

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF EXPRESSING) RESOLUTION NO. 01-3108
COUNCIL INTENT TO AMEND THE URBAN)
GROWTH BOUNDARY FOR MAJOR)
AMENDMENT CASE 01-3: CITY OF) Introduced by Mike Burton,
WILSONVILLE) Executive Officer

WHEREAS, Metro received a petition for a major amendment for 119 acres located within Washington County at the intersection of Day Road and Grahams Ferry road, as shown in Exhibit A; and

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

WHEREAS, Metro held a hearing to consider the petition on July 16, 2001, conducted by an independent Hearing Officer; and

WHEREAS, The Hearing Officer submitted his report on August 31, 2001, recommending approval of the petition for 119 acres; and

WHEREAS, The property is currently outside, but contiguous to the Metro jurisdictional boundary; and

WHEREAS, Metro Code Section 3.01.065(f)(1) provides that action to approve a petition including land outside Metro shall be by resolution expressing intent to amend the Urban Growth Boundary if and when the affected property is annexed to Metro; now, therefore,

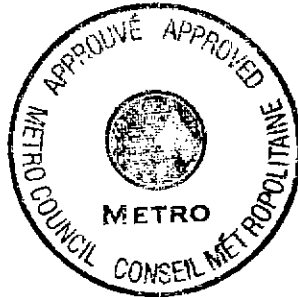
BE IT RESOLVED,

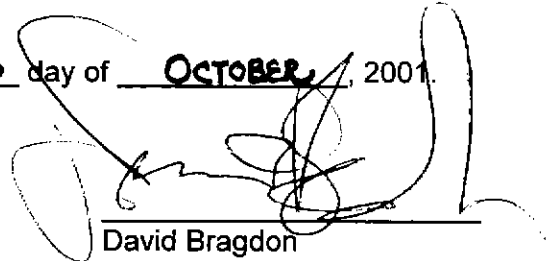
1. That the Metro Council, based on the findings in Exhibit B attached herein, expresses its intent to adopt an ordinance amending the Urban Growth Boundary as

shown in Exhibit A within 30 calendar days of receiving notification that the property has been annexed to Metro, provided such notification is received within six (6) months of the date on which the resolution is adopted.

2. That the Metro Council approves and endorses the request by the owners of the land and electors residing on the land that the subject property be annexed to Metro.

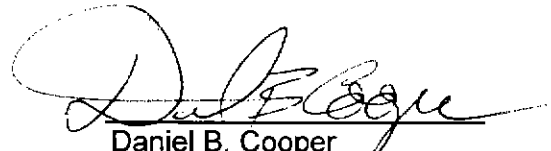
ADOPTED by the Metro Council this 4th day of OCTOBER, 2001.





David Bragdon
Presiding Officer

Approved as to Form:



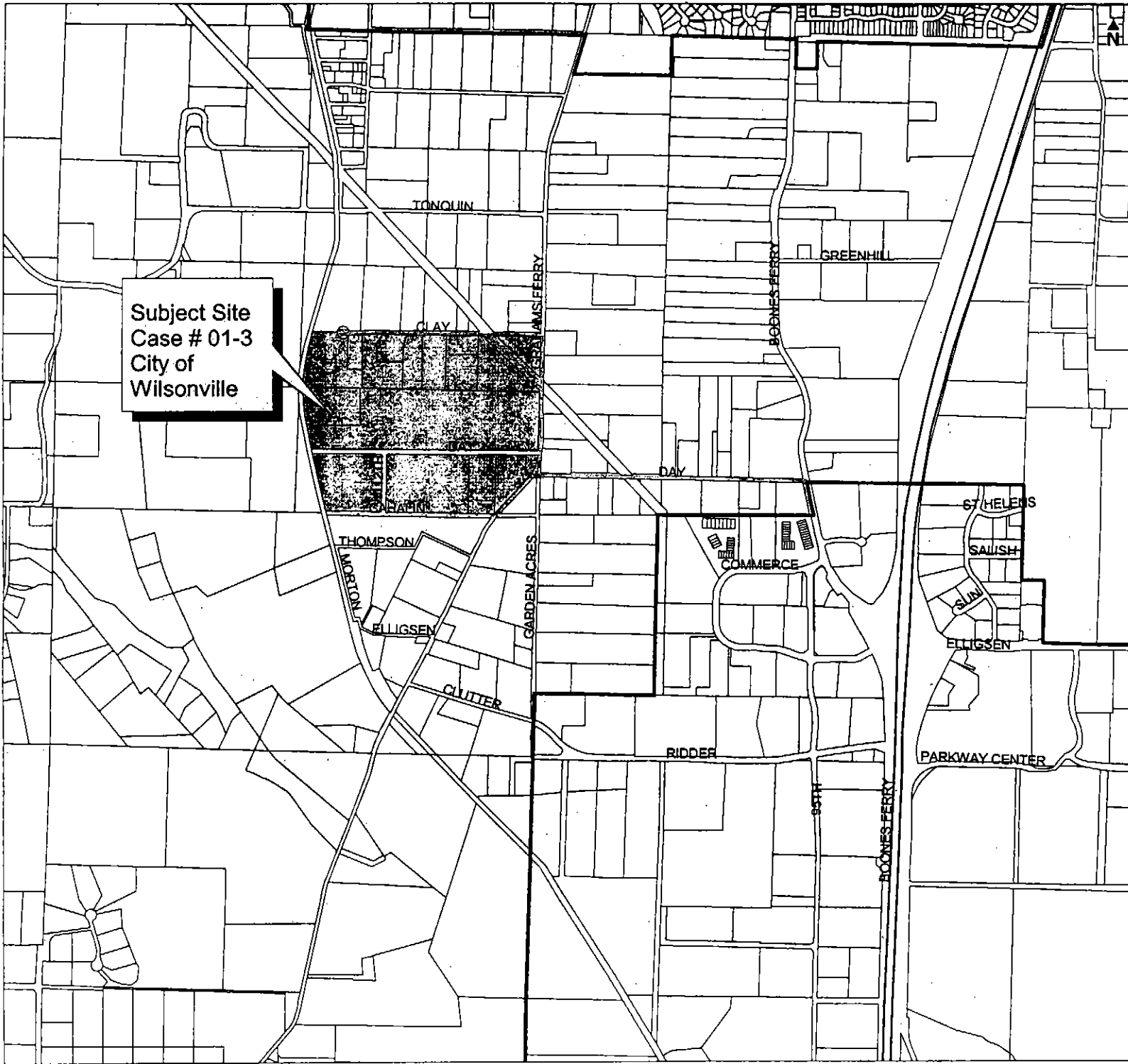
Daniel B. Cooper
General Counsel

Exhibit A Proposed Amend.

Case # 01-3
City of Wilsonville



Subject Site
Case # 01-3
City of
Wilsonville



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 accuracy or completeness of the information for a particular purpose, accompanying this product. However, notification of any errors will be appreciated.



