



METRO

2000 S.W. First Avenue
Portland, OR 97201-5398
503/221-1646

Agenda

REVISED

Meeting: Council Meeting

Date: August 28, 1986

Day: Thursday

Time: 5:30 p.m.

Place: Council Chamber

Approx.
Time*

Presented By

5:30 CALL TO ORDER
ROLL CALL

1. Introductions
2. Councilor Communications
3. Executive Officer Communications
4. Written Communications to Council on Non-Agenda Items
5. Citizen Communications to Council on Non-Agenda Items

6:00 6. CONSENT AGENDA (Action Requested: Approval of Minutes
(5 min.) and Adoption of Resolution)

6.1 Minutes of July 24, 1986

6.2 Consideration of Resolution No. 86-677, for the Purpose of Amending the Transportation Improvement Program to Add Two New City of Tigard Signal Projects

Cotugno

7. ORDINANCES AND ORDERS

6:05 7.1 Consideration of Order No. 86-12, in the Matter
(1 hr.) of Contested Case No. 85-8, a Petition for a Major Amendment of the Urban Growth Boundary from BenjFran Development (Action Requested: Adoption of the Order)

Hinckley

* All times listed on this agenda are approximate. Items may not be considered in the exact order listed.

(continued)

Approx.
Time

Presented By

7. ORDINANCES AND ORDERS (Continued)

7:05 (15 min.)	7.2 <u>Consideration of Ordinance No. 86-207, for the Purpose of Establishing a Solid Waste Fuctional Plan (First Reading and Public Hearing) (Action Requested: Motion for Adoption)</u>	Baxendale
7:20 (10 min.)	7.3 <u>Consideration of Ordinance No. 86-206, for the Purpose of Amending Metro Code Chapter 3.02, Amending the Regional Waste Treatment Management Plan, and Submitting the Plan for Recertification (Second Reading) (Action Requested: Adoption of Ordinance)</u>	McFarlane
7:40 (10 min.)	7.4 <u>Reconsideration of Order No. 86-11, for the Purpose of Correcting the Regional Waste Treatment Management Plan (Action Requested: Reconsideration of Order) (Note: It is suggested this item be considered with Item 8.1)</u>	Baxendale/ McFarlane

8. RESOLUTIONS

7:50 (5 min.)	8.1 <u>Consideration of Resolution No. 86-679, for the Purpose of Recommending that Technical Studies be Undertaken for Unincorporated Areas of Clackamas County near Lake Oswego (Action Requested: Adoption of Resolution)</u>	McFarlane
7:55 (30 min.)	8.2 <u>Consideration of Resolution No. 86-676, Adopting a Hazardous Waste Task Force Report (Action Requested: Motion for Adoption)</u>	Frewing/ Wexler
8:25 (15 min.)	8.3 <u>Consideration of Resolution No. 86-682, for the Purpose of Creating the North Portland Rehabilitation and Enhancement Committee (Action Requested: Adoption of Resolution)</u>	Hansen/ Henwood
8:40 (15 min.)	8.4 <u>Consideration of Resolution Nos. 86-680 and 86-681, Approving a Supplemental Budget, Creating a New Fund (Convention, Trade and Spectator Facility Capital Fund), Amending Resolution No. 86-659 and Authorizing an Interfund Loan (No Action Requested at this Time)</u>	Sims
8:55 (5 min.)	* 8.5 <u>Consideration of Resolution No. 86-683, for the Purpose of Reconciling the Budget and Appropriations Schedule and Amending Resolution No. 86-659 (Action Requested: Adoption of Resolution)</u>	Sims

9:00 ADJOURN

* This item has been added to the agenda



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Agenda

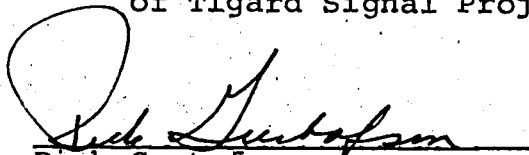
Meeting: Council Meeting
Date: August 28, 1986
Day: Thursday
Time: 5:30 p.m.
Place: Council Chamber

CONSENT AGENDA

The following business items have been reviewed by the staff and an officer of the Council. In my opinion, these items meet with the Consent Agenda Criteria established by the Rules and Procedures of the Council. The Council is requested to approve the recommendations presented on these items.

6.1 Council meeting minutes of July 24, 1986

6.2 Resolution No. 86-667, Amending the Transportation Improvement Program to Add Two New City of Tigard Signal Projects


Rick Gustafson
Executive Officer

Meeting Date August 28, 1986

MINUTES OF THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

July 24, 1986

Councilors Present:

Councilors Collier, Cooper, DeJardin
Frewing, Gardner, Hansen, Kafoury, Kelley,
Kirkpatrick, Oleson, Van Bergen and Waker

Staff Present:

Donald Carlson, Eleanore Baxendale, Dan
Durig, Randi Wexler, Norm Wietting, Jim
Shoemake, Mary Jane Aman, Peg Henwood,
Sonnie Russill, Andy Cotugno, Jennifer
Sims, Debbie Allmeyer, Phillip Fell, Wayne
Rifer, Steve Rapp, Kay Rich and Vickie
Rocker

Presiding Officer Waker called the meeting to order at 5:30 p.m. He announced the Executive Session would be held immediately after consideration of Agenda Item No. 1. He also announced the female Golden Monkey currently on exhibit at the Zoo gave birth that morning, the first such birth outside the Republic of China.

1. WEST TRANSFER AND RECYCLING CENTER

Consideration of Resolution No. 86-668, Selecting and Authorizing Acquisition of the FAIRWAY WESTERN SITE for the Purpose of Constructing the West Transfer and Recycling Center; and

Consideration of Resolution No. 86-669, Selecting and Authorizing Acquisition of the CORNELL ROAD SITE for the Purpose of Constructing the West Transfer and Recycling Center

At the Presiding Officer's invitation, staff presented a report on the two resolutions before the Council. Randi Wexler, Solid Waste Analyst, reported that on July 22, 1986, a public hearing was conducted on the following two sites: 1) 1770 N.W. 216th, the Fairway Western Site; and 2) 21450-21480 N.W. Cornell Road. Additionally, she explained, in June 1986 the Council elected to hold the 209th/TV Highway Site in a reserve position. After reviewing the Cornell Site and the Fairway Western Site and weighing testimony from the July 22 hearing, the Council could elect to reexamine the 209th/TV Highway site, she said. Staff deemed all three sites workable for the transfer station project. At this meeting the Council was being asked to consider adopting one of the two Resolutions, one representing the Cornell Road Site and one representing the Fairway Western site. The Council could also reexamine the 209th/TV Highway site and at an August meeting, along with the above two sites.

In response to Councilor Frewing's question, Ms. Wexler explained the reserve status of the 209th/TV Highway site was different from the Beaverton Champion site and other sites not selected because the 209th site was the only location formally put on reserve by the Council but the Council could choose to reconsider any other site. The Presiding Officer added the 209th site was unique in that it was the only site previously reviewed that the Council did not take action to eliminate from further consideration. Councilor Frewing noted it was his understanding when choosing a Cornelius Pass Road site over a Beaverton site, the Council did not specifically declare the Beaverton area unsuitable because, in fact, several Beaverton sites scored high on staff's evaluation. Ms. Wexler agreed, but again said the 209th/TV Highway site was the only location the Council had requested be kept in reserve. The Councilor said he did not consider the "reserve" designation special other than to distinguish it from other sites not actively being considered at any one point in time.

Presiding Officer Waker invited Councilors to discuss the sites under consideration.

Councilor Hansen declared in light of testimony he heard on July 22, he was no longer in a position to support the Fairway Western or the Cornell Road sites. He preferred to gather more information on the 209th/TV Highway Site before he made a final decision.

Councilor Frewing explained his preference would be for the Council to rethink its process. He said the public testimony he heard led him to believe the Council was going down the wrong track. The Council appointed an advisory group comprised of Washington County people to develop criteria for siting a transfer station. He did not understand why the Council did not pursue the highest ranked site until that site -- which he understood to be near 160th and Merlo Road -- was declared legally unworkable.

Ms. Wexler responded that the numerical analysis assigned by staff was not used to select the best site. Rather, the ratings were used to assist the advisory group in screening a list of 80 sites down to the top 10 sites. Once the 10 sites were identified, the numerical ratings were no longer and the mechanism for selecting a site was then public testimony and the advisory group's judgment, she explained.

Councilor DeJardin agreed the best site considered was the Champion site in Beaverton because it was at the center of waste generation. The fact that it was not selected would result in Washington County not being well served and he regretted the Council had been a part of that decision. The Councilor said the testimony received on

Amendment to Main Motion: Councilor Frewing moved, seconded by Councilor DeJardin, to amend the main motion by adding the phrase "and Champion location" after the two references to the S.W. 209th/TV Highway location.

Councilor Gardner said he supported the amendment because he thought it best not to limit consideration of sites to the 209/T.V. Highway location. He said he was also beginning to think the Council was losing sight of what were originally declared to be the most important selection criteria: transportation access and proximity to the center of waste generation. Although Washington County's future growth would be to the west, it would not be as far west as the sites currently under consideration, he said. The 209th site, he explained, had serious transportation access drawbacks. Councilor Gardner suggested the sites previously excluded be brought back for consideration in order to ensure the most suitable locations be reviewed by the Council before a final decision was made.

Councilor Kelley declared she had not attended the July 22 public hearing -- the first Council meeting she had missed -- as a formal protest of the process. She said the lengthy siting process had an adverse effect on the Council, staff and public. All that time and over \$200,000 had been spent to no avail. The missing player, she said, was Washington County and until the County accepted their responsibility, all the time and energy would have been useless. She referred the Council to a letter from Washington County Commissioner Bonnie Hays. She pleaded the Council to involve the County in the upcoming process.

Presiding Officer Waker noted he had not received the Commissioner's letter which had been addressed to him.

Councilor DeJardin welcomed the opportunity to work cooperatively with Washington County. However, he said, come August 14, he wanted to see a decision made. He also discussed the fact that Clackamas County had been extremely patient in accepting Washington County's waste at the Clackamas Transfer & Recycling Center but were beginning to impose limitations on waste outside the County. He urged the Council to take immediate action so that further limitations would not be imposed. The Councilor was encouraged that local governments within Washington County were willing to work with the Council to find a site.

Presiding Officer Waker commented the decision on the site was not improving with age. Although a number of sites could mechanically serve as a location for a transfer station, the 209th/TV Highway site would be the most suitable of those under consideration, he said. Existing public users of the Hillsboro Landfill drive by the

July 22 having the most impact on his decision was given by Mike Ragsdale. That testimony focused on the need for positive cooperation between government and business in developing the Sunset Corridor. Councilor DeJardin refused to believe all the work of industry and government in developing the Corridor would fall apart because of a waste transfer and recycling center, but he was willing to reexamine the 209th/T.V. Highway site along with the Champion site.

Councilor Cooper said those once against the transfer station project seemed to be turning to an attitude of cooperation with the Council. Because of that change, the Councilor made the motion following motion:

Main Motion: Councilor Cooper moved, seconded by Councilor Oleson, the Council set over consideration of Resolution Nos. 86-668 and 86-669 to the August 14, 1986, meeting and that staff prepare a Resolution for Council consideration selecting the S.W. 209th/T.V. Highway location as a site for the west transfer and recycling center to also be considered at the August 14, 1986, meeting, along with a public hearing to review prior testimony and to hear any new testimony on the S.W. 209th/T.V. Highway Site.

Councilor Oleson agreed with the above strategy because it would keep the key sites and players on the front burner of the process. He saw the process coming to a positive end due to better cooperation. The Councilor, however, said he was bothered by the efforts of the Governor and others to paint the idea of the solid waste transfer station as a "boogeyman." He noted most people, once involved, would prefer to live near a solid waste transfer and recycling station rather than near other commercial and industrial sites. He was convinced once the facility was on line, it would be quickly accepted by its community. The problem in Washington County, he noted, was if the facility were not located in the Sunset Corridor, it would be sited in a residential neighborhood. Councilor Oleson said he was coming to the conclusion the periphery of the Corridor was the best place to site the facility. Although he did not expect new sites to surface before August 14, the above motion would allow more time for other parties to assist the Council.

Councilor Frewing said he was not sure the motion would help in advancing a decision. He proposed adding the Champion site in Beaverton to the list of sites to be considered by the Council on August 14, 1986.

Councilor Oleson said the sponsors of the main motion intended the hearing to be restricted to new testimony and for the Presiding Officer to be rigorous in controlling the meeting.

Eleanore Baxendale, General Counsel, said the Council could be provided with written testimony of previous hearings and the Council could declare its intent of reviewing that testimony by reading the written record prior to the August 14 meeting.

Councilor Kafoury said she had not attended the July 22 hearing for many of the reasons noted by Councilor Kelley. She said she had not nor would she now support the 209th/TV Highway site and would not support the motion for many of those reasons. She did not feel conciliatory about Washington County's late stage "invitation to dance" and commented the problem was they were dancing all over the floor and it was difficult to keep up with them. In summary, the Councilor said she would rather not have a site than the wrong site and the 209th/TV Highway site was the wrong site. She preferred pursuing other means of dealing with Washington County's garbage than to chase phantom sites, land use plan amendments, and go through endless public hearings.

Vote on the Main Motion: The vote resulted in:

Ayes: Collier, Cooper, DeJardin, Hansen, Kirkpatrick,
Oleson, Van Bergen and Waker

Nays: Councilors Frewing, Gardner, Kafoury and Kelley

The motion carried.

EXECUTIVE SESSION

The meeting was called into executive session at 6:10 p.m. under the authority of ORS 192.660(1)(h) to discuss litigation matters with counsel. All 12 Councilors were present at the session. The Presiding Officer called the meeting back into regular session at 6:35 p.m.

ALASKA TUNDRA LITIGATION

Motion: Councilor Frewing moved to direct Metro's legal representative to negotiate a settlement as discussed in executive session. Councilor Kafoury seconded the motion.

Vote: A vote on the motion resulted in:

209th site, creating no additional public traffic impact. There would be traffic impacts from garbage trucks, he acknowledged, but all sites would be subject to those impacts. Finally, the Presiding Officer said the Governor had pledged his support to assist Metro in every possible, legal manner to establish a transfer center at that site. The site was closer to the center of waste and on an existing travel route. He said he would support the 209th site on August 14.

Councilor Kirkpatrick hoped everyone would be ready to make a decision on August 14. She said she was reluctantly supporting both motions on the table although she did not expect a lot of new information would come to light. She noted that by delaying the action, the Council was recognizing the decision was political, not technical, and she regretted that fact.

Councilor Hansen, speaking against the amendment, said the majority of the Council had already moved away from the Champion site and to open it for reconsideration, if the votes were not there, would cloud the issue and lengthen the deliberation process. Councilor Cooper agreed with Councilor Hansen.

Councilor Frewing questioned whether his amendment and the main motion would mean that anyone wishing to address the Council could speak on any matter related to the sites under consideration. The Presiding Officer answered the Council had indicated on several previous occasions that if the 209th/TV Highway site was brought forward for further consideration, the Council would afford the opportunity for additional comments from the public. The motion on the table would provide that opportunity on August 14.

Vote on the Amendment: The vote resulted in:

Ayes: Councilors DeJardin, Frewing, Gardner, Kirkpatrick and Van Bergen

Nays: Councilors Collier, Cooper, Hansen, Kafoury, Kelley, Oleson and Waker

The motion failed.

Councilor Van Bergen supported the main motion with the exception of conducting an additional public hearing. He did not see what would be gained. All the Councilors had visited the sites, had heard the public speak about specific concerns and he could not imagine any new information that would come to light. Presiding Officer Waker hoped the August 14 hearing could be confined to truly new testimony or indications for support for a new site.

7. CONSENT AGENDA

Presiding Officer Waker announced item 7.4 (Resolution No. 86-666, Amending the Concept Plan, Authorizing New Interstate Transfer Projects and Amending the Transportation Improvement Program) was being removed from the Consent Agenda due to changes in the project schedule. The item would be brought back to the Council at a later date.

Motion: Councilor Kafoury moved to approve the Consent Agenda and Councilor DeJardin seconded the motion.

Vote: A vote on the motion resulted in:

Ayes: Councilors Collier, Cooper, DeJardin, Frewing, Gardner, Hansen, Kafoury, Kelley, Kirkpatrick, Oleson, Van Bergen and Waker

The motion carried and the following minutes and contracts were approved and resolutions adopted:

- 7.1 Minutes of May 29 and June 12, 1986;
- 7.2 Resolution No. 86-662, Amending the Transportation Improvement Program to Include Phase II Funding for Extending the Service Life of the Hawthorne Bridge;
- 7.3 Resolution No. 86-663, Amending the FY 87 Unified Work Program;
- 7.5 Resolution No. 86-667, Amending the Functional Classification System and the Federal-Aid Urban System;
- 7.6 Contracts for Workers' Compensation and Employee Health Benefits; and
- 7.7 Contract with Government Finance Associates, Inc. for Financial Advisory Services.

8. RESOLUTIONS

- 8.1 Consideration of Resolution No. 86-670, for the Purpose of Establishing a Self-Insurance Program

Jennifer Sims, Management Services Director, reviewed the four sections of the self-insurance Resolution: Section 1 established policy; Section 2 required the Executive Officer to prepare a program and procedures; Section 3 established budget administration procedures; and Section 4 set out levels of authority and the Council's role for settling claims.

Ayes: Councilors Collier, Cooper, DeJardin, Frewing,
Gardner, Hansen, Kafoury, Kelley, Kirkpatrick,
Oleson, Van Bergen and Waker

The motion carried.

2. INTRODUCTIONS

None.

3. COUNCILOR COMMUNICATIONS

None.

4. EXECUTIVE OFFICER COMMUNICATIONS

Donald Carlson, Deputy Executive Officer, presented the report in the absence of the Executive Officer.

Waste Reduction Promotional Campaign. Vickie Rocker, Public Affairs Director, reported on the current "Save the Earth with a Brown Paper Bag" promotional campaign. Area grocery stores were using the bags which, in turn, could be used for storing glass, paper and tin for future recycling. Recycling instructions were printed on the bags. In addition, ads on the recycling program were appearing in newspapers and the program was being promoted on television programs, at shopping centers, and at county fairs. Ms. Rocker reported staff had received a positive response to the ads and an evaluation would be conducted later in the advertising campaign.

Clackamas Transfer & Recycling Center (CTRC) Break In

Dan Durig, Solid Waste Director, explained someone had broken into the cashroom of the CTRC facility the evening of July 19-20. Police were investigating the incident. A discussion followed about cash handling procedures at the facility. Mr. Durig explained newly imposed procedures had resulted in larger amounts of cash being left in individual tills but other cash was deposited on a daily basis.

5. WRITTEN COMMUNICATIONS TO COUNCIL ON NON-AGENDA ITEMS

None.

6. CITIZEN COMMUNICATIONS TO COUNCIL ON NON-AGENDA ITEMS

None.

9. OTHER BUSINESS

9.1 Consideration of Approving a List of Alternative Technologies Vendors to Which RFPs Will be Issued

Debbie Allmeyer, Solid Waste Analyst, said she would first report on staff's recommendation regarding the short list. She would then discuss staff's recommendation for a strategy for the Request for Proposals (RFP) process. Staff requested the Council approve staff's recommendations on both matters.

Ms. Allmeyer reviewed the process for recommending a short list of vendors to which RFPs would be issued for alternative technologies projects. The Technical Review Committee (TRC) and Policy Review Committee (PRC) reviewed written information and audio-visual presentations supplied by 13 vendors, and interviewed 12 vendors. One firm, Foster/Wheeler, did not wish to be interviewed and did not submit an audio-visual presentation and would not be issued an RFP. Firms recommended for the short list for mass burn or RDF technology included: American Ref-fuel, Combustion Engineering, Fluor Engineers and Schnitzer-Ogden. Reuter was recommended for Buhler-Miag compost technology and Riedel Environmental for DANO technology. McClaran and Associates were not recommended for the short list but due to their extremely innovative proposal, staff discussed means by which a portion of the waste stream could be diverted to assist their effort.

Ms. Allmeyer reported the PRCs recommendation was not unanimous, the difference of opinion centering on financial issues. Minutes of the July 18 meeting, contained in Appendix XI of the staff report, contained highlights of the discussion regarding financing issues.

Councilor Frewing, in response to staff's plans to divert high-grade refuse to GSX, questioned whether other vendors would be satisfied with receiving the lower grade refuse. Ms. Allmeyer explained the Request for Qualification/Information sent to vendors had clearly indicated the origins and composition of waste the vendors were likely to receive.

Bob Zier of Gershman, Bickner & Bratton, Inc. (GBB), a consultant to Metro, discussed how the vendors were rated. Evaluation criteria included solid waste and resource recovery experience, general management and technical experience in developing sites and markets for large projects, financial stability and strength in putting together financable projects, corporate commitment to resource recovery activities, developmental approach, and public acceptability. Subcriteria were established to evaluate finance issues: the vendor's capability to obtain 100 percent performance and payments

Ms. Sims explained the current policy did not provide coverage for prior acts. She would pay to continue the current proper acts coverage unless the Council instructed otherwise. The Resolution did not have to be amended to include that coverage, she said.

In response to Councilor Cooper's question, Ms. Sims said no additional staff would be added to manage the self-insurance program. The Grants/Contracts Specialist would assume that responsibility.

Presiding Officer Waker asked about the nature of previously settled claims and how they were reported. Ms. Sims said most claims had been settled by the Executive officer, the highest claim paid being around \$25,000. Most claims were under \$10,000, she said. The Presiding Officer requested staff report settlements to the Council.

Councilor Frewing noted a probable error in Exhibit 2. Ms. Sims said she would check those figures for accuracy.

Councilor Van Bergen thought the key to a successful self-insurance program was to designate someone to review claims and to take an aggressive stance in defending the agency. Ms. Sims said that type of program had already been established, especially since deductibles had substantially increased.

Deputy Executive Officer Donald Carlson assured the Council a status report of insurance claims would be provided the Council quarterly.

Councilor Oleson requested staff check with the State of Oregon and other jurisdictions to see how those jurisdictions were administering their insurance programs. Ms. Sims said she had checked with other governments when designing the self-insurance program and would continue to rely on those agencies for information and support.

Motion: Councilor Kafoury moved to adopt Resolution No. 86-670 and Councilor Kelley seconded the motion.

Ayes: Councilors Collier, Cooper, DeJardin, Frewing, Gardner, Hansen, Kafoury, Kelley, Kirkpatrick and Oleson

Absent: Councilors Van Bergen and Waker

The motion carried and the Resolution was adopted.

Due to other obligations, Presiding Officer Waker turned the chair over to Deputy Presiding Officer Gardner. He then left the meeting.

The Sales Engineer for the General Electric Company (GE), (he did not identify himself) discussed GE's financial capability to carry out an alternative technology project. The company's \$14 billion assets would assure a project could be built and the company was willing to give Metro a guarantee to that effect, he said. He asked Metro to consider expanding the number of proposals it would receive in order to increase competition. He cited GE's Spokane project as an example of a municipality changing its thinking to the benefit of the all involved.

Mr. Zier of GBB discussed the merits of limiting the project to four vendors. To increase that number could jeopardize the project since each vendor would be asked to spend its own funds to develop all aspects of the project, he said.

Councilor Frewing referred to staff's matrix and questioned why staff had indicated National Resource Recovery Corporation/General Electric (NRRC/GE) had been shown as exhibiting limited corporate commitment. Mr. Zier said the two firms had never worked together which would make financing the project more difficult.

Ms. Baxendale again explained the rating was not a matter of GE being unqualified. They were not as qualified as other firms for the project, given all the criteria to be rated.

Harvey Gershman of GBB said he had witnessed strong companies fail on large public projects in spite of performance bond criteria. Therefore, it was important to pay close attention to all the combined factors of financial strength when determining who should be short listed. He said a sound performance guarantee was a very important factor in determining who would be asked to participate in the project.

Dan Durig, Solid Waste Manager, said the project was much different than a straight low bid construction type project. Substantial amounts of money were at stake for the companies competing for the project. Therefore, it was important for those companies to know the exact extent of their competition in order to plan a successful project.

Marcus Wood of Stoel, Rives, Boley, Frazer and Wyse acknowledged it was a legitimate policy concern for Metro to consider limiting the number of bids for the project. However, he hoped GBB's evaluation of whether a company could secure adequate guarantees for their project was not the basis for determining a company's suitability. He said NRRC had stated a corporate commitment to give full performance guarantees on this project sufficient to support the necessary financing and to pass those guarantees along to Metro in an enforceable manner.

bonds for their proposed facility, the vendors commitment to provide an appropriate amount of equity into the project if it were privately financed, evidence of an investment grade rating, and net assets of at least 150 percent of the project's probable cost.

Motion: Councilor Kirkpatrick moved to approve the "short list" of firms to which RFPs would be issued for Metro's alternative technologies project to include Reuter (Buhler-Miag technology) and Riedel Environmental (DANO technology) and the following firms for mass burn or RDF technologies: American Ref-fuel, Combustion Engineering, Fluor Engineers and Schnitzer-Ogden. Councilor Kafoury seconded the motion.

Councilor Kirkpatrick, a member of the PRC, reported the Committee's recommendation was not unanimous. Councilor Kelley had raised questions regarding the financial capabilities of some firms and the use of the term "most qualified" in assigning ratings.

Councilor Kelley discussed her concerns about the short list process. She first noted the PRC should have been included in the TRC meetings in order to gain more information about the project. She was primarily concerned that the PRC had not been provided enough information to accurately determine the financial integrity of companies. She then discussed the respective financial standings of Schnitzer-Ogden and Westinghouse. She questioned why a lower numerical rating had been assigned Westinghouse given the strong financial history of Westinghouse and some problems with the Schnitzer-Ogden corporation.

Ms. Baxendale, referring to the matrix in the staff report, explained no firm was disqualified on the basis of finances. All firms were rated "most qualified" on the finance criterion. The firms were judged according to their ratings in all categories, some criteria weighted more importantly than others. As a result of the overall rating, some firms were deemed "most most qualified" and others were not recommended for the short list.

Councilor Gardner added the Committee had examined the companies' related project experience before deciding which companies would be recommended for the short list. He again emphasized that no company was unqualified for the project but some companies clearly rated higher than others in direct project experience.

Councilor Gardner presented vendors an opportunity to address the Council regarding the process.

Motion: Councilors Kirkpatrick and Cooper moved to authorize staff to proceed with Phase II of the Resource Recovery Project and to continue the contract with Gershman Bickner & Bratton, Inc. for professional consulting engineering services.

Vote: A vote on the motion resulted in:

Ayes: Councilors Collier, Cooper, DeJardin, Frewing, Gardner, Hansen, Kirkpatrick and Van Bergen

Absent: Councilors Kafoury, Kelley, Oleson and Waker

The motion carried.

9.3 Consideration of a Contract to Retain Dean Gisvold as Counsel for the Resource Recovery Project

Ms. Baxendale reviewed the staff report and strongly recommended Mr. Gisvold for the project because of his directly-related experience and satisfactory history with the Metro organization.

Motion: Councilor Kirkpatrick moved, seconded by Councilor Cooper, to approve the contract with Dean Gisvold for counsel for the Resource Recovery Project.

Vote: A vote on the motion resulted in:

Ayes: Councilors Collier, Cooper, DeJardin, Frewing, Gardner, Kirkpatrick and Van Bergen

Absent: Councilors Hansen, Kafoury, Kelley, Oleson and Waker

The motion carried.

9.4 Report from the Hazardous Waste Task Force

Randi Wexler, Solid Waste Analyst, reported the Council appointed a task force to study two specific substreams of the hazardous waste stream: household hazardous waste (garden chemicals, paints and related items, automotive products, household cleaners, and other ignitable products); and small businesses generating less than 220 pounds of certain types of hazardous waste per month that could be legally disposed in municipal landfills. The task force had been meeting since February 1986. Ms. Wexler explained that although Metro had a policy of not knowingly accepting hazardous type wastes in its landfills, wastes such as those described above were routinely disposed at the St. Johns Landfill. Further, state regulations allowed small business waste under the 220 pound limit to be disposed in municipal landfills.

Vote: A vote on the motion resulted in:

Ayes: Councilors Collier, Cooper, DeJardin, Gardner, Hansen, Kafoury, Kirkpatrick, Oleson and Van Bergen

Nay: Councilor Kelley

Absent: Councilors Frewing and Waker

The motion carried.

Ms. Allmeyer directed the discussion to the matter the PRC's recommendation regarding the RFP and waste allocation strategy. She recommended the information in the staff report be amended to require vendors to respond to information about all levels of tonnage. Mr. Durig added the most vendors had indicated this would not be a problem.

Motion: Councilor DeJardin moved to accept the PRC's recommendation regarding the RFP and waste allocation strategy as contained in the staff report with a new requirement it be compulsory for all firms to respond to each quantity specified in the RFP they receive. Councilor Kirkpatrick seconded the motion.

Vote: A vote on the motion resulted in:

Ayes: Councilors Collier, Cooper, DeJardin, Frewing, Gardner, Hansen, Kirkpatrick and Van Bergen

Absent: Councilors Kafoury, Kelley, Oleson and Waker

The motion carried.

Ms. Allmeyer briefly reviewed the project schedule, explaining some minor amendments. The project completion date would remain unchanged. She said a September 18, 1986, work session was planned for the Council to discuss the project in detail.

9.2 Consideration to Proceed with Phase II of the Resource Recovery Project and to Continue the Contract with Gershman Bickner & Bratton, Inc. for Professional Consulting Engineering Services

Ms. Allmeyer explained the contract had originally been approved by the Council with the understanding the Council would authorize additional expenditures beyond Phase I. Due to the actions taken under item 9.1 above, Phase I had been completed.

Metro Council
July 24, 1986
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Public Hearings and General Conduct

Councilor Van Bergen expressed concern about the conduct of some citizens at public hearings and questioned how the Presiding Officer could take a more active role in resolving problems of decorum.

After discussion, it was agreed a well-defined meeting structure would help ensure orderly meetings. Specific suggestions included posting public hearing rules in the meeting room, hiring a security officer to be present at meetings, and inviting local government officials to have an active role in the hearing such as introducing the Council to the public.

There being no further business, the meeting was adjourned at 8:50 p.m.

Respectfully submitted,



A. Marie Nelson
Clerk of the Council

amn
6107C/313-2
08/20/86

The task force identified household hazardous waste as part of the total waste stream and recommended Metro take a lead role in providing alternative disposal and recycling options for homeowners. Specifically, the committee recommended a household collection day be established. Ms. Wexler explained such an event would involve Metro coordinating with one of more other jurisdictions to publicize the event and working with a household waste treatment and transporter company to handle the waste. Metro would manifest the waste, log it and send it to a disposal facility.

Ms. Wexler reported the task force was still studying the small business waste issue. The problem was more difficult to resolve because of the varied types of waste produced and the high costs of appropriate disposal. Staff's position, she explained, was that Metro should not take the lead in providing alternatives for small business waste disposal since Metro had no legal authority to do so. The task force, however, was of the opinion that Metro should provide leadership and assist in continuing discussions that would lead to a solution. The task force would hold an additional meeting to discuss the issue, she reported.

Finally, Ms. Wexler explained she would be requesting the Council adopt the task force's household hazardous waste plan in August. The committee was most anxious to start a pilot project this fall, she said. She commended the committee for working to resolve large and complex problems.

Councilor Frewing added that Ms. Wexler and Dennis O'Neil had provided excellent staff support to the task force. He asked the Council for their feedback on whether Metro should coordinate a household collection day this fall and hopefully on an ongoing annual basis. If services could not be donated, a collection day would cost Metro about \$15,000 to \$20,000. He said another idea discussed by the committee was the production of a resource book by Metro that could be used by other agencies and businesses to assist people in disposing of household hazardous waste. The Councilor also asked for feedback on the issue of whether Metro should assume a lead role in coordinating disposal of hazardous wastes by businesses generating less than 220 pounds per month.

After Council discussion, it was agreed Metro could coordinate a household hazardous waste collection day. The Council, however, agreed with staff that Metro should not take an active role in business waste disposal when it had no clear authority to do so. Councilor Cooper discussed the problem with excessive paperwork to dispose of small quantities of hazardous waste by businesses and hoped something could be done to simplify the disposal process.

STAFF REPORT

Agenda Item No. 6.2

Meeting Date August 28, 1986

CONSIDERATION OF RESOLUTION NO. 86-677 FOR THE
PURPOSE OF AMENDING THE TRANSPORTATION
IMPROVEMENT PROGRAM TO ADD TWO NEW CITY OF TIGARD
SIGNAL PROJECTS

Date: August 8, 1986

Presented by: Andrew Cotugno

FACTUAL BACKGROUND AND ANALYSIS

Proposed Action

Adopt the attached Resolution adding two new city of Tigard projects to the Transportation Improvement Program (TIP):

Interstate Transfer Funds

Signal Installation -- Greenburg/Tiedeman \$40,000

Signal Installation -- Hall/Burnham 31,713

TOTAL AUTHORIZED \$71,713

TPAC and JPACT have reviewed this TIP amendment and recommend approval of Resolution No. 86-677.

Background

The city of Tigard has requested that the noted projects be added to the TIP. Funding in the amount of \$71,713 is available as a result of cost savings on the Transportation Systems Management Project on Highway 99W between Bull Mountain Road and the North Tigard interchange. The action requested constitutes a transfer of surplus funds from a completed project to the new projects.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 86-677.

AC/gl
6086C/471-2
08/13/86

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF AMENDING THE	)	RESOLUTION NO. 86-677
TRANSPORTATION IMPROVEMENT PROGRAM)	
TO ADD TWO NEW CITY OF TIGARD	)	Introduced by the Joint
SIGNAL PROJECTS	)	Policy Advisory Committee on
		Transportation

WHEREAS, The city of Tigard has requested that two new signal projects be added to the Transportation Improvement Program (TIP); and

WHEREAS, These projects will use \$71,713 in funds arising from cost savings on the completed Transportation Systems Management project on Highway 99W between Bull Mountain Road and the North Tigard interchange; and

WHEREAS, It is necessary that projects utilizing Interstate Transfer funds be included in the TIP as a requisite to receiving federal funds; now, therefore,

BE IT RESOLVED,

1. That Federal and Interstate Transfer funds be authorized on:

Signal Installation -- Greenburg/Tiedeman	\$40,000
Signal Installation -- Hall/Burnham	31,713
Total Authorized	<u>\$71,713</u>

2. That the Transportation Improvement Program and its Annual Element be amended to reflect this authorization.

3. That the Council of the Metropolitan Service District finds the projects in accordance with the Regional Transportation Plan and gives Affirmative Intergovernmental Project Review Approval.

ADOPTED by the Council of the Metropolitan Service District this _____ day of _____, 1986.

Richard Waker, Presiding Officer

critical to proper resolution of the case. They are intended only to provide a convenient reference for discussion, not to substitute for the Hearings Officer's Report and the petitioner's exceptions to it, both of which Council should read carefully in full.

The Hearings Officer will respond orally to the petitioner's exceptions and both the petitioner and the opponents should be given an opportunity for oral argument.

As indicated in Attachment 1, staff has classified issues raised as: (1) primary, recommended for argument and resolution August 28; (2) secondary, recommended for subsequent resolution only if resolution of primary issues so requires; and (3) dependent, resolved automatically once other issues are resolved. If the Council agrees with the staff analysis, it should uphold the Hearings Officer's denial and adopt Order No. 86-12. If it does not agree with the staff analysis on one or more points critical to its decision (as indicated in Attachment 3), it should remand the matter to the Hearings Officer for a written response on the secondary issues before making its decision. If the Council votes to remand because it accepts the petitioner's exceptions on the primary issues, then it may wish to ask the petitioner to return with proposed findings for approval for Council review when it reviews the Hearings Officer's written response.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer supports the Hearings Officer's Report and recommends that Order No. 86-12 be approved.

JH/gl
5771C/471-3
08/19/86

CONSIDERATION OF ORDER NO. 86-12, IN THE MATTER
OF CONTESTED CASE NO. 85-8, A PETITION FOR A
MAJOR AMENDMENT OF THE URBAN GROWTH BOUNDARY FROM
BENJFRAN DEVELOPMENT

Date: August 18, 1986

Presented by: Jill Hinckley

FACTUAL BACKGROUND AND ANALYSIS

The petition from BenjFran Development is one of three petitions received last year requesting major amendments of the regional Urban Growth Boundary (UGB). The petition proposes the addition of some 470 acres south of Tualatin Valley Highway in Washington County as shown in Exhibit A (attached to Order No. 86-12). The Hearings Officer recommends that the petition be denied.

Under the applicable statewide goals, major UGB amendments may be approved only when shown to be needed to accommodate growth. BenjFran states that its petition should be approved in order to meet what it states to be a need for additional land near the Sunset Corridor to provide appropriate space for the support industries needed to serve new "hi tech" industries. Although testimony was received from a variety of individuals and groups regarding the need for industrial land generally, 1,000 Friends of Oregon argued that the petitioner had not demonstrated that the particular need it identified could not be met within the Urban Growth Boundary. Testimony in opposition to petition approval was also received from the Department of Land Conservation and Development (DLCD) and several nearby residents and property owners. Due to limited time and staff resources, the Washington County Board of Commissioners did not take a position on any of the three petitions. The city of Hillsboro supports the petition and would seek to annex the property if the petition were approved.

Hearings Officer Adrienne Brockman found that the petitioner had not demonstrated a need for the amendment and recommends that the petition be denied. Her report is attached as Exhibit B to the proposed Order denying the petition. The petitioner's exception to her report follows as Exhibit C (printed on yellow paper).

Because of the complexity of the issues and the regional policy implications, staff has prepared some supplementary materials to help organize Council deliberations. These materials follow this staff report as Attachments 1, 2 and 3. These materials offer only brief summaries of only the major issues that staff believes are

Exception #, p. #
(Goal Consideration)/
Hearings Officer Finding #

Issue
Description

Category

#1, p. 3 (Goal 14, Factor 1)/ #1	Need for hi-tech support services within 20-minute travel time contour from Sunset Corridor	PRIMARY, Issue A
/ #2	Definition of 20-minute travel time contour	PRIMARY, Issue B
/ #3	Total jobs to be accommodated within identified contour	Secondary
/ #4	Acres available to accommodate projected jobs	PRIMARY, Issue C
/ #5	Employees per acre	Secondary
/ #6	Effect of Kaiser and Riviera approvals on job projection	Secondary
#2, p. 24 (Goal 14, Factor 2)/ #1	Number projected support service jobs	Secondary
#3, p. 26 (Goal 14, Factor 6)/ #1	Retention of agricultural land	Dependent
#4, p. 26 (Goal 2, Exceptions--Reasons)	Reasons justifying proposed use	Dependent
#5, p. 28 (Goal 2, Exceptions--Alternatives)		
/ #1	Non-resource lands available	Undisputed*
/ #2	Committed resource land available	Dependent
/ #3	Need for parcels 200+ acres	PRIMARY, Issue D

*Petitioner appears to have misunderstood Hearings Officer's Findings.
Petitioner's Exceptions does not identify any disagreement with her Findings.

ATTACHMENT NO. 1:
RECOMMENDED PROCEDURES FOR RESPONDING TO EXCEPTIONS

In order to assist the Council in its considerations of the complex set of issues raised in the Hearings Officer's Report and the petitioner's exceptions to it, staff has grouped the petitioner's exceptions into three categories.

PRIMARY issues should be decided by the Council at its August 28 meeting. Each of the primary issues identified is further discussed in Attachment No. 2 which also provides specific recommendations on their resolutions.

SECONDARY issues need be resolved only if the Council rejects the Hearings Officer's decision on primary issues. Because of the technical nature of these issues, the staff recommends that in this case, the Council remand to the Hearings Officer for a written response on the secondary issues before it makes its decision on them.

Finally, there are DEPENDANT issues, which the Council need not address directly because they will be automatically resolved one way or the other once the primary or secondary issues are resolved.

The recommended treatment of each of the issues raised in the petitioner's exceptions is listed on the following page.

ATTACHMENT NO. 2:
SUMMARY AND RECOMMENDATIONS ON PRIMARY ISSUES

A. WHEN IS A PREFERENCE A NEED?

ISSUE: The petitioner surveyed 25 hi-tech support firms in the Portland metropolitan area and found that 84 percent felt that "optimal" travel time to basic hi-tech industries should be 20 minutes or less. On this basis, petitioner argues there is a need for support services within a 20-minute travel time contour of the center of the Sunset Corridor.

The Hearings Officer found that the documented preference of hi-tech firms to have support industries nearby did not constitute a need for those industries to locate within a 20-minute travel time contour. She suggested that such a need could have been demonstrated if, for example, it were shown that the unavailability of land within this contour would lead hi-tech industries to locate elsewhere or could make it impossible for the support industries themselves to survive.

The Petitioner's Exception argues that the Hearings Officer uses a different and unfairly high standard to assess need in the BenjFran, as compared to the one used with Kaiser and Riveria. The exception asserts that the documented preference of hi-tech industries to locate in the Sunset Corridor rather than on other available sites in the region was accepted as sufficient demonstration of need in the Kaiser and Riveria cases without a showing that if this preference were not met, hi-tech industries would go elsewhere. Petitioner argues that documentation of a preference alone should be sufficient and that petitioner has met that standard.

STAFF REMARKS: Staff believes that the Hearing Officer applied the same standard in all three cases and that it was the correct one. This standard is whether or not a failure to satisfy a locational preference of a needed industry would result in one or more companies in that industry which might otherwise locate in this region choosing another region instead. "To develop hi-tech industry" and to "encourage location of new [hi-tech] companies in the area" are identified as the purpose of the Kaiser amendment in the Hearing Officer's Report (p. 28). The Hearings Officer's findings for her conclusion include reference to expert testimony to the effect that "the Sunset Corridor is...essential to a region that would seek to be a hi-tech center" (p. 13) and that "additional land is needed to maintain the Sunset Corridor's competitive position in attracting hi-tech firms to this region" (p. 14). No such testimony was presented in the BenjFran case.

Petitioner's Exception argues that the Hearing Officer's approach means that she was assuming "all projected employment will not occur until 2005;" that currently unsewered land "may or may not" be sewerred by that date; and that in any case Kaiser and Riveria relied only upon unconstrained land and so an unfairly variable standard is being applied to BenjFran.

STAFF REMARKS: The Hearings Officer properly used the year 2005 as the date by which all projected development was expected to occur, but did not assume that none would occur prior to that time. All lands currently within the UGB are generally expected to have sewers by the year 2005. The burden rests with the petitioner to demonstrate why this might not be the case for certain parcels or areas it wants to exclude from consideration. In the Kaiser and Riveria cases, the Council found there was a current shortage of available land in the Sunset Corridor -- i.e., that there was a immediate, short-term need for more land to provide hi-tech industries with an adequate market choice. In evaluating short-term needs, it is appropriate to consider only lands available to meet that need during that time -- e.g., lands to which sewers could be extended during that time period. With the possible exception of issue D as discussed below, BenjFran has not argued that there is a current shortage of land to accommodate hi-tech support industries, only that there is an insufficient amount to meet long-term growth protection. Thus, lands that will be sewerred in the long-term should be considered available to meet the identified need.

- D. EVEN IF THERE IS ENOUGH LAND FOR SUPPORT INDUSTRIES WITHIN AN APPROPRIATE 20-MINUTE TRAVEL TIME CONTOUR, IS THERE AN ADDITIONAL NEED FOR SITES 200 ACRES OR LARGER TO ALLOW SUCH INDUSTRIES TO CLUSTER TOGETHER ON THE SAME SITE?

