



METROPOLITAN SERVICE DISTRICT
527 S.W. HALL ST., PORTLAND OR. 97201, 503/221-1646

A G E N D A -- REGULAR COUNCIL MEETING

Date: January 7, 1982
Day: Thursday
Time: 6:30 PM - Informal Discussion
7:30 PM - Regular Council Meeting
Place: Council Chamber

CALL TO ORDER

ROLL CALL

ELECTION OF OFFICERS

1. Introductions
2. Written Communications to Council.
3. Citizen Communications to Council on Non-Agenda Items.
4. Ordinances:
 - 4.1 Ordinance No. 81-123, An Ordinance Relating to Personnel and Establishing Personnel Rules Relating to Zoo Visitor Services Employees and Outside Work. (Second Reading) (7:40)*
 - 4.2 Ordinance No. 81-124, An Ordinance Relating to Rulemaking and Declaratory Rulings; Amending Ordinance No. 81-105; and Repealing Metro Code Chapters 5.01 and 5.03. (Second Reading) (7:50)*
 - 4.3 Ordinance No. 81-125, An Ordinance Relating to Public Contract Review; and Repealing Metro Code Chapters 5.05 and 5.06; and Amending Metro Code Chapter 2.04. (Second Reading) (7:55)*
5. Contested Case No. 81-2, In the Matter of Clackamas County's Request for an Urban Growth Boundary Amendment to Add Waldo Estates and Remove Canemah. (8:00)*
 - 5.1 Resolution No. 82-293, A Resolution of Intent to Approve a Petition by Clackamas County for a Locational Adjustment to the Urban Growth Boundary and to Amend the Boundary upon Compliance with Conditions.
6. Reports:
 - 6.1 Executive Officer's Report. (8:10)*
 - 6.2 Committee Reports. (8:20)*

ADJOURN (8:35)*

*Times listed are approximate.

Jan. 7, 1982

A G E N D A M A N A G E M E N T S U M M A R Y

TO: Metro Council
FROM: Executive Officer *qu*
SUBJECT: Amendment of Personnel Rules

I. RECOMMENDATIONS:

- A. ACTION REQUESTED: Recommend Council approval of attached Ordinance No. 81-123
- B. POLICY IMPACT: The requested action will finalize the two unresolved issues remaining when the Personnel Ordinance was adopted October 23, 1981. The issues are:
- Seasonal Employment. The Seasonal Employment Program for Visitor Services at the Zoo provides guidelines and a clear policy for managing this program which was formerly covered by a labor contract.
- Outside Work. The proposed section provides direction to employees in distinguishing between appropriate and inappropriate outside work.
- C. BUDGET IMPACT: None. The seasonal employment program provides no additional benefits to what had been provided in the labor contract. The outside work policy has no budgetary impact.

II. ANALYSIS:

- A. BACKGROUND: When the Personnel Rules were adopted October 23, 1981, two unresolved issues remained; outside work and the seasonal employment program for Zoo Visitors Service Workers. The Zoo Visitors Service Workers filed a decertification petition with the State Employment Relations Board and the election resulted in a vote for no representation. The timing of this action did not allow time for amendment to the Rules before final reading October 23 to include this group. Since that time rules have been developed for the operation of this program.

The Employees Association met and discussed several alternatives to the outside work language originally proposed. They reached an agreement on the Oregon State Bar Association language which is consistent with the purpose of the language originally proposed.

B. ALTERNATIVES CONSIDERED: (1) Establishing no new Ordinance. This alternative was rejected because it is clear that the new Ordinance is needed since the areas covered are not addressed elsewhere in the Personnel Rules.

C. CONCLUSION: Approve the attached Ordinance.

SW/srb
4493B/283
12/04/81

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

AN ORDINANCE RELATING TO PERSONNEL) ORDINANCE NO. 81-123
AND ESTABLISHING PERSONNEL RULES)
RELATING TO ZOO VISITOR SERVICES)
EMPLOYEES AND OUTSIDE WORK)

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

Section 1. Purpose

a. The purpose of this ordinance is to establish personnel rules pertaining to the conditions of employment of seasonal Zoo Visitor Services employees and to non-Metro employment of Metro employees.

b. These rules shall be codified as part of the Personnel Rules adopted by Ordinance No. 81-116.

Section 2. Employment Program for Zoo Visitor Services Employees

a. Definitions:

- 1) Seasonal Visitor Services Employee: Employees who are employed on a seasonal basis in the Visitor Services Department of the Washington Park Zoo, and whose period of employment is limited to a maximum of six (6) months from date of hire unless extended pursuant to this section.
- 2) Permanent Visitor Services Employee: Employees who are employed on a regular or permanent basis in the Visitor Services Department of the Washington Park Zoo.

b. Application of Personnel Rules:

- 1) This section applies to Seasonal Visitor Services employees, and does not apply to Permanent Visitor Services employees.
- 2) Permanent Visitor Services employees shall be subject to the provisions of Metro Personnel Rules (Ordinance No. 81-116) and all other personnel regulations applicable to permanent employees generally.
- 3) Seasonal Visitor Services employees shall be subject to this section and to all other personnel regulations not inconsistent with this section.

c. Recruitment and Appointment:

- 1) Notwithstanding Ordinance No. 81-116, section 8(d), promotional recruitment to fill Seasonal Visitor Services vacancies is not required.
- 2) Recruitment to fill vacancies shall include public posting of such vacancies for at least seven (7) calendar days at the Zoo and at the Metro Personnel Office, and may include any other forms of announcement appropriate to attract qualified applicants and to comply with affirmative action goals.
- 3) An open competitive list shall be established by the Zoo annually as the result of open recruitment and oral interview. Appointments during the season will be made from this list. The duration of the list will be one year, unless it is exhausted before that

time. Recommendation on appointments to fill vacant positions will be made by the Director of the Zoo from the list of qualified candidates. When an emergency exists such that it would not be prudent or practical to use such list, the Zoo may recommend an appointment from another source. The Executive Officer is the appointing authority for all positions.

d. Status of Seasonal Employees: Seasonal employment will terminate at the end of each season or sooner depending upon the needs of the Zoo. No commitments will be made by Metro to retain employees beyond the season or period for which appointment was made. The term of employment in any case may not exceed six (6) months or 1,040 hours without approval of the Executive Officer who may grant up to a six (6) month extension; provided, however, that hours worked shall not exceed 2,080 over a twelve (12) month period. Continuation of employment beyond said period may only occur upon appointment to a regular position authorized under the currently adopted budget or upon reemployment for a subsequent season.

e. Benefits:

- 1) Benefits required by law such as Workers' Compensation and Social Security will be paid for all seasonal employees. No additional benefits will be paid to seasonal employees.
- 2) Section 35 (Holidays) of Ordinance No. 81-116 shall not apply to Seasonal Visitor Services employees, and designated holidays shall be considered as normal workdays.

f. Performance Evaluation: If employment extends beyond six (6) months, a six (6) month personnel evaluation is required. The purpose of such evaluation is to assure that the seasonal status of the employee is being maintained and to evaluate the work performed. An evaluation of performance is required before any merit wage adjustment may be granted.

g. Promotion:

- 1) Eligibility for promotion to Visitor Services Worker 2 and 3 classifications shall be established by the supervisor upon determination that an applicant or employee has acquired or possess the knowledge, skill and ability required for the position and that vacant positions classified as Visitor Services Worker 2 and 3 exist.
- 2) A seasonal employee working forty (40) hours per week employed for three consecutive months will be allowed to compete for regular positions on a preferred basis along with regular employees if they have gone through a competitive process for the seasonal position currently held. If hired into a regular position, time employed in a previous full-time seasonal position may be counted toward the accumulation of vacation and personal holiday time if there has been no break in service.

h. Wage Rates:

- 1) Visitor Services employees will be paid at a rate in the Pay Plan approved by the Council.

- 2) Wages shall be established on the basis of individual qualifications and work assignment. It will be the general practice to appoint new seasonal employees at the beginning step of the Visitor Services Worker 1 salary range. Exceptions approved by the Executive Officer may be made allowing hiring above the beginning step. Quality of work and total hours of previous work experience with the Zoo will be considered in determining the wage rate or step for previous employees reemployed at the Zoo in subsequent seasons.
- 3) Eligibility for an initial wage increase shall be based on completion of 480 hours of satisfactory service in one calendar year at the beginning step, and upon recommendation by the Director, with a performance evaluation submitted to the Personnel Division. Eligibility for additional increases requires completion of 480 hours satisfactory service at the preceeding step in one calendar year and a recommendation of the Department Director with a performance evaluation submitted to the Personnel Division.
- 4) Section 32 of Ordinance No. 81-116 (Salary Administration Guidelines) shall not apply to Seasonal Visitor Services employees.

i. Reporting and Hours of Work:

- 1) Because the number of Seasonal Visitor Services employees needed at a given time depends upon weather conditions, such employees may be relieved from duty prior to the end of a scheduled workday or may be directed to not report for duty on a scheduled workday. The Director of the Zoo shall establish appropriate procedures for regulating reporting during inclement weather.
- 2) Work schedules will be posted, and will be subject to subsection (1) above. No employee will be called to work for less than three (3) hours in one day.

j. Rest and Meal Period:

- 1) A rest period of 15 minutes with pay will be provided during each work period of four hours.
- 2) A non-paid lunch period of one-half hour (30 minutes) shall be provided. Whenever possible, such meal period shall be scheduled in the middle of the shift.

Section 3. Outside Work

a. Employees shall refrain from engaging in any compensated activities or outside employment (moonlighting) which may:

- 1) Interfere with or adversely affect the performance of said employee's job requirements as a Metro employee;
- 2) Subject Metro to adverse criticism; or
- 3) Constitute an apparent or real conflict of interest due to the nature, conditions, competition or some other aspect of the activity.

b. It shall be the responsibility of each department head to ensure that employees in said Department refrain from engaging in any activities which may constitute a potential conflict of interest, detract from the efficiency of the employee or otherwise cause criticism of or embarrassment to Metro.

ADOPTED by the Council of the Metropolitan Service District
this _____ day of _____, 1981.

Presiding Officer

ATTEST:

Clerk of the Council

AJ/srb
4512B/283

A G E N D A M A N A G E M E N T S U M M A R Y

TO: Metro Council
FROM: Executive Officer *RLG*
SUBJECT: Repeal of Rules

I. RECOMMENDATIONS:

- A. ACTION REQUESTED: Approval of two (2) ordinances repealing public contract rules and rules relating to rulemaking and declaratory rulings.
- B. POLICY IMPACT: None. Ordinances are housekeeping in nature.
- C. BUDGET IMPACT: None.

II. ANALYSIS:

- A. BACKGROUND: Original Metro legislation applied the State Administrative Procedures Act (APA) to the agency and gave Metro rulemaking and declaratory ruling authority. Recent legislation repealed Metro's rulemaking and declaratory ruling authority and took Metro out from under the APA. Consequently, all of Metro's existing rules are now obsolete and must be repealed or replaced with ordinances.

Since Metro now lacks APA authority, our existing procedural rules governing rulemaking and declaratory rulings should be repealed since they are no longer useful. Our rules governing contract procedures should be preserved, but converted to ordinances.

Metro also has contested case rules which are being revised for adoption as an ordinance at a later date.

- B. ALTERNATIVES CONSIDERED: To retain the old APA rules would be useless and confusing. To retain the contract rules as rules would raise the issue of Metro's authority to enforce rules.
- C. CONCLUSION: Approval of attached ordinances.

AJ:sh

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

AN ORDINANCE RELATING TO	)	ORDINANCE NO. 81-124
RULEMAKING AND DECLARATORY)	
RULINGS; AMENDING ORDINANCE	)	Submitted by the Council
NO. 81-105; AND REPEALING	)	Coordinating Committee
METRO CODE CHAPTERS 5.01 AND 5.03.)	

The Council of the Metropolitan Service District hereby ordains:

Section 1. Metro Code Chapter 5.01 (Rule No. 79-2), relating to rulemaking procedures, is hereby repealed.

Section 2. Metro Code Chapter 5.03 (Rule No. 79-4), relating to declaratory ruling procedures, is hereby repealed.

Section 3. Section 3 (Administrative Interpretation of the Urban Growth Boundary (UGB)) of Ordinance No. 81-105, is hereby amended to read as follows:

"(a) When the UGB map and the legal description of the UGB are found to be inconsistent; the Executive Officer is hereby authorized to determine and interpret whether the map or the legal description correctly establishes the UGB location as adopted and to correct the map or description if necessary. In determining where the adopted UGB is located, the Executive Officer shall review the record to determine legislative intent and shall seek a legal opinion from the District General Counsel. The map location should be preferred over the legal description in absence of clear evidence to the contrary.

"(b) A city, county or special district whose municipal or planning area boundary includes the property, or a property owner who would be included or excluded from the urban area depending on whether the map or legal description controls, may request that the Executive Officer render an interpretation under this section. If the request is submitted in writing, the Executive Officer shall make the requested interpretation within 60 days after the request is submitted.

"(c) Within ten days of rendering the interpretation, the Executive Officer shall provide a written notice and explanation of his decision to each city or county whose municipal or planning area boundaries include the area affected, owners of property in the area affected, and the Council.

"(d) Any party eligible to request an interpretation under subsection (b) may [petition] appeal to the Council [under subsection (e) of this section] for a determination of where the UGB is located if that party disagrees with the Executive Officer's interpretation or if the Executive Officer fails to render an interpretation requested under subsection (b). Such appeal must be filed with the District within 20 days of receipt of the Executive Officer's interpretation or within 80 days after submission of the request for interpretation to the Executive Officer, whichever is later.

"[(e) Petitions for a Council determination of the location of the UGB under this ruling shall be treated as a petition for declaratory ruling. Petitions shall be submitted and decided in accordance with Code chapter 5.03 and not as a petition for locational adjustment under Sections 4 through 16 of this ordinance.]

ADOPTED this _____ day of _____, 1981.

Presiding Officer

ATTEST:

Clerk of the Council

AJ/srb
4631B/283

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

AN ORDINANCE RELATING TO PUBLIC	)	ORDINANCE NO. 81-125
CONTRACT REVIEW ; AND REPEALING)	
METRO CODE CHAPTERS 5.05 AND 5.06;	)	Submitted by the Council
AND AMENDING METRO CODE	)	Coordinating Committee
CHAPTER 2.04)	

The Council of the Metropolitan Service District hereby ordains:

Section 1. Sections 2 and 3 of this Ordinance shall be included in Metro Code Chapter 2.04 (Public Contract Review).