1" = 1500 feet



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BEFORE THE METRO COUNCIL

1
2
3 In the matter of the petition of the City of Wilsonville for a) RECOMMENDED
4 Major Amendment to the Urban Growth Boundary for a) FINDINGS AND
5 119-acre site, the Coffee Creek Correctional Facility, east of) CONCLUSIONS
6 Grahams Ferry Road in unincorporated Washington County) UGB Case No. 01-03
7

8 **A. BASIC FACTS, PUBLIC HEARINGS AND THE RECORD**
9

10 1. On March 15, 2001, the City of Wilsonville ("petitioner") completed filing a
11 petition for a major amendment to the Urban Growth Boundary ("UGB") to include the
12 Coffee Creek Correctional Facility ("CCCF"). See Exhibit 1 for the petition for major
13 amendment (the "petition"). Basic facts about the petition include the following:
14

15 a. The land to be added to the UGB is Tax Lots 500, 600, 700, 701, & 702,
16 Tax Map 3S13AB, Tax Lots 800, 900, & 1000, Tax Map 3S1AA and Tax Lots 1300, 1301,
17 1400, 1500, 1600 and 1601, Tax Map 3S13A, Washington County, and the rights of way
18 for Day Road, Boones Ferry Road, Clay Street, Grahams Ferry Road and Cahalin Street
19 abutting those tax lots and Day Road between those tax lots and the City of Wilsonville (the
20 "subject property"). The majority of the subject property is bounded by Grahams Ferry
21 Road to the east, Cahalin Street to the south, Clay Road to the north and the railroad right of
22 way on the west. The City of Wilsonville (the "City") and the existing UGB are southeast
23 of the subject property. See Exhibits 3, 13, 15, and 22 for maps showing the subject
24 property. See Exhibit 7 for the legal description of the subject property.
25

26 b. The main portion of the subject property is a roughly rectangularly-
27 shaped parcel 2000 feet north-south by about 2500 feet east-west. It contains 119 acres. It
28 is in an exception area to Statewide Planning Goals 3 and 4. The western portion is
29 designated and zoned MAF (Land Extensive Industrial), and the eastern portion is
30 designated and zoned AF-5 (Agriculture/Forest, 5-acre minimum lot size) on the
31 acknowledged Washington County Comprehensive Plan Map. The Oregon State
32 Department of Corrections (the "DOC") is developing the Coffee Creek Correctional
33 Facility on the subject property.
34

35 c. The petition was accompanied by comments from affected jurisdictions
36 and service providers. See Exhibits 8-12.

1
2 i. At the request of the applicant, Exhibit 18, Metro waived the
3 requirement that the Washington County Board of Commissioners comment on the petition
4 before it was accepted for processing. Exhibit 17. After the petition was accepted for
5 processing, the Washington County Board of Commissioners voted to support the petition.
6 See Exhibit 16.

7
8 iii. The Sherwood School District, (the "School District")
9 commented that it could provide school service to the subject property, but approval of the
10 petition would not improve efficiency of school service delivery in the UGB. The School
11 District expressed a neutral position. See Exhibit 9.

12
13 iv. The Washington County Sheriff Department expressed support
14 for the petition without further comment. See Exhibit 10.

15
16 iv. Tualatin Valley Fire and Rescue District ("TVFRD")
17 commented that it could serve the subject property and expressed support for the petition.
18 See Exhibit 11.

19
20 v. The City of Wilsonville agreed to provide domestic water, sanitary
21 sewer, stormwater and transportation services to the site. See Exhibit 8. The City either has
22 extended or is in the process of extending these services to the subject property. See
23 Exhibit 12.

24
25 2. Metro staff mailed notices of a hearing to consider the petition by certified mail
26 to the owners of property within 500 feet of the subject property, to the petitioner, to
27 Washington County, to the City of Tualatin and to the Department of Land Conservation
28 and Development ("DLCD"). See Exhibits 2 and 22. A notice of the hearing also was
29 published in *The Oregonian* at least 10 days before the hearing.

30
31 3. On July 16, 2001, Metro hearings officer Larry Epstein (the "hearings officer")
32 held a public hearing at the Wilsonville City Hall Annex to consider the petition. All
33 exhibits and records of testimony have been filed with the Growth Management Services
34 Division of Metro. At the beginning of the hearing, the hearings officer made the declaration
35 required by ORS 197.763. The hearings officer disclaimed any *ex parte* contacts, bias or
36 conflicts of interest. Four witnesses testified in person.

1
2 a. Metro consulting planner Stefanie Slyman verified the contents of the
3 record and summarized the staff report (Exhibit 15), including basic facts about the subject
4 property, the UGB and urban services, and comments from the various service providers
5 and affected jurisdictions.
6

7 i. She noted that the DOC is currently in the process of constructing
8 the CCCF on the subject property. The City of Wilsonville extended urban services to the
9 subject property. The DOC sited the CCCF on the subject property pursuant to Chapter
10 982, Oregon Laws 1999 and ORS 421, the “supersiting legislation,” which provides that
11 “each city, county and political subdivision shall issue the appropriate permits, licenses, . . .
12 necessary for the construction and operation of the [CCCF] complex.”
13

14 ii. She argued that the prison is an urban use which must be located
15 within the UGB. The subject property has been converted to an urban use as if Goal 14 had
16 been considered. However, because of the supersiting legislation, it is not necessary to
17 include the subject property in the UGB to allow the CCCF to operate.
18

19 iii. She noted that the petitioner chose not to respond to the
20 applicable approval criteria, relying instead on the supersiting legislation.
21

22 b. Bob Hoffman appeared for the City of Wilsonville.
23

24 i. He argued that this petition represents an unusual situation,
25 because an urban use, the CCCF, already exists on the subject property. The City of
26 Wilsonville provided water and sanitary and storm sewer services to the subject property,
27 and it is in the process of improving transportation facilities to serve the subject property.
28 The City wants to incorporate the subject property into the City, among other reasons, so the
29 prison population is considered part of the City population for purposes of federal and state
30 funding. He testified that the City can continue to provide services to the prison without
31 amendment of the UGB. The City will be compensated for the services it provides.
32

33 ii. He argued that the Metro Council has the authority to make an
34 exception to the approval criteria to accommodate needed regional and state facilities.
35

1 iii. He argued that the petition does comply with the applicable
2 approval criteria. The State of Oregon, through the supersiting legislation, already
3 determined that the CCCF is a “needed” facility. Therefore UGB Factor 1 is met.
4

5 iv. He testified that the City supports the creation of a Master Plan
6 for the subject property and surrounding area. The only issue is how to fund that planning
7 process. He noted that the City developed a Master Plan for the area through the prior
8 urban reserve designation process.
9

10 c. Richard Ross testified for DOC. He introduced a letter in support of the
11 petition. Exhibit 24. He testified that granting the petition allows the efficient operation and
12 security of the CCCF, but is not required for such operations and security.
13

14 d. Darren Pennington testified against the petition as proposed.
15

16 i. He argued that the City’s petition relies on the supersiting
17 legislation and ignores the applicable approval criteria in the Metro Code.
18