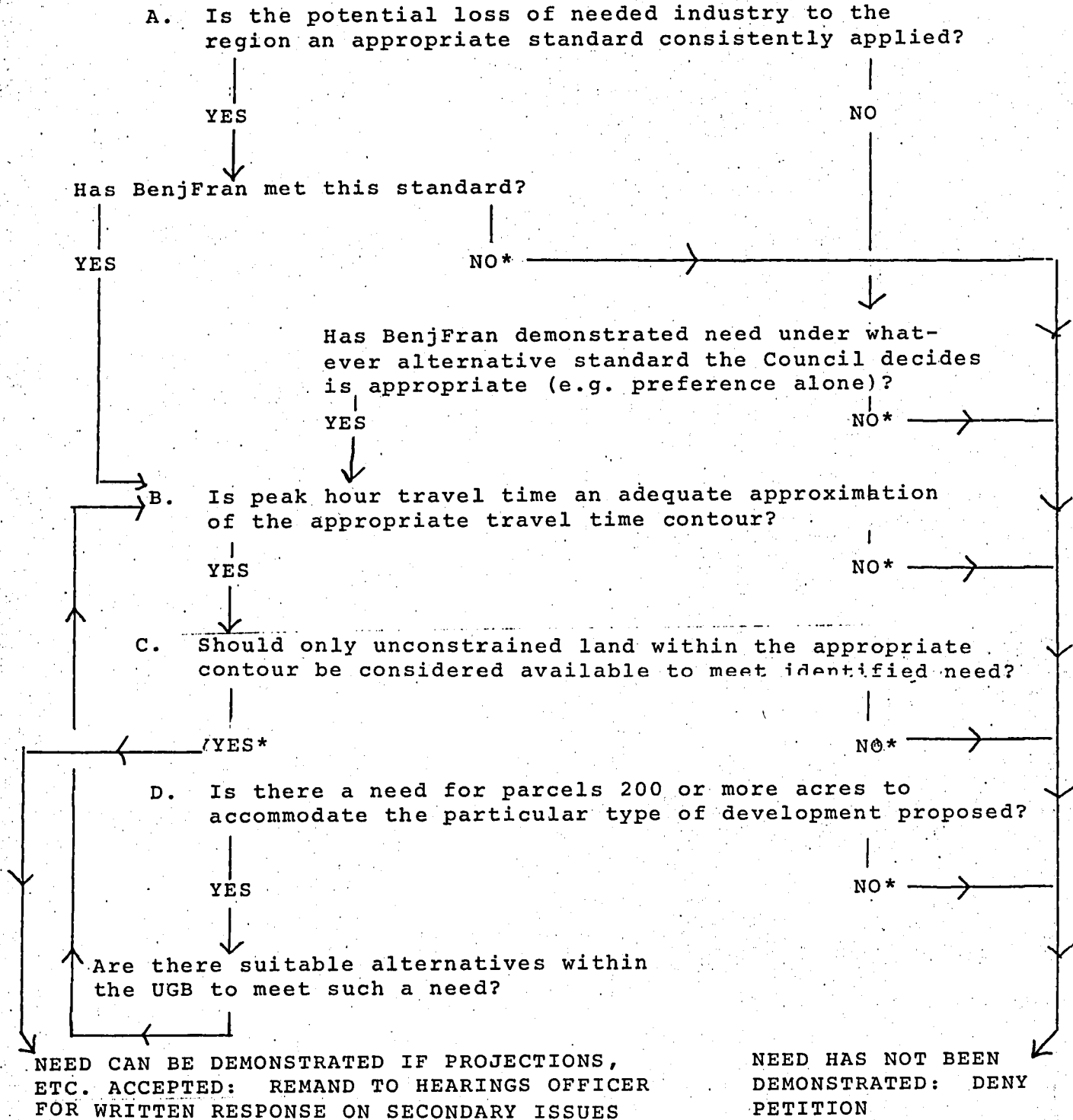
ISSUE: The petitioner proposes to develop its property in a set of clustered "development zones," each with unique characteristics attractive to different types of industries, but all geared toward a single, unified theme and market approach.

The Hearings Officer found that the possible benefits of this type of development did not constitute a need to provide a site for it within the UGB.

The Petitioner's Exception disagrees with the Hearings Officer's conclusion on this point.

STAFF REMARKS: Beyond the results of a survey indicating that support industries prefer to be close to each other as well as to the hi-tech industries served, there is no evidence in the record indicating that the type of development proposed, if completed, would make a difference to hi-tech locational decisions, nor even that there is sufficient interest among support industries to ensure that such development would be completed.

ATTACHMENT 3:
RELATIONSHIP OF ISSUES



* indicates when one of the two outcomes shown can first be reached. However, staff recommends resolution of all primary issues in order to provide guidance to petitioner and others for future applications and for maximum protection on appeal.

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

IN THE MATTER OF CONTESTED CASE	)	ORDER NO. 86-12
NO. 85-8, A PETITION FOR A MAJOR)	
AMENDMENT OF THE URBAN GROWTH)	
BOUNDARY BY BENJFRAN DEVELOPMENT)	

WHEREAS, BenjFran Development has submitted a petition for a major amendment of the Urban Growth Boundary (UGB) in Washington County as shown in Exhibit A; and

WHEREAS, Such request was given a contested case hearing before a Metropolitan Service District Hearings Officer on March 21, 24 and 31 1986; and

WHEREAS, The Hearings Officer has submitted Findings of Fact, Conclusions and a Recommendation; and

WHEREAS, The petitioner has submitted certain exceptions to the Hearings Officer's Findings and Conclusions; and

WHEREAS, Staff has prepared a summary and analysis of these exceptions included as Attachments 1, 2 and 3 to the the staff report on this matter; and

WHEREAS, The Council of the Metropolitan Service District has reviewed the record and, for the reasons identified in the staff analysis, agrees with the Findings of Fact, Conclusions and Recommendation as submitted by the Hearings Officer; now, therefore,

IT IS HEREBY ORDERED:

1. That the Council accepts and adopts the Findings of Fact, Conclusions and Recommendation submitted by the Hearings Officer in Contested Case No. 85-8 and attached hereto as Exhibit B, along with Attachments 1 and 2 of the staff report.

2. That the petition from BenjFran Development in Contested Case No. 85-8 is hereby denied.

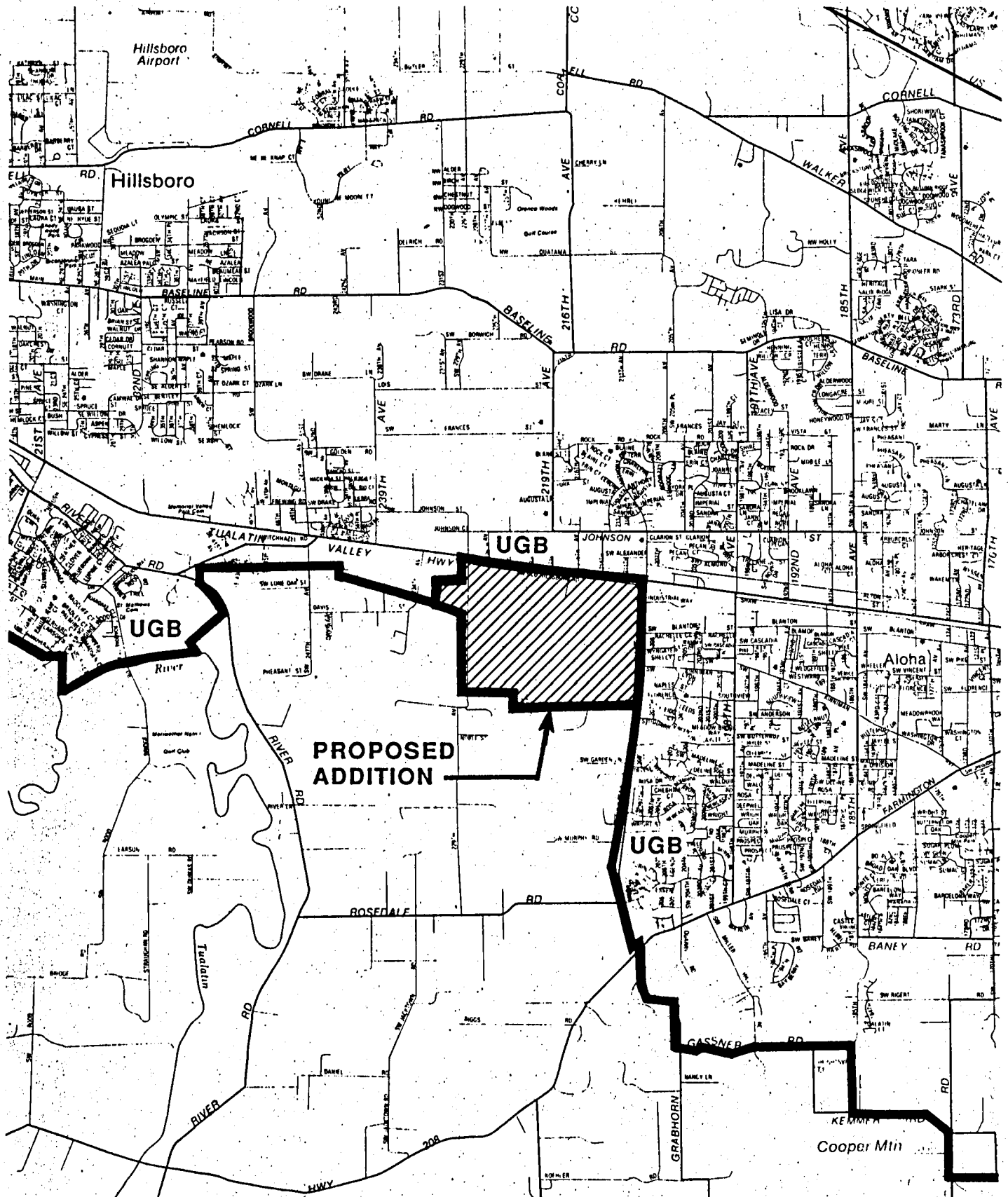
3. That parties to Contested Case No. 85-8 may appeal this Order under Metro Code Section 2.05.050 and ORS ch. 197.

SO ORDERED this _____ day of _____, 1986.

Richard Waker, Presiding Officer

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5771C/471-2
08/19/86

Petition from BenjFran Development



Due to their length, the Hearings Officer's Findings, Conclusions and Recommendation (Exhibit B to Order 86-12) and the Petitioner's Exception to those Findings have not been included in this packet. They have been mailed separately to members of the Council. If you would like a copy, please call Marie Nelson at 221-1646.

STAFF REPORT

Agenda Item No. 7.2

Meeting Date Aug. 28, 1986

CONSIDERATION OF ORDINANCE NO. 86-207 FOR THE
PURPOSE OF DEFINING A PLANNING PROCEDURE FOR
DESIGNATING AREAS AND ACTIVITIES FOR WHICH A
FUNCTIONAL PLAN MAY BE ADOPTED

Date: August 18, 1986

Presented by: Donald E. Carlson
Eleanore Baxendale

FACTUAL BACKGROUND AND ANALYSIS

The purpose of Ordinance No. 86-207 is to define a planning procedure for designating areas and activities which may be the subject of a functional plan. The significance of adopting a functional plan is that the District may require cities and counties to change their comprehensive land use plans to conform to the District's functional plan. While Ordinance No. 86-207 is written to provide a procedure for general use, its initial application is contemplated for solid waste facilities.

Authority for the District to adopt and implement functional plans is set forth in ORS 198.390 which states in part as follows:

"268.390 Planning for activities and areas with metropolitan impact; review of local plans; urban growth boundary. A district council shall:

"1. Define and apply a planning procedure which identifies and designates areas and activities having significant impact upon the orderly and responsible development of the metropolitan area, including, but not limited to, impact on:

- (a) Air quality;
- (b) Water quality; and
- (c) Transportation.

"2. Prepare and adopt functional plans for those areas designated under subsection (1) of this section to control metropolitan area impact on air and water quality, transportation and other aspects of metropolitan area development the council may identify....

"4. Review the comprehensive plans in effect on January 1, 1979, or subsequently

adopted by the cities and counties within the district which affect areas designated by the council under subsection (1) of this section...and recommend or require cities and counties as it considers necessary, to make changes in any plan to assure that the plan and any actions taken under it conform to the ditrict's functional plans adopted under subsection (2) of this section...."

As indicated in Eleanore Baxendale's analysis of this statute (see Attachment "A," memo dated July 28, 1986) a six-step process is contemplated to complete the adoption and implementation of a functional plan. These steps include: 1) definition of planning procedure; 2) application of the planning procedure; 3) plan preparation; 4) plan adoption; 5) local plan review (for compliance); and 6) requiring local plan changes. Ordinance No. 86-207 fulfills step 1 -- by describing a "planning procedure" for the designation of areas and activities which have significant impact on the orderly development of the metropolitan area (not a process for how the plan will be developed).

The procedure outlined in Ordinance No. 86-207 is for the Executive Officer to identify from time to time and report those aspects of development which are related to the orderly and responsible development of the metropolitan area (to supplement water quality, air quality and transportation). This shall be done through a resolution presented to the Council for adoption which also makes the actual designation of the functional plan activity or area (step 2). The resolution shall have findings which support the designation and shall also require the Executive Officer to return to the Council with a functional plan for consideration and adoption. Once the functional plan is adopted then the implementation steps will commence.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Ordinance No. 86-207.

DEC/gl
6119C/471-2
08/19/86



METRO

2000 S.W. First Avenue
Portland, OR 97201-5398
503/221-1646

Memorandum

Date: July 28, 1986
To: Donald E. Carlson, Deputy Executive Officer
From: Eleanore S. Baxendale, General Counsel *EB*
Regarding: SOLID WASTE FUNCTIONAL PLAN

Metro is seeking ways to require local governments in the region to adopt land use regulations which are consistent with Metro's policies for and management of solid waste.

Metro has two powers which can be used to implement regional planning: regional land use planning goals and functional plans.

Functional planning has been identified as an option for coordinating the land use elements of the solid waste management plan. This memo describes the implementation of a functional plan for solid waste first by describing and comparing the powers that Metro has, second by describing the necessary steps of a functional plan and third by proposing a minimum structure for making a solid waste functional plan.

I. DESCRIPTION AND COMPARISON OF POWERS

Under ORS 268.380 Metro can adopt "metropolitan area goals and objectives" which must be consistent with the statewide land use goals. Metro can then review local governments' comprehensive plans and require the local government to make changes in these comprehensive plans so that the plans conform with the metropolitan area goals and objectives.

Under ORS 268.390 Metro can prepare and adopt functional plans for areas which have "a significant impact upon the orderly and responsible development of the metropolitan area." Metro may then review local comprehensive plans and require changes in them to assure that the comprehensive plan "and any actions taken under it" conform to the functional plan.

The key difference between a metropolitan area goal and a functional plan is probably the difference in their scope: a

goal is a generalized policy statement applicable to the region as a whole but implemented by local jurisdiction without relation to the whole; a plan is a system applicable to the region as a whole and implemented by local jurisdictions to create an integrated system. The housing goal was a goal for each local jurisdiction (each jurisdiction achieved low cost housing its own way); the regional transportation plan is an integrated system of roads (the road location and classification must mesh). A functional plan is more than isolated goals. It is a system with many different components which interrelate.

Metro should use the functional plan process in this case.

A functional plan does not need to be approved by DEQ for Metro to have land use authority, unlike a Solid Waste Management Plan (SWMP) which must be approved by DEQ for Metro to have SWMP authority. Therefore, a functional plan can contain policies not found in the SWMP. However, it obviously should not conflict with a SWMP. A functional plan also does not need to be reviewed at the Metro level for compliance with statewide land use goals for Metro to have land use authority, unlike a metropolitan area goal. This means a functional plan can encompass policies and systems not normally considered in land use planning. However, when local jurisdictions amend their comprehensive plans to comply with Metro's functional plan, the amendments, obviously, must comply with the goals. As a result, Metro's functional planning provisions which affect land use should indirectly be consistent with land use policies.

II. STATUTORY STEPS FOR A FUNCTIONAL PLAN

ORS 268.380 has six steps for the adoption and implementation of a functional plan:

- (1). Define a planning procedure which identifies and designates areas and activities having a significant impact upon the orderly and responsible development of the metropolitan area, including, but not limited to, impact on: (a) Air quality; (b) Water quality; and (c) Transportation.
- (2). Apply the planning procedure defined in (1) above in order to designate an area for functional planning.
- (3). Prepare a functional plans for the areas described above.

Step 3 is to prepare the functional plan. Much of the functional plan exists, if Metro relies on the approved SWMP, the Solid Waste Reduction Plan and Resolution No. 84-105. Additional documents can be created and/or incorporated, like the draft amendments to the SWMP or new statements to clarify outdated portions of these documents, like dates or locations, or types of facilities. These would be either implementing the SWMP or amending the SWMP. These documents can be listed as being the plan rather than writing a new document. However, care must be taken to be clear which documents are being included and how to resolve conflicts among documents.

It is possible to create a special new functional plan which only addresses land use elements, but this is not recommended. The rationale for the land use elements must be clearly articulated (e.g., why must there be a transfer station within seven miles of Beaverton on at least four acres located near a major arterial), and this rationale is contained in full plan. Therefore, it is better to adopt the entire system plan so that nothing is misstated or becomes inconsistent when changes to one part are made.

However, the plan should be written to clearly identify those portions of the functional plan which interface with local comprehensive plans, and the plan should have clear functional plan policies for those portions. For example, on transfer stations current Metro policies require industrial land, near the center of waste, near major arterials, capable of serving public and private haulers and containing recycling centers. Metro's documents do not now require the site to be seven miles from the center of waste. This can be remedied by amending Metro's documents to state this and to show where the seven mile area is. These provisions could be restated separate from the main text in a special land use section.

As Metro creates the plan, issues which would benefit from local input should be carefully reviewed: e.g., when will Metro be specific and when will it allow flexibility. Once these issues are identified by staff, comment from the local government might be appropriate. Decisions on these issues can also help define the process for review in Step 5.

Step 4 is to adopt the plan. An ordinance should be used to officially designate the plan. As amendments to various plan documents are made through the years, the plan ordinance should also be amended. The same ordinance should also describe the process for the review to be undertaken in Step 5.

(4). Adopt the plan.

(5). Review local comprehensive plans for conformance with the functional plan.

(6). "Recommend or require" local governments "to make changes in any plan to assure the plan and any actions taken under it conform to the districts' functional plans."

Metro has no written or customary process for implementing the functional plan process. The two existing functional plans, the Regional Transportation Plan and the "208" Plan, are for areas already identified in the statute (water and transportation); therefore, Steps 1 and 2 have never been applied. Both plans were prepared and adopted pursuant to federal law to allow the region to receive federal funds. The SWMP has been developed without any formal Metro committee review, unlike the RTP (TPAC and JPACT) and the "208" Plan (WRPAC). The state does not require these types of committees for the SWMP or for a functional plan based on the SWMP.

Therefore, Metro is free to use whatever system it wishes to develop its functional plan, as long as the general process in ORS 268.390 is followed.

III. PROCESS

To carry out Step 1 of the statute the staff should bring to the Council an ordinance describing a "planning procedure which identifies and designates" the functional planning areas. This can be a very simple procedure. At a minimum it should require that the identification be made by resolution and that the resolution state why the area has "significant impact on orderly and responsible development." Note the planning procedure in Step 1 is for identifying and designating areas for functional planning; it is not for defining how the plan should be developed. This means that Metro does not need to establish by ordinance one method of developing a functional plan which must be used for every future functional plan.

Step 2 is to apply the procedure in Step 1: Staff will prepare a resolution stating why solid waste is an area and activity having "significant impact on orderly and responsible development."

Memorandum
July 28, 1986
Page 6

2. Following any preliminary Council briefing, an ordinance is adopted by Council establishing the process for declaring an area to be appropriate for a functional plan.
3. A resolution declaring solid waste to be a functional planning area is adopted by Council.
4. A functional plan is prepared by staff using the local government input process in (1) for appropriate issues.
5. A review process is developed using the local government input process described in (1).
6. Ordinance is adopted by Council adopting plan and establishing the review process.
7. Review process.
8. Enforcement.

ESB/gl
5988C/D4-4

Steps 5 and 6 are review and require changes to comprehensive plans. This is clearly the most difficult step to implement.

In the ordinance adopting the plan, Metro should describe the review process. Input from local jurisdictions might be appropriate for establishing the review process. The review process can begin immediately once the plan is adopted. Metro can review comprehensive plans, identify areas for amendment, and set timelines for change. Or Metro can establish a timeline for local jurisdictions to do their own review, consult with Metro and have a timeline set for change. Since most jurisdictions schedule their plan amendments on an annual basis, this annual cycle should be accommodated. It was anticipated when Metro reviewed comprehensive plans for goal compliance that Metro would conform to the annual review period.

In Step 6 Metro would issue an order directing compliance based on findings of non-compliance. Failure to make required adjustments would require Metro to go to Circuit Court for a mandamus. If a jurisdiction alleged that the text of the required change violates land use laws, Metro's position is that first the change must be made and then the text of the change itself be tested at LUBA.

V. Summary

The functional process can be implemented as follows:

1. Staff devises a process for involving local government on resolution of local/regional policy issues on plan specificity and comprehensive plan review process.

activity designated in Section 2.

Section 4. This ordinance shall be added to Chapter 3 of the
Metropolitan Service District Code.

ADOPTED by the Council of the Metropolitan Service District
this _____ day of _____, 1986.

Richard Waker, Presiding Officer

ATTEST:

Clerk of the Council

DEC/gl
6119C/471-2
08/19/86

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF DEFINING A) ORDINANCE NO. 86-207
PLANNING PROCEDURE FOR DESIGNATING)
FUNCTIONAL PLANNING AREAS AND)
ACTIVITIES)

WHEREAS, ORS 268.390 authorizes the Metropolitan Service District (Metro) to prepare and adopt functional plans for areas and activities which have impact on air quality, water quality, transportation, and other aspects of metropolitan area development identified by the Council; and

WHEREAS, The statute requires the Council to define a planning procedure for identifying and designating those activities and areas in need of functional planning; now, therefore

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

Section 1. The Executive Officer from time to time shall report to the Council those aspects of development in addition to water quality, air quality, and transportation, which are related to the orderly and responsible development of the metropolitan area.

Section 2. The Council may by resolution designate areas and activities which have a significant impact on air quality, water quality, and transportation, and other aspects of development reported in Section 1. The resolution shall have findings demonstrating that the aspect is related to the orderly and responsible development of the metropolitan area and that the area and activity has a significant impact thereon.

Section 3. The resolution shall direct the Executive Officer to present to the Council a functional plan for the area and

CONSIDERATION OF ORDINANCE NO. 86-206 FOR THE
PURPOSE OF AMENDING METRO CODE CHAPTER 3.02,
AMENDING THE REGIONAL WASTE TREATMENT MANAGEMENT
PLAN, AND SUBMITTING THE PLAN FOR RECERTIFICATION

Date: August 1, 1986

Presented by: Neil McFarlane

FACTUAL BACKGROUND AND ANALYSIS

The Regional Waste Treatment Management Plan is required under the Clean Water Act of 1977 (P.L. 95-217), and was first adopted by the Metro Council in 1980. The plan was last amended in October of 1984.

An ongoing requirement of the Act is that the plan be maintained as an accurate statement of the region's water quality management problems and the short- and long-term solutions to those problems. The plan is required for the allocation of federal funds for such things as sewers and sewage treatment plants.

To assist in the maintenance of the plan, the Council maintains an advisory body on water quality management issues called the Water Resources Policy Alternatives Committee (WRPAC). The WRPAC is composed of individuals representing the region's cities, the three counties, sanitary districts, as well as soil and water conservation districts.

On July 18, WRPAC held its annual meeting to review the Regional Plan (attached as Exhibit A). The conclusion of that review was:

- As a result of a FY 85-86 IRC project, the plan text and adopting ordinance were reviewed. Based on this review, a number of "housekeeping" changes were recommended in both the plan text and the Section of the Metro Code chapter which implements the plan. The intent of the changes were to create consistency with current state regulations and procedures. These amendments are shown in Exhibit A Chapters I (Metro Code) and II (plan text). The justification for the amendments is outlined in Exhibit B.
- In April of 1986, the Environmental Quality Commission issued its Findings and Order concerning specific areas in Mid-Multnomah County. Jurisdictions in the area are now under a DEQ order to implement the program for developing sewers in the area outlined in the Mid-Multnomah County Sewer Implementation

Plan. These Regional Plan amendments respond to the significant amount of new information and agreements on the custody of portions of the waste treatment system by adopting the Sewer Implementation Plan and the DEQ Order as Regional Plan support documents, shown in Exhibit A Chapter II (plan text). The justification for this amendment is outlined in Exhibit C.

- No changes in map boundaries are recommended at this time, however, a footnote is to be added to the delineation of boundaries in the Mid-Multnomah County area noting that specific facilities plans being developed by the Cities of Portland and Gresham may result in relatively minor boundary modifications. At the conclusion of the facilities studies, the Regional Plan could be amended to remove all study area designations and to formalize any boundary changes.

WRPAC recommended to the Metro Council that the package of amendments be approved, and that the amended plan be forwarded to the Department of Environmental Quality and the Environmental Protection Agency for recertification.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends the Council adopt Ordinance No. 86-206.

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08/01/86

NOTE: Due to the length of the document, the Draft "Regional Waste Regional Waste Treatment Management Plan," dated April 1986, was not included in this agenda. If you would like a copy of the Plan, contact Marie Nelson, 221-1646, ext. 206.

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF AMENDING METRO	)	ORDINANCE NO. 86-206
CODE CHAPTER 3.02, AMENDING THE)	
REGIONAL WASTE MANAGEMENT PLAN,)	
AND SUBMITTING THE PLAN FOR)	
RECERTIFICATION)	

WHEREAS, Metro Code Section 3.02.009(a) and (b) set forth criteria for the continuing planning process to implement the Regional Waste Treatment Management Plan and for amending support documents, which criteria have been met as set out in Exhibit C attached hereto; and

WHEREAS, Metro Code Chapter 3.02 has not been amended recently to clearly designate the current split of responsibilities between the Oregon Department of Environmental Quality, Metro, and local agencies and miscellaneous procedural changes as set out in Exhibit B attached; now, therefore,

BE IT ORDAINED AS FOLLOWS:

Section 1. Chapter 3.02 of the Code of the Metropolitan Service District is amended as shown in Chapter I of Exhibit A, which is hereby made a part of this Ordinance.

Section 2. The Regional Waste Treatment Management Plan, adopted by Metro's Code Section 3.02.002, is amended to incorporate those changes shown in Chapters II and III of Exhibit A, which is hereby made a part of this Ordinance.

Section 3. The Council of the Metropolitan Service District hereby orders the Plan, as amended, be submitted to the

Oregon Department of Environmental Quality and, in turn, to the U.S.
Environmental Protection Agency for recertification.

ADOPTED by the Council of the Metropolitan Service District
this _____ day of _____, 1986.

Richard Waker, Presiding Officer

ATTEST:

Clerk of the Council

NM/gl
6000C/471-2
08/01/86

EXHIBIT B

FINDINGS FOR THE ADOPTION OF
AN AMENDED CHAPTER 3.02 OF THE METRO CODE

1. Changes in the Metro Code text are necessary to have the Regional Waste Treatment Management Plan become a stand-alone document rather than as one element of a more comprehensive regional plan once envisioned.
2. Section 3.02.007 is being removed in recognition of DEQ's strong continuing role in maintaining a Statewide Capital Improvements and Needs List, and an associated lack of need for Metro involvement in this area.
3. Section 3.02.009(a)(2) is being removed, being viewed as an extra step ordinarily covered by the requirement for two readings for adoption of an ordinance amending the plan. Section 3.02.009(a)(3) is being amended so that general rules for Council adoption will control Council action on the "208" Plan rather than special rules for the adoption of functional plans -- which have never been adopted.

NM/gl
6000C/471-2
08/01/86

EXHIBIT C
FINDINGS FOR THE ADOPTION
OF AN AMENDED
WASTE TREATMENT MANAGEMENT PLAN TEXT AND MAPS

Mid-Multnomah County Area:

In accordance with Metro Code 3.02.009 (Continuing Planning Process), the basis for the changes affecting the Mid-Multnomah County area are:

- (1) New Information: The Mid-Multnomah County Sewer Implementation Plan defines new relationships and responsibilities between Multnomah County and the Cities of Portland and Gresham which result in changes in the custody, maintenance and/or distribution of portions of the Waste Treatment System. These plan amendments are intended to create consistency between the governmental policies of Gresham, Portland, the Department of Environmental Quality, and the Regional Plan.

Other circumstances affecting the Regional Plan, include the Environmental Quality Commission findings of a threat to drinking water, as documented in the Findings and Order adopted April 25, 1986.

The EQC's Findings and Order, and the Mid-Multnomah County Sewer Implementation Plan are the basis for the Regional Plan amendments.

In addition, changes in custody of facilities result in changes to the Management Agency Classifications in the plan concerning: (1) the Mid-Multnomah County area; (2) the establishment of the Tri Cities Service District in Clackamas County; and (3) other changes to create consistency between past amendments and Management Agency Classifications.

- (2) Metro Council review and release of Regional Plan changes for public comment: This will be accomplished by the Metro Council's first reading of the Ordinance adopting this revised plan.
- (3) Adequate public review and comment on the change: The Findings and Order attached note the public hearings and notification conducted by the Department of Environmental Quality which represent an adequate basis for this Regional Plan amendment.

Support Documents are amended to include the Mid-Multnomah County Sewer Implementation Plan, and the Findings and Order of the Environmental Quality Commission as ordered on April 25, 1986. As required by Metro Code 3.02.009(b)(A) through (G), the following

information is referenced as a basis for amending the support documents:

- (A) Reasons for proposed action: The Environmental Quality Commission has found that a threat to drinking water exists.
- (B) Basis of Data: Technical studies conducted for the Mid-Multnomah County Sewer Implementation Plan.
- (C) Method of Obtaining Data: Technical studies as defined in the Mid-Multnomah County Sewer Implementation Plan and the EQC's Finding and Order.
- (D) Period in which the Data was Obtained: Primarily in 1985. Sewer Implementation Plan is dated September, 1985.
- (E) Source of the Data: As defined in the Sewer Implementation Plan and the EQC's Findings and Order.
- (F) Alterations Considered: As defined in the Sewer Implementation Plan.
- (G) Advantages and Disadvantages: The advantages relate to removing a threat to drinking water; the disadvantages relate to cost to individuals for implementing sewer service, all as discussed in the Sewer Implementation Plan.

Plan Procedural Changes

Other changes in the Plan are intended to bring the Plan into conformance with Intergovernmental Project Review requirements (rather than A-95), and with current divisions of responsibilities between the Department of Environmental Quality, Metro, and local agencies. These procedural changes recognize that Metro's role in water quality planning is limited to one of coordinating the efforts of local agencies.

NM/gl
6000C/471-4
08/01/86



METRO

2000 S.W. First Avenue
Portland, OR 97201-5398
503/221-1646

Memorandum

Agenda Item No. 7.4

Date: **August 20, 1986**

Meeting Date August 28, 1986

To: **Metro Council**

From: **Neil McFarlane, Public Facilities Analyst**

Regarding: **Reconsideration of Order No. 86-11**

At your August 14 meeting, the Council adopted Order No. 86-11, correcting the Regional Waste Treatment Management Plan ("208" Plan) in the Lake Oswego area. After adoption of the Order as part of the Consent Agenda, testimony was received on this issue. Councilor Hansen then asked that the issue be reconsidered at your August 28 meeting. The original staff report accompanying the Order is attached.

The Council also asked that a companion resolution be drafted recommending that technical studies be completed for the area at issue. This resolution will be considered as Agenda item No. 8.1. The actual staff report for that item will be forwarded to you prior to the meeting.

STAFF REPORT

Agenda Item No. 7.3

Meeting Date August 14, 1986

CONSIDERATION OF ORDER NO. 86-11 FOR THE PURPOSE
OF CORRECTING THE REGIONAL WASTE TREATMENT
MANAGEMENT PLAN

Date: July 31, 1986

Presented by: Eleanore Baxendale
Neil McFarlane

FACTUAL BACKGROUND AND ANALYSIS

Amendment Nos. 12 and 13 to the Regional Waste Treatment Management Plan ("208" Plan) adopted on December 13, 1984, by Ordinance No. 84-184, included new maps identifying: (a) Sewerage Transmission and Treatment Service Areas (Amendment No. 12); and (b) Collection System Service Areas (Amendment No. 13). These maps were redrawn to incorporate a number of changes in mid-Multnomah County, Happy Valley, and in western Washington County.

The maps also included a change in the area southwest of the city of Lake Oswego, including the city of Rivergrove and its unincorporated environs, from the Portland/Tryon Creek service area to the Unified Sewerage Agency (USA)/Durham service area. No Findings specifically addressing this change accompanied the Ordinance adopting these amendments. The city of Lake Oswego, although a member of the Water Resources Policy Alternatives Committee, did not participate in the process resulting in this amendment. Since Metro's adoption of these redrawn maps, Lake Oswego has attempted to exercise jurisdiction over the services in the area at issue and discovered the "208" Plan had been amended.

In reviewing Ordinance No. 84-184, it became apparent from Exhibit A and the Findings in the staff report that the basis for amending the "208" Plan was Code Section 3.02.009(a) (1) (A), "changes in custody." The "208" Plan amendment was designed to be consistent with the (then) recently negotiated sewerage contracts between the cities of Portland and Lake Oswego. However, staff had been provided with inaccurate information on the nature of the change and, therefore, had shown as part of the map adjustments a boundary change which was inconsistent with the actual contract.

Subsequent investigation found the source of the discrepancy to be in the City of Portland's copy of its Agreement with Lake Oswego to accept and treat sewerage at the Tryon Creek plant. Until recently, Portland's copy of this Agreement omitted a map of the treatment area boundary. Because this map was missing, Metro staff apparently used a map of the current rather than planned Tryon Creek System Service Area as contained in a 1974 technical study of the

basin entitled "Infiltration/Inflow Analysis." The omission of the map from the Portland-Lake Oswego agreement was corrected by the Portland City Auditor on December 6, 1985, as shown on Attachment "D."

In the opinion of Metro's General Counsel, this is at a minimum a type of scrivener's error. The rationale and legal basis for the amendment was incorrectly transferred onto a map because the wrong map was used to draw the change. Pursuant to Code Section 2.03.005(b), mistakes can be corrected administratively by order of the Council.

The Order attached would return the boundary in this area to the location it was prior to the 1984 amendment. The reasons for this are reiterated on Attachment "A" to Order No. 86-11. The corrected maps are shown as Attachments "B" and "C" to Order No. 86-11.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Order No. 86-11.

NM/gl
4603C/435-4
07/31/86

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF CORRECTING) ORDER NO. 86-11
THE REGIONAL WASTE TREATMENT)
MANAGEMENT PLAN AS AMENDED BY)
ORDINANCE NO. 84-184.)

WHEREAS, the Metropolitan Service District Code Section 3.02.005(b) sets forth that mistakes identified in the Regional Waste Treatment Management Plan may be corrected by Order of the Council; and

WHEREAS, This mistake appeared to be caused by a simple omission from a City of Portland contract which as set forth in Attachment "D" has since been corrected; and

WHEREAS, Metro's General Counsel has found that a correction of the plan rather than an amendment should be made for the reasons set forth in Attachment "A"; and

WHEREAS, Reasons for correcting this mistake are shown on Attachment A; now, therefore,

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDERS:

The Regional Waste Treatment Management Plan, amended last by Metro Ordinance No. 84-184, is corrected by incorporating the maps shown on Exhibits B and C respectively, and hereby made a part of this Order, such that the boundary for the Tryon Creek Basin in the Lake Oswego area be amended to conform to Lake Oswego-Portland contract for operation of the Tryon Creek Plant.

ADOPTED by the Council of the Metropolitan Service District
this _____ day of _____, 1986.

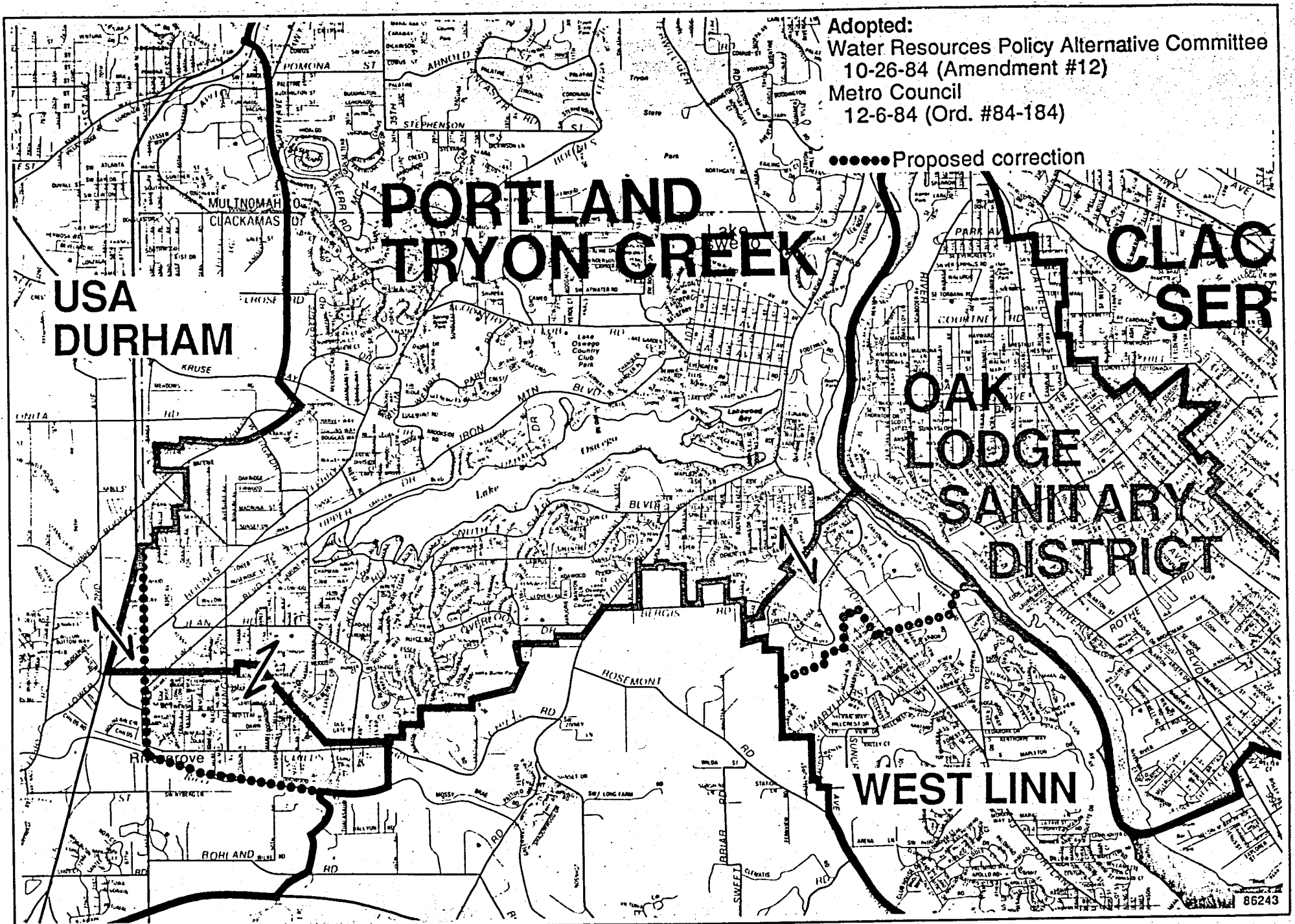
Richard Waker, Presiding Officer

ATTACHMENT "A"

FINDINGS RELATED TO ORDER NO. 86-11
CORRECTING THE REGIONAL WASTE TREATMENT MANAGEMENT PLAN

1. Prior to the 1984 amendments to the plan, the subject area southwest of Lake Oswego was in the Portland/Tryon Creek Sewerage Treatment Area.
2. The 1984 amendments designated the subject area as being in the Unified Sewerage Agency (USA)/Durham Sewerage Treatment Area.
3. The 1984 amendments, findings supporting amendments, and Water Resources Policy Alternatives Committee (WRPAC) minutes where those amendments were reviewed make no reference to the change in designation for the subject area.
4. The City of Portland-City of Lake Oswego agreement concerning Wholesale Sewage Treatment (Contract #21764) was originally filed with the map of the Tryon Creek plant service area omitted. In its stead, staff apparently used a map illustrating the current system boundary as contained in a 1974 City report on infiltration in the basin.
5. On Decemeber 6, 1985, the Portland City Auditor filed the referenced map with the Agreement, thus correcting the omission.
6. The map omitted (Exhibit A to the Contract which is attached hereto) shows the boundaries of the Tryon Creek Treatment System Service Area as it was delineated in the original "208" Plan.
7. In the opinion of General Counsel this is at a minimum a type of scrivener's error. The rationale and legal basis for the amendment was incorrectly transferred onto a map because the wrong map was used to draw the change.
8. Pursuant to Code Section 3.02.005(b) mistakes can be corrected administratively by order of the Council.

NM/gl
4603C/435-4

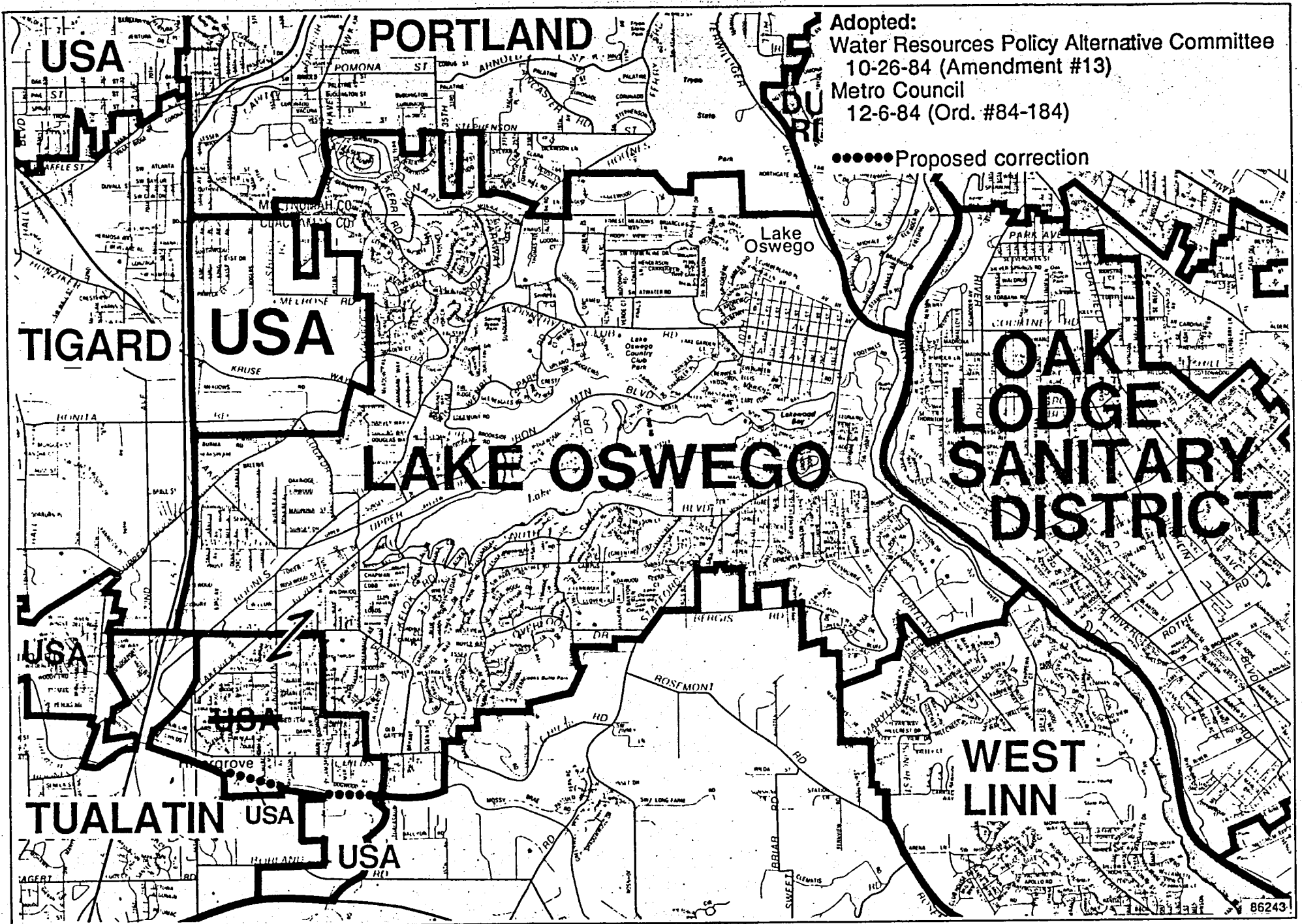


METRO

Sewerage Transmission & Treatment Service Areas

Attachment "B".