Section 2. Contract Review Board Meetings.

(a) The meetings of the Metropolitan Service District Contract Review Board shall normally, but need not, be conducted at the same time as, and as a part of, the regular meetings of the Metropolitan Service District Council.

(b) The rules of procedure adopted by the Metropolitan Service District Council for its proceedings shall also govern proceedings of the Metropolitan Service District Contract Review Board unless they conflict with rules adopted by the Board.

(c) Subsections (a) and (b) of this Ordinance supersede the rules adopted by the Public Contract Review Board at OAR Chapter 127, Divisions 80 and 90.

Section 3. Exemption of Contracts from Competitive Bidding.

(a) The Metro Contract Review Board finds that the exemption of certain contracts where the amount is less than \$10,000 from competitive bidding requirements may be allowed without encouraging favoritism or substantially diminishing competition for public contracts and that exemption of such contracts from competitive bidding procedures will result in substantial cost savings.

(b) The District may, in its discretion, let contracts for the purchase of goods, materials and supplies without competitive bidding if the District has determined that the awarding of the contract without competitive bidding will result in cost savings and the following conditions are complied with:

- (1) The amount of the contract does not exceed \$10,000; is for a single project; and is not a component of or related to any other project.
- (2) When the amount of the contract does not exceed \$500, the District should, where feasible, obtain competitive quotes.
- (3) When the amount of the contract is more than \$500, but less than \$10,000, the District must obtain a minimum of three (3) competitive quotes. The District shall keep a written record of the source and amount of the quotes received. If three (3) quotes are not available, a lesser number will suffice provided that a written record is made of the effort to obtain the quotes.
- (4) No contractor may be awarded in the aggregate, within the fiscal year, contracts in excess of \$30,000 without competitive bidding. In computing the aggregate under this subsection, awards under \$500 shall not be included.

(c) The District may in its discretion let public contracts, not to exceed \$25,000 for road, highway, or parking lot maintenance without competitive bidding if the District obtains a minimum of

three (3) competitive quotes. The District shall keep a written record of the source and amount of the quotes received. If three (3) quotes are not available, a lesser number will suffice provided a written record of the effort to obtain the quotes is made.

(d) Subsections (b) and (c) above supersede the rule adopted by the Oregon Public Contract Review Board at OAR 127-10-020.

Section 4. CRB Procedure Amended

Metro Code Section 2.04.003 (Ordinance No. 79-76, §3) is hereby amended to read as follows:

"The Metro Contract Review Board may adopt rules relating to the award of District contracts. Such rules shall prevail when in conflict with the rules of the Oregon State Contract Review Board at OAR Chapter 127. Such rules of the Metro Contract Review Board shall be adopted by ordinance.

Section 5. Repealer

Metro Code Section 2.04.004 (Ordinance No. 79-76, §4) and Metro Code Chapter 5.05 (Rule No. CRB 79-1) and 5.06 (Rule No. 79-2) are hereby repealed.

ADOPTED this _____ day of _____, 1981.

Presiding Officer

ATTEST:

Clerk of the Council

AJ/srb
4632B/283

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

A RESOLUTION OF INTENT TO	)	RESOLUTION NO. 82-293
APPROVE A PETITION BY CLACKAMAS)	
COUNTY FOR A LOCATIONAL ADJUST-	)	Introduced by the
MENT TO THE URBAN GROWTH BOUNDARY	)	Regional Development
AND TO AMEND THE BOUNDARY UPON	)	Committee
COMPLIANCE WITH CONDITIONS)	

WHEREAS, Clackamas County has submitted a petition (Contested Case No. 81-2) for a locational adjustment to the Urban Growth Boundary (UGB) to add the area known as Waldo Estates and remove the area known as Canemah; and

WHEREAS, The Council has earlier reviewed the proposed addition and adopted Resolution No. 81-269, for the purpose of approving Clackamas County's request for an amendment of the UGB for Waldo Estates contingent upon re-submission as a trade; and

WHEREAS, The County's requested trade was given a contested case hearing before the Regional Development Committee on December 7 and December 17, 1981; and

WHEREAS, The Regional Development Committee has submitted Findings, Conclusions and a Proposed Order; and

WHEREAS, The Council has reviewed and accepts the Findings of Fact, Conclusions and Proposed Order as submitted by the Regional Development Committee; and

WHEREAS, Section 14(d) of Ordinance No. 81-105 provides that "when the Council acts to approve...a petition affecting land outside the District...such action shall be by resolution expressing intent to amend the UGB if and when the affected property is annexed to the District...."; and

WHEREAS, Portions of the Waldo Estates area are not within the Metro District; now, therefore,

BE IT RESOLVED,

1. That the Council hereby declares its intent to approve the petition as modified and to amend the Urban Growth Boundary as indicated in Exhibits A and B hereto following annexation of that property known as Waldo Estates to Metro.

2. That the approval and adoption indicated in section 1 of this Resolution shall be by ordinance and that such ordinance shall be the Final Order in Contested Case No. 81-2 for purposes of judicial review.

ADOPTED by the Council of the Metropolitan Service District this _____ day of _____, 1981.

Presiding Officer

JH:le/4845B/283
12/21/81

A G E N D A M A N A G E M E N T S U M M A R Y

TO: Metro Council
FROM: Executive Officer *ELG*
SUBJECT: Contested Case No. 81-2, In the Matter of Clackamas
County's Request for an Urban Growth Boundary Amendment to
add Waldo Estates and Remove Canemah

I. RECOMMENDATIONS:

- A. ACTION REQUESTED: Council adoption of the attached Resolution of Intent to approve a petition by Clackamas County for a locational adjustment of the Urban Growth Boundary (UGB) and to amend the Boundary upon compliance with conditions.
- B. POLICY IMPACT: Approval of the County's petition is consistent with Resolution No. 81-269, for the purpose of approving Clackamas County's request for an amendment of the UGB for Waldo Estates contingent upon resubmission as a trade. As provided in that resolution, the County's petition has been evaluated against the applicable standards in Ordinance No. 81-105, establishing procedures for locational adjustment of Metro's UGB. The Regional Development Committee finds that approval is consistent with those standards.

The County's petition would result in a net addition of nine acres to the urban area. Section 16 of Ordinance No. 81-105 provides that over the next three years, the average annual net addition of land should not exceed 100 acres.

- C. BUDGET IMPACT: None.

II. ANALYSIS:

- A. BACKGROUND: In March of this year, Clackamas County petitioned Metro for a UGB amendment to allow construction of a large scale mobile home subdivision for senior citizens on the site known as Waldo Estates. The Regional Development Committee held extensive hearings on the matter and found that although the County's request did not meet the necessarily stringent standards for approval of a major amendment of the UGB, the proposal was nonetheless one of merit which could and should be approved if requested in conjunction with removal of a comparable amount of land from the UGB elsewhere. On August 6, the Council voted to adopt Resolution No. 81-269 and accompanying Findings as recommended by the Committee.

In response, County staff identified six possible areas for removal and evaluated each against Metro's standard. Only the Canemah area, south of Oregon City, met all requirements, and staff accordingly recommended that this area be removed in "trade" for Waldo Estates. Although the Planning Commission recommended in response to testimony from property owners that the petition be modified to retain within the UGB some 50 acres, the Board of Commissioners voted, on October 16, to petition Metro for removal of the entire area as proposed by staff in conjunction with the proposed addition of Waldo Estates. Maps of the County's petition follow the Committee's Findings, Conclusions and Proposed Order as Attachment 2.

The Regional Development Committee held a public hearing at its December 7 meeting. The hearing was continued until December 17, at which time the Committee adopted its recommendation to the Council, attached. The Committee recommends petition approval with two minor modifications: 1) Exclusion from the area proposed for removal (retention within the UGB) of two developed lots totaling 2.7 acres; and 2) exclusion from the area proposed for addition of two acres abutting potential resource lands in the northeast corner.

The action recommended is a Resolution of Intent to amend the boundary following annexation to Metro. Section 14(d) of Ordinance No. 81-105 provides that final action on a petition for locational adjustment, in the form of adoption of an ordinance amending the UGB, can be taken only after annexation to Metro. Resolution No. 81-269 declared the Council's intent to approve a UGB amendment for Waldo Estates "following annexation of the subject property to Metro and in conjunction with Council approval of the removal of a comparable amount of land from elsewhere within the UGB...." The resolution will satisfy the second requirement, but an ordinance cannot be adopted until the first requirement is met as well.

Exceptions by the parties to the Committee's Findings, Conclusions and Proposed Order are attached. The parties should be given an opportunity to argue those exceptions before the Council.

- B. ALTERNATIVES CONSIDERED: The County has evaluated other possible sites for removal and found no suitable alternative. Staff has reviewed and concurs with this evaluation.
- C. CONCLUSION: The County has proposed a sensible and suitable trade consistent with the standards in Ordinance No. 81-105 and the Council should express its resolve to approve it.

EXHIBIT A-1

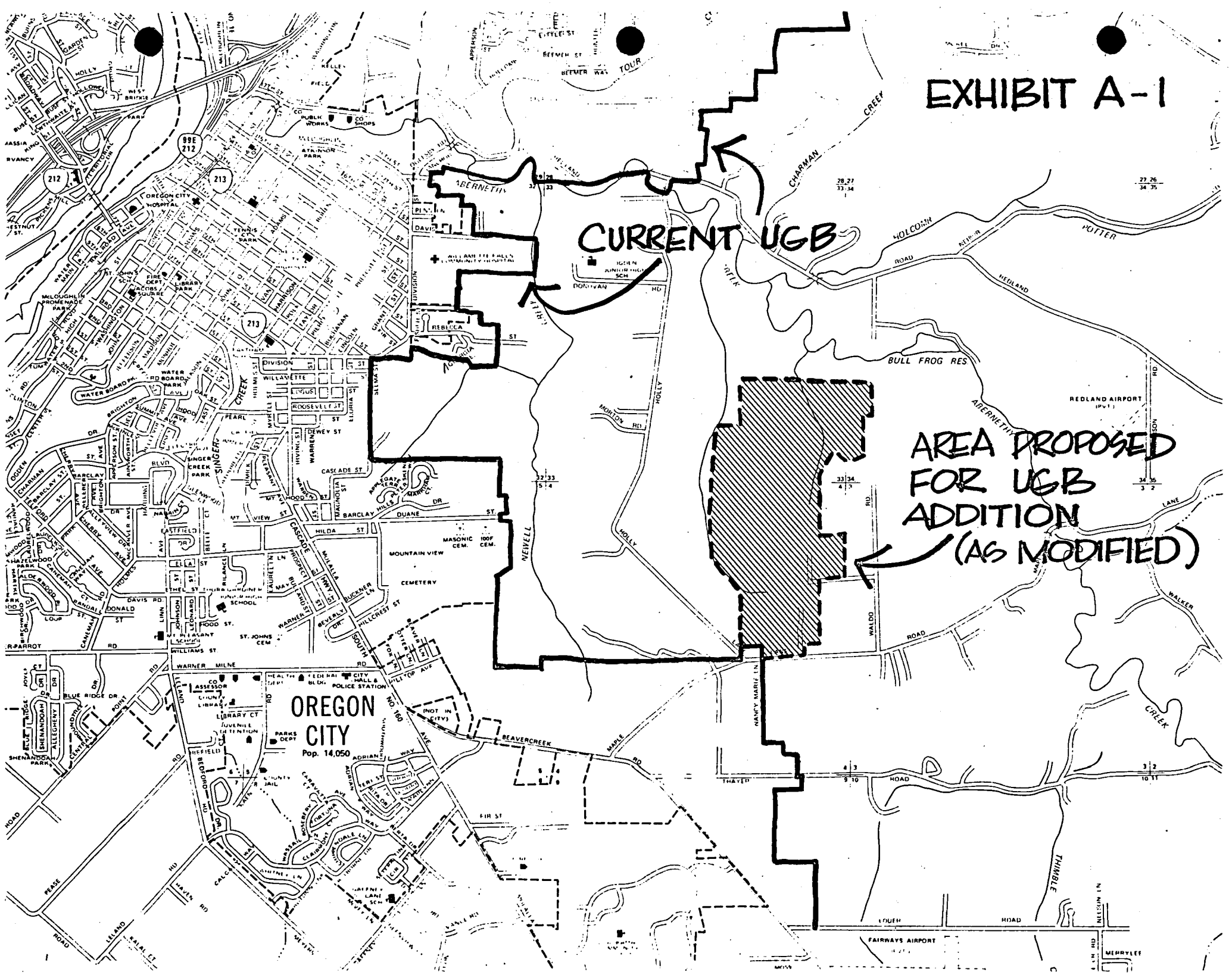


EXHIBIT A-2

62-03

SE COR
DLC 44

NE COR
DLC 45

7600

7500
62.38Ac.

2300

2.27Ac.

7300

7.15Ac.

7200

7.85Ac.

7100

14.05Ac.

7000

16.75Ac.

6901

0.93Ac.

6902

3.09Ac.

6900

20.97Ac.

S LINE DLC 45

N LINE DLC 39

S LINE DLC NO. 45

N LINE DLC NO. 39

7700

4.18Ac.

7601

3.83Ac.

7890

4.99Ac.

7800

3.10Ac.