19 ii. He objected to the proposed “cherry stem” expansion of the
20 UGB, because it does not comply with UGB Factors 3 and 4, which require the orderly and
21 economic provision of urban services and the maximum efficiency of land uses. He argued
22 that the City should be required to develop a Master Plan for the subject property and
23 surrounding area prior to amending the UGB or within a specified time period after
24 approval of the petition in order to ensure an orderly expansion of the UGB. He argued
25 that the owners of abutting properties will seek to be included in the UGB through the
26 minor amendment process in a haphazard manner without such a master plan.
27

28 iii. He argued that the owners of surrounding properties have been
29 “in turmoil” for the past three years while the prison siting decision was pending.
30 Adoption of a master plan would provide the owners of surrounding properties with some
31 certainty as to the future of their properties.
32

33 iv. He noted that the prior urban reserve planning predated the
34 prison siting decision. Property owners in the area were uncertain whether the prison would
35 be sited on the subject property at that time.
36

1 e. Attorney John Rankin appeared on behalf of the Clay Street
2 Neighborhood Association, consisting of the owners of properties located north of and
3 abutting Clay Street between Grahams Ferry Road and the railroad right of way.
4

5 i. He testified that his clients are not opposed to the petition.
6 However they support requiring that the City participate in a master planning process for
7 this area in coordination with affected property owners, cities, Washington County, Metro
8 and state officials. Information developed through the master plan process may
9 demonstrate compliance with the applicable approval criteria for this petition.
10

11 ii. He argued that approval of this petition should include the entire
12 right of way for streets abutting the CCCF site and between the site and the City of
13 Wilsonville. All of these streets have been or will be expanded and improved to serve the
14 prison and are part of the urbanization process on the subject property.
15

16 iii. He noted that the prior urban reserve designation and planning
17 process did not include properties or other land north of Day Road and east of Grahams
18 Ferry Road.
19

20 iv. He argued that the CCCF is similar to a nonconforming use.
21 The City is attempting to legitimize the use by including the urban use within the UGB and
22 annexing it into the City.
23

24 f. Metro planner Tim O'Brien testified that approval of the petition will
25 include all road rights of way. Current Metro regulations require that major amendments
26 must include all adjacent road rights of way.
27

28 g. The hearings officer held the record open for one week to allow the
29 petitioner and the general public to submit additional written testimony and evidence. The
30 hearings officer held the record open for a second week to allow the petitioner to respond to
31 the new evidence and to submit a closing argument.
32

33 5. On August 31, 2001, the hearings officer filed with the Council this report and
34 proposed findings and conclusions for a final order granting the petition for the reasons
35 provided herein. Copies of the report and recommendation were timely mailed to parties of

1 record together with an explanation of rights to file exceptions thereto and notice of the
2 Council hearing to consider the matter.

3
4 6. The Council held a duly noticed public hearing to consider testimony and timely
5 exceptions to the report and recommendation. After considering the testimony and
6 discussion, the Council voted to grant the petition for Contested Case No. 01-03
7 (Wilsonville), based on the recommended findings and conclusions and the public record in
8 this matter. The record includes an audio tape of the public hearing on July 16, 2001 and
9 the exhibits on the list attached to these proposed findings and conclusions.

10
11 **B. APPLICABLE APPROVAL STANDARDS AND RESPONSIVE FINDINGS**

12
13 1. Metro Code section 3.01.30 contains approval criteria for major amendments to
14 the UGB. The relevant criteria from those sections are reprinted below in italic font.
15 Following each criterion are findings explaining how the petition does or does not comply
16 with that criterion.

17
18 **3.01.030 Major Amendment Criteria**

- 19
20 (a) *The purpose of this section is to address ORS 197.298, Goals 2 and 14 of*
21 *the statewide planning goals and RUGGO. This section is a detailed listing*
22 *of criteria which are intended to interpret and further define ORS 197.298,*
23 *Goals 2 and 14 for specific application to the district UGB. Compliance*
24 *with the requirements of this section shall constitute compliance with ORS*
25 *197.298, statewide planning Goals 2 and 14 and the Regional Urban*
26 *Growth Goals and Objectives.*
- 27
28 (b) *While all of the following Goal 14 factors must be addressed, the factors*
29 *cannot be evaluated without reference to each other. Rigid separation of*
30 *the factors ignores obvious overlaps between them. When demonstrating*
31 *compliance with the seven factors, petitioners shall not assume that*
32 *demonstrating compliance with one factor or subfactor constitutes a*
33 *sufficient showing of compliance with the goal, and allows the exclusion of*
34 *the other factors when making an overall determination of compliance or*
35 *conflict with the goal. For major amendments, the petitioner shall address*
36 *factors 1 through 7. If it can be demonstrated that factors 1 and 2 can be*
37 *met, factors 3 through 7 are intended to assist in the decision as to which*
38 *site is most appropriate for inclusion within the boundary through a*
39 *balancing of factors. Demonstration that the priorities of ORS 197.298*
40 *have been followed is required in addition to the application of factors 3*
41 *through 7.*

42
43 ***Factor 1: Demonstrated need to accommodate long-range urban population***
44 ***growth.***
45

1 (A) *Evidence in support of a major amendment petition to amend the*
2 *UGB shall be based on a demonstrated need to accommodate long-*
3 *range population growth requirements utilizing Metro's most*
4 *recently adopted regional forecast.*

5
6 (B) *Major amendment proposals shall demonstrate that the existing*
7 *supply of land for the subject use is less than the district's adopted*
8 *20-year forecast of need.*

9
10 2. Based on DOC forecasts, the state's prison population is expected to increase by
11 more than 10,000 persons, from 8,583 to more than 18,000, between 1995 and 2005. See
12 Exhibit 1 of the petitioner's July 19, 2001 letter. Exhibit 26. The DOC, through the
13 supersiting process, is building a prison on the subject property to house up to 1200 of
14 those prisoners. 40-percent of the projected prisoner population growth is expected to
15 come from the Metro area, and therefore is included in Metro's most recently adopted
16 regional forecast. The remaining 60-percent of prisoners are from other areas of the state,
17 and were not included in Metro forecasts. Therefore Metro's prior needs analysis and 20-
18 year forecast of need are inadequate to accommodate projected long range prison population
19 growth in the area.

