0.07 miles. An unnamed stream flows through the southern portion of the area for approximately 0.95 miles for a total of approximately 1.52 miles of streams. There are 2 small wetlands associated with Gulch Creek in the middle segment of the larger area and a portion of a larger wetland associated with Waible Reservoir, which totals approximately 2.3 acres of wetland in the expansion area. A floodplain follows the entire length of Gulch Creek and has an average width of 300 feet. Additionally, there is a floodplain associated with the Gulch Creek tributary and the unnamed stream for a total length of floodplain of 1.52 miles. There are very minimal areas of slopes greater than ten percent along Gulch Creek. There is no designated open space in this study area. All of Gulch Creek and the unnamed stream have been identified as a significant Water Area, Wetland and Fish and Wildlife Habitat on Washington County's Rural/Natural Resource Plan. Metro's Goal 5 Fish and Wildlife Habitat Inventory identifies 12 percent of the area land in the inventory. Urbanization of this would have a moderate impact on natural resources as outlined in the ESEE analysis described in the

2003 Industrial Land Alternatives Analysis Study based on the stream corridor length and the associated floodplain that are along the edges of the area.

Social Energy Economic

This expansion area is mid-sized, contains a medium number of parcels, the majority of which are less than 5 acres in size, although there are five parcels greater than 20 acres in size. The majority of the area is open and involved in agricultural activity and there are two concentrations of residential use. Negative economic impacts associated with loss of agricultural activity due to urbanization would be less than the potential economic benefits from development opportunities, especially for the larger parcels. The small parcels that contain residences may not realize an economic opportunity as industrial land based on the value of the existing home and land and the need to consolidate parcels. This is especially true for the small expansion area near the Shute Road interchange. Urbanization of this agricultural area may have a minimal economic impact on the agricultural lands directly to the north between the expansion area and highway 26 due to increased isolation from the larger expanse of agricultural land to the west. Urbanization of this area would result in an increase in vehicle miles traveled, the level of impact depending on the industrial use. This increase in vehicle miles traveled may also negatively affect movement on the Highway 26 corridor. Current residents and adjacent residents outside the UGB would realize negative social impacts from the urbanization of this farmland for industrial use. This is especially true for the residents of the exception land to the north centered on NW Sewell and NW Meek Roads. Due to the negative and positive consequences of including this mid-sized somewhat isolated agricultural area in the UGB, urbanization of this study area would result in a moderate energy/social/economic consequence.

Other Identified Resources

The Washington County Rural/Natural Resource Plan identifies the Shute Residence at 4825 NW 253rd as a historic property.

| Cornelius Expansion Area | | Gross Vacant Buildable Acres 137 | |
|---------------------------------|-----|---|----|
| Total Acres | 261 | Public Land Acres | 5 |
| Total Acres in Parcels | 253 | Total Developed Acres | 32 |
| Resource Land Acres | 107 | Total Constrained Acres | 79 |

General Site Description

The Cornelius Expansion Area is located on the north side of the City of Cornelius. To the north, east, and west is rural land. The area from The Cornelius Main Street area is approximately ¼ mile to the south and is accessed via N 10th and N 19th Avenues. The area is irregular in shape and Council Creek forms the northern edge of the expansion area on the west end. Access to the expansion area from the north is by NW Cornelius Schefflin Road and NW Susbauer Road, which turn into N 10th and N 19th Avenues respectively within the city limits. Additional access from the south is by NW Hobbs Road, which forms the eastern edge of the expansion area and N 4th Avenue, thus providing four transportation connections to Tualatin Valley Highway. The expansion area is 261 acres in size of which approximately 146 acres are exception land. The remaining 107 acres is resource land.

Parcelization, Building Values, Development Patterns

This expansion area of 261 acres contains 47 tax lots or portions of tax lots that vary in size from less than 1 acre to approximately 30 acres in size. There is one parcel just over 30 acres in size, five between 10 and 20 acres, and eleven between five and ten acres in size. Over half of the parcels (30) are less than five acres in size and five are less than one acre. Eighteen of the parcels, or forty percent have residences ranging in value from \$65,000 to \$259,000 however; all but five are valued less than \$150,000. In general the expansion area can be divided into three land use categories; agricultural activity, rural residences, most of which are not associated with large scale farming activities and vacant natural resource areas along Council Creek. The agricultural activity is occurring on resource and exception land and the natural resources and rural residences are mostly associated with the exception land. There is one rural industrial use located on exception land adjacent to NW Susbauer Road.

Physical Attributes (Power lines, Easements, Airport Fly-over Zones)

There are no power lines or public easements running through the area. Available data does not indicate that this area is within significant range of an airport flight zone.

Public Services Feasibility

The City of Cornelius and Clean Water Services are the service providers for this area.

- **Water:** There is a 72-inch water transmission main that runs east through the City of Cornelius, which has four direct connections to the line. Twelve-inch mainlines are located in N. 4th, 10th, 19th and 29th Avenues, which extend north to the edge of the study area and provide opportunities for looping water service required for fire protection. The City currently has one centrally located reservoir and a second centrally located reservoir is identified in the water CIP for construction in 2005-07. This area would be easy to serve.
- **Sewer:** This area can be served by gravity to an existing 36-inch gravity sewer line located along the entire southern boundary of the study area. The existing sewer line is currently scheduled for an upgrade; therefore any additional

capacity for this area could be easily included in the design of the planned upgrade. This area is easy to serve.

- **Stormwater:** Stormwater from new development will be required to be treated with detention, water quality facilities or both. The responsibility for the required treatment will be with the developer, thus impacts to downstream facilities will be minimal. Water quality sensitive areas will have vegetated corridor standards applied to them. This area is easy to serve.

Transportation Services

This area received an easy overall transportation rating due to a higher availability level of transportation facilities, a relatively low expected volume to capacity ratio on adjacent arterials and major collectors, and a relatively low potential trip generation rate based on the small size of the area. ODOT has expressed concerns that any industrial expansion in this area will have an impact on the NW Glencoe Road interchange on US 26 and add congestion to Tualatin Valley Highway. Safety improvements completed last year at the Glencoe Road interchange have added some capacity for the time being. Other more likely limiting factors may be NW Cornelius Shefflin and NW Susbauer Roads (Washington County roads) leading to US 26. The Washington County Transportation System Plan designates freight routes along NW Cornelius Shefflin Road to NW Zion Church Road to NW Glencoe Road to US 26.

Agricultural Analysis

Zoning

Generally the expansion area can be divided into four sections two each of exception land zoned AF5 and resource land zoned AF20 that form an alternating pattern (Map 1). Proceeding east to west, the area begins with a segment of exception land that extends to NW Susbauer Road with two parcels (one zoned RIND) of exception land protruding into the resource land segment on the west side of NW Susbauer Road. This resource land segment is composed of portions of two parcels and extends west to the end of NW Spiesschaert Road. The next exception land segment contains the parcels adjacent to NW Spiesschaert Road that extend to NW Cornelius Sheffelin Road. The final resource land segment is on the west side of NW Cornelius Sheffelin Road, south of Council Creek. The two exception land areas, which represent a majority of the acreage is zoned AF5. The resource land within the expansion area is zoned AF20 by Washington County. A portion of one parcel that is on the west side of NW Susbauer Road is zoned RIND with the remainder of the parcel zoned AF20. The majority of the land to the north is zoned EFU, but there is pocket of exception land zoned AF10 approximately one-half mile to the north along NW Cornelius Schefflin Road. To the south is the main street district of Cornelius. To the west is resource land zoned EFU and AF20 on the north side of Forest Grove and to the east is resource land zoned AF20 and a small pocket of exception land zoned AF5 directly adjacent to the expansion area.

Current Agricultural Activity

Over half of the expansion area is involved in agricultural activity that is composed primarily of field crops with a small amount of row crops and pastureland. Approximately 60 acres of exception land are actively being farmed. Adjacent to the north, east and west of the expansion area are large areas of agricultural activity that is a mixture of field and row crops, nursery stock and orchards. This area to the north, east and west is part of a very large expanse of agricultural land extending north to Highway 26. There are two places of use water permits identified by the Oregon Water Resources Department (WRD) within the expansion area that are for irrigation. These two places of use permits cover a very small portion of the western section of the expansion area. There is one

point of diversion water permit identified by the WRD within the expansion area for irrigation through the use of a stream. The entire area is within the boundary of the Tualatin Valley Irrigation District, although not all parcels have water rights.

Agricultural Compatibility

Urbanization of this area for industrial uses would result in an increase in traffic on NW Cornelius Schefflin Road and NW Susbauer Road. This increased traffic may have an effect on the transport of agricultural goods produced to the north, east and west as both roads lead to US Highway 26 via NW Zion Church Road and NW Glencoe Road. The Tualatin Valley Highway that runs east west through the center of Cornelius may also see an increase in traffic, which could affect the movement of goods from agricultural areas to the south and west of Cornelius and Forest Grove. The increased traffic north of Cornelius may also have an impact on the normal movement of farm equipment, as the area between the expansion area and Highway 26 has extensive agricultural operations. The Urbanization of this area would bring new development directly adjacent to actively farmed areas to the north and east. Issues relating to complaints due to noise, odor, and the use of pesticides and fertilizers may occur depending on the industrial use. Such complaints are less likely to arise however, from industrial areas than from residential areas.

Council Creek, which forms the northern edge of the western portion of the expansion area (west of NW Cornelius Schefflin Road), acts as a buffer between the expansion area and the adjacent agricultural activity reducing the likelihood of conflict between the two uses. East of NW Cornelius Schefflin Road Council Creek forms the southern edge of the expansion area prior to joining Dairy Creek east of the expansion area. Two unnamed tributaries to Council Creek flow south through the central portion of the area. Urbanization of this area will result in increased impervious surfaces that may diminish water quality and increase the chance of flooding downstream. Council Creek flows through a forested corridor along the southern edge of the area and then crosses agricultural lands to meet Dairy Creek. Increased flow may affect these downstream agricultural activities. Urbanization of this area may affect the value of nearby land involved in agricultural activities by encouraging land banking and speculation resulting in the inability of farmers to acquire parcels needed for agricultural production. However, the agricultural lands to the north are part of a larger expanse of farmland that stretches to Highway 26 and beyond and may be less affected by speculation, as the major portion of farming community would be intact. Alternatively, urbanization of this area may be perceived as a first step of urbanization into this farming community. Only 49 acres of resource land included in the expansion area would be directly adjacent to the actively farmed resource land to the north, thus reducing the potential for speculation and land banking. Overall, urbanization of this area would have a medium impact on adjacent agricultural activity to the north, east and west.