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PROPOSED
UGB
ADDITION
(AS MODIFIED)

LEGAL
DESCRIPTION
TO BE
PROVIDED
AT MEETING

62-33

RURAL

BOUNDARY (12-21-78)

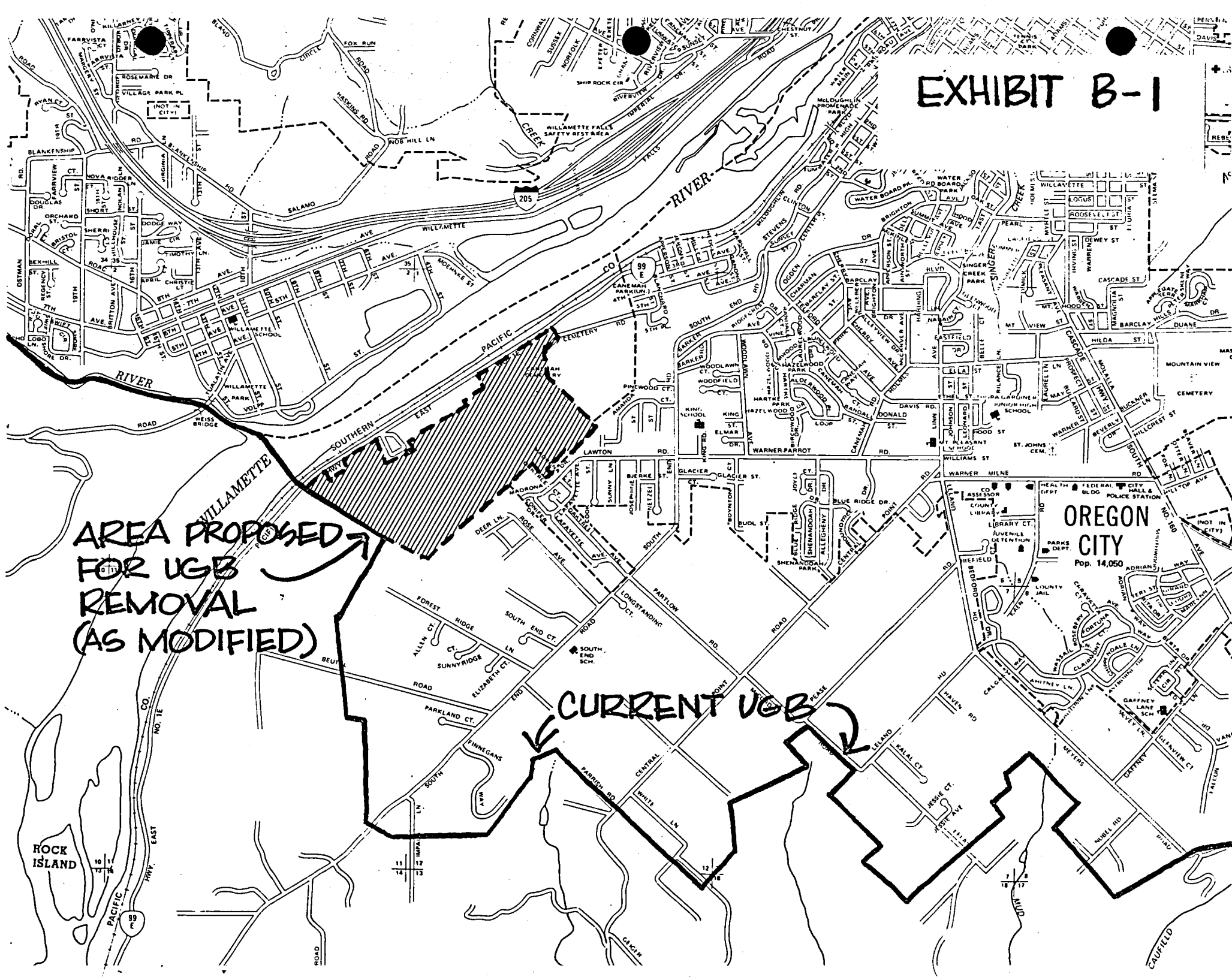
URBAN

SEE MAP 3 SE 40

S LINE DLC NO.

N LINE J.B. SWAFFORD

EXHIBIT B-1



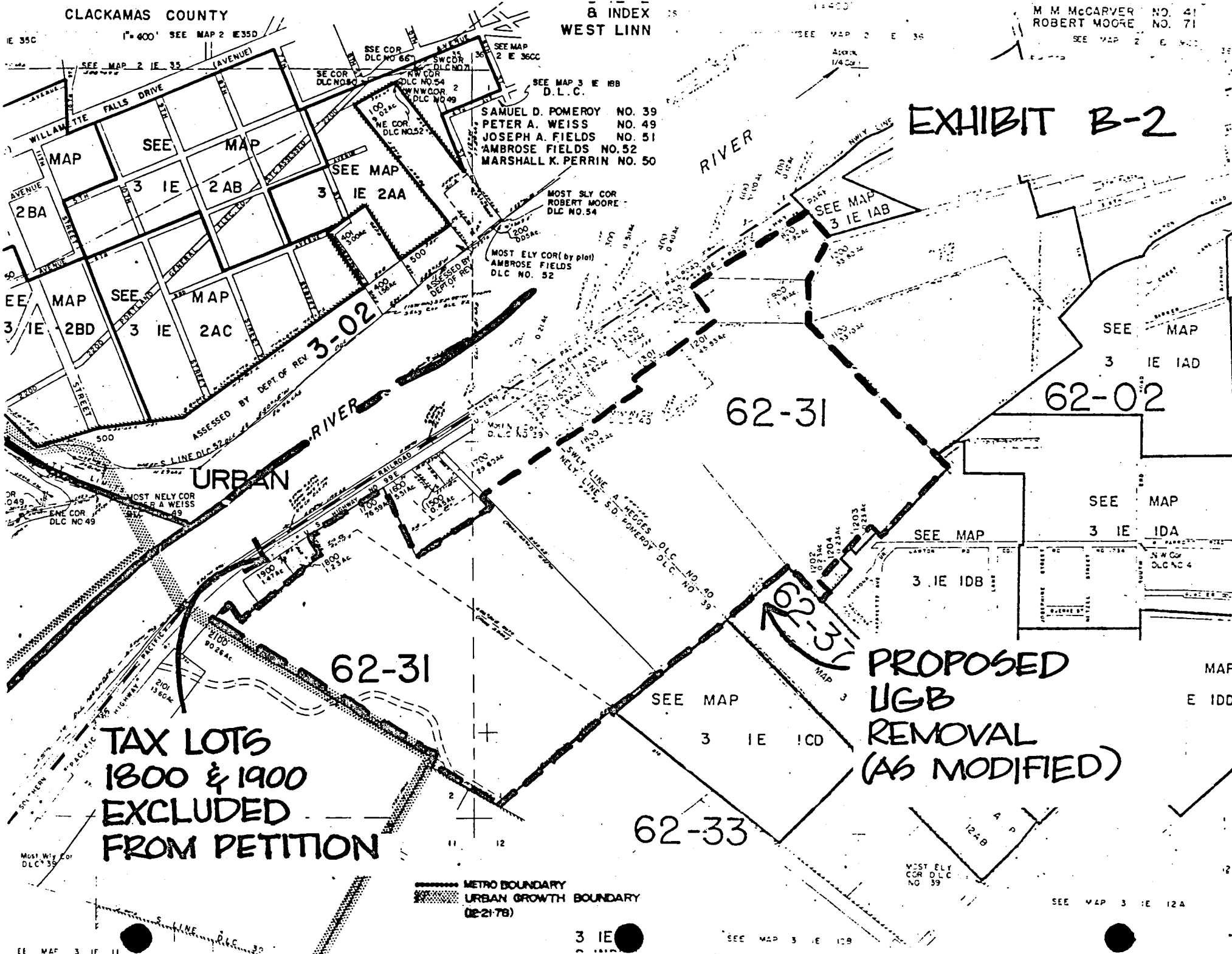
CLACKAMAS COUNTY

1"=600' SEE MAP 2 E 35D

B INDEX WEST LINN

M M McCARVER NO. 41
ROBERT MOORE NO. 71
SEE MAP 2 E 35D

EXHIBIT B-2



TAX LOTS
1800 & 1900
EXCLUDED
FROM PETITION

PROPOSED
UGB
REMOVAL
(AS MODIFIED)

----- METRO BOUNDARY
----- URBAN GROWTH BOUNDARY
(12-21-78)

3 IE

SEE MAP 3 IE 12B

SEE MAP 3 IE 12A

1 IN THE MATTER OF CONTESTED CASE) FINDINGS, CONCLUSIONS AND
2 NO. 81-2, A PETITION BY CLACKAMAS) PROPOSED ORDER OF THE
3 COUNTY FOR A LOCATIONAL ADJUST-) REGIONAL DEVELOPMENT
4 MENT OF THE URBAN GROWTH BOUNDARY) COMMITTEE
5 TO ADD WALDO ESTATES AND REMOVE)
6 CANEMAH)

5 INTRODUCTION

6 The County's petition proposes Urban Growth Boundary (UGB)
7 changes in two areas: 1) removal of 185 acres in the Canemah area
8 south of Oregon City; and 2) addition of the 193 acres in Waldo
9 Estates property east of Oregon City.

10 This petition follows earlier action by the Metro Council
11 expressing its intent to approve the addition of Waldo Estates if
12 requested as part of a trade consistent with the standards in Metro
13 Ordinance No. 81-105.

14 In responding to this action, the County evaluated six possible
15 sites for removal against the Metro standards. The Canemah area was
16 the only site to meet all criteria and, accordingly, on October 16,
17 1981, the County adopted Resolution No. 81-2413, petitioning Metro
18 to remove the Canemah area from the UGB and add Waldo Estates, based
19 upon findings attached to the Resolution demonstrating consistency
20 with Metro's standards.

21 These findings, and the County staff report on which they were
22 based, are added to the earlier record of Metro's consideration of
23 Waldo Estates as part of the record for this proceeding.

24 The standards for approval of the City's request are the
25 standards for trades found in Section 8(c) of Ordinance No. 81-105.
26 These standards require an evaluation of the merits of the area

1 proposed for removal (Subsection c(1)) and for addition (Subsections
2 c(2) and c(3)), as well as evaluation of the overall merits of the
3 entire trade (Subsections c(4) and c(5)).

4 The format of this report is to evaluate each area individually
5 first against the applicable standards, and then to use these
6 evaluations in making the findings necessary on the entire trade.

7 I. REMOVAL OF CANEMAH

8 Summary:

9 The proposed withdrawal area is currently designated Low
10 Density Residential, Resource Protection, Major Hazards and Public
11 and Community Use Open Space in Clackamas County's comprehensive
12 plan.

13 The proposed withdrawal area is located on the southwest side
14 of Oregon City bounded on the northwest by Highway 99 and on the
15 southeast by Canemah Rim. The area is vacant, and 185 acres in size
16 consisting of ten lots. Virtually the entire area has been
17 identified as land movement area and is designated Major Hazards
18 Open Space. Slopes vary from 0 to 50 percent and in site specific
19 areas are nearly vertical. Most of the site is 10 - 20 percent and
20 20 - 35 percent slope.

21 The area consists of a series of fairly flat benches
22 interrupted by steep slopes. The area is heavily forested with
23 Douglas Fir, Western Red Cedar, Red Alder and Oregon Ash being the
24 predominant tree species. Small drainage courses run from the top
25 of Canemah Rim westerly toward Highway 99.

26 Oregon City abuts the area on the southeast. This area is

1 developed with detached single family residential uses. South of
2 the city limits, lots are generally one to five acres, developed
3 with single family residences. The existing UGB abuts to the south
4 of the proposal area. Lot sizes vary from five to 90 acres.
5 Comprehensive Plan designations are Rural and Forest.

6 Northeast of the proposed withdrawal area to the city limits is
7 Urban Low Density Residential undeveloped land. The four lots are
8 1, 4, 30 and 30 acres in size. Existing commercial uses fronting on
9 Highway 99, abut the west side. Uses include a marina, mobile home
10 court, motel, concrete figurine sales, warehousing and one vacant
11 lot. The Willamette River lies to the west paralleled by Highway 99
12 and the railroad tracks.

13 The property northeast is designated Low Density Residential
14 with a partial Resource Protection Open Space overlay. Oregon City
15 has designated land within the city limits Low Density Residential
16 and Historic District. The developed area east of Canemah Rim is
17 designated Low Density Residential.

18 The parcels lying between the proposed withdrawal area and the
19 city limits to the north are vacant as is the parcel lying
20 immediately south of the proposed area. Vacant lands are
21 interspersed with large lot single family development south of the
22 city limits east of the Canemah Rim.

23 Existing access to the area is through Oregon City (Fourth and
24 Fifth Streets) and from Highway 99. The proposed withdrawal area
25 has no public roads within the site. Access is precluded on the
26 northern portion fronting Highway 99 due to a vertical basalt cliff

1 approximately 25 feet in height.

2 South End Road is designated a minor arterial. Highway 99 is
3 designated a major arterial and scenic roadway. Fourth and Fifth
4 Streets are designated as local streets by Oregon City. City staff
5 have indicated Fourth and Fifth Streets cannot be widened due to
6 steep slopes and existing homes which were constructed within
7 platted rights-of-way.

8 Standards for Approval (Section 8(c), Ordinance No. 81-105):

9 c(1): THE LAND REMOVED FROM THE UGB MEETS THE CONDITIONS FOR REMOVAL
10 IN SUBSECTION (b) OF THIS SECTION.

11 b(1): CONSIDERATION OF THE FACTORS IN SUBSECTION (a) OF THIS
12 SECTION DEMONSTRATE THAT IT IS APPROPRIATE THAT THE LAND
13 BE EXCLUDED FROM THE UGB.

14 a(1): Orderly and economic provision of public
15 facilities and services. A locational adjustment
16 shall result in a net improvement in the
17 efficiency of public facilities and services,
18 including but not limited to water, sewerage,
storm drainage, transportation, fire protection
and schools in the adjoining area within the UGB;
any area to be added must be capable of being
served in an orderly and economical fashion.

19 - Sanitary sewers do not exist and the area is
20 not within the Tri-Cities Service District
21 Boundary, although the area is part of the
22 Tri-Cities ultimate service area.

23 - The proposed withdrawal area is not
24 currently served by and is not within an
25 existing water district.

26 - Provision of services to the site will be

1 extremely difficult and quite expensive.
2 Slopes vary from 0 to 50 percent and, in
3 site specific areas, are nearly vertical.
4 Virtually the entire area has been
5 identified as a land movement area. Road
6 construction, sewers, waterlines and other
7 public facilities will be extremely
8 difficult to construct on this site.
9 Aggravating this situation is the fact that
10 very few units can be provided on the site.
11 The result is that a tremendous expenditure
12 for public facilities and services, would be
13 necessary to provide a limited housing
14 supply. And, that supply would be provided
15 at very high cost per unit.

- 16 - Removal of this property will not impair the
17 efficiency of services in the adjoining
18 urban area in any way and will, instead,
19 improve overall service system efficiencies
20 by eliminating an area that is costly to
21 serve and difficult to develop.

22 a(2): Maximum efficiency of land uses. Consideration
23 shall include existing development densities on
24 the area included within the amendment, and
whether the amendment would facilitate needed
development on adjacent existing urban land.

- 25 - Steep slopes, land movement and flooding
26 create development hazards in this area.