20
21 (C) *Evidence shall be provided to demonstrate that the identified need*
22 *cannot reasonably be met within the UGB, consistent with the*
23 *following considerations:*

24
25 (i) *A suitable site with an appropriate comprehensive plan*
26 *designation is not available.*

27
28 (ii) *All net developable land with the appropriate plan*
29 *designation within the existing UGB shall be presumed to be*
30 *available for urban use during the planning period.*

31
32 (iii) *Market availability and level of parcelization shall not*
33 *render an alternative site unsuitable unless justified by*
34 *findings consistent with the following criteria:*

35
36 (a) *Land shall be presumed to be available for use at*
37 *some time during the planning period of the UGB*
38 *unless legal impediments, such as deed restrictions,*
39 *make it unavailable for the use in question.*

40
41 (b) *A parcel with some development on it shall be*
42 *considered unavailable if the market value of the*
43 *improvements is not significantly less than the value*
44 *of the land. Standard measures to account for the*
45 *capability of infill and redevelopment will be*
46 *developed by the district to provide a means to define*
47 *what is significant when comparing structure value*
48 *and land values. When a city or county has more*
49 *detailed or current gross redevelopable land*

1 inventory data, for all or a part of their jurisdiction,
2 it can request that the district substitute that data in
3 the gross developable land inventory.
4

5 (c) Properly designated land in more than one
6 ownership shall be considered suitable and available
7 unless the applicant demonstrates why the current
8 pattern or level of parcelization makes land
9 assembly during the planning period unfeasible for
10 the use proposed.
11

12 3. The DOC, through the site selection process, reviewed potential locations
13 within the UGB for siting the prison facility and concluded that there are no
14 adequate sites available which met the siting criteria specified by state law.
15 Therefore the existing supply of land for the prison use is less than the forecasted
16 need, and the need cannot reasonably be met within the existing UGB. See the
17 DOC's "Final Report for Day Road Site" Attachment A of the petitioner's July
18 30, 2001 letter. Exhibit 28. The analysis and findings in the DOC's site selection
19 process are adopted herein by reference.
20

21 **Factor 2: Need for housing, employment and livability.** A proponent may choose
22 to address either subsection (A) or (B) or both, as described below. The
23 proposal may be either regional or subregional in scope. (The petitioner
24 chose to address subsection A.)
25

26 (A) Evidence in support of a proposed amendment to the UGB based
27 upon housing or employment opportunities must demonstrate that a
28 need can be factually shown to be based upon an economic analysis
29 and can only be met through a change in the location of the UGB.
30 For housing, at a minimum, the proposal must demonstrate an
31 unmet need according to statewide planning Goal 10 and its
32 associated administrative rules. For employment opportunities, the
33 proposal must demonstrate, at a minimum, an unmet need
34 according to statewide planning Goal 9 and its associated
35 administrative rules. The proposal must consider adopted
36 comprehensive plan policies of jurisdictions adjacent to the site,
37 when identified by a jurisdiction and the proposal must demonstrate
38 that it is consistent with adopted regional policies dealing with
39 urban growth management, transportation, housing, solid waste,
40 and water quality management.
41

42 4. The reports of the DOC, attached to Exhibit 26, clearly demonstrate that there is
43 an unmet regional (and statewide) need for prisoner housing and associated employment
44 based on projected prisoner populations. The DOC concluded that these housing and
45 employment needs can only be met on the subject property, which is currently located
46 outside the UGB. To provide housing, services and employment for the prison, these needs
47 can only be met by enlarging the UGB to include the subject site.

1
2 5. The affected local governments adjacent to the subject property did not identify
3 any adopted comprehensive plan policies affected by the petition.
4

5 6. There are no adopted regional policies relating to prisons. However the
6 proposed petition is consistent with Metro policies which require an adequate level of all
7 necessary facilities and services; in this case, prison facilities are necessary at the CCCF.
8

9 **Factor 3: Orderly and economic provision of urban services. Consideration of**
10 **this factor shall be based upon the following:**
11

12 (A) *For the purposes of this section, economic provision shall mean the*
13 *lowest public cost provision of urban services. When comparing*
14 *alternative sites with regard to factor 3, the best site shall be that*
15 *site which has the lowest net increase in the total cost for provision*
16 *of all urban services. In addition, a proponent may show how the*
17 *proposal minimizes the cost burden to other properties outside the*
18 *subject property proposed to be brought into the boundary.*
19

20 (B) *For the purposes of this section, orderly shall mean the extension of*
21 *services from existing serviced areas to those areas which are*
22 *immediately adjacent and which are consistent with the manner of*
23 *service provision. For the provision of gravity sanitary sewers, this*
24 *would mean a higher rating for an area within an already served*
25 *drainage basin. For the provision of transit, this would mean a*
26 *higher rating for an area which could be served by the extension of*
27 *an existing route rather than an area which would require an*
28 *entirely new route.*
29

30 7. Including the subject property in the UGB provides the most orderly and
31 economic provision of urban services to accommodate the identified needs for prisoner
32 housing and associated employment and services. The DOC constructed the CCCF on the
33 subject property. The City of Wilsonville has extended urban services to serve the CCCF
34 on the subject property. All urban services are already in place to accommodate the
35 projected needs. Accommodating the identified housing and employment needs on
36 alternative sites would require additional prison construction and the extension of new
37 public services, which would be inefficient, uneconomic and disorderly.
38

39 **Factor 4: Maximum efficiency of land uses within and on the fringe of the**
40 **existing urban area. Consideration of this factor shall be based on the**
41 **following:**
42

43 (A) *That the subject site can be developed with features of an efficient*
44 *urban growth form including residential and employment densities*
45 *capable of supporting transit service; residential and employment*

1 *development patterns capable of encouraging pedestrian, bicycle,*
2 *and transit use; and the ability to provide for a mix of land uses to*
3 *meet the needs of residents and employees; and,*
4

5 (B) *That the amendment will facilitate achieving an efficient urban*
6 *growth form on adjacent urban land, consistent with adopted local*
7 *comprehensive and regional functional plans. Evidence shall*
8 *demonstrate the following: the proposal assists with achieving*
9 *residential and employment densities capable of supporting transit*
10 *service; supports the evolution of residential and employment*
11 *development patterns capable of encouraging pedestrian, bicycle,*
12 *and transit use; and improves the likelihood of realizing a mix of*
13 *land uses to meet the needs of residents and employees.*
14

15 8. The subject property is being developed with facilities that contribute to an
16 efficient urban growth form. The DOC is constructing the CCCF at the maximum housing
17 and employment densities that are consistent with the security needs of the DOC and the
18 resident prisoner population. The security needs of the prison may discourage or preclude
19 pedestrian and bicycle use through most of the site, but such use may occur around the
20 periphery of the site to link areas beyond the prison boundaries. Also the prison is a major
21 destination for prisoners and related service providers, relatives and friends of the prison
22 population who can provide a critical mass that may support transit use between the subject
23 property and the City of Wilsonville. The prison will contribute to the mix of land uses
24 within the UGB and will fulfill the identified need for prisoner housing.
25

26 9. The prison will house up to 1200 inmates. Pursuant to State Initiative Measure
27 17 all prisoners are required to work 40-hours per week. Some of the inmates of this
28 minimum security facility will be employed by existing businesses and industry within the
29 City of Wilsonville. The proximity of the subject property to the existing urban area will
30 facilitate pedestrian, bicycle and transit travel between the subject property and the City by
31 prisoners, employees, visitors and support staff.
32

33 ***Factor 5: Environmental, energy, economic and social consequences. An***
34 ***evaluation of this factor shall include, but not be limited to, consideration of***
35 ***the following:***
36

37 (A) *If the subject property contains any resources or hazards subject to*
38 *special protection identified in the local comprehensive plan and*
39 *implemented by appropriate land use regulations, findings shall*
40 *address how urbanization is likely to occur in a manner consistent*
41 *with these regulations.*
42

43 10. There are no identified resources or hazards subject to special protection on the
44 subject property, based on resource inventories in the applicable comprehensive plans.