Proposed correction to Portland Tryon Creek



METRO

Collection System Service Areas

Attachment "C" Proposed correction to Lake Oswego

Attachment "D"



CITY OF
PORTLAND, OREGON
BUREAU OF ENVIRONMENTAL SERVICES

Dick Bogle, Commissioner
John Lang, Administrator
1120 S.W. 5th Ave.
Portland, Oregon 97204-1972
(503) 796-7169

December 5, 1985

RECEIVED
DEC 6 1985

OFFICE OF THE
CITY AUDITOR

TO: Edna Cervera
Council Division Manager

FROM: Roni Houston
Bureau of Environmental Services

SUBJECT: Addition of Exhibit A (Map) to Contract #21764,
authorized by Ordinance #156612

The City's copy of the Wholesale Sewage Treatment and Disposal Agreement with the City of Lake Oswego (Contract #21764), does not contain Exhibit A, a map of the service area of the Tryon Creek Wastewater Treatment Plant. The City of Lake Oswego's copy of the contract contains a map identical with the map enclosed herewith.

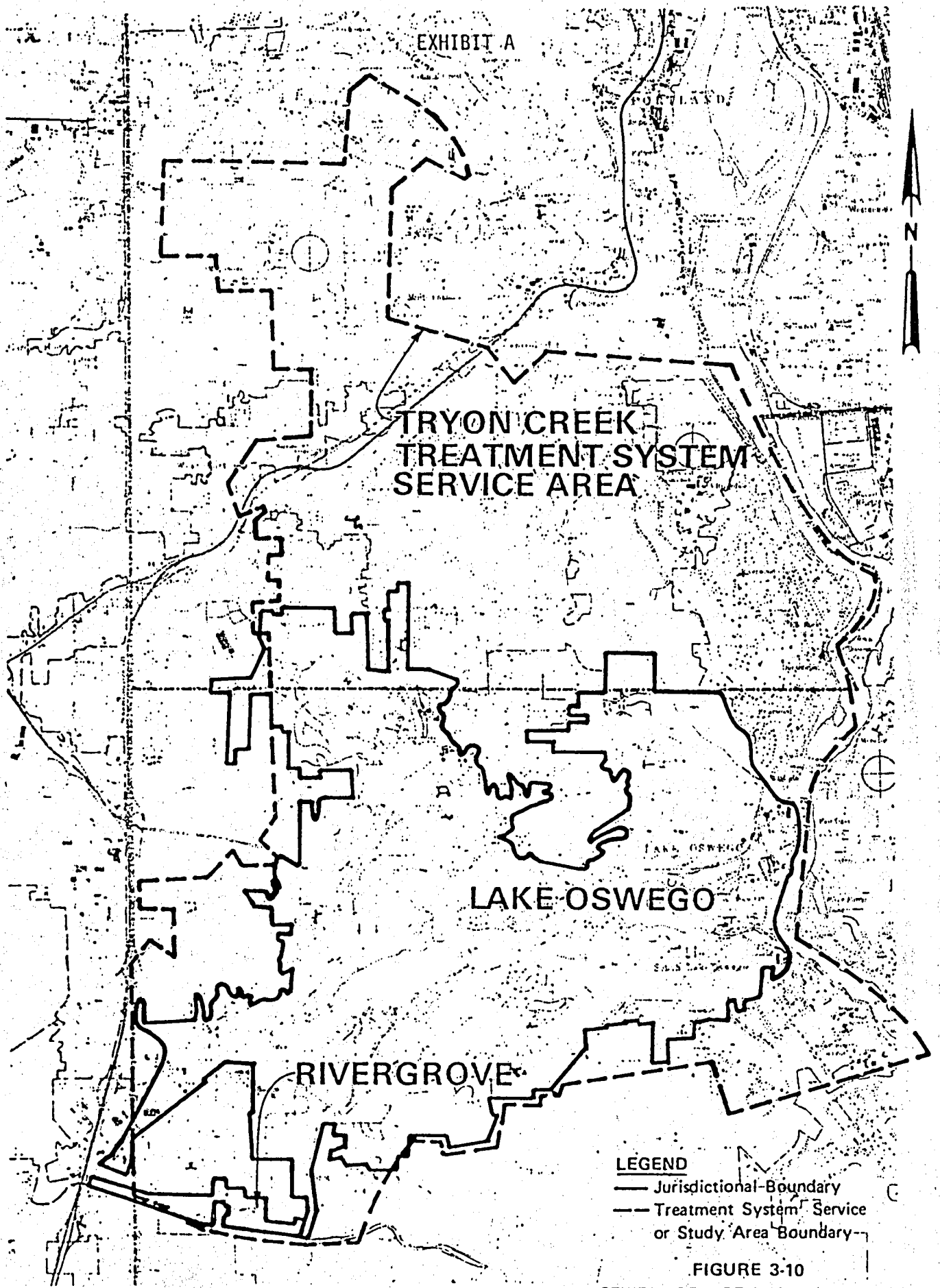
Please insert the enclosed map, marked as Exhibit A, in the original contract on file in your office. Copies of this map are being inserted in our copies of the contract.

I have discussed this problem with Denise Francis, Deputy City Attorney, and she suggested that no Ordinance would be required to correct a simple omission. If you have any questions, please call me at 796-7121, or Ms. Francis at 248-4047.

RLH:al
54:rlh-cervera

Enc.

Filed DEC 6 1985
JEWEL LANSING
Auditor of the City of Portland
By DEPUTY



LEGEND
— Jurisdictional Boundary
--- Treatment System Service or Study Area Boundary

FIGURE 3-10
SEWERAGE AGENCY BOUNDARIES
LAKE OSWEGO/RIVERGROVE



METRO

2000 S.W. First Avenue
Portland, OR 97201-5398
503/221-1646

Memorandum

Agenda Item No. 8.1

Date: **August 20, 1986**

Meeting Date Aug. 28, 1986

To: **Metro Councilors**

From: **Neil McFarlane, Public Facilities Analyst**

Regarding: **Resolution No. 86-679, Recommending that Technical Studies on the Installation of Sewers be Undertaken for Unincorporated Areas of Clackamas County near Lake Oswego**

At your August 14 meeting, a resolution was requested which would recommend that technical studies be undertaken on the installation of sewers in unincorporated areas near Lake Oswego.

The staff report and resolution for this item are not yet complete and will be forwarded to you prior to your August 28 meeting.

NOTE TO THE INTERESTED PUBLIC: The staff report and resolution may be picked up at the Metro offices after 4:00 p.m., Monday, August 25, 1986.

CONSIDERATION OF RESOLUTION NO. 86-676 FOR THE
PURPOSE OF ADOPTING A HAZARDOUS WASTE MANAGEMENT
PLAN

Date: August 12, 1986

Presented by: John Frewing
Randi Wexler

FACTUAL BACKGROUND AND ANALYSIS

In January 1986, the Metro Council authorized the Executive Officer to appoint a Task Force to define problems and solutions related to household hazardous waste and small quantities of hazardous waste which are legally permitted in the municipal landfill. Since March 1986, the Task Force has reviewed information from other jurisdictions regarding: 1) current disposal patterns of small businesses and homeowners; 2) waste composition studies; and 3) programs implemented to encourage proper disposal and recycling options for both the homeowner and small business.

The Hazardous Waste Management Plan, (see attachment) developed by the Task Force, recommends programs to reduce the quantity of hazardous waste in the municipal waste stream. The role of the Metro Solid Waste Department in these programs is also outlined.

Task Force Findings

After reviewing available information, the Task Force concluded that certain hazardous materials generated by households and small businesses can harm the environment when disposed of in the garbage can or down the sewer. Also, certain hazardous materials generated by households pose a risk to both homeowners and fire fighters when they are stored. However, no conclusive statement can be made regarding the environmental and public health impacts of disposal of these materials via the garbage can or sewer system.

To provide alternatives to the homeowner, solid waste utilities, liquid waste utilities, and fire fighting agencies should cooperate to 1) collectively determine proper disposal methods for various household wastes, and 2) effectively inform the public of recycling opportunities and disposal opportunities. Disposal and recycling methods for household waste should be funded in a cooperative manner by all affected agencies. The Task Force concluded that Metro should take a lead role in management of household hazardous waste.

The Task Force identified several impediments for providing recycling and disposal options for small businesses. These

impediments include lack of resources on behalf of small businesses to interpret the complex and rapidly changing hazardous waste regulations, difficulty in providing general assistance because of the diversity of hazardous materials used by a large number of small businesses, potential liabilities for small businesses when other disposal options are used, and the cost of proper disposal is extremely high compared with disposal in the municipal waste stream.

The Task Force concluded that Metro should coordinate a new Task Force charged with developing a plan to encourage recycling and proper disposal of exempt/small quantities of hazardous waste.

Summary of Hazardous Waste Management Plan

Recognizing the different problems of homeowners and small businesses, the Hazardous Waste Management Plan is divided into two chapters. Chapter 1 deals primarily with programs to assist the homeowner in finding recycling opportunities and other appropriate disposal methods.

Program A, Pilot Project for Household Collection Day, commits Metro to assist a local jurisdiction or group of jurisdictions in performing a household collection day in October/November. Metro's involvement includes securing services from a hazardous waste disposal firm (either a free service or Metro funding) and promotion and education functions. Collection days have been very successful in other communities.

Program B calls for seeking a permanent funding mechanism to allow jurisdictions to perform collection days on a routine schedule.

Program C, Waste Composition Study, expands the scope of a typical waste composition study to include household hazardous waste categories. Inclusion of these additional categories will provide data for determining the quantity of household hazardous waste in the municipal waste stream. The waste composition study scheduled for October will include household hazardous waste categories.

Program D entails development of a resource document for government agency staff, public interest groups, health professionals, and product manufacturers to provide uniform answers to the homeowner on proper disposal and recycling opportunities. This information will also be published in brochures for the public.

When these programs are in place, Metro will undertake an auditing program (Program E1) to examine loads for hazardous waste. Prior to the auditing program, the current landfill policy of not knowingly accepting any quantity of hazardous waste will need re-evaluation (Program E2).

Chapter 2 Exempt/Small Quantity generator programs designates Metro as the coordinating agency to continue discussions on encouraging recycling and proper disposal options for small businesses. Metro is not responsible for implementing any programs

but is an equal participant, along with other affected agencies, in producing a plan. The Task Force is scheduled to produce a plan by July 1987.

Task Force Recommendation

The Task Force recommends adoption of the Hazardous Waste Management Plan and the Task Force believes that Metro is the appropriate agency to lead discussions on the best mix of programs and projects for small businesses.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 86-676 which adopts the Hazardous Waste Plan. The Executive Officer concurs with the finding of the Task Force that Metro accept the lead role for management of household hazardous waste. The Executive Officer supports the activities in chapter two of the plan as long as other affected parties are willing to assume responsibilities of developing and implementing a plan for exempt/small quantities of hazardous waste.

RW/gl
6066C/471-5
08/15/86

NOTE: Due to the length of the document, the report entitled "Hazardous Waste Management Plan," dated August 1986, was not included in this agenda. If you would like a copy of the Plan, contact Marie Nelson, 221-1646, ext. 206.

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF ADOPTING A	)	RESOLUTION NO. 86-676
HAZARDOUS WASTE MANAGEMENT PLAN)	
	)	Introduced by the
	)	Executive Officer

WHEREAS, The Council of Metropolitan Service District adopted Resolution No. 86-618, a resolution "For the Purpose of Establishing a Task Force to define problems and solutions relating to household waste containing hazardous substances and small quantities of hazardous waste permitted in the the municipal waste stream;" and

WHEREAS, The resolution states that the Task Force shall review information, analyze the impact of these wastes, and report to the Council on how best to deal with any adverse impacts; and

WHEREAS, The Task Force has completed its work and has presented its findings in the Hazardous Waste Management Plan; now, therefore,

BE IT RESOLVED,

1. That the Council adopts the Hazardous Waste Management Plan developed by the Hazardous Waste Task Force to reduce adverse impacts and to continue investigations.

2. That the Council authorize staff to perform the tasks assigned to Metro.

ADOPTED by the Council of the Metropolitan Service District
this _____ day of _____, 1986.

Richard Waker, Presiding Officer



METRO

2000 S.W. First Avenue
Portland, OR 97201-5398
503/221-1646

Memorandum

Agenda Item No. 8.3

Date: **August 20, 1986**

Meeting Date Aug. 28, 1986

To: **Metro Councilors**

From: **Marie Nelson, Clerk of the Council**

Regarding: **Agenda Item No. 8.3**

**Resolution No. 86-682, Creating the North Portland
Rehabilitation and Enhancement Committee**

The material for this agenda item will be mailed to Councilors prior to the meeting date. Other interested parties may request a copy of the Resolution and staff report by calling the Metro offices the week of the August 28 Council meeting.



METRO

2000 S.W. First Avenue
Portland, OR 97201-5398
503/221-1646

Memorandum

Agenda Item No. 8.4

Date: **August 20, 1986**

Meeting Date Aug. 28, 1986

To: **Metro Councilors**

From: **Marie Nelson, Clerk of the Council**

Regarding: **Agenda Item No. 8.4**

Resolution Nos. 86-680 and 86-681, Approving a Supplemental Budget, Creating a New Fund (Convention, Trade and Spectator Facility Capital Fund), Amending Resolution No. 86-659 and Authorizing an Interfund Loan

The material for this agenda item will be mailed to Councilors prior to the meeting date. Other interested parties may request a copy of the Resolutions and staff report by calling the Metro offices the week of the August 28 Council meeting.



METRO

2000 S.W. First Avenue
Portland, OR 97201-5398
503/221-1646

Memorandum

7.1

8/28/86

Agenda Item 7.1

Date: August 27, 1986
To: Metro Council
From: Jill Hinckley, Land Use Coordinator
Regarding: SUPPLEMENT TO ATTACHMENT 2, PRIMARY ISSUES B AND C

The agenda materials for Order No. 86-12, an order denying a petition from BenjFran Development for a major amendment of the Urban Growth Boundary, include a staff summary and analysis of four key or "primary" issues for Council consideration at its August 28 meeting. The second primary issue is petitioner's use of a peak-hour travel time contour to define the area within which petitioners argue that the need they have identified must be met.

If the Council agrees with the Hearings Officer that an off peak contour should have been used in the analysis, that BenjFran intends to request an opportunity to present as new evidence a modified analysis for the area within a 20 minute off peak time contour.

Recommendation on Issue B: Travel Time Contour

Staff recommends that the Council make a decision on the three remaining primary issues (A, C and D) before making a decision on whether an off peak analysis is needed and whether it will grant petitioner's request to submit one as new evidence. If the Council upholds the Hearings Officer on issue A or C, it will have sufficient basis at that point for a denial without having to resolve the travel time contour question. If, however, the Council finds for the petitioner on issues A and C at that point, and if it decides to grant the petitioner's request to submit new evidence, staff recommends that Council then remand the matter for a new hearing on both issue B and the secondary issues, rather asking the Hearings Officer to file a written response on the secondary issues based upon the existing record. The numbers in dispute in the secondary issues will be recalculated as part of a new submittal and can most effectively be evaluated in that context.

Recommendation on Issue C: Exclusion of Constrained Land

If the Council concurs with the Hearings Officer that land without sewers should not have been excluded from analysis without further justification, then it must find that the petitioner has failed to meet its burden of proof to demonstrate that insufficient land is available within the UGB to meet identified needs even within the peak-hour contour used by the petitioner. In that case, it need not further consider how expanding the analysis area might affect petitioner's need demonstration.

Although failure to meet the burden of proof is legally sufficient grounds for denial, staff recognizes that the Council may be reluctant to rely on that basis alone in making its decision. The following information is offered to provide Council with assurance that the petitioner could not meet that burden even if given a further opportunity to do so. This information comes from the Metro Draft Industrial Vacant Land Inventory, on which petitioner relied for its figures on unconstrained lands, and is, in fact, taken from the same table. But because this table was not itself entered into the record, staff offers it not as the basis for Council action, but only as a basis for the Council to feel comfortable that a decision to deny based upon failure to meet the burden of proof does not differ from the one it could make if this information had been included in the record.

The table attached to this memo shows vacant industrial land in all categories in the four subareas that the petitioner identified as approximating the twenty minute peak-hour travel time contour. Petitioner included in its analysis all lands identified as being 1,000 feet from sewers and having no hazards. Although land with hazards on less than 50 percent of its area may be highly developable (for example, land in both the Kaiser and Riviera cases fell in this category), one can exclude all land with hazards on it and still find that there is sufficient land available to meet identified needs. In particular, if the Council finds agrees with the Hearings Officer that it is appropriate to consider land that currently has sewers more than 1,000 feet away, the amount of land in this category with no hazards is as follows:

SUNSET WEST

<u>AREA</u>	<u>ACRES</u>
Sunset West	137
West Union	108
Hillsboro	323
Aloha	4

TOTAL

572

Memorandum
Page 3
August 27, 1986

Table 5-A in Appendix II of the Hearings Officer's Report shows the size of the shortfall identified by the petitioner as 529 acres. Lands that will be sewered between now and the year 2005 are thus sufficient to accommodate this shortfall.

Summary and Conclusions

Staff recommends that the Council consider first issues A, C and D, as listed in Attachment 2 to the staff report in the agenda. It further recommends that the Council uphold the Hearings Officer on each of these issues and adopt Order No. 86-12 without need to further consider issue B. If, on the other hand, Council supports the petitioner on the issue, and decides to remand the travel time analysis to the Hearings Officer to take new evidence, then staff recommends that the Council do so at the conclusion of its August 28 deliberations, rather than first remanding simply for a written response from the Hearings Officer on the secondary issues.

JH/sm
6150C/D5-2

7.1
8/28/86

August 27, 1986

Metropolitan Boundary Commission
Portland, Oregon

Re: Ben Fran request to be in the Urban area
Site: 1S2 10 D T/L 100

Mr. Chairman, Ladies and Gentlemen,

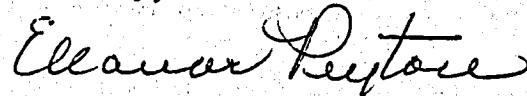
I was chairman of CPO #6 Community Plan Committee from the start to finish. At that time we questioned T/L 100 not being in the urban area but learned the owners, Sisters of St. Mary, were against the change.

The following should be sound reasons to approve Ben-Fran's request at this hearing:

1. Both east and west boundaries abut urban/industrial areas.
2. The north boundary abuts the rail line, Tualatin Valley Highway and commercial zone.
3. The CPO #6 plan shows a street cutting diagonally through the property to align 209th with 219th for a future north/south thru-way.
4. An area with all facilities as this area has is greatly needed for, what I call, bread and butter industries. These are the non-exotic every day small, steady businesses.
5. The property to the south is still classified as rural but becoming built up with single family homes. When Lot #100 is developed, the CPO would protect those homes. In the near future I am certain, as it continues to develop, it too should be urban due to needed water and sewerage services.

Thank you for considering this report.

Sincerely,



Eleanor Peyton
Co-secretary of CPO #6

Mrs. John B. Peyton
8245 S. W. 170th Avenue
Aloha, Oregon 97007

7.1
8/28/86

Metro Hearing
August 28, 1986
Benj. Fran Proposal
Urban Growth Boundry Expansion
CPO #6 testimony
Presented by Steven M. Larrance
20660 S. W. Kinnaman Road, Aloha, Oregon 97007

I am Vice Chairman of CPO #6 and Chairman of our Land Use and Transportation Planning Subcommittee. We feel that a historical perspective concerning the CPO subcommittee's attitude concerning this urban growth expansion is in order. When the boundry was formalized we questioned why this gap (the site in question) in the urban area was desirable. Our group, by consenses, felt that this open area was indeed accessible and serviced by the same urban services as the adjacent areas which were to be included within the boundry. We were told that the owner had requested the rural designation. It seemed peculiar that in only this one instance in our area was the property owner able to effect the process in this way.

* Today this area is being proposed for urbanization. We would hope that the future of this parcel will help provide the missing puzzle parts of our community plan. A positive force in our future, unlike the negative impact of the proposed garbage transfer station.

CPO #6, which contains this parcel, is lacking in industrial and commercially designated lands. We are a predominately residential area with poor roadway access. We feel this parcel will play a key role in the over-all regional transportation plans. This plan must not only contribute regionally but must also aid our local roadway system. If improperly implemented, it may have a devastating effect on our existing neighborhood/community roadway network. Likewise, industrial and commercial development improperly placed would have an adverse effect on existing urban and rural neighbors. This condition could be remedied with proper buffering including open space, landscaping and varying density residential belts. Since we don't need too many more residential units in our predominately residential community it would seem best to keep this type of buffering at a minimum. Instead, an adequate boundry of open space which should include the old tree lines and historic Ladd & Reed Farmstead site could be used to midigate the land use designation differences that this development would impose upon its neighbors.

We, of CPO #6, will welcome the opportunity to participate in this planning process. The Citizens Participation Organization is the ready-made forum for this give and take between developer, community and governing body. One hundred years ago this 472 acre site was the focal point for Reedville community enterprize and social activity. It would appear that history will repeat itself. Properly planned and integrated into our existing community, this parcel could be the missing puzzle part that completes our community plan in a way in which we can all be proud.

Sincerely,

Steven M. Larrance

Steven M. Larrance

Joseph R. Breivogel
Rt. 2 Box 803A
Beaverton, OR 97007

Aug 28, 1986

Metropolitan Service District
2000 SW First Ave.
Portland, OR

To Whom It May Concern:

As a landowner adjacent to the area under consideration, as well as an experienced "hi tech" practitioner, I have a somewhat different perspective from that of the petitioners. I believe that I am qualified regarding needs of "hi tech" industry.

The basic proposition advanced by BenjFran for their proposed project is the need for proximity to potential "hi tech" customers by support industries. Despite criticisms made by myself and others at the original Metro hearings, it does not appear that the proponents has come up with any additional or more substantial evidence to support this supposition. The "High Tech Support" industrial park is little more than a marketing concept being advanced by the petitioners which they hope will distinguish their proposal from the numerous other industrial developments, either under construction or planned.

It should be noted that the high tech development, to date, seems to have proceeded without the "benefit" of a development concept of the type being proposed. Obviously, the companies that have already located in the region have considered that the existing infrastructure is adequate to meet their needs. My experience working at Intel corporation for the last 12 years has indicated little problem working with equipment suppliers and services located considerable distances from our operations.

A specious argument made by BenjFran concerns the Metro staff recommendations regarding the Riviera and Kaiser petitions. They claim that in these two cases, a more lax demonstration of the need for additional land for high-tech industry was accepted than in their own case. It should be

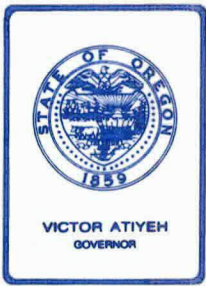
clear to the Metro council that the location of these other sites is obviously in the very heart of the Sunset Corridor, and that their inclusion into the UGB makes more sense as they are adjacent to land already planned to be developed for similar purposes. In addition, it should be noted, that the need that BenjFran is purportedly trying to meet (hi tech support) is an inherently vague concept and not nearly so easily established as that in the other two cases. It seems justifiable that under these circumstances, Metro is within its rights to demand a more definitive demonstration of need in this case.

One very disturbing issue that has surfaced, which is not being brought to the attention of Metro, is that Benjfran likely intends to use a portion of the site for residential and general commercial uses. I believe that potentially, more than half of the 470 acres could be devoted to this use. If this is the case, than I feel that any UGB change should require demonstration of the need, desirability, and consequences for commercial and residential uses, and that a new petition should be drafted. I think that the council is aware that if Metro approves the UGB change and the land is incorporated into Hillsboro, it would be largely up to that city to decide on actual land uses on the site.

In closing, let met draw an analogy between the present industrial land development boom in the Metro area and the present depressed condition of the computer and semiconductor industries (the archetype hi tech companies). It seems that for some time, companies (and industry associations) made projections about the extent of growth that was expected to occur overall industry wide. Many (most) companies internally planned on a substantial and overoptimistic growth rate for their own sales. What was not accounted for was that if one were to take the sum total of all the individual companies projections, they would greatly exceed the overall potential of the industry as a whole. This can not actually happen and in reality what happens is that the industry experiences overcapacity and falling prices. This results in some companies going under and others losing money. Essentially a bubble has been created and then burst.

It is my feeling that a similar situation exists in the creation of "hi tech" industrial park and support facilities. The warning signs are present in the level of vacant buildings and offices. There is a very real possibility that many of the companies that BenjFran might

hope to attract to their development might never materialize, and that the incentive to convert the land to residential/commercial uses would be very strong. In any case, no pressing need for the type of development that is being proposed can really be shown. It would seem to me that considering the seriousness of UGB adjustments of this size, it would be prudent to delay such a change. There certainly exists no harm in leaving the land in its present EFU condition, and this was certainly what was contemplated when the comprehensive plan was done for Washington county some years ago.



7.1
8/28/86

Department of Land Conservation and Development

1175 COURT STREET N.E., SALEM, OREGON 97310-0590 PHONE (503) 378-4926

August 27, 1986

Richard Waker
Chairman, Metro Council
2000 S. W. First
Portland, Oregon 97201

Dear Chairman Waker and Members of the Council:

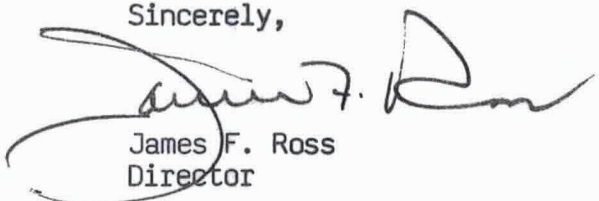
The Department of Land Conservation and Development has reviewed the Hearings Officer's report and recommendation on BenjFran UGB petition No. 85-8. We have also reviewed the exceptions to the report filed by BenjFran Development, Inc. Please include in your deliberation on this matter our concurrence with the Hearings Officer, including the recommendation for denial of the UGB amendment.

The Hearings Officer's findings are substantially accurate and thorough. The applicant's exception does little more than reassert earlier claims in opposition to the Hearings Officer's findings. Thus, the burden on the applicant to show compliance with the requirements of Goal 14 for an amendment of the boundary has not been met. We affirm therefore our opposition to this amendment as expressed in earlier correspondence to Metro.

We note, especially regarding Goal 14 compliance, that the applicant has not proven the necessity for aggregating high technology support industries in 200 plus acre industrial subdivisions. There are 19,070 acres of vacant industrial land in the Metro UGB (6,172 acres in Washington County). Therefore ample alternative locations are available for the targeted high technology support industries.

The Department requests adoption of the Hearings Officer's findings and recommendation for denial.

Sincerely,



James F. Ross
Director

JFR:kj
0555FJS/5B

cc: Jim Sitzman, Field Representative
Craig Greenleaf, Operations Division Manager



METRO

2000 S.W. First Avenue
Portland, OR 97201-5398
503/221-1646

Memorandum

Date: August 28, 1986

To: Council Members

From: Debbie Gorham Allmeyer, Project Manager

Regarding: Resource Recovery Project Briefing

You are all invited to attend one or both of the preliminary briefings on the Resource Recovery Project Request for Proposal (RFP). They have been scheduled in advance of the Council worksession coming up on September 18th to inform you of major issues associated with the RFP, such as Metro's position on risk allocation, and formulation of the service fee for the facility.

Please plan to attend one of the briefings, and the worksession on the 18th.

Scheduled dates are as follows:

Thursday, September 11th in room 240 from 4:30-5:30

Friday, September 12th in room 240 from 12:00-1:00

The Council worksession is September 18 from 5:30-8:30 in room 330.



CITY OF
PORTLAND, OREGON
BUREAU OF ENVIRONMENTAL SERVICES

Dick Bogle, Commissioner
John Lang, Administrator
1120 S.W. 5th Ave.
Portland, Oregon 97204-1972
(503) 796-7169

August 28, 1986

TO: Metro Council

FROM: Delyn Kies, Solid Waste Director
Bureau of Environmental Services, City of Portland

TESTIMONY RE: Hazardous Waste Management Plan

Your support for adoption of the Hazardous Waste Management Plan is urged.

Having participated in the Hazardous Waste Task Force, along with Tom Bottenberg, manager of the Bureau's Industrial Waste Section, I learned a great deal about the problems and potential solutions for handling exempt small quantities of hazardous wastes and household wastes with hazardous characteristics.

The Hazardous Waste Management Plan represents a clear summary of the findings of the Task Force and recommends an action plan to deal with a problem that is not currently being addressed elsewhere but is certainly within the public's interest to do so. There is a problem in identifying and promoting environmentally and economically sound ways for residents and businesses to dispose of household and small quantities of hazardous wastes. There is some data available but more needs to be developed and evaluated. Metro is the appropriate lead agency to coordinate a variety of interests in pursuing ways to manage the safe disposal of this type of waste.

The Bureau of Environmental Services is willing to participate in implementing the recommendations of the Hazardous Waste Management Plan and urges your adoption of the Plan.

DK:a1
44:hazardous

8.2
8/14/86

JOHN W. SHONKWILER, P.C.
ATTORNEY AT LAW
16325 S.W. BOONES FERRY ROAD
SUITE 207
LAKE OSWEGO, OREGON 97034
TELEPHONE (503) 636-8119

June 17, 1986

Gwen Ware-Barrett
Metro
2000 SW First Avenue
Portland, OR 97201-5398

Re: Water Resources Policy Advisory Committee
(WRPAC) - "208" Plan Update

Dear Committee Members:


This letter is submitted on behalf of the Bonita Meadows Neighborhood Association, which is a duly recognized neighborhood association by Clackamas County and covers the area generally west of Lake Oswego, east of Interstate 5, south of Kruse Way and north of Boones Ferry Road. The Bonita Meadows Neighborhood Association is concerned about the proposed changes in the "208" map for the area southwest of the City of Lake Oswego, including the City of River Grove and the unincorporated environs. As this area partially includes our association area and abuts us, we would like to participate in a reasoned analysis for this area.

We hereby request that the Committee have a study for this area completed before making any specific changes to the "208" Plan and related map for this area. We would also like to see a study group or committee be formed to aid in creating the study. As a representative of the Bonita Meadows Neighborhood Association I would gladly volunteer to participate in such a study group or committee.

In addition, we hereby request that written notices be mailed to us for all meetings and hearings of WRPAC relating to changes or adoption of "208" Plan amendments affecting this area west and southwest of Lake Oswego. We also request that no decision be made regarding an amendment to the "208" Plan for this area until such study has been completed. I have had numerous conversations with all the surrounding governmental entities and it is obvious that this area has not had any specific study evaluation that a governmental entity could use as a factual basis for decision making.

Thank you for your cooperation.

Sincerely,


John W. Shonkwiler
JWS:np



METRO

2000 S.W. First Avenue
Portland, OR 97201-5398
503/221-1646

8.2
8/14/86

July 11, 1986

Edward J. Sullivan
Sullivan, Josselson, et. al.
838 S. W. First Avenue
Suite 430
Portland, OR 97204

Metro Council

Richard Waker
Presiding Officer
District 2

Jim Gardner
Deputy Presiding
Officer
District 3

Bob Oleson
District 1

Corky Kirkpatrick
District 4

Tom DeJardin
District 5

George Van Bergen
District 6

Sharron Kelley
District 7

(Vacant)
District 8

Hardy Myers
District 9

Larry Cooper
District 10

Marge Kafoury
District 11

Gary Hansen
District 12

Executive Officer
Rick Gustafson

Dear Mr. Sullivan:

In response to your past request for notification as relates to changes to the "208 Plan" in the Lake Oswego area, please be advised that I have scheduled a Water Resources Policy Advisory Committee (WRPAC) meeting for:

July 18, 1986
8:30 a.m. Room 330
Metro Offices

The preliminary agenda notice is attached. Please be advised that although this is a public meeting, this advisory committee is not normally open to testimony from non-members. If you or your clients so request, I will ask WRPAC to hear from one spokesperson.

It is intended that these actions will be presented to the Metro Council on August 11, 1986, 5:30 p.m. Opportunity for public testimony will exist at that meeting.

If you or your clients have questions on this, please call me at 221-1646.

Sincerely,


Neil S. McFarlane

NSM:gpwb

cc: Rick Gustafson
Corky Kirkpatrick
Steve Siegel
Eleanore Baxendale

Jim Coleman
Karen Scott
✓ Sherry Patterson



METRO

2000 S.W. First Avenue
Portland, OR 97201-5398
503/221-1646

Agenda

Meeting: WATER RESOURCES POLICY ADVISORY COMMITTEE (WRPAC)
Date: July 18, 1986
Day: Friday
Time: 8:30 a.m.
Place: Metro Offices (New Location)
2000 S. W. First Avenue
Portland, OR
Conference Room 330

PLEASE R.S.V.P. TO GWEN WARE-BARRETT: 221-1646 BY JULY 14, 1986

A G E N D A

1. Review of Tyron Creek Basin/Lake Oswego Area Map Correction Prior to Council Consideration.
2. Review of 208 Plan Update.
3. "208" Plan Amendment Formally Incorporating Mid-Multnomah County Sewer Implementation Plan.
4. Recommendation for Recertification.

Agenda materials will be sent one week prior to meeting.

NSM:gpwb
6/30/86

Mr. Dave Abraham, Utilities Director
Clackamas County DES
902 Abernethy Road
Oregon City, OR 97045
Mr. Abraham_

Mr. Bill Bach
Port of Portland
P. O. Box 3529
Portland, OR 97028
Mr. Bach_

Ms. Mary-Elizabeth Blunt
45210 S.E. Coalman Road
Sandy, OR 97055
Ms. Blunt_

Mr. Bill Cameron
City of Gresham
1333 N.W. Eastman
Gresham, OR 97030
Mr. Cameron_

Mr. Thomas Giese
1634 N.W. 32nd Avenue
Portland, OR 97210
Mr. Giese_

Mr. Irving Jones
Dept. of Fish & Wildlife
P. O. Box 3503
Portland, OR 97208
Mr. Jones_

Mr. Gary Krahmer
Unified Sewerage Agency
150 N. First Avenue
Hillsboro, OR 97123
Mr. Krahmer_

Mr. Robert Lee
Portland General Electric
121 S.W. Salmon Street
Portland, OR 97204
Mr. Lee_

Mr. Wayne Bryan
Hazelwood Water District
1017 N.E. 117th Avenue
Portland, OR 97220
Mr. Bryan_

Mr. Mike Robinson
Home Builders Association
c/o Black Bull Enterprises
P. O. Box 23241
Tigard, OR 97223
Mr. Robinson_

Mr. Tom Sandwick
Oak Lodge Sanitary District
P.O. Box 68245
Oak Grove, OR 97268
Mr. Sandwick_

Mr. Neal R. Thompson
13600 S. Carnus Road
Oregon City, OR 97045
Mr. Thompson_

Mr. Mike Walker
Portland Water Bureau
1120 S.W. 5th Avenue
Portland, OR 97204
Mr. Walker_

Mr. Michael Grant
Clark County RPC
P. O. Box 5000
Vancouver, WA 98668
Mr. Grant_

Mr. Peter Harvey, City Manager
City of Lake Oswego
348 N. State Street
Lake Oswego, OR 97034
Mr. Harvey_

Mr. Mike McKillip, City Engineer
City of Tualatin
P. O. Box 369
Tualatin, OR 97062
Mr. McKillip_

Mr. Don C. Church
205 N.E. Billinger Drive
Portland, OR 97220
Mr. Church_

Mr. Burke Raymond, Sewer Development Manager
Multnomah County
Department of Environmental Services
2115 S.E. Morrison Street
Portland, OR 97214
Mr. Raymond_

Mr. John Lang, Administrator
City of Portland
Department of Public Works
1120 S.W. 5th Avenue
Portland, OR 97204
Mr. Lang_

Ms. Pam Christian, City Administrator
City of Troutdale
104 S.E. Kibling
Troutdale, OR 97060
Ms. Christian_

Mr. William Cameron, City Engineer
City of Gresham
1333 N.W. Eastman Avenue
Gresham, OR 97030
Mr. Cameron_

Mr. Neil Mullane
DEQ
522 S.W. 5th
Portland, OR 97204
Mr. Mullane_

Mr. Larry Nicholas, County Engineer
Multnomah County
2115 S.E. Morrison
Portland, OR 97214
Mr. Nicholas_

Mr. Kenneth Johnson
Portland District Corps of Engineers
P. O. Box 2946
Portland, OR 97208
Mr. Johnson_

Mr. Steve Brutscher
Oregon Water Resources Department
555 - 13th Street, N.E.
Salem, OR 97310
Mr. Brutscher_

Mr. Tim Haylord
Multnomah County Drainage District
1880 N.E. Elrod Drive
Portland, OR 97220
Mr. Haylord_

Mrs. Jean Orcutt
12831 S.E. Morrison
Portland, OR 97233
Mrs. Orcutt_

Mr. Charles Liebert
Dillingham Construction
9450 S.W. Barnes Road
Portland, OR 97225
Mr. Liebert_

5201B/292 - WRPAC Merge List
5212B/292 - WRPAC Label List
09/19/85



8.2
8/14/86

CITY OF LAKE OSWEGO

August 13, 1986

Ms. Sherry Patterson
18926 SW Arrowood Avenue
Lake Oswego, OR 97034

Re: Sanitary Sewer Service Master Plan Study

Dear Ms. Patterson:

This letter is sent to document information previously discussed by you and City staff. Your interests are in sanitary sewer service extension to the areas located north of the Tualatin River and east-southeast of Meridian Avenue and Lakeview Boulevard.

The City of Lake Oswego has scheduled a Sanitary Sewer Master Plan Study for the 1986-87 fiscal year. Within the next month, a Request for Proposal (R.F.P.) will be formally advertised in local papers soliciting quotes for professional services from qualified engineering companies for this work. The study will include the analysis of the existing City of Lake Oswego sanitary sewer system and of possible sewer service to areas logically served by the City system. A major component of this study will be the development of a computer software model of the entire sanitary sewer system that will enable staff to input future density changes that may occur or be proposed at any design point in the system and quickly analyze their impact on system capacity.

The final report from the study will include sanitary sewer service line sizes for service to the areas logically served by the system. At this time we plan to have the consultant include the Rosewood - Rivergrove areas in the scope of the study.

August 13, 1986
Ms. Sherry Patterson
Page 2

With the results of the final report in hand, it will be possible for all interested parties to begin an evaluation of the various options for providing sanitary sewer service to the Lake Oswego drainage basins. It is during that evaluation that we can begin to develop estimated costs for the various options.

I hope this letter satisfies your concerns at this time. If you have any comments or questions, please contact staff at your convenience.

Sincerely,

E. H. Clark, Jr.

E.H. Clark, Jr. P.E.
Engineering Project Supervisor
Special Projects

EHC:rm

Doc. No. 2647c

8.2
8/14/86

Indian Creek/Indian Springs Comm
18926 SW Arrowood Ave.
Lake Oswego, OR 97034

31 October 1985

Rick Gustafson
Metropolitan Service District
527 SW Hall
Portland, OR 97201

RE: "Plan 208" ORDINANCE #84-184, AMENDING
THE REGIONAL PLAN

Dear Mr. Gustafson,

As property owners within the above "Plan 208" area, the undersigned request that you hold public hearings on any revisions or amendments to the above plan.

Since the Water Resources Policy Advisory Committee's (WRPAC) recommendation which was made effective on October 25, 1985, change the waste-treatment facility designee from the UNIFIED SEWAGE AGENCY to THE PORTLAND TYRON CREEK, we request METRO to send back to the committee the above plan and to further study and evaluate which treatment plant facility could provide the more cost-effective service.

Further, since Lake Oswego has been unwilling to provide any written engineering reports in their attempt to expand the Urban Services Boundary, we have been unable to evaluate cost-effectiveness.

Please notify each of the undersigned names as to when the next hearing of METRO regarding the revision of the above-mentioned METRO Ordinance (#84-184) is scheduled, as well as any other relevant public meetings of WRPAC.

We appreciate your allowing further citizen participation by treating this issue at a public hearing rather than as an administrative order.

As signed by the following:

	Date	Name	Address
1.	10-31-85	Walter Dean	18951 SW Indian Springs Circle
2.	10-31-85	Barbara Dean	18951 SW Indian Springs Circle
3.	10-31-85	Margaret W. Boly	18954 S.W. Indian Sp. Cir.
4.	10/31/85	Margaret W. Boly	" " " "

Additional signatures on page 2.

indian creek/INDIAN SPRINGS COMMITTEE

Date	Name	Address	L.O. # 97034
5. 10-31-85	Michael A. Mott	18929 SW INDIAN SPRING CIR	
6. 10-31-85	Imanin M. Mott	18929 SW Indian Spring Cir.	
7. 10-31-85	Kent Polchast	18825 SW INDIAN SPRINGS CIR, L.O.	
8. 10-31-85	Emil Jacobucci	18893 IND SPR CIR, Lake Oswego	
9. 10-31-85	Darlene Jacobucci	18893 Indian Spr Circle, Lake Oswego	
10. 10-31-85	Donna Dickerson	18929 S.W. Arrowood Ave, L.O.	
11. 10-31-85	Earle W. Dickerson	18929 S.W. Arrowood Ave L.O.	
2. 10-31-85	Shirley Christianson	5144 S.W. Centerwood St. L.O.	
13. 10-31-85	Rayna Christianson	5144 SW Centerwood L.O.	
14. 10-31-85	Rickard N. Carlson	18831 SW Arrowood L.O.	
15. 10-31-85	Margaret S. Carlson	18831 SW Arrowood L.O.	
16. 10-31-85	Constance L. Emmons	5101 SW Dawn L.O.	
17. 10-31-85	Wenris S. Emmons	5101 SW Dawn St. L.O.	
8. 10/31/85	Gerald A. Groom	5341 SW. Red Leaf St. L.O.	
19. 10/31/85	Allen C. Patterson	18926 S.W. Arrowood L.O.	
0. 10/31/85	Sherry A. Patterson	18926 SW Arrowood, Lake Oswego	
21. 11/1/85	Heborah Marble	5226 SW Dawn St. Lake Oswego	
2. 11/1/85	Jedid S. Chang	18895 S.W. ARROWOOD AVE, L.O.	