Environmental Social Energy Economic Analysis

General Character of the Area

The area is characterized by flat land in agricultural production, rural residences and natural resources along Council Creek and tributaries.

Environmental

Council Creek flows west to east along the expansion area edges for roughly 2.1 miles and two tributaries flow from north to south through the center of the area for approximately 0.5 miles, for a total of 2.6 miles of stream corridor. There are wetlands associated with Council Creek all along the stream corridor that total approximately 27

acres. There also is a floodplain associated with Council Creek that extends the entire length of the stream corridor and averages about 280 feet in width. Slopes greater than 10 percent can be found along all stream corridors. There is approximately 23 acres of Metro owned open space in this study area. A portion of Council Creek has been identified as a significant Water Area, Wetland and Fish and Wildlife Habitat on Washington County's Rural/Natural Resource Plan. Metro's Goal 5 Fish and Wildlife Habitat Inventory identifies 29 percent of the area land in the inventory. Urbanization of this area would have a moderate impact on these natural resources as outlined in the ESEE analysis described in the 2003 Industrial Land Alternatives Analysis Study, as the majority of the resources are concentrated along Council Creek, which would be protected under normal development scenarios, and not distributed throughout the study area. In addition a significant portion of Council Creek flows through Metro owned open space (23 acres) and the natural resources along this section would be protected and most likely enhanced.

Social Energy Economic

This area is small in size, contains a small number of parcels, most of which are less than 5 acres in size. The area is a mixture of rural residences, agricultural land and natural resource areas. Land in agricultural activity represents approximately half of the expansion area, the majority of which is to be found on the two resource land portions. There are two small pockets of rural residences that make up most of the home sites. The small residential parcels may not realize an economic opportunity as industrial land based on the value of the existing home, land and the difficulty in consolidating parcels. Negative economic impacts associated with loss of agricultural activity due to urbanization would be less than the potential economic benefits from development opportunities. Urbanization of this small amount of land in agricultural productivity would have a minimal economic impact on the adjacent agricultural lands to the north, east and west in terms of equipment and labor sharing. Urbanization of this small area would result in an increase in vehicle miles traveled, the actual impact depending on the future industrial use. Current residents, adjacent residential neighborhoods and adjacent farmers could realize negative social impacts from the urbanization of this farmland for industrial use. However, Council Creek provides a buffer to the adjacent residential areas to the south and the western portion of the area is adjacent to industrially zoned land, thus reducing social impacts to adjacent residential neighborhoods. Due to the negative and positive consequences of urbanizing a small area and the potential minor impacts on adjacent residential areas and agricultural land, urbanization of this study area would result in a low energy/social/economic consequence.



CITY OF CORNELIUS

September 12, 2005

Richard Benner, Metro Counsel
 Metro
 600 NE Grand Avenue
 Portland, Oregon 97232

Re: Findings on Cornelius UGB Expansion for Industrial Use

Dear Mr. Benner:

On behalf of the City of Cornelius, I would like to add explanation to the findings of fact submitted and implied by last year's testimony supportive of Metro's recommended Urban Growth Boundary extension just north of our City limits. We want to clarify the importance of inclusion of the 42 acres of Class II farmland that appears to be central to the challenge of our 262 gross acres of UGB expansion.

Findings Corrections

First, I will correct inaccurate site information presented by 1000 Friends of Oregon that turned up in the findings and context of DLCD's remand order.

1. The portion of this expansion area that is north of Council Creek and designated Class II farmland is only 16% of the gross acreage of the site – 42 acres.
2. Part of these two tax lots totaling 42 acres is stream and not farmable, the rest is land that has not been irrigated in over 10 years, lost its water rights and is therefore limited to dry land farming that "barely pays the taxes". (See the Tualatin Irrigation Map & Margaret Lafollette Smith testimony.)
3. Far from a "protrusion" into the core of valuable farmland, these 42 acres are nearly surrounded (approx. 295 degrees of a circle) by urban and exception uses, and as a bridge between exception areas forms a dipping line across an area of existing suburban uses.
4. Industrial use access is good; the site is an extension of an existing high quality industrial park, is divided by a recently improved county freight route (with 2 new freight standard bridges funded for construction in 2006 and 2007, is only 1/2 mile from TV Highway (state freight route) and 5.6 miles, not "18 miles", from Sunset Highway via roads improved in 2005 and a planned new interchange.
5. This area's rating for environmental, energy, economic and social consequences should be high. The City of Cornelius' Goal 5 Natural Resources Plan, requirements and record are clearly stronger than Washington County's. Note Cornelius' ability and recent record of protecting and developing the environmental resources of Council Creek & tributaries, including requiring buffers, restoration and public trail space of residential & commercial

developments, and successful advocacy for Metro approval of a Council Creek Trail system and acquisition of greenspace along Council Creek.

Moreover, reducing commuter traffic along Susbauer and Cornelius-Schefflin roads from Cornelius, which has the longest average commute in the Metro region, by developing jobs within walking and biking distance of employee homes, will reduce energy used and pollution from inefficient auto use and dangerous traffic congestion. More local industry and jobs in a residential heavy area will of course improve the Cornelius economy, financial health, public services and the livability of residents.

Increased Efficiency of Services In Expansion Area

Second, I hope to make it more clear that development of these 42 acres of non-irrigated farmland will lead to more efficient urban service provision for both existing and future uses in the expansion area and uses within the existing urban growth boundary/city limits. Besides the well-known efficiency advantages of urban scale development over exception-scale development, the following specific efficiencies should be noted.

1. With construction of new OTIA funded bridges across Council Creek at Susbauer and Cornelius-Schefflin (bracketing the recommended expansion area and consistent with City industrial/pedestrian standards) in 2006 and 2007, all urban services – roads, water, sanitary sewer and storm water utilities will be developed to the edge of the recommended expansion area. That is to say urban service availability is excellent. (See the example City master plan map.)
2. All Cornelius Comprehensive Plan components are up-to-date (periodic review orders satisfied), including our Transportation Systems Plan and master plans for water, storm water and sanitary sewer systems, and project the efficiencies of service extension into this expanded urban area. (See the example City master plan map.)
3. Water lines particularly must be looped for safe circulation and efficient service. Cornelius currently provides water from Cornelius-Schefflin Road to residents along the 1,000 ft. long dead end Spieschart Road, within the exception area west of the 42-acre farmland parcels. Safer, more efficient and orderly provision of water to existing and future uses in this area and the exception area between Susbauer and Hobbs Road to the east will require extension of water lines from the Cornelius-Schefflin line through the two farmland parcels to the Susbauer line and on through the eastern exception area to the Hobbs Road line. Water line loops keep water fresh, provide adequate flow and backup for water line failure.
4. Transportation connection from the County freight arterial Cornelius-Schefflin to Susbauer between the two sizable exception areas is essential for safety and efficient service for existing and future uses in the expansion area, as well as existing and planned uses within the current UGB/City limits. This requires construction of a road through the two-parcel 42-acre farmland site.

Specifically, the one access to Spieschart Road, a substandard bridge in the Council Creek floodplain, will be moved north when the new Cornelius-Schefflin Bridge is constructed. Public safety standards require a second access, which most efficiently must extend to Susbauer Road (the other side of the two farmland parcels). Additionally, there exists a

meat packing plant on the north side of the farmland parcels that generates traffic that will best be expanded and handled by an industrial collector between Susbauer and Cornelius-Schefflin built to city standards, rather than the current driveway onto the unsignaled county maintained Susbauer Road.

5. Thus the entire recommended expansion area – exception areas and farm area – not only can be served more efficiently with water and transportation if served together, but must be served as a connected system to meet safe standards of construction and maintenance.
6. Both storm water and sanitary sewer systems, managed at the basin level by Clean Water Services, have major lines of service running along Council Creek north of Cornelius and Forest Grove. It will be relatively easy to access these services from the north, as it is from existing local lines from the south. (See the example master plan map.)

Increased Efficiency of Services Within Existing Urban Areas

Development of this recommended expansion area promises to increase the safety, efficiency, affordability and orderliness of urban service provision within the current UGB/City limits, as well. There are significant economies of scale inherent in developing on the north side of recent and current public and private improvements. The costs of base infrastructure improvements, including recent freight route widening, new bridges, storm water and sanitary sewer lines along Council Creek and the new 72" water line the length of Cornelius are the same with or without development along the north of these services. Local and county share of capital costs and system-scale maintenance costs are virtually the same. Additional development adds private system development fees to share in paying for system maintenance and more ongoing utility fees to pay for service. More development north of Council Creek will also tend to geographically center Clean Water Services infrastructure along Council Creek and thus spread out the cost/value of those major service investments to closer-in users.

Development of the recommended expanded area will increase the safety and reduce maintenance problems within the current UGB/City limits. Water line loops made possible by development of the expanded area will reduce the danger of back-up and contamination problems into existing development within the current City limits. (Inherent in the dead end water line along Spieschart Rd.) Alternatives to road access safety problems within the current UGB/City limits, including dangerous current accesses in the Council Creek floodplain and uncollected driveway accesses both inside and very near the City limits along Susbauer Road can be constructed only with the resources of private development and reviewed under City urban standards.

Industrial Land in Cornelius – Characterized

Much of Cornelius' industrial/commercial base supports the agricultural industries surrounding our community. New Seasons Food and Sabroso fruit processing plants, Hazelnut Growers of Oregon Coop, Pacific Harvest Supply Company, Fisher Implements and the new Coastal Farm Implements store are examples. Without nearby urban space for processing, supply and fueling businesses, and sustainable living areas for agricultural workers, agriculture industry costs go up and health goes down.