1
2 (B) *Complementary and adverse economic impacts shall be identified*
3 *through review of a regional economic opportunity analysis, if one*
4 *has been completed. If there is no economic opportunity analysis,*
5 *the applicant shall complete one for the subject land.*
6

7 (C) *The long-term environmental, energy, economic, and social*
8 *consequences resulting from the use at the proposed site shall be*
9 *identified. Petitions shall show that potential adverse impacts are*
10 *not significantly more adverse than would typically result from the*
11 *same proposal being located in other areas requiring an*
12 *amendment of the UGB.*
13

14 11. The subject property is being developed with the CCCF. The existence and
15 operation of the CCCF may have adverse and complementary economic impacts and long-
16 term environmental, energy, economic, and social consequences on the region generally and
17 surrounding properties specifically. However those consequences will occur regardless of
18 the proposed amendment. The CCCF is currently under construction on the subject
19 property. Approval or denial of this petition will have no impact on the construction and
20 operation of the facility and will no create or exacerbate such consequences, because the
21 prison will continue to operate regardless of the UGB amendment.

22
23 ***Factor 6: Retention of agricultural land. This factor shall be addressed through***
24 ***the following:***
25

26 (A) *Prior to the designation of urban reserves, the following hierarchy*
27 *shall be used for identifying priority sites for urban expansion to*
28 *meet a demonstrated need for urban land:*
29

30 (i) *Expansion on rural lands excepted from statewide planning*
31 *Goals 3 and 4 in adopted and acknowledged county*
32 *comprehensive plans. It is recognized that small amounts of*
33 *rural resource land adjacent to or surrounded by those*
34 *"exception lands" may be necessary for inclusion in the*
35 *proposal to improve the efficiency of the boundary*
36 *amendment, but shall be limited to the smallest amount of*
37 *land necessary to achieve this efficiency;*
38

39 12. The Washington County comprehensive plan designates the subject property
40 and surrounding lands as an exception area to Statewide Planning Goals 3 and 4, and
41 LCDC has acknowledged the comprehensive plan including this exception area. The
42 petition does not include any rural resource lands. Therefore the subject property qualifies
43 as "first tier" lands under the hierarchy in this factor.

44
45 ***Factor 7: Compatibility of proposed urban development with nearby agricultural***
46 ***activities.***
47

1 (A) *Evidence shall be provided by the petitioner analyzing the potential*
2 *impact on nearby agricultural activities including, but not limited to,*
3 *the following:*

4
5 (i) *A description of the number, location and types of*
6 *agricultural activities occurring within one mile of the*
7 *subject site;*

8
9 13. The applicant testified that there are “some agricultural activities existing
10 nearby, such as landscape and horticultural farms and some field crops and truck farms.”
11 See Exhibit 28. The applicant did not provide a more specific description of the number,
12 location and types of agricultural activities occurring within one mile of the subject site.

13
14 (ii) *An analysis of the potential impacts, if any, on nearby*
15 *agricultural activities taking place on lands designated for*
16 *agricultural use in the applicable adopted county or city*
17 *comprehensive plan, and mitigation efforts, if any impacts*
18 *are identified. Impacts to be considered shall include*
19 *consideration of land and water resources which may be*
20 *critical to agricultural activities, consideration of the impact*
21 *on the farming practices of urbanization of the subject land,*
22 *as well as the impact on the local agricultural economy.*

23
24 14. As noted above, the subject property and surrounding area are designated as an
25 exception area. There are no “lands designated for agricultural use in the applicable
26 adopted county ... comprehensive plan.” In addition, any potential adverse impacts of the
27 CCCF on existing agricultural activities on surrounding exception lands will occur
28 regardless of whether the proposed UGB amendment is approved, because the CCCF will
29 be built and operated pursuant to the supersiting legislation regardless of the UGB
30 amendment.

31
32 (c) *The requirements of statewide planning Goal 2 will be met by addressing*
33 *both the criteria in section 3.01.030(b), above, and by factually*
34 *demonstrating the following:*

35
36 (1) *The land need identified cannot be reasonably accommodated*
37 *within the current UGB;*

38
39 15. As noted above under Factor 1, the DOC concluded that there are no
40 reasonable alternative sites within the current UGB which meet all of the identified
41 siting criteria for the needed prison facility. There is no substantial evidence to the
42 contrary. In addition, the CCCF is under construction on the subject property. It is
43 not feasible to relocate the facility to another site within the UGB. based on the
44 record. Therefore the identified need for prisoner housing cannot be reasonably
45 accommodated within the current UGB.

1
2 (2) *The land need identified can be fully accommodated by the proposed*
3 *amendment;*
4

5 16. Based on the DOC's "Final Report for Day Road Site," the land need
6 identified can be fully accommodated by the proposed amendment. See Attachment
7 A of the petitioner's July 30, 2001 letter. Exhibit 28. There is no substantial
8 evidence to the contrary.
9

10 (3) *The proposed uses are compatible with other adjacent uses or will*
11 *be so rendered through measures designed to reduce adverse*
12 *impacts;*
13

14 17. By final order dated April 26, 2000 in the matter of Casefile No. 00-86-SU/D,
15 adopted and incorporated herein by reference, the Washington County hearings officer
16 concluded that the proposed CCCF will be compatible with surrounding uses. The DOC
17 designed and constructed the facility with significant setbacks between the prison facility
18 and surrounding properties. The DOC provided significant berms and landscaped areas
19 along the perimeter of the prison site, which the Washington County Hearings Officer
20 required DOC to further enhance. Therefore measures will reduce any remaining adverse
21 impacts. In addition, because the CCCF is under construction on the subject property and
22 will be operated pursuant to State law, any incompatibility or adverse impacts that may occur
23 will occur regardless of whether the UGB petition is granted.
24

25 (4) *The long-term environmental, economic, social and energy*
26 *consequences resulting from the use at the proposed site with*
27 *measures designed to reduce adverse impacts are not significantly*
28 *more adverse than would typically result from the same proposal*
29 *being located in other areas than the proposed site and requiring*
30 *an exception.*
31

32 18. Based on the results of the DOC's extensive site selection process, there are no
33 alternative sites available where the facility would have fewer long-term environmental,
34 economic, social and energy consequences than the subject property. As noted above, the
35 CCCF is designed with a number of mitigation measures to buffer the facility from
36 surrounding properties, reducing any adverse impacts that may occur.
37

38 (d) *The district shall not consider any amendment which would result in an*
39 *island of urban land outside the contiguous UGB or if the proposed*
40 *addition contains within it an island of non-urban land excluded from the*
41 *petition. The proposed location for the UGB shall result in a clear*
42 *transition between urban and rural lands, as evidenced by its use of natural*
43 *and built features, such as roads, drainage divides, floodplains,*