Indian Creek/Indian Springs Committee
18926 SW Arrowood Ave.
Lake Oswego, OR 97034

31 October 1985

Rick Gustafson
Metropolitan Service District
527 SW Hall
Portland, OR 97201

RE: "Plan 208" ORDINANCE #84-184, AMENDING
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Further, since Lake Oswego has been unwilling to provide any written engineering reports in their attempt to expand the Urban Services Boundary, we have been unable to evaluate cost-effectiveness.

Please notify each of the undersigned names as to when the next hearing of METRO regarding the revision of the above-mentioned METRO Ordinance (#84-184) is scheduled, as well as any other relevant public meetings of WRPAC.

We appreciate your allowing further citizen participation by treating this issue at a public hearing rather than as an administrative order.

As signed by the following:

Date	Name	Address
Oct. 31, 1985	Peri G. Potwest	18825 S.W. Indian Springs Circle, Lake Oswego

Additional signatures on page 2.

Indian Creek/Indian Springs Committee
18926 SW Arrowood Ave.
Lake Oswego, OR 97034

31 October 1985

Rick Gustafson
Metropolitan Service District
527 SW Hall
Portland, OR 97201

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We appreciate your allowing further citizen participation by treating this issue at a public hearing rather than as an administrative order.

As signed by the following:

Date	Name	Address
1. 10-31-85	Clavin J Thompson	5150 SW Dawn St.
2. 31 Oct	Karen J Thompson	5150 SW Dawn St.

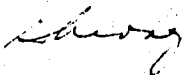
March 7, 1986
18926 S.W. Arrowood Avenue
Lake Oswego, OR 97034

Mr. Peter Harvey
City of Lake Oswego
348 North State Street
Lake Oswego, OR 97034

Dear Peter:

I appreciate your having met with Connie Emmoris, John Shonkwiler and I on January 14, 1986. At that time we presented a letter to you with numerous questions. Would you please respond in writing to our January 14, 1986 letter? Thank you.

Sincerely,


Sherry Patterson
Rosewood Action Group

January 14, 1986

Mr. Peter Harvey
City of Lake Oswego
348 North State Street
Lake Oswego, Oregon 97034

Dear Pete,

The Rosewood Action Group (Neighborhood Association) has been reactivated. Enclosed is a list of officers and a map within our boundaries. Since these boundaries are also within Lake Oswego's text amendment area of your USB, please provide information on any pending zoning, development, map amendments, annexations, widening of streets and plans for sidewalks and sewer service. We need prior notice to any actions so we may consider the impact to our community.

Within the last year there have been numerous changes proposed by Lake Oswego that affects our area. Some of our members have posed the following questions:

1. RE: Sewer service

- a. Would you provide a copy of your written engineer's report which covers from Jean Road to the Tualatin River and from the Bryant Canal to I5?
- b. Do you anticipate the need of a pumping station anywhere from south of Kruse Way (Bonita Road area) to the Tualatin River?
- c. What are the main trunk line intersections that our boundaries would flow into? Jean Road at Pilkington and Bryant Road at Childs, are there any other ones?
 - 1.) What is the maximum capacity of each? What percentage of capacity is each at presently, and by the year 2000 what is the anticipated capacity?
 - 2.) What are the predicted sewer fees for Donlee Way, Indian Springs Circle, Tualata, Centerwood and Timbergrove Ct. and Kenny? If there is a difference what is it based on? Please list the fee for each street on the attached list (#1 - #54).

January 14, 1986

d. Since the City of Rivergrove is within Lake Oswego's USB and since RAG boundaries are contiguous on Childs Road and partly on Pilkington, would both areas eventually share the same trunk line on Childs and Pilkington? Also, would River's Edge be able to share the same line?

1.) How much per foot do you predict the cost will be to extend the trunk lines from Bryant/Childs Road intersection to Childs Road and 65th, and from Jean/Pilkington to Pilkington/Childs Road? What is the maximum number of property owners that could connect into each trunk line? Will a pumping station be needed anywhere within the RAG boundaries?

2.) Will only those who connect to the Bryant/Childs Road trunk line have to pay a Quadrant payback fee and how much will it be?

3.) How much is the City's feasibility study fee and street assessment fee for asphalt overlay? List any other fees associated with sewer service. Will curbs be required?

3.) Is Lake Oswego willing to provide sewer service to the City of Rivergrove in its present size? Are you willing to provide sewer service to the City of Rivergrove if Rivergrove annexes the Indian Creek/Indian Springs area plus Dawn Acres? What costs have you predicted for sewer service to Rivergrove?

2. RE: Increased density

a. What is the present population within the RAG area and L.O.'s text amendment area, and what is the anticipated growth for the year 2000? List the areas which could change to multi-family densities, such as Pilkington, Jean Road, etc.

b. Increasing traffic on Childs Road and Pilkington are major concerns. Are you aware of any plans to widen either road within the next three years? Is there a sidewalk planned for each side? When will Jean Road have sidewalks and will it be on each side?

January 14, 1986

- c. Will curbs be put in on Jean, Pilkington, Childs and any other roads within RAG? What is the cost?
- 3. Street lights
 - a. How much would it be for street lights in the Indian Creek/ Indian Springs area where there are underground utilities and, also, in the other area which do not have underground utilities?
- 4. RE: L.O. City taxes
 - a. What is the present tax assessment per thousand?
 - b. What percentage of increase each year has there been for the last five years?

At the December 5, 1985 RAG meeting it was moved that we strongly urge METRO to take no action on the 208 Plan affecting our area until we have available information on comparative engineering studies (in writing) comparing being in the Unified Sewerage Agency area to the Portland-Tryon Creek area. We also ask your support of this type of study by METRO.

Our RAG group has initiated a neighborhood watch program including volunteer mail carriers who will emulate the "utility watch" program. Both L.O. Deputy Jay Wann and Clackamas Sheriff Deputy Russ Williams are willing to co-ordinate the program with Postmaster Randy Sines. Also, we plan on sharing with our L.O. adjacent neighborhood associations any information on criminal activity in our area so they can increase their alertness.

RAG looks forward to increasing communication with your City and participating in developments and changes within our area. Thank you for your cooperation.

Most Sincerely,



Sherry Patterson, President of RAG
18926 S. W. Arrowood Avenue
Lake Oswego, Oregon 97034
639-5161

ROSEWOOD ACTION GROUP (NEIGHBORHOOD ASSOCIATION)

The list of officers as elected at the December 5, 1985 meeting,
their addresses and phone numbers are the following:

PRESIDENT: Sherry Patterson
18926 S.W. Arrowood Avenue
Lake Oswego, Or. 97034
639-5161

VICE PRESIDENT: Ray Dean
18951 S. W. Indian Springs Circle
Lake Oswego, Or. 97034
639-8572

SECRETARY/TREASURER:
Connie Emmons
5101 S. W. Dawn
Lake Oswego, Or. 97034
620-6111

AREA REPRESENTATIVES:

Judy Rogers
6472 S. W. Dawn
Lake Oswego, Or. 97034
639-0967

Maurice (Cliff) Boley
18954 S.W. Indian Springs Circle
Lake Oswego, Or. 97034
639-8572

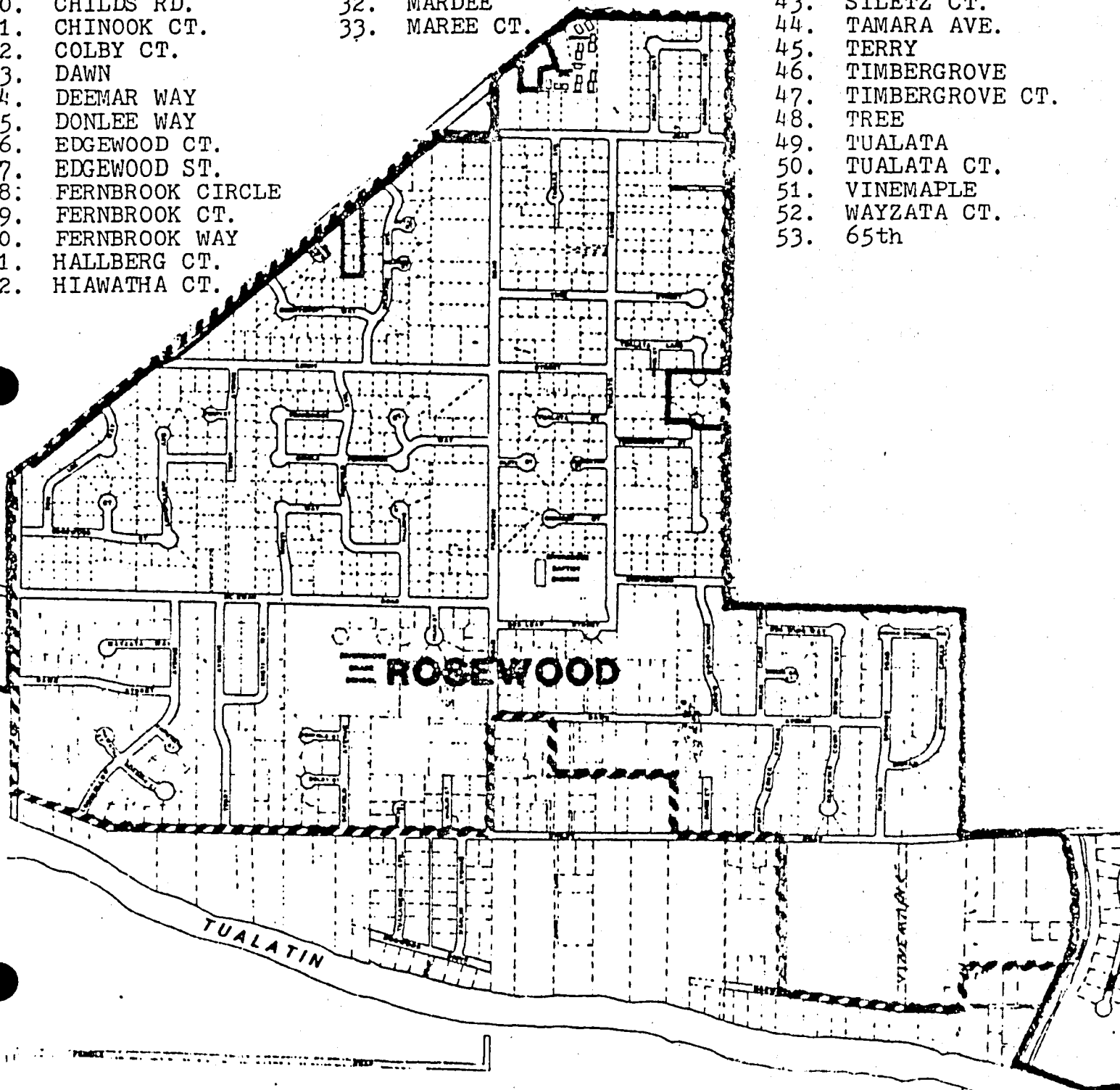
ROSEWOOD ACTION GROUP (NEIGHBORHOOD ASSOCIATION)

STREETS INCLUDED ARE IN THE UNINCORPORATED AREA OF CLACKAMAS COUNTY:

1. ARROWOOD
2. BELMORE
3. BENFIELD
4. BENFIELD CT.
5. BICKEL CT.
6. CENTERWOOD
7. CENTRAL DR.
8. CHARLETON CT.
9. CHILDS CT.
10. CHILDS RD.
11. CHINOOK CT.
12. COLBY CT.
13. DAWN
14. DEEMAR WAY
15. DONLEE WAY
16. EDGEWOOD CT.
17. EDGEWOOD ST.
18. FERNBROOK CIRCLE
19. FERNBROOK CT.
20. FERNBROOK WAY
21. HALLBERG CT.
22. HIAWATHA CT.

23. INDIAN CREEK AVE. + CT.
24. INDIAN SPRINGS CIR.
25. INDIAN SPRINGS RD.
26. JEAN RD.
27. KENNY
28. KENNYCROFT
29. KRISTI WAY
30. LAKEVIEW BLVD.
31. LONGFELLOW
32. MARDEE
33. MAREE CT.

34. MARLIN CT.
35. MC EWAN
36. MINNEHAHA CT.
37. NOKOMIS
38. PILKINGTON
39. REAO CT.
40. REDLEAF
41. REDWING WAY + CT.
42. ROYAL CT.
43. SILETZ CT.
44. TAMARA AVE.
45. TERRY
46. TIMBERGROVE
47. TIMBERGROVE CT.
48. TREE
49. TUALATA
50. TUALATA CT.
51. VINEMAPLE
52. WAYZATA CT.
53. 65th



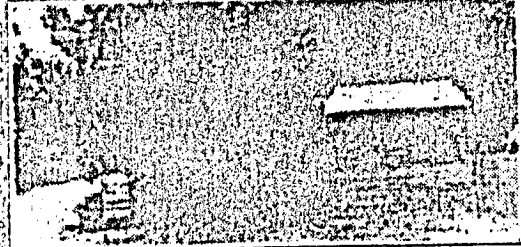
ROSEWOOD ACTION GROUP NEIGHBORHOOD ASSOCIATION

STREETS INCLUDED ARE:

- | | |
|-----------------------------|---------------------|
| 1. ARROWOOD | 28. KENNYCROFT |
| 2. BELMORE | 29. KRISTI WAY |
| 3. BENFIELD | 30. LAKEVIEW BLVD. |
| 4. BENFIELD CT. | 31. LONGFELLOW |
| 5. BICKEL CT. | 32. MARDEE |
| 6. CENTERWOOD | 33. MAREE CT. |
| 7. CENTRAL DR. | 34. MARLIN CT. |
| 8. CHARLETON CT. | 35. MC EWAN |
| 9. CHILDS RD. | 36. MINNEHAHA CT. |
| 10. CHILDS CT. | 37. NOKOMIS |
| 11. CHINOOK CT. | 38. PILKINGTON |
| 12. COLBY CT. | 39. REAO CT. |
| 13. DAWN | 40. REDLEAF |
| 14. DEEMAR WAY | 41. REDWING CT. |
| 15. DONLEE WAY | 42. REDWING WAY |
| 16. EDGEWOOD CT. | 43. ROYAL CT. |
| 17. EDGEWOOD ST. | 44. SILETZ CT. |
| 18. FERNBROOK CIRCLE | 45. TAMARA AVE. |
| 19. FERNBROOK CT. | 46. TERRY |
| 20. FERNBROOK WAY | 47. TIMBERGROVE |
| 21. HALLBERG CT. | 48. TIMBERGROVE CT. |
| 22. HIAWATHA CT. | 49. TREE |
| 23. INDIAN CREEK AVE. + CT. | 50. TUALATA |
| 24. INDIAN SPRINGS CIRCLE | 51. TUALATA CT. |
| 25. INDIAN SPRINGS ROAD | 52. VINEMAPLE |
| 26. JEAN | 53. WAYZATA CT. |
| 27. KENNY | 54. 65th |

#06202#428507 A3.15F 1450 \$76,853

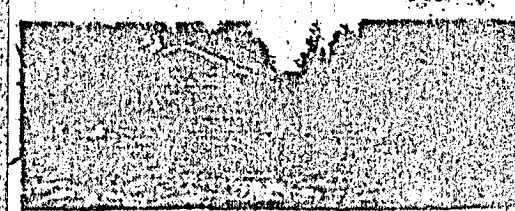
MEASUREMENTS ARE APPROX. INFORMATION NOT GUARANTEED AND SUBJECT TO CORRECTION AND CHANGE



Add 18135 REDWING CT SW Cc LO 2p 97034 Xst DAWN Nhd L GROVE
Owner PATTON Add SAME B/Pn 835-6077 H/Pn 836-6077
Occ by OWNER L1 Size 180X76X160X80 Area 703
Shown CALL 1ST/LR Lb DOOR Poss NEGOTIABLE Rsn Sell G
MU CHAPX ROOM SIZES BSMT % AGE 15 TERMS CO/FHA/VA/SGI
X1 ENT ST/LV RANCH-1 SM DET YES Ncd
X1 LIV 18 10X12.6 EXT WOOD SEW TRD TO
X1 DIN ROOF COMP CON CONT \$ DN@ %
X1 KIT 10X11 HEAT FAG SPT YES IN BAL \$ 30,000 Tp
X1 EAT YES FP/WS FP-LR CPL PMNT \$ @ %
X1 FAM 12X16 INSUL YES WTR R GRV LOAN #
X1 LUTL BLTN YES FLR CPT LENDR TP
21 BTH GAR DBL PNC YES AS FEES @ %
21 IRS 14X13 10X9.9 8X10.8 8X9.8 FDN YES ADD'L ENCUMS
Grd RIVERGROVE Mdr/H H. WALUGA H LAKERIDGE 1/2 % Lendr
Par CLCL Sds YES Bks City Bus Bks Apt Grs Tax \$ 1,480.0
Lgl/Varr Exc/Rmk L4 IND WELLS PLAT #3-NEW PAINT ROOF CARPET BLINDS
TLE KITCHEN ALL DONE IN NEW TONES OF WHITE BLUE GRAY LARGE PRIVATE
YARD YOUR OWN WORLD TREES BUT SUNNY NEXT TO HOUSE
L/O BARBARA SUE SEAL P # 2800 Ph 241-7325
Sgn MARILYN BUCHANAN # 16841 Ph 836-7602
Ex

#06217#428674 A3.15F 1400 \$78,750

MEASUREMENTS ARE APPROX. INFORMATION NOT GUARANTEED AND SUBJECT TO CORRECTION AND CHANGE



Add 18221 REDWING CT Cc LO 2p 97034 Xst DAWN Nhd INDIAN
Owner PKCE Add 18016 BOONES FV SW B/Pn H/Pn 838-1853
Occ by RNTN-834-5784 L1 Size 180X76X160X80 Area 703
Shown CALL 1ST/LR Lb DOOR Poss NEGOTIABLE Rsn Sell G
MU CHAPX ROOM SIZES BSMT % AGE 14 TERMS CO/FHA/VA/SGI
X1 ENT 8X8 ST/LV RANCH-1 SM DET YES Ncd
X1 LIV 14 10X12.6 EXT WOOD SEW TRD TO ID
X1 DIN 16 3X13.2 ROOF COMP CON CONT \$ DN@ %
X1 KIT 8 11X9 HEAT FAG/AC SPT 8-YR IN BAL \$ 19,500 Tp
X1 EAT FP/WS LR CPL PMNT \$ @ 7.75 %
X1 FAM INSUL SOME WTR CITY LOAN #
X1 LUTL BLTN DW RING FLR W/W V/M LENDR WASH MUTIP
21 BTH GAR DBL PNC YES AS FEES @ %
21 IRS 13 7X12.8 13 7X10 12 8X9.7 FDN YES ADD'L ENCUMS
Grd RIVERGROVE Mdr/H H. WALUGA H LAKERIDGE 1/2 % Lendr
Par CLCL Sds YES Bks City Bus 3 Bks Apt Grs Tax \$ 1557.56
Lgl/Varr Exc/Rmk L4 IN LO - NEWLY PAINTED INSIDE & OUT NEW KIT
VINYL MDR HAS WALK-IN CLOSET BRICK COURTYARD IN FRONT PLUS BACK
PATIO QUIET CUL-DE-SAC STORM DOOR
** BONNIS CAMPRELL L/O PROFESSIONALS 100 # 4703 Ph 836-4645
Ex BEFFUG Sgn SHARON RUPPE # 16587 Ph 702-1190

#06331#420647 A3.16F 2024 1738 \$94,500

MEASUREMENTS ARE APPROX. INFORMATION NOT GUARANTEED AND SUBJECT TO CORRECTION AND CHANGE



Add 18234 REDWING CT SW Cc LO 2p 97034 Xst DAWN Nhd INDIAN H
Owner BEUP Add 18936 SW LAKERIDGE B/Pn H/Pn 835-1187
Occ by VACANT L1 Size LARGE 18REG Area 703
Shown CALL 1ST/LR Lb DOOR Poss NEGOTIABLE Rsn Sell G EXCESS
MU CHAPX ROOM SIZES BSMT % AGE 12 TERMS CNV CSH FHA VA
X1 ENT 7 6X8.8 ST/LV DL RCH/2 SM DET YES Ncd
X1 LIV 16X12.6 EXT VERT SD SEW TRD TO
X1 DIN 11 6X8.11 ROOF COMP CON CONT \$ DN@ %
X1 KIT 18 8X10 HEAT FAG SPT YES IN BAL \$ 37,000 Tp
X1 EAT IN KIT FP/WS FR/MTLR CPL PMNT \$ 400 @ %
X1 X1-FAM 16 1X12.8 INSUL SOME WTR CITY LOAN #
X1 LUTL CLOSET BLTN DW DS RG FLR W/W V/M LENDR SGI TP SGI
21 BTH GAR DS DBL AP PNC CVC AS FEES @ %
21 IRS 13 8X13 10 10X10 10 8X9 FDN YES ADD'L ENCUMS \$0.00
Grd RIVERGROVE Mdr/H H. WALUGA H LAKERIDGE 1/2 % Lendr
Par CLCL Sds YES Bks City Bus 3 Bks Apt Grs Tax \$ 1,871.13
Lgl/Varr Exc/Rmk LGLAO - BONUS RM DOWN 21 2X13 1 SEW RGR DR OFFCS
14.4X9.8 SPACIOUS HOME ON CUL-DE-SAC LOVELY YARD W/SOLAR HEATED
ABOVE GROUND POOL CEDAR DECK
L/O PROFESSIONALS 100 # 4703 Ph 836-4545
Sgn SHARON RUPPE # 16587 Ph 702-1190

COPY

April 7, 1986

Arlen & Sharon Keup
16935 S.W. Lakeridge Drive
Lake Oswego, OR 97034

SUBJ: Repairs to the On-Site Sewage Disposal System for
Tax Lot 78908, Section 19AA, T2S, R1E
(Your letter of March 29, 1986)

I've reviewed your recent letter with regard to the above matter and find that this letter does not resolve the matter at hand. As you are no doubt aware, no permits were taken out to repair the septic system on the subject property, nor were any inspections made as the work was done by Rosewood Construction. To the best of our knowledge, Rosewood Construction is not a licensed sewage disposal contracting company and, therefore, cannot and should not have performed the work on your property. Thus, it appears that there are at least two infractions of the regulations at this point. The first infraction involves repairing a system without a permit, and the second infraction involves the use of an unlicensed and unbonded contractor.

Of paramount concern to this office is the issue of the long term viability of the sewage disposal system. Since we have no real idea as to what Rosewood Construction built for you on the property and, therefore, no idea of how long it might last, it would be presumptuous to assume that we have seen the last of the sewage disposal problems on the property. Rosewood Construction has done you no favors if there repair work creates an additional problem a year or two or perhaps 5 years down the line from now. If you wish to have Rosewood Construction's work validated by this office, it will be necessary to indicate to us exactly how the work was done and explain how this work is appropriate for the situation. If that can be done, this office would consider issuing a repair permit for the work done. The work then would have to be exposed and inspected by our office. I offer this option only as a remote possibility, not as an appropriate method by which it is likely that this problem can be resolved.

Page 2
April 7, 1986

In summary, it appears that this office is not in a position to close out this matter. We must continue to consider the work done on this property as a violation of Oregon Administrative Rules and Oregon Revised Statutes. Additional work, either through the installation of the sand filter system approved for this property or through other remedies, needs to be done before we can consider this matter closed. If you have any questions concerning this matter, please feel free to contact me.

RICHARD L. POLSON - Chief Soils Scientist
Building Services

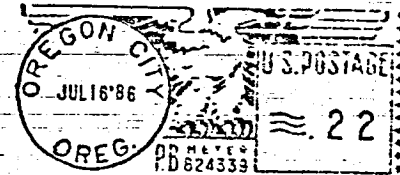
/mb

cc: Ardis Stevenson
Ser. #0199427

CLACKAMAS COUNTY

Department of Transportation & Development

902 Abernethy Road • Oregon City, OR 97045-1199



SHERY PATTERSON
18926 S.W. ARROWWOOD AVE
LAKE OSWEGO, ORE. 97034



CITY OF LAKE OSWEGO

March 5, 1985

Mr. and Mrs. Neal James
18485 SW Don Lee
Lake Oswego, Oregon 97034

RE: Sanitary Sewer Facilities

Dear Mr. and Mrs. James:

This letter is to confirm our verbal conversation with you on the following:

1. In the future your lot described as Lot 2, Block 2, HIGHLAND TERRACE, a plat of record in Clackamas County, Oregon, said plat being a replat of Lots 58 and 60, "Rosewood" in Section 18 Township 2 South, Range 1 East, Willamette Meridian, Clackamas County, Oregon, is exempt from participating in any future Local Improvement District for purpose of sanitary sewer construction, as long as service to the above lot is through the sanitary sewer main located in Lakeview Boulevard.
2. Your participation amount of LID 174 is \$370.46.
3. You will be responsible for installation of the sanitary sewer line from the existing sanitary sewer main in Lakeview Boulevard to your house.
4. If you connect to the system prior to June 30, 1985, your Systems Development fee will be \$700.00. After that date the fee will be \$725.00.
5. You will be responsible for obtaining both the city inspection permit and the County Road opening permit.
6. Prior to issuance of permits, you must complete an application for annexation and sign the annexation petition. The fee for annexation is \$90.00 which the City will submit to the Boundary Commission as soon as the Urban Services Boundary is amended to include your property.

Mr. and Mrs. Neal James
March 5, 1985
Page two

7. Our agreement to allow you to connect to the City's sanitary sewer system is contingent upon your agreement and cooperation in annexing to the City of Lake Oswego.
8. Both the LID 174 participation in the amount of \$370.46 and the Systems Development Charge in the amount of \$700.00 may be bancrofted through the City for a period of ten years.
9. Brian and Wendy Ross will furnish the attached Sanitary Sewer Facilities Easement to the City. The purpose of the easement is to allow access to the City Maintenance Department to maintain the sanitary sewer line from the main line in Lakeview Boulevard to the cleanout proposed to be installed.

Please sign and return one copy of this letter as acknowledgment of our mutual responsibilities.

Sincerely yours,



George T. Dwire
Engineering Project Supervisor

Approved by:

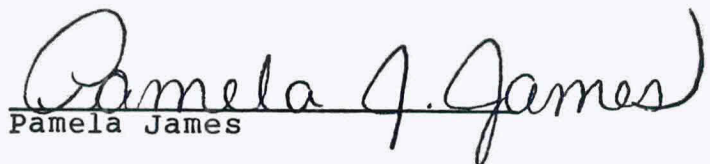


Karen Scott
Assistant to the City
Manager



Neal James

3/6/85



Pamela James

/ppk
attachments



CITY OF LAKE OSWEGO

March 5, 1985

Mr. and Mrs. Brian Ross
18521 SW Don Lee
Lake Oswego, Oregon 97034

RE: Sanitary Sewer Facilities

Dear Mr. and Mrs. Ross:

This letter is to confirm our verbal conversation with you on the following:

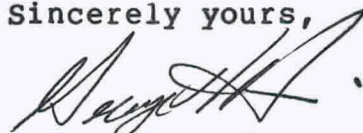
1. In the future your lot described as Lot 3, Block 2, HIGHLAND TERRACE, a plat of record in Clackamas County, Oregon, said plat being a replat of Lots 58 and 60, "Rosewood" in Section 18 Township 2 South, Range 1 East, Willamette Meridian, Clackamas County, Oregon, is exempt from participating in any future Local Improvement District for purpose of sanitary sewer construction, as long as service to the above lot is through the sanitary sewer main located in Lakeview Boulevard.
2. Your participation amount of LID 174 is \$370.46.
3. You will be responsible for installation of the sanitary sewer line from the existing sanitary sewer main in Lakeview Boulevard to your house.
4. If you connect to the system prior to June 30, 1985, your Systems Development fee will be \$700.00. After that date the fee will be \$725.00.
5. You will be responsible for obtaining both the city inspection permit and the County Road opening permit.
6. Prior to issuance of permits, you must complete an application for annexation and sign the annexation petition. The fee for annexation is \$90.00 which the City will submit to the Boundary Commission as soon as the Urban Services Boundary is amended to include your property.

Mr. and Mrs. Brian Ross
March 5, 1985
Page two

7. Our agreement to allow you to connect to the City's sanitary sewer system is contingent upon your agreement and cooperation in annexing to the City of Lake Oswego.
8. Both the LID 174 participation in the amount of \$370.46 and the Systems Development Charge in the amount of \$700.00 may be bancrofted through the City for a period of ten years.
9. A Sanitary Sewer Facilities Easement to the City is attached for your signature. The purpose of the easement is to allow access to the City Maintenance Department to maintain the sanitary sewer line from the main line in Lakeview Boulevard to the cleanout proposed to be installed.

Please sign and return one copy of this letter as acknowledgment of our mutual responsibilities.

Sincerely yours,



George T. Dwire
Engineering Project Supervisor

Approved by:



Karen Scott
Assistant to the City
Manager


Brian Ross
Wendy Ross

/ppk
attachments

STAFF REPORT

April 9, 1985

FILE NO. PA 2-85

APPLICANT City of Lake Oswego

REQUEST

Minor Comprehensive Plan map amendment to the Urban Service Boundary to include two lots south of Lakeview Blvd.

LEGAL DESCRIPTION Tax Lots 4100, 4200 of Tax Map 2 1E 18CC

NEIGHBORHOOD ASSOCIATION None

APPLICABLE CODES

Comprehensive Plan - Urban Service Boundary Policies

LOC 56.130	Minor Plan Amendment
LOC 56.150	Minor Plan Amendment Procedures
LOC 56.155	Criteria
PA 1a-85	Plan Text Amendment Allowing Expansion of the Urban Service Boundary

LCDC Goals

11, 12 - Public Facilities and Transportation
Goal 2 - Coordination

HISTORY

On February 25, 1985, the Planning Commission held a public hearing on a Comprehensive Plan text amendment to allow the Urban Service Boundary to be expanded on case-by-case basis within the area included between I-5 and the Oswego Canal, and Kenney Street and the Tualatin River.

There was considerable testimony against the amendment, as well as testimony for the amendment from persons with failing septic systems or who supported efforts by those with problems to pursue procedures necessary for City sewer connection. The County was notified of the text hearings and did provide evidence in support.

The Commission recommended Council approval of the amendment.

The Council hearing will be April 16th.

REQUEST

The owners of Lots 4100 and 4200 (TM 2 1E 18CC) both have failing septic systems and have requested the City to amend the Urban Service Boundary to include their lots.

CRITERIA

In order for a Plan map amendment to be approved, the Commission must find that the amendment:

- conforms to or better meets Plan policies and community goals;
- is consistent with State and regional goals;
- that public facilities have capacity and are available to serve the lots;
- any physical constraints on the site will not preclude the proposed use.

ANALYSIS

The lots are each about 15,000 sq. ft. in area, and contain single family dwellings. The land is relatively flat, soils have low porosity and water tables are seasonally high causing the existing septic systems to fail.

The City has an 8" sewer line located in Lakeview Blvd. That line can provide gravity service to these, and neighboring lots along Lakeview Blvd., without exceeding capacity of the system based on the I & I studies, repair work, and updated capacity studies now being done by the City.

Plan Policies

The proposed amendment is located within the area described in the Plan text amendment amending the Urban Service Boundary (PA 1a-84) which will be heard by City Council on April 16th on a positive recommendation by the Planning Commission.

State and Regional Goals

The proposal is consistent with State and regional policies which direct and encourage cities to identify areas within which they are the logical and cost effective provider of urban services, and to include those areas with their urban service boundaries. Affected agencies have been notified. Clackamas County and the Boundary Commission support City USB amendments in this area.

Public Facilities

Public facilities are available and have capacity to serve. Sewer is discussed earlier in this report. Other services are available as discussed in the application (Exhibit C, pg. 2).

Natural Resources and Hazards

The lots are developed as single family lots. No further development is planned. The physical constraints criteria is therefore not applicable.

CONCLUSIONS

1. The owners have requested inclusion in the Urban Service Boundary.
2. The City is in the process of, and will have made a decision by April 22nd, on whether to amend the Plan text to allow case-by-case map amendments to the Urban Service Boundary in this area. This map amendment is within the area described in of the text amendment.
3. Clackamas County, and the Boundary Commission support expansion of the City's Urban Service Boundary into this area, as the logical, cost-effective provider of urban services.
4. State and regional goals are better met by provision of services by the logical provider of those services to developed lots with failing septic systems.
5. The criteria of LOC 56.155 are met.

RECOMMENDATION

Approval as requested.

EXHIBITS

- A. Vicinity Map
- B Request for initiation of annexation
- C Application
- D Plan text amendment as recommended by the Commission
(Council action will be available at or before the April 22nd hearing)



area to be included in USB



PA-2-85

July 2, 1985

TO: Lake Oswego City Council/ Lake Oswego, Oregon

ATTN: Mayor Bill Young

RE: Comprehensive Plan Map Amendment Amending the City's Urban Service Boundary

Dear Mayor Young,

You may recall that at your last meeting I attempted to present to the Council the documentation which proves the lack of any health hazard as alleged by city staff and certain witnesses at previous public hearings. This evidence was refused for inclusion in the public record because it had not been previously presented to the Planning Commission.

From advise of competent legal counsel we have been informed that the letters from Ron Hall of the Department of Human Resources Health Division and from Richard Paulson of the Clackamas County Department of Enviromental Services, which were drafted after the Planning Commission hearing, constitute relevant and material evidence which was not available at the prior planning hearings, and is, thus, permitted under the city code to be entered into the record at the Council hearing. Therefore, we respectfully request that this letter and the attached letters be added into the record.

Furthermore, we noted that the City Council did not have before it a transcript of the Planning Commission proceedings. Apparently, the Council did not listen to the tapes of the proceedings either.

In view of the fact that the Council proceedings were based on the Planning Commission proceedings which were "on the record", it seems to us that the Council should have listened to the whole record. The failure to do so prejudiced us in our substantial rights by the Council's failure to deal with the many issues raised before the Planning Commission.

This letter will serve as our comments on the Findings, Conclusion and Order of PA 1b-85-271 (VII-A).

Sincerely,



Sherry Patterson

Indian Creek/ Indian Springs Committee

**DEPARTMENT OF TRANSPORTATION
& DEVELOPMENT** formerly



April 12, 1985

In memoriam (1935-1984)
John C. McIntyre

Sherry Patterson
18926 S.W. Arrowood Avenue
Lake Oswego, OR 97034

WINSTON W. KURTH ARDIS M. STEVENSON
Director Assistant Director

SUBJ: On-Site Sewage Disposal in the
 Indian Springs Subdivision Area

In response to your telephone inquiry, I am attempting to answer the questions you have posed regarding sewer service in this neighborhood.

My views with regard to the existing on-site sewage disposal systems generally in the neighborhood have been outlined in previous correspondence. A copy of that letter is enclosed. At this point, there is little that I can say to add to or embellish that letter.

The question of doing a health hazard annexation study in the neighborhood has been discussed between myself and Ron Hall at the State Health Division. Both Ron and I have concluded that doing a health hazard annexation study at this time is not appropriate. Little, if any, meaningful information could be gathered from such an effort. We will, however, act to resolve any problems with on-site sewage disposal systems in the neighborhood on a case by case basis. It is important that residents of the neighborhood contact us if problems develop with their sewage disposal systems. An appropriate review would then provide all concerned parties with the necessary information to intelligently repair any problem.

A question has also been raised as to whether or not the ditch adjacent to the north side of Childs Road is contaminated with sewage. I have yet to see any lab data that would indicate whether or not such contamination exists. If such information is available, it should be brought to the attention of the appropriate authorities. Additional analysis might then be done by the County or other neutral parties to determine whether or not a problem exists and to locate its source.

If you have any questions concerning this information, please feel free to contact our office.

Richard L. Polson

RICHARD L. POLSON - Chief Soils Scientist
Operations & Administration Division

/mb



2-1 19AA
7908

0119427

Seas

March 5, 1985

Mr. & Mrs. Arlen E. Keup
19235 S.W. Redwing Ct.
Lake Oswego, OR 97034

SUBJ: On-Site Sewage Disposal Systems
in the Indian Wells Subdivision Area

In a recent phone conversation that you had with Ardis Stevenson, you asked for additional information concerning a number of facets on on-site sewage disposal. I have enclosed a brochure that answers many questions concerning septic systems. However, I will also attempt to answer your specific questions in the following paragraphs.

Septic tanks should be pumped once every six to eight years on the average. The frequency of pumping will depend, of course, upon sewage flows, tank size, and whether or not a garbage disposal is used in the home. In general, the tank should be pumped whenever the solid buildup level in the bottom of the tank exceeds 40% of the tank's capacity. If the solids buildup inside the tank is excessive, solids are carried over into the drainfield and clog the system. This may lead to premature failure of the drainfield area. The eight year cycle mentioned above is arbitrary and can vary significantly from system to system.

Soils in your neighborhood are generally well drained, formed from gravely outwashed deposits laid down when Lake Oswego was scoured out by the Missoula floods. In general, these soils are gravely or stony clay loams, with moderate permeability. Evidence also suggests that there is a high regional water table in your area. We would expect seasonal water tables to be at depths between 8 and 12 feet during the winter months throughout the general area. Standard systems, as outlined in the attached brochure, would function quite well for an indefinitely long period of time assuming septic tanks are pumped as necessary. However, virtually all of the lots within your subdivision were developed on seepage pits. Historically, these systems last 15 to 20 years before they begin to give problems to their users. Soils in your neighborhood are generally not sufficiently porous to allow for continuous use of seepage pits for waste disposal. Eventually, the soils clog and the system backs up. This problem is compounded by the presence of the high water table. The high water table floods some of the system seasonally, reducing its ability to absorb sewage effluent. Also, sewage is discharged directly into the groundwater. This groundwater then flows to the nearest streams. Therefore, this type of sewage disposal poses a pollution risk to local groundwater supplies. Development of

lots using seepage pits was allowed in order to minimize lot size or maximize the number of buildable lots in the area.

In your neighborhood itself, we have had only two or three recent complaints of problems with on-site sewage disposal systems. In the Lake Grove area generally, there have been several problems with old drywell systems. It seems that the older the system is, the greater the chance of difficulty. It is likely that these problems will continue until such time as sewer service is available or alternative methods of on-site sewage disposal are used.

It is hoped that the above information provides the answers to the questions that you have posed. If you desire any further information, please feel free to contact our office.

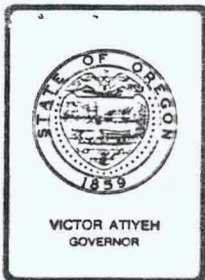
RICHARD L. POLSON - Chief Soils Scientist
Operations & Administration Division

/mb

Encls.

cc: Ardis Stevenson

Ser. #0113427 & 0119516



Department of Human Resources
HEALTH DIVISION

1400 S.W. 5th AVENUE, PORTLAND, OREGON 97201 PHONE 229-5954

April 23, 1985

Sherry Patterson
18926 SW Arrowood Drive
Lake Oswego, Oregon 97034

Dear Ms. Patterson:

I am writing to summarize my recent activities in the current Indian Springs area sewage issue.

At your request, I attended an informal gathering of citizens on the evening of April 10, 1985, at a Baptist Church in the area and answered questions regarding health hazard annexations (ORS 222.840).

During my presentation, people expressed concern about areawide problems with sewage creating a health hazard in the area. I explained that to my knowledge problems in the area were isolated to a couple of homes and that there was no evidence whatsoever of an areawide problem.

I was told that a water sample had been taken from a ditch on Childs Road by Mr. Keup and that interim results of that sample had been interpreted by Mr. Keup before the Lake Oswego Planning Council as indicating the presence of sewage in the ditch. Based on this, I volunteered to evaluate the sample site and to take a microbiological sample.

We met, along with Mark Gano of the Clackamas County Health Department, on April 17, at the area where the previous sample had been taken on Childs Road. As I related to you at the time, I had spoken with Mr. Keup earlier in the day and asked him directly about the results of the sample. He read directly from the lab report that evaluated his aforementioned sample. The conclusion of the microbiologist was that the sample does not indicate the presence of sewage in the ditch.

As a result of this, and in the absence of any evidence of sewage discharge, I found no reason to justify the expenditure of resources involved in taking an additional sample.

AN EQUAL OPPORTUNITY EMPLOYER

Mailing Address: P.O. Box 231, Portland, Oregon 97207
EMERGENCY PHONE (503) 229-5599

Sherry Patterson
April 23, 1985
Page 2

Please call me at 229-6325, if you have any questions or if I can be of further assistance.

Sincerely,

Ron Hall / by J.P.O.

Ronald A. Hall, R.S., Manager
Health Hazard Studies Program
Office of Environment and Health Systems

RAH:io

cc: Dick Polson
Lake Oswego Planning Office
James Buckley
Art Atchison

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*A copy of this large map in its entirety was also provided to LUBA separately.

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Petitioners participated both orally and in writing in the local government proceedings leading to the adoption of the appealed decision. Petitioner Indian Creek/Indian Springs Committee (Committee) is an unincorporated association which represents the interest of more than 100 residents of the area affected by the appealed land use decision. The Committee was represented in the local government proceedings below by Sherry Patterson, and also submitted written material. Record 11, 61-62, 82-83. Petitioner Sherry Patterson participated orally before both the Lake Oswego Planning Commission (Commission) and City Council (Council). Record 11, 12, 21, 26. Petitioner Ray Dean participated both orally and in writing before the Council and Commission. Record 3, 11, 12, 27, 119, 120. Petitioner Cliff Boley participated orally and in writing before the Commission and Council. Record 26, 60.

Petitioners are also entitled to standing under either ORS 197.830(2) or (3). Petitioners are aggrieved by the Council's

1 decision in that they had appeared in the proceedings before the
2 Council and had asserted positions contrary to the decision made
3 by the Council. ORS 197.830(2)(b) and (3)(c)(B). See Jefferson
4 Landfill Committee v. Marion County, 297 Or 280, 686 P2d 310
5 (1984).

6 Petitioners' interest are also adversely affected by the
7 decision of the Council, in that petitioner Committee represents
8 more than 100 residents of the Indian Creek/Indian Springs area,
9 petitioner Patterson owns and resides at 18926 SW Arrowood Drive,
10 petitioner Dean at 18951 SW Indian Springs Circle, and petitioner
11 Boley at 18954 SW Indian Springs Circle, all of which property is
12 within the area which the appealed plan amendment placed inside
13 the Lake Oswego Urban Service Boundary (USB). Record 8. ORS
14 197.830(2)(b) and (3)(c)(B). Placement of this property within
15 the Lake Oswego USB adversely affects petitioners because it is a
16 necessary prerequisite to annexation and sewerage of their
17 property, both of which will cause petitioner Committee's members
18 and the individual petitioners significant expense, and the
19 latter of which will cause dust, noise and traffic disruption.
20 Record 60, 164-167.

21 Finally, petitioners Patterson, Dean and Boley were entitled
22 as of right to notice and hearing prior to the appealed plan
23 amendment, by virtue of being residents and owners of property
24 subject to a major plan amendment. ORS 197.830(3)(c)(A). See
25 Lake Oswego Code (LOC) Sections 48.805.2.c.i. and 56.150(2)-(4);
26

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1 App 39, 45-47.

