

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ENTERING AN ORDER)	Resolution No. 07-3792
RELATING TO THE APPEALS BY DAVID W.)	
MORELLI AND THE CITY OF FOREST GROVE OF)	
CHIEF OPERATING OFFICER ORDER 06-201)	
(RELATING TO THE APPLICATION FOR A MINOR)	
ADJUSTMENT TO THE URBAN GROWTH)	
BOUNDARY NEAR THE INTERSECTION OF "D")	Introduced by Chief Operating Officer
STREET AND 18 TH AVENUE WITHIN THE CITY)	Michael Jordan with the concurrence of
LIMITS OF FOREST GROVE))	Council President David Bragdon

WHEREAS, Ron and Wanda Rau filed an application for a minor adjustment to the UGB in the vicinity of Forest Grove pursuant to sections 3.01.033 and 3.01.035 of the Metro Code; and

WHEREAS, the Chief Operating Officer ("COO") reviewed the application and entered an order approving the minor adjustment pursuant to section 3.01.033(d) of the Metro Code; and

WHEREAS, David W. Morelli and the city of Forest Grove filed valid appeals of the COO's order pursuant to section 3.01.033(e) of the Metro Code; and

WHEREAS, the Metro Council held a public hearing on the appeal on March 22, 2007, and considered information presented at the hearing; now, therefore

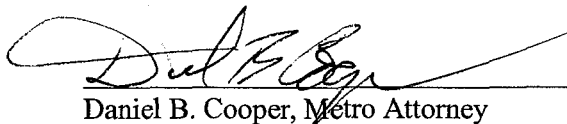
BE IT RESOLVED that the Metro Council

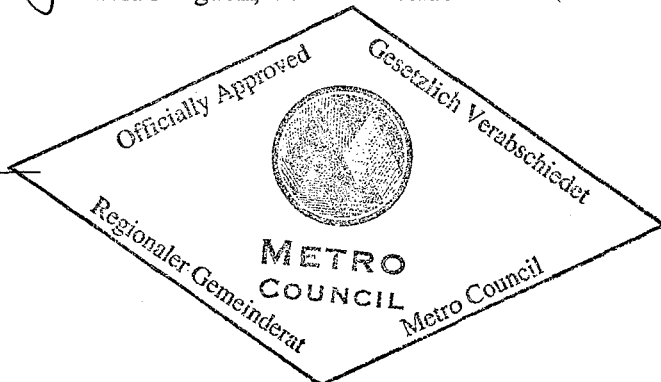
1. Enters Order 07-024, attached to this resolution as Exhibit A, which denies the appeals but modifies COO Order 06-201.
2. Directs the COO to send a copy of Order No. 07-024 to the appellants, persons who participated in the public hearing on the appeal and the Oregon Department of Land Conservation and Development.

ADOPTED by the Metro Council this 22nd day of March, 2007


 David Bragdon, Council President

Approved as to form:


 Daniel B. Cooper, Metro Attorney



Resolution No. 07-3792

Order No. 07-024

RELATING TO THE APPEALS BY DAVID W. MORELLI AND
THE CITY OF FOREST GROVE OF THE CHIEF OPERATING OFFICER'S
ORDER NO. 06-201, A MINOR ADJUSTMENT TO THE UGB

IT IS ORDERED THAT:

1. The appeals of David W. Morelli and the City of Forest Grove be denied for the reasons set forth in the Metro Staff Report dated February 28, 2007.
2. Section 2 of COO Order 06-201 is revised to read as follows:

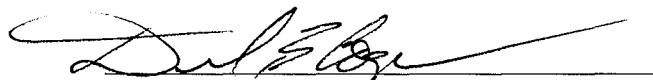
"The land included in this amendment shall be designated as Inner Neighborhood on the Metro 2040 Growth Concept Map and zoned by the City of Forest Grove to allow an Average density of 10 units per net developable acre."

ENTERED this 22nd day of March, 2007.

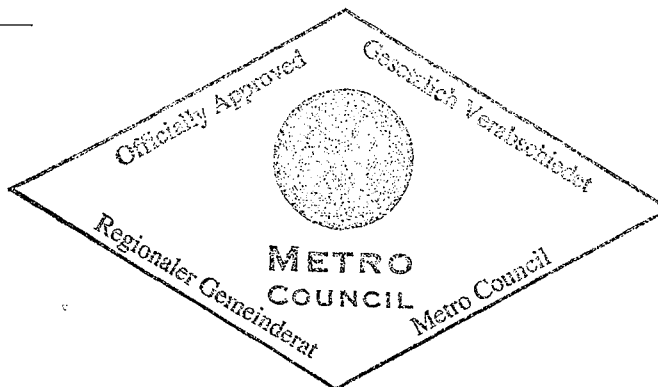


David Bragdon, Council President

Approved as to form:



Daniel B. Cooper, Metro Attorney



STAFF REPORT

RESOLUTION NO. 07-3792, RELATING TO THE APPLICATION FOR A MINOR ADJUSTMENT TO THE URBAN GROWTH BOUNDARY NEAR THE INTERSECTION OF D STREET AND 18th AVENUE WITHIN THE CITY LIMITS OF FOREST GROVE

Date: February 28, 2007

Prepared by: Tim O'Brien
Senior Regional Planner

BACKGROUND

CASE: COO Order 06-201

APPELLANTS: City of Forest Grove
PO Box 326
Forest Grove, OR 97116

David W. Morelli
1320 Cedar Street
Forest Grove, OR 97116

PROPOSAL: Metro Chief Operating Officer's Order No. 06-201 approved an amendment to the Urban Growth Boundary (UGB) through Minor Adjustment Case No. 06-02: Rau/Gales Creek. Approval of this minor adjustment resulted in 4.2 acres of land being added to the UGB near the intersection of "D" Street and 18th Avenue within the city limits of Forest Grove. Approval of this order is appealed to the Metro Council.

LOCATION: The site is located near the intersection of D Street and 18th Avenue within the city limits of Forest Grove. A map of the site is attached as Attachment 1.

Grounds for Appeal

Argument 1 (City of Forest Grove): A "delineation" of the floodplain, as used in Metro Code 3.01.035(e), requires a study of the Gales Creek floodplain. Metro failed to complete a study of the floodplain. Without the study, the minor adjustment violates 3.01.035(e).

Staff Response: There is no requirement in 3.01.035(e) that Metro or an applicant for a minor adjustment complete a study of the floodplain. Paragraph 3.01.035(e)(1) requires a delineation of the floodplain by a professional engineer registered by the State of Oregon. Applicants submitted such a delineation in support of the application.

Argument 2 (City of Forest Grove; David Morelli): The following language of the Minor Adjustment Order No. 06-210 exceeds Metro's authority:

"The land included in this amendment shall be designated as Inner Neighborhood on the Metro 2040 Growth Concept Plan and zoned by the City of Forest Grove to allow the density of residential development currently allowed by the city's High Density Residential plan designation."

Staff Response: Among the requirements for minor adjustment to the UGB is the following:

“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 other such density that is consistent with the 2040 Growth Concept designation for the area.”

Metro Code 3.01.035(f). The land within the City of Forest Grove that is adjacent to the land added to the UGB is designated as Inner Neighborhood on the Metro 2040 Growth Concept Map, is within the city’s High Density Residential plan designation and is zoned Multi-Family (A-2). In order to provide consistency with the city plan designation, the order specified a zoned density consistent with the city’s High Density Residential plan designation. Although the staff believes the Chief Operating Officer (COO) and the Metro Council have the authority to set any density that is consistent with the Inner Neighborhood design type designation, the staff recommends that the Metro Council amend section 2 of Order No. 06-210 to read:

“The land included in this amendment shall be designated as Inner Neighborhood on the Metro 2040 Growth Concept Plan and zoned by the City of Forest Grove to allow an average density of 10 units per net developable acre.”

This amendment is proposed by the City of Forest Grove and complies with Metro Code 3.01.035(e).

Mr. Morelli contends that Metro cannot both designate the added territory as Inner Neighborhood *and* specify a density that is greater than the person/acre number associated with the Inner Neighborhood designation in Title 1 of the Urban Growth Management Functional Plan (Metro Code section 3.07.170).¹ He argues that 3.01.035(f) says whatever density Metro assigns must be consistent with the Growth Concept designation. Staff believes the amended language recommended above fully complies with 3.01.035(f). A density of 10-units per net developable acre is not inconsistent with the Inner Neighborhood designation, which is the higher density residential designation in the Growth Concept (Outer Neighborhood is the lower density designation.) Also, the persons per acre number in Title 1 is illustrative only; it is not a legal requirement or limitation on residential density.

ANALYSIS/INFORMATION

Known Opposition: There are no other known opponents to this action.

¹ For the area of each of the 2040 Growth Concept design types, the following average densities for housing and employment are recommended to cities and counties:

Central City - 250 persons per acre
Regional Centers - 60 persons per acre
Station Communities - 45 persons per acre
Town Centers - 40 persons per acre
Main Streets - 39 persons per acre
Corridor - 25 persons per acre
Employment Areas - 20 persons per acre
Industrial Areas - 9 employees per acre
Regionally Significant Industrial Area - 9 employees per acre
Inner Neighborhoods - 14 persons per acre
Outer Neighborhoods - 13 persons per acre

Legal Antecedents: Metro Code 3.01.035(e) allows, through an administrative process, adjustments to the Urban Growth Boundary where the UGB is intended to be coterminous with the 100-year floodplain, based on a recent delineation of the floodplain by a professional engineer registered by the State of Oregon. Code Section 3.01.033(e) allows any person who commented on the application may appeal the Chief Operating Officer's order to the Metro Council and the Council shall consider the appeal at a public hearing. Code Section 3.01.033(g) directs the Council to uphold, deny or modify the Chief Operating Officer's order.