1 *powerlines, major topographic features, and historic patterns of land use*
2 *or settlement.*
3

4 19. The proposed amendment will not result in an island of urban land outside the
5 contiguous UGB. The prison site is not an island of urban development outside the
6 existing UGB.¹ The subject property is being developed at urban housing and employment
7 densities.² Full urban services are or will be provided to the site. Therefore approval of this
8 petition will merely incorporate this existing urban use into the UGB.
9

10 (e) *Satisfaction of the criteria in section 3.01.030(a) and (b) does not mean that*
11 *other statewide planning goals do not need to be considered. For major*
12 *amendments, evidence shall be provided to identify any other applicable*
13 *statewide goals which would be affected by the proposed amendment and to*
14 *demonstrate compliance with them.*
15

16 20. There are no other applicable statewide goals affected by the proposed
17 amendment.
18

19 (f) *Demonstrating compliance with the criteria in section 3.01.030(a), (b), (c)*
20 *and (d) shall be considered to be consistent with and in conformance with*
21 *the Regional Urban Growth Goals and Objectives.*
22

23 21. Based on the above findings, the proposed major amendment complies with the
24 criteria in section 3.01.030(a), (b), (c) and (d). Therefore the proposed amendment is
25 consistent with and in conformance with the Regional Urban Growth Goals and Objectives.
26

27 22. Based on the foregoing findings and conclusions, the proposed UGB
28 amendment complies with applicable standards. However, even if its did not comply, State
29 law requires approval of this petition as follows. State law requires that permits are to be
30 issued to allow construction and use of the CCCF notwithstanding any provision of law to
31 the contrary, including but not limited to other statutes, ordinances, regulations and charter
32 provisions. Section 7(1) of Chapter 982 Oregon Laws 1999. If it was necessary, this law
33 supersedes ORS 268.390(3), which provides that UGBs are intended to separate urban
34 from rural lands.

¹ The subject property is technically contiguous to the existing UGB via a "stem" coinciding with the Day Road right of way. Therefore the prison site is not an island. It is the bulbous end of a peninsula.

² The CCCF is designed to house up to 1200 prisoners and employ up to 400 persons on the 119-acre site resulting in a housing density of roughly 10 persons per acre and employment density of roughly 2.5 jobs per acre (not including prisoner employment required by Measure 17).

ATTACHMENT "A" TO THE RECOMMENDED FINDINGS AND CONCLUSIONS
IN THE MATTER OF UGB CASE 01-03 (Wilsonville) :
EXHIBITS

<u>Exhibit No.</u>	<u>Subject matter</u>
1.....	Major amendment petition and cover letter dated March 15, 2001
2.....	Affidavit and list of property owners within 500 feet of the subject property
3.....	City of Wilsonville Resolution No. 1695 authorizing initiation of the Metro annexation process
4.....	City of Wilsonville Planning Staff Memorandum dated February 28, 2001
5.....	Application for Annexation into the Metro District Boundary dated March 14, 2001
6.....	Annexation petition
7.....	Legal Description of petition site dated March 15, 2001
8.....	City of Wilsonville Agreement to provide public services to the Coffee Creek Correctional Facility
9.....	Sherwood School Dist. Service Provider Comment dated March 13, 2001
10.....	Washington County Sheriff Service Provider Comment dated March 14, 2001
11.....	Tualatin Valley Fire and Rescue Service Provider Comment dated March 14, 2001
12.....	City of Wilsonville Service Provider Comment dated March 14, 2001
13.....	Hearing Notice
14.....	Decision of the Washington County Hearings Officer for Casefile 00-866-SU/D(WPIC) dated April 26, 2000
15.....	Metro Staff Report dated June 26, 2001 with attachments
16.....	Recommendation to the Washington County Board of Commissioners from County planning staff dated March 24, 2001
17.....	Letter from Metro waiving requirement for a written statement from Washington County dated April 9, 2001
18.....	Letter from the City of Wilsonville requesting waiver of the requirement for a written statement from Washington County dated April 4, 2001
19.....	Letter from Tom Brian, Chair of Washington County Board of Commissioners dated April 3, 2001
20.....	Cover letter and attachments from the City of Wilsonville regarding additional application submittals dated March 26, 2001
21.....	Comment letter from _____
22.....	Notice boundary map and sources of notice addresses
23.....	Hearing sign in sheet dated July 16, 2001
24.....	Comment letter from Oregon Department of Corrections dated March 12, 2001
25.....	Comment letter from D. Pennington dated July 17, 2001
26.....	Letter from the City of Wilsonville, dated July 19, 2001
27.....	Comment letter from J. Rankin, dated July 23, 2001
28.....	Letter from the City of Wilsonville, dated July 30, 2001

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 01-3108 APPROVING URBAN GROWTH BOUNDARY MAJOR AMENDMENT CASE 01-3: CITY OF WILSONVILLE AND ADOPTING HEARING OFFICER'S REPORT INCLUDING FINDINGS AND CONCLUSIONS

Date: September 27, 2001

Presented by: Larry Epstein, Hearings Officer
Prepared by: Tim O'Brien, Planning Department

PROPOSED ACTION

Adoption of Resolution 01-3108, approving *Case 01-3: City of Wilsonville*, a major amendment to the urban growth boundary (UGB). The proposed amendment is shown on Attachment 1.

SUMMARY OF PROCESS

According to Metro Code 3.01.065, the Metro Council may act to approve, deny or remand to the Hearings Officer a petition in whole or in part. When the Council acts to approve a petition by requiring annexation to a city and when the petition includes land outside the Metro Boundary, such action shall be by resolution expressing intent to amend the UGB if and when the affected property is annexed to Metro. When the Council renders a decision that reverses or modifies the proposed order of the Hearings Officer, then the Council shall set forth its findings and state its reasons for taking the action in its order.

The Hearings Officer, Larry Epstein, submitted a report recommending approval of Case 01-3 (Attachment 2). According to Metro Code 3.01.060, parties to the case may file an exception related directly to the interpretation made by the Hearings Officer of the ways in which the petition satisfies the standards for approving a petition for a UGB amendment. Mr. Darren Pennington, a party of record, filed an exception based upon the Hearings Officer's interpretations and conclusions under Criteria 3 and 4 of the report (Attachment 3). In particular he takes an exception with how the petition provides for an orderly and economic provision of urban services. According to Metro Code 2.05.045(b), the Council shall, upon receipt of a proposed resolution and consideration of exceptions, adopt the proposed resolution, revise or replace the findings or conclusions in a proposed order, or remand the matter to the Hearings Officer.

If the Council votes to approve Case 01-3 and adopt this resolution, the decision will be consistent with the Hearings Officer's recommendation and findings. If the Council votes to approve the petition, the decision will be consistent with the staff report. If the Council votes to deny the petition, the decision will be consistent with the exception request.

