

**BEFORE THE METRO COUNCIL**

FOR THE PURPOSE OF APPROVING	)	ORDINANCE NO. 00-872A
URBAN GROWTH BOUNDARY	)	
LOCATIONAL ADJUSTMENT CASE 00-1:	)	
JACKSON BOTTOM, AND ADOPTING THE	)	
HEARINGS OFFICER'S REPORT INCLUDING	)	
FINDINGS AND CONCLUSIONS AND	)	Introduced by Mike Burton,
DECLARING AN EMERGENCY	)	Executive Officer

WHEREAS, on March 15, 2000, Metro received a petition for a locational adjustment for 13.93 acres located east of Highway 219 in unincorporated Washington County, as shown in Exhibit A; and

WHEREAS, Metro staff reviewed and analyzed the petition, and completed a written report to the Hearings Officer, recommending approval of the petition; and

WHEREAS, Metro held a hearing to consider the petition on June 5, 2000, conducted by an independent Hearings Officer; and

WHEREAS, The Hearings Officer submitted his report on June 30, 2000, within thirty (30) days of the close of the record on June 5, 2000, recommending approval of the petition; and; now, therefore,

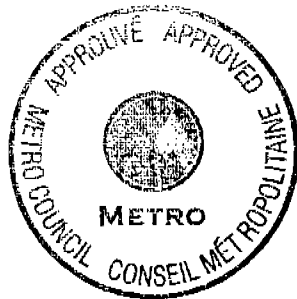
**THE METRO COUNCIL HEREBY ORDAINS AS FOLLOWS:**

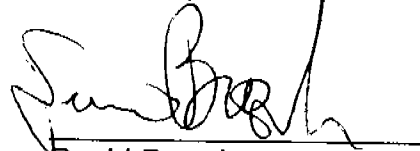
1. To accept the Hearings Officer's *Report and Recommendation*, as attached herein as Exhibit B; and

2. The Hearing Officer's *Findings, Conclusions & Final Order*, attached herein as Exhibit C, be adopted approving the petition in Case 00-1: Jackson Bottom.

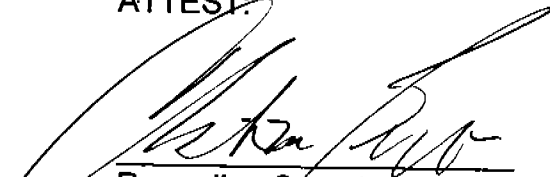
3. This ordinance is necessary for the immediate preservation of public health, safety and welfare because the Urban Growth Boundary amendment should be effective immediately to allow the immediate commencement of measures to protect public safety by construction of road improvements; an emergency is therefore declared to exist, and this ordinance shall take effect immediately, pursuant to Metro Charter Section 39(1).

ADOPTED by the Metro Council this 14<sup>th</sup> day of September, 2000.

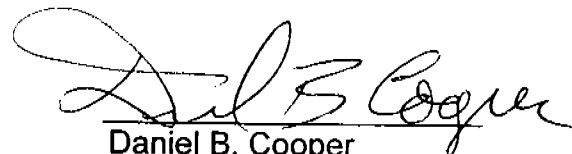


  
David Bragdon  
Presiding Officer

ATTEST:

  
Recording Secretary

Approved as to Form:

  
Daniel B. Cooper  
General Counsel

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**THE METRO COUNCIL HEREBY ORDAINS AS FOLLOWS:**

1. To accept the Hearings Officer's *Report and Recommendation*, as attached herein as Exhibit B; and

2. The Hearing Officer's *Findings, Conclusions & Final Order*, attached herein as Exhibit C, be adopted approving the petition in Case 00-1: Jackson Bottom.

ADOPTED by the Metro Council this \_\_\_\_ day of \_\_\_\_\_, 2000.

\_\_\_\_\_  
David Bragdon  
Presiding Officer

ATTEST:

Approved as to Form:

\_\_\_\_\_  
Recording Secretary

\_\_\_\_\_  
Daniel B. Cooper  
General Counsel

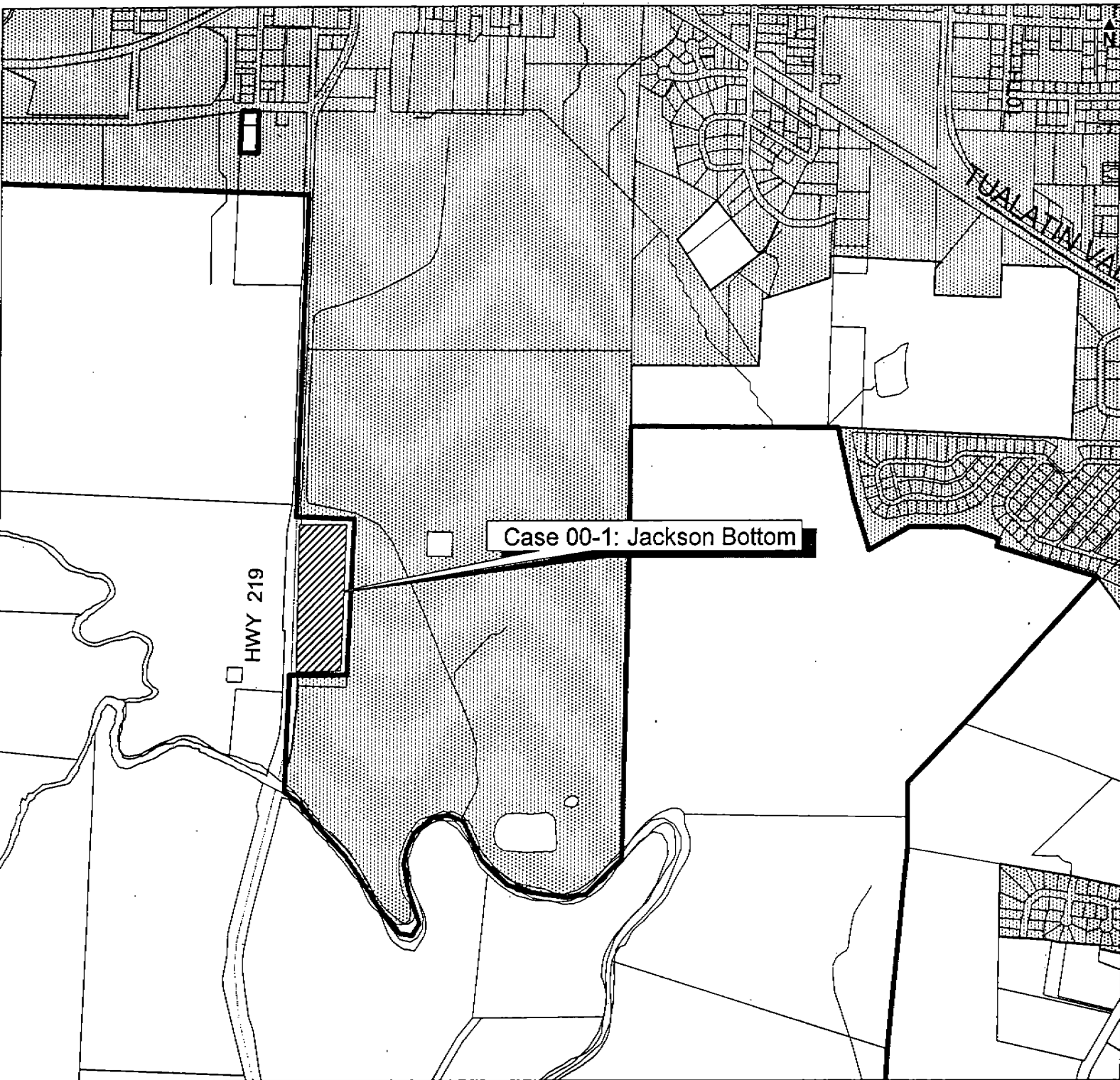
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# Proposed Adjustment

## UGB Case 00-1 Jackson Bottom

 Urban Growth Boundary

 City of Hillsboro



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 accuracy. There are no warranties, expressed or implied, including the accuracy or completeness of the data for a particular purpose, accompanying this product. However, Metro's liability of any errors will be appreciated.

0 500 1000 1500 Feet

1" = 1000 feet



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BEFORE THE METRO COUNCIL  
IN THE STATE OF OREGON

In the matter of the petition of the Unified Sewerage Agency for a natural area locational adjustment to add 13.93 acres to the Urban Growth Boundary in unincorporated Washington County, Oregon ) HEARINGS OFFICER  
REPORT &  
RECOMMENDATION  
Contested Case No. 00-01

A. SUMMARY OF BASIC FACTS

1. On March 15, 2000, the Unified Sewerage Agency ("USA" or "petitioners") filed a petition for a natural area locational adjustment to the Urban Growth Boundary ("UGB") to add to the UGB one tax lot containing 13.93 acres (TL 300, Section 7, T1S-R2W, WM, Washington County (the "subject property")).

a. The subject property is situated east of and adjoins State Highway 219 south of Hillsboro. City, county and regional plans identify the subject property as part of the Jackson Bottom natural area. The UGB abuts the property on three sides.

b. Roughly 10-1/2 acres of the subject property are in the 100-year flood plain of the Tualatin River and have reverted to relatively natural pasture and wetland conditions and years of farming. The upland roughly 3-1/2 acres of the subject property has been used for a legal nonconforming trucking company and dwelling.

c. USA proposes to use the upland area of the subject property, together with adjoining land already in the UGB, to expand USA water quality facilities and to combine USA administrative staff and accessory facilities. USA proposes to restore and enhance the roughly 10-1/2 acres in the flood plain and to dedicate the restored resource area to the City of Hillsboro.

