

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ENTERING AN ORDER)
TO WAIVE THE DEADLINE FOR FILING AN) Resolution No. 07-3804
APPLICATION FOR A MAJOR AMENDMENT TO)
THE URBAN GROWTH BOUNDARY BY THE) Introduced by Councilor Kathryn Harrington
CITY OF CORNELIUS)

WHEREAS, Chapter 3.01 of the Metro Code (Urban Growth Boundary and Urban Reserves Procedures) provides for “major amendment” to the urban growth boundary (“UGB”) to add land for non-residential purposes; and

WHEREAS, section 3.01.025 of the Code provides that Metro will not accept applications for major amendments during the calendar year in which Metro is required by state law to determine the capacity of the UGB; and

WHEREAS, because calendar year 2007 is a year in which Metro must complete an analysis of UGB capacity, Metro may not accept applications for major amendments in 2007; and

WHEREAS, the Oregon Legislature is considering an extension of the time for completion of Metro’s analysis of UGB capacity from 2007 to 2009, in House Bill 2051; and

WHEREAS, if House Bill 2051 becomes law, calendar year 2007 would no longer be a year in which Metro must complete its analysis of UGB capacity, and, therefore, Metro could accept applications for major amendments; and

WHEREAS, section 3.01.025 of the Code also establishes an annual deadline of March 15 for submission of an application for a major amendment, but provides for a waiver of that deadline upon a finding of good cause and an affirmative vote of five members of the Metro Council; and

WHEREAS, the City of Cornelius has requested a waiver in order to submit an application for a major amendment to add industrial land to the UGB no later than October 1, 2007; and

WHEREAS, if House Bill 2051 becomes law, it is unlikely that the Metro Council would consider expansion of the UGB to add industrial land prior to December, 2009; and

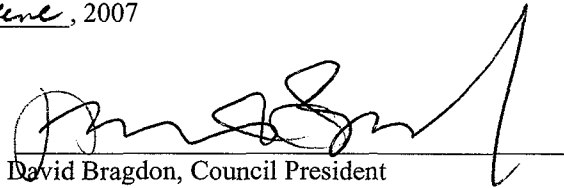
WHEREAS, the City of Cornelius believes there are immediate opportunities for industrial development on the territory it would propose for addition to the UGB by major amendment, and that these opportunities may be lost by December, 2009; and

WHEREAS, the Metro Council considered this resolution and order at a public meeting on June 21, 2007, and considered information presented at the meeting; now, therefore

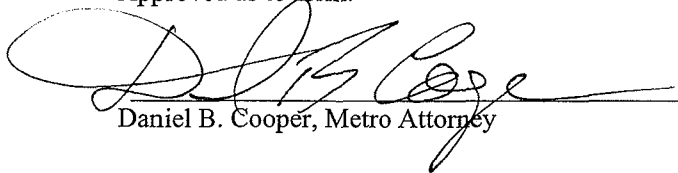
BE IT RESOLVED that the Metro Council:

1. Enters Order 07-030, attached to this resolution as Exhibit "A", which approves the waiver of the March 15 deadline.
2. Directs the Chief Operating Officer to send a copy of Order No. 07-030 to the City of Cornelius and Washington County.

ADOPTED by the Metro Council this 21st day of June, 2007


David Bragdon, Council President

Approved as to form:


Daniel B. Cooper, Metro Attorney

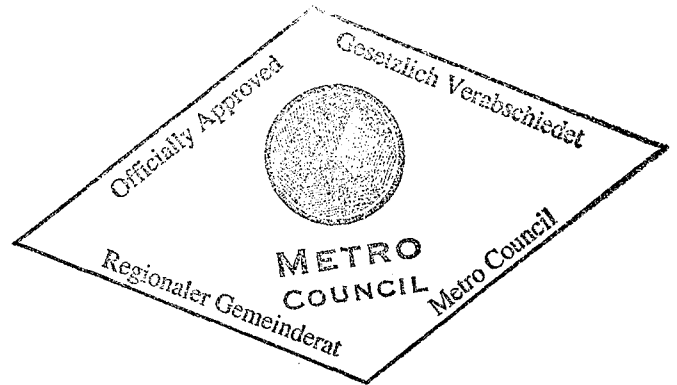


Exhibit A to Resolution No. 07-3804

Order No. 07-030

RELATING TO A WAIVER TO ALLOW THE CITY OF CORNELIUS TO SUBMIT AN APPLICATION FOR A MAJOR AMENDMENT TO THE UGB

The City of Cornelius has submitted a request for a waiver of the March 15 deadline for submission of an application for a major amendment to the UGB, pursuant to Metro Code section 3.01.025. Subsection (b) of section 3.01.025 allows the Metro Council to waive the deadline upon a finding of good cause and an affirmative vote of five members of the Council.

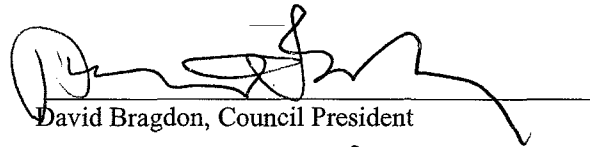
The Metro Council considered the request at a public meeting on June 21, 2007. The Council determined that there is good cause to allow the city to submit an application beyond the March 15 deadline for the reasons that:

1. If legislation passes the 2007 Oregon Legislature that extends the time for completion of Metro's analysis of the capacity of the UGB from December, 2007, to December, 2009, it is unlikely that the Council would consider UGB expansion prior to December, 2009; and
2. The city believes there are opportunities for industrial development on the land the city would propose for expansion of the UGB that may be lost by December, 2009.