Only 9% of land within the UGB/Cornelius city limits is currently zoned for industry. Only 45 acres are vacant for industrial development. A combination of lots totaling 20 acres is the largest area

available for industry. There is a growing demand for agriculture supportive industry. The City is in great need for local jobs for our residents, many of which are agriculture workers, and for industry to increase our tax base to sustain our services.

Recent examples of demand for industrial space that we have not been able to meet include, Sabroso Fruit Processing Company which needed 20 acres to expand into, couldn't deal with the one package of 20 acres available, and moved to Woodburn in 2004. The Hazelnut Growers of Oregon want to move their processing plant from the center of our commercial area of town to twice their current 10 acres at the edge of a town. And there is commercial business demand for their central location.

Industrial uses are generally a good buffer between agriculture uses and higher density residential and commercial uses. The fact that industrial demands for transportation facilities are more similar (freight/farm equipment) to farm uses, than residential and commercial uses (autos & transit), supports the conclusion that this recommended UGB expansion would result in less conflict between farm and town uses than a future with no expansion.

In summary, use of the 42 acres of farmland in question for industrial development will be better for the agriculture industry than its continued use as an island of subsistence dry land farming, with fewer resources and unmet need for road improvements and effective buffers.

The recommended expansion of 262 gross acres on the north side of Cornelius will result in three efficiently served groups of parcels of over 50 acres each – an excellent resource for both urban and agricultural community. It will most importantly meet the six critical community and regional needs the City of Cornelius originally identified in its proposal for UGB expansion in 2002.

1. Increase the meager supply of medium-large lot industrial land
2. Support specific agriculture and high-tech industries that are regionally significant, locally based, publicly invested in and widely acclaimed
3. Provide efficient, cost-effective and safe urban services for existing & projected citizens & businesses, and for adjacent exception and rural lands
4. Sustain regionally significant natural resources, particularly along Council Creek
5. Provide local jobs for the community with the longest average commute in the region, thus saving time, energy and relieving traffic congestion
6. Make Cornelius a more complete, balanced and financially sustainable community

I hope, I have added clarity to these original objectives and our need for the 42 acres under special scrutiny. We have wanted from the start for this small UGB expansion for future industrial uses to be a proactive balancing of two important and interdependent super-objectives – protecting agricultural land in this rich Tualatin Valley and building a complete sustainable community in Cornelius.

Your partner in reaching all of Oregon's land use goals,


Richard Meyer
Development & Operations Director

Copy: Pam Berry & Amy Scheckla-Cox

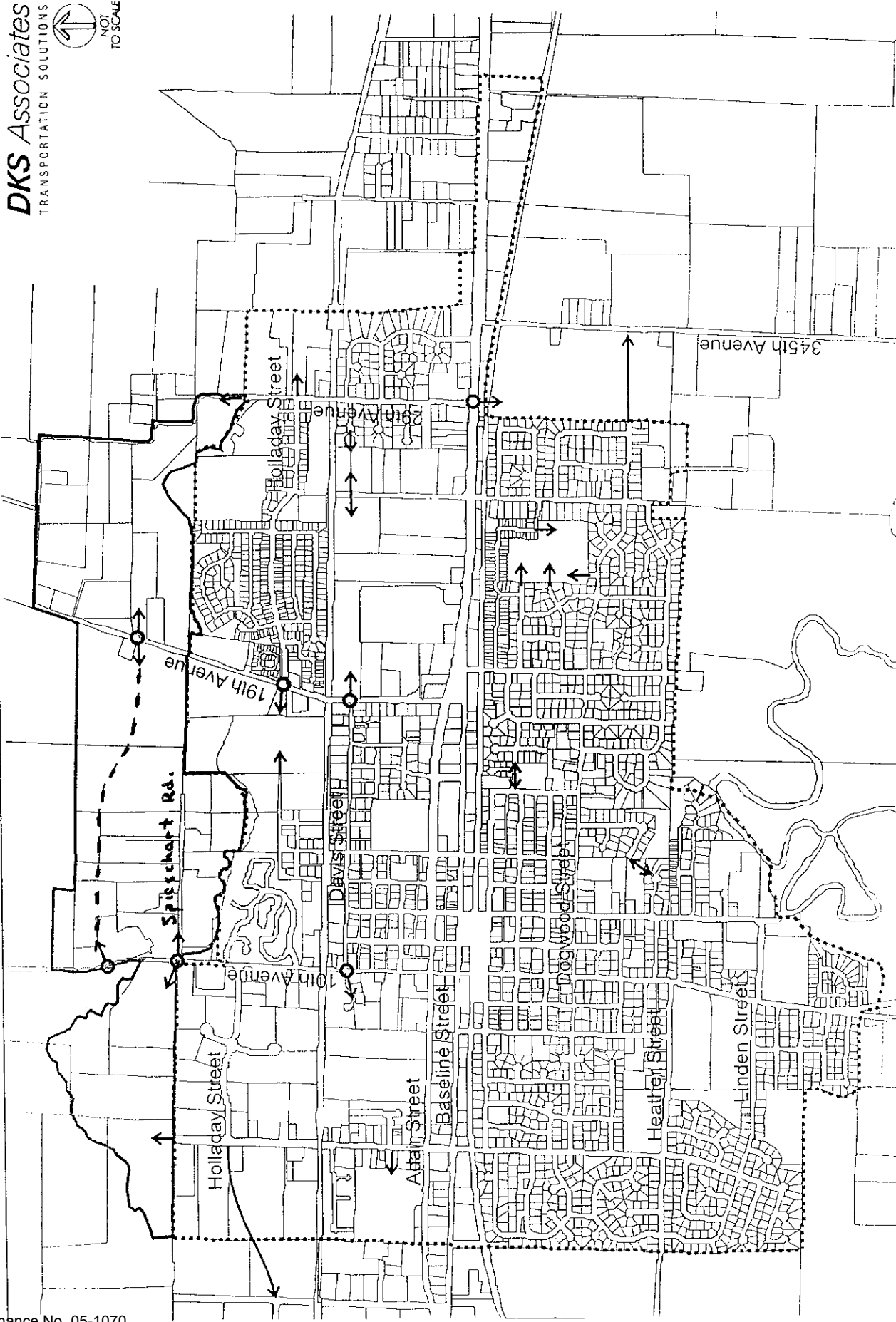


Figure 8-2
STREET CONNECTIVITY MAP
& WATER

- LEGEND**
- - Access Point on Existing Arterial
 - ↔ - Street Connection (Motor Vehicle/Ped/Bike)

NOTE: Connections are conceptual only, additional studies should be completed for specific alignments.