2. Metro hearings officer Larry Epstein (the "hearings officer") held a duly noticed public hearing on June 5, 2000 to consider the petition. Four witnesses testified in person in favor of the petition. At the conclusion of that hearing, the hearings officer closed the public record. There was no oral or written testimony against the petition. The hearings officer concludes the petitioner sustained the burden of proof that the petition complies with applicable standards and recommends the Council approve it.

1        **B. SUMMARY OF APPLICABLE STANDARDS AND RESPONSIVE FINDINGS**

2  
3            1. A natural area locational adjustment to add land to the UGB must comply with  
4 the relevant provisions of Metro Code ("MC") sections 3.01.035(f) and (g) and with the  
5 Transportation Planning Rule in Oregon Administrative Rule ("OAR") section 660-12.

6  
7            2. The hearings officer found that the petition complies with the applicable  
8 standards based on findings summarized below:

9  
10            a. The petition is proposed by the property owner with concurrence from  
11 the City of Hillsboro, the agency that will be responsible for the open space after USA has  
12 restored it, consistent with MC 3.01.035(h)(1).

13  
14            b. The petitioner will donate more than 50% of the land area in the petition  
15 to Hillsboro. Because the area to be donated was farmed, there is a question about whether  
16 the land to be donated will be in a "natural state," as required. The hearings officer  
17 concludes it is in a "natural state," because the portion of the property to be dedicated is  
18 substantially without human development, structures and paved areas, is uniquely situated  
19 with regard to the significant natural resources in Jackson Bottom and part of a much larger  
20 publicly-managed natural resource area, has not been farmed in decades, has reverted to a  
21 largely natural condition since farming stopped, and will be restored to substantially natural  
22 conditions by the petitioner. Therefore the petition is consistent with MC 3.01.035(h)(2).

23  
24            c. The developable upland area of the subject property is smaller than 20  
25 acres and is situated between the existing UGB and the natural area on at least one side,  
26 consistent with MC 3.01.035(h)(3).

27  
28            d. The subject property is identified in city, county and regional plans as  
29 open space or equivalent, consistent with MC 3.01.035(h)(4).

30  
31            e. The subject property is not in an urban reserve area and is smaller than 20  
32 acres; its inclusion will result in a net improvement in the efficiency of public road, storm  
33 drainage and open space services for and will facilitate needed development of lands already  
34 inside the UGB; the developable area of the site can be served by public services in an  
35 orderly and efficient manner; and the environmental, energy, social and economic  
36 consequences of the petition have been considered, consistent with MC 3.01.035(h)(5).

1 f. The proposed UGB will be superior to the existing UGB, consistent with  
2 MC 3.01.035(g)(2).

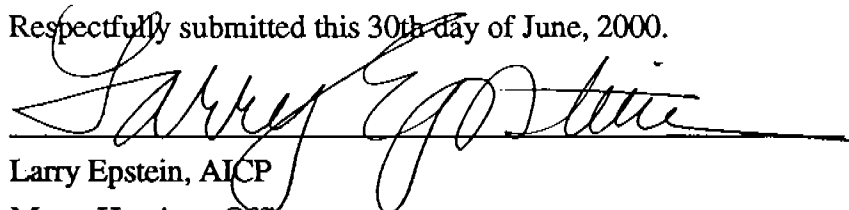
3  
4 g. There is no contiguous property outside the UGB that is similar to the  
5 subject property considering the factors in MC 3.01.035(c), consistent with MC  
6 3.01.035(g)(3).

7  
8 h. The locational adjustment will not significantly affect a transportation  
9 facility. Therefore it is exempt from the Transportation Planning Rule. OAR 660-12-060.

10  
11 C. ULTIMATE CONCLUSION AND RECOMMENDATION

12  
13 For the foregoing reasons, the hearings officer concludes the petition complies with the  
14 relevant approval standards for a natural area locational adjustment adding land to the UGB.  
15 Therefore the hearings officer recommends the Metro Council grant the petition, based on  
16 this Report and Recommendation and the Findings, Conclusions and Final Order attached  
17 hereto.