2 STATEMENT OF THE CASE

3 A. Nature of Decision and Relief Sought

4 The land use decision of the Lake Oswego City Council
5 entitled "Request for Comprehensive Plan Map Amendment Amending
6 the City's Urban Service Boundary; PA 1b-85-271; FINDINGS,
7 CONCLUSION AND ORDER", which became final on July 2, 1985,
8 amended the Lake Oswego USB to include the Indian Creek/Indian
9 Springs area, comprised of approximately 44 acres containing 136
10 single family dwellings. Petitioners seek reversal and remand of
11 this land use decision with instructions to Respondent consistent
12 with the arguments set forth herein.

13 B. Summary of Arguments

14 The City failed to invite participation by and consider
15 input from affected governmental units such as the City of
16 Rivergrove, the Lake Grove Fire District, the Rivergrove Water
17 District, Metro and the Unified Sewerage Agency (USA). This lack
18 of action violated Statewide Planning Goal 2 and the City's own
19 Plan Policies.

20 The City's amendment of its UGB to include the Indian
21 Creek/Indian Springs area is inconsistent with Metro's Regional
22 Waste Treatment Management Plan, because that plan designates the
23 USA as the sewer provider to this area. The City's decision
24 therefore violates Goal 2, the Metro Code and its own land use
25 regulations.

1 The City failed to adopt findings demonstrating that it was
2 feasible for it to provide needed urban services to the area
3 subject to the plan amendment. This constitutes a violation of
4 Statewide Planning Goal 11, Plan policies and the Lake Oswego
5 Code. Furthermore, the record does not contain substantial
6 evidence to support the conclusion that it is feasible for the
7 City to provide adequate sewage disposal and storm drainage
8 services to the area.

9 In order to amend its USB to include the subject area, the
10 City must demonstrate that the area is urbanizable or urban
11 land. As the Metro UGB is no longer acknowledged, it cannot be
12 relied upon for that purpose. The City erred in failing to apply
13 Goal 14 and applicable resource goals to its decision.

14 C. Summary of Facts

15 On January 10, 1985, the City of Lake Oswego pursuant to LOC
16 56.150(1) (App-45) filed an application to itself for a major
17 comprehensive plan amendment, PA 1-85. Record 46-56. The
18 amendment proposed included both (1) an amendment to the text of
19 Plan Urban Service Boundary Specific Policy I.1.d., changing the
20 description of the potential southward expansion limit of the
21 Lake Oswego USB to include an additional 400-500 acres; and (2)
22 an amendment to the Plan's USB Map to include the 44 acre Indian
23 Creek/Indian Springs area within the USB. Record 46, 49, 50.

24 This area contains 136 single family dwellings and some
25 vacant land. The area currently receives water service from the

1 Rigergrove Water District, fire protection from the Lake Grove
2 Fire District and police protection from Clackamas County. The
3 area is not sewered. Its dwellings use on-site septic tanks for
4 sewage disposal. Record 46-47.

5 On February 25, 1985, the Lake Oswego Planning Commission
6 held a public hearing on PA 1-85. Record 25-28. At that
7 hearing, the Planning Department recommended bifurcating the
8 proposal into two separate plan amendments - PA 1a-85, the
9 proposed Plan policy text amendment, and PA 1b-85, the proposed
10 plan USB Map amendment. Record 25-26, 42-43. After the
11 conclusion of the hearing, the Commission approved PA 1a-85 and
12 continued PA 1b-85, the map amendment. Record 28. On March 25,
13 1985, an additional hearing on PA 1b-85 was held, after which the
14 Commission voted to approve the proposed USB Map amendment.
15 Record 20-23. On April 8, 1985, the Commission adopted its
16 "Findings, Conclusions and Order" approving the amendment.
17 Record 37-41; App 5-9.

18 On April 16, 1985, the City Council held a public hearing on
19 PA 1a-85. App-10. On May 13, 1985, the Council adopted its
20 "Findings, Conclusion and Order" approving PA 1a-85-259. App-10-
21 13. The order amended the description of the potential southward
22 extension of the City's USB in Plan Urban Service Boundary
23 Specific Policy I.1.d. to read:

24 "On the south, essentially the Oswego Lake Drainage
25 Basin Boundary from the West Linn city limits to the
26 Oswego Canal, and the Tualatin River between the Oswego
Canal and I-5. The map on page 13 shows the

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1 approximate location and will be updated from time to
time by amendment to include appropriate areas."

2 With regard to the effect of this amendment, the text of the
3 order stated:

4 "The only direct effect of this amendment is that it
5 enables the City's Urban Service Boundary to be
6 extended on a case by case basis into the southwestern
portion of the City's planning area."

7 The amended description included the Indian Creek/Indian Springs
8 area within the area which potentially could be brought into the
9 Lake Oswego USB by a specific amendment to the USB Map.

10 On June 18, 1985, the City Council held a public hearing on
11 PA 1b-85, the map amendent. Record 9-13. On July 2, 1985, the
12 Council adopted its "Findings, Conclusion and Order" for PA 1b-
13 85-271. Record 2-3. This order amends the City's Comprehensive
14 Plan Map to amend the City's USB to include the 44 acre Indian
15 Creek/Indian Springs area. App 2 and 4. The effect of this
16 amendment is to define this area as one in which the "City
17 intends to be the major provider of public services, including
18 police, fire, sewer, water, drainage and parks and recreation."
19 App-18. The amendment makes possible annexation of the area to,
20 and installation of sewers in the area by, the City of Lake
21 Oswego. App-2.

22 FIRST ASSIGNMENT OF ERROR

23 The County misconstrued the applicable law and acted
24 inconsistently with its acknowledged Comprehensive Plan
25 by failing to apply or comply with the governmental
coordination requirements of Statewide Planning Goal 2
(Land Use Planning) and Plan Urban Service Boundary
Policies.

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1 ARGUMENT

2 A. Goal 2 (Land Use Planning)

3 An amendment to an acknowledged comprehensive plan must
4 comply with the Statewide Planning Goals (Goals). ORS
5 197.835(4). Goal 2 states in relevant part:

6 "Each plan and related implementation measure shall be
7 coordinated with the plans of affected governmental
units."

8 Goal 2 also defines affected governmental units as:

9 "...those governments, state and federal agencies and
10 special districts which have programs, landownerships,
or responsibilities within the area includig the plan."

11 Goal 2 notes the definition of "coordinated" is in ORS 197.015.

12 ORS 197.015(5) states:

13 "A plan is 'coordinated' when the needs of all levels
14 of governments, semi-public and private agencies and
the citizens of Oregon have been considered and
15 accomodated as much as possible."

16 In its recent decision in Rajneesh Travel Corporation et al
17 v. Wasco County, LUBA Nos. 85-012, -013, -015, -016 (June 14,
18 1985), this Board interpreted these provisions as establishing
19 two "procedural hallmarks" for a comprehensive plan that has been
20 coordinated with other governmental units (Slip Opinion, page
21 10):

22 "1. The makers of the plan engaged in an exchange of
23 information between the planning jurisdiction and
affected governmental units, or at least invited
such an exchange.

24 "2. The jurisdiction used the information to balance
25 the needs of all governmental units as well as the
needs of citizens in the plan formulation or
26 revision."

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1 This Board went on to state that, to carry out the
2 obligation imposed by Goal 2 and ORS 197.015(5), the local
3 government "must at least take steps to invite an exchange of
4 information between governmental bodies."

5 In this case, other than with regard to Clackamas County, no
6 such invitation was made to affected governmental units by the
7 City of Lake Oswego, and no such exchange of information took
8 place. With respect to the subject amendment of the city's USB
9 to include the Indian Creek/Indian Springs area, "affected
10 governmental units" includes at least the City of Rivergrove
11 (which adjoins the area subject to the amendment), the Rivergrove
12 Water District (which provides water service to the affected
13 area), the Lake Grove Fire Protection District (which provides
14 fire protection service to the affected area), the Metropolitan
15 Service District (Metro) (which has adopted, pursuant to ORS
16 268.390(2), a Regional Waste Treatment Management Plan that
17 includes the affected area - see Second Assignment of Error
18 below) and the United Sewerage Agency (USA) (which has been
19 designated by the Metro Regional Plan as the future provider of
20 sewage collection and treatment services to the affected area -
21 see Second Assignment of Error).

22 Of the above governmental units, only the City of Rivergrove
23 was named by the City of Lake Oswego, as applicant for this plan
24 amendment, as an "affected agency" (Record 48) or recognized by
25 the City's Planning Department as affected (Record 42). However,

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1 neither the City of Rivergrove (regardless of statements at pages
2 42 and 48 of the Record to the contrary) nor the Rivergrove Water
3 District, Lake Grove Fire Protection District, Metro or USA were
4 ever notified by the City of Lake Oswego that this amendment to
5 its USB was being considered or ever invited to provide input
6 into the amendment process; and none of them did provide input
7 into the City's proceedings.

8 There is no evidence in the record that any of the above-
9 named governmental units were actually notified by the City.
10 Petitioners are specifically alleging that this constitutes a
11 procedural irregularity not shown in the record of this
12 proceeding, which would warrant reversal or remand of the subject
13 decision. Should respondent, in its brief, dispute petitioners'
14 factual allegations that these governmental units were not
15 notified of or invited to participate in the City's proceedings,
16 Petitioners will then submit a Motion for Evidentiary Hearing
17 pursuant to ORS 197.830(11). This is the order for such
18 proceedings which this Board endorsed in 1000 Friends of Oregon
19 v. Wasco County Court, 4 Or LUBA 372, 374 (1982).

20 Obviously, since this Board's first "hallmark" of
21 coordination (invitation to an exchange of information) did not
22 occur, the second step (consideration of information submitted)
23 also did not occur. These deficiencies are a sufficient basis
24 for reversal or remand of the City's decision.

25
26
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1 B. Comprehensive Plan Urban Service Boundary Policies

2 Cities are required to make land use decisions in compliance
3 with their acknowledged Comprehensive Plans. ORS
4 197.175(2)(d). Under the heading "Urban Service Boundary
5 Policies" and the subheading "Procedure for Approval and
6 Modification," the Plan provides (App-18):

7 "The City's Urban Service Boundary location must be
8 agreed to by Clackamas County and MSD. This is
9 required by the MSD Land Use Framework Element of the
regional plan, as well as by LCDC rules.

10 "Once approved by these jurisdictions, changes in the
Boundary location also would have to be approved by
11 them."

12 There is nothing in the Record that indicates that "MSD" (Metro)
13 has agreed to or approved (or even heard of) this amendment to
14 the City's USB. In fact, Metro cannot agree to or approve of
15 this amendment, because it is inconsistent with Metro's own
16 Regional Plan (see Second Assignment or Error below).

17 Additionally, Plan Urban Service Boundary General Policy 1
18 provides, in relevant part:

19 "In cooperation with the County and adjacent service
20 districts, the City will establish and adopt an Urban
21 Service Boundary to define the limits of the area in
which the full range of urban services...may be
provided by the city."

22 The term "cooperation" is not defined in the Plan. However,
23 Petitioners believe it should be interpreted similarly to the
24 term "coordination" in that it obligates the City to invite input
25 from and consider the input of "adjacent service districts." The
26 Plan also fails to define this latter term. However, it would

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1 certainly include the Rivergrove Water District, Lake Grove Fire
2 Protection District and USA, all of which provide services within
3 or adjacent to the city's USB.

4 In interpreting a similar plan provision ("the City shall
5 coordinate... changes in the urban service area with... special
6 districts in the area"), this Board held as follows:

7 "When a city is required by its own plan to coordinate
8 its decision making with affected special districts, as
9 in this case, it is not sufficient procedurally or
10 substantively for the city to treat the special
11 district as it would any other person in the area. The
12 comprehensive plan requires that the special district
is entitled to special treatment. The city must make a
meaningful attempt to find out how the special district
will or may be affected, and then it must seek to
accommodate the special district "as much as is
possible."

13 Twin Rocks Water District v. City of Rockaway, 2 Or LUBA 36, 46
14 (1980).

15 In this case, the City did nothing which could in any way be
16 considered "cooperation" or "coordination" with the above-named
17 service districts. It must therefore be found to have violated
18 its own plan policy.

19 SECOND ASSIGNMENT OF ERROR

20 The City misconstrued the applicable law and acted
21 inconsistently with its acknowledged land use
22 regulations by failing to apply or comply with the
23 provisions of Statewide Planning Goal 2 regarding
24 consistency with County and regional plans, with
Metropolitan Service District Code Chapter 3.02
(Regional Waste Treatment Management Plan), and with
Lake Oswego Code Section 56.155(2) regarding
consistency with regional plan policies.

1 ARGUMENT

2 A. Goal 2 (Land Use Planning)

3 Goal 2 includes the following "consistency" requirement:

4 "City, county, state and federal agency and special
5 district plans and actions related to land use shall be
6 consistent with the comprehensive plans of cities and
counties and regional plans adopted under ORS 197.705
through 197.795."

7 The area which the subject amendment added to the City's USB is
8 outside of the City's limits and under the jurisdiction of
9 Clackamas County. Clackamas County's Comprehensive Plan has been
10 acknowledged by LCDC (Acknowledgment Order 85-ACK-087), except
11 with regard to certain geographic areas not at issue in this
12 case. It is therefore unarguable that Goal 2 requires the City's
13 amendment to its plan to be consistent with Clackamas County's
14 Plan, in as much as the amendment concerns land subject to the
15 County's Plan.

16 Clackamas County Comprehensive Plan Public Facilities
17 Sanitary Sewage Disposal Policy 2.0 provides as follows:

18 "Require all agencies involved in the provision of
19 sanitary facilities to locate and stage sewer treatment
20 and collection systems in Clackamas County to be
21 consistent with the regional Waste Water Treatment
Management (208) Plan or an approved Facility Plan
(201)."

22 This policy requires the City to act consistently with the Metro
23 Regional Plan. Clackamas County's letter to the City (Record
24 215-216) is not in disagreement with this interpretation of the
25 above policy, it is merely mistaken as to which entity the Metro
26 Regional Plan designates as the provider of sewer service to the

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1 subject area. Because the City's amendment of its USB is
2 inconsistent with the Metro Regional Plan (see subsection B
3 below), it is also inconsistent with the Clackamas County Plan's
4 Sanitary Sewage Disposal Policy 2.0, and therefore is in
5 violation of Goal 2.

6 Goal 2 also requires the land use plans and actions of the
7 City to be consistent with "regional plans adopted under ORS
8 197.705 through 197.795." This provision of Goal 2 has been
9 unchanged since its initial adoption on January 1, 1975.
10 However, 1977 Oregon Laws, chapter 665, Section 24 repealed ORS
11 197.705 through 197.795 (which had authorized regional planning
12 districts) and Section 18 gave their regional planning authority,
13 at least with regard to activities with "metropolitan
14 significance" to the Metropolitan Service District (Metro). All
15 of the functions and outstanding obligations of the Columbia
16 Region Association of Government (CRAG) were transferred to
17 Metro. 1977 Oregon Laws, chapter 665, Sections 25-29. Metro was
18 given the following planning authority, including under
19 subsection (2) below the adoption of functional plans for the
20 region and under subsection (4) the authority to require that
21 city and county comprehensive plans conform to such functional
22 plans:

23 "ORS 268.390. A district council shall:

24 "(1) Define and apply a planning procedure which
25 identifies and designates areas and activities having
26 significant impact upon the orderly and responsible

1 development of the metropolitan area, including, but
2 not limited to, impact on:

3 "(a) Air quality;

4 "(b) Water quality; and

5 "(c) Transportation.

6 "(2) Prepare and adopt functional plans for those areas
7 designated under subsection (1) of this section to
8 control metropolitan area impact on air and water
9 quality, transportation and other aspects of
10 metropolitan area development the council may identify.

11 "(3) Adopt an urban growth boundary for the district in
12 compliance with applicable goals adopted under ORS
13 197.005 to 197.430.

14 "(4) Review the comprehensive plans in effect on
15 January 1, 1979, or subsequently adopted by the cities
16 and counties within the district which affect areas
17 designated by the council under subsection (1) of this
18 section or the urban growth boundary adopted under
19 subsection (3) of this section and recommend or require
20 cities and counties, as it considers necessary, to make
21 changes in any plan to assure that the plan and any
22 actions taken under it conform to the district's
23 functional plans adopted under subsection (2) of this
24 section and its urban growth boundary adopted under
25 subsection (3) of this section."

26 LCDC has never amended the "consistency" portion of Goal 2
subsequent to these statutory changes. The most reasonable
interpretation to be given to this provision of Goal 2 now is
that the statutory reference was impliedly nullified or amended
by the 1977 changes, and that Goal 2 now requires local
government plans to be consistent with regional plans adopted by
Metro under ORS 268.390(2). To hold otherwise would be
inconsistent with the policy direction of ORS 197.010 that the
Legislative Assembly intended LCDC to require coordination of

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1 plans for cities, counties, regional areas and the state as a
2 whole, and with the authority given Metro under ORS 268.390(4) to
3 require conformance with its plans. Furthermore, in 1000 Friends
4 of Oregon v. Clackamas County, 3 Or LUBA 316, 321-322 (1981),
5 this Board found inconsistency with Metro's Land Use Framework
6 Plan to be a Goal 2 violation.

7 Thus, because the City's amendment of its USB is
8 inconsistent with the Metro Regional Plan (see subsection B
9 below), it is also a violation of Goal 2.

10 B. Metro Regional Waste Treatment Management Plan

11 As was mentioned in the previous subsection, Metro has the
12 authority to adopt functional plans for the region and to require
13 compliance with such plans. Metro has exercised this authority
14 in adopting its regional Waste Treatment Management Plan
15 (Regional Plan). Metro Code Section 3.02.002; App-50.
16 Furthermore, Metro has required in its Code that "management
17 agencies" not take any land use or other actions "related to
18 development or provision of public facilities or services which
19 are not in conformance with the Regional Plan." "Management
20 agencies" are defined as any cities, counties or special
21 districts involved with the treatment of liquid wastes within
22 Metro's jurisdiction. Metro Code Section 3.02.003; App-50.

23 Thus, the City of Lake Oswego's amendment of its USB must
24 conform to Metro's Regional Plan. On December 6, 1984, the Metro
25 Council adopted Ordinance No. 84-184, amending the Regional

1 Plan. App 56-66. That ordinance amended the Regional Plan's
2 Collection System Service Areas Map, placing the entire Indian
3 Creek/Indian Springs area that is the subject of this case into
4 the territory of the USA, rather than that of Lake Oswego. App-
5 63 and 67-68. The ordinance also amended the Regional Plan's
6 Sewerage Transmission of Treatment Service Areas Map to place the
7 entire Indian Creek/Indian Springs area into the territory of the
8 USA Durham System rather than Portland Tryon Creek System. App-
9 61 and 69-70.

10 The City's amendment of its USB to include this same Indian
11 Creek/Indian Springs area is in effect a determination that it
12 should be the provider of sewer services to this area. See App-
13 2, 18. Sewer is the only urban service presently lacking in this
14 area. Although inclusion within the USB does not absolutely bind
15 the City to provide this area with sewer service (see Plan Urban
16 Service Boundary General Policy I, App-18), it does bind the City
17 to doing detailed planning for the extension of sewer services to
18 the area. See Plan Overall Density Specific Policy I-1, App-
19 26. Furthermore, it commits the City to opposing expansion of
20 service districts within this area. See Plan Urban Service
21 Boundary Specific Policy I-3, App-21. Thus, the City would have
22 to oppose expansion of USA's service into this area, an expansion
23 which would be consistent with the Regional Plan. For these
24 reasons, the City's amendment of its USB was not in conformance
25 with Metro's Regional Plan, thereby violating Metro Code Section

1 3.02.03.

2 Metro itself has established a procedure for reviewing
3 actions "related to development or provision of public facilities
4 or services" allegedly in violation of the Regional Plan. Metro
5 Code Section 3.02.004, App-51. Such actions might or might not
6 also be "land use decisions" as defined in ORS 197.015(10). If
7 they are, then ORS 197.825(1) confers exclusive jurisdiction for
8 their review on this Board. Furthermore, if a local government
9 decision is a "land use decision" (which a comprehensive plan
10 amendment certainly is), the Board may review it against all
11 applicable law, including the pertinent provisions of ORS Chapter
12 268, the Metro Regional Plan, and the Metro Code (not just the
13 Goals and the City's Plan and Code). See Tides Unit Owners
14 Association v. City of Seaside, 11 Or LUBA 84, 100 (1984).

15 Furthermore, the Metro review process does not constitute "a
16 remedy available by right" which petitioners must exhaust before
17 petitioning this Board for review, as the provisions of ORS
18 197.825(2)(a) apply only to remedies available "at the local
19 level" (i.e., from the local government which has made the land
20 use decision). See Lyke v. Lane County, 11 Or LUBA 117, 120
21 (1984). To interpret ORS 197.825(2)(a) otherwise would result in
22 petitioners being obliged to pursue both Metro and LUBA review,
23 which is precisely what the Legislature sought to avoid in
24 enacting the exclusive jurisdiction provision of ORS 197.825(1).

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1 C. Lake Oswego Code

2 The City is required to make land use decisions in
3 compliance with its acknowledged land use regulations. Lake
4 Oswego Code (LOC) Section 56.155(2) provides that Plan amendments
5 must be consistent with any applicable regional plan policies.
6 App-47. Because the subject plan amendment does not comply with
7 Metro's Regional Plan (see subsection B above), it violates LOC
8 Section 56.155(2).

9 THIRD ASSIGNMENT OF ERROR

10 The City misconstrued the applicable law and acted
11 inconsistently with its acknowledged Comprehensive Plan
12 and land use regulations by failing to apply or comply
13 with Statewide Planning Goal 11 (Public Facilities and
Services, Plan), Plan Urban Service Boundary and
Overall Density Policies and LOC Section 56.155(3) with
regard to adequacy of public facilities and services.

14 ARGUMENT

15 A. Goal 11 (Public Facilities and Services)

16 Goal 11 requires local governments:

17 "To plan and develop a timely, orderly and efficient
18 arrangement of public facilities and services to serve
as a framework for urban and rural development."

19 The goal defines "a timely, orderly and efficient arrangement"
20 as:

21 "....a system or plan that coordinates the type,
22 location and delivery of public facilities and services
in a manner that best supports the existing and
proposed land uses."

23 This Board has previously found with regard to zone changes
24 which increase the potential demand for services within a city's
25 USB that Goal 11 compliance requires findings which demonstrate

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1 that public facilities are available or can be readily extended
2 to the area, and have the capacity to serve the additional
3 density. Cf Constant v. City of Lake Oswego, 5 Or LUBA 311, 324
4 (1982); Hummel v. City of Brookings, LUBA No. 84-049
5 (December 31, 1984).

6 In this case, the extension of the City's USB is a statement
7 that the City is assuming primary responsibility for ensuring
8 that necessary services are provided to the area included within
9 the USB. At a minimum, therefore, Goal 11 requires the City's
10 findings to detail (1) the nature and present providers of
11 facilities and services already provided to the area; (2)
12 additional facilities and services which are needed in the area;
13 (3) that City provision of any additional facilities and services
14 needed in the area is feasible in a timely, orderly and efficient
15 manner; and (4) that any other effects the City's assumption of
16 primary responsibility may have on the services currently
17 provided will not prevent attainment of a timely, orderly and
18 efficient system.

19 The City's decision contains no such findings. The decision
20 is comprised of the Council's July 2nd "Findings, Conclusion and
21 Order" document (App 1-4), and possibly also the Planning
22 Commission's "Findings, Conclusions and Order" document (App 5-9)
23 which the Council may have effectively incorporated into its
24 decision by stating that it "relies on the Planning Commission
25
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1 recommendation set forth in Order PA 1b-85-249 as support for its
2 decision with the following additional reasons." App-1.

3 However, neither of these documents contains the findings
4 required by Goal 11. Neither identifies the present services or
5 service needs in the area added to the USB. Neither states facts
6 which demonstrate that it is feasible for the City to provide
7 needed services (particularly sewage disposal) to the area. With
8 a most favorable interpretation, the Council's Order states only
9 the "conclusion that City services are available to serve this
10 area." App-2.

11 The Commission's Order does little more. It does state that
12 water service to the area is provided by the Rivergrove Water
13 District, that the area uses onsite sewage disposal systems and
14 that there was conflicting evidence as to problems with these
15 systems. App 6-7. However, it does not establish what other
16 services or facilities are provided or needed in the area (e.g.,
17 storm drainage, fire protection, police, transportation,
18 schools). Furthermore, it does not state facts demonstrating
19 that provision of needed services by the City is feasible. It
20 simply states the conclusion that "the criteria for approval in
21 LOC 56.155 are satisfied" (these criteria include adequacy of
22 services - see subsection C below). App-8. Simply stating the
23 ultimate conclusion which must be reached does not demonstrate
24 compliance with Goal 11.

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1 B. Comprehensive Plan Policies

2 The Lake Oswego Comprehensive Plan contains several policies
3 which together determine the requirements for and effects of
4 bringing an area into the USB. Urban Service Boundary General
5 Policy I (App-18) and relevant portions of the Specific Policies
6 for that policy (App 19 and 21) provide:

7 "1. In cooperation with the County and adjacent
8 service districts, the City will establish and adopt an
9 Urban Service Boundary to define the limits of the area
10 in which the full range of urban services such as
11 water, sewer and public safety protection may be
12 provided by the city. Except for existing commitments,
13 urban services will not be provided outside:

14 "a. The Urban Service Boundary (except park sites
15 which conform to regional and County policies).

16 "b. The City Limits, until an area is annexed."

17 "FOR GENERAL POLICY I: Establish Urban Service
18 Boundary

19 * * * * *

20 "3. Continue to provide for operation of existing
21 service districts until an area is annexed or other
22 contractual arrangements may be made.

23 * * * * *

24 "The City will oppose any new expansion of service
25 districts within the Urban Service Area. The City will
26 support expansion of external boundaries only when it
27 can be shown that it is the most cost-effective way to
28 provide a particular service and that the provider can
29 maintain an adequate level of service over both the
30 short and long term for the service..."

31 Additionally, Plan Overall Density General Policy I and relevant
32 portions of its specific Policies provide (App-26):

33 "1. The comprehensive plan will maintain the overall
34 average residential density of the Urban Service Area

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1 within the capacity of planned basic public facilities
2 systems, including at least water, sewer, streets,
3 drainage and public safety.

4 * * * * *

5 "FOR GENERAL POLICY I: Maintian density within
6 capacity of planned public facilities.

7 "The City will:

8 "1. Assure, using the detailed studies of the water,
9 sewer and street systems, that land uses and
10 densities planned for the Urban Service Area are
11 coordinated with and do not exceed the capacity
12 available or planned for any system.

13 Planning for expansion of water, sewer, drainage
14 or streets will take into consideration:

15 a. The cost effectiveness of the expansion, that
16 is, the cost relative to the users' benefit.

17 b. The distribution of the cost relative to
18 distribution of benefits, that is, whether the
19 cost can be allocated equitably to those creating
20 the demand.

21 c. The ability to pay; that is, the existing
22 financial obligations of the City.

23 d. Environmental impacts and quality.

24 e. Social impacts.

25 f. Need to accommodate land uses or population.

26 g. The effect of expanded capacity on other
public facilities.

For example, the water treatment plant, as yet not
expanded, could hypothetically be enlarged [to]
serve 100,000 population; but the rest of the
public facilities, such as streets, could not
support such a population and could not
efficiently be expanded."

Construing these provisions together indicates that an area
should not be brought into the USB unless its planned for (or

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1 existing, as in the case of the largely developed Indian
2 Creek/Indian Springs area) densities and land uses have been
3 shown to be coordinated with, and within the capacity of,
4 existing service systems within the USB. Furthermore, the City
5 should demonstrate that it is feasible for it to provide all or
6 most of any additional services needed in such an area (otherwise
7 there would be no point in putting the area within the City's
8 USB). This interpretation of the Plan policies is supported by
9 the City staff's interpretation of the effect of PA 1a-85 (the
10 text amendment), found at Record 44:

11 "The amendment, as proposed, provides for a hearing on
12 each map amendment proposal to determine specifically
13 whether that area can be provided sewer service by Lake
14 Oswego within the capacity of the planned sewer
15 system."

16 Once an area has been brought into the City's USB, the City
17 commits itself to do detailed planning for the expansion of
18 facilities such as sewer or drainage into the area, and also to
19 oppose the expansion of service districts within the area. It
20 would be irrational for the City to put itself in that position
21 if it had not made some reasonable determination of the
22 feasibility of City service provision at the time of bringing the
23 area into the USB.

24 It is well established that in making a quasi-judicial
25 decision which is required to be in compliance with specific
26 policies such as these, a local government must adopt specific
findings of fact and a statement of reasons indicating which

1 policies are applicable, which facts it found to be true and
2 explain how the facts led to the conclusion of compliance.
3 Phillips v. Coos County, 4 Or LUBA 73, 80 (1981); Sunnyside
4 Neighborhood v. Clackamas County Board of Commissioners, 280 Or
5 3, 569 P2d 1063 (1977). As was detailed in subsection A above,
6 in this case, the City did none of these things. Its findings do
7 not demonstrate compliance with or the inapplicability of the
8 above-quoted Plan policies.

9 C. Lake Oswego Code Section 56.155(3)

10 LOC Section 56.155(3) requires approval of a plan amendment
11 to be based on a demonstration that "public facilities have
12 capacity and are available to serve the proposed change." App-
13 47. This provision imposes requirements similar to those
14 discussed under subsections A and B above. For the reasons also
15 stated above, the City's findings do not demonstrate compliance
16 with this standard.

17 FOURTH ASSIGNMENT OF ERROR

18 The City's conclusion with regard to the availability
19 and adequacy of City services to serve the area which
20 its decision added to its Urban Service Boundary is not
21 supported by substantial evidence in the whole record
22 of this proceeding.

23 ARGUMENT

24 Petitioners established in their Third Assignment of Error
25 that findings demonstrating that it is feasible, and within the
26 capacity of its systems, for the City to provide needed services
to the area amended into its USB are essential to the validity of

1 the subject plan amendment. However, even if this Board should
2 hold the City's findings adequate (hard as this may be for
3 Petitioners to imagine), the decision would nevertheless be
4 subject to remand because the record does not contain substantial
5 evidence to support such findings.

6 For instance, with regard to capacity and feasibility of the
7 Lake Oswego sewer system to serve this area, the only evidence in
8 the record is the following statements from the application,
9 staff report and the Planning Director's testimony:

10 (1) The Application:

11 "The City has a 12 inch sewer line located in the
12 Oswego Canal. The Engineering Department has
13 calculated flows for the areas abutting the canal, and
14 have determined that there is capacity in the Canal
line and in the main trunk running under the lake, to
serve the subject area." Record 46.

15 * * * * *

16 "The major effect would be on the City's sewage
17 disposal network. As discussed earlier, the
18 Engineering Department has reviewed system capacity and
has determined that the area can be served without
detriment to other service to other portions of the
City." Record 74.

19 (2) The Staff Report:

20 "Since that time, more detailed engineering work, and
21 Inflow and Infiltration studies have shown that there
22 is capacity in the sewer system to expand the USB
23 further to the south and west in the area west of the
Canal, and south of Kenny Street. The exact parameters
of that expansion have not yet been determined. Record
42.

24 * * * * *

25 "City Engineering staff has determined that gravity
26 flow sewers can be provided by extension of a line west

1 on Childs Road connecting to the trunk line in the
2 Canal. The line in the Canal and the line in Lake have
3 been determined to have capacity to serve the area."
4 Record 44.

5 (3) The Planning Director's Testimony:

6 "Ms. Young said that the Public Works Department has
7 determined that sewer expansion is possible, but that
8 the exact amount of expansion capacity has not yet been
9 determined." Record 26.

10 All that is known from the above statements is that the City
11 Public Works/Engineering Department is conducting some kind of
12 technical studies and that someone in that department has
13 supposedly assured the Planning Department that gravity flow
14 service can be provided to the subject area and that the City's
15 sewer system in that area has the capacity to handle the
16 additional flow. However, no data, notes, reports or letters
17 from the Public Works/Engineering Department were ever submitted
18 into the record; and no one with sanitary engineering expertise
19 from the Public Works/Engineering Department ever testified
20 orally or in writing. Presumably the Planning Director is not a
21 sanitary engineer or, if she is, that information is not in the
22 record.

23 "Substantial evidence" is evidence which a reasonable mind
24 could accept to support a conclusion. Braidwood v. City of
25 Portland, 24 Or App 477, 480, 546 P2d 777 (1976). This Board has
26 held that staff reports and testimony of local government
personnel may be relied upon as substantial evidence in some
circumstances, Meyer v. Portland, 7 Or LUBA 184 (1983), but not

1 when the statements are conclusional or otherwise without an
2 adequate factual basis, Portland Audubon Society v. Clackamas
3 County, 12 Or LUBA 269, 274 (1984). Furthermore, whereas expert
4 testimony can be relied upon as substantial evidence Citizens to
5 Save Willamette Waterfront v. City of Portland, 12 Or LUBA 244,
6 251 (1984), reports of communications from third parties, whose
7 credentials are unknown, do not constitute substantial
8 evidence. City of Salem v. Families for Responsible Government,
9 64 Or App 238, 254, 688 P2d 395 (1985).

10 Whether an area can be served by a gravity flow sewer
11 system, whether sewer trunk lines have the capacity to handle the
12 flow from an additional 136+ homes, whether a sewage treatment
13 plant has the capacity to treat additional sewage above that
14 already planned for - these are highly technical issues.
15 Thirdhand, conclusionary statements by the Planning staff
16 purporting to convey what unidentified persons in the Public
17 Works/Engineering Department have told the planning staff, do not
18 constitute substantial evidence in support of such
19 determinations. What is required is a written report or oral
20 testimony by a qualified expert from the Public Works/Engineering
21 Department.

22 Finally, with regard to storm drainage, which is recognized
23 by Goal 11 and City Urban Service Boundary Specific Plan Policy
24 III-5 as a necessary urban service, the only evidence in the
25
26

1 record is the following statement in the staff report (Record
2 44):

3 "Storm drainage is generally carried by roadside
4 ditches. There is no integrated storm drainage system,
5 even though much of the area is developed at urban
6 densities."

7 The record does not contain substantial evidence to support
8 the required conclusion that storm drainage facilities in the
9 subject area are adequate, or that it is feasible for the City to
10 provide the area with adequate storm drainage facilities.

11 FIFTH ASSIGNMENT OF ERROR

12 The City misconstrued the applicable law and violated
13 Statewide Planning Goals 3 (Agricultural Lands), 4
14 (Forest Lands), 11 (Public Facilities and Services) and
15 14 (Urbanization) by amending its Urban Service
16 Boundary to include lands not within an acknowledged
17 Urban Growth Boundary without adopting an exception to
18 Goals 3, 4, 11 and 14 or demonstrating their
19 inapplicability.

20 ARGUMENT

21 The subject USB amendment makes it possible for additional
22 urban services to be extended into the Indian Creek/Indian
23 Springs area by the City of Lake Oswego. Goal 11 requires that
24 urban levels of services be limited to "urban" and "urbanizable"
25 areas. Under the Statewide Planning Goals, "urban" and
26 "urbanizable" lands are simply lands within an acknowledged urban
27 growth boundary (UGB) established pursuant to Goal 14. 1000
28 Friends of Oregon v. Wasco County Court, ____ Or ____, 703 P2d
29 207 (1985); Willamette University v. LCDC, 45 Or App 355, 369,
30 608 P2d 1178, 1186 (1980). To allow urban levels of services and

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1 uses on lands not within an acknowledged UGB either requires an
2 exception to Goals 11, 14 and any applicable resource goals (see
3 OAR 660-14-040(2)) or is not allowable under any circumstances.

4 The Indian Creek/Indian Springs area is no longer within an
5 acknowledged UGB. Metro is given by statute the authority to
6 adopt an urban growth boundary for the entire Metropolitan
7 Service District, which includes the City of Lake Oswego, ORS
8 268.390(3). On July 22, 1985, the Marion County Circuit Court
9 entered a judgment reversing and remanding the LCDC Order
10 acknowledging the Metro UGB. App 71-72. LCDC has not yet
11 adopted a new order in response to that judgment, but will do so
12 within the next few days. Petitioners have been advised by DLCD
13 staff that that order will be a Continuance Order, rather than a
14 "geographically limited" Acknowledgment Order.

15 Petitioners will submit the order to this Board as soon as
16 it is issued. Assuming that the order is a continuance order, it
17 will not have the effect of "reacknowledging" the Metro UGB
18 (which is also the Lake Oswego) and therefore will not moot
19 petitioners' allegation of Goal 3, 4, 11 and 14 violations, nor
20 deprive this Board of jurisdiction over it, as an LCDC Order
21 acknowledging the Metro UGB would. Cf Fujimoto v. Metropolitan
22 Service District, 1 Or LUBA 93 (1980), aff'd. 52 Or App
23 875, ____ P2d ____ (1981).

24 The Marion County Circuit Court has issued an interlocutory
25 order pursuant to ORS 183.486(2) which purports to allow local
26

1 governments within the Metro district to continue to make land
2 use decisions in compliance with and in reliance on the Metro UGB
3 and to relieve them from having to apply the Goals to their land
4 use decisions, while the Metro UGB is unacknowledged. App-75.
5 However, the Court's discretion under ORS 183.486(2) does not
6 extend to authorizing violations of state statute. ORS
7 197.175(2) clearly requires local governments to amend
8 comprehensive plans in compliance with the goals and to make land
9 use decisions subject to unacknowledged comprehensive plans in
10 compliance with the Goals.

11 The Metro UGB is currently not acknowledged. This Board
12 must direct the City that it cannot assume the subject area is
13 urban or urbanizable land and must apply applicable provisions of
14 Goal 11, 14 and any applicable resource goals to its decision to
15 include the subject area within its USB.

1 CONCLUSION

2 The City of Lake Oswego has failed to comply with applicable
3 provisions of the Statewide Planning Goals, the Metro Regional
4 Plan and its acknowledged Comprehensive Plan and land use
5 regulations in making the decision to amend its Urban Service
6 Boundary to include the Indian Creek/Indian Springs area. For
7 the reasons set forth above, petitioners ask this Board to
8 reverse and remand the City's decision.

9 DATED this 10th day of October, 1985.


10
11 Respectfully submitted,

12 SULLIVAN, JOSSELSO, ROBERTS
13 JOHNSON & KLOOS

14
15
16 By


Corinne C. Sherton

17
18
19 By


Steven L. Pfeiffer
Of Attorneys for Petitioners

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21
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December 5, 1985

Some discussion was brought up about sewer service in our area. Doug Brannock made a motion, which Judy Rogers seconded, "that we strongly urge METRO to take no action effecting our area until we have available information on comparitive engineering studies in writing." The motion was open for discussion. Ray Dean suggested we ammend the motion to add the following: We ammended the motion It was then stated by Doug Brannock "We strongly urge METRO to take no action effecting our area on the Plan 208 , until we have available information on comparitive engineering studies in writing" It was seconded by Judy Rogers and was unanimously passed.

Bob Walker asked if we would be represented at the next METRO meeting. Sherry Patterson suggested that all officers and members are encouraged to participate in those meetings.

Leonard Stark reported on a meeting held Nov. 26, at Publics Works Dept. of the Urban Services Water Resources. Clackamas Co. service districts discussed urban service boundaries. They are working for better cooperation between county and small cities which may have overlapping services. They are making a twenty year plan. The object being: to consolidate services in Clackmas County. Mr. Stark said that the next meeting of this particular planning commission would be held on March 4th of '86.

The next R.A.G. meeting will be held at this same time on January 8th at Waluga Jr. High. At which time we will have a presentation on neighborhood watches by one of our Clackamas Co. Sheriffs.

Judy Rogers made a motion to adjourn the meeting. It was seconded by Mike McGuire and passed.

President Sherry Patterson adjourned the meeting, at 9:40 pm.

Respectfully yours,

Connie Emmons

Connie Emmons, Sec/Treasurer

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SUITE 207
LAKE OSWEGO, OREGON 97034
TELEPHONE (503) 636-8119

June 17, 1986

Gwen Ware-Barrett
Metro
2000 SW First Avenue
Portland, OR 97201-5398

Re: Water Resources Policy Advisory Committee
(WRPAC) - "208" Plan Update

Dear Committee Members:

This letter is submitted on behalf of the Bonita Meadows Neighborhood Association, which is a duly recognized neighborhood association by Clackamas County and covers the area generally west of Lake Oswego, east of Interstate 5, south of Kruse Way and north of Boones Ferry Road. The Bonita Meadows Neighborhood Association is concerned about the proposed changes in the "208" map for the area southwest of the City of Lake Oswego, including the City of River Grove and the unincorporated environs. As this area partially includes our association area and abuts us, we would like to participate in a reasoned analysis for this area.

We hereby request that the Committee have a study for this area completed before making any specific changes to the "208" Plan and related map for this area. We would also like to see a study group or committee be formed to aid in creating the study. As a representative of the Bonita Meadows Neighborhood Association I would gladly volunteer to participate in such a study group or committee.

In addition, we hereby request that written notices be mailed to us for all meetings and hearings of WRPAC relating to changes or adoption of "208" Plan amendments affecting this area west and southwest of Lake Oswego. We also request that no decision be made regarding an amendment to the "208" Plan for this area until such study has been completed. I have had numerous conversations with all the surrounding governmental entities and it is obvious that this area has not had any specific study evaluation that a governmental entity could use as a factual basis for decision making.

Thank you for your cooperation.

Sincerely,


John W. Shonkwiler
JWS:np

DEC 5, 1985 ROSEWOOD ACTION G-ROUN

ATTENDANCE:

- 1 Michael Gyer 1904 Ind Spg Circle
- 2 Mike McGuire 4846 SW 2nd Wing Way 620-4831
- 3 Kenneth Johnson 4901 SW Childs Rd. 620-0162
- 4 Brooke Johnson 5135 SW Tree St. 639-7789
- 5 KAN YAGI 19099 SW Indian Spring Circle 639-0562
- 6 BILL FUGATE 18530 PILKINGTON 639-2354
- 7 Jim Busching 18025 SW TUALATA 639-4216
- 8 P. Cassidy 5175 SW Centerwood 639-9288
- 9 R. Cassidy 5175 SW Centerwood 639-9288
- 10 Leonard Stark 5050 S.W. CHILDS 639-2807
- 11 Dave George 18978 SW Indian Sp Cir 639-4686
- 12 Rich Jusa 19026 SW Arrowood 639-0319
- 13 Jerry Grossen 5361 SW Red Leaf St. 639-7494
- 14 Dick Pades 18842 SW Indian Seas 639-0321
- 15 Dick Carlson 18831 SW Arrowood Ave 639-9231
- COLES * 16 Robert Smoot ^{NANCY} 18476 Tumburgton CT 639-4505
- 17 Muriel Hamilton 18717 PILKINGTON 639-8012
- 18 Angie Miller 18949 S.W. Indian Ark Ave. 639-9131
- 19 Beth Miller " " " " " "
- 20 Sherry Patterson 18926 SW Arrowood 639-5161
- 21 Allen Patterson " " " " " "

Dec 5, '85 Rosewood Actin Group

ATTENDANCE

22	Bob Walker	5438 SW Red Leaf	639-3989
23	Connie Emerson	5101 SW Dray	620-6111

Rosewood Neighborhood Meeting

Dec 5, 1985

Attendance

- | | | |
|-------|-------------------------|----------|
| 24 | Baird and Ray Dean | 639-8522 |
| 25 | Stan & Dolores Tischler | 639-0794 |
| 26 | Dave Wetmore | 639-1964 |
| 27 | Peter Thompson | 639-8059 |
| 28 | James H. Miller | |
| 29-30 | Alice & Jay Gortzen | 639-8715 |
| 31 | Lorie Olsen | 635-2271 |
| 32 | Judy E Rogers | 639-0967 |
| 33 | Rosemary Lopez | 684-2959 |
| 34 | Raynn Chittam | 639-2173 |
| 35 | Judy Cheney | 630-6917 |
| 36-37 | Doug & Joan Brannock | 639-4245 |
| 38 | Nancy Dobbs | 639-4505 |

COME & JOIN US!!!