CITY OF CORNELIUS
TRANSPORTATION SYSTEM PLAN

DKS Associates
TRANSPORTATION PLANNING & ENGINEERING

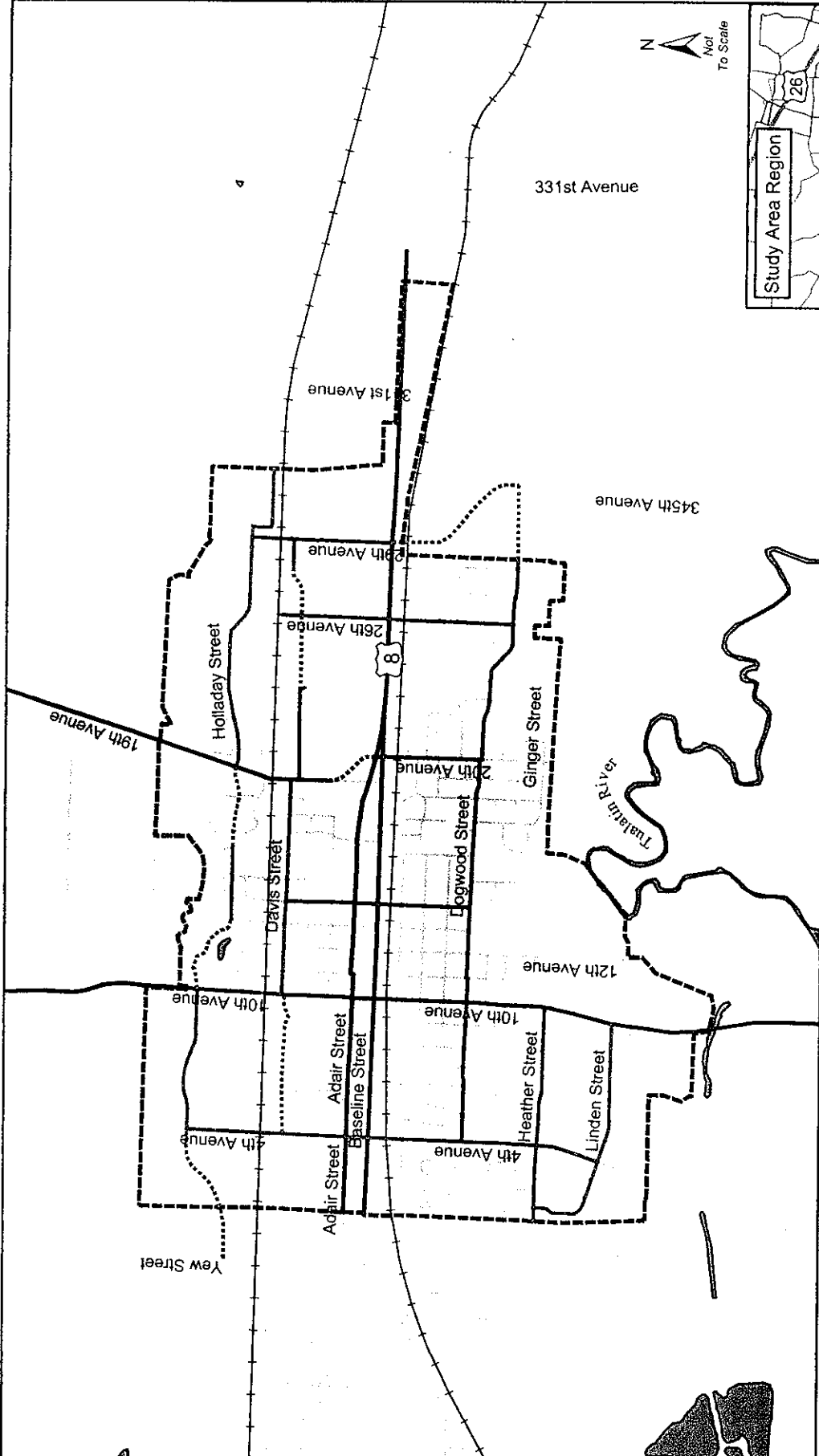
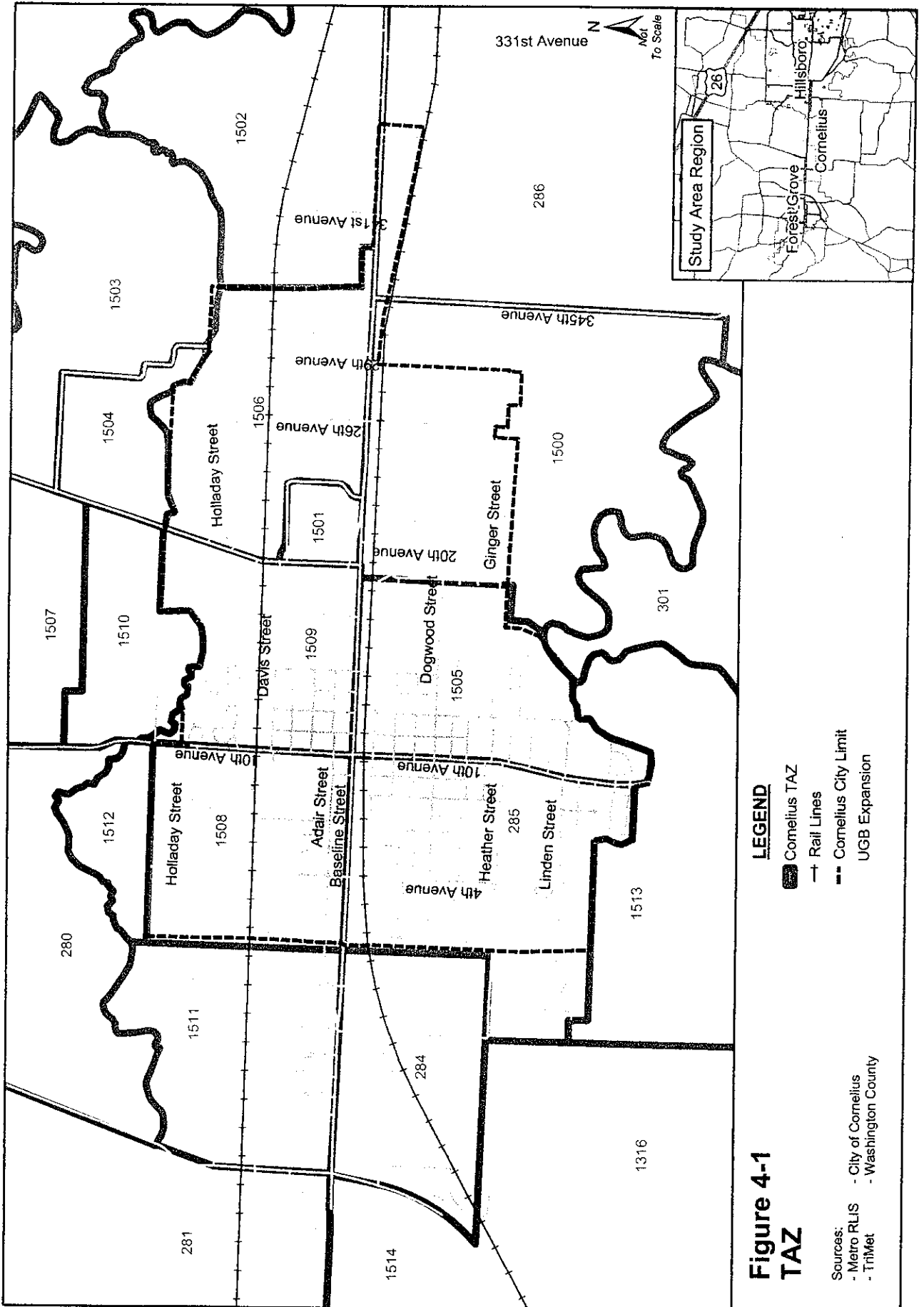


Figure 8-3
PROPOSED FUNCTIONAL CLASSIFICATION

Sources:
 - Metro RLIS
 - TriMet
 - City of Cornelius
 - Washington County

LEGEND

| | | |
|------------------------|------------------------|--------------------------|
| Existing Roadways | Proposed Roadways | UGB Expansion |
| — Arterial | ... Arterial | --- Cornelius City Limit |
| — Collector | ... Collector | |
| --- Neighborhood Route | ... Neighborhood Route | |



**Figure 4-1
TAZ**

Sources:
- Metro RLIS
- TriMet
- City of Cornelius
- Washington County

LEGEND
 Cornelius TAZ
 Rail Lines
 Cornelius City Limit
 UGB Expansion

LONG RD

19

21

CORNELIUS SCHEFFLIN

20

SUSBAUER

22

CMS 47
Council Creek
Trust

F-2

SPIESSCHAERT

F-3

F-4

HOBBS

23

24

4TH

HOLLADAY

19TH

ADAIR

MH-1

TYP

DAVIS

ADAIR

26TH

29TH

341ST

338TH

336TH

ALPINE

BASELINE

ALPINE

Pacific RR

8TH

10TH

12TH

P-4

P-3

P-2

HEATHER

P-8

12TH

DOGWOOD

BASELINE

P-10

GINGER

KODIAK

P-11 - P-12

27

28

31

BASELINE

P-13

P-1

P-1

P-1

26

29

32

n Northern RR

CMS
Council
Trust

Burfin

HOBBS

HOBBS

CORNELIUS SCHEFFLIN

Council Creek
Trunk
CWS 42"

Council Creek

SUSBAUER

SPIESSCHAERT

HOLLADAY

North Drainage Basin
South Drainage Basin
Burlington Northern RR

DAVIS

ADAIR

Mission Trunk
Southern Pacific RR

H29TH

H26TH

H19TH

BASELINE 10"

ALPINE

ALPINE

DOGWOOD

HEATHER

CWS 12" and 14"
Force Mains

CWS 30"
Forest Grove
Mission Trunk

North
Drainage
Basin

GINGER

KODIAK

18

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HOBBS

HOBBS

SUSBAUER

SPIESSCHAERT

CORNELIUS SCHEFFLIN

Council Creek Trunk
CWS 42"

CWS Council Tru

BASELINE

29TH

26TH

19TH

DAVIS

BASELINE

ALPINE

GINGER

DOSWOOD

KODIAK

12TH

10TH

8TH

HEATHER

CWS
12" and 14"
Force Mains

4TH

ADAIR

orthern RR

Trunk
RR

ve Trunk

BEFORE THE METRO COUNCIL

DESIGNATING ADDITIONAL COUNCIL) Resolution No. 05-3628
PROJECTS AND CONFIRMING LEAD)
COUNCILORS AND COUNCIL LIAISONS FOR) Introduced by Council President David
FALL 2005) Bragdon

WHEREAS, the development and/or implementation of certain Metro projects have policy implications that require the attention of the Metro Council; and

WHEREAS, some projects with policy implications are of a scope and complexity that, for purposes of efficiency, benefit from the focused attention of a subset of the Council; and

WHEREAS, members of the Council have identified a list of such projects; and

WHEREAS, those projects identified have been defined and put forth in the form of project proposals, included in Exhibit A; and

WHEREAS, the Council President, working with members of the council, has designated specific councilors to play lead and/or liaison roles on projects as specified in Exhibit A:

now therefore

BE IT RESOLVED:

1. The Council confirms the project proposals, including the designation of projects, project definitions, lead councilor assignments, and councilor liaison assignments as specified in Exhibit A.

ADOPTED by the Metro Council this 17th day of November, 2005.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

Metro Council Project Proposal

1) Project Title

Investing in Our Communities

2) Lead Councilor

Robert Liberty

3) Council Liaisons

David Bragdon, Brian Newman

4) Project Begin Date

Underway

5) Estimated Date of Completion

December 2006

6) Project Description (What issue/problem will be addressed?)

The region spent considerable time and focused investments to determine broad policies that would shape regional growth, the 2040 Growth Concept. Now, several years after many of the policies have been in place and more growth is forecast than was initially expected, additional investment, both in financial terms and technical resources, is needed to implement 2040. Investment inside the urban growth boundary is critical to ensure that the 2040 Growth Concept is realized as envisioned and to reduce necessary expansions of the UGB. This project focuses on further developing the most efficient use of investments to support and enhance the type of development needed in centers, corridors, and employment areas to accommodate the growth in jobs and people the region is projected to receive. The focus is on ensuring that the existing urban landscape can meet 2040 objectives. Much has been learned from the TOD/Centers implementation program and the Get Centered! Campaign launched in 2005. These results and insights will be incorporated and expanded upon in ongoing TOD/Centers projects, Get Centered! programs, and policy review.

7) Policy Questions (What major policy questions must be answered?)

1. How can Metro and local governments create tools, funding, and policies that focus development in centers?
 - a. What strategic investments can be made (such as urban living infrastructure) that will change achievable pricing in centers so that mixed-use and higher density projects are economically feasible for the private sector? (*Consultant to investigate these issues under contract with TOD/Centers Program January-April 2006*)

- b. What potential funding sources may be available to help fund new investments in centers? What is the recommended strategy for pursuing these resources? What strings may be attached to these funds? What would be the potential strategy for creating a regional urban renewal authority or similar power? (*Consultant to investigate these issues under contract with TOD/Centers Program January-April 2006*)
 - c. What are the policy solutions to be implemented at the regional or local level that address barriers or create incentives to development in centers (e.g., parking, height limits, design requirements)?
 - d. Are policy changes in center locations or definitions needed? Should we prioritize our investments in Centers based on elements of success such as readiness and local leadership?
2. How do we shape UGB expansion policy to “level the playing field,” or better yet, to tilt the playing field to ensure development is focused in centers?
 3. How do we modify corridor policies to support investment in centers and accommodate needs for jobs and housing inside the UGB?
 4. How do we address social equity and create complete communities while focusing development within the UGB (e.g., ensuring workforce housing is available in accessible locations, addressing recommendations of HCTF)?
 5. How do we efficiently use land inside the UGB for employment and industrial uses (e.g., office land, brownfields)? Where should these uses be located? How should employment areas be developed (e.g., should retail to serve employment areas be allowed, and to what extent)?