18  
19 Respectfully submitted this 30<sup>th</sup> day of June, 2000.

20  
21   
22 Larry Epstein, AICP  
23 Metro Hearings Officer



1 BEFORE THE METRO COUNCIL  
2 IN THE STATE OF OREGON

EXHIBIT C

3  
4 In the matter of the petition of the Unified Sewerage ) FINDINGS,  
5 Agency for a natural area locational adjustment to add ) CONCLUSIONS &  
6 13.93 acres to the Urban Growth Boundary ) FINAL ORDER  
7 in unincorporated Washington County, Oregon ) Contested Case No. 00-01  
8

9 A. BASIC FACTS

10  
11 1. On March 15, 2000, the Unified Sewerage Agency ("USA" or "petitioners")  
12 filed a petition for a natural area locational adjustment to the Urban Growth Boundary  
13 ("UGB"), including exhibits required by Metro rules for natural area locational adjustments.  
14 Exhibit 1 is the petition for locational adjustment (the "petition"). By letter dated March 21,  
15 2000, Metro staff found the petition was complete. Basic facts include the following:  
16

17 a. The petitioner proposes to add to the UGB one tax lot containing 13.93  
18 acres (TL 300, Section 7, T1S-R2W, WM, Washington County (the "subject property")).  
19 The subject property is situated east of and adjoins State Highway 219 about one mile south  
20 of downtown Hillsboro in what commonly is known as the "Jackson Bottom" area. The  
21 existing UGB jogs around the subject property. With the exception of this property, the  
22 UGB is the east side of State Highway 219 south to the Tualatin River. Roughly 10-1/2  
23 acres of the subject property are in the 100-year flood plain of the Tualatin River and have  
24 reverted to relatively natural pasture and wetland conditions. The upland roughly 3-1/2 acres  
25 of the subject property has been used for a legal nonconforming trucking company and  
26 dwelling. The property owner has agreed to sell the subject property to USA, and he  
27 authorized USA to file this petition. See Exhibit 5 (Appendix A-3 of Exhibit 4). USA  
28 proposes to use the upland area of the subject property, together with adjoining land already  
29 in the UGB, to expand USA water quality facilities and to combine USA administrative staff  
30 and accessory facilities. USA proposes to restore and enhance the roughly 10-1/2 acres in  
31 the flood plain and to dedicate the restored resource area to the City of Hillsboro.  
32

33 b. The Washington County Rural/Natural Resource Plan designates the  
34 property Exclusive Farm Use ("EFU") and a "water area and wetlands". Land to the  
35 west across State Highway 219 is designated and zoned EFU. Land north, east and south  
36 of the site is in the City of Hillsboro. That land has a Flood Plain ("FP") plan map

1 designation and has M-2 (industrial) zoning. If the subject property is added to the UGB,  
2 USA proposes to annex the property to Hillsboro and to apply for Public Facility ("PF")  
3 and Flood Plain ("FP") plan map designations and for M-2 zoning. The City of Hillsboro  
4 and Washington County support the petition (see Exhibits 6 and 8), and the Hillsboro City  
5 Council has voted to accept USA's planned dedication of 10-1/2 acres of the site. See  
6 Resolution No. 187. Addition of the subject property to the Jackson Bottom open  
7 space/natural area is consistent with the Concept Master Plan adopted by the city.

8  
9 c. Based on written comments from prospective service providers, the  
10 upland portion of the subject property can be served by an existing public water line in State  
11 Highway 219; sanitary sewer service can be provided by means of an existing pump station  
12 and line that conveys sewage to the USA facility about 1/2 miles north; storm water drainage  
13 can be accommodated on-site; access can be provided to the site from State Highway 219  
14 that, in combination with access to the existing USA facility to the south, is more safe;  
15 police and fire services can be provided; and including the subject property in the UGB as  
16 proposed with increase park and open space resources.

17  
18 2. On or before May 11, 2000, Metro staff mailed notices of a hearing to consider  
19 the petition by certified mail to the owners of property within 500 feet of the subject  
20 property and to other individuals and entities entitled to notice under the Metro Code. See  
21 Exhibit 16. On May 17, 2000, notice was mailed to the Department of Land Conservation  
22 and Development. A notice of the hearing also was published in *The Oregonian* and *The*  
23 *Argus* on May 25, 2000.

24  
25 3. On June 5, 2000, Metro hearings officer Larry Epstein (the "hearings officer")  
26 held a public hearing at the Washington County Public Services Building, 155 North First  
27 Avenue, Hillsboro, Oregon 97124, to receive testimony and evidence regarding the petition.  
28 After the hearings officer described the rules for the hearing and the relevant standards for  
29 the petition, four witnesses testified in person.