ROSEWOOD ACTION GROUP (NEIGHBORHOOD ASSOCIATION) MEETING

WEDNESDAY, FEBRUARY 12, 1986 AT 7:30 P.M.

WALUGA JR. HIGH (IN THE LIBRARY)
4700 S.W. JEAN ROAD
LAKE OSWEGO, OR. 97034

PROGRAM: A PANEL DISCUSSION ON ISSUES DEALING WITH SEWER SERVICE AND ANNEXATION. MEMBERS OF OUR PANEL WILL BE:

1. PAUL HAINES, AN ENGINEER FOR THE CITY OF LAKE OSWEGO.
2. NEIL MC FARLANE, PUBLIC AFFAIRS ANALYST FOR THE METROPOLITAN SERVICE DISTRICT WHO'S RESPONSIBILITY IS THE "208" PLAN."
3. RICHARD POLSON, SOIL SCIENTIST FROM CLACKAMAS COUNTY
4. JOHN SHONKWILER, LAND-USE ATTORNEY AND MEMBER OF THE LAKE GROVE FIRE DISTRICT BOARD.
5. GEORGE WARD, ENGINEER WITH CLEARWATER UTILITIES CORP.

AT OUR JANUARY MEETING DEPUTY RUSS WILLIAMS FROM THE CLACKAMAS COUNTY'S SHERIFF'S OFFICE INITIATED OUR NEIGHBORHOOD WATCH PROGRAM. IF YOU WERE UNABLE TO ATTEND BUT WOULD LIKE TO BE INVOLVED PLEASE CALL US.

DURING THE MEETING IT WAS BROUGHT TO OUR ATTENTION THAT IT IS MORE DIRECT TO DIAL 1-655-8211 THAN 911 FOR EMERGENCY SHERIFF SERVICE SINCE OUR AREA IS NOT YET CONNECTED TO THE DIRECT 911 SYSTEM. WITHIN THE NEXT FOUR MONTHS WE SHOULD BE ON LINE.

WE APPRECIATE THE HELP FROM LAKE OSWEGO POLICE DETECTIVES, AMONG THEM DEPUTY JIM TOMLISON WHO LIVES IN OUR AREA, FOR THEIR EFFORTS IN THE DRUG-BUST THAT RECENTLY TOOK PLACE ON KENNYCROFT STREET. ALERT NEIGHBORS ALSO HELPED IN THE INVESTIGATION. LAST YEAR KENNYCROFT NEIGHBORS INITIATED A NEIGHBORHOOD WATCH PROGRAM.

MANY THANKS TO OUR NEIGHBOR TIM PERSON OF STATE FARM INSURANCE WHO HAS VOLUNTEERED TO PROVIDE DUPLICATION AND POSTAGE OF OUR NEWLETTER, PLUS, HELP US IN THE NEIGHBORHOOD WATCH PROGRAM.

HOPE TO SEE YOU WEDNESDAY!! BRING YOUR QUESTIONS!!

SHERRY PATTERSON 639-5161
PRESIDENT

RAY DEAN 639-8572
VICE-PRESIDENT

CONNIE EMMONS 620-6111
SECRETARY-TREASURER

JUDY RODGERS 639-0967
AREA REPRESENTATIVE

CLIFF BOLEY 639-9463
AREA REPRESENTATIVE

NEXT MEETING: MARCH 12, 1986 at 7:30 P.M.

CLACKAMAS COUNTY
Department of Transportation & Development

Formerly Department of Environmental Services

Winston Kurth
Executive Director

Ardis Stevenson
Director
Communications & Policy

In Memoriam - John C. McIntyre
(1935-1984)

Richard Dopp
Director
Operations & Administration

Tom VanderZanden
Director
Planning & Development

January 16, 1986

Sherry Patterson
18926 S.W. Arrowood Avenue
Lake Oswego, OR 97034

SUBJ: Rosewood Action Group: Rerecognition

Dear Sherry:

I received from Connie Emmons the Rosewood Action Group's request for rerecognition as one of the County's Community Planning Organizations.

The letter and its attachments make it clear that the CPO is reorganized and I am happy to recommend that the Board of County Commissioners formally reinstate the group. I would anticipate that the Board will act on your request either on January 23 or 30. Such rerecognition requests are usually handed in a perfunctory manner by the Board. I would expect approval without any debate or discussion.

Upon date of the Board's action, the Planning Division will be notifying you 45 days in advance of any public hearing on amendments for the Comprehensive Plan or the Zoning Ordinance and of any land use applications which require public hearing. The County's Citizen Involvement Program does not provide for CPO notice of "development changes and services, and study meetings including subcommittee meetings". However, the County does look to its CPOs for advice on localized issues as well as for volunteers to serve on various task forces and committees. Another avenue of communication is the Citizens Newsletter (copy enclosed) which is available to anyone who asks to be included on the mailing list.

The January 9 letter also asked a number of questions about future road widening, sidewalks, financing, etc. I have asked our Road Department to develop answers for those questions, hopefully in time for your February 12 meeting.

Please let me know if I can provide further assistance. I'll forward a copy of the Board Order to you as soon as it's signed.

Sincerely,



ARDIS STEVENSON - Director
Communications & Policy Division

/mb
Encl.

CLACKAMAS COUNTY
Department of Transportation & Development

Formerly Department of Environmental Services

Winston Kurth
Executive Director

Ardis Stevenson
Director
Communications & Policy

In Memoriam - John C. McIntyre
(1935-1984)

Richard Dopp
Director
Operations & Administration

Tom VanderZanden
Director
Planning & Development

January 30, 1986

Sherry Patterson
18926 S.W. Arrowood Avenue
Lake Oswego OR 97034

Attached is a copy of the commissioners' order, dated January 23, 1986 which officially recognizes your group as an active community planning organization. Please send us copies of the minutes of each meeting you have and any officer changes so that we can maintain your group in an active status.



ARDIS STEVENSON
Public Affairs Director

/lb

Attach.

BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON

In the matter of recognition of
the Rosewood Action Group

ORDER NO. 86-74

This matter coming before the Board of County Commissioners at this time and it appearing to the Board that Clackamas County's adopted Citizen Involvement program provides for the recognition of community planning organizations and that the Rosewood Action Group fulfilled those requirements and was formally recognized by the Board, and

It further appearing that the Rosewood Action Group after several years of inactivity has reactivated itself and asks that it be recognized, and

It further appearing to this Board that Ardis Stevenson has reviewed this request, finds bylaws, organization structure and procedures in conformance with the adopted Citizen Involvement Program and recommends re-recognition of the Rosewood Action Group, now therefore

THIS BOARD FORMALLY recognizes the Rosewood Action Group and hereby makes said organization and the County subject to all provisions of Order No. 73-1659.

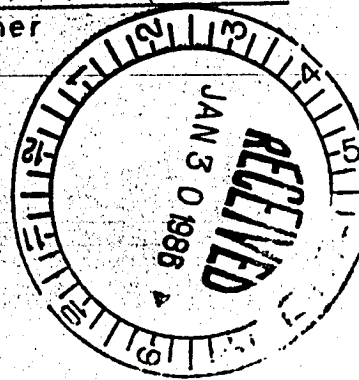
DATED this 23rd day of January, 1986

BOARD OF COUNTY COMMISSIONERS

Dale Harlan - Chairman

Robert Schumacher - Commissioner

Ed Lindquist - Commissioner



ROSEWOOD ACTION GROUP (NEIGHBORHOOD ASSOCIATION)

The list of officers as elected at the December 5, 1985 meeting,
their addresses and phone numbers are the following:

PRESIDENT: Sherry Patterson
18926 S.W. Arrowood Avenue
Lake Oswego, Or. 97034
639-5161

VICE PRESIDENT: Ray Dean
18951 S. W. Indian Springs Circle
Lake Oswego, Or. 97034
639-8572

SECRETARY/TREASURER: Connie Emmons
5101 S. W. Dawn
Lake Oswego, Or. 97034
620-6111

AREA REPRESENTATIVES:

Judy Rogers
6472 S. W. Dawn
Lake Oswego, Or. 97034
639-0967

Maurice (Cliff) Boley
18954 S.W. Indian Springs Circle
Lake Oswego, Or. 97034
639-8572

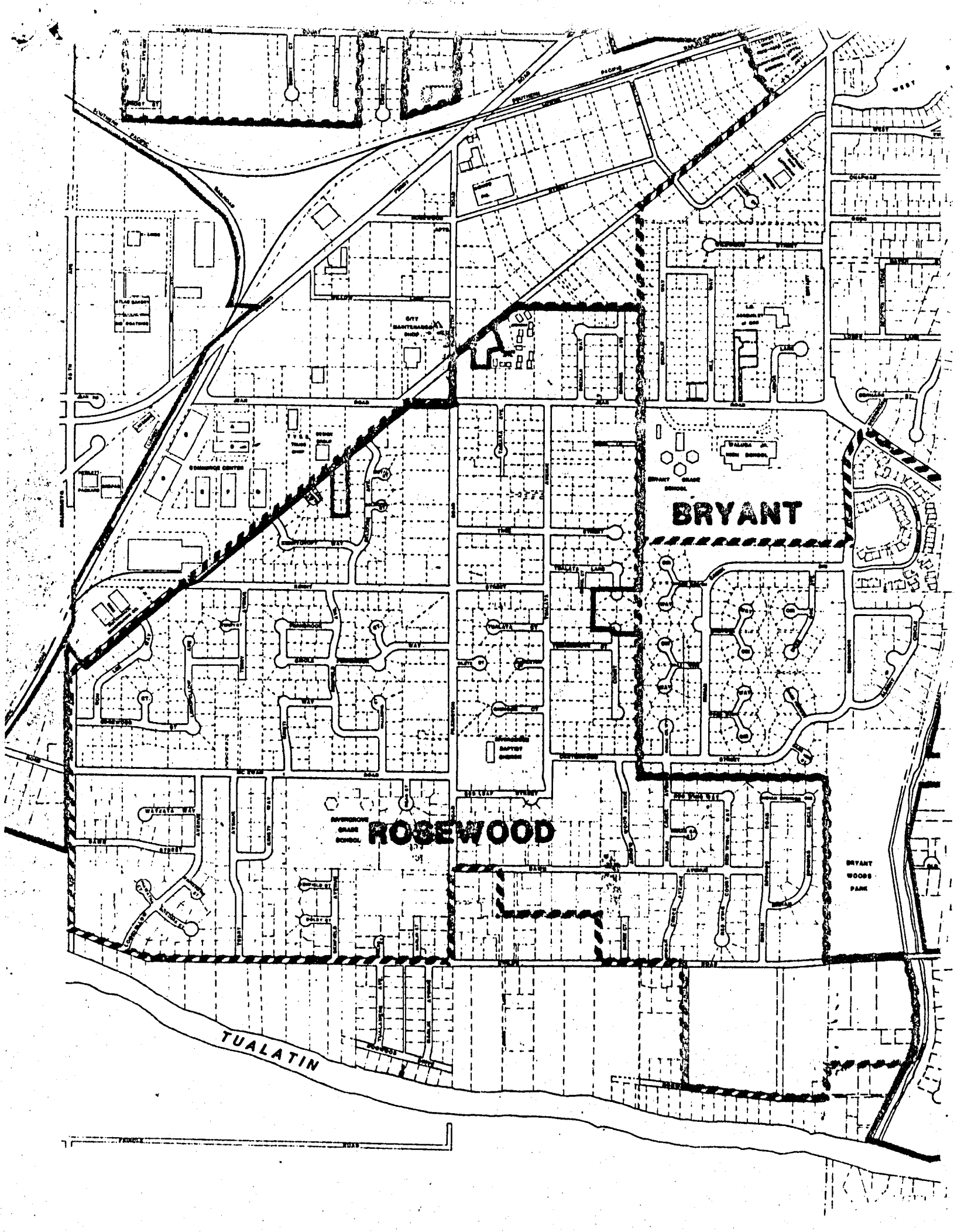
Minutes of R.A.G. meeting held at the Lake Baptist Church on December 5, 1985, are as follows:

The meeting was called to order at 7:30 by Sherry Patterson, acting as chairperson. Connie Emmons acting as Secretary.

Clackmas County still acknowledges the Rosewood Action Group Neighborhood Association, but it has not met the minimal criteria of one annual meeting per year. Therefore we are here tonight to reactivate the Rosewood Action Group with first priority of electing officers. By-laws and a list of officers and their duties were passed out, plus a map showing the boundaries within R.A.G.. Once the R.A.G. is recognized by Clackmas County, any issues which will effect this area will lawfully have to give notice to neighborhood associations of any changes within said boundaries.

Nominations for officers were made. Steve Tischler nominated Sherry Patterson for President. It was seconded by Mike McGuire. It was open for discussion and any additional nominations. Sherry Patterson was unanimously voted President. Then Dick Cassidy nominated Ray Dean as Vice President and it was seconded by Dave Wetmore. It was open for discussion and additions for any other nominees. Ray Dean was then voted in as Vice Pres. Mike McGuire then nominated as Secretary/Treasurer, Connie Emmons. It was seconded by Ray Dean and was open for discussion and any additional nominations. Connie Emmons was then voted in as Sec/Treasurer. Nominations for Area Representatives were then open for discussion. Cliff Boley was nominated by Kan Yagi and was seconded by Alan Patterson. Rosemary Lopez nominated Judy Rogers. Alice Jensen seconded the nomination. Barbara Dean nominated Pat Antinoche which Dick Carlson seconded. There was a show of hands and Judy Rogers and Cliff Boley were voted as our Area Representatives.

High on priorities was to initiate a neighborhood watch program. It was stated by Sherry Patterson, that by working closely with the Bryant Woods Neighborhood Assoc., other Neighborhood Assoc. and the city of Rivergrove we can maximize the prevention of crime more effectively.



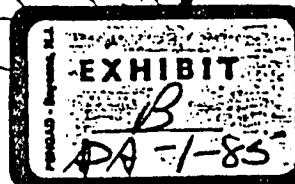
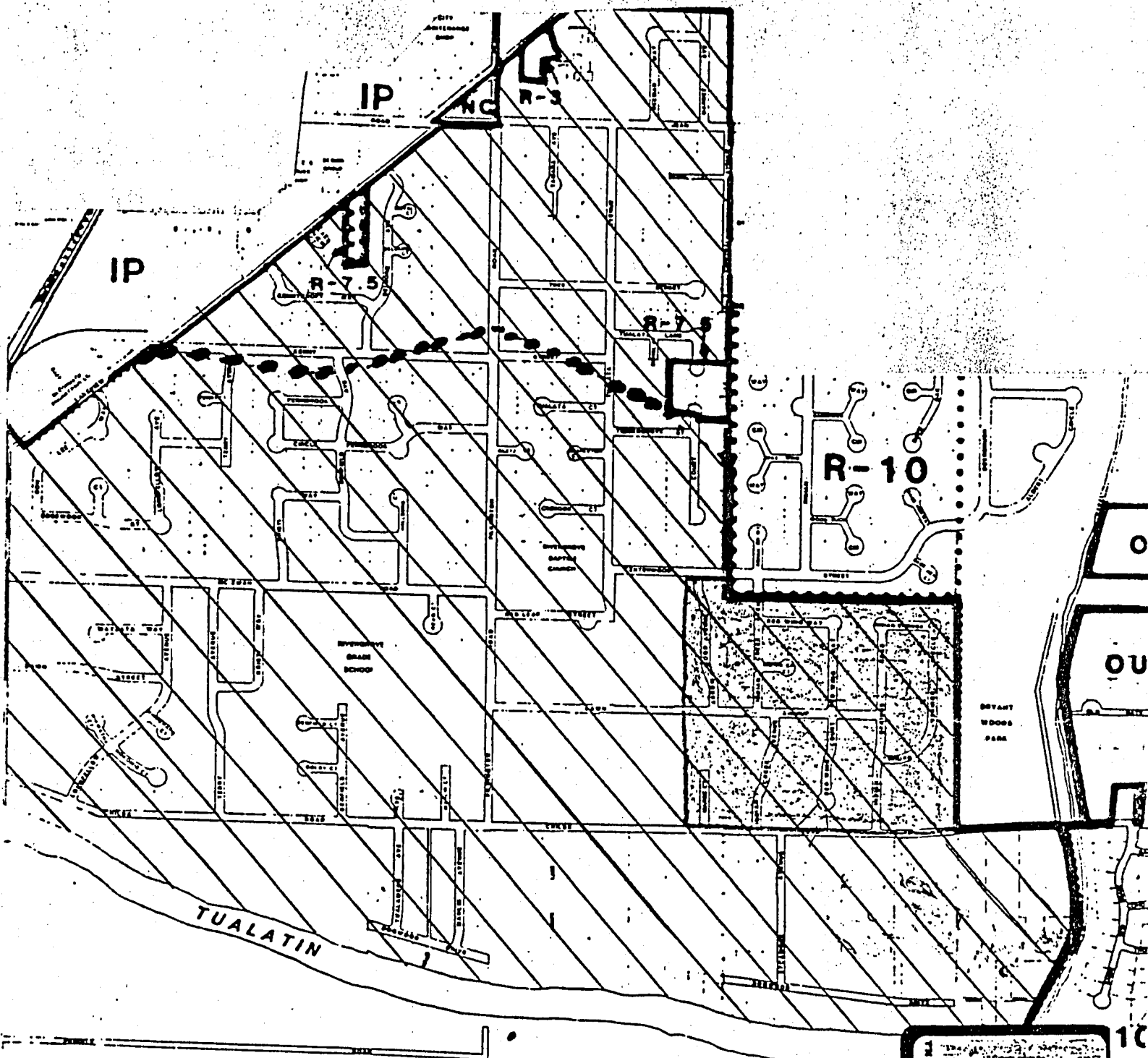
BRYANT

ROSEWOOD

TUALATIN

BRYANT
WOODS
PARK

LAKE OSWEGO'S TEXT AMENDMENT AREA,
WHICH INCLUDES THE AREA OF THE ROSEWOOD
ACTION GROUP NEIGH. BORHOOD ASSOCIATION AND
THE CITY OF RIVERGROVE



ITEM 10

DEPARTMENT OF TRANSPORTATION & DEVELOPMENT formerly

March 21, 1985



In memoriam (1935-1984)
John C. McIntyre

WINSTON W. KURTH ARDIS M. STEVENSON
Director Assistant Director

Lake Oswego Planning Commission
c/o Karen Scott
Lake Oswego City Hall
P.O. Box 369
Lake Oswego, OR 97034

Clackamas County supports the proposed amendment to Lake Oswego's comprehensive plan map to expand its urban service boundary on the southwest side of the City, in response to problems with failing septic systems.

The County Department of Transportation & Development and Department of Utilities urge City action to solve a very critical problem for the following reasons:

Septic Systems

1. The homes of the subdivision, which includes Redwing Court, were built with seepage pits which historically last 15 to 20 years before problems develop.
2. Soils in the area are generally not sufficiently porous to allow for continuous use of seepage pits for waste disposal.
3. The high water table in the area further reduces the ground's ability to absorb sewage effluent and sewage is discharged directly into the groundwater.
4. The present sewage disposal method in the area poses a pollution risk to local groundwater supplies and nearby streams.
5. Lot sizes in the area are too small to accommodate traditional septic system improvements.
6. Sand filter septic systems can be accommodated on some lots at a cost of \$7,000± each.

Sewers

1. "208 Plan" (The Areawide Waste Treatment Management Study adopted in accordance with Sec. 208, Public Law 92500) designates Lake Oswego as the provider of sewer service to the area southwest of the city.
2. The 208 Plan prohibits the County from establishing a sanitary service district or providing sewer service in the area.



Proposed Plan Amendment

1. Amendment of the urban service boundary clarifies Lake Oswego's ultimate responsibility for provision of sewer service.
2. LCDC and Metro require local plans to conform to the regional 208 Plan, and the amendment better conforms to the 208 Plan.
3. The amendment does not require any property to annex to the City, nor does it alter property owners rights to oppose annexation or sewer service.

Clackamas County has received two formal complaints (and an unidentified number of informal complaints) about on-site sewage disposal problems. Because of the potential water quality and health hazard problems that can result from failing systems, we do all we legally can to solve septic system problems. However, as these problems continue or multiply, sanitary sewer service becomes increasingly vital. We encourage the City to aid in solving current and future problems by amending its plan map.

Sincerely,



ARDIS STEVENSON - Director
Communications & Policy Division

/mb

Attach: Keup Memo 3/5/85

cc: David Abraham

Indian Creek/Indian Springs Committee
18926 SW Arrowood Ave.
Lake Oswego, OR 97034

31 October 1985

Rick Gustafson
Metropolitan Service District
527 SW Hall
Portland, OR 97201

RE: "Plan 208" ORDINANCE #84-184, AMENDING
THE REGIONAL PLAN

Dear Mr. Gustafson,

As property owners within the above "Plan 208" area, the undersigned request that you hold public hearings on any revisions or amendments to the above plan.

Since the Water Resources Policy Advisory Committee's (WRPAC) recommendation which was made effective on October 25, 1985, change the waste-treatment facility designee from the UNIFIED SEWAGE AGENCY to THE PORTLAND TYRON CREEK, we request METRO to send back to the committee the above plan and to further study and evaluate which treatment plant facility could provide the more cost-effective service.

Further, since Lake Oswego has been unwilling to provide any written engineering reports in their attempt to expand the Urban Services Boundary, we have been unable to evaluate cost-effectiveness.

Please notify each of the undersigned names as to when the next hearing of METRO regarding the revision of the above-mentioned METRO Ordinance (#84-184) is scheduled, as well as any other relevant public meetings of WRPAC.

We appreciate your allowing further citizen participation by treating this issue at a public hearing rather than as an administrative order.

As signed by the following:

Date	Name	Address
_____	_____	_____
_____	_____	_____
_____	_____	_____

Additional signatures on page 2.

indian creek/INDIAN SPRINGS COMMITTEE

<u>Date</u>	<u>Name</u>	<u>Address</u>
-------------	-------------	----------------

Indian Creek/Indian Springs Committee
18926 SW Arrowood Ave.
Lake Oswego, OR 97034

31 October 1985

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Metropolitan Service District
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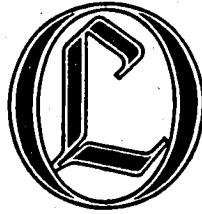
As signed by the following:

Date	Name	Address

Additional signatures on page 2.

indian creek/INDIAN SPRINGS COMMITTEE

<u>Date</u>	<u>Name</u>	<u>Address</u>
-------------	-------------	----------------



CITY OF LAKE OSWEGO

August 19, 1985

Mrs. Sherry Patterson
18926 Arrowood Avenue
Lake Oswego, Oregon 97034

Dear Sherry:

In response to your recent request for items I am enclosing the following:

- 1) Minutes of the City Council meeting of April 16, 1985
- 2) Staff Report dated March 26, 1985

You also requested the staff report for the July 2, 1985 Council meeting. There was no staff report, as the action taken at that meeting was to review and approve the findings, conclusion and order for the action taken on June 18, 1985 relating to PA 1b-85-271.

You also requested when notice was given to the City of Rivergrove for the Map Amendment, PA 1b-85-271. According to our records no notice was sent directly to the City of Rivergrove for the hearing before the City Council.

In a letter to Peter Harvey, dated July 17, 1985 you requested three additional pieces of information. These were:

1. A copy of the Findings, Conclusion and Orders for PA 1b-85-271 and PA 1b-85-249.
2. An engineering report which indicates that Lake Oswego has the capacity to provide sewer service to the Text Amendment area and the Map Amendment Area.
3. The names of property owners in the Text Amendment Area who have petitioned for annexation since July 9, 1985.

It is my understanding that Peter Harvey sent you the copies of the Findings, Conclusion and Orders that you requested.

Sherry Patterson
August 19, 1985
Page two

In regard to an engineering report, as I have previously explained, there is no written engineering report with which to provide you. On the basis of an on-going analysis of the City's sanitary sewer system, the City's engineering department determined we do have the capacity to serve the approximately 136 residences in the area of the map amendment.

Since July 9, 1985 I have not received any petitions for annexation in the area you identified.

If the City can provide you with any additional information, please contact me.

Sincerely,

Karen
Karen M. Scott
Assistant to the City Manager

/ppk
attachments

LAW OFFICES OF
SULLIVAN, JOSSELSON, ROBERTS, JOHNSON & KLOOS

SUITE 430
THE DAYTON BUILDING
838 S. W. FIRST AVENUE

PORTLAND, OREGON 97204

(503) 228-1455
TELEX 277352

240 EQUITABLE CENTER TOWER
530 CENTER STREET, N. E.
SALEM, OREGON 97301

(503) 378-9191

915 OAK STREET, SUITE 101
EUGENE, OREGON 97401

(503) 687-1004

REPLY TO Salem

October 25, 1985

Rivergrove City Council
Rivergrove Planning Commission
PO Box 1104
Lake Oswego, OR 97034

Re: Indian Creek/Indian Springs Area

Dear Council Members and Commissioners:

On behalf of the Indian Creek/Indian Springs Committee (Committee), I would like to correct some misinformation regarding the Indian Creek/Indian Springs area which you recently received in a letter dated October 7, 1985, from Peter Harvey, City Manager of the City of Lake Oswego.

First, Mr. Harvey stated in his letter that this area is within the City of Lake Oswego's Urban Service Boundary (USB). Lake Oswego did, in fact, amend its USB Map on July 2, 1985 to include this area. However, that USB amendment was appealed to the Land Use Board of Appeals (LUBA) by the Committee and three individual property owners in the area. In the Committee's Petition for Review (being sent to you under separate cover), filed October 10, 1985, at least five different bases on which LUBA should reverse or remand Lake Oswego's action were set out. On October 24, 1985, Lake Oswego filed with LUBA a Motion for Entry of Final Opinion and Order (attached) asking for a remand of the decision for further proceedings. In other words, Lake Oswego itself is now asking that its decision be remanded. Once LUBA issues that remand order, the Indian Creek/Indian Springs area will no longer be within Lake Oswego's USB.

Second, Mr. Harvey's letter states that annexation to Rivergrove will eliminate the possibility of sewer service being provided to this area. This is based on the incorrect assumption that Lake Oswego can provide sewer service to this area, and that it is the only possible provider. In fact, Lake Oswego could not legally provide services to this area because the Metropolitan Service District's Regional Waste Treatment Management Plan,

Rivergrove City Council
October 25, 1985
Page 2

which is binding upon all cities, counties and special districts involved in sewage services within Metro's jurisdiction, designates the United Sewerage Agency (USA) as the provider of sewage collection and treatment services to this area (see Petition for Review, pages 15-16 and App-67 to App-70). Thus, it is actually only the USA which could legally service this area.

I hope these points clarify for you Lake Oswego's lack of jurisdiction over the provision of services to the Indian Creek/Indian Springs area.

Sincerely,

A handwritten signature in cursive script, reading "Corinne C. Sherton".

Corinne C. Sherton
Attorney-at-Law

CCS:lsj
cc: Peter Harvey
Sherry Patterson

CITY OF LAKE OSWEGO

CITY MANAGER'S OFFICE

October 7, 1985

City of Rivergrove
Planning Commission
P.O. Box 1104
Lake Oswego, OR 97034

Dear Commissioners:

Thank you for this opportunity to respond to the proposal to annex the Indian Creek area to the City of Rivergrove.

As you are aware, this area is within the Lake Oswego Urban Service Boundary. The City of Lake Oswego is prepared to provide urban services to the area at such time as the residents desire those services.

The provision of sanitary sewer service will continue to be an issue in the coming years. Annexation to Rivergrove of the Indian Creek area would be detrimental to the long-term benefit of the area. Such an annexation would only complicate and prolong the issue, thereby increasing costs to all residents, including those currently within Rivergrove.

Also, annexation to Rivergrove will eliminate the possibility of sewer service for those residents of Indian Creek who now need sanitary sewers and who now desire to annex to Lake Oswego for urban services.

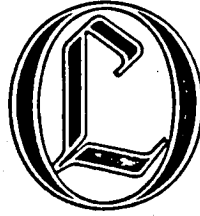
Again, we appreciate this opportunity to comment on the proposal that has been brought before you. The City of Lake Oswego will be happy to provide you with additional information at your request.

Very truly yours,



Peter C. Harvey
City Manager

PCH/sms
0877S



CITY OF LAKE OSWEGO

October 24, 1985

Land Use Board of Appeals
106 State Library Building
Salem, OR 97310

Re: Indian Creek/Indian Springs v.
City of Lake Oswego
LUBA No. 85-055

Dear Sir:

Enclosed for filing is the City of Lake Oswego's Motion for Entry of Final Opinion and Order with regard to the captioned matter.

Sincerely,

James M. Coleman
City Attorney

JMC:rm
Enc.

cc: Mr. Steven L. Pfeiffer

I HEREBY CERTIFY THE FOREGOING
A TRUE COPY OF THE ORIGINAL

BEFORE THE LAND USE BOARD OF APPEALS

OF THE STATE OF OREGON

INDIAN CREEK/INDIAN SPRINGS
COMMITTEE, SHERRY PATTERSON,
RAY DEAN and CLIFF BOLEY,

Petitioners,

v.

CITY OF LAKE OSWEGO,

Respondent.

LUBA No. 85-055

MOTION FOR ENTRY OF FINAL
OPINION AND ORDER

Respondent City of Lake Oswego moves the Board for entry of a final opinion and order in this matter. Respondent requests that the Board remand the decision to the City Council of the City of Lake Oswego for further proceedings. It is not clear from the record whether the Metropolitan Service District was provided notice of the proceedings at issue in this matter as required by LOC 48.805(3). This apparent failure to notify METRO may have prejudiced the substantial rights of the petitioners. The City seeks this remand before oral argument in an effort to minimize the imposition of unnecessary costs to all parties and to allow the City to cure any procedural defects which may have occurred.

The City has requested petitioners' concurrence in this motion, but as of October 24, 1985 has not received a response.

In the event that the Board denies this motion, respondent requests an extension of time for the filing of its brief to a date ten days after the date of the order denying the motion.


James M. Coleman, City Attorney
OSB No. 76101

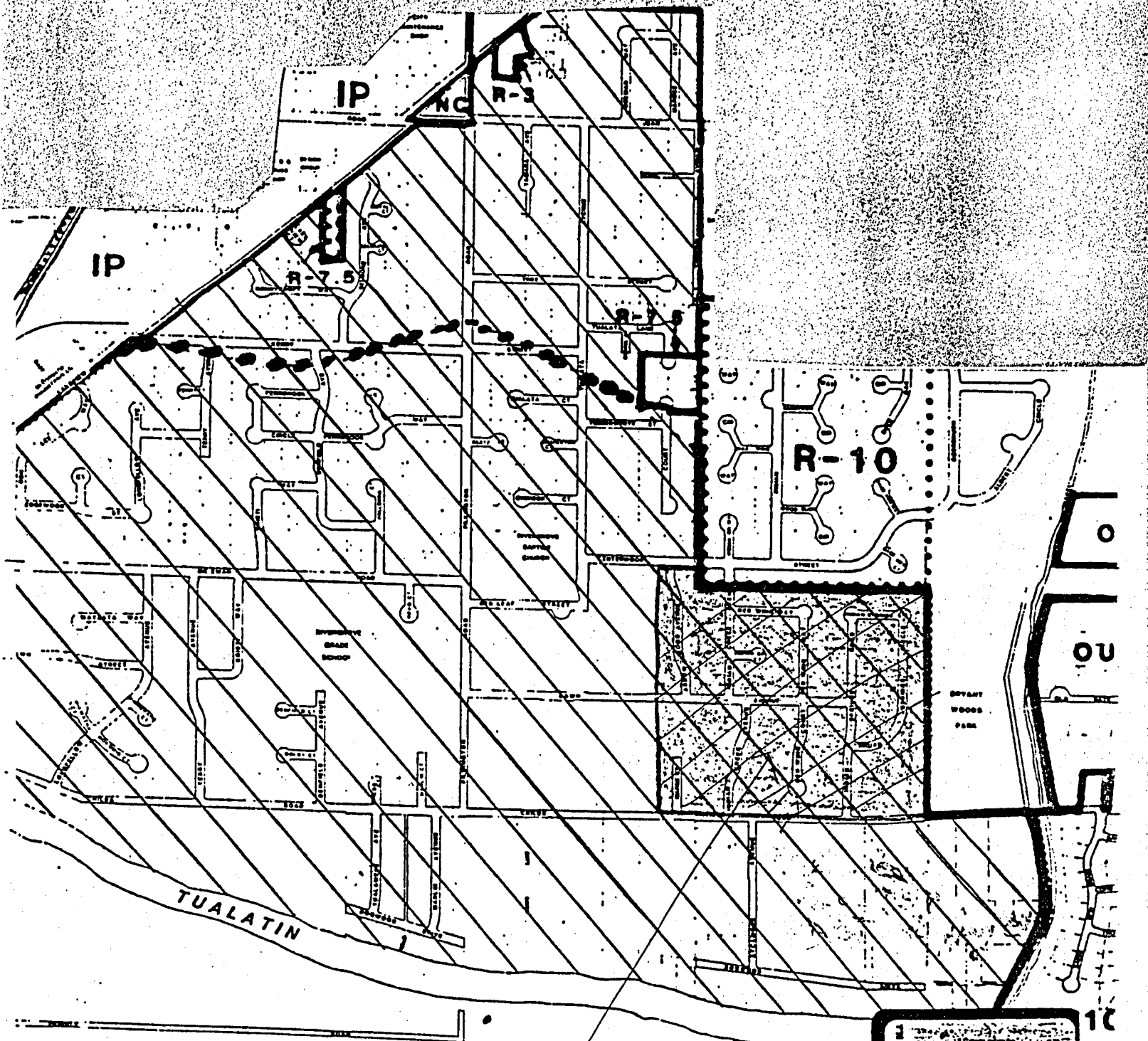
CERTIFICATE OF SERVICE

I hereby certify that on October 24, 1985, a certified true copy of the foregoing Motion for Entry of Final Opinion and Order was served on the following attorney by mail, by depositing the same in a sealed envelope, first class postage prepaid, addressed as set forth below, at the U.S. Post Office in Lake Oswego, Oregon:

Steven L. Pfeiffer
Attorney at Law
838 SW First Avenue, Suite 430
Portland, OR 97204

Dated this 24th day of October, 1985.

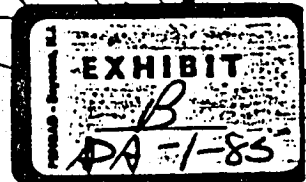

James M. Coleman, City Attorney
OSB No. 76101



LAKE OSWEGO'S
TEXT AMENDMENT
AREA PA-1-85

INDIAN CREEK/
INDIAN SPRINGS
AREA:

L.O.'S MAP AMENDMENT
AREA ON APPEAL
WITH LUBA
PA 16 - 85-271



STAFF REPORT

Agenda Item No. 9.1
Meeting Date Sept. 25, 1986

AGREEMENT WITH MARION COUNTY FOR DELIVERY OF SOLID WASTE

Date: September 19, 1986

Presented by: Steve Rapp

FACTUAL BACKGROUND AND ANALYSIS

The purpose of this staff report is to impart information to: one, authorize an agreement with Marion County for delivery of solid waste; two, transfer funds from the Contingency account to the Materials and Services account in the St. Johns Landfill Program; and three, direct staff to study the mechanism for waiving the Regional Transfer Charge (RTC) for certain haulers.

Metro is committed to reducing waste at the St. Johns Landfill to extend the life of that facility. The Council urged staff to seek diversion of waste to other disposal sites in Resolution 84-491. As a result of this conscious decision to extend the life of St. Johns, Metro has excluded waste from outside the region and negotiated an agreement with Yamhill County. Additionally, the agreement meets the objectives of SB662, where waste reduction is emphasized by a number of methods, including resource recovery.

Other benefits for Metro include the knowledge to be gained about the technology, and the spirit of cooperation between governments. Metro can cooperate with Marion County, providing them insurance that their minimum tonnage limitations will be met.

PROPOSED AGREEMENT

The agreement states that Metro will deliver 40,000 tons per year to either the Marion County Waste-to-Energy Facility in Brooks or the Woodburn Landfill, as directed by the County, except in 1987. That year, 6,700 tons will be disposed the first two months, and 40,000 tons in the final 10 months, for a total of 46,700 tons. Additionally, Metro will consider waiving its fees for waste direct-hauled to the Brooks Facility, to encourage waste diversion from the southern portion of the Metro region. Staff estimates that approximately 10,000 tons could be diverted in that manner.

The agreement is attached at the end of this staff report.

Cost

The cost to Metro of delivering 40,000 tons includes the tip

fee and the haul cost. Between implementation of the agreement (assumed to be September 26, 1986) and March 1, 1987 the tip fee will be \$12.00 per ton. Thereafter, half the waste will be disposed at a base of \$26.00 per ton, which is the estimated commercial rate, minus a haul credit of \$7.25 per ton. The \$12.00 fee for the other half is based on the current fee at Woodburn. The tip fee averages to slightly less than \$15.40 per ton. The haul cost will be \$1.20 per ton, the extra amount Genstar would charge to transport the waste from CTRC to Brooks rather than to St. Johns. That figure is fixed based on a firm bid Genstar gave Metro. All figures used to calculate the tip fee, and the haul credit amount, are subject to adjustment by the Portland-area CPI. The extra haul cost will be less to the extent the County directs Metro to dispose at Woodburn. The agreement will last three years and three months with a mutually-agreed one-year option.

Savings include the reduced operations contract costs at the St. Johns Landfill. Since those costs depend on volumes, an assumption was made that the 40,000 tons per year agreement is the exact amount of diversion necessary to meet the tonnage limitations of the lease agreement with the City of Portland. For the purpose of this analysis, staff assumed such waste will be disposed evenly month by month throughout each time period, and the diversion to Marion County will also be even. The results are summarized in the table below. Five percent annual increases in the Portland-area CPI are assumed. Projected net costs are high in 1987 due to the volume, then drop in 1988, and again rise in 1989, to \$658,000.

	Sept. '86 - Dec. '86	1987
Cost	\$139,000	\$751,000
Minus Savings	<u>3,000</u>	<u>58,000</u>
Net Cost	\$136,000	\$693,000

Metro Budget Impact

Monies will have to be transferred from the Contingency account to the Materials and Services account of the St. Johns Landfill Program to meet the costs of the agreement, as the agreement is unexpected and unbudgeted. The projected net cost between implementation of the agreement and July 1, 1987, is \$471,000 (\$136,000 before December 31, 1986, and \$335,000 in the first half of 1987). If the Council approves this agreement, a resolution amending the budget will be presented for action at the next meeting, October 9, 1986.

RTC Waiver

Staff also recommends considering waiving the RTC for commercial haulers who dispose at the Brooks facility. In that manner, 10,000 tons could be diverted. In addition to reducing

volumes at St. Johns and helping Marion County gain assurance that their volume requirements will be met, this diversion would help reduce the flow at CTRC. Such an action would be consistent with the objective (reducing waste flows at St. Johns) of other actions, such as waiving the RTC at limited use landfills. An ordinance modification may be necessary.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends Council approve the agreement. The Executive Officer will present a resolution to transfer \$471,000 from Contingency to Materials and Services in the St. Johns Landfill Program on October 9, 1986, and direct the staff to review waiving the RTC for waste disposed at the Brooks Waste-to-Energy plant.

SR/sms
9/22/86

AGREEMENT BETWEEN
MARION COUNTY
AND
METROPOLITAN SERVICE DISTRICT
FOR SOLID WASTE DELIVERY

THIS AGREEMENT, made this _____ day of _____, 1986, by and between Marion County, a municipal corporation, herein called the "County," and Metropolitan Service District, a municipal corporation, herein called "Metro," to provide for waste delivery from the Metro service area to the County.

Metro and the County agree as follows:

Definitions:

"Acceptable Waste" means that portion of Solid Waste which has characteristics such as that collected and disposed of as part of normal collection of Solid Waste in the County, such as, but not limited to: garbage, trash, rubbish, refuse, offal, food waste, papers, as well as processible portions of commercial (including cannery) and industrial Solid Waste, and logs if no more than four (4) feet long and/or six (6) inches in diameter, branches, twigs, plant cuttings, excepting, however, Unacceptable and Hazardous Waste.

"Unacceptable Waste" means that portion of Solid Waste exclusive of Hazardous Waste, such as, but not limited to: explosives, pathological and biological waste, radioactive materials, ashes, foundry sand, sewage sludge unless processed to permit incinerations, cesspool and other human waste, human and animal remains, motor vehicles, including such major motor vehicle parts as automobile transmissions, rear ends, springs, fenders, agricultural and farm machinery and equipment, marine vessels and major parts thereof, any other large type of machinery or equipment, liquid wastes, or nonburnable construction materials and/or demolition debris.

1. Metro Duties

- 1.1 Metro agrees to deliver 40,000 tons of solid waste per calendar year to either the Marion County Waste-to-Energy Facility or the Woodburn Landfill, as directed by the County, after receiving at least 24 hours notice from the County of the disposal location.
- 1.2 Metro shall provide all transportation materials and labor for delivery of solid waste in item 1.1.

- 1.3 Metro shall deliver acceptable waste which typically has an energy content (HHV) between 4300 and 4700 BTU per pound.
- 1.4 Metro shall pay a tipping fee to the County at a rate of \$12.00 per ton until March 1, 1987. Half the waste delivered in 1987 after March 1, 1987, shall be paid to the County at a tipping fee of the lesser of \$26.00 per ton and the tipping fee charge County franchised haulers before the benefit from the energy tax credit is included, less a haul credit of \$7.25 per ton. The other half in the 1987 calendar year, will be charge at a tipping fee of \$12.00 per ton with no haul credit. If Metro delivers less than 40,000 tons between March 1, 1987, and December 31, 1987, the rate shall be \$26.00 per ton for the first 20,000 tons less the haul credit of \$7.25 per ton, and \$12.00 for every ton over 20,000 tons with no haul credit.
- 1.5 Beginning January 1, 1988, and each succeeding year the tipping fee paid by Metro and the haul credit shall escalate at a rate equal to the Portland area CPI for all urban consumers for the previous year.
- 1.6 Beginning in January 1, 1988, and the for the remainder of the contract, the tipping fees paid by Metro for half of the waste delivered shall be at the lesser of the escalated \$26.00 (1987) per ton tipping fee or the tipping fee charged County franchised haulers before the benefit from the energy tax credit is included, less the escalated \$7.25 (1987) per ton haul credit. The other half shall be charged at the escalated \$12.00 (1987) per ton tipping fee.
- 1.7 Metro shall deliver waste throughout the year, based on an agreed schedule between the County and Metro. Metro shall not deliver waste during scheduled maintenance down times of the mass burn.
- 1.8 Metro shall require its hauler to maintain in effect during the terms of this agreement:
 - A. Automobile liability insurance in the amount of \$500,000 per occurrence, combined single limit personal injury and property damage;

This agreement shall terminate on December 31, 1989, with an option to extend for 1 year period, if mutually agreed by both parties by written notice.