8) Outcomes (What will result from the project? What must be in place for the project to be considered complete?)

1. **Centers Development:** Investment and development in Centers creates thriving, lively communities and supports the Growth Concept. Land use along Corridors has been shaped to support Centers and accommodate population growth. Important components include:
 - a. Built examples of higher-density, mixed-use development projects in Centers provide a tangible example for the public and create comparables that reduce risks for subsequent projects.
 - b. Capital improvement programs are in place at the local level to ensure that public infrastructure investment in Centers occurs and is used to leverage private investment.
 - c. Funding tools are in place to support public-private catalyst projects in Centers and TOD areas, including funding urban living infrastructure.
 - d. Developers and other stakeholders are investing in Centers as a result of ongoing education efforts and seminars.

- e. Catalyst public-private development projects create sufficient critical mass in Centers such that private development of this nature begins to occur on its own.
 - f. Design competition for Corridor development has changed aspirations and a pilot project motivates further development to accommodate housing in Corridors and support lively Centers.
2. **Process:** Cities, counties, and neighborhoods (public) have been involved in choice making through scenario development and review. The role of stakeholders, including the private sector and other entities such as urban renewal agencies, is clear, and strategies for increasing their involvement have been identified and implemented. Regional goals are fully embedded in local visions and plans and vice versa. Qualitative social and cultural components of Centers and other design types are considered.
- a. Scenarios are developed to evaluate potential locations and forms of growth (places and design types) given a specific set of employment and housing targets. Focus is on how choices affect urban form; visualization tools are used.
 - b. Scenarios explore various land use policies, capital investments, and the RTP/public transportation investments.
 - c. Scenarios demonstrate how existing single-family neighborhoods can be enhanced if growth is focused in Centers, Corridors and Employment Areas.
 - d. Scenarios demonstrate the impacts of expanding the UGB on the land inside and on potential new areas.
3. **Policy:** Metro has worked to refine and align policies throughout the region to fully support the 2040 Growth Concept. Policies focus development in existing urban areas in order to accommodate the 1.1 million people and 650,000 jobs that are projected to locate in the region by 2030 in a way that supports and enhances complete communities. Local leaders are guiding and supporting development in Centers.
- a. Jurisdictions have guidance and agree to revise codes to address barriers to appropriate development in Centers (e.g., revised parking policies and transportation investments support growth in Centers).
 - b. Jurisdictions are able to develop plans for Centers that include public investments and policies to encourage development and to comply with Title 6 of the Functional Plan, and have also considered zoning in Corridors to ensure Centers are supported.
 - c. Metro and local leaders better understand why privately funded Center-style development occurs in some places and not others.
 - d. Policies for affordable housing have been integrated into plans for development in Centers and other areas.
 - e. The role of employment areas are clarified with respect to accommodating office and potential conflict with centers is resolved.

- f. Revisions to the 2040 Growth Concept map are implemented, if needed, to reflect policy priorities. Consider flexibility to harness “market-created” Centers.

9) Connection to Council Goals and Objectives

Great Places, Strong Economy

10) Resources Required / Budget Implications

Staff will return in December with an estimate of resource and budget implications when the scoping phase of the 2040 New Look is completed.

Metro Council Project Proposal

Part One: Council Project Proposal

Project Title: 2035 Regional Transportation Plan: A New Look at Transportation

Lead Councilor: Rex Burkholder

Council Liaisons: Rod Park, Brian Newman

Project Begin Date: October 2005

Estimated Date of Completion: December 2007

Project Description (What issue/problem will be addressed?)

The Metro Council has initiated an update to the Regional Transportation Plan (RTP) that will be closely coordinated with the 2040 New Look and culminate with a new 2035 RTP in December 2007. The update will address new state and federal planning requirements, and incorporate new policy direction stemming from the 2040 New Look. The update will occur in phases, as dictated by state and federal planning requirements. It will also incorporate a new approach to developing the federal financial constrained system.

Using the “budgeting for outcomes” approach will reframe the discussion of public priorities and funding limitations that shape the development of the RTP to better address the disconnect between transportation funding constraints, future system needs in a rapidly growing region and the longstanding fiscal shortfall that results. This effort will identify how much citizens are willing to pay for transportation services and infrastructure in the Metro region and their priorities for improvements to the transportation system. The goal is a more streamlined plan that better advances regional policies and public priorities, while adopting more realistic revenue assumptions that have been traditionally used in the RTP.

The expanded effort will involve public opinion surveys, focus groups, town hall meetings, civic journalism and other public outreach strategies designed to provide a very broad sampling of public priorities. The expanded outreach activities would be largely conducted by contractors in 2006. A scope of activities has been developed by Metro staff, and will be released for proposals in late 2005.

Policy Questions (What major policy questions must be answered?)

- What set of integrated and coordinated investments in streets, arterials, highways, transit service, sidewalks, bikeways, demand management, and system management (e.g., incident response, intelligent transportation systems) would do the most to achieve our Region 2040 growth concept elements and economic and community development goals?
- How can the New Look scenarios best foster a broad discussion of distinct land use and transportation choices?

- How should the plan be updated to ensure it reflects the public's transportation priorities and their willingness to pay for those services and infrastructure?
- How can the current corridor-based planning approach in implementing the Region 2040 growth concept and RTP be improved to better integrate a comparative analysis of alternative investments in multiple corridors and/or modes?
- What indicators can best monitor whether the transportation system is successful in meeting regional goals and policies?
- What set of land use and transportation policies and tools should be adopted to protect the public's investment in the transportation infrastructure?
- What is the appropriate balance of regulations versus incentives in implementing the RTP?
- What is the role of the RTP in addressing local inequity in funding transportation?
- Should the RTP establish a comprehensive policy that links transportation investments to natural resources and wildlife corridor protection and restoration?
- How should demand management tools (e.g., parking management, value pricing, individualized marketing) be evaluated? How should the most effective tools be implemented?
- What policies and directives should guide regional funding cycles and investment strategies?

Outcomes (What must be in place for policy development to be considered complete?)

- **State of Transportation in the Region:** Produce the first annual report summarizing existing transportation conditions and finance trends.
- **Communication strategy and public participation plan:** Provide reasonable opportunities for stakeholders and interested parties to comment on the plan at key decision points and consult with state and local agencies responsible for land use, natural resources and historic preservation.
- **2035 Regional Transportation Plan:** Develop plan that includes:
 - adopted 2035 population/employment forecast
 - adopted 2035 revenue forecast
 - 2035 regional investment strategy
 - 2035 systems analysis
 - updated policies that meet federal SAFETEA provisions and statewide planning goals

- conformed financially constrained system that allows federally funded projects to advance
- updated performance indicators to monitor implementation
- updated new urban area and future corridor planning work program

- **2040 New Look Transportation Scenarios**

- **Proposed amendments to the Oregon Highway Plan and Transportation Planning Rule for RTP consistency**

Connection to Council Goals and Objectives

- Great places
- Economic vitality
- Smart government

Resources Required / Budget Implications

4.492 FTE for staffing: includes project administration; project management of RTP update and consultant contract; communication staffing for web site and publications development, project database development and on-going public outreach not conducted by consultant; travel forecast staffing for transportation modeling and air quality conformity; DRC staffing for population/employment forecast and other technical analysis; RTP section staffing for existing conditions analysis, financial analysis, technical analysis of modeling, and other ongoing update activities.

\$160,000 for a Request for Proposals (RFP) to be released for consultant services that will include: development of a detailed work program and expanded outreach activities such as public opinion surveys, focus groups, town hall meetings and other strategies designed to identify a very broad sampling of public priorities that will guide development of the 2035 RTP. The contractor will also use the “Budgeting for Outcomes” approach to soliciting transportation projects to be included in the plan.

Materials and services funding: \$29,000 for printing of State of Transportation in the Region annual report, various project newsletters and fact sheets, draft RTP document, newspaper and postcard notifications of decision points and public meetings, public meeting displays and other printing needs.

Metro Council Project Proposal

Project Title

Shape of the Region

Lead Councilor

Carl Hosticka

Council Liaisons

Rod Park & Brian Newman

Project Manager

Tim O'Brien

Project Begin Date

October 2005

Estimated Date of Completion

December 2006

Project Description (What issue/problem will be addressed?)

The most current population growth forecast indicates the region will need to accommodate a larger growth in population sooner than previously expected. The larger than expected population growth necessitates the region to look beyond the next UGB expansion cycle and to engage in a larger discussion of the desired future shape of the region. Implicit in this discussion is the placement of value on a number of factors such as habitat protection, critical agricultural landmass, regional equity, cost of development, urban lifestyle and transportation needs that must be decided in order to achieve a regionally supported view of how we will grow in the future. The 2040 Growth Concept provides shape to the region but it does not answer all "shape" questions that arise when the Metro Council faces a UGB expansion. This project will not decide where future growth will be directed but will determine the guiding factors or components of a vision that reflects regional values related to maintaining a sense of place while accommodating future growth. Barriers to achieving this vision will be identified as well as possible solutions to get beyond the identified barriers.

Policy Questions (What major policy questions must be answered?)

- 1) What is the geographic extent of the region that needs to be engaged in this larger discussion?
- 2) What strategies do we utilize to engage the region in this discussion in an efficient and cost effective manner? The 2040 Growth Concept directive of growing up not out is not in question, in fact the 2040 values and actions the region has implemented is the starting point for the discussion. One possible way to engage the region is outlined below.