30  
31 a. Metro planner Barbara Linssen identified and described the subject  
32 property and surrounding area. She listed the applicable approval standards and  
33 summarized the written staff report. See Exhibit 17. She urged the hearings officer to  
34 recommend that Council approve the natural area locational adjustment for the reasons  
35 contained therein.

1  
2 b. Planner Mary Dorman, USA Conveyance Systems Director Robert Cruz  
3 and Hillsboro City Manager and Chair of the Jackson Bottom Natural Area Board of  
4 Directors Tim Erwert testified in favor of the petition.  
5

6 (1) Ms. Dorman summarized the proposal and responded to  
7 questions by the hearings officer. She argued that the only portion of the subject property  
8 that Metro Code ("MC") 3.01.035(h)(2) requires to be in a natural state is the portion to be  
9 dedicated for open space purposes. She argued the area to be dedicated is in a natural state,  
10 because is in the 100-year floodplain; it is not developed with structures or other evident  
11 improvements; it does not show signs of use since the land reverted from farming activities  
12 conducted years ago; it is part of a unique natural resource area due to its physical  
13 integration with the Jackson Bottom and Tualatin River wetlands and is similar in  
14 appearance and function to the remainder of the resource area.  
15

16 (2) Mr. Cruz noted that the subject property is included in the  
17 Jackson Bottom Master Concept Plan. It will play a role in channel relocation and  
18 mitigation, e.g., baling of Reed canarygrass on an annual basis. He argued only a small  
19 area of the site is developable. He noted that including the subject property in the UGB  
20 will enable USA to improve traffic safety at access points to the USA facilities, and will  
21 result in rehabilitation of the portion of the subject property used for trucking and  
22 residential purposes in the past.  
23

24 (3) Mr. Erwert testified in support of petition so that the Jackson  
25 Bottom natural area will include the portion of the subject property in the flood plain and so  
26 that use of the subject property will be more compatible with public access to lands in the  
27 natural area than was the past use of the property.  
28

29 4. The applicant declined the opportunity to hold open the record or continue the  
30 hearing, so the hearings officer closed the public record at the end of the hearing.  
31

32 5. On June 30, 2000, the hearings officer filed with the Council a report,  
33 recommendation, and draft final order granting the petition for the reasons provided  
34 therein. Copies of the report and recommendation were timely mailed to parties of record  
35 together with an explanation of rights to file exceptions thereto and notice of the Council  
36 hearing to consider the matter.

1           6. On July 17, 2000, the Council held a duly noticed public hearing to consider  
2 testimony and timely exceptions to the report and recommendation. After considering the  
3 testimony and discussion, the Council passed a motion to continue the matter to a second  
4 reading on August 7, 2000. On August 7, 2000, the Council voted to grant the petition for  
5 Contested Case No. 00-01 (USA: Jackson Bottom), based on the findings in this final  
6 order, the report and recommendation of the hearings officer in this matter, and the public  
7 record in this matter. The record includes an audio tape of the public hearings and the  
8 exhibits on the list attached to the final order or incorporated herein by reference.  
9

10           B. APPLICABLE APPROVAL STANDARDS AND RESPONSIVE FINDINGS  
11

12           1. Metro Code section 3.01.035(g) contains approval standards for locational  
13 adjustments to add land to the UGB. MC section 3.01.035(h) contains approval standards  
14 for natural area locational adjustments. Standards from both sections apply to this petition.  
15 Each applicable standard from these sections is reprinted below in italic font, after which are  
16 findings explaining how the petition does or does not comply with that standard.  
17

18           *Natural area adjustments must be proposed by the property owner with*  
19           *concurrence from the agency accepting the natural area.* Metro Code  
20           section 3.01.035(h)(1)  
21

22           2. The owner of the subject property authorized the petition to be filed by USA.  
23 The natural area portion of the subject property is to be dedicated to the City of Hillsboro.  
24 The City Council adopted a resolution tentatively accepting dedication of the natural area  
25 portion of the subject property. See Resolution 187, incorporated herein by reference.  
26 Therefore the petition complies with MC 3.01.035(h)(1).  
27

28           *At least 50% of the land area in the petition, and all land in excess of 40*  
29           *acres, shall be owned by or donated to a county, city, parks district or the*  
30           *district, in its natural state, without mining, logging or other extraction of*  
31           *natural resources, or alteration of watercourses, water bodies or*  
32           *wetlands.* Metro Code section 3.01.035(h)(2)  
33