- Much of the land has, in consequence, been designated "major hazard" in the County's plan.
- The property cannot, as a result, be developed efficiently at urban densities.
- The area is Douglas Fir Forest Site Class II and III and is currently forested. The County proposes a Transitional Timber District designation which would help conserve and enhance this timber resource.
- The property is almost entirely vacant; the level of development, therefore, neither promotes nor inhibits urbanization.
- No evidence has been submitted to indicate that retention of this area within the UGB would facilitate development of adjacent urban lands in any way.

a(3): Environmental, energy, economic and social consequences. Any impact on regional transit corridor development must be positive, and any limitations imposed by the presence of hazards or resource lands must be addressed.

- Highway 99E, which runs along the north of the property, is a regional transit corridor. However, a 25-foot vertical basalt cliff precludes direct access to the highway from the site. In addition, the area is currently planned for low density

1 residential development, and the presence of
2 hazards would further limit the density of
3 development possible. Therefore, retention
4 of an urban designation would provide little
5 to enhance transit corridor development and
6 its removal will have no negative impact.

7 - Hazards in the area, discussed above,
8 preclude urban development of most of the
9 area; a non-urban designation is consistent
10 with protecting development from these
11 hazards.

12 - The timber resources in the area are best
13 protected by a non-urban designation.

14 - No other energy, economic, environmental or
15 social consequences have been identified.

16 a(4): Retention of agricultural land. When a petition
17 includes land with Class I through IV Soils, that
18 is not irrevocably committed to nonfarm use, the
19 petition shall not be approved unless the existing
20 location of the UGB is found to have severe
21 negative impacts on service or land use efficiency
22 in the adjacent urban area, and it is found to be
23 impractical to ameliorate those negative impacts
24 except by means of the particular adjustment
25 requested.

26 - Since the area is currently urban, this
standard does not apply.

a(5): Compatibility of proposed urban uses with nearby
25 agricultural activities. When a proposed
26 adjustment would allow an urban use in proximity
to existing agricultural activities, the
justification in terms of factors (1) through (4)

1 of this subsection must clearly outweigh the
2 adverse impact of any incompatibility.

3 - Since the petition would allow currently
4 urban land to be designated for resource
5 use, this standard does not apply.

6 b(2): THE LAND IS NOT NEEDED TO AVOID SHORT-TERM LAND
7 SHORTAGES FOR THE DISTRICT OR FOR THE COUNTY IN WHICH
8 THE AFFECTED AREA IS LOCATED AND ANY LONG-TERM LAND
9 SHORTAGE THAT MAY RESULT CAN REASONABLY BE EXPECTED TO
 BE ALLEVIATED THROUGH ADDITION OF LAND IN AN APPROPRIATE
 LOCATION ELSEWHERE IN THE REGION.

10 - Sewering of the Canemah area, if it remained in
11 the UGB, would occur in the second phase of
12 Tri-Cities Service District System Construction.
13 It is not, therefore, available for development in
14 the short-term and so its removal will not affect
15 the short-term land supply.

16 - Any long-term shortages that may result will be
17 alleviated by the inclusion of the Waldo View
18 Estates property which will provide more housing
19 density than can be accommodated on the Canemah
20 site.

21 b(3): REMOVALS SHOULD NOT BE GRANTED IF EXISTING OR PLANNED
22 CAPACITY OF MAJOR FACILITIES SUCH AS SEWERAGE, WATER AND
23 ARTERIAL STREETS WILL THEREBY BE SIGNIFICANTLY
 UNDERUTILIZED.

24 - No water or sewer lines or new roads have been
25 constructed to serve the site.

26 - The area is not within an existing water district.

1 - The area is not within current Tri-Cities Service
2 District boundaries but is part of the Tri-Cities
3 Service area. However, Service District plans can
4 easily be modified to exclude sewer service for
5 this area, without creating any inefficiencies for
6 the remaining areas to be served. The planned
7 Willamette trunk line would have served only this
8 area and can be eliminated without revising plans
9 for serving the remaining urban area.

10 b(4): NO PETITION SHALL REMOVE MORE THAN 50 ACRES OF LAND.

11 - This standard does not apply to land removed as
12 part of trade. See discussion at c(4) in
13 Section III of this report.

14 II. ADDITION OF WALDO ESTATES

15 Summary:

16 The area is located approximately one-mile east of Oregon City
17 lying north of Maple Lane and east of Holly Lane. The property is
18 vacant with the exception of the Waldo residence on Tax Lot 600.
19 The property is 195 acres consisting of five lots. The southerly
20 half is flat (0-10 percent slope) lacking significant vegetation
21 with the exception of a ravine of 20 - 35 percent slope on the
22 western edge. The central third of the site consists of 0 - 10 and
23 10 - 20 percent slope. This portion has been identified by DOGAMI
24 as a land movement area. The northern portion of the site varies
25 from 0 - 10 to 35 - 50 percent slope. A bench separates the middle
26 and northern portions. A tributary to the main stem of Abernethy

1 Creek flows north along the eastern edge of the property.

2 Areas by slope category for the property are:

3 0 - 10 percent 87.98 acres 20 - 35 percent 28.50 acres

4 10 - 20 percent 51.72 acres 35 - 50 percent 26.50 acres

5 Significant vegetation is scattered in groves, associated with
6 steeper slopes, ravines and watercourses. Principal tree species
7 are Douglas Fir, Western Red Cedar and Red Alder.

8 Four electrical transmission easements cross the site.

9 In proximity are many small homesites and property owned by the
10 Oregon City School District. There is a mobile home park
11 one-fourth-mile to the south and east, south of Maple Lane.
12 Adjacent to the property on the east is McLoughlin Substation
13 operated by Portland General Electric. Abernethy Creek flows
14 westerly north of the site.

15 The areas to the north and east of the site are vacant.
16 Smaller lots immediately adjacent to Waldo Road are developed with
17 single family residential uses.

18 Site access is via Maplelane Road. Maplelane Road and Holly
19 Lane are both designated minor arterials. Waldo Road to the east is
20 a designated local street. The Oregon City bypass is designated
21 freeway/expressway and scenic road. Right-of-way acquisition is in
22 progress. Construction funds have not been released.

23 All land surrounding the site is designated Rural except for a
24 small part of the southwest corner. Newell Creek Canyon, which lies
25 between the site and the UGB to the west, is designated Forest.
26 This designation extends from the Oregon City UGB east to the upper

1 slopes of Newell Creek Canyon near Holly Lane.

2 The area is currently not served by sanitary sewers; however,
3 the Board of Commissioners has recommended to the Portland
4 Metropolitan Area Local Government Boundary Commission the area be
5 included in the Tri-Cities Sewer District.

6 The Council earlier reviewed this proposed addition and
7 supported its inclusion within the UGB if requested in conjunction
8 with the removal from the UGB of a comparable amount of land
9 elsewhere, consistent with the applicable standards and procedures
10 of Ordinance No. 81-105. The following findings are based on the
11 record of the earlier proceeding and the findings adopted by the
12 Council at that time as part of Resolution No. 81-269 (herein
13 referenced as August 6 Findings).

14 Standards for Approval, Section 8, paragraph c, of Ordinance
15 No. 81-105:

16 c(2): CONSIDERATION OF THE FACTORS IN SUBSECTION (A) OF THIS SECTION
17 DEMONSTRATE THAT IT IS APPROPRIATE THAT THE LAND TO BE ADDED
SHOULD BE INCLUDED WITHIN THE UGB.

18 a(1): Orderly and Economic Provision of Public Facilities and
19 Services. A locational adjustment shall result in a net
20 improvement in the efficiency of public facilities and
21 services, including but not limited to water, sewerage,
22 storm drainage, transportation, fire protection and
schools in the adjoining area within the UGB; any area
to be added must be capable of being served in an
orderly and economical fashion.

23 - The Council has already found that the property
24 can be provided with urban services in an orderly
25 and efficient manner (August 6 Findings No. 26 and
26 No. 27, pg. 9), assuming sewerage service is

1 provided by the Tri-Cities Service District and
2 transit service is provided by private shuttle or
3 other arrangement satisfactory to Tri-Met.
4 Approval of the County's petition should,
5 therefore, be conditioned to assure that these two
6 assumptions are realized.

7 - Inclusion of this area will facilitate early
8 construction of the Tri-Cities Sewage Treatment
9 Plant by making at least \$700,000 in prepaid sewer
10 construction fees available to help fund system
11 implementation.

12 - Inclusion of this area will also provide for
13 construction of a water pump station at Molalla
14 Avenue which will improve water service to the
15 urban areas along Molalla Avenue and South End
16 Avenue.

17 - Waldo Estates can be provided with sewer service
18 more efficiently than Canemah. Approval of this
19 addition in trade for the Canemah area thus
20 eliminates the inefficiency of providing sewer
21 service to the Canemah area while adding an area
22 that can be sewered more easily.

23 - The addition would not create any reduction in the
24 efficiency of other services; approval would,
25 therefore, result in a net increase in service
26 efficiencies in the adjoining urban area.

1 a(2): Maximum Efficiency of Land Uses. Consideration shall
2 include existing development densities on the area
3 included within the amendment, and whether the amendment
4 would facilitate needed development on adjacent existing
5 urban land.

- 6 - The Council has already found that development of
7 the property as proposed promotes maximum land use
8 efficiency (August 6 Findings Nos. 30 and 31,
9 pp. 10-12).
- 10 - The property is vacant except for one house; the
11 level of existing development thus neither
12 promotes nor inhibits urbanization.
- 13 - Approval of the addition would support commercial
14 development along Mollala Avenue.

15 a(3): Environmental, Energy, Economic and Social
16 Consequences. Any impact on regional transit corridor
17 development must be positive, and any limitations
18 imposed by the presence of hazards or resource lands
19 must be addressed.

- 20 - Highway 99E is the regional transit corridor that
21 would serve both this area and the area proposed
22 for removal. Because this area can be more
23 efficiently developed, and so can accommodate more
24 people, and because the project proposed for this
25 area is designed for elderly residents, who have a
26 higher proportion of transit ridership than the
population as whole, the impact of this amendment
on transit in this corridor, if any, would be
positive.
- About 55 acres of the site is sloped 20 percent or

1 more, and some of the steep slopes may be subject
2 to land movement. However, the area affected by
3 hazards is substantially less than in the Canemah
4 area, and so the environmental consequences of
5 developing this area instead of Canemah are
6 positive.

- 7 - Inclusion of this area within the UGB would allow
8 for development of a large mobile home subdivision
9 for seniors, with a variety of community
10 amenities. Provision of moderate cost retirement
11 housing for seniors in a community of their peers
12 has clear and important positive social
13 consequences.

14 a(4): Retention of Agricultural Lands. When a petition
15 includes land with Class I through IV Soils, that is not
16 irrevocably committed to nonfarm use, the petition shall
17 not be approved unless the existing location of the UGB
18 is found to have severe negative impacts on service or
land use efficiency in the adjacent urban area, and it
is found to be impractical to ameliorate those negative
impacts except by means of the particular adjustment
requested.

- 19 - Metro has reviewed and accepted the applicant's
20 findings entitled "Waldo View Estates: Proposed
21 Findings Re: Commitment to Non-Farm Uses"
22 (Attachment I).
- 23 - Metro finds, accordingly, that Waldo Estates is
24 irrevocably committed to non-farm use and that
25 this standard, therefore, does not apply.
- 26 - Metro has also received from the applicant

1 "Proposed Findings Re: Negative Impacts on Service
2 and Land Use Efficiency." The positive impacts on
3 adjacent commercial activity and on implementation
4 of the Tri-Cities Sewer District, discussed in
5 these proposed findings, have been considered in
6 addressing standards a(1) and a(2) above.
7 Because, however, standard A(4) has been found not
8 to apply, Metro makes no findings on whether or
9 not these factors would constitute a severe
10 negative impact on land-use and service
11 efficiencies in the adjoining urban area
12 sufficient to meet this standard if it were
13 applicable.

14 a(5): Compatibility of Proposed Urban Uses with Nearby
15 Agricultural Activities. When a proposed adjustment
16 would allow an urban use in proximity to existing
17 agricultural activities, the justification in terms of
18 factors (1) through (4) of this subsection must clearly
19 outweigh the adverse impact of any incompatibility.

18 - This standard does not apply, as there are no
19 nearby agricultural activities (August 6 Findings,
20 No. 39, pg. 13).

21 c(3): IF, IN CONSIDERING FACTOR 1 OF SUBSECTION (A) THE PETITIONER
22 FAILS TO DEMONSTRATE THAT EXISTING OR PLANNED PUBLIC SERVICES
23 OR FACILITIES CAN ADEQUATELY SERVE THE PROPERTY TO BE ADDED TO
24 THE UGB WITHOUT UPGRADING OR EXPANDING THE CAPACITY OF THOSE
25 FACILITIES OR SERVICES, THE PETITION SHALL NOT BE APPROVED
26 ABSENT A SHOWING OF UNUSUAL CIRCUMSTANCES.

25 - Development of the area proposed for addition would
26 require upgrading of the Claremount Water District's

- 1 facilities in order to provide an adequate water supply
2 to the site. However, some improvements to the system
3 would be needed in any case and this addition would
4 allow needed improvements to be made most effectively.
- 5 - Furthermore, approval of this addition as part of the
6 trade proposed allows for more efficient provision of
7 sewer service than would be possible if the Canemah area
8 were sewerred instead.
- 9 - Finally, the benefits to the region of allowing
10 development of the proposed senior community are strong
11 enough to justify any negative consequences resulting
12 from modification of service plans.
- 13 - Metro finds, accordingly, that these unusual
14 circumstances warrant approval even though some
15 facilities will need to be upgraded in consequence,
16 provided that approval is conditioned to ensure that the
17 land to be added is used for the purposes proposed.

18 III. OVERALL EVALUATION OF PROPOSED TRADE

19 c(4): ANY AMOUNT OF LAND MAY BE ADDED OR REMOVED AS A RESULT OF A
20 PETITION UNDER THIS SUBSECTION BUT THE NET AMOUNT OF VACANT
21 LAND ADDED OR REMOVED AS A RESULT OF A PETITION SHALL NOT
22 EXCEED TEN (10) ACRES. ANY AREA IN ADDITION TO A TEN (10)
23 ACRE NET ADDITION MUST BE IDENTIFIED AND JUSTIFIED UNDER THE
24 STANDARDS FOR AN ADDITION UNDER SUBSECTION (d) OF THIS SECTION.