This agreement may be terminated by mutual agreement of both parties with 30 days written notice.

IN WITNESS WHEREOF the parties have caused this Agreement to be signed by their duly appointed representatives as of this _____ day of _____ 1986.

Metropolitan Service District

Marion County Board of
Commissioners

Chairman

Title

Commissioner

Commissioner

Approved as to Form:

Marion County Legal Counsel

Recommended by:

Director of Public Works

metro.con

- B. Comprehensive general liability in the amount of \$500,000 per occurrence.

Such amounts shall be minimum and may be a greater amount if so directed by the County, pursuant to requirements of public bodies by ORS 30.270. The County shall be named as an additional named insured on all such insurance and receive a certificate of such insurance.

- 1.9 Metro will consider waiving its fees to Metro haulers who haul direct to the mass burn facility, to enhance the economic viability of disposal for those Metro-area haulers and to reduce the use of landfilling in the Metro area.
- 1.10 Monthly billings by the County, shall be paid by Metro within 30 days of date of billing.

2. County Duties

- 2.1 County agrees to accept 40,000 tons of acceptable solid waste per calendar year.
- 2.2 County agrees to accept waste by direct haul from the Metro area over and above the 40,000 tons delivered by Metro, at the tipping fee paid by County franchised haulers, if additional capacity exists at the mass burn facility.
- 2.3 If the County receives waste by direct haul from Metro-area haulers, the County will provide Metro with waste quantity hauled by each hauler.
- 2.4 Metro shall not be liable in any dispute between Ogden Martin Systems of Marion, Inc. and Marion County. Metro shall deliver typical waste from Clackamas Transfer Recycling Center (CTRC). However, if Unacceptable Waste is found, Marion County may request Metro to take back such waste. If so, the County will give Metro a full credit for disposal of an equal amount of waste at no extra cost.

This agreement shall commence on September 26, 1986. Between then and December 31, 1986, Metro will deliver a prorated amount of solid waste, based on 40,000 tons annually, or about 10,000 tons.



GRANT/CONTRACT SUMMARY

METROPOLITAN SERVICE DISTRICT

9.2
9/25/86

GRANT/CONTRACT NO. _____ BUDGET CODE NO. 30 07 00 7500 79000
FUND: Operations DEPARTMENT: Solid Waste (IF MORE THAN ONE) _____
SOURCE CODE (IF REVENUE) _____

INSTRUCTIONS

- OBTAIN GRANT/CONTRACT NUMBER FROM CONTRACTS MANAGER. CONTRACT NUMBER SHOULD APPEAR ON THE SUMMARY FORM AND ALL COPIES OF THE CONTRACT.
- COMPLETE SUMMARY FORM.
- IF CONTRACT IS —
 - SOLE SOURCE, ATTACH MEMO DETAILING JUSTIFICATION.
 - UNDER \$2,500, ATTACH MEMO DETAILING NEED FOR CONTRACT AND CONTRACTOR'S CAPABILITIES, BIDS, ETC.
 - OVER \$2,500, ATTACH QUOTES, EVAL. FORM, NOTIFICATION OF REJECTION, ETC.
 - OVER \$50,000, ATTACH AGENDA MANAGEMENT SUMMARY FROM COUNCIL PACKET, BIDS, RFP, ETC.
- PROVIDE PACKET TO CONTRACTS MANAGER FOR PROCESSING

1. PURPOSE OF GRANT/CONTRACT Solid Waste Stream Characterizations

2. TYPE OF EXPENSE ☒ PERSONAL SERVICES ☐ LABOR AND MATERIALS ☐ PROCUREMENT
☐ PASS THROUGH AGREEMENT ☐ INTER-GOVERNMENTAL AGREEMENT ☐ CONSTRUCTION
☐ OTHER

OR

TYPE OF REVENUE ☐ GRANT ☐ CONTRACT ☐ OTHER

3. TYPE OF ACTION ☐ CHANGE IN COST ☐ CHANGE IN WORK SCOPE
☐ CHANGE IN TIMING ☒ NEW CONTRACT

4. PARTIES SCS Engineers/Metro

5. EFFECTIVE DATE September 26, 1986 TERMINATION DATE August 31, 1987
(THIS IS A CHANGE FROM _____)

6. EXTENT OF TOTAL COMMITMENT:	ORIGINAL/NEW	\$ <u>159,856</u>
	PREV. AMEND	_____
	THIS AMEND	_____
	TOTAL	\$ <u>159,856</u>

7. BUDGET INFORMATION

A. AMOUNT OF GRANT/CONTRACT TO BE SPENT IN FISCAL YEAR 1986-87 \$ 150,000
B. BUDGET LINE ITEM NAME Contract Ser. AMOUNT APPROPRIATED FOR CONTRACT \$ 159,856
C. ESTIMATED TOTAL LINE ITEM APPROPRIATION REMAINING AS OF _____, 19____ \$ _____

8. SUMMARY OF BIDS OR QUOTES (PLEASE INDICATE IF A MINORITY BUSINESS ENTERPRISE)

<u>Cal Recovery</u>	\$ _____	<input type="checkbox"/> MBE
SUBMITTED BY _____	AMOUNT	
<u>Ferraud & Scheinberg</u>	\$ _____	<input type="checkbox"/> MBE
SUBMITTED BY _____	AMOUNT	
<u>Brown Venee & Associates</u>	\$ _____	<input type="checkbox"/> MBE
SUBMITTED BY _____	AMOUNT	

9. NUMBER AND LOCATION OF ORIGINALS Metro, Contractor, Contract Administration Office

10. A. APPROVED BY STATE/FEDERAL AGENCIES? ☐ YES ☐ NO ☒ NOT APPLICABLE
 B. IS THIS A DOT/UMTA/FHWA ASSISTED CONTRACT ☐ YES ☒ NO
11. IS CONTRACT OR SUBCONTRACT WITH A MINORITY BUSINESS? ☐ YES ☒ NO
 IF YES, WHICH JURISDICTION HAS AWARDED CERTIFICATION _____
12. WILL INSURANCE CERTIFICATE BE REQUIRED? ☐ YES ☒ NO
13. WERE BID AND PERFORMANCE BONDS SUBMITTED? ☐ YES ☒ NOT APPLICABLE
 TYPE OF BOND _____ AMOUNT \$ _____
 TYPE OF BOND _____ AMOUNT \$ _____
14. LIST OF KNOWN SUBCONTRACTORS (IF APPLICABLE)
- | | | |
|---|-------------------------------|---|
| NAME <u>Resource Construction Consult</u> | SERVICE <u>Field Sampling</u> | <input type="checkbox"/> MBE |
| NAME <u>Coffey Labs</u> | SERVICE <u>Lab Tests</u> | <input checked="" type="checkbox"/> MBE |
| NAME _____ | SERVICE _____ | <input type="checkbox"/> MBE |
| NAME _____ | SERVICE _____ | <input type="checkbox"/> MBE |
15. IF THE CONTRACT IS OVER \$10,000
 A. IS THE CONTRACTOR DOMICILED IN OR REGISTERED TO DO BUSINESS IN THE STATE OF OREGON?
☐ YES ☒ NO
 B. IF NO, HAS AN APPLICATION FOR FINAL PAYMENT RELEASE BEEN FORWARDED TO THE CONTRACTOR?
☐ YES DATE _____ INITIAL _____
16. COMMENTS:

GRANT/CONTRACT APPROVAL

INTERNAL

COUNCIL REVIEW (IF REQUIRED)

DEPARTMENT HEAD

1. _____
COUNCILOR

DATE

FISCAL REVIEW

2. _____
COUNCILOR

BUDGET REVIEW

3. _____
COUNCILOR

LEGAL COUNSEL REVIEW AS NEEDED:

- A. DEVIATION TO CONTRACT FORM _____
- B. CONTRACTS OVER \$10,000 _____
- C. CONTRACTS BETWEEN GOVERNMENT AGENCIES _____

of personnel expertise. Key personnel for this contract include:

Robert Stearns, Principal in Charge

Phil Newton, Project Manager

Anthony DiPuccio, Senior Project Engineer

Jerry Powell, Field Director/Reviewer.

ARTICLE II

COMMENCEMENT & COMPLETION OF AGREEMENT

CONTRACTOR shall complete all professional services described in Attachment A in the sequence listed and according to the project schedule. CONTRACTOR shall not be liable for delays due to factors beyond the CONTRACTOR's control including but not limited to strike, riot and acts of God. Such delay shall not be cause for increase of the contract amount.

ARTICLE III

AGREEMENT SUM

The maximum sum of ONE HUNDRED FIFTY NINE THOUSAND EIGHT HUNDRED AND FIFTY SIX (\$159,856) DOLLARS, will be paid in the manner and at the time designated in Article IV for the services performed and materials delivered as described in Attachment A. The maximum amount of this Agreement includes reimbursable expenses as defined in Article V.

ARTICLE IV

TERMS OF PAYMENT

As consideration for providing professional services enumerated in Article I, METRO shall pay the CONTRACTOR:

AGREEMENT TO FURNISH CONSULTING SERVICES
TO THE
METROPOLITAN SERVICE DISTRICT
FOR
SOLID WASTE CHARACTERIZATION STUDY

This Agreement is executed this _____ day of _____, 1986, by and between the METROPOLITAN SERVICE DISTRICT, a municipal corporation, hereinafter referred to as "METRO," whose address is 2000 S.W. First Avenue, Portland, Oregon 97201-1646, and Stearns, Conrad and Schmidt Consulting Engineers, Inc., hereinafter referred to as "CONTRACTOR," whose address is 1008 140th Avenue Northeast, Bellevue, WA 98005-5800.

THE PARTIES AGREE AS FOLLOWS:

ARTICLE I

SCOPE OF WORK

A. This Agreement is exclusively for personal services to METRO for the performance of a Solid Waste Characterization Study. Upon receipt of a separate written notification from METRO to proceed, CONTRACTOR shall perform as an independent contractor the services and deliver to METRO the material described in the Scope of Work attached hereto as Attachment A. All services and materials shall be provided in a competent and professional manner in accordance with the Scope of Work.

Throughout the performance of this Agreement, CONTRACTOR agrees to assign the key personnel as listed below unless METRO first agrees to changes in personnel (1) due to changes in the Scope of Work, or (2) due to reassignment of personnel by CONTRACTOR which is appropriate and will not result in a reduction

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may invoice METRO for the time and materials expended for Tasks, plus reimbursable expenses, during the previous month. Each invoice shall be supported by a Progress Report of the work completed on a task by task basis. The invoice shall identify prior billings and total to date for each of the cost categories shown in Attachment A. Each invoice must be approved in writing by METRO prior to payment in accordance with Section E of this Article.

E. METRO shall pay CONTRACTOR for the amount of approved invoices within thirty (30) days after receipt of invoices, except that METRO may retain five (5) percent of compensation of personal services for each invoice except the final invoice. Retainage for each task shall be paid at the CONTRACTOR's written request upon satisfactory completion of the task. Such payment shall not release CONTRACTOR from its responsibility to take corrective measures to achieve satisfactory performance of that task at METRO's subsequent request, nor bar METRO from withholding payment from subsequent tasks pending satisfactory correction of a task for which retainage has been paid.

F. CONTRACTOR shall notify METRO in writing when all services are completed and all terms of this Agreement are satisfied by CONTRACTOR. If METRO agrees, it shall acknowledge in writing within twenty (20) working days that the services are accepted. If METRO disagrees, it shall so notify CONTRACTOR in writing within twenty (20) working days and advise of

A. For the services described in Scope of Work, Attachment A, the amount of the CONTRACTOR's labor costs, subconsultant costs, reimbursable expenses and indirect costs expended for the services per each task at the rates shown in the Budget, Attachment A. Transfer of expenditures between tasks in the Scope of Work shall be authorized in advance by METRO. If authorized in advance by METRO to accelerate the schedule at METRO's request, expense of overtime work may require higher than regular rates.

B. For additional services authorized by METRO but not specifically provided for hereunder, METRO shall pay the CONTRACTOR the amount of CONTRACTOR's costs, on the same basis stated in ARTICLE IV, A.

C. METRO reserves the right to change, add or delete items as presented in the Scope of Work as necessary by METRO or its representatives and such items will be addressed by the CONTRACTOR, unless CONTRACTOR objects in writing within ten (10) days after receipt of such changes, deletions or additions that they materially change the Scope of Work. METRO and CONTRACTOR shall negotiate an equitable adjustment in the contract sum for such changes. If METRO and CONTRACTOR cannot agree on an equitable adjustment of the contract sum, at METRO's written direction, CONTRACTOR shall continue to perform its duties under this Agreement, including the change, addition or deletion at issue, and the dispute shall be resolved as soon as possible.

D. On or before the 15th day of each month, CONTRACTOR

ARTICLE VI

METRO'S RESPONSIBILITIES

A. METRO shall provide information regarding the requirements for the Scope of Work.

B. METRO designates Wayne Rifer, Analyst, Solid Waste Department, as its representative authorized to act in its behalf. The representative shall examine submissions made by the CONTRACTOR and shall render decisions pertaining thereto promptly to avoid unreasonable delay in the progress of the CONTRACTOR's work.

C. METRO shall furnish information requested by CONTRACTOR when mutually agreed on as expeditiously as necessary for the orderly progress of the work, and the CONTRACTOR shall be entitled to rely upon the accuracy and completeness thereof.

D. METRO shall assist CONTRACTOR in coordination with the operators of disposal facilities.

ARTICLE VII

CONSULTANT'S ACCOUNTING RECORDS

Records of the CONTRACTOR's services performed and the record of direct cost expenditures pertaining to the Scope of Work shall be kept in accordance with the work schedule and fee schedule attached hereto in a generally recognized accounting basis and shall be available to METRO or its authorized representative for a period of three (3) years. The general format of CONTRACTOR's monthly invoices to METRO will be subject to the review and approval of METRO prior to commencement of work on the project.

deficiencies. Thereupon, CONTRACTOR shall take or cause its subconsultant to take corrective measures, upon the conclusion of which METRO shall then issue its acceptance of the services.

G. Upon receipt of METRO's acceptance of services, CONTRACTOR may submit its final invoice for all retainage and for any other amounts which may then be due and payable.

ARTICLE V

EXPENSES

METRO shall reimburse CONTRACTOR at cost plus 15% for all "out of pocket" expenses incurred in the completion of Tasks and directly chargeable to the work at the then current rates for the following services:

- . Expense of transportation in connection with the Project; living expenses in connection with out-of-town travel; and long distance communications.
- . Expense of reproductions, postage and handling of documents.
- . Expense of data processing and photographic production techniques when used in connection with the project.
- . Materials and supplies required for the project.

These expenses are included in the maximum sum in ARTICLE III for the attached Scope of Work.

business without accounting to METRO unless otherwise specified by METRO.

ARTICLE X

TERMINATION

METRO may terminate this Agreement in its sole discretion upon giving CONTRACTOR seven (7) days written notice. In the event of termination, CONTRACTOR shall be entitled to payment for labor actually performed at the rates in Attachment A and reimbursable expenses incurred to the date of termination. Termination by METRO will not waive any claims or remedies it may have against CONTRACTOR.

ARTICLE XI

PUBLIC CONTRACTS

CONTRACTOR shall comply with all applicable provisions of ORS Chapters 187 and 279 and all other conditions and terms necessary to be inserted into public contracts in the State of Oregon, as if such provisions were a part of this Agreement. CONTRACTOR acknowledges receipt of copies of ORS 187.010 - .020 and 279.310 - .430.

ARTICLE XII

SUCCESSORS & ASSIGNS

METRO and the CONTRACTOR each binds itself, its partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect

ARTICLE VIII

LIABILITY & INDEMNITY

A. CONTRACTOR is an independent contractor and assumes sole responsibility for the contents of its work and performance of its services.

B. CONTRACTOR acknowledges responsibility for liability arising out of performance of this Agreement, and CONTRACTOR shall defend indemnify and hold METRO, its agents and employees, harmless from any and all claims, demands, damages, actions, losses, and expenses, including attorney's fees, arising out of or in any way connected with any act, error or omission in performance of this Agreement for which CONTRACTOR would be liable to claimant, or with any claims or disputes involving CONTRACTOR subconsultants.

C. CONTRACTOR shall be liable, including attorney's fees, for any and all damages to the sampling sites that may result from the services performed by CONTRACTOR under this Agreement.

ARTICLE IX

INFORMATION, REPORTS AND DATA

All information, reports, and data collected or prepared by CONTRACTOR or its subconsultants hereunder shall become the property of METRO and may be used by METRO for any purposes whatsoever. CONTRACTOR shall have the right to use copies of all such documents prepared by it hereunder in the conduct of its

to all covenants of this Agreement. This Agreement may not under any condition be assigned or transferred by either party.

ARTICLE XIII

SUBCONTRACTS

All subconsultants must be approved by METRO.

CONTRACTOR is solely responsible for the payment of subconsultants retained by CONTRACTOR, none of whom are or will be third parties to the Agreement.

ARTICLE XIV

In the event suit or action is instituted to enforce any right granted herein, the prevailing party shall be entitled to in addition to the statutory costs and disbursements, a reasonable attorney's fee to be fixed by the trial court; and on appeal, if any, similar fees in the appellate court to be fixed by the appellate court.

ARTICLE XV

EXTENT OF AGREEMENT

This Agreement represents the entire and integrated Agreement between the parties and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both parties.

SCS CONSULTING ENGINEERS, INC.

METROPOLITAN SERVICE DISTRICT

By: _____

By: _____

Date: _____

Date: _____

including haul vehicle selection, waste component segregation and methods for handling hazardous waste.

The basis for determining the adequacy of the number of samples inside and outside the burn ban area will be prepared.

2. Waste Sampling

A three "seasonal" sampling will be conducted. To achieve 8 to 10 samples per day per site, a crew of at least 4 sorters per site as well as a sort supervisor will be necessary. One crew per each disposal location will operate for one week during each sampling season.

Selected waste samples will be hand-sorted into the waste characterization categories specified during the planning stage. Sampling will occur on a vehicle type basis in proportion to weight data provided by Metro. Vehicle types will be rear-load packers, front-load packers, commercial drop boxes, and self-haul vehicles.

Sampling sites will be:

- a. St. John's Landfill
- b. Clackamas Transfer and Recycling Center
- c. Killingsworth Fast Disposal Landfill.

Consideration will be given, however, to conducting less than full sorting at Killingsworth Fast Disposal. Reduction in this area will be based on a review of data provided by Metro and others and discussions with Metro early in this task.

Samples will also be identified by source location and the type of generators. The source will be recorded relative to the general geographic location of the route and relative to the burn ban area. If this information cannot be reliably obtained from the driver, SCS will notify Metro so that Metro may take action to obtain that information from the collection company.

Laboratory analyses will be conducted in accordance with GBB's recommendation and the budget dollar amount. The lab analysis will be conducted during the first sampling period only. Separate analyses for residential and commercial wastes are anticipated.

3. Analysis

SCS will compile and correlate waste composition data. This

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ATTACHMENT A

SCOPE OF WORK FOR THE SOLID WASTE CHARACTERIZATION STUDY

Any of the following tasks may be altered or substitutions of equivalent tasks made during the course of the contract by mutual agreement of METRO and the CONTRACTOR. Further tasks may be identified which may require modifications in the contract and budget. Transfer of time or expenditures between tasks or to new tasks shall be authorized in advance by METRO.

TASK 1: FULL WASTE STREAM ANALYSIS OF LANDFILL DISPOSED PORTION

OBJECTIVE

Determine the quantity and material composition of the waste stream currently disposed by landfilling, including composition analysis by rear-loaders, front-loaders, drop boxes and self-hauls.

This task will provide input to several Metro programs:

1. Provide baseline data for comparing the composition of waste disposed in future years.
2. Aid in developing overall reduction priorities for target materials.
3. Provide the basis for conducting analyses for material recovery systems, alternative technology and small quantity hazardous waste programs.

WORK SCOPE

1. Planning

A detailed approach to this task will be developed in cooperation with Metro, GBB, RCC, DEQ, facility operators, and haulers. A list of sort categories will be developed and agreed to by Metro and the contractor, including target materials for recovery. Approximately 12 waste characterization categories will be selected, for which a confidence interval of 90% and a plus or minus 10% precision will be provided for combined data for St. John's Landfill and CTRC.

Detailed haul vehicle data sheets will be developed and reviewed with Metro.

Detailed procedure/method for sampling will be developed

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not permit the waste to be processed for recovery will be identified and the reasons documented.

Once a pre-selected drop box arrives at CTRC, it will be sampled to determine the percentages of corrugated and office paper relative to the total load.

This effort will be limited to a maximum of six generator types for a total of 12 drop boxes. This effort will be separate from TASK 1.

2. Planning for High-Grade Aggregate Loads

The data obtained from sampling high-grade drop boxes during the first sampling period of TASK 1 will be evaluated to develop a case study on aggregating loads for delivery to a high-grade processor.

The development of this case study will include:

- o Evaluation of available existing data on the effects of fluctuations in recycling material market prices on amounts of corrugated and office paper available to processors.
- o Evaluation of available existing data for the effects of variations in material generation caused by holidays.
- o Upon development of a draft plan for a case study, local haulers will be contacted to obtain their input. In addition, Metro will review and comment on the draft plan. The plan will be revised to produce a final plan for the case study.

3. Case Study

A case study will be conducted upon approval of the plan by Metro. The study may include such techniques as follows:

a. Generator Inspection

- o Select commercial routes and specific generators for examination.
- o Tour the route on a collection vehicle and visually inspect waste containers from target generators on route. Classify waste as to feasibility of recovery: percent of recoverable material; identify presence of problem contaminants.

b. Special Load Generation

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will include composition statistics for each facility, for each type of delivery vehicle, and for the aggregate.

TASK 2: HIGH-GRADE COMMERCIAL WASTE ANALYSIS

OBJECTIVE

Estimate the quantity and composition of recoverable materials from high-grade commercial loads.

The task will assist Metro in:

1. Defining generator types that dispose of high-grade recoverable materials.
2. Defining the feasibility of high-grade load generation in relation to the type and quantity of recoverable materials produced by each generator, the presence of problem contaminants, and the geographic concentration of those generators.
3. Identify potential generation practices which could make recovery more feasible and the types of generators to which they apply.

WORK SCOPE

1. High-Grade Drop Box Study

This sub-task will concentrate on pre-selected drop boxes expected to contain high percentages of corrugated material and office paper. Sorting will be performed at CTRC only.

A meeting will be conducted with representatives of commercial high-grade waste processing centers to discuss generator types producing waste high in corrugated and office paper. In addition, other available information will be pursued with processing centers relative to potential generators for sampling.

In cooperation with Metro, a generic list of expected high-grade commercial generators will be developed. Specific generators will be selected as representative for sampling.

Drop boxes used by specific generators will be tagged if permission is granted by the generator and its hauler. The tag will be used to identify the drop boxes at CTRC for sampling. The tag will also contain information relative to the generator type, location, size, etc.

Any cases where the intent or wishes of the generator would

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2. Self-Haul Load Sampling

- o Randomly select self-haul loads; record weight of all selected loads using Metro provided scales.
- o Remove tarp and classify the load before tipping (see self-haul load classification system)
- o Tip load on flat floor.
- o Spread out and again classify the load.
- o Class 1 loads -- discard
- o Class 2 loads --
 - Interview the driver to determine geographic source, specific source of material, etc.
 - specify the major recoverable materials by weight.
- o Class 3 and 4 loads --
 - Interview the driver to determine geographic source, specific source of material, etc.
 - Record the major observed recoverable materials
 - Weigh the major recoverable components.
 - Identify the type and separability of contaminants
 - Make notes regarding methods of separating the recoverable materials from contaminants
 - Identify any hazardous wastes and note any potential dangers to manual sorters
- o Class 5 loads --
 - Interview the driver to determine geographic source, specific source of material, etc.
 - record material
 - Discard load

This sampling procedure shall be performed for 4 days each at St. Johns and CTRC by a two-person crew. Three days at each facility will be devoted to self-haul vehicles and one day to drop boxes. A total of approximately 70 self-haul loads should be sampled at each site.

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- o Produce truck loads of waste from selected groups of target commercial waste generators as defined in TASK 1 by running a special collection vehicle.
- o Sort and weigh recyclable materials for each truck.

4. Analysis

Based on the work under this task, the following will be provided:

- o Composition information for waste generator types.
- o A preliminary list of generator types to include in high-grade commercial routes.
- o Identify practices by generators which could make recovery more feasible.

The level of effort anticipated for the conduct of the case study and analysis of case study is \$6,000. For this level of effort, it is anticipated that up to three high-grade commercial loads can be collected for analysis.

TASK 3: SELF-HAUL AND DROP BOX LOAD ANALYSIS

OBJECTIVE

Analyze self-haul waste to determine quantities of reusable items, recoverable material and obvious quantities of hazardous wastes. Analyze selected drop boxes to determine quantities of yard waste and hazardous wastes. This objective contributes to Metro programs related to the design of disposal facilities for material recovery activities.

WORK SCOPE

1. Study Planning and Organization

- o Work with Metro to identify markets for reusable items and aid in development of method to measure reusability of items.
- o Finalize a classification system for self-haul loads and drop boxes.
- o Develop list of potential methods for recovery of recoverable materials at transfer station and landfill.
- o Set up sampling operation.

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- o Estimate approximate percentages and total amounts of recoverable materials from self-haul and drop box loads.
- o Identify and evaluate major impediments to recovering materials (difficult contamination and hazards).
- o Summarize and draw conclusions regarding preferred methods of recovering materials.
- o Propose methods to evaluate loads on arrival.

TASK 4: MEETINGS

OBJECTIVE

Attend meetings with Metro, DEQ, GBB, GSX, BFI, etc. Facilitate communications and exchange of information between the project team, resource personnel and Metro.

The meetings will also allow clarification and face-to-face discussion of items such as study and task methodologies, interpretation of data, and implications of the findings to the Metro waste reduction program.

WORK SCOPE

The hours allotted include actual time in meetings, labor to document the meetings, and associated travel costs.

A plan will be developed which describes the purpose, participants, approximate scheduling and cost for all proposed meetings, excluding the planning meeting at the project kick-off. The plan will be approved by Metro before the meetings are scheduled.

A total of five meetings are envisioned. Attenders shall include at least one representative of SCS and RCC, and appropriate members of Metro's staff and other interested parties/agencies. Prior to each meeting, SCS will prepare a draft agenda, materials for the meeting, and recommendation for attendance. Following Metro approval, Metro will be responsible for meeting room arrangements and distribution of agenda materials.

TASK 5: ANALYSIS AND PREPARATION OF PROGRESS AND FINAL REPORT

Analysis shall be performed upon the conclusions of each task. Upon conclusion of the project, a final analysis will be carried out in coordination with Metro staff to address the following issues:

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Any cases where the intent or wishes of the generator would not permit the waste to be processed for recovery will be identified and the reasons documented.

Self-Haul Load Classification System

1. Load contains essentially no recoverable materials (less than 5%).
2. Load contains minor amounts of easily recoverable material (5% - 15%).
3. Load contains major portions of recyclable materials (15% - 99%).
4. Load contains major portions of yard debris (15% - 99%).
5. Load contains 100% recoverable material.

3. Drop Box Sampling

This sampling shall not duplicate the TASK 2--High-Grade Drop Box Study. This study looks specifically at drop boxes which are not processible in a high-grade recovery facility to identify large percentages of yard debris.

- o Select a representative sample of such loads.
- o Tip load on flat floor, spread out and record the major observed yard debris and contaminants.
- o Visually estimate the percentage of yard debris.
- o Record the type and separability of contaminants.
- o Make notes regarding methods of separating the yard debris from contaminants.
- o Identify any hazardous wastes and note any potential dangers to manual sorters.
- o Interview the driver to determine geographic source, general type of material, etc.
- o Discard load.

4. Data Analysis

- o Determine percentages of self-haul loads and weight in each category.

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PROJECT SCHEDULE

Work shall begin immediately upon signing of the contract.

Anticipated schedule for performance of TASK 1: Full Waste Stream Analysis of Landfill Disposed Portion:

Study Planning	Sept 26 - Oct 20
First Sample	Nov 1 - Nov 21
Report Resource Recovery Data	Dec 15
Report Results of First Sample	Jan 1
Second Sample	Jan 19 - Feb 7
Report Results of Second Sample	Mar 23
Third Sample	Apr 20 - May 9
Report Results of Third Sample	May 25

Anticipated schedule for performance of TASK 2: High-Grade Commercial Waste Analysis:

High-grade Drop Box Study	Oct 20 - Nov 14
Planning for High-grade Study	Jan 1 - Jan 19
High-grade Study	Jan 19 - Feb 23
Analysis	Feb 23 - Mar 16

Anticipated schedule for performance of TASK 3: Self-Haul and Drop Box Load Analysis:

Study Planning	Sept 26 - Oct 20
Self-haul and Drop Box Sampling	Oct 27 - Oct 31
Analysis	Oct 25 - Nov 17

Anticipated schedule for performance of TASK 4: Meetings

Present Meeting Plan	Nov 17
Meetings Will Proceed According to Schedule in Meeting Plan	

Anticipated schedule for performance of TASK 5: Analysis and Preparation of Progress and Final Report:

Analysis and Presentation of Results	May 25 - June 12
Draft Final Report	June 29
Final Report	July 20

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- o Baseline waste stream composition for waste currently disposed at landfills.
- o Generation and collection characteristics for target materials.
- o The methods to be used to develop waste reduction performance goals based on the project.

This analysis and a presentation of the results of the study shall involve consultation with Metro staff and possible meetings with key players in the region's solid waste system.

Results of the entire study will be presented in a final report. Full reporting of all information collected shall be presented upon completion of the contract. It shall be reported so as to allow for comparison among samplings and an overview of all results. Consultant shall provide three (3) copies of the draft report to Metro for review. Consultant shall make changes as requested and deliver 25 copies of the final report. Consultant shall also provide final data in a computer file on a 5 1/4 inch double density floppy disk. Such data shall be readable by Lotus 1-2-3 spreadsheet software running on an IBM PC compatible microcomputer.

Progress Reporting:

Written progress reports shall be submitted by the 15th day of each month throughout the contract period. These reports shall summarize the work completed in the preceding month and plans for work in the current month. Preliminary findings shall be reported upon the conclusion of each separate analysis (e.g., material composition figures shall be reported following each seasonal sampling under Task 1).

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Portland Waste Stream Characterization and Recovery Feasibility Study

Budget Estimate for Project by Task															
			Waste Stream Charact.		High Grade Analysis		Self-Haul & Drop Box		Meetings		Report Preparation				
KEY		RATE	TASK 1	TASK 1	TASK 2	TASK 2	TASK 3	TASK 3	TASK 4	TASK 4	TASK 5	TASK 5	PROJECT	PROJECT	
PERSONNEL	LABOR CATEGORY	\$/hr	HOURS	COST	HOURS	COST	HOURS	COST	HOURS	COST	HOURS	COST	HOURS	COST	
SCS LABOR ALLOCATION AND COST															
R. Stearns	Principal in Charge	\$98.00	6	\$588	4	\$392	2	\$196	16	\$1,568	6	\$588	34	\$3,332	
P. Newton	Project Manager	\$62.00	88	\$5,456	16	\$992	16	\$992	40	\$2,480	24	\$1,488	184	\$11,408	
A. DiPuccio	Sr. Project Engineer	\$70.00	64	\$4,480	36	\$2,520	8	\$560	40	\$2,800	40	\$2,800	188	\$13,160	
G. Yogi	Project Engineer	\$55.00	80	\$4,400		\$0		\$0		\$0		\$0	80	\$4,400	
D. Demichels	Staff Scientist	\$45.00	184	\$8,280		\$0		\$0		\$0	16	\$720	200	\$9,000	
J. Stamm	Project Engineer	\$40.00	36	\$1,440		\$0	12	\$480		\$0	24	\$960	72	\$2,880	
	Technical Staff	\$38.50	360	\$13,860		\$0		\$0		\$0		\$0	360	\$13,860	
	Drafter	\$35.00	20	\$700		\$0		\$0		\$0	20	\$700	40	\$1,400	
	Secretary/Data Entry	\$28.00	220	\$6,160	8	\$224	20	\$560	12	\$336	36	\$1,008	296	\$8,288	
SCS Subtotal			1058	\$45,364	64	\$4,128	58	\$2,788	108	\$7,184	166	\$8,264	1454	\$67,728	
RCC LABOR ALLOCATION AND COST															
J. Powell	Task Leader/Reviewer	\$61.00	40	\$2,440	44	\$2,684	16	\$976	40	\$2,440	24	\$1,464	164	\$10,004	
M. Steinberger	Sr. Project Scientist	\$39.00	24	\$936		\$0	8	\$312		\$0		\$0	32	\$1,248	
B. Walker	Sr. Project Scientist	\$39.00	480	\$18,720	64	\$2,496	68	\$2,652		\$0	12	\$468	624	\$24,336	
	Secretary	\$22.00	40	\$880	16	\$352	12	\$264	6	\$132	6	\$132	80	\$1,760	
	Landfill Sort Crew	\$9.00	1904	\$17,136	48	\$432	64	\$576		\$0		\$0	2016	\$18,144	
RCC Subtotal			2488	\$40,112	172	\$5,964	168	\$4,780	46	\$2,572	42	\$2,064	2916	\$55,492	
Labor Total			3546	\$85,476	236	\$10,092	226	\$7,568	154	\$9,756	208	\$10,328	4370	\$123,220	
Other Direct Costs				\$19,222		\$7,760		\$1,472		\$6,774		\$1,409		\$36,636	
TASK TOTAL				\$104,698		\$17,852		\$9,040		\$16,530		\$11,737		\$159,856	
OTHER DIRECT COSTS															
			Waste Stream Charact.		High Grade Analysis		Self-Haul & Drop Box		Meetings		Report Preparation				COST
Milage @ \$0.25/mile	\$0.25	4000		\$1,000	1000	\$250	1000	\$250	1000	\$250	100	\$25			\$1,775
Truck/Car Rental @ \$45.00/day	\$45.00	60		\$2,700	1	\$45	8	\$360	5	\$225		\$0			\$3,330
Airfare RT - Covington @ \$650.00	\$650.00	1		\$650	1	\$650		\$0	5	\$3,250		\$0			\$4,550
Airfare RT - Seattle @ \$90.00	\$90.00	6		\$540		\$0	1	\$90	5	\$450		\$0			\$1,080
Airfare RT - Long Beach @ \$350.00	\$350.00	2		\$700		\$0		\$0	2	\$700		\$0			\$1,400
Meals & Lodging @ \$70.00/day	\$70.00	75		\$5,250	1	\$70	1	\$70	12	\$840		\$0			\$6,230
Telephone (Long Dist.)				\$600		\$50		\$50		\$50		\$100			\$850
Postage and Freight				\$500		\$50		\$25		\$75		\$100			\$750
Reproduction @ \$0.10/copy	\$0.10	5000		\$500	500	\$50	500	\$50	500	\$50	8000	\$800			\$1,450
Safety Equipment (Disposable)				\$525		\$75		\$75		\$0		\$0			\$675
Computer Processing @ \$5.00/hr	\$5.00	90		\$450	8	\$40	12	\$60		\$0	40	\$200			\$750
Misc. Tools and Supplies				\$400		\$150		\$50		\$0		\$0			\$600
Scale Rental @ \$100.00/week	\$100.00	9		\$900	1	\$100	2	\$200		\$0		\$0			\$1,200
Lab Analysis (Assumed per Metro Estimate)				\$2,000		\$0		\$0		\$0		\$0			\$2,000
Subtotal				\$16,715		\$1,530		\$1,280		\$5,890		\$1,225			\$26,640
General and Administrative Costs @ 15%				\$2,507		\$230		\$192		\$884		\$184			\$3,996
Reserve for Task 2 Case Study after Planning work scope is completed						\$6,000									\$6,000
Total - Task ODC's				\$19,222		\$7,760		\$1,472		\$6,774		\$1,409			\$36,636



GRANT/CONTRACT SUMMARY

METROPOLITAN SERVICE DISTRICT

9.3
9/25/86

GRANT/CONTRACT NO. 86-9-138SW

BUDGET CODE NO. 30_04_00_8510_41000

FUND: Capital Impr DEPARTMENT: Solid Waste

(IF MORE THAN ONE)

SOURCE CODE (IF REVENUE)

INSTRUCTIONS

- OBTAIN GRANT/CONTRACT NUMBER FROM CONTRACTS MANAGER. CONTRACT NUMBER SHOULD APPEAR ON THE SUMMARY FORM AND ALL COPIES OF THE CONTRACT.
- COMPLETE SUMMARY FORM.
- IF CONTRACT IS —
 - SOLE SOURCE, ATTACH MEMO DETAILING JUSTIFICATION.
 - UNDER \$2,500, ATTACH MEMO DETAILING NEED FOR CONTRACT AND CONTRACTOR'S CAPABILITIES, BIDS, ETC.
 - OVER \$2,500, ATTACH QUOTES, EVAL. FORM, NOTIFICATION OF REJECTION, ETC.
 - OVER \$50,000, ATTACH AGENDA MANAGEMENT SUMMARY FROM COUNCIL PACKET, BIDS, RFP, ETC.
- PROVIDE PACKET TO CONTRACTS MANAGER FOR PROCESSING

1. PURPOSE OF GRANT/CONTRACT Construct Lunchroom/Locker room and Conference Room

2. TYPE OF EXPENSE ☐ PERSONAL SERVICES ☐ LABOR AND MATERIALS ☐ PROCUREMENT
☐ PASS THROUGH AGREEMENT ☐ INTER-GOVERNMENTAL AGREEMENT ☒ CONSTRUCTION
☐ OTHER

OR

TYPE OF REVENUE ☐ GRANT ☐ CONTRACT ☐ OTHER

3. TYPE OF ACTION ☐ CHANGE IN COST ☐ CHANGE IN WORK SCOPE
☐ CHANGE IN TIMING ☒ NEW CONTRACT

4. PARTIES Michael Watt, Inc./Metro

5. EFFECTIVE DATE 9/25/86

TERMINATION DATE 1/5/87

(THIS IS A CHANGE FROM _____)

6. EXTENT OF TOTAL COMMITMENT:	ORIGINAL/NEW	\$ <u>68,614.00</u>
	PREV. AMEND	_____
	THIS AMEND	_____
	TOTAL	\$ <u>68,614.00</u>

7. BUDGET INFORMATION

A. AMOUNT OF GRANT/CONTRACT TO BE SPENT IN FISCAL YEAR 198 <u>6-87</u>	\$ _____
B. BUDGET LINE ITEM NAME <u>Capt'l Projects</u> AMOUNT APPROPRIATED FOR CONTRACT	\$ <u>180,000.00</u>
C. ESTIMATED TOTAL LINE ITEM APPROPRIATION REMAINING AS OF <u>1/5</u> , 19 <u>87</u>	\$ <u>111,386.00</u>

8. SUMMARY OF BIDS OR QUOTES (PLEASE INDICATE IF A MINORITY BUSINESS ENTERPRISE)

<u>Tri Lett Industries</u>	\$ <u>89,000</u>	<input type="checkbox"/> MBE
SUBMITTED BY _____	AMOUNT	
_____	\$ _____	<input type="checkbox"/> MBE
SUBMITTED BY _____	AMOUNT	
_____	\$ _____	<input type="checkbox"/> MBE
SUBMITTED BY _____	AMOUNT	

9. NUMBER AND LOCATION OF ORIGINALS _____

10. A. APPROVED BY STATE/FEDERAL AGENCIES? ☐ YES ☐ NO ☒ NOT APPLICABLE
 B. IS THIS A DOT/UMTA/FHWA ASSISTED CONTRACT ☐ YES ☒ NO
11. IS CONTRACT OR SUBCONTRACT WITH A MINORITY BUSINESS? ☒ YES ☐ NO
 IF YES, WHICH JURISDICTION HAS AWARDED CERTIFICATION ODOT, Portland
12. WILL INSURANCE CERTIFICATE BE REQUIRED? ☒ YES ☐ NO
13. WERE BID AND PERFORMANCE BONDS SUBMITTED? ☒ YES ☐ NOT APPLICABLE
 TYPE OF BOND _____ AMOUNT \$ _____
 TYPE OF BOND _____ AMOUNT \$ _____
14. LIST OF KNOWN SUBCONTRACTORS (IF APPLICABLE)
- | | | |
|------------------------------------|--|---|
| NAME <u>Beaver Creek</u> | SERVICE <u>Structural Steel/Siding</u> | <input checked="" type="checkbox"/> MBE |
| NAME <u>Const. Interior Supply</u> | SERVICE <u>Flooring, Blinds</u> | <input checked="" type="checkbox"/> MBE |
| NAME _____ | SERVICE _____ | <input type="checkbox"/> MBE |
| NAME _____ | SERVICE _____ | <input type="checkbox"/> MBE |
15. IF THE CONTRACT IS OVER \$10,000
 A. IS THE CONTRACTOR DOMICILED IN OR REGISTERED TO DO BUSINESS IN THE STATE OF OREGON?
☒ YES ☐ NO
 B. IF NO, HAS AN APPLICATION FOR FINAL PAYMENT RELEASE BEEN FORWARDED TO THE CONTRACTOR?
☐ YES DATE _____ INITIAL _____
16. COMMENTS:

GRANT/CONTRACT APPROVAL

INTERNAL REVIEW

DEPARTMENT HEAD _____

FISCAL REVIEW _____

BUDGET REVIEW _____

CONTRACT REVIEW BOARD (IF REQUIRED) DATE _____

1. _____
COUNCILOR

2. _____
COUNCILOR

3. _____
COUNCILOR

COUNCIL REVIEW (IF REQUIRED)

DATE _____

LEGAL COUNSEL REVIEW AS NEEDED:

A. DEVIATION TO CONTRACT FORM _____

B. CONTRACTS OVER \$10,000 _____

C. CONTRACTS BETWEEN GOVERNMENT AGENCIES _____

STANDARD CONSTRUCTION AGREEMENT BETWEEN OWNER AND CONTRACTOR

THIS AGREEMENT made as of the ____ day of _____, 19__, between the OWNER, Metropolitan Service District, 2000 S.W. First Avenue, Portland, Oregon, 97201- 5398, and the

CONTRACTOR: Michael Watt, Inc. for
the PROJECT: Improvements for CTIC

Owner and Contractor agree as set forth below.

I. Contract Documents.

The Contract Documents consist of this Agreement, the Conditions of the Contract (General, Supplementary and other Conditions), the Drawings, the Specifications, and all Addenda issued prior to, and all Modifications issued after execution of this Agreement. These documents form the Contract and all are as fully a part of the Contract as if attached to this Agreement or repeated herein.

II. The Work.

Contractor shall furnish all labor, tools, equipment, materials, services and permits other than the General Building Permit necessary to perform the following Work:

Contractor shall perform all of the Work in strict accordance with and as required by the Contract Documents and in accordance with any instructions as issued by the Engineer under the procedures of the General Conditions.

III. Contract Sum.

Owner shall pay Contractor for the performance of the Work, subject to additions and deductions by Change Order as provided in the Contract Documents, the Contract Sum of \$ 68,614.00

The Contract Sum is determined as follows: (State here the base bid or other lump sum amount, accepted alternates, and unit prices, as applicable). Base bid only in the amount of \$68,614.00.

Monthly progress payments shall be made in accordance with the General Conditions.