- a. Develop three potential outcomes that geographically articulate our values relative to accommodating future growth.
 - i. Base Case: current UGB expansion policies and state hierarchy
 - ii. Outside/in: this future shape is characterized as looking solely at land types outside the UGB that we may want to preserve and protect. Possible land types, characteristics or policies that will define the shape include – agriculture land, fish and wildlife habitat, topography, flood plain, hard edges, and separation of communities.
 - iii. Inside/out: this future shape is characterized by not taking into consideration land types or policy considerations outside the UGB but only those factors inside the UGB that impact urban lifestyle. Possible factors include - jobs-housing balance opportunities, transportation needs/obstacles, commute times, provision of urban services, school impacts and centers development to identify future growth areas.
- b. Use these three alternative outcomes of growth to mold the region's discussion on the values for shaping the future of the region
- 3) Utilizing the discussion on the three alternative outcomes for growth what tradeoffs need to be resolved to form the desired shape of the region?
 - a. For example, are the areas where growth will be directed if rural reserves, hard edges and habitat protection are key components of the defined vision consistent with local community vision?
 - b. What trade-offs (including cost difference, VMT, air quality, centers development) are necessary to realize our values both inside and outside the UGB?
 - c. Is there a minimum amount of land that should be added to the UGB in order to create a livable community?
- 4) What tools do we have or can we develop to implement the desired vision? What are the obstacles to implementing the desired vision and what tools or strategies will the region need to move beyond the obstacles? Possible tools/strategies may include:
 - a. Investment strategies for transportation and utility infrastructure
 - b. Urban reserves and rural reserves
 - c. Legislation
 - d. LCDC rulemaking
 - e. Public/private partnerships
 - f. Out-right purchase
 - g. Other
- 5) How do we incorporate the Neighbor Cities project in this process?
- 6) How do we incorporate this body of work into the existing UGB cycle? Similarly, is a different UGB update cycle/process needed to ensure these factors can be considered?

Outcomes (What will result from the project? What must be in place for the project to be considered complete?)

- 1) A map of a long-term vision for the shape of the region that provides for more predictable and efficient UGB expansions.
 - a. Understanding of the costs and benefits of accommodating expected future growth through different development patterns.
 - b. Local partner/neighbor cities' understanding of how their vision for future growth fits into the overall growth vision for the region.
 - c. Understanding of the tradeoffs of different growth shapes, including how the tradeoffs of each shape impacts other portions of the region.
 - d. A set of regionally supported tools, policies and strategies that allow for a predictable UGB expansion process that also achieves the desired future shape of the Metro region.

Connection to Council Goals and Objectives

Smart Government

Resources Required / Budget Implications

Staff will return in December 2005 with an estimate of resource and budget implications when the scoping phase of the 2040 New Look is completed.

I:\gm\community_development\projects\Retooling the UGB\Metro Council Project sheet.doc

Metro Council Project Proposal

Lead Councilor: Brian Newman

Council Liaisons:

Project Manager: Reed Wagner

Project Title: Concept and Comprehensive Planning

Project Begin Date: October 2005

Estimated Date of Completion: December 2006

Project Description (What questions will the project answer? What issue/problem will be addressed?):

Land brought in to the UGB is required to have a concept plan and a comprehensive plan that meets Metro requirements prior to being urbanized. Currently, jurisdictions in the UGB expansion areas are unable to fund these plans, thus delaying the growth anticipated for the region. This project will develop a program to allocate funds to jurisdictions to complete the concept and comprehensive planning for the areas brought into the UGB during 2002 and 2004 that have not yet fulfilled the Title 11 requirements. This project depends upon the outcome of the Expansion Area Planning Fund Committee's recommendation and Metro Council's subsequent decision to approve a funding source for concept planning.

The Expansion Area Planning Fund Committee consists of 11 regional leaders representing business, school districts, special districts and local jurisdictions. Over the course of two months, this committee will answer the questions:

- a. How large is the regional need for concept and comprehensive planning?
- b. How should the funds be distributed? Are certain areas prioritized?
- c. Should the funds accompany other resources?
- d. What role should Metro play?
- e. What role should local jurisdictions play?
- f. What mechanism should be used for capturing this fee?
- g. What administrative processes and costs should be considered in regards to this fee?
- h. What should be the time period for this fee, should it sunset?
- i. What mechanism should be used to satisfy long-term needs? How can this source of funding be more directly linked to the areas that benefit?
- j. Should this funding mechanism include a portion or additional percentage for construction of affordable housing across the region?

Outcomes (What will result from the project? What must be in place for the project to be considered complete?):

Completion of concept planning for the 2002 and 2004 additions to the UGB on or before the deadlines set for each planning area.

Recognition of the capacity and function of these areas for their ability to meet the employment and housing needs of the region in a way that supports community values.

Connection to Council Goals and Objectives:

Great Places

Resources Required / Budget Implications:

This project would be funded from a new funding source established by Council. If a new funding source is not established, Metro staff will continue to review local jurisdiction concept plans and bring the critical issues to Council as the concept planning work progresses over the next four years or more.

Metro Council Project Proposal

Lead Councilor: Robert Liberty

Council Liaisons: Carl Hosticka

Project Manager: Reed Wagner

Project Title: Windfall Tax: Farmlands, Fairness and Fine New Neighborhoods

Project Begin Date: September, 2005

Estimated Date of Completion: January, 2006

Project Description (What questions will the project answer? What issue/problem will be addressed?):

BACKGROUND

In August of this year, the Measure 37 task force presented recommendations to the Metro Council. This project is needed to discuss a possible remedy that addresses three important regional problems in relation to the task force's recommendations:

Issue 1

Measure 37 promised voters that landowners would be paid for reductions in value caused by government laws and regulation. To date, no landowner in the three-county region (if not the state) has been offered compensation.

Issue 2

Measure 37 waives to allow residential and other development on approximately 12,000 acres of land in exclusive farm use and forest conservation zones in Clackamas, Multnomah and Washington Counties. The potential adverse consequences of this development for the implementation of the 2040 Growth Concept have been identified by the Council in its December 2004 resolution and amplified by the Measure 37 Task Force in its report in August. Consequences include degradation of the effectiveness of the urban growth boundary itself through leapfrog development, possible problems for the rural and urban transportation network and a threat to the economic viability of farming in the region with the resulting likelihood of wide-scale conversion of tens of thousands of acres of land just outside the UGB to rural development.

Issue 3

The absence of adequate funding to build civic improvements (“infrastructure”) in areas added to the urban growth boundary is frustrating the implementation of plans for the development of these new communities.

OPTIONS AVAILABLE

The proposed solution to these three issues is a tax on the windfall to property owners when their land is brought inside the UGB. In December 2002, the Council, by resolution, indicated that it intended to adopt a tax of this kind, applicable to future UGB expansions.

Tax on Value

The tax would be based on the increased value of property between two events. The second event might be the inclusion into the UGB while the first event is to be determined.

Use of Resources

- Easements on Measure 37 Claims: One half of the income would be used to buy conservation easements on farmland (and possibly farmland) that have valid Measure 37 claims. This would be a willing seller, willing buyer program.
- Civic Improvements/ Infrastructure: The other half of the income from the windfall tax would be used to pay for civic improvements likes schools, roads, sewers, plazas, and other items) in the UGB expansion areas from which the windfall tax would be collected. Because of the limit on Metro’s spending authority in its Charter, voter approval of this tax would be required.

Outcome (What will result from the project? What must be in place for the project to be considered complete?):

- Legal analysis of Windfall Tax
- Data value analysis of effected areas (expansion areas)
- Coordinated outreach report including letters of support
- Public Opinion study (polling on project questions)
- Resolution to council: Based on analysis, should this project move to “development of ballot measure” status?

Connection to Council Goals and Objectives:

Great Places

- Natural Areas, Park land and outdoor recreation infrastructure are available near housing and employment

Environmental Health

- Natural areas are large enough, have the appropriate balance of species and are interconnected with other natural areas so that normal ecological processes are maintained
- Our community is inspired to create a better future for wildlife and the environment

- Urban land is used efficiently and resource land is protected from urban encroachment

Economic Vitality

- Land is available to meet the need for housing and employment\

Existing Metro Policy Supporting This Proposal

- A. Metro Policy Supporting Compact, Efficient Development in UGB Expansion Areas
- Future Vision Statement 1995
 - 2040 Growth Concept
 - Regional Framework Plan 1997
 - Urban Growth Management Functional Plan (various years)
 - Former Master Planning requirement
- B. Metro Policy In Support of Protecting Farm and Forestlands In Surrounding Counties
- Metro Charter 1992
 - Future Vision Statement 1995
 - Regional Framework Plan 1997
 - Urban Growth Management Functional Plan (various years)
 - Metro Council Resolution on Measure 37 Task Force December 2004
- C. Metro Policy Supporting Taxing Increases in Value in UGB Expansion Areas
- December 2002 Council Resolution
 - December 2002 Council Ordinance adding provisions to Finance chapter of Metro Code
- D. Metro Policy and Actions Related to Landowner Fairness & Implementing Measure 37
- Revisions to proposed Goal 5 program (December 2004)
 - Council Resolution on Measure 37 Task Force (December 2004)
 - Measure 37 Task Force report (August 2005; NB no Council position on report yet)
 - Adoption of process for acting on Measure 37 claims against Metro (September 2005)

Resources Required / Budget Implications:

The project will be supported with existing Council staff as well as staff time and M & S designated to the Measure 37 project (approximately \$100k staff time and \$20k M & S).

Metro Council Project Proposal

Project Title

Neighbor Cities

Lead Councilor

Susan McLain (West) & Rod Park (East)

Council Liaisons

Project Manager

Tim O'Brien

Project Begin Date

January 2006

Estimated Date of Completion

December 2006

Project Description (What issue/problem will be addressed?)

Neighbor Cities are an identified component of the 2040 Growth Concept Plan. The growth of neighbor cities and counties both influences and is influenced by growth policies and transportation investments in the Metro area. Likewise, growth (or no growth) policies in these areas could affect the Metro region's growth policies and transportation investment strategies.