- 25 - Metro has modified the County's petition to delete 2.7
26 acres of deveoped land from the area to be removed and
to delete two acres of vacant land from the area to be
added.

- 1 - The proposed addition as modified is 191 acres, of which
2 all but approximately one acre is vacant.
- 3 - The proposed removal as modified is 182 acres, of which
4 all but approximately two acres are vacant.
- 5 - The net amount of vacant land to be added is
6 approximately ten acres, consistent with this standard.
- 7 c(5): THE LARGER THE TOTAL AREA INVOLVED, THE GREATER MUST BE THE
8 DIFFERENCE BETWEEN THE RELATIVE SUITABILITY OF THE LAND TO BE
9 ADDED AND THE LAND TO BE REMOVED BASED ON CONSIDERATION OF THE
 FACTORS IN SUBSECTION (a).
- 10 - The Canemah area proposed for removal is almost entirely
11 constrained by steep slopes and land movement, while
12 less than a third of the Waldo Estates property to be
13 added is subject to these hazards. Furthermore, because
14 the Waldo Estates property is in one ownership that
15 includes both buildable and unbuildable lands, density
16 can be transferred from hazards to achieve a higher
17 density than is normally possible in the County's low
18 density residential areas, while the hazard areas can be
19 integrated into the project to provide open space and
20 recreational opportunities.
- 21 - The Canemah area is not only less suited topographically
22 for urbanization, but is suitable for resource
23 protection under the County's Transitional Timber
24 District.
- 25 - The Waldo Estates property would be used to provide a
26 unique and desirable senior community for which the

1 Canemah area is neither suitable nor available.

2 - The differences between the suitability of the two sites
3 for urban development are sufficiently great to warrant
4 an adjustment of this size.

5 IV. CONCLUSIONS AND PROPOSED ORDER

6 Metro finds that Clackamas County's petition for a trade,
7 modified as shown on Exhibits A and B, to add 191 acres in the area
8 known as Waldo Estates and to remove 182 acres in the area known as
9 Canemah meets the standards for trades established in Ordinance No.
10 81-105 and recommends accordingly that this petition be approved.

11 Because, however, these findings are contingent upon certain
12 assumptions about how the property will be developed, approval must
13 be conditioned to ensure:

- 14 A. that Waldo Estates is developed as a mobile home
15 subdivision providing at least 700 units, available
16 predominantly to households with heads 50 years of
17 age or older;
- 18 B. the Waldo Estates property is annexed to the
19 Tri-Cities Service District; and
- 20 C. the developer of the Waldo Estates property enters
21 into an agreement with Tri-Met to provide for
22 adequate transit service to the site.

23 Approval must also be contingent upon annexation to Metro
24 within six months of Council action.

25
26 JH/srb/4664B/274

WALDO VIEW ESTATES

PROPOSED FINDINGS RE COMMITMENT TO NONFARM USES

a(4): Retention of Agricultural Lands. When a petition includes land with Class I through IV soils, that is not irrevocably committed to nonfarm use, the petition shall not be approved...

This statement has been prepared for inclusion in the Clackamas County Comprehensive Framework Plan. It also serves as a basis for Metro's finding that the subject property is committed to nonfarm uses.

The subject property consists of about 195 acres, of which four acres are already included within the UGB. The property is comprised of predominantly Classes II and III agricultural soils and of Douglas fir forest site Classes II and III. Elevation of the property slopes from 400 feet along Maple Lane to less than 100 feet to the north.

The property is currently the subject of an application by Clackamas County to the Metropolitan Service District for inclusion of the subject property within the UGB. The Metropolitan Service District Council, like the Clackamas County Board of Commissioners, has found that the land is committed to nonresource uses. Both the majority report (which was adopted), favoring inclusion of the land within the UGB as soon as a trade can be arranged, and the minority report, favoring outright inclusion of the parcel at this time, agree that the various factors impacting the parcel make agriculture and forestry impossible. A subcommittee of the LCDC has reviewed the findings describing these factors and impacts and recommended to the full Commission that the findings themselves are not adequate to explain commitment. LCDC did not find that

the land itself was not committed, but only that the findings were inadequate to explain the decision. Based upon additional evidence, these findings will again review the situation.

APPLICABLE STANDARDS

The land contains agricultural and forestry soils and, therefore, is subject to Goals 3 and 4 unless an exception is taken under the procedures established in Goal 2. The "irrevocably committed test" for satisfying the Goal 2 exception requirements have been described recently in the case of 1000 Friends of Oregon v. Clackamas County, LUBA No. 80-060. The test focuses on a specific showing of how activities or development on the site in question and surrounding properties prevent its continued use for farming purposes. The issue is whether there can be a finding that the subject land cannot now, or in the foreseeable future, be used for any of the purposes contemplated in Goals 3 and 4 after considering one or more of the following criteria:

- a. Adjacent uses;
- b. Parcel size and ownership patterns;
- c. Public services;
- d. Neighborhood and regional characteristics;
- e. Natural boundings;
- f. Other relevant factors.

It is important to note that the committed lands test is not a policy decision by the local governing body. Instead, it is a factual determination that a given area can no longer support agricultural enterprise.

The decision is reviewed by LCDC in a three-step process. First, the Commission inquires into whether the proper standards

were addressed. Second, the findings must be supported by substantial evidence. Third, if there is substantial evidence in the record, the Commission asks whether the findings themselves present a compelling case for commitment. The Commission does not reweigh conflicting evidence. Nor does it make an independent factual determination as to the status of the property. Its review is confined to the record and the findings based upon the record.

In considering these findings, it is important to note that commitment to forest uses is not relevant. Metro is operating under an acknowledged locational adjustments ordinance which refers only to consideration of farm uses. Metro's review is confined to determining whether or not the property is precluded from being used now or in the future for farm purposes.

In accord with recent LCDC decisions, we will consider profitability as one minor aspect of the commitment analysis. Profit has been defined by LCDC to mean the gross profit concept found in ORS Chapter 215:

"[Profit and money] does not mean profit in the ordinary sense, but rather refers to gross income inasmuch as this was the test under the former \$500 standard and is the present statutory standard for unzoned farmland. Since the Legislature did not specify a gross dollar amount required for lands to qualify for exclusive farm zones under ORS 215.213, it intended that this be a matter of discretion for the counties. LCDC may as a part of its Goal impose limits on that discretion." 1000 Friends of Oregon v. Benton County, 32 Or.App. 413, 575 P.2d 651 (1978).

LCDC has determined that the reasonable amount of a gross profit may vary from region to region and county to county, depending on the kind of farming activities which are possible. They have authorized the use of the figures used to determine

qualification for agricultural tax deferral as a guide for determining whether "farm use" of any given area can reasonably be expected to take place. Clackamas County uses a standard of \$2,000 per year on parcels in excess of 20 acres.

a. Adjacent uses, parcel size and ownership patterns.

In general, the parcel is surrounded by large lot residential development. There are homes on nearly all of the surrounding parcels. The UGB crosses the southern portion of the property and, therefore, we can expect some effort to increase the density in this area. There are no farming operations in the vicinity. The average lot size in the surrounding area is less than five acres.

The LCDC staff and Commission subcommittee have reviewed these surrounding properties and found their findings to be sufficient to consider them committed to nonresource use. The subject parcel is, therefore, surrounded by lands which are committed to nonresource use because of their residential development.

The high degree of surrounding residential development prevents the subject parcel from being used for agricultural or forestry purposes. The property has been analyzed by Ross J. Bowles, a qualified timber consultant, who made the following observations about the adjacent uses and their impact on timber productivity.

"This land was cleared by the early settlers for farm use. It has never been used for timber growing purposes since, and as the pressure for residential property has increased, these old farms near industrial centers have been subdivided. This is a natural outgrowth and expansion of Oregon City.

"At present, the adjacent property has been subdivided into typical residential sections along both sides of four

dedicated roads and streets. There are a number of lots accommodating horses with corrals, barns and small pasturages. The average lot size along Holly Lane, Redland, Market and Waldo View Roads is about 4.54 acres. From the number of homes and families already established on the neighboring property, it is readily apparent that this is a residential section and certainly not an area to introduce heavy industry such as timber growing.

"A forest stand in close proximity to a densely populated area exposes seedlings to extreme risk of grass fires. Employment of airplanes in fire suppression, beetle control and in timber removal operations is out of the question in this residential area. Forested tracts invite trespass by neighboring children building trails, cabins and 'hide-outs' in the timbered area with the resultant damage. Small trees are skinned delimbed, ringed and cut down. Larger ones are debarked and have nails and other metal objects pounded into them that prohibits their use in sawmills. The cost of fencing and patrolmen would be prohibitive.

"Safety and environmental objections are other factors that must be evaluated with respect to the use of the adjacent land. People in the neighborhood would not abide the noise pollution of chain saws, log trucks and other logging equipment. Felling of timber would represent a danger to children and pets used to playing in the woods. Increased traffic in residential areas by logging trucks and support equipment would greatly increase the risk of accident.

"Timber growing is not compatible with the normal activities of a residential neighborhood in such close proximity, and to convert the entire neighborhood from residential to all forestry is not justifiable."

Mr. Bowles comments are confirmed by testimony of residents of the area during the hearings on the UGB amendment. Concerns with trespass, traffic and compatible activities were expressed.

The same factors which negatively impact forestry activities also prevent agricultural use of the property. A land use feasibility study of the site prepared by Roger D. Bristol of Agri-Management Technology included:

"The property is economically incapable of supporting an owner-operator as a conventional commercial farm and contributes very little to the agricultural land base of the area. Development into rural homesites would be consistent with the surrounding area and create less adjacent land use conflicts than continued use for commercial agriculture and woodlands."

This report also confirms that the area has been dedicated to rural homesites and that there are no commercial farms in the surrounding vicinity. The report also cites the fact that the property is adjacent on the east to a proposed site for a new public high school and that there is a mobile home park within one-quarter mile to the south and east. The report closes by stating:

"Close proximity to houses and schools increases liability dangers, the problems of theft and vandalism, and creates potential land use conflicts from the noise, dust and chemicals of commercial agriculture."

The facts and circumstances presented to us present a compelling case that this land is not capable of agricultural or forestry production. The amount of residential development surrounding the property produces impacts which prevent resource uses. These impacts include theft and vandalism, as well as the inevitable conflict resulting from sensitive residential dwellers being subjected to noise, dust and chemical impact from agriculture and forestry operations.

The opinions of these experts are not merely speculation. The dangers which they have commented on in fact exist on the property. The December 4 letter of Herman Waldow quite specifically describes the problems he has experienced. He has lived in the area for about 75 years and has watched the area change over time. He states:

"While there was a time when surrounding development was minimal and the marginal quality of the land was due primarily to its poor soils, difficult topography and lack of water, the situation is now much different. The poor soils, bad topography and lack of water are still a problem; but, in addition, the large number of people who have moved into the area have finally made this marginal piece of ground completely unproductive."

Mr. Waldow is experiencing overwhelming problems with trespass:

"One of the most disturbing things to me is that I have been overwhelmed by trespassers. I have put up signs but they are always ripped down. If any equipment is left outside of a locked enclosure, it is vandalized. The Sheriff will confirm that he has been called many times because of the sound of gunfire, both day and night."

Mr. Waldow then recounts the problems that he has had in attempting to raise a viable crop on the land in the face of the impacts from surrounding development. Attempts at raising livestock have failed. Two cows have been shot. In describing the problems he had had with raising livestock, Mr. Waldow states:

"I am familiar with agriculture in many areas of the state and I know for a fact that they do not have near the numbers of armed trespassers coming across their property as I do. I also know that they are not surrounded by suburban development on all sides. Anyone who says that the problems that I have are typical of any farming area is attempting to mislead you. In the recent past, I had four cows stolen off of the property. It is not possible to farm and live with problems like that."

Mr. Waldow has also attempted to raise other crops including potatoes and strawberries. He states that due to the problems caused by trespass and by the inability to use some agricultural techniques due to conflicts with neighboring property owners, these crops were failures. He also points out that the source of the trespass problems is the surrounding residential development. There are no nearby agricultural areas and he points out that cattle stolen off the property "ends up in someone's freezer, not on their farm".

Based upon this evidence, it is quite clear, both from expert testimony and from practical experience with the land, that the degree of residential development in the area causes severe impacts which preclude the use of the land for farm purposes now or in the future.

The applicant has demonstrated that the property has been submitted for farm tax deferral, but that the County Assessor has refused to grant such a deferral. The testimony of Agri Management Technology and of the County Extension Agent agree with this conclusion. Mr. Waldow has provided evidence that due to the damage to crops that takes place from vandalism and other impacts the gross profit is less than \$1,000 per year. This falls short of the \$2,000 per year standard used by Clackamas County to grant eligibility for deferral.

The opponents have cited the partial budgets included in the Agri Management study to contend that while a net return is impossible on the land, a gross return is possible. Agri Management has submitted additional commentary on its calculations indicating that they are based on the assumption that there is no interference with production caused by impacts from surrounding development. The most recent letter reiterates that this assumption cannot be made for the reasons described in the original report. These reasons are summarized at p. 20 of the original report. It is the expert's opinion that if the land were not surrounded by development, it would produce a gross profit, but no net profit. With the degree of surrounding development that exists, and the interference with production that is caused by this development, it is not possible to produce a gross profit. This opinion is in accord with the evidence submitted by Mr. Waldow and by the County Extension Agent. It justifies the county's refusal to grant deferral status to this property.

For the reasons described, it is clear that the appli-

cant has made a compelling showing that the property is precluded from being used for agricultural purposes now or in the future. These findings describe the reasons why surrounding development precludes agricultural productivity on the land and the resulting inability to produce a gross profit which meets the county's standard for farm tax deferral.

b. Public Services

Like the surrounding residential properties, the subject parcel is serviced by the Clairmont Water District. In fact, at Holly Lane, the Clairmont Water District has a pump station that pumps the water up Holly Lane, west on Maple Lane to Beavercreek Road. The waterline in Holly Lane is the main supply for the Water District system. At all times, there is water in the main from the pump station along Holly Lane which supplies water continuously to the adjacent residences along Holly Lane. The subject parcel is adjacent to Holly Lane.