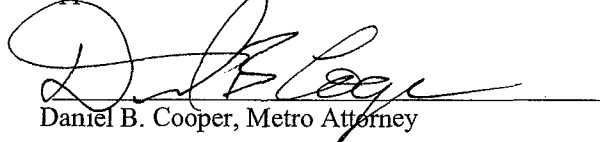
IT IS ORDERED THAT:

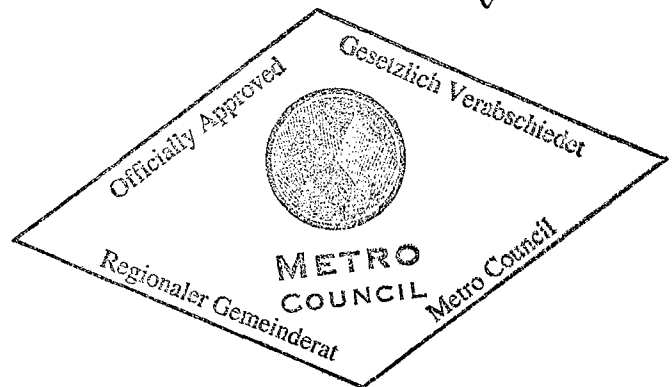
Contingent upon passage by the Oregon Legislature of legislation that extends the deadline for completion of Metro's next analysis of capacity of the UGB to at least December, 2009, and passage of no other legislation that changes Metro's obligations under ORS 197.299 and 197.296, the Metro Council waives the March 15 deadline in section 3.01.025 of the Metro Code for submission of an application for a major amendment to the UGB to allow the City of Cornelius to submit an application prior to October 1, 2007.

ENTERED this 21st day of June, 2007.


David Bragdon, Council President

Approved as to form:


Daniel B. Cooper, Metro Attorney



STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 07-3804 FOR THE PURPOSE OF ENTERING AN ORDER TO WAIVE THE DEADLINE FOR FILING AN APPLICATION FOR A MAJOR AMENDMENT TO THE URBAN GROWTH BOUNDARY BY THE CITY OF CORNELIUS

Date: May 10, 2007

Prepared by: Tim Everett and Linnea Nelson

BACKGROUND

Metro is responsible for managing the Portland metropolitan region's Urban Growth Boundary (UGB). State law requires Metro to analyze the capacity of the regional urban growth boundary every five years and to ensure that it includes sufficient capacity for the next 20 years' worth of growth. Except in those years in which Metro is conducting its capacity analysis (2002 and 2007, for example), an applicant may submit a major amendment to Metro that could expand or change the UGB. The Oregon Legislature is currently considering House Bill (HB) 2051 ("Requires Metro to complete first inventory, determination and analysis of housing capacity and need within urban growth boundary that is due on or after December 1, 2007, by December 31, 2009. Takes effect December 1, 2007.") Should HB 2051 become law, calendar year 2007 would no longer be a year in which Metro must complete its review of the UGB, and, therefore, Metro could accept applications for major amendments.

The Metro Code establishes the annual deadline of March 15 for submission of an application for a major amendment, except for years when the Metro Council is required to conduct a review, in which case the Council will not accept any applications. Because the passage of HB 2051 would only occur after March 15, the deadline would be impossible to meet in 2007. The City of Cornelius has submitted a request for a waiver of the deadline, should HB 2051 become law, and has committed to submit an application to Metro for a major amendment to the UGB by October 1, 2007. The Metro Code allows the Metro Council to waive the deadline upon a finding of good cause and an affirmative vote of five members of the Council.

In addition, the City of Cornelius believes there are immediate opportunities for industrial development on the land the city would propose for expansion of the UGB that may be lost by 2008 or December 2009.

ANALYSIS/INFORMATION

1. Known Opposition

There is no known opposition to waiving the UGB major amendment application deadline. Some persons and groups who testified at the last UGB expansion hearings in 2005 and previous years may be opposed to expansion of the UGB. This resolution, however, is not a question of expanding the UGB, but rather about a one-time change to the major amendment application process, given the passage of HB 2051.

2. Legal Antecedents

Chapter 3.01 of the Metro Code (Urban Growth Boundary and Urban Reserves Procedures) provides for "major amendment" to the UGB to add land for non-residential purposes, and section 3.01.025 of the Code provides that Metro will not accept applications for major amendments during the calendar year in which Metro is required by state law to determine the capacity of the UGB.

In House Bill 2051, the Oregon Legislature is considering an extension of the time from 2007 to 2009 for completion of Metro's analysis of UGB capacity. If House Bill 2051 becomes law, calendar year 2007 would no longer be a year in which Metro must complete its analysis of UGB capacity, and, therefore, Metro could accept applications for major amendments.

Section 3.01.025 of the Code also establishes an annual deadline of March 15 for submission of an application for a major amendment, but provides for a waiver of that deadline upon a finding of good cause and an affirmative vote of five members of the Metro Council.

3. Anticipated Effects

If Resolution No. 07-3804 is adopted, the Metro Council will accept the City of Cornelius' application for a major amendment to the UGB in 2007. Pursuant to section 3.01.025 of the Metro Code, the Council would waive the March 15 deadline for application for the City of Cornelius. Consideration of that application would be handled in a separate Council action.

4. Budget Impacts

Passage of this resolution would require re-prioritizing staff time in order to process an application for a major amendment to the UGB per Metro code.

RECOMMENDED ACTION

The Chief Operating Officer recommends passage of Resolution No. 07-3804.