34           3. The petitioner proposes to dedicate 75% of the subject property to a city in its  
35 existing state, which does not include evidence of mining, logging or other extraction of  
36 natural resources and which will not alter water courses or water bodies or adversely affect

1 wetlands. The portion of the subject property to be dedicated has been used for farming.  
2 Farming detracts from the character of the property as being in its natural state. But it does  
3 not preclude a finding that the land will be dedicated in its natural state. Farmed land may  
4 be sufficiently in a natural state to qualify under MC 3.01.035(h)(2), based on consideration  
5 of the following factors:

6  
7 a. Whether the portion of the property in question is substantially without  
8 human development, structures and paved areas and is substantially in a native and  
9 unaffected state as part of a larger, publicly-managed natural resource area or site;

10  
11 b. When farming last occurred on the property, and whether, since farming  
12 of the area has stopped, the land has largely reverted to a natural condition;

13  
14 c. Whether the farmed land is identified as a natural area or equivalent on  
15 regional or local plans;

16  
17 d. Whether the farmed land in question is unique situated with regard to  
18 other significant natural resources; and

19  
20 e. Whether natural resource values of the farmed area will be enhanced  
21 and/or restored as a result of the locational adjustment.

22  
23 4. In this case, the portion of the property to be dedicated is substantially without  
24 human development, structures and paved areas, because it is a heavily vegetated flood plain  
25 and wetland area. The natural resource area of the site is part of a much larger publicly-  
26 managed natural resource area known as Jackson Bottom. Farming has not occurred on the  
27 property in decades, based on the report from Washington County planning staff, and the  
28 property has reverted to a largely natural condition since farming stopped. The site is  
29 uniquely situated with regard to the significant natural resources in Jackson Bottom. Lastly  
30 the petitioner has agreed to enhance and restore the farmed area (or a portion thereof) if the  
31 petition is approved. Therefore the petition complies with MC 3.01.035(h)(2).

32  
33 ***Any developable portion of the area included in the petition, not***  
34 ***designated as a natural area, shall not exceed 20 acres and shall lie***  
35 ***between the existing UGB and the natural area.***

36 Metro Code section 3.01.035(h)(3)

1           5. The developable portion of the lands included in the petition is the upland portion  
2 of the subject property that the petitioner will not dedicate to the City of Hillsboro. That  
3 developable area is less than twenty acres; it is about 3-1/2 acres. The developable area is  
4 situated between the existing UGB on the south edge of the site and the area to be  
5 dedicated. Therefore the petition complies with MC 3.01.035(h)(3).

6  
7           *The natural area must be identified in a city or county comprehensive*  
8           *plan as open space or the equivalent, or in Metro's natural area and*  
9           *open space inventory.*

10          Metro Code section 3.01.035(h)(4)

11  
12          6. The subject property is identified a "water area and wetlands" on the Significant  
13 Natural Resources Map of the Washington County Rural/Natural Resource Plan. The  
14 subject property also is in the Jackson Bottom-Dairy/MacKay Creek Target area of the  
15 Metro Greenspaces Master Plan. Therefore the petition complies with MC 3.01.035(h)(4).

16  
17          *The developable portion of the petition shall meet the criteria set out in*  
18          *parts (b), (c)(1), (c)(2) and (c)(3) of section 3.01.035.*

19          Metro Code section 3.01.035(h)(5)

20  
21          7. Based on the following findings in response to MC 3.01.035(b), (c)(1), (c)(2)  
22 and (c)(3), the petition complies with MC 3.01.035(h)(5).

23  
24          *Locational adjustments shall be limited to areas outside designated urban*  
25          *reserve areas. All locational adjustment additions and administrative*  
26          *adjustments for any one year shall not exceed 100 net acres and no*  
27          *individual locational adjustment shall exceed 20 net area. Natural area*  
28          *adjustments shall not be included in the annual total of 100 acres, and*  
29          *shall not be limited to 20 acres, except as specified in 3.01.035(g)...*

30          Metro Code section 3.01.035(b)

31  
32          8. The site is not in an urban reserve area, and it contains less than 20 acres.  
33 Therefore the petition complies with this criterion.

34  
35          *A locational adjustment shall result in a net improvement in the efficiency*  
36          *of public facilities and services, including but not limited to, water,*

1            *sewerage, storm drainage, transportation, parks and open space in the*  
2            *adjoining areas within the UGB. Any area to be added must be capable*  
3            *of being served in an orderly and economical fashion.*

4            Metro Code section 3.01.035(c)(1)

5  
6            9. Including the subject property in the UGB will result in a net improvement in the  
7            efficiency of some public services, and the developable portion of the subject property can  
8            be served in an orderly and economic manner by public facilities and services, including  
9            water, sanitary sewers, roads, storm drainage, transit and emergency services, based on the  
10           comments in the record from the service providers and the following:

11  
12           a. Storm drainage services to land already in the UGB will be more efficient,  
13           because the petitioner will restore and enhance the flood plain portion of the property so that  
14           there is less chance of significant adverse surface and subsurface pollution from the septic  
15           system and prior non-resource use on the subject property.