Also adjacent to the subject property is a BPA substation served by a high tension line rated at 230 KV. Four other BPA branch lines radiate from this substation. The main powerline crosses the eastern portion of the subject property and powerlines cross it at an angle in the southerwestern portion. There is also an easement for an additional line crossing the property. The existence of these powerlines precludes the use of the land for timber and agricultural purposes. Timber cannot be grown under the line, nor felled near it primarily from a safety standpoint. The operation of timber management or logging equipment is also limited by the existence of these powerlines for the same reasons. The existence of the towers and lines also precludes use of aerial

spraying for agricultural or forestry purposes. This renders the property unusable for these purposes.

In addition, public roads in the area are not constructed to permit their use as heavy haul trucks which eliminates their use as logging truck roads. Log trucks haul gross weights of 35 tons and would break up the pavement on streets and roads designed to support only 10 or 12 tons. City ordinances prohibit these kinds of loads inside the city limits except on designated thoroughfares.

c. Neighborhood and Regional Characteristics.

There are certain obvious characteristics of this area which commit it to nonresource use. First, it is completely isolated from any farm or forest uses. No uses of this type exist in the area in order to help provide a market base or offer potential of consolidation or cooperative management.

Second, the parcel is surrounded by residential uses. The intensity of these uses is such that farm and forest experts have already concluded that the property cannot be made useful for resource purposes. This situation will only become worse in the future. The presence of the UGB, crossing one portion of the property, serves notice that residential uses in this area will intensify. Moreover, nearby commercial and institutional development reinforces the likelihood of this trend. Less than one mile away is a Fred Meyer shopping center and, within less than one-half mile, a major medical facility is being constructed at the intersection of Molalla Avenue and Beaver Creek Highway. This site is also in close proximity to Clackamas Community College and, therefore, the neighborhood characteristics are such

that residential intensification should occur in order to take full advantage of the investment that has already been made in public and private facilities.

The degree of surrounding residential development has been recognized by LCDC. The subject property is almost completely surrounded by land which the Commission has indicated can be justified as committed to nonresource use. Only a very small portion of the property, in the northeast corner, is connected with land which LCDC recommends for resource use. This portion of the subject property has been excluded from the UGB amendment application and, therefore, none of the proposed area is directly connected with land which is anticipated to be designated for resource purposes.

Other neighborhood and regional characteristics are less obvious. The agricultural study of the property concluded that there is little probability of developing irrigation on this property. Both surface run off and underground water from wells have been explored with negative results. Surface water rights filed with the State of Oregon Water Resources Division indicate that previous water rights have been established on both the minor surface waterways adjacent to the property. Other property owners have the right to whatever water there is in these two small drainageways. 15 well logs were examined from wells in the immediate area and most yielded less than 30 gallons per minute and ranged in depth from 60 to 300 feet. None of these wells were capable of providing water in a quantity adequate to make irrigation economical on this property.

Throughout the area, and including this property, wet spots are indicated based upon the presence of water-loving shrubby plants in several of the fields. Evidence of such wet spots indicates that tillage of the entire field as a unit would be difficult due to the variable soil conditions. Seepage spots would be too muddy to till in early spring when the rest of the field would be ready to till. This fact makes the already small fields even more difficult to manage on a commercial agricultural basis.

At one time, dairying was major industry in this area. Unfortunately, technological changes in dairying equipment, forage handling and the move to confinement buildings, required tremendous physical and economic expansion in order to maintain efficiency or profitability. In areas such as this one, the presence of residential development prevents such expansion and precludes what at one time might have been viable.

d. Natural Boundings and Topography

The major drainage of this area is to the north and west through Abernethy Creek which flows into the Clackamas River. There are many small intermittent creeks and streams that contribute to Abernethy Creek. These waterways are located in well defined stream beds which divide the area with steep ravines. These ravines are bushy and heavily wooded. The drainage,

topography and timber results in small, irregular and undulating parcels. This pattern makes large-scale agriculture in the region impossible. The fields cannot be combined into manageable units. The presence of ravines and other topographic barriers builds tremendous inefficiency into any attempts to cultivate the land.

On the subject parcel, farm equipment access between the fields is limited. Large modern agricultural equipment would be awkwardly and precariously moved from one field to the next through the narrow passageways between the trees and brushlands and through the deep and irregular gulleys. One 9.3 acre area at the northeast extreme of the property is not accessible from the other contiguous parcels and can only be accessed down Waldo Road. The approach to this field banks off steeply from the road and there is insufficient room to maneuver large tractor-trailer rigs or large tractors with tillage implements.

The general topography of the property is hilly, with scattered undulating fields with variable to steep slopes dissected with steep and deep ravines and drainageways. The total relief of the property ranges from 80 ft. mean sea level to a high of 420 ft. mean sea level. The slopes of the fields range up to 15% and many conventional tillage and harvesting operations are difficult on a slope in excess of 5%.

Natural features effectively preclude any intensive use of this area. Steep topography north of the site effectively isolates it from the Redland Road area. Similarly, a ravine between the site and the rural residential area on Holly Lane separates the area from the site. East of the site, the

substation and powerlines act as a physical barrier from areas further east. Therefore, the only adjacent area not physically separated from the site is the existing rural residential area fronting on Maple Lane to the south.

CONCLUSION

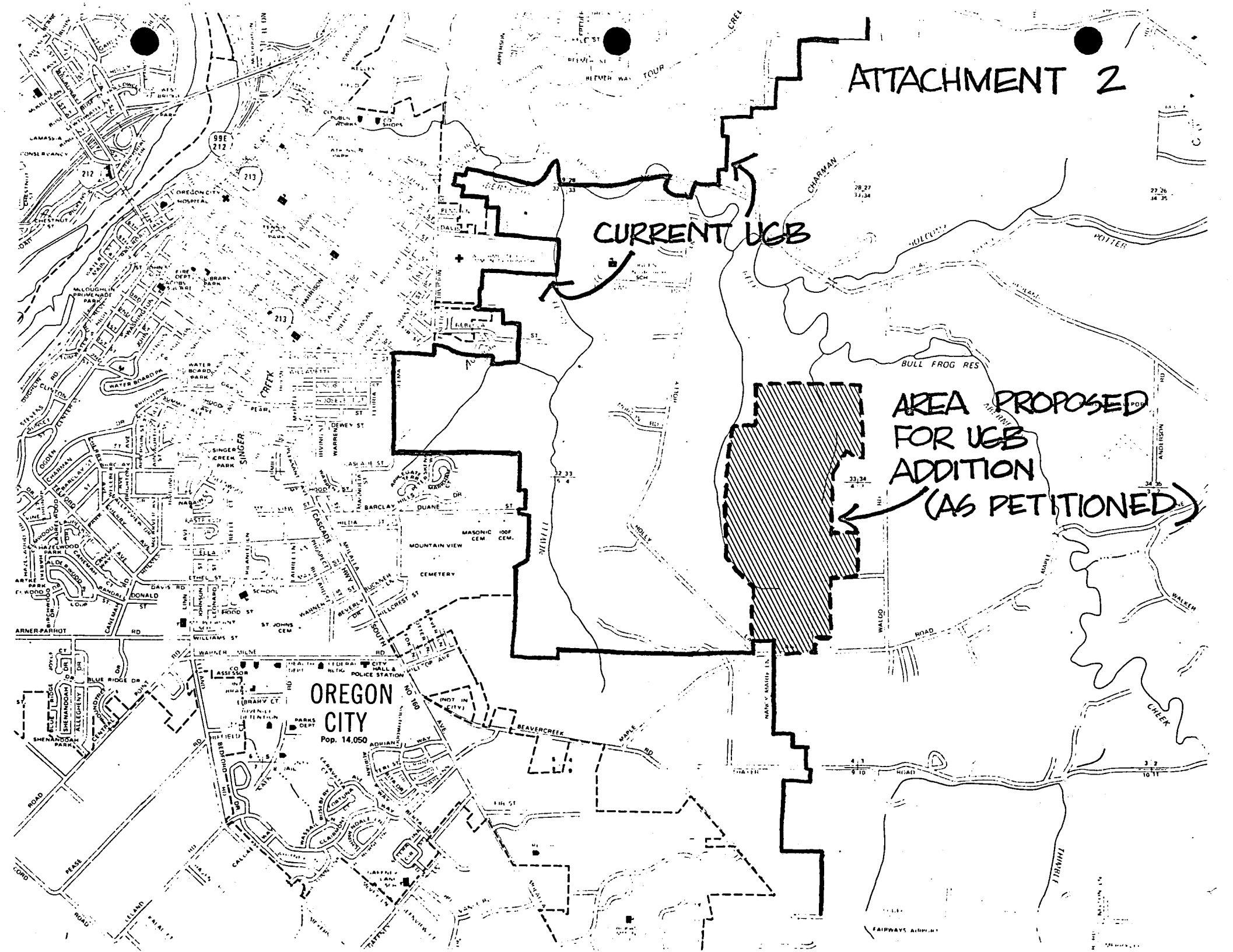
Based upon the above reasons and facts, we are compelled to conclude that the subject parcel is committed to nonresource uses and that it cannot be combined with other parcels in order to make it usable for farm or forestry uses. The impacts of residential development, including vandalism, increased fire danger and incompatibility with mechanized operations are so great that the property cannot be used now or in the future for resource purposes. Furthermore, the topography of the area and the presence of BPA powerlines and towers prevents this land from being used for resource purposes. We, therefore, find that the land is committed to nonresource uses and that the proposed RRFF-5 zone designation is appropriate.