BACKGROUND AND ANALYSIS

Proposal Description:

On March 15, 2001, the City of Wilsonville filed a petition for a 119-acre major amendment to the UGB for the site location of the Coffee Creek Correctional Facility (CCCF). The site consists of 14 separate tax lots in Washington County at the intersection of Day Road and Grahams Ferry Road. The site is bounded by Clay Street on the north, Oregon Electric Railroad on the west, Cahalin Street on the south and Grahams Ferry Road on the east. The subject property is zoned AF-5 (Agriculture and Forestry-5 acre minimum) and MAE (Land Extensive Industrial) by Washington County. The subject property is outside the Metro Boundary.

The petitioners propose to amend the UGB to bring this committed urban use, the CCCF, into the UGB. Because the site is not adjacent to the UGB, it requires the inclusion of a portion of Boones Ferry Road and Day Road to connect the site to the existing UGB. The City intends to annex it upon a successful UGB amendment. Metro waived the requirement of a written statement on the petition from the Washington County Board of Commissioners.

Hearings Officer Recommendation and Proposed Findings

The Hearings Officer, Larry Epstein, conducted a public hearing at the City of Wilsonville Annex on July 16, 2001. He submitted a report and recommendation to Metro on August 31, 2001, recommending approval of the petition. The case record contains the petitioners' submittals, Metro staff report, notification lists and the Hearings Officer's report. The complete record list is included as part of the Hearings Officer's Report and Recommendation.

Metro Code 3.01.030 requires the petitioner to show that the proposed change will result in an orderly and efficient transition from rural to urban land use based on the following criteria: Demonstrated need to accommodate long-range urban population growth; need for housing, employment and livability; orderly and economic provision of urban services; maximum efficiency of land uses within and on the fringe of the existing area; environmental, energy, economic and social consequences; retention of agricultural land; and compatibility with nearby agricultural land.

The Hearings Officer finds that on balance, the criteria for a major amendment to the UGB as contained in Metro Code 3.01.030, are met by the petitioner, largely because the subject property is being developed with the CCCF, and approval of the petition will bring this existing urban use into the UGB. The Hearings Officer further states that even if the petition did not comply with applicable requirements of the Metro Code, State law requires approval of this petition because it is in the nature of a permit that allows and facilitates efficient construction and operation of the CCCF. Section 7(1) of Chapter 982 Oregon Laws 1999.

The Hearings Officer recommends approval of *Case 01-3: City of Wilsonville* based upon the findings and conclusions in his report that:

- All application and noticing requirements are met; and
- A public hearing was conducted according the requirements and rules of Metro Code 3.01.050 and 3.01.055; and
- On balance, the criteria for a major amendment to the UGB contained in Metro Code 3.01.030 are met by the petitioner; and
- Even if the petition did not comply with applicable requirements of the Metro Code, State law requires approval of this petition because it is in the nature of a permit that allows and facilitates efficient construction and operation of the CCCF.

SUMMARY

The Council has the following options:

- Adopt Resolution 01-3108 to express the intent to approve *Case 01-3: City of Wilsonville*, based on the Hearings Officer's findings, if and when the subject property is annexed to Metro.
- Remand the proceeding to the Hearings Officer.
- Request the Metro Office of General Counsel or Hearings Officer to draft findings supporting a resolution to deny *Case 01-3: City of Wilsonville*.

BUDGET IMPACT

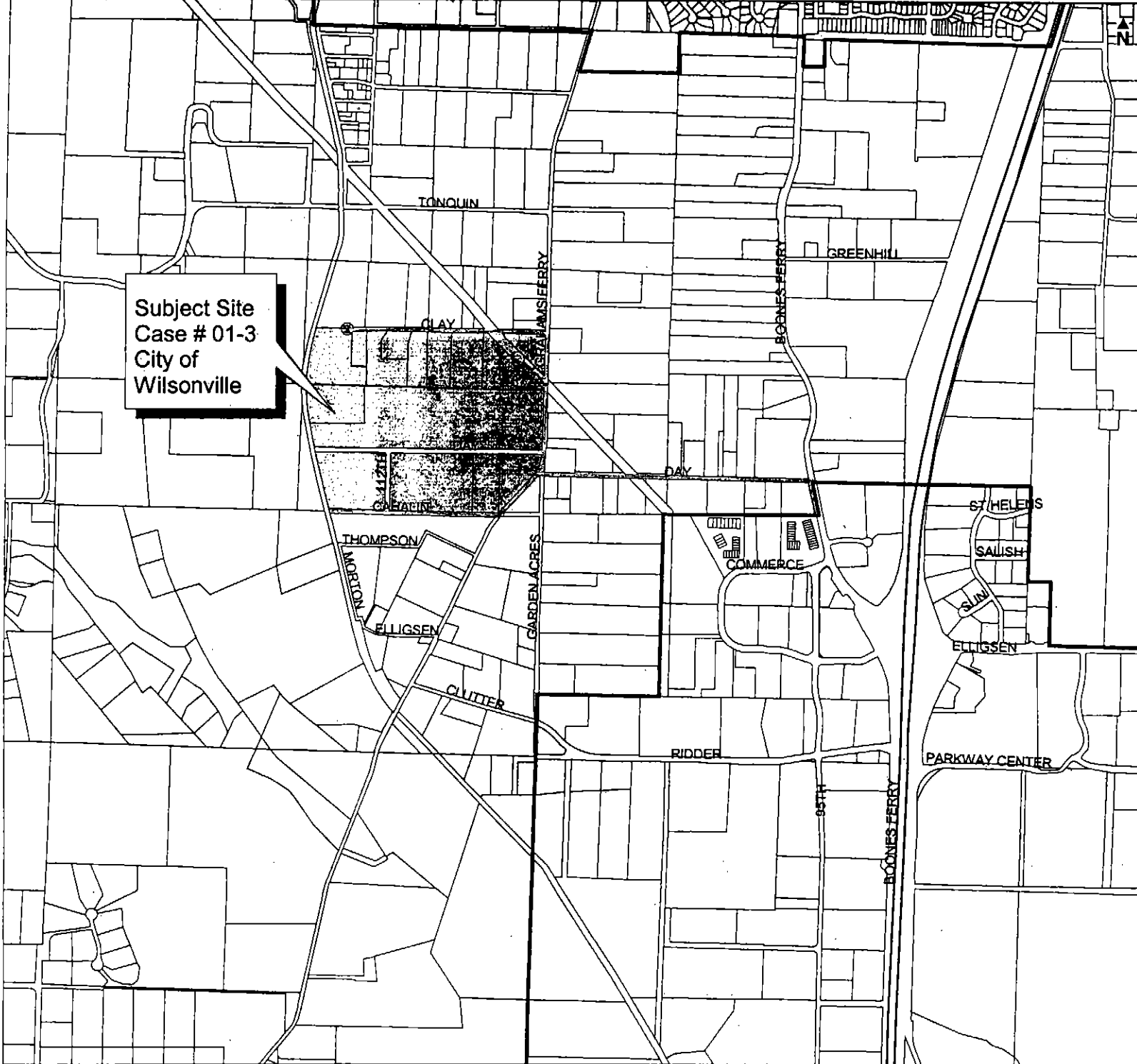
There is no budget impact from adopting this resolution.