The Neighbor Cities are: Aurora, Banks, Boring, Canby, Estacada, Gaston, Hubbard, McMinnville, Mollala, Newberg, North Plains, St. Helens, Sandy, Scappoose, Woodburn, Yamhill-Carlton, Columbia County, Marion County and Yamhill County. Coordination with Vancouver and Clark County occurs through MPAC and the Bi-State Coordination Committee.

This project proposal revises the previous proposal the Council adopted by Resolution No. 05-3551 in March 2005. The main purpose of the previous proposal was to initiate engagement with the Neighbor Cities.

Policy Questions (What major policy questions must be answered?)

- 1) The main question is how to engage neighboring cities in the New Look Region 2040 process? Until this occurs, discussion of all other issues/concerns regarding growth impacts is not practical. Based on the previous efforts, the proposed methodology to encourage their participation is:

- a. Councilor McLain will have visited all of the neighbor cities on the west side by December 2005. These meetings will lay the groundwork for two hosted events Councilor McLain will schedule in January 2006.
 - b. Councilor McLain will host two events in January 2006 where she will solicit their input in the new look process. The west side neighbor cities have been separated into two groups for this purpose – Banks, North Plains, Gaston, Columbia City, Scappoose, & Columbia County and – Yamhill, Carlton, Newberg, McMinnville & Yamhill County.
 - c. Councilor Park will connect with the Neighbor Cities of Clackamas County through the Clackamas County Coordinating Committee monthly meetings that also include service districts. Councilor Park has previously met with the mayor of Woodburn, who subsequently participated in the last Mayors/Chairs forum.
 - d. The neighbor Cities mayors will be invited to the next Mayors/Chairs forum tentatively scheduled for February 2006.
 - e. Councilors McLain and Park may host a special meeting of the mayors of all the Neighbor Cities prior to the February Mayors/Chairs forum.
 - f. Engage others in the Neighbor Cities communities (and counties) such as chambers of commerce and the Willamette Valley COG.
- 2) What is the community vision for each of the Neighbor Cities?
 - a. What do they need to plan for in terms of growth or tax base to meet their community identity?
 - b. Are their growth goals similar to the State and Metro's growth assumptions for them?
 - c. Are tools or strategies needed to integrate Metro's goals and Neighbor Cities' goals?
 - 3) What are the collective issues – growth, transportation, and agriculture – that are important to both Metro and the neighbor cities?
 - 3) What neighbor cities issues will have the greatest impact on Metro?
 - a. How do Metro transportation investments affect the neighbor cities and vice-a-versa?

Outcomes (What will result from the project? What must be in place for the project to be considered complete?)

- 1) An understanding of the individual neighbor cities visions for themselves and how to integrate those visions with the New Look.
- 2) Active engagement from the neighbor city elected officials in Metro's review of the 2040 Growth Concept Plan and subsequent analysis for expansion of the UGB.
- 3) Partnership between Metro, neighbor cities, County Commissions, ODOT and the Dept. of Agriculture in identifying and resolving mutual interests of concern.

Connection to Council Goals and Objectives

Smart Government

Resources Required / Budget Implications

Staff will return in December with an estimate of resource and budget implications when the scoping phase of the 2040 New Look is completed.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPROVING AN APPLICATION)
FOR EASEMENT/RIGHT OF WAY/LEASE TO THE CITY)
OF WILSONVILLE FOR THE CONSTRUCTION OF THE)
BOECKMAN ROAD EXTENSION PROJECT)

RESOLUTION NO. 05-3630
Introduced by Michael Jordan
with the consent of
Metro Council President,
David Bragdon

WHEREAS, in May 1995 regional voters approved a \$135.6 million Open Spaces, Parks and Streams Bond Measure (the “1995 Open Spaces Bond Measure”) with a stated goal of acquiring land in 14 regional natural areas and six regional trails and greenway areas (“Target Areas”), and one Target Area identified during the implementation of the 1995 Open Spaces Bond Measure implementation was the Tonquin Geologic Area; and

WHEREAS, Metro purchased certain real property in the Tonquin Geologic Area with proceeds from the 1995 Open Spaces Bond Measure, including an approximate 39-acre tract that was previously owned jointly and offered for sale by the Steele Foundation and the Sherman Trust, the Boeckman property, and also a 28-acre parcel that was donated to Metro by The Wetlands Conservancy subject to a Conservation Easement retained by the Wetlands Conservancy (“referred to collectively herein as the Properties”); and

WHEREAS, on November 6, 1997 the Metro Council adopted Resolution No. 97-2539B, “For the Purpose of Approving General Policies Related to the Review of Easements, Right of Ways, and Leases For Non-Park Uses Through Properties Managed by the Regional Parks and Greenspaces Department” (“Easement Policy”), which provides for formal staff review under specified criteria of all proposed easements, rights of way and leases for non-park uses, with final review and approval by the Metro Council; and

WHEREAS, the City of Wilsonville (“City”) is engaged in a transportation construction project known as the Boeckman Road – Tooze Road Connection Project (“Boeckman Road Extension Project” or “Project”) which Project strongly supports multiple local, regional and state transportation and land use goals; and

WHEREAS, the project purpose is to provide a critical east-west transportation connection to address rapid population growth, relieve congestion on Wilsonville Road, and improve multi-modal connectivity and access to the Villebois development in the City of Wilsonville; and

WHEREAS, the Boeckman Road Extension Project is one of the planned strategies outlined in both the Metro Regional Transportation Plan and the City’s Transportation Systems Plan to meet the transportation demand from planned growth in the western portion of the City of Wilsonville; the Project is also an essential component for the redevelopment of the former F.H. Dammasch State Hospital property and is consistent with the legislatively approved Dammasch Transportation Efficiency Land Use Plan, ORS 426.508(3); and

WHEREAS, the Project will serve a significant compact, mixed-use development project at the Dammasch Hospital site (called Villebois) that will provide needed housing in Wilsonville and is consistent with the region’s 2040 Growth Concept and Regional Transportation Plan, as well as State objectives for compact development; and

WHEREAS, on January 10, 2002 the Metro Council adopted Resolution No. 02-3151, “For the Purpose of Approving Funds for the Sunnyside Road and Boeckman Road Projects”, which committed funding in the amount of \$1,956,625 each from Metro, Oregon Department of Transportation, the City of Wilsonville and Clackamas County to the Sunnyside Road and Boeckman Road OTIA projects, with the further commitment that those agencies will seek other funding sources to directly offset that commitment and make the Boeckman Road project a first priority for project advancement; and

WHEREAS, on June 19, 2003 the Metro Council adopted Resolution No. 03-3335, “For the Purpose of Allocating \$53.75 Million of Transportation Priorities Funding for the Years 2006 and 2007, Pending Air Quality Conformity Determination”, to award \$1,965,625 of 2006-07 Transportation Priorities funding to the City of Wilsonville for the Boeckman Road Extension Project, honoring the commitment made by Resolution No. 02-3151; and

WHEREAS, on December 11, 2003 the Metro Council adopted Resolution No. 03-3381A. “For the Purpose of Approving the 2004-07 Metropolitan Transportation Improvement Program for the Portland Metropolitan Area”, to approve the 2004-07 Metropolitan Transportation Improvement Program (“MTIP”), programming \$1,965,625 of 2006-07 Transportation Priorities funds and \$3,932,625 of state modernization and Oregon Transportation Investment Act (“OTIA”) funds for the Project; and

WHEREAS, THE City has committed \$9,803,350 of local funds; and

WHEREAS, the City has submitted an application as set forth in Exhibit A attached hereto and incorporated herein (“Application”) under the Metro Easement Policy for both right of way fee ownership and easements over a portion of the Properties, consisting of 1.2 acres of land for slope easements, bridge construction and roadway improvements, public utility easements, and approximately 7.4 acres for wetland mitigation and temporary construction easements, including the crossing of Coffee Lake Creek (Seely Ditch), as part of the City’s Boeckman Road Extension Project; and

WHEREAS, pursuant to the Easement Policy, Metro Parks & Greenspaces staff and City staff have negotiated certain mitigation measures and other alternatives regarding the City’s Project, and Metro staff has succeeded in extending the bridge span, increasing wildlife crossings, as well as having input regarding the road extension alignment and the bridge opening location, and due to the extensive discussions and negotiations between City and Metro staff the City has redesigned the Project to incorporate a number of habitat and wildlife protective measures on the Metro Properties beyond those that are required by applicable state and federal law; and

WHEREAS, the City’s Application under the Easement Policy and the City’s Project construction plans propose to mitigate impacts to wetlands and drainage by enhancing the existing wetland functional attributes, by the measures set forth in the City’s Compensatory Wetland Mitigation Plan attached to the City’s Application; and

WHEREAS, in addition to wetlands mitigation plantings and other enhancements on the Properties as set forth in the Application, the City has offered to pay Metro the fair market value of the rights of way and easements, as determined by an independent appraisal; and

WHEREAS, the Metro Council finds that, after consideration of the policies set forth in the Easement Policy, as well as the goals and policies of efficient regional planning and transportation, that alternatives to the City’s proposed Project are not feasible, and that the impact on natural resources on Metro property by the Project will be minimized as much as feasible by the Project, and that therefore the

City's proposed Project can be accommodated as set forth in the City's Application, with adequate indemnifications and conditions to Metro in the deeds and easement documents,

NOW, THEREFORE, BE IT RESOLVED BY THE METRO COUNCIL THAT:

The City of Wilsonville's Application for Easement/Right of way/Lease for Non-Park Uses is approved, subject to the City and Metro obtaining any necessary approvals from any priority recorded leaseholders or easement-holders on the affected Properties, and that the final easements and right of way deeds are in forms approved by the Metro Attorney.