ATTACHMENT 2

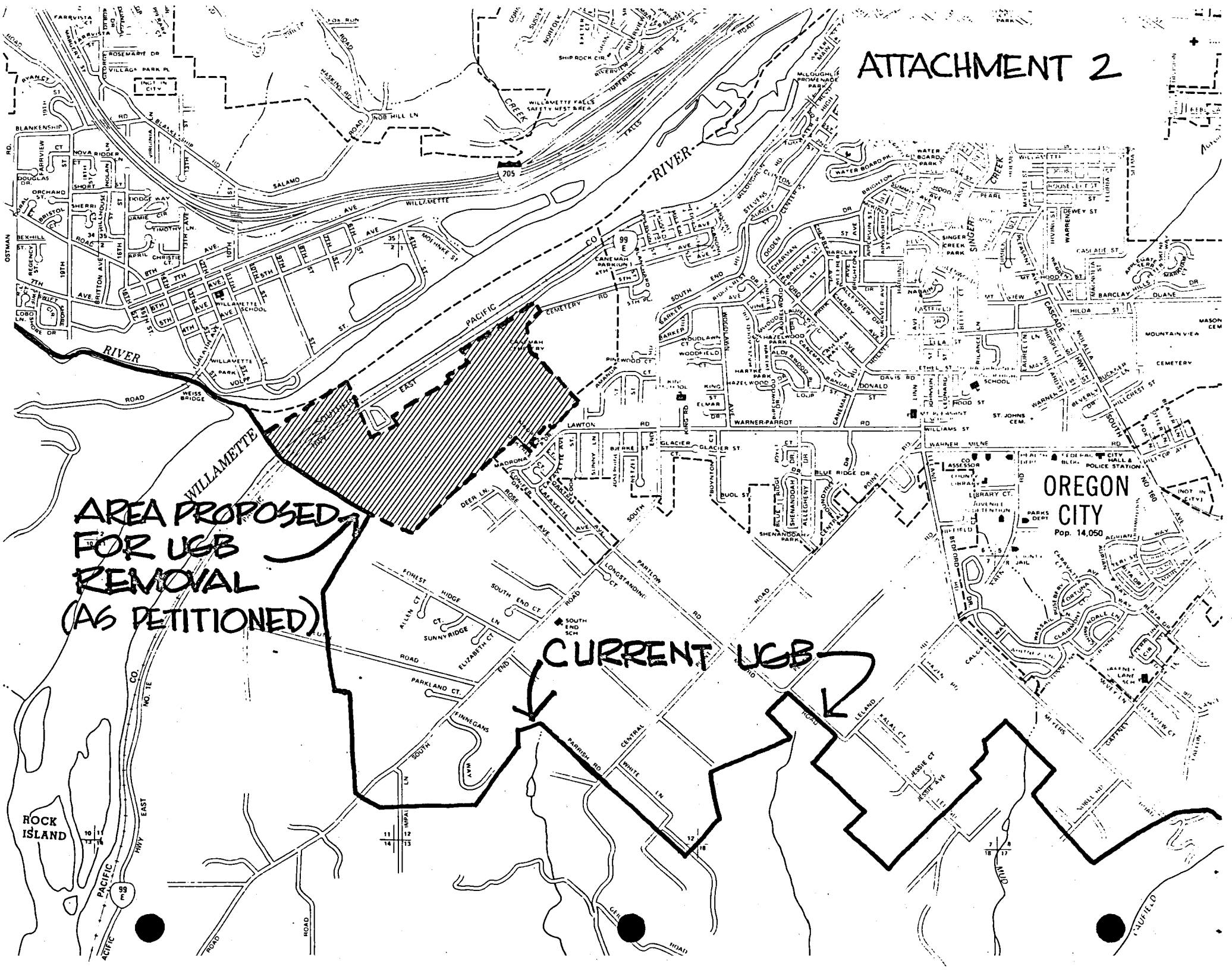
CURRENT UGB

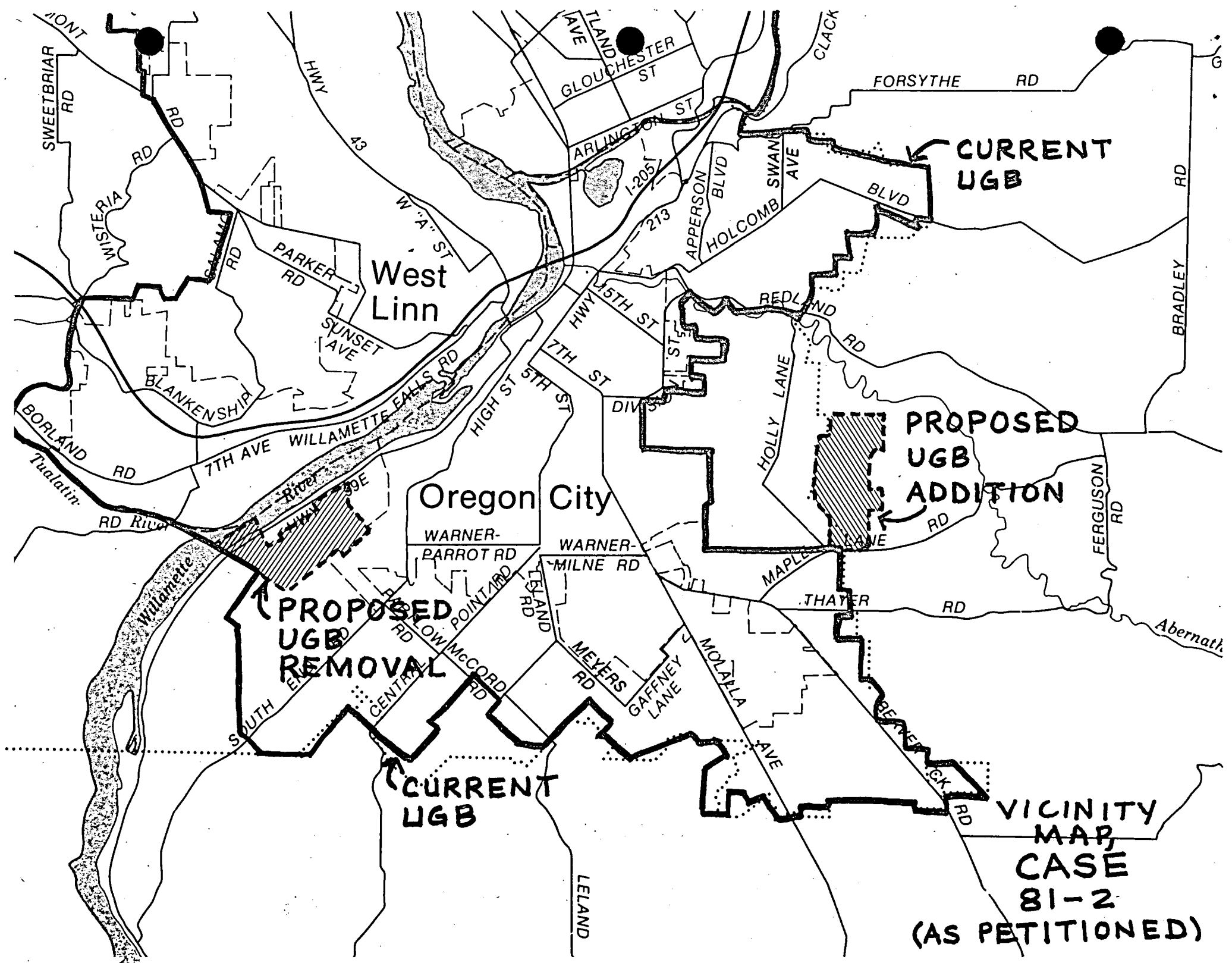
AREA PROPOSED
FOR UGB
ADDITION
(AS PETITIONED)

OREGON
CITY
Pop. 14,050



ATTACHMENT 2





1000 FRIENDS OF OREGON

400 DEKUM BUILDING, 519 S.W. THIRD AVENUE, PORTLAND, OREGON 97204 (503) 223-4396

December 21, 1981

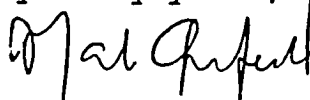
Metropolitan Service District
527 S. W. Hall
Portland, Oregon 97201

Subject: Clackamas County Request to Amend UGB to
Add Waldo Acres and Remove Canemah

Dear Metro Councilors:

1000 Friends of Oregon takes exception to the
Regional Development Committee's findings on the ground
that the Waldo property is not committed to nonfarm use.
See our letter dated December 7, 1981.

Very truly yours,



Mark J. Greenfield
Staff Attorney

MJG/lobw

1000 FRIENDS OF OREGON

400 DEKUM BUILDING, 519 S.W. THIRD AVENUE, PORTLAND, OREGON 97204 (503) 223-4396

December 7, 1981

Mr. Ernest Bonner, Chairman
Regional Development Committee
Metropolitan Service District
527 S.W. Hall
Portland, OR 97201

Subject: Clackamas County Request for a Locational Adjustment
to the Regional Urban Growth Boundary

Dear Mr. Bonner:

1000 Friends of Oregon has reviewed Clackamas County's request to amend the urban growth boundary to remove the Canemah area and add Waldo Acres. For the reasons stated below we find that such a trade would not satisfy the standards in Ordinance No. 81-105, governing locational adjustments to the UGB. We ask, therefore, that the Regional Development Committee recommend to the Metro Council that the request be denied. We ask that this letter and supporting documents be made a part of the record of this proceeding.

The Committee will recall that last summer, when the idea of a trade was discussed, we expressed our concern that any trade proposed meet all the standards contained in the locational adjustments ordinance. See 1000 Friends' letter to Jack Deines dated July 22, 1981. We believe that the standards governing the removal of the Canemah area from the UGB are met. However, the decision to add Waldo Acres does not satisfy section 8(c)(2) of Ordinance 81-105, which requires that any land added to the boundary comply with the requirements of section 8(a) of the ordinance. Specifically, the addition violates subsection a(4) which provides:

Retention of Agricultural Lands. When a petition includes land with Class I through IV Soils, that is not irrevocably committed to nonfarm use, the petition shall not be approved unless the existing location of the UGB is found to have severe negative impacts on service or land use efficiency in the adjacent urban area, and it is found to be impractical to ameliorate those negative impacts except by means of the particular adjustment requested.

A. The Property is Not Committed to Nonresource Uses.

The first issue under subsection 8(a)(4) is whether the property in question is "irrevocably committed to non-farm use." 1000 Friends has testified throughout this proceeding that the Waldo property is not committed. See our letter of July 22, 1981, paragraph 8. The County has not shown that the property cannot produce a gross profit in money, through agricultural pursuits, timber management, or a combination of the two. On several occasions LCDC or LJBA have determined that the land is not committed. Indeed, a subcommittee of the Commission unanimously agreed on November 20, 1981, that the land was not committed to nonresource uses. We believe Metro must defer to LCDC's conclusion. AR

In support of our position we offer several exhibits, including 1) aerial photos of the property showing that it is undeveloped and contains resource land; 2) soils charts showing its suitability for farm and forest uses; and 3) testimony of forestry experts to the effect that nearby residential development does not preclude timber management on adjacent lands.

B. The Property is Not Needed to Ameliorate Severe Negative Impacts on Service or Land Use Efficiencies in the Adjacent Urban Area.

Subsection 8(a)(4) provide that land which is not irrevocably committed shall not be added to the boundary unless the existing location of the UGB has severe negative impacts on service or land use efficiency in the adjacent urban area, and it is impractical to ameliorate those impacts except by the particular adjustment requested. The treatment of this standard in the staff report makes a mockery of that standard. Indeed, the staff report does not even address the standard. Instead, it addresses the concept of "market demand" and offers a dangerous precedent to justify bad land use decisionmaking.

No demonstration has been made, and we believe none can be made, that the adjacent urban area suffers "severe negative impacts" on services or land use efficiencies that require Waldo Acres to ameliorate. If anything, Waldo Acres would create service and land use inefficiencies that do not now exist. From a planning perspective it makes no sense at all to stick a 200-acre thumb into rural and resource lands.

The staff's failure to address the standard in subsection 8(a)(4) speaks for itself. The standard is not and cannot be met by this proposal.

Mr. Ernest Bonner
December 7, 1981
Page 3

When Metro adopted this subsection of Ordinance No. 81-105 it had the integrity of the boundary in mind. The Commitment test in this standard reflects the fact that the boundary is already too big. It properly provides that additional resource lands should not be converted to urban non-resource uses absent the most compelling of locational (not need) consideration.

Metro adopted this standard knowing it would be difficult to meet. Metro must enforce the standard, properly. We think denial is the only result when the standard is properly applied. Consequently we urge the Committee to recommend denial.

Very truly yours,



Mark J. Greenfield
Staff Attorney

MJG:aw
Enclosures

LIST OF EXHIBITS

- Exhibit A: Materials from Proposed Mt. Hood Meadows development addressing compatibility of rural housing and timber management.
- Exhibit B: Soils charts of soils on Waldo property, showing high Douglas Fir productivity potential.
- Exhibit C: Aerial photos of Waldo Acres.

O'DONNELL, SULLIVAN & RAMIS

ATTORNEYS AT LAW

BALLOW & WRIGHT BUILDING

1727 N. W. HOYT STREET
PORTLAND, OREGON 97209
(503) 222-4402

MARK P. O'DONNELL
EDWARD J. SULLIVAN
TIMOTHY RAMIS
KENNETH M. ELLIOTT
CORINNE C. SHERTON
STEPHEN F. CREW
STEVEN L. PFEIFFER

CANBY OFFICE

181 N. GRANT, SUITE 202
CANBY, OREGON 97013
(503) 266-1149

PLEASE REPLY TO
PORTLAND OFFICE

December 28, 1981

Ms. Jill Hinckley
Metropolitan Service District
527 S. W. Hall
Portland, Oregon 97201

Re: Exceptions to Proposed Findings

Dear Jill:

I am writing on behalf of Mr. Johnson to request that the Council add our proposed findings regarding land use efficiency to the findings proposed by the subcommittee.

We are not suggesting a complete rewrite of the proposed findings at this time because of the prospect that the case may be settled and litigation avoided. When the matter returns to the full Council after Metropolitan Boundary Commission action, we may propose some additional changes in the findings if litigation appears imminent.

Very truly yours,



Timothy V. Ramis
TVR:mch

WALDO VIEW ESTATES

PROPOSED FINDINGS RE NEGATIVE IMPACTS
ON SERVICE AND LAND USE EFFICIENCY

a(4)...The petition shall not be approved unless the existing location of the UGB is found to have severe negative impacts on service or land use efficiency in the adjacent urban area and it is found to be impractical to ameliorate those negative impacts except by means of the particular adjustment requested.

We find that the proposed UGB amendment meets the above criteria for two reasons.

First, the investment in nearby major commercial development is in jeopardy and in need of substantial additional supporting residential development. Second, the Tri-Cities Sewer District is badly in need of the funds that will be generated by this project in order to finance the additional work that must be done to service the District.

A substantial amount of commercial development has taken place in the Molalla Avenue area based upon the assumption of a larger residential base to provide a market area. A Fred Meyer shopping center and other major shopping centers are located in this area. Massive investments of private and public capital have gone into creation of the service base for the area and the development of commercial services to support residential development. All of this commitment of resources was made at a time when a larger growth boundary in this particular area was assumed.

In the course of the comprehensive planning process, including the development of a regional UGB, decisions were made to reduce the size of the UGB within this area. Some of these decisions

were based upon anticipated impacts on the Oregon City bypass, and others were made upon the need to restrict the overall size of the Metropolitan UGB in order to reach an acknowledgeable acreage figure. These decisions were unrelated to consideration of the impacts of a smaller UGB on the already committed commercial development.

It is now becoming readily apparent that the failure to address the need for an adequate market area for the existing commercial base is producing severe negative impacts on the land use efficiency in the urban area adjacent to Waldo View Estates. The record establishes a large number of business failures. It also indicates that businesses in the area are struggling because of the lack of sufficient residential development to provide a market area. The merchants in the area have provided evidence that failures of existing businesses may be expected to continue so long as the market area is restricted. The prospect of a developed commercial area which cannot survive due to lack of market area would be a bad planning precedent as well as creating inefficient uses of land.

It is impractical to solve this problem except by extending the residential market base. It is not practical to tear down recently constructed shopping centers and businesses. The particular adjustment that is requested is the best alternative for expansion of the UGB in this area. The property can be readily serviced as described elsewhere in these findings. It is an excellent opportunity to get a maximum amount of density in the setting of a planned community. A portion of the property is already inside the UGB and the remainder is almost completely

surrounded by land that is committed to nonresource uses. The small portion which borders potential resource land can easily be buffered in the site planning process. Development at this point will, therefore, not have negative effects on the location of the UGB or the resource lands beyond it.

Fortunately, the property can be serviced by sewer either through existing UGB territory or by means of a pressure line (which could not be tapped into) through a committed region. The pressures for further development at sites along the sewer-line would, therefore, be absent in this case.

For these reasons, we find that amendment of the boundary and the proposed location is the best solution to the land use inefficiency problem in the adjacent urban area.

The primary problem facing the Tri-Cities Sewer District is the financing of the start-up costs of the District, including design. It is essential to the future of the District that a financing method be found. Both Clackamas County and Oregon City have agreed that the best available method is to use the \$700,000 in fees generated by Waldo View Estates to fund the initiation of the District. This is the only project of its size in which the developer is willing to provide the monies "up front" so that the District will have the money to work with prior to any actual connections. A sum of money of this size is necessary to the development of the District.

Unless the District can undertake its planned functions, severe negative impacts in service will result in the Tri-Cities area. The planning efforts for the area are premised upon the formation of the District and the implementation of the District

plan. Effectuation of this plan will be jeopardized if funding for the initial stages is unavailable.

The necessity of financing the Tri-Cities Service District provides a second basis for finding that the proposed adjustment is necessary.



METRO

METROPOLITAN SERVICE DISTRICT

527 SW. HALL ST., PORTLAND, OR. 97201, 503/221-1646

MEMORANDUM

Date: January 7, 1982

To: Metro Council

From: Andy Jordan, General Counsel

Regarding: Metro Defined Contribution Pension Plan

At the regular Council meeting on December 22, 1981, Councilor Williamson requested a response from legal counsel regarding the effect of deleting the words "full-time" which appeared on line 4 of the Plan Description attached to Resolution No. 81-292. Specifically, will that deletion make it possible for part-time regular employees who might not qualify for participation under the terms of the Plan to demand participation or compensation as though they had participated. For the reasons stated below we believe they could not.

First, the Plan Description is simply a very brief outline of the Plan itself. The Plan is more detailed and clearly describes who may and may not participate. The Plan Description outline is not a carefully constructed attempt to precisely define classes of beneficiaries; it is a shorthand outline of the major features of the Plan. The Plan itself will define regular employees and it is the regular employees as defined in the Plan who are included, not regular employees as defined in our Personnel Rules or elsewhere.

Second, neither the Plan Description outline nor the Resolution are a grant of rights to employees. The Resolution and appended Plan Description outline merely direct the Executive Officer to execute the necessary agreements to initiate and continue the pension plan.

Third, and most importantly, the deletion of the words "full-time" was made because the Plan will allow participation by some part-time regular employees under the plan's definition of regular employee. The deletion was merely to make it clear that those part-time regular employees would not be excluded. The discussion at the December 22 Council meeting reflects this legislative intent.