Attachment 1 Proposed Amend.

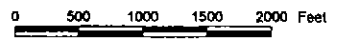
Case # 01-3
City of Wilsonville



Subject Site
Case # 01-3
City of
Wilsonville



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1" = 1500 feet



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BEFORE THE METRO COUNCIL

1
2
3 In the matter of the petition of the City of Wilsonville for a) HEARINGS OFFICER
4 Major Amendment to the Urban Growth Boundary for a) REPORT AND
5 119-acre site, the Coffee Creek Correctional Facility, east of) RECOMMENDATION
6 Grahams Ferry Road in unincorporated Washington County) Contested Case No. 01-03
7

A. INTRODUCTION

8
9
10 This report contains a summary of the findings the hearings officer recommends to
11 the Metro Council regarding a petition for a Major Amendment to the Urban Growth
12 Boundary ("UGB"). The petition raises the following major issues:

13
14 • Whether proposed amendment will fulfill a demonstrated need to accommodate
15 long-range urban population growth and whether that need can reasonably be met within the
16 existing UGB;

17
18 • Whether there is an unmet regional (and statewide) need for prisoner housing
19 and associated employment and whether that need can only be accommodated on the subject
20 property;

21
22 • Whether urban services and facilities, including water, sanitary sewer, storm
23 drainage, transportation, schools, and police and fire protection, can be provided to the
24 subject property in a more orderly and economical fashion than on alternative sites;

25
26 • Whether the proposed amendment will maximize the efficiency of land uses
27 within and on the fringe of the existing urban area;

28
29 • Whether the long-term environmental, energy, economic and social
30 consequences of the amendment are significantly more adverse than would typically result
31 from the same proposal being located in other areas requiring an amendment of the UGB;

32
33 • Whether the site includes agricultural land that will be removed from production,
34 and whether the existing urban uses conflict with existing agricultural activities;

35
36 • Whether the amendment is consistent with Statewide Planning Goal 2; and

37
38 • Whether state law, Chapter 982 Oregon Laws 1999, requires approval of the
39 petition regardless of compliance with the applicable approval criteria.

1
2 **B. SUMMARY OF BASIC FACTS**
3

4 1. On March 15, 2001, the City of Wilsonville ("petitioner") completed filing a
5 petition for a Major Amendment to the UGB. The petition proposes to add to the UGB a
6 119-acre area (the "site") containing the Coffee Creek Correctional Facility and adjoining
7 public rights of way in unincorporated Washington County to facilitate annexation of the
8 site to City of Wilsonville. The Oregon State Department of Corrections (the "DOC") is
9 building the Coffee Creek Correctional Facility (the "CCCF" or the "prison") on the site.
10

11 2. Metro hearings officer Larry Epstein (the "hearings officer") held a duly noticed
12 public hearing on July 16, 2001 to receive testimony and evidence in the matter of the
13 petition. Six witnesses testified in person, including Metro staff and consultant, the
14 petitioner's representative, a representative of the DOC, and representatives of neighboring
15 property owners. Other persons testified in writing. The hearings officer held open the
16 public record for two weeks after the hearing to receive additional written testimony. On
17 August 31, 2001, the hearings officer filed with the Metro Council (the "Council")
18 Recommended Findings and Conclusions and this Report and Recommendation for
19 consideration by the Council.
20

21 **C. SUMMARY OF APPLICABLE STANDARDS AND RESPONSIVE FINDINGS**
22

23 1. A Major Amendment to add land to the UGB must comply with the relevant
24 provisions of Metro Code ("MC") sections 3.01.030(a) - (f). The hearings officer
25 concluded, based on the findings set out in the Recommended Findings and Conclusions
26 that the petition complies with all of the applicable approval criteria, largely because the
27 subject property is being developed with the CCCF, and approval of the petition will bring
28 this existing urban use into the UGB.
29

30 2. Even if the petition did not comply with applicable requirements of the Metro
31 Code, State law requires approval of this petition, because it is in the nature of a permit that
32 allows and facilitates efficient construction and operation of the CCCF. Section 7(1) of
33 Chapter 982 Oregon Laws 1999..
34

1 **D. CONCLUSION AND RECOMMENDATION**

2

3 For the foregoing reasons, the hearings officer concludes the petition complies with the

4 relevant approval standards for a Major Amendment adding the 119-acre site to the UGB.

5 Therefore the hearings officer recommends the Metro Council grant the petition, based on

6 this Report and Recommendation and the Recommended Findings and Conclusions

7 attached hereto and incorporated herein by reference.

8

9 Respectfully submitted this 31st day of August, 2001.

10 

11 _____

12 Larry Epstein, AICP

13 Metro Hearings Officer

SEP 19 2001

September 18, 2001

Tim O'Brien, Associate Regional Planner
Planning Department
Metro
600 NE Grand Ave
Portland, OR 97232

Parties to the Case

RE: UGB Case 01-3: City of Wilsonville

Dear Mr. O'Brien:

I take exception with the report and recommendation of the Hearings Officer. The petitioner and the Hearings Officer failed to show how the petition complies with UGB factors 3 and 4, which require the orderly and economic provision of urban services. In particular I raise exception with the "cherry stem" expansion of the UGB along Day road.

In his report Mr. Epstein argues that the prison site (solely) should be included in the UGB. However, the petition included Day road from the city limits of Wilsonville to the prison site, in essence, the "stem" of the cherry. The inclusion of Day road is not justified in Mr. Epstein's report or pursuant to Chapter 982, Oregon Laws 1999 and ORS 421, the "supersiting legislation". Nor is the road inclusion justified via the city's petition.


If the inclusion of Day road in the petition was based on improvements made to provide urban services to the prison, the city should have included Garden Acres road and Grahams Ferry road which also were improved and also have urban services. A strong argument could have been made for Garden Acres road because it has a gravity sewer line and thus a "higher" rating as indicated in Factor 3, section (b).

Garden Acres road is surrounded by the old Urban Reserve 42, an area the City of Wilsonville intends to eventually provide complete urban services and annex. Day road is at the northern border of UR42 and north of Day road is not an area slated for Wilsonville services or annexation.

The UGB inclusion of any connecting road to the prison or the prison itself without having an agreed upon plan for urbanization will produce haphazard urbanization. The inclusion of Day road will produce inefficient urbanization because Wilsonville services will be reserved to the south side.

The supersiting legislation says that "each city, county, and political subdivision shall issue the appropriate permits, licenses, ... necessary for the construction and operation of the complex." That obligation has been fulfilled. The prison will open and house inmates prior to Metro action on this petition. The Department of Corrections has indicated that UGB inclusion is not required for prison construction, operation, or security. Thus, UGB inclusion of the prison is unnecessary and inclusion of Day road connecting to the prison does not fulfill UGB factors 3 and 4. The petition should be denied.

Sincerely,



Darren C. Pennington
10365 SW Day Rd
Sherwood, OR 97140