ADOPTED by the Metro Council this _____ day of _____, 2005.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

By: Alison Kean Campbell
Senior Metro Attorney

Resolution 05-3630
Exhibit A

PLACEHOLDER

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 05-3630 FOR THE PURPOSE OF
APPROVING AN APPLICATION FOR EASEMENT/RIGHT OF WAY/LEASE TO
THE CITY OF WILSONVILLE FOR THE CONSTRUCTION OF THE BOECKMAN
ROAD EXTENSION PROJECT

Date: October 27, 2005

Prepared by: Michael Jordan
Jim Desmond

BACKGROUND

The City of Wilsonville (“City”) requests authorization from Metro Council to approve the City’s Application for easement / right of way / lease for the City’s transportation construction project known as the Boeckman Road – Tooze Road Connection Project (“Boeckman Road Extension Project” or “Project”). The proposed alignment crosses the wetlands and floodplain of the Coffee Lake basin over property that includes several acres of property on Metro-owned land parcels as discussed below.

A. Metro Regional Parks and Greenspaces Easement Policy

On November 6, 1997 the Metro Council adopted Resolution No. 97-2539B, “For the Purpose of Approving General Policies Related to the Review of Easements, Right of Ways, and Leases For Non-Park Uses Through Properties Managed by the Regional Parks and Greenspaces Department” (“Easement Policy”), which provides for formal staff review under specified criteria of all proposed easements, right of ways and leases for non-park uses, through properties purchased with funds from the 1995 Metro Open Spaces, Parks and Streams bond measure, with final review and approval by the Metro Council.

Metro purchased certain real property in the Tonquin Geologic Area with proceeds from the 1995 Open Spaces Bond Measure, including an approximate 39-acre tract that was previously owned jointly and offered for sale by the Steele Foundation and the Sherman Trust, the Boeckman property, and also a 28-acre parcel that was donated to Metro by The Wetlands Conservancy subject to a Conservation Easement retained by The Wetlands Conservancy (“referred to collectively herein as the Properties”). The Steele Foundation acquisition was authorized by Metro Council in January 1992 with the adoption of Resolution No. 02-3150, “For the Purpose of Authorizing the Executive Officer to Purchase the Steele Foundation Property in the Tonquin Geologic Target Area”.)

The City has submitted an application as set forth in Exhibit A, attached hereto, and incorporated herein (“Application”) under the Metro Easement Policy for both right of way fee ownership and easements over a portion of the Properties, consisting of 1.2 acres of land for slope easements, bridge construction and roadway improvements, public utility easements, and approximately 7.4 acres for wetland mitigation and temporary construction easements, including the crossing of Coffee Lake Creek (Seely Ditch).

The City’s easement Application was deemed complete and was analyzed by Metro parks staff according to guidelines set forth in Resolution No. 97-2539B. The Department worked with the applicant for two years to resolve issues related to location and design of the proposed road to minimize the anticipated significant impacts on wetlands and associated wildlife uses within and in proximity to Metro property. Department staff negotiated with the applicant in designing wetland mitigation that would occur on Metro

property in compensation for potential impacts on wetlands on Metro property. Other enhancements proposed by the applicant in light of the Metro-City negotiations include improved and increased number of wildlife undercrossings. Based on the Department's analysis of road design alternatives, the current road design will impact the soils, hydrology, vegetation, and wildlife habitat of the natural area. Based solely on criteria in the easement policy, the Parks Department cannot recommend granting the applicant the requested easements, because although the Project alignment is one that will result in the least impairment to natural resources, Regional Parks and Greenspaces Department has determined that any road alignment would have significant impact on the Metro-owned natural area.

If the City's easement Application is granted by Metro, the City must obtain certain other approvals before construction could begin on the Metro properties: (1) The Wetlands Conservancy must release the City from its Conservation Easement on that portion of the Metro property encumbered by that easement, and (2) the City must obtain all permits necessary for the construction of the road, including a wetland fill/removal permit from the U.S. Army Corps of Engineers and Oregon Division of State Lands.

B. Metro Land Use Planning and Transportation Policy

The City's Boeckman Road Extension Project strongly supports multiple transportation and Metro land use goals. The project purpose is to provide a critical east-west regional connection through the Coffee Lake Creek Basin and across Interstate 5 to support the Villebois development in the City of Wilsonville, address rapid population growth, relieve congestion on Wilsonville Road and improve multi-modal connectivity.

The Project will be the primary connection to the Villebois development, a significant compact, mixed-use development project at the Dammasch Hospital site that is consistent with the region's 2040 Growth Concept and Regional Transportation Plan, as well as State objectives for compact development. Villebois is one of the largest planned developments of its kind in the Metro region and will provide much needed housing in Wilsonville to help resolve the city's current jobs/housing imbalance. The Metro Council approved an expansion of the Urban Growth Boundary to take in the Villebois property. The closest east-west arterial to Villebois is Wilsonville Road, which is anticipated to experience significant congestion even without the Villebois development. The City's Transportation System Plan and the recently completed I-5/Wilsonville Road Freeway Access Study identified this Project as the number one priority in terms of having the greatest benefit to the local circulation system. In addition to supporting development of Villebois, the Project would also connect unincorporated Clackamas County with Wilsonville and provide access to additional industrial land being considered as part of the urban growth boundary process. The design has not been completely finalized because regulatory agencies responsible for granting wetland fill/removal permits have not yet submitted their final comments and requirements to the applicant.

The project also provides new walking and biking connections where they do not currently exist, including construction of a section of the Tonquin Trail as part of the bridge crossing of Coffee Creek Wetland complex. The project design highlights Metro's Green Streets Program in a significant fashion, integrating fourteen wildlife crossings and green street elements, such as pervious sidewalks, landscaped swales and other features recommended in Metro's *Green Streets: Innovative Solutions for Stormwater and Stream Crossings* handbook.

The Metro Council committed funding for the Project through three separate actions. The first action occurred January 10, 2002 when the Metro Council adopted Resolution No. 02-3151, "For the Purpose of Approving Funds for the Sunnyside Road and Boeckman Road Project". This resolution committed funding in the amount of \$1,956,625 each from Metro, Oregon Department of Transportation, the City of Wilsonville and Clackamas County to the Sunnyside Road and Boeckman Road projects, with the further

commitment that those agencies will seek other funding sources to directly offset that commitment and make the Boeckman Road extension project a first priority for project advancement.

On June 19, 2003, the Metro Council adopted Resolution No. 03-3335 “For the Purpose of Allocating \$53.75 Million of Transportation Priorities Funding for the Years 2006 and 2007, Pending Air Quality Conformity Determination”, to award \$1,965,625 of 2006-07 Transportation Priorities funding to the City of Wilsonville for the Boeckman Road Extension Project. That action honored the commitment made by Resolution No. 02-3151, “For the Purpose of Approving Funds for the Sunnyside Road and Boeckman Road Projects”.

The final action occurred on December 11, 2003 when the Metro Council adopted Resolution No. 03-3381A, “For the Purpose of Approving the 2004 – 07 Metropolitan Transportation Improvement Program for the Portland Metropolitan Area”. This action approved the 2004-07 Metropolitan Transportation Improvement Program (“MTIP”), programming \$1,965,625 of 2006-07 Priorities funds and \$3,932,625 of State modernization and Oregon Transportation Investment Act (“OTIA”) funds for the Project. The City has also committed \$9,803,350 of local funds to purchase right of way design and construction for the Project.

C. Payment of Fair Market Value

In addition to wetlands mitigation as required by federal and state statutes and other enhancements on the Metro properties, the City has offered to pay Metro the fair market value of the right of ways and easements, as determined by an independent appraisal, as required by Metro’s Easement Policy. The proposed compensation is summarized as follows:

| | |
|----------------------------------|----------------|
| Fee Acquisition for Right-Of-Way | \$19,340 |
| Public Utility Easements | \$2,553 |
| Slope Easement | \$348 |
| Wetland Mitigation Easement | \$70,846 |
| Temporary Construction Easement | <u>\$4,905</u> |
| Total Compensation | \$97,992 |

ANALYSIS/INFORMATION

1. **Known Opposition:** None
2. **Legal Antecedents:** Metro Council Resolution No. 97-2539B ““For the Purpose of Approving General Policies Related to the Review of Easements, Right of Ways, and Leases For Non-Park Uses Through Properties Managed by the Regional Parks and Greenspaces Department” (“Easement Policy”); Metro Council Resolution No. 02-3151, “For the Purpose of Approving Funds for the Sunnyside Road and Boeckman Road Project”; Metro Council Resolution No. 03-3335, “For the Purpose of Allocating \$53.75 Million of Transportation Priorities Funding for the Years 2006 and 2007, Pending Air Quality Conformity Determination”; Metro Council Resolution No. 03-3381A, “For the Purpose of Approving the 2004 – 07 Metropolitan Transportation Improvement Program for the Portland Metropolitan Area”.

3. Anticipated Effects

- A. The granting of the easement will allow for the extension of Boeckman Road, which will serve the Villebois development and the eastside of Wilsonville, and achieve specific goals set forth in Metro's Regional Transportation Plan. Funds for this project were committed by Metro under the MTIP process.
- B. The easement and right of way application request affects multiple interests of the Metro Council in different manners. The easement will impact the Metro natural area it crosses. The only way to avoid such impact is to build a bridge over the entire span of the wetland at more than 1200 feet, which is not feasible economically (increasing the cost to create such a span from \$20 million to \$32.7 million) or legally due to the restrictions on the City's ability to condemn adequate property for such a bridge span.

The City has pledged to continue to work with Metro Parks and Greenspaces staff to incorporate additional features into the final design that will further decrease the impact on the site (e.g. additional wildlife crossings, etc.)

The Project represents a high priority regional transportation project and to deny the easement Application would leave the City with no feasible alternative, and would result in a failure to achieve critical regional transportation goals, specifically to provide an east-west connection to accommodate Villebois and other urban expansions on the west side of Wilsonville, relieve congestion on Wilsonville Road and improve multi-modal connectivity in this portion of the region.

- 4. **Budget Impacts** None, except that Metro will be paid the fair market value of the easement, as required under Metro policy and described above.

RECOMMENDED ACTION

In balancing all of the policy objectives of Metro, Chief Operating Officer Michael Jordan recommends that the requested Application be approved, subject to the conditions outlined herein and recommends passage of Resolution No. 05-3630.