For the above reasons we believe that it is clear that only those regular employees as defined in the Pension Plan itself could assert a right to participate in the Plan.

MAH/gl
4992B/D2



METRO

METROPOLITAN SERVICE DISTRICT

527 S.W. HALL ST., PORTLAND, OR. 97201, 503/221-1646

M E M O R A N D U M

Date: January 7, 1982

To: Metro Council

From: Rick Gustafson, Executive Officer

Regarding: December Monthly Report

MANAGEMENT SERVICES

Leon "Chum" Chitty, CPA, has been hired as our new Manager of Accounting. Prior to his recent self-employment, Chum worked for Kent & Snow in Oregon City as a Senior Auditor.

As you know, preliminary work on the FY 83 budget has been completed and in the next few weeks I will be meeting with each of you to obtain your input before I proceed with my proposed budget. I am looking forward to our discussions, but please do not hesitate to call me at any time if you have comments or questions.

PUBLIC AFFAIRS

There has been a lot of interest in our new Johnson Creek brochure. If you need any for distribution call Ethan Seltzer. Ethan is also establishing a Johnson Creek monitoring network.

New air quality displays are being developed for Oregon City, and we are currently revising fact sheets and brochures on energy recovery. These will be made available to you when completed.

We are developing a community relations strategy for two very important projects--Wildwood and the transfer stations.

SOLID WASTE

Wildwood: The Multnomah County public hearing has been postponed until February 25, 1982, at the request of the West Hills and Island Neighbors. We have been responding to requests from WHI and their law firm for information.

Transfer Stations: An analysis of the impact of one or two transfer stations in Washington County has been prepared and will be presented to the Solid Waste Advisory Committee in Washington County in January. We will continue to provide information that will assist them in determining what will serve the needs of their area.

Recycling: A marketing newsletter is being assembled by staff and will be available for distribution in January. We hope to publish it every other month.

TRANSPORTATION

Interstate Transfer: Congress has completed its FY 82 funding action which resulted in a full Interstate Transfer allocation to the Banfield and \$33+ million to the region's highway projects. Proposed revisions to the State's Six-Year Highway Improvement Program by the Oregon Transportation Commission have included a number of metropolitan area projects.

RTP: As you know, both TPAC and JPACT have been briefed on the RTP and comments have been received from individual members. The formal release of the document is scheduled for mid-January with jurisdictional staff briefings and review scheduled in late January and February. Adoption of the plan will follow the public hearing now scheduled for March.

Data and Forecasting: An 18-month work program and budget proposal for the Data & Forecasting Division has been developed and is being reviewed by staff. Besides maintaining Metro's data needs, the proposal suggests exploring ways of providing data services for fees or dues, thereby, becoming a self-supported Metro service.

The proposed focus for data management is a benchmark document, published annually, which would monitor land development and socio-economic changes relevant to policy directions and recommendations of Metro's functional plans.

SPECIAL PROJECTS

Industrial Lands Study: Further work has been done to refine transportation terminology used in the industrial lands study. In addition, the study's scope was expanded to include existing employment areas and to examine the availability of rail service to industrial land. In the coming month, the study results will be disseminated to

groups with an interest in the industrial lands question, including the Chamber of Commerce, City Club, LCDC, 1000 Friends of Oregon and the Western Environmental Trade Association.

Westside Corridor Project: Only minor revisions are required prior to submittal to UMTA of the Westside DEIS for circulation approval.

JOINT DEVELOPMENT

Milwaukie: Staff members toured Milwaukie and concluded that there may be some joint development potential, especially if Milwaukie can support the development of the waterfront.

Coliseum: University of Oregon architectural students will build a model of the area and prepare plans and elevations which expand on our concepts. I am looking forward to the completion of this model.

Energy: The Electric Energy Conservation Subcommittee has completed a series of luncheons with local elected officials and is reviewing a draft "sunset report" based in part on these meetings which will be brought to the Regional Development Committee in January.

ZOO

There have been several births at the Zoo and more to come:

- Batrick the Bat who is being hand raised in the nursery.
- Two Penguinarium chicks.
- Mandrill born to Lulu, who is being an excellent mother.
- Sloth, kodiak and European brown bear females have been denned up for possible births.
- Coco the chimp recently underwent ultrasound testing which revealed she has a healthy baby due in March that will mark Charlie's debut as a father.

Marianne Yeutter, one of our primate keepers, has returned from a six-week grant funded trip to Europe and the Gombe Stream Reserve in Tanzania where she studied chimps with Dr. Jane Goodall.

December Monthly Report
Page 4

Mike Keele, our animal keeper foreman, had an excellent travel agency underwritten trip to Kenya and Zoo Veterinarian Dr. Michael Schmidt was invited by the Thailand Forestry Service to consult with their elephant program during the first two weeks of January.

Also, in January Judy Henry, Warren's secretary, will be attending a Smithsonian course for registrars.

RG/gl
5002B/D2

C O M M I T T E E A S S I G N M E N T S

REGIONAL SERVICES COMMITTEE *

(Responsible for, but not limited to, Solid Waste Management, including Energy Recovery; Zoo.)

Mike Burton, Chair

Jane Rhodes, Vice Chair
(liaison to Aviary Project)

Craig Berkman
(liaison to Energy Recovery)

Jack Deines

Bob Oleson

Cindy Banzer

REGIONAL DEVELOPMENT COMMITTEE *

(Responsible for, but not limited to, Transportation, Urban Planning, Land Use, Regional Growth and Development, Energy, Housing, Futures, Drainage.)

Ernie Bonner, Chair

Bruce Etlinger, Vice Chair
(liaison to Joint Development Project)

Marge Kafoury

Charlie Williamson

Corky Kirkpatrick

Betty Schedeen

COORDINATING COMMITTEE *

(Responsible for, but not limited to, Budget, Financial Matters, Personnel, Public Affairs, Legislative Affairs, Criminal Justice, Contract Review.)

Jack Deines, Chair

Betty Schedeen, Vice Chair

Bob Oleson

Ernie Bonner

Mike Burton

Cindy Banzer

FUTURES

Marge Kafoury, Chair

Betty Schedeen

FRIENDS OF ZOO

Betty Schedeen

Ernie Bonner

Bob Oleson, alternate

*Three (3) committee members constitute a quorum on these committees.

JOINT POLICY ADVISORY COMMITTEE
ON TRANSPORTATION

(Responsible for recommendations on transportation improvement and funding)

Charlie Williamson, Chair

Corky Kirkpatrick, Vice Chair

Marge Kafoury

Bob Oleson, alternate

BI-STATE TASK FORCE

Mike Burton

Cindy Banzer, alternate



METROPOLITAN SERVICE DISTRICT
527 S.W. HALL ST., PORTLAND OR. 97201, 503/221-1646

A G E N D A - Informal Council Meeting

Date: January 7, 1982
Day: Thursday
Time: 6:30 PM
Place: Councilors' Conference Room

1. Review of Council Agenda.

2. Zoo Funding Presentation.



METROPOLITAN SERVICE DISTRICT
527 S.W. HALL ST., PORTLAND, OR. 97201, 503/221-1646

MEMORANDUM

Date: December 29, 1981
To: Metro Council
From: Rick Gustafson, Executive Officer
Regarding: Zoo Funding

At the January 7th Informal Council Meeting, we will address the question of the Zoo's future funding.

Warren and Kay will join me to cover the attached material, answer questions and generally discuss which course of action we should follow. To assist in this effort, we have included a five-year operating budget projection, which will be updated annually.

Under current state law, serial levies for operations are limited to three years and capital levies can be funded for a ten-year period. Voting on these levies is not limited to primary and general elections, although they are the most economical and have always been used in the past.

If a tax base is selected, it can be combined with a capital levy, but the vote would have to be in May or November elections in 1982 or the May election in 1984. The Zoo's current levy expires in July, 1984.

We're looking forward to discussing these important Zoo funding issues with you.

RG:sh

c: D. Carlson
W. Iliff
K. Rich
J. Sims

ZOO OPERATION GUIDELINES AND PROJECTIONS

I. GENERAL GUIDELINES FOR ZOO OPERATIONS

II. FIVE-YEAR COST AND REVENUE PROJECTIONS

III. IMPORTANT ISSUES

GENERAL GUIDELINES FOR OPERATION

FOLLOWING ARE GUIDELINES ADOPTED IN THE PAST TO GUIDE OPERATIONS AT THE ZOO. ALL HAVE MAJOR BUDGET IMPACTS,

1. MAKE ZOO EXHIBITS LARGER AND MORE NATURAL (SUCH AS PRIMATE HOUSE): INCREASED TIME FOR CLEANING AND MORE DIFFICULT TO MAINTAIN LANDSCAPING.
2. EDUCATING VISITORS ABOUT WILDLIFE: TIME REQUIRED FOR PROGRAM PLANNING AND PRODUCTION AND MAINTENANCE OF GRAPHICS AND MUSEUM-TYPE EXHIBITS.
3. CONTRIBUTE TO WILDLIFE CONSERVATION AND RESEARCH: ADMINISTRATIVE, RESEARCH AND CLERICAL EFFORT FOR SUCH PROGRAMS AS INTERNATIONAL RESPONSIBILITY FOR STUD BOOKS OF HUMBOLDT PENGUINS, CHIMPS AND ASIAN ELEPHANTS.
4. MAKE ZOO A CULTURAL COMMUNITY RESOURCE: SPECIAL EVENTS SUCH AS JAZZ CONCERTS REQUIRE ADDITIONAL PROGRAM PLANNING, STAFFING, SECURITY AND ADMINISTRATION.
5. EXPAND AND ENRICH ZOO'S LANDSCAPING: HIGHER LABOR AND MATERIAL COSTS FOR INSTALLATION AND MAINTENANCE.
6. CONTINUE TO IMPROVE FOOD AND RETAIL SERVICES: HIGHER COSTS FOR FACILITIES AND EQUIPMENT AND FOR LABOR AND MERCHANDISE FOR RESALE.
7. EXPAND MARKETING EFFORTS: MORE STAFF AND PRODUCTION COSTS FOR ADDITIONAL ADVERTISING, GROUP SALES, ETC.
8. CONTINUE CAPITAL REPLACEMENT PROGRAM: COSTS TO REPLACE WORN OUT EQUIPMENT AND FAULTY UTILITY SERVICES.
9. CONTINUE MAJOR CAPITAL IMPROVEMENT PROGRAM: MORE TIME FOR PLANNING, DESIGN, CONSTRUCTION OBSERVATION AND CONTRACT MANAGEMENT.

FINANCIAL POLICIES TO SUPPORT GUIDELINES

1. THE ZOO SHOULD RAISE APPROXIMATELY 50% BY:
 - A. SPECIAL EVENTS, SUCH AS THE JAZZ CONCERTS.
 - B. NEW EXHIBITS AT LEAST EVERY OTHER YEAR.
 - C. MAINTAINING ACTIVE MARKETING PROGRAM.
 - D. MORE REPEAT VISITATIONS AND LONGER STAYS.
 - E. MORE ATTENDANCE DURING OFF-PEAK HOURS.
 - F. ADJUSTING FEES AND PRICES.
2. METRO SHOULD LEVY TAXES TO PROVIDE THE REMAINING 50% OF OPERATING COSTS.

OPERATIONAL AND REVENUE PROJECTIONS

<u>EXPENSES</u>	<u>1981-82</u>	<u>1982-83</u>	<u>1983-84</u>	<u>1984-85</u>	<u>1985-86</u>	<u>1986-87</u>
OPERATIONS & MAINTENANCE	4,416,920	4,935,497	5,383,704	5,938,897	6,520,284	7,149,340
UNAPPROPRIATED BALANCE	<u>828,403</u>	<u>894,516</u>	<u>899,339</u>	<u>726,629</u>	<u>573,161</u>	<u>600,000</u>
TOTAL O&M	<u><u>5,245,323</u></u>	<u><u>5,830,013</u></u>	<u><u>6,283,043</u></u>	<u><u>6,665,526</u></u>	<u><u>7,093,445</u></u>	<u><u>7,749,340</u></u>

<u>REVENUE</u>	<u>1981-82</u>	<u>1982-83</u>	<u>1983-84</u>	<u>1984-85</u>	<u>1985-86</u>	<u>1986-87</u>
NON-PROPERTY TAX REVENUE	2,184,350	2,326,610	2,688,527	2,846,973	3,266,691	3,577,049
PROPERTY TAX	2,647,280	2,675,000	2,700,000	<u>2,919,214</u>	<u>3,100,125</u>	<u>3,599,130</u>
FUND BALANCE	<u>413,693</u>	<u>828,403</u>	<u>894,516</u>	<u>899,339</u>	<u>726,629</u>	<u>573,161</u>
TOTAL REVENUE	<u><u>5,245,323</u></u>	<u><u>5,830,013</u></u>	<u><u>6,283,043</u></u>	<u><u>6,665,526</u></u>	<u><u>7,093,445</u></u>	<u><u>7,749,340</u></u>

AMN: 12/7/81

MAJOR ASSUMPTIONS USED IN OPERATIONAL & REVENUE PROJECTIONS

1. ANNUAL ATTENDANCE: WILL RISE TO 770,000 BY 1986-87
2. ADMISSION FEES: WILL RISE \$.50 (ADULTS) AND \$.25 (YOUTH) IN 1983 AND SIMILARLY AGAIN IN 1985.
3. PERSONNEL: PERMANENT STAFF WILL INCREASE BY 9½ PEOPLE BY 1986-87 TO PROVIDE FOR NEW EXHIBITS (BEAVER-OTTER, PRIMATES, ALASKAN, AFRICAN) IN BOTH ANIMAL CARE AND GRAPHICS AND TO EXPAND LANDSCAPING CAPABILITIES.
4. OPERATING COSTS: WILL INCREASE APPROXIMATELY 10% PER YEAR INCLUDING TRANSFERS TO THE GENERAL FUND AND ELECTION COSTS.

IMPORTANT ISSUES THAT NEED TO BE ADDRESSED:

1. WHAT TYPE OF TAX SUPPORT IS BEST FOR OPERATIONS?
2. HOW SHOULD CAPITAL REQUIREMENTS BE FUNDED?
3. SHOULD GENERAL METRO FUNDING REQUIREMENTS BE INCLUDED?
4. WHAT PROCESS SHOULD BE FOLLOWED TO ANSWER THESE QUESTIONS?