16  
17           b. Transportation services to land already in the UGB will be more efficient,  
18           because the petitioner will revise vehicular access points to the USA facility on and south of  
19           the subject property to enhance sight distance and intersection spacing and, thereby, to  
20           improve traffic safety.

21  
22           c. By increasing the size of the Jackson Bottom natural resource area and  
23           providing for its management as a unit without substantial private inholdings, the petition  
24           increases the efficiency of park and open space services to land already in the UGB.

25  
26           d. The petition has little or no effect on the efficiency of fire and police  
27           service delivery or on water and sanitary sewer service delivery. Although these services can  
28           be provided to the subject site, development on the subject site will not improve these  
29           services for land already in the UGB.

30  
31           ***The amendment shall facilitate needed development on adjacent existing***  
32           ***urban land. Needed development, for the purposes of this section, shall***  
33           ***mean consistent with the local comprehensive plan and/or applicable***  
34           ***regional plans.***

35           Metro Code section 3.01.035(c)(2)

1           10. The proposed addition will facilitate development of offices, an interpretive  
2 center and related storm water facilities operated by USA on land already in the UGB by  
3 providing parking and related storm water measures needed for expansion of those  
4 facilities. That expansion is needed development, because it is permitted by local land use  
5 regulations and is consistent with local and regional plans. There is substantial evidence in  
6 the record that the expansion of those facilities will not occur unless the locational  
7 adjustment is approved. Therefore denying the petition would be contrary to MC  
8 3.01.035(c)(2), because it would prevent needed development. Granting the petition  
9 complies with MC 3.01.035(c)(2).

10  
11           *Environmental, energy, social & economic consequences. Any impact on*  
12           *regional transit corridor development must be positive and any limitations*  
13           *imposed by the presence of hazard or resource lands must be addressed.*

14           Metro Code section 3.01.035(c)(3)

15  
16           11. Granting the petition will have a net positive impact based on environmental  
17 consequences, because it will result in environmental remediation of the site, removal of the  
18 private trucking business and the septic drainfield that served that business, elimination of  
19 untreated runoff from the business, and expansion of the wetland. Potential water quality  
20 impacts resulting from development of the site will be addressed by USA, given its mission  
21 and use of innovative storm water drainage measures at its facility already inside the UGB.

22  
23           12. Granting the petition will have a net positive social impact, because it will  
24 enhance and secure one of the few remaining pieces of the Jackson Bottom area in private  
25 ownership and will lead to enlargement of public open space.

26  
27           13. Granting the petition will have negligible energy and economic consequences.  
28 On one hand, increasing the intensity of use of an existing USA facility will provide for  
29 economies of scale and operations that will reduce energy consumption and numbers of  
30 vehicle trips. On the other hand, development of additional uses at the subject property (and  
31 adjoining land to the south) and away from the city center, where there is no transit service,  
32 will increase vehicle trips. The total impact is roughly a wash. The property in question has  
33 relatively little economic significance, because of its relatively small size, physical isolation  
34 from other economic activities and services, and environmental sensitivity.



1           14. The presence of hazard and resource lands is addressed by the proposal to  
2 dedicate the portion of the site in the 100-year flood plain and by the flood plain designation  
3 that will apply to that portion of the property when annexed by the city.

4  
5           *...[T]he proposed UGB must be superior to the UGB as presently located*  
6 *based on a consideration of the factors in subsection (c) of this section.*

7           Metro Code section 3.01.035(g)(2)

8  
9           15. The proposed UGB would be superior to the UGB as presently located,  
10 because the amended UGB would comply with the factors in MC 3.01.035(g)(3) and (h).  
11 It also would eliminate a “notch” in the UGB that isolates the subject property and would  
12 consolidate public ownership and management of the regionally significant Jackson Bottom  
13 Wetlands Preserve. Therefore the petition complies with MC 3.01.035(g)(2).

14  
15           *The proposed UGB amendment must include all similarly situated*  
16 *contiguous land which could also be appropriately included within the*  
17 *UGB as an addition based on the factors in subsection (c).*

18           Metro Code section 3.01.035(g)(3)

19  
20           16. There is no similarly situated property which could also be appropriately  
21 included within the UGB based on the factors above, because the subject property is  
22 surrounded by the UGB on three sides and by a highway on the fourth side. The highway  
23 and changes in topography and soil conditions west of the highway physically and  
24 functionally distinguish the subject property from land to the west. Therefore the petition  
25 complies with MC 3.01.035(g)(3).