Anticipated Effects: This resolution and order will amend COO Order 06-201, bringing into the UGB a 4.2-acre parcel that is already within the city limits of the City of Forest Grove.

Budget Impacts: As the applicant was required to file an application fee to cover all costs of processing this minor adjustment, there is no budget impact.

RECOMMENDED ACTION

Staff recommends that the Metro Council adopt Resolution No 07-3792 amending the Chief Operating Officer's Order 06-201, to read:

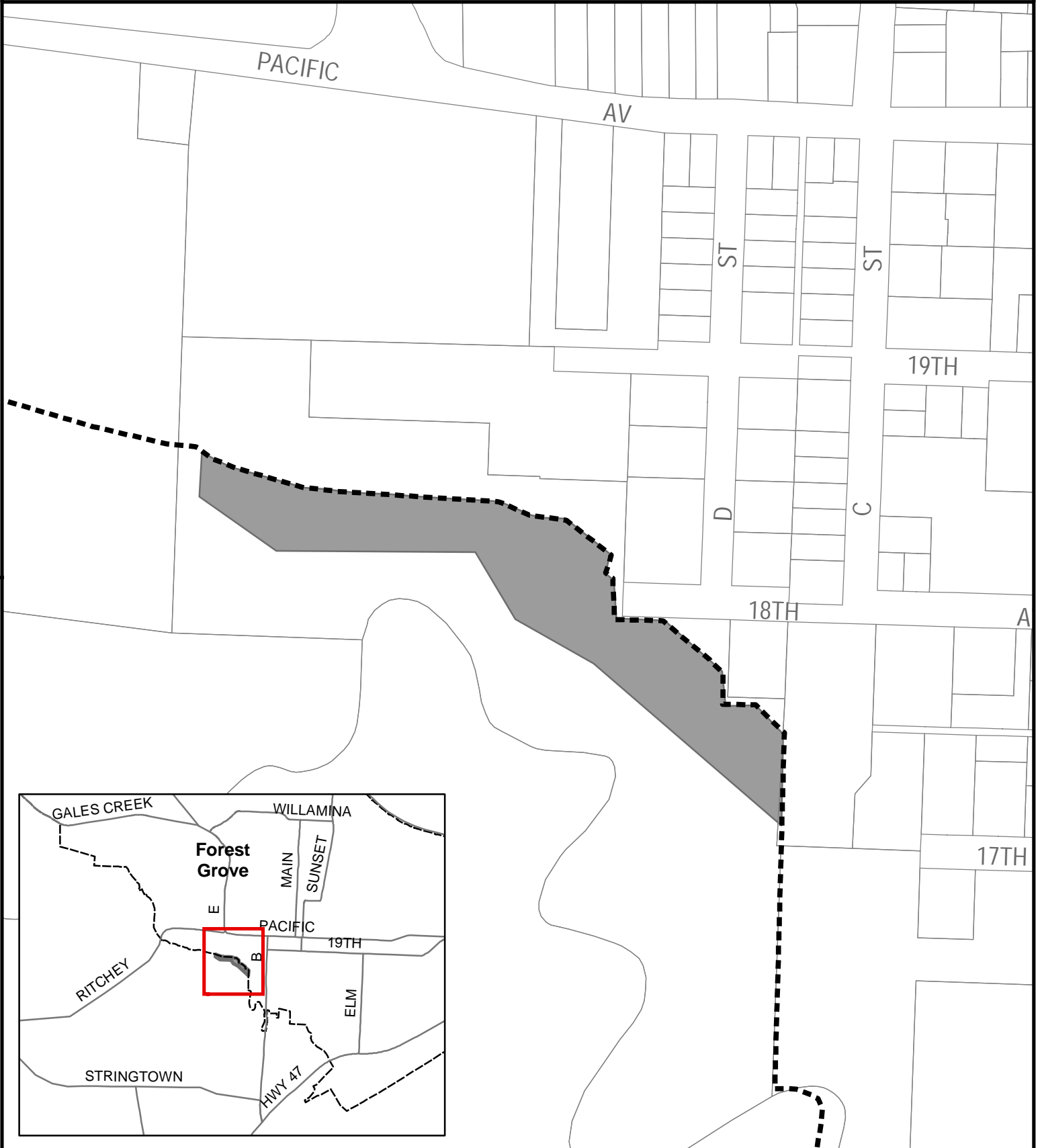
- “2. The land included in this amendment shall be designated as Inner Neighborhood on the Metro 2040 Growth Concept Plan and zoned by the City of Forest Grove to allow an average density of 10 units per net developable acre.”

Attachment 1, UGB Minor Adjustment, Res. No 07-3792

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Annexation to the Urban Growth Boundary

Washington Co



Data Resource Center
600 NE Grand Ave
Portland, OR 97232-2736
(503) 797-1742
<http://www.metro-region.org/drc>

- Taxlots
- Urban Growth Boundary
- Land to be added to UGB

1:3,000
Ron and Wanda Rau

Attachment 1
UGB Minor Adjustment
Res. No 07-3792