26  
27           17. Although it is not an applicable approval standard in the Metro Code, a quasi-  
28 judicial amendment to the UGB is subject to compliance with the Transportation Planning  
29 Rule if the amendment will significantly affect a transportation facility.<sup>1</sup>

30  

---

<sup>1</sup> Oregon Administrative Rule (OAR) 660-12-060(1) provides:

*Amendments to functional plans, acknowledged comprehensive plans,  
and land use regulations which significantly affect a transportation  
facility shall assure that allowed land uses are consistent with identified  
function, capacity, and level of service of the facility.*



1 e. The subject property is not in an urban reserve area and is smaller than 20  
2 acres; its inclusion in the UGB will result in a net improvement in the efficiency of public  
3 road, storm drainage and open space services for and will facilitate needed development of  
4 lands already inside the UGB; the developable area of the site can be served by public  
5 services in an orderly and efficient manner; and the environmental, energy, social and  
6 economic consequences of the petition have been considered, consistent with MC  
7 3.01.035(h)(5).

8  
9 f. The proposed UGB will be superior to the existing UGB, consistent with  
10 MC 3.01.035(g)(2); and

11  
12 g. There is no contiguous property outside the UGB that is similar to the  
13 subject property considering the factors in MC 3.01.035(c), consistent with MC  
14 3.01.035(g)(3).

15  
16 3. The petition has been reviewed consistent with the applicable requirements of the  
17 Metro Code and state law. Based on the record in this matter, including the testimony  
18 received at the public hearing(s) in this matter, the Council hereby approves the petition in  
19 Contested Case 00-01 (USA: Jackson Bottom).

20  
21 DATED: \_\_\_\_\_

22  
23 By Order of the Metro Council

24  
25 By:  
26 \_\_\_\_\_

EXHIBITS IN THE MATTER OF CONTESTED CASE 00-01  
(UNIFIED SEWERAGE AGENCY: JACKSON BOTTOM)

Exhibit No.    Subject matter

- 1.....Cover letter dated March 15, 2000 from Mary Dorman to Lydia Neill
- 2.....Petition for locational adjustment
- 3.....Map and list of property owners within 500 feet of the subject property
- 4.....Application narrative with appendices (spiral-bound booklet)
- 5.....Owner's authorization
- 6.....City of Hillsboro recommendation
- 7.....Service provider comment forms
- 8.....Washington County Board of Commissioners' recommendation
- 9.....Annexation application and attachments
- 10.....Notice of complete application dated March 21, 2000
- 11.....e-mail dated May 16, 2000 from Barbara Linssen to Mary Dorman
- 12.....e-mail dated May 17 from Mary Dorman to Barbara Linssen
- 13.....e-mail dated May 23, 2000 from Mary Dorman to Barbara Linssen
- 14.....Note to the file dated May 24, 2000 from Barbara Linssen
- 15.....Letter dated May 25, 2000 from Robert Cruz to Barbara Linssen
- 16.....Notice of public hearing
- 17.....Metro Staff Report dated May 26, 2000
- 18.....1999 Aerial Photo

JUN 30 2000

**LARRY EPSTEIN, PC**  
**ATTORNEYS AT LAW**

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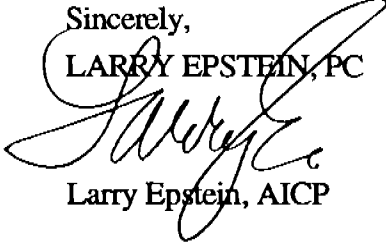
June 30, 2000

Barbara Linssen  
Metro Growth Management  
600 NE Grand Avenue  
Portland, OR 97232-2736

SUBJECT: UGB Contested Case 00-01 (USA: Jackson Bottom)

Dear Barbara:

I enclose the Hearings Officer Report and Recommendation, proposed Findings, Conclusions and Final Order, and the exhibits in my possession for Contested Case 00-01 (USA: Jackson Bottom). I trust you will handle the process from this point. Please contact me to confirm when Council will hear the matter. Let me know if you have any questions. Thank you!

Sincerely,  
LARRY EPSTEIN, PC  
  
Larry Epstein, AICP

**PS: NOTE THE NEW ADDRESS AND FAX NUMBER.  
(WE MOVE ON JULY 1.) THE TELEPHONE NUMBER  
AND E-MAIL ADDRESSES ARE UNCHANGED.**