IV. Time of Commencement, Substantial Completion and Liquidated Damages.

The Work to be performed under this Contract shall be commenced on the date stipulated in the written notice to proceed issued to Contractor by Owner, and, subject to authorized adjustments, Substantial Completion shall be achieved not later than 12/25/86. Final Completion shall be achieved not later than 1/25/87.

Should Contractor fail to complete performance of the Work within the time prescribed herein, the harm that will be caused by such delay will be incapable or very difficult of accurate estimation. Contractor agrees to pay Owner as agreed liquidated damages for the delay, and not as a penalty, as a reasonable forecast by Contractor and Owner of just compensation, for each and every calendar day or fraction thereof elapsing between the specified substantial completion date and the date the work is actually substantially completed by Contractor, the following amounts:

Liquidated Damages

In the event the Bidder is awarded the Contract and shall fail to complete the work in compliance with the Drawings and Specifications, as more particularly set forth in the Contract Documents, liquidated damages shall be paid to the Owner as described below.

Allowable Contractor work periods shall begin at 8:00 a.m. and continue until 5:00 p.m. on normal business days. At the St. Johns Landfill, all work must be scheduled and coordinated with Owner prior to commencing work in order to maintain continuous operation of facility. Liquidated damages will be paid to the Owner by the Contractor for each hour for which the Owner cannot assume normal operations. Liquidated damages shall be paid according to the following graduated schedule: Delays which result in transfer operations being postponed until after 8:00 a.m., but before 12:00 p.m., shall be paid at the rate of \$50.00 per hour.

Additionally, liquidated damages shall be paid at a rate of \$25.00 per day to the Owner by the Contractor for each day the work is extended in excess of the ninety (90) day contract period.

At its option, Owner may deduct any such accrued liquidated damages from any amounts due the Contractor under the terms of this Contract.

V. Additional or Deleted Work.

Contractor shall, when so instructed by Owner under the procedures of the General Conditions, perform additional Work or delete Work in accordance with the General Conditions. The Unit Prices listed below shall determine the value of extra Work or changes, as applicable. They shall be considered complete, including all material and equipment, labor, installation, costs, overhead, and profit, and shall be used uniformly for either additions or deductions. The percentage mark-up or credit for additional or deleted Work, other than as specified under Unit Prices, shall be as set out in the General Conditions.

[Attach list of unit prices]

VI. Acceptance.

This Agreement shall be accepted by Contractor's signature hereon or by Contractor's failure to communicate in writing objections or modifications hereto. Commencement of performance, shipment, or delivery under this Contract constitutes complete, irrevocable acceptance of all terms and conditions hereunder irrespective of other or contradictory terms and conditions of any invoices or other writing. This writing is intended by the parties as a final expression of their Agreement and is intended also as a complete and exclusive statement of the terms of their Agreement. No other statement of any kind, either oral or written, shall be binding upon the parties.

VII. Bonds.

With this contract Contractor shall submit a Performance Bond and a Labor and Materials Payment Bond both in a form acceptable to Owner both in the amount of 68,614.00 (\$ 68,614) DOLLARS as surety to insure full compliance execution and performance of this contract by Contractor in accordance with all its terms and provisions. The Bonds shall stay in force for a period of one year after written acceptance of the work by Owner as a guarantee of repair or replacement of any item(s) of work found to be defective by reason of faulty workmanship or defective materials.

VIII. Entire Agreement.

THIS CONTRACT SIGNED BY BOTH PARTIES AND SO
INITIALED BY BOTH PARTIES IN THE MARGIN OPPOSITE
THIS PARAGRAPH CONSTITUTES A FINAL WRITTEN
EXPRESSION OF ALL OF THE TERMS OF THIS AGREEMENT
AND IS A COMPLETE AND EXCLUSIVE STATEMENT OF THOSE
TERMS. ANY AND ALL REPRESENTATIONS, PROMISES,
WARRANTIES, OR STATEMENTS BY CONTRACTOR
OR CONTRACTOR'S AGENTS THAT DIFFER IN ANY WAY FROM
THE TERMS OF THIS WRITTEN AGREEMENT SHALL BE GIVEN
NO FORCE AND EFFECT. THIS CONTRACT SHALL BE
CHANGED, AMENDED, OR MODIFIED ONLY BY WRITTEN
INSTRUMENT SIGNED BY BOTH OWNER AND CONTRACTOR.
THIS CONTRACT SHALL NOT BE MODIFIED OR ALTERED BY
ANY COURSE OF PERFORMANCE BY EITHER PARTY.

Owner

Contractor

Owner: METROPOLITAN SERVICE DISTRICT

By: _____
Title: _____

Contractor: MICHAEL WATT, INC.

By: _____
Title: _____

4305C/428

8.2 8/28/86



CITY OF
PORTLAND, OREGON
BUREAU OF ENVIRONMENTAL SERVICES

Dick Bogle, Commissioner
John Lang, Administrator
1120 S.W. 5th Ave.
Portland, Oregon 97204-1972
(503) 796-7169

August 28, 1986

TO: Metro Council

FROM: Delyn Kies, Solid Waste Director
Bureau of Environmental Services, City of Portland

TESTIMONY RE: Hazardous Waste Management Plan

Your support for adoption of the Hazardous Waste Management Plan is urged.

Having participated in the Hazardous Waste Task Force, along with Tom Bottenberg, manager of the Bureau's Industrial Waste Section, I learned a great deal about the problems and potential solutions for handling exempt small quantities of hazardous wastes and household wastes with hazardous characteristics.

The Hazardous Waste Management Plan represents a clear summary of the findings of the Task Force and recommends an action plan to deal with a problem that is not currently being addressed elsewhere but is certainly within the public's interest to do so. There is a problem in identifying and promoting environmentally and economically sound ways for residents and businesses to dispose of household and small quantities of hazardous wastes. There is some data available but more needs to be developed and evaluated. Metro is the appropriate lead agency to coordinate a variety of interests in pursuing ways to manage the safe disposal of this type of waste.

The Bureau of Environmental Services is willing to participate in implementing the recommendations of the Hazardous Waste Management Plan and urges your adoption of the Plan.

DK:a1
44:hazardous

NOV 25 1985



CITY OF TUALATIN

18880 SW MARTINAZZI AVE. PO BOX 369
TUALATIN, OREGON 97062-0369
(503) 692-2000

November 20, 1985

Neil McFarlane
Metropolitan Service District
527 S.W. Hall Street
Portland, Oregon 97201-5287

RE: 208 Plan - Sewer Boundaries

Dear Neil:

This letter is to inform you that the City of Tualatin City Council at the meeting of November 12, 1985 discussed changes to the 208 Plan service areas that were discussed during the Water Resources Policy Advisory Committee meeting held on October 5, 1985. The City of Tualatin believes that all sanitary sewer service to property located north of the Tualatin River and east of the I-5 freeway should come from the Lake Oswego (Tryon Creek) Sewage System and Treatment Facility. The City is opposed to any effort to serve property lying east of the City from the Unified Sewerage Agency's Durham facility.

As you are aware, the City of Tualatin currently contracts with the City of Lake Oswego for sanitary sewage treatment and disposal for the property located east of I-5 freeway and north of the Tualatin River. Any attempt to provide sewer service to the area east of the City from Durham facility would result in a unnecessary duplication of services and facilities.

If you have any questions please contact me.

Sincerely,

Stephen A. Rhodes
City Manager

MAM:hd

cc: Mayor and City Council
City of Lake Oswego
City of River Grove
City of Portland
Unified Sewage Agency



DEC 2 1985

Unified Sewerage Agency of Washington County

150 N. First Avenue
Hillsboro, Oregon 97124
503 648-8621

November 27, 1985

NEIL MCFARLANE
METROPOLITAN SERVICE DISTRICT
527 SW Hall ST.
PORTLAND, OR 97201-5287

Dear Mr. McFarlane:

SUBJECT: 208 PLAN - SEWER BOUNDARIES

We recently received a copy of a letter dated November 20, 1985 from the City of Tualatin to you. This letter was in reference to provision of sewer service to an area located north of the Tualatin River and east of I-5 near the City of Tualatin.

USA agrees with the proposal for service that the City of Tualatin has submitted. This area can be more logically and economically provided sanitary sewer service through the City of Lake Oswego. Service through the City of Tualatin would overload and add to existing problems with the USA trunk sewers in Tualatin.

If you would like more information on our concerns, please contact me.

Sincerely,

A handwritten signature in blue ink that reads 'Donald E. Schut'.

Donald E. Schut
Manager, Collection
Systems Division

th

c: City of Tualatin (City Manager)
City of Lake Oswego (City Manager)
City of River Grove
City of Portland



METRO

2000 S.W. First Avenue
Portland, OR 97201-5398
503/221-1646

Memorandum

EXEC. SESSION

8/28/86

Date: August 28, 1986

To: Metro Councilors

From: Eleanore S. Baxendale, General Counsel

Regarding: Light Rail Project Contract Authority

Question: Does Metro have the authority to contract with GPCVA for promotion activities related to the light rail?

Answer: Yes. A successful light rail project benefits the climate for tourism and conventions which, in turn, helps attract conventions to Metro's proposed convention center. Thus, there is a valid public purpose for the contract. The purpose of the contract is not to advocate for voter approval of the convention center and therefore it is a lawful expenditure.

Discussion: Metro, as a public agency, cannot expend funds except for its authorized purposes. Metro is not yet authorized to operate a convention center, but may take appropriate steps to plan and prepare for such operations. A normal part of operating a convention center is support of activities which strengthen the site and the area for convention and tourism. Supporting the Banfield Light Rail Opening is such an activity. Building an awareness of the convention potential of this area should start now to help secure users in the future.

Metro's contract with Multnomah County for the use of the County's Convention and Trade Show Special Fund authorizes use of the fund for this purpose after the bond measure passes and other construction costs and annual operating debts have been funded.

This agreement authorizes payment to GPCVA after December 1, 1986, subject to the provisions of the Multnomah County Code, i.e.

1) when the bond measure passes and we have identified funds for the expenses or 2) not at all if no bond measure passes by 1989. This also ensures that the actual expenditure will not occur until after Metro has full convention center authority, though this is not a legal requirement as noted above.

(continued)

Page 2

The purpose and effect of this expenditure is to support the light rail opening. If Metro does obtain CTS authority, a strong light rail will aid in marketing the center to users. The contract is not to promote the adoption of the ballot measure giving Metro authority to construct and operate CTS. Therefore, the expenditure is lawful under ORS 194.100 (an authorized expenditure - assuming the budget is approved) and ORS 260.432.

ESB:amn

STAFF REPORTAgenda Item No. 1Meeting Date 8-28-86

CONSIDERATION OF A CONTRACT BETWEEN METRO AND THE
GREATER PORTLAND CONVENTION & VISITORS ASSOCIA-
TION, INC., (GPCVA) FOR TOURISM AND CONVENTION
PROMOTION ASSOCIATED WITH THE BANFIELD LIGHT RAIL
OPENING

Date: August 27, 1986

Presented by: Neil McFarlane

FACTUAL BACKGROUND AND ANALYSIS

Attached is a draft contract between Metro and the GPCVA for marketing the region as a convention and tourism destination, taking advantage of the unique opportunity presented by the opening of the Banfield Light Rail Line.

In this case, GPCVA was justified as a sole-source provider, as it is the only entity with the expertise to provide convention and tourism marketing for the entire region.

In addition, to the marketing and promotion benefits, GPCVA would receive 50,000 light rail tickets for use in their efforts to service and promote conventions.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval of the attached contract.

NM/sm
6154C/472-2
08/27/86

PERSONAL SERVICES AGREEMENT

THIS AGREEMENT dated this _____ day of September 1986, is between the METROPOLITAN SERVICE DISTRICT, a municipal corporation, hereinafter referred to as "METRO," whose address is 2000 S.W. First Avenue, Portland, Oregon 97201-5398, and GREATER PORTLAND CONVENTION & VISITORS ASSOCIATION, INC., hereinafter referred to as "CONTRACTOR," whose address is 26 S. W. Salmon, Portland, Oregon, for the period of August 1, 1986, through November 1, 1986, and for any extensions thereafter pursuant to written agreement of both parties.

W I T N E S S E T H :

WHEREAS, It is in the public interest for local governments and organizations to cooperate and work together in promoting the greater Portland metropolitan area as a convention and tourism destination; and

WHEREAS, The Banfield light rail line opening celebration presents unique opportunity to exhibit this region to the rest of the nation; and

WHEREAS, Metro has been designated the lead agency for the Convention and Trade Show Center project, as defined in Multnomah County Code 5.50.050 (B)(1)(d); and

WHEREAS, As the lead agency, Metro receives from Multnomah County funds for the support of the Convention Center project, and the marketing of the region; and

NOW, THEREFORE, BE IT MUTUALLY AGREED AS FOLLOWS:

CONTRACTOR AGREES:

1. To perform the services described in the Scope of Work attached hereto;
2. To provide all services and materials in a competent and professional manner in accordance with the Scope of Work;
3. To comply with all applicable provisions of ORS Chapters 187 and 279, and all other terms and conditions necessary to be inserted into public contracts in the state of Oregon, as if such provisions were a part of this Agreement;
4. To maintain records relating to the Scope of Work on a generally recognized accounting basis and to make said records available to METRO at mutually convenient times;
5. To indemnify and hold METRO, its agents and employees harmless from any and all claims, demands, damages, actions, losses and expenses, including attorney's fees, arising out of or in any way connected with its performance of this Agreement, with any patent infringement arising out of the use of CONTRACTOR'S designs or other materials by METRO and for any claims or disputes involving subcontractors; and
6. To comply with any other "Contract Provisions" attached hereto as so labeled.

METRO AGREES:

1. To pay CONTRACTOR for services performed in the maximum sum of FIFTY THOUSAND AND NO/100ths (\$50,000.00) DOLLARS, in the manner and at the time designated in the Scope of Work; and
2. To provide full information regarding its requirements for the Scope of Work.

BOTH PARTIES AGREE:

1. That METRO may terminate this Agreement upon giving CONTRACTOR five (5) days written notice without waiving any claims or remedies it may have against CONTRACTOR;

2. That, in the event of termination, METRO shall pay CONTRACTOR for services performed and materials delivered prior to the date of termination; but shall not be liable for indirect or consequential damages;

3. That, in the event of any litigation concerning this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and court costs, including fees and costs on appeal to an appellate court;

4. That this Agreement is binding on each party, its successors, assigns, and legal representatives and may not, under any condition, be assigned or transferred by either party; and

5. That this Agreement may be amended only by the written agreement of both parties.

GREATER PORTLAND CONVENTION & VISITORS, INC. METROPOLITAN SERVICE DISTRICT

By: _____

By: _____

Date: _____

Date: _____

NM/sm
6146C/461

SCOPE OF WORK

1. To develop a work program in cooperation with other public and private entities which will take advantage of the unique opportunity presented by the opening of the Banfield Light Rail Line in September 1986. The goal will be a marketing program designed to promote the region as a center for tourism and conventions. Past history has shown that new light rail lines can in themselves become tourist attractions (as in San Diego). Particular emphasis will be placed on the proposed convention center as a featured element along the system. Specific elements to be addressed in the marketing program are:
 - a. The receipt of 50,000 free light rail tickets for use in promoting and servicing conventions in the region.
 - b. Promotion in regional press.
 - c. Promotion in national specialty magazines (such as Passenger Transport).
 - d. Identification of the proposed Convention Center's location and future relationship to the light rail line communicated to the public and media.
 - e. General support of the opening ceremonies for the light rail line.
2. Contract Provisions:
 - a. Payments will be made based on invoices submitted GPCVA.
 - b. GPCVA may subcontract all or part of this effort to public or private entities sponsoring the opening event.

NM/sm
6154C/472-2
08/27/86

AGENDA ITEM NO. 7.1, SUPPLEMENTAL MATERIALS
COUNCIL MEETING OF 8/28/86

Order No. 86-12

BEFORE THE HEARINGS OFFICE
OF THE
METROPOLITAN SERVICE DISTRICT

IN THE MATTER OF THE PETITION OF	)	NO. 85-8
BENJFRAN DEVELOPMENT, INC. AND)	
CO-PETITIONERS FOR A MAJOR AMEND-	)	FINDINGS, CONCLUSION AND
MENT TO THE URBAN GROWTH BOUNDARY	)	ORDER

I.

NATURE OF APPLICATION

The petition is for the amendment of the Urban Growth Boundary (UGB) to include the following property:

<u>Owner</u>	<u>Acres</u>
Sisters of St. Mary of Oregon	461.08
Antiond Habib & Diana Kanaan	1.01
Leslie Lee	<u>10.13</u>
Total	472.22

The petition also requests the Metropolitan Service District (Metro) to approve the annexation of the above-mentioned properties, with the addition of:

<u>Owner</u>	<u>Acres</u>
BenjFran Development, Inc.	31.68

into its area of jurisdiction and forward the approval to the Metropolitan Boundary Commission. The total acreage requested for annexation to Metro is 503.90 acres.

II.

LOCATION OF THE PROPERTY

The subject property is located in the southeast area of

the city of Hillsboro and it is in Washington County. (Figures 1 and 2 of Exhibit B-8).

III.

NAME OF THE PETITIONERS

BenjFran Development, Inc. (Petitioner) has entered into a purchase option agreement with the Sisters of St. Mary of Oregon and other small ownerships, or owns the above-identified property for the purpose of developing the property as the "Roseway Business Center" to accommodate the support industries that are required by the primary hi tech companies that are developing in the Sunset Corridor area. (Exhibit B-8, pp. 1-2).

IV.

NATURE OF THE PROCEEDINGS

The Hearings Officer, pursuant to the authority of Metro Ordinance No. 85-189, Section 5, ordered the consolidation of certain issues for hearing with the three (3) petitioners for a major amendment to the UGB. The three petitions are:

1. Riviera Motors Inc. and Co-petitioners, No. 85-6;
2. Kaiser Development Co. and Co-petitioners, No. 85-7; and
3. BenjFran Development, Inc. and Co-petitioners No. 85-8.

The issues consolidated for hearing were:

1. Traffic (transportation impacts); and
2. Other available sites (alternate sites).

The consolidated hearings regarding the above-mentioned

issues were before the Hearings Officer on March 21, 1986, and on the issue of "other available sites" was continued for purposes of rebuttal on March 31, 1986. The evidence submitted by proponents and opponents in the consolidated hearings is made a part of each individual petitioners' record for the purpose of each petitioners' Findings, Conclusion and Order.

The individual petitioners' hearings regarding the non-consolidated issues were before the Hearings Officer on March 24, 1986.

The Hearings Officer conducted all hearings herein pursuant to the Contested Case procedures of Metro Ordinance No. 85-189.

V.

RELEVANT CRITERIA

In considering this petition, the Hearings Officer must apply statewide Goal 14, Urbanization, and the standards and procedures for taking a statewide goal exception under Statewide Goal 2. The standards and criteria applicable to this petition are:

A. Goal 14, Urbanization; and

B. The Exceptions process embodied in Goal 2, Planning,

which requires a finding as to why the state policy embodied in the applicable goals should not apply, i.e., why should this petition be provided for within the Metro UGB? This factor can be satisfied by compliance with the seven (7) factors of Goal 14:

1. Demonstration of need to accommodate long-range industrial land requirements that this petition would provide.

2. Demonstration of need for employment opportunities that would be created by the proposal.

3. Demonstration that public facilities and services can be provided in an orderly and economic manner to accommodate the property.

4. Demonstration that the petition will promote the maximum efficiency of land uses within and on the fringe of the existing urban area.

5. Demonstration that the environmental, energy, economic and social consequences will not be unreasonably adverse by amending the UGB.

6. Demonstration that expansion of the UGB to include this property will not unreasonably affect the goal of retaining prime agricultural lands.

7. Demonstration that the industrial uses to be developed on the subject property will not be incompatible with nearby agricultural activities.

The Goal 2, Exception process, requires a finding that:

1. Areas which do not require a new exception cannot reasonably accommodate the proposed industrial use. This factor can be satisfied by demonstrating that:

- a. the proposed industrial use cannot be accommodated on non-resource land or on resource land irrevocably committed to non-resource use.
- b. the proposed industrial use cannot be accommodated on alternative locations inside the UGB that are more appropriate and can meet the need.

companies.

VII

FINDINGS

A. Introduction

The amendment of an established urban growth boundary requires extensive data, complex methodologies and complex computations. Therefore, the Hearings Officer invited the petitioner to submit proposed findings. The purpose was to allow the petitioner to assemble the testimony in a manner which satisfies the burden of proof.

The Hearings Officer has reviewed the petitioners proposed findings and finds the findings do not satisfy the requisite burden of proof. The petitioners proposed findings have been made a part of the record along with proposed findings submitted by 1000 Friends of Oregon.

B. Goal 14, Factor 1, Demonstrated Need

The Hearings Officer believes there is a need for support industries, however the petitioner has not demonstrated that a need exists to amend the UGB to accommodate this use. This conclusion is supported by the Boundary Findings.

1. As hi tech industrial growth continues in the region and primarily in the Greater Sunset Corridor, there will be a demand for support industries. The support industries necessary to achieve an essential part of the infrastructure for primary hi tech industries fall into four groups.

a. Development Services Industries:

2. Demonstration that the long-term environmental, economic, social and energy consequences resulting from the proposed use at the proposed site (with measures designed to reduce adverse impacts) are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site.

3. Demonstration that the proposed industrial uses are compatible with other adjacent uses or will be made compatible through measures designed to reduce adverse impacts.

VI.

APPLICANTS PROPOSAL

The petitioner is proposing to develop the 472.22 acre site into three or four individual industrial parks of 50-70 acres minimum to 100-150 acres maximum. Each park will have its own distinct character and development approach based upon the needs of individual support industries. It is envisioned that one park might include land for purchase only, another for lease only, a third developed to meet outdoor storage requirements or the ability to grow through the provision of flex space and a fourth park with restricted uses due to noise, privacy or electrical or vibration sensitivity. The petitioner is proposing that approximately 60 percent of the site will be leased and 40 percent of the site will be sold. It is envisioned the project will be developed over a number of years. The land uses on the site will be limited to support industries which provide the raw materials, components, services, products and supplies that are required by hi tech

Industries that design and construct hi tech sites, plants and facilities.

b. General Business Services: Industries that provide goods and services necessary for general business operations including office supplies, equipment and furnishings, janitorial, telecommunications, and professional services.

c. Precision Materials, Products and Services: Industries that supply the raw materials for hi tech such as components, secondary assembly, "clean room" equipment and supplies, testing services, etc.

d. General Community Support Services: Industries related to the construction and operation of the infrastructure (utilities, roads, sewers, water systems, waste disposal), homes, schools, medical supplies, hotel/restaurant supplies, commercial supplies, etc.

Of these four support groups, the "precision materials, products and services" support group is important to the hi tech industrial base. The market for this support industry is the companies that produce the consumer's end product, such as NEC America, or Fujitsu. (Exh. B-8, pg. 7.) The petitioners' primary emphasis in its development is to accommodate this group of support services. (Exh. B-8, pg. 1; Testimony of Gordon Davis.)

2. A relationship exists between the primary hi tech companies and their support industries. It is a relationship that depends on a) high quality products, b) price sensitivity, and c) proximity to each other to allow direct, constant and immediate

two-way communication and physical interaction.

This proposal is intended to satisfy the need for the critical relationship between primary and support companies and to meet the need as it evolves over the next 10-15 years of growth in the Sunset Corridor. (Testimony of Gordon Davis.)

3. Petitioners case is predicated on the following argument:

a. There is a need for land for support industries;

b. The land must be within 20 minutes driving time of the Sunset Corridor;

c. There is a shortage of "unconstrained" land planned for industrial development within the 20 minute driving time; and

d. This proposal satisfies that need.

4. Petitioners support their position using two different methodologies. The Hearings Officer does not accept the methodologies or the data sets. This will be discussed in detail in the following findings. The methodologies are set forth in Appendix I and Appendix II.

5. Basis for 20-Minute Driving Time Standard

a. Petitioners contend that it is desirable for support industries to be located within 20 minutes driving time from the hi tech "control mass" and based their need argument on their conclusion that there is not enough land with the 20-minute driving time.

b. Mr. Donald Watson, Director of Manufacturing for NEC America, Inc., testified regarding the relationship between the primary hi tech and support industries. He made it clear that his testimony was not in support or in opposition to the petition. He stated that the philosophy of NEC America is to buy all American, and it is to try to buy locally, that is, as close to the plant as possible. The standards for vendors in support industries are prioritized as follows: 1) stability of the firm, 2) quality assurance, 3) accessibility, and 4) competitiveness with other vendors. Quality is always a priority over distance. The reason for having the vendors in close proximity is twofold: 1) to facilitate communication; and 2) to implement the "just in time" inventory process. He stated that it is important to have vendors close by, but it is not absolutely required. He did not define "close by," but rather he stated that NEC will take the closer vendor when quality is equal. He cited an example that 20-30 minutes would be preferred over a 50-minute travel time. He also said that about 20 percent of the electronics companies in the area are using the "just in time" inventory process.

c. 1000 Friends of Oregon submitted a copy of a letter to Mr. Howard Mikesell at Tektronics asking the proximity of its suppliers. The response was that approximately 5 percent are within 0-5 miles, 10 percent are within 5-20 miles, 10 percent are within 20-50 miles and 75 percent are more than 50 miles in distance.

d. Mr. Joseph R. Breivogel, a staff engineer at Intel testified to this point. He said that proximity is a

secondary consideration. The prime consideration is that the products and services are available which meet the specifications and secondarily they must be price competitively. He stated that communication with suppliers is carried on by phone.

e. Peititoners stated they conducted a survey by phone of 25 hi tech support industries. Eight-four percent responded that the optimal travel time required by customers is 20 minutes or less. This survey forms the basis for the 20-minute travel time contour. The identify of the companies interviewed, the questions posed and the answers have not been submitted into the record.

f. The Hearings Officer believes that hi tech firms desire to have support industries located in close proximity which may be within a 20-minute travel time. A desire, however, is not tantamount to a need. The Hearings Officer believes that the cornerstone of this need argument must be supported by empirical evidence. There is no empirical evidence in the record that documents the land use pattern in other hi tech areas. In fact, the petitioner did not cite to any charging land use relationships in the Portland area as a result of the hi tech development within the Sunset Corridor. The Hearings Officer will need case studies or citations to literature which document that support industries must be located within 20-minute driving time of the hi tech companies in order to support their need argument. Need could be shown in many ways; e.g., documentation to the fact that hi tech firms will not locate in the Corridor unless the support industries are within 20

minutes driving time or that support industries cannot survive unless they are located within the 20-minute time.

14. Map Delineating the 20-Minute Travel Time

a. The 20-minute travel time map delineates the boundaries in which the vacant available industrial lands inventory will be conducted. The amount of vacant land will be the basis for determining whether additional land is needed. Therefore, this map is a critical factor in petitioners analysis.

b. Assuming there was empirical evidence to support the 20-minute travel time standard, the Hearings Officer cannot accept as valid the methodology used to delineate the 20-minute travel time contour. The map is based on p.m. peak travel time. Roadways are heavily congested during this peak time. The businesses on the otherhand operate at non-peak times. No map was submitted into evidence showing the contour at other than the p.m. peak. A map based on other than p.m. peak times would encompass a greater land area and it may or may not include additional industrially planned land.

c. In rebuttal testimony petitioners stated that they considered additional vacant building space within Tigard and Tualatin, but they did not provide a map showing a revised contour line. The Hearings Officer cannot access the validity of the analysis without a map. It is not possible to determine whether vacant space which should have been considered was considered. Further, vacant planned industrial land was not considered.

d. The Hearings Officer, therefore, does not

accept the methodology used to identify the area in which the land use inventory is conducted.

15. Employment Projections

a. Employment projections are a factor in determining how much land is needed. The higher the employment projections, the greater the amount of land needed. There are two sets of employment projections; i.e., projections prepared by Metro and projections prepared by the applicant. The Hearings Officer does not accept the projections provided by the applicant as being valid based on the following explanation.

b. Petitioners need argument is based on year 2005 employment projections (see Table 1, Revised 3-24 Presentation, Appendix I and Table 1-A, 3-31 Expanded Analysis, Appendix II.) The following table contrasts petitioners projections with Metro's year 2005 projections. Metro projections are regionwide and petitioners projections are limited to the Sunset Corridor.

Year 2005 Employment Projections

	<u>Petitions</u>	<u>Metro</u>
Manufacturing, Electric)	33,652	39,000
Manufacturing, Other)		12,147
Construction, Mining		29,485
Wholesale		81,532
Subtotal	<u>33,652</u>	
Other	50,478	159,778
Total	84,130	241,310

Petitioners project there will be 22,435 primary hi tech jobs and 11,217 support jobs for a total of 33,652

manufacturing jobs. Metro's projections project 22,485 hi tech jobs regionwide and 17,415 jobs in other types of manufacturing for a total of 39,000 manufacturing jobs. Petitioners state that hi tech jobs cannot be classified as electric and nonelectric. Assuming this is true, the Hearings Officer placed electric and other manufacturing jobs into one classification and the result is that only 6,248 new manufacturing jobs will be created in other parts of Washington, Multnomah and Clackamas counties over the next 19 years. This means that the Sunset Corridor will capture 84 percent of the region's industrial growth. The Hearing Officer cannot accept petitioners projections as being reasonable particularly when the region's "unconstrained" regional vacant industrial lands inventory is examined.

c. The Hearings Officer cannot accept the petitioner's projections. Metro's projections are the projections used by local governments for planning purposes. These projections have received regionwide scrutiny from all local governments. The Hearings Officer cannot accept petitioners projections absent any explanation demonstrating the reason that Metro's projections are too low. There is no evidence in the record challenging Metro's projections. Petitioner's projections do not appear reasonable and are not supported by an explanation which the Hearings Officer finds persuasive.

15. Land Use Inventory

a. The land use inventory is an inventory of vacant land planned for industrial use. The inventory includes two

types of land; "constrained" and "unconstrained" land. Metro in its studies defines the terms to mean something different than the petitioners. The technical differences are not important to these findings however. "Unconstrained" lands are considered to be developable now while "constrained" lands are not considered to be presently undevelopable for some reason such as the fact that sewer is not within 1,000 feet of the property. The Hearings Officer does not accept the inventory as being valid because the inventory is limited to the area within the 20-minute p.m. peak driving time. It is important to note that all computations on which petitioner relies are based on the inventory of land conducted within the 20-minute p.m. peak travel time. In rebuttal petitioner did speak to an expanded boundary and stated that an expanded boundary would affect every number -- petitioner only examined the affect of including vacant existing developed building space -- this limited analysis does not overcome the problems with the 20-minute p.m. peak contour map used for the inventory.

b. The first inventory prepared by petitioners is contained on Table 3, 3-24 Presentation (see Appendix I). The second inventory is contained on Table 3-A, 3-31 Expanded Analyses (see Appendix II). Both inventories are limited to the same geographic area. The difference is that the second inventory includes land on rail. The first inventory concludes there are 1,291 vacant unconstrained acres. The second inventory concludes there are 2,209 vacant unconstrained acres. In total there are 3,878 vacant acres of land planned for industrial use.

c. Assuming the Hearings Officer accepted the inventory as valid, there is an additional problem which makes the inventory inaccurate. The problem is that petitioners need argument is based on year 2005 employment projections, however, petitioner limits the inventory to presently developable land. The Hearings Officer finds that the methodology used in this analysis is not correct. By the year 2005, much of the presently constrained lands will be developable. Therefore, the inventory should have matched year 2005 employment projections with the developable year 2005 planned industrial land. It should be noted that petitioners talked about 20- to 50-year time frames and 10- to 15-year time frames with regard to site development. Since the record is not clear and petitioners rely on the year 2005 population projections, the Hearings Officer has assumed a 20-year time frame.

16. Per Acre Employee Ratio

a. Petitioners need argument is based on a need for additional land for support industries. Important to the determination of need is the per acre employee ratio. Petitioners employee per acre ratio is shown on Table 2, Revised 3-24 Presentation (Appendix I) and Table 2, 3-31 Expanded Presentation (Appendix II). The following is an example of how this ratio fits into petitioners analysis. Petitioner states there will be 33,652 new hi tech jobs and at an employment density of 14 employees per acre, 2,404 acres will be required. Metro has used a figure of 25 employees per acre for hi tech which would result in a need for 1,345 acres or 1,000 acres less than petitioner. Therefore, the

ratio is very important.

b. Petitioners are proposing to put support industries on the site. There are two problems with their employee density ratio. First, Table 2 examines only three primary high manufacturing companies. The Hearings Officer believes this is not a sufficiently representative sample. More important, however, petitioner has not provided empirical evidence or cited to literature which finds that hi tech primary companies and support industries have the same employee ratios. With the importance of the ratio to the need analysis, the evidence is not shown to be relevant to support industries and is an insufficient representation.

c. Petitioner did submit a list of nine support firms in the Portland area to prove another point. The list showed the building sizes, but did not compute an employee land ratio (see Typical High Technology Support Industries). These are representative firms and are more appropriate to document employee ratios. The Hearings Officer cannot accept the ratio of 14 employees per acre for support industries. Petitioners testimony taken as a whole also sheds some light on the issue. A major thrust of petitioner's argument is that support industries cannot afford high land costs -- one factor which contributes to hi tech low employee per acre figure is their preference for campus environments. This means there is a greater investment made in land than is made by other types of industry.

17. Determination of Need

a. This finding will discuss petitioners

determination that additional planned industrial land is needed. First, however, it is helpful to review the findings to date and to do so with reference to Appendix I and Appendix II.

1) Need for Support Industries

(A) The Hearings Officer believes there is a need for support industries, but petitioners have not demonstrated that the need can only be met by amending the UGB.

2) The Support Industries must be within 20 minutes Driving Time

(A) Petitioners contend that it is desirable to have support industries within 20 minutes driving time of the hi tech "critical mass." The Hearings Officer found that desirable is not tantamount to need and that petitioners did not document a need for the support industries to be located within the 20-minute driving time contour.

3) Amount of Land Needed

(A) Methodology. The following is a summary of petitioner's methodology:

1) Inventory. Petitioners compute the inventory of current vacant "unconstrained" within the 20-minute driving time contour.

2) Employment Projections. The year 2005 employment projections are computed.

3) Employee Density. The number of employees per acre are computed for hi tech firms.

4) Amount of Land Needed. The

amount of land needed is computed as follows:

i. Total Amount of Land Needed =	Year 2005 Employment <u>Projections</u> Number of Employees Per Acre
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ii. The total amount of land needed based on the year 2005 employment projections is then compared to the current inventory of "unconstrained" land and the petitioners find a need for additional land.

(B) Summary of Findings

1) The Hearings Officer did not accept the 20-minute driving contour as valid because it is based on an unproven need and because it is based on p.m. peak driving times. Therefore, the Hearings Officer cannot accept the inventory as valid.

2) The Hearings Officer did not accept petitioners employment projections. The projections are inconsistent with Metro's projections and there is no explanation which shows that Metro's figures are incorrect.

3) The Hearings Officer did not accept petitioners employee ratios. Petitioner is proposing to place support industries on the site, however, petitioner used hi tech industries to compute a ratio. In addition, petitioners sample is too small.

4) Petitioners vacant

industrial land inventory is based on current "unconstrained" land. "Unconstrained" land is land which is currently available and developable. There are in total 3,873 acres of land planned for industrial use in petitioners 20-minute driving time contour which will be developable over the next 20 years. Most of it will be developable as sewers and others services are extended. Therefore, there will be approximately 3,873 acres available by the year 2005. The Hearings Officer found that petitioners used year 2005 employment projections, but used a current inventory of land and that this is an incorrect methodology. The year 2005 employment projections should be compared to the year 2005 unconstrained developable land inventory.

b. There are additional considerations in petitioners need analysis which the Hearings Officer cannot accept.

1) Petitioner has submitted two different needs analysis. The first analysis is shown on Table 5, Revised 3-24 Presentation. The second analysis is shown on Table 5-A, 3-31 Expanded Testimony.

2) In each needs analysis petitioner includes two alternatives. One analysis assumes that the Kaiser and Riviera petitions are not approved. The other analysis assumes that both petitions are approved. In the event that the Kaiser and Riviera petitions are approved, petitioner adds 6,279 jobs. The Hearings Officer cannot accept that adding land to the UGB automatically means more jobs. There is no basis for this conclusion. Industrial expansion is not simply a factor of the

amount of vacant industrial land. In addition, for example, Metro uses a factor of 25 employees per acre for hi tech, while petitioners contend it is 14 employees per acre. Should it be something less than 25 employees per acre, this factor alone would contribute to a need for additional industrial land. Need must be based on 20-year employment projections since the boundary is a 20-year boundary. Petitioner computes year 2005 projections (20-year projections) and then adds employment figures based on the assumption that Kaiser and Riviera petitions are approved. The Hearings Officer cannot accept this methodology without supporting evidence to show that this is more likely to occur than not.

c. Conclusion and Finding

1) With regard the needs analysis contained in Table 5, Revised 3-24 Presentation. The Hearings Officer cannot accept it for the reasons stated in all of the prior findings.

d. With regard to the needs analysis contained in Table 5-A, 3-31 Expanded Analysis, the Hearings Officer cannot accept it for the reasons stated in all of the prior findings.

C. Goal 14; Factor 2, Need for Employment Opportunities.

The Hearings Officer believes there is a need for support industries and for jobs. The petitioners data, however, does not provide sufficient information for the Hearings Officer to determine the extend of the need. Specifically, the petitioner's petition and testimony does not specifically discuss the need for jobs and how this application will address that need. Petitioner

does make the contention there will be 22,435 primary tech jobs by the year 2005 and that the ratio of hi tech jobs to support jobs is 2:1. Therefore, based on this ratio there will be a need for 11,217 support jobs. The question is whether that need can be met within the existing boundary.

The Hearings Officer did not specifically discuss the 2:1 ratio under Factor 1, but rather found the petitioners population projections inconsistent with the MSD projections. The Hearings Officer, however, does not accept the ratio. It is based on stated but undocumented current ratios in the Portland area and ratios change as the population grows. In order to support an amendment to the UGB, the Hearings Officer will require documented evidence. The evidence needs to document the current Portland situation in order for the Hearings Officer to be able to review it for relevance. Evidence from other areas is also need to show if the ratio remains constant or if it changes, that is, if there are economies of scale.

In summary while the Hearings Officer believes there is a need for support industries, the Hearings Officer finds that petitioners assertions of a need for 11,217 jobs is not adequately supported by evidence. It is recognized that petitioner's share of the support industry jobs would be 6,800 jobs. Further it is not shown that the need can only be met by amending the UGB.

D. Goal 14; Factor 3, Order and Economic Provision of Services

1. Sewers: The evidence in the record supports a finding that the site can be served with sewer. There are a number

options. Some options will cause trunk lines to be constructed outside the UGB. This could have negative land use implications. The Hearings Officer also believes, however, that construction of sewer to this site could be done without adversely affecting land outside the growth boundary. Therefore, the Hearings Officer finds that it is possible to provide sewer service in an orderly and economic manner.

2. Transportation

a. Assumption

The analysis of the traffic impacts is based on the equilibrium model. The Hearings Officer accepts that model for purposes of these findings. There was no evidence challenging the mode.

b. Analysis

The petition was evaluated by Metro staff assuming this petition, the petition by Riviera and the petition by Kaiser were each approved. The roads affected by the approval of all three are Sunset Highway, 216th and 231st.

c. Sunset Highway

1) Metro's initial analysis indicated that this proposal would add approximately 100 vehicles in the westbound direction to Sunset Highway during the p.m. peak hour, and thus cause a capacity deficiency so long as the freeway was only four lanes wide. (Testimony of Wayne Kittleson; Exh. T-23.)

2) Pursuant to the equilibrium assignment of regional traffic this proposal only contributed eight vehicles on

a freeway that carries 4,200 vehicles per day in each direction. These eight (8) additional vehicles do not cause a capacity deficiency on this section of Sunset Highway. (Exh. T-19; Exh. T-23, pg. 77.)

3) The City of Portland raised two concerns about the transportation effect of the Roseway proposal on a) the Sunset/Cornell/Barnes Road street system east of Sylvan and that b) an extension of the UGB may cause a disproportionate increase in the need for additional public investment in the regional transit system. (Exh. T-16, p. 58.)

This proposal would not have an effect on this section since the projected capacity deficiency is in the westbound direction during the evening peak hour, which is away from Portland and toward Washington County, which is the reverse commute direction for this area. (Exh. T-23, p. 79; Exh. T-17.)

This proposal will generate approximately 40 additional westbound vehicle trips in this area during the p.m. peak hours. This represents an increase of one-half of 1 percent in this critical area where the capacity of the Corridor is 7,000 vehicles per hour. The effect will be to extend the length of the p.m. peak hour by approximately 20 seconds, which is negligible. (Exh. T-23, p. 79.)

This site is at least 10 miles away from this critical road segment and is beyond a reasonable impact area. (Exh. T-23, p. 80.)

4) The Hearings Officer finds that the

approval of this petition would not have a significant impact on Sunset Highway and the impact on Sunset Highway would not be a significant enough problem on which to base a denial.

d. 216th or 231st

The Kaiser petition and this proposal together will have an impact on 216th or 231st from Cornell Road to the T.V. Highway. Both facilities are planned to be five lanes, however, by the year 2005 they are projected to be three-lane facilities. Approval of both applications will require improvement of one of the facilities to five lanes between Cornell Road and Baseline Road. The Hearings Officer finds that since the facilities are planned to be five lanes; it is possible to make one of the streets five lanes and, therefore, there are possible solutions. This problem would not be grounds for a denial.

e. T.V. Highway

1) Metro staff testified that approval of this petition would put the T.V. Highway over capacity even if the road were improved to six lanes. The staff stated that no improvements are planned to the current four-lane facility which also has a turning lane. It is presently over capacity. Staff stated it will be necessary to establish a parallel system.

2) The portion of T.V. Highway that is now and will continue to experience capacity deficiencies is generally bounded by Murray on the east and 185th on the west. Metro's transportation model projects that by year 2005 without including this proposal, this critical section of T.V. Highway will

be carrying almost 2,500 westbound vehicles during the evening peak hour, or almost 400 over its estimated capacity. (Exh. T-23, pp. 66-67.)

3) A possible solution to this deficiency in capacity would be to add additional lanes. By using the Metro transportation model and by assuming six lanes on T.V. Highway instead of four, there is still a capacity deficiency on this critical section. (Exh. T-23, pp. 67-68; Exh. T-6.) Wayne Kittleson of Kittleson and Assoc. testified that Metro staff had indicated that this same capacity deficiency would occur if there were eight lanes on T.V. Highway instead of six or four. Thus, there is a huge latent demand for travel on T.V. Highway that cannot be met simply by adding lanes to the highway. T.V. Highway is the primary route of choice of east-west drivers traveling through central Washington County. (Exh. T-23, pp. 68-71; Exh. T-8.)

4) Any excess demands on T.V. Highway must be served by parallel east-west roadways such as Cornell, Evergreen and Walker, Baseline and Farmington since the demand for travel on T.V. Highway will exceed its practical capacity no matter how many through lanes are added. It was stated that the simplest and most efficient means for dealing with future increases in east-west travel demand is to improve these parallel facilities and thereby provide reasonable alternates to T.V. Highway. Metro has stated that a solution to excess demand on T.V. Highway is not to add additional lanes to T.V. Highway, but to improve the other roads that are contained within the east-west corridor. (Exh. T-23, p. 70.)

5) The primary transportation impacts of the proposal will be in an east-west direction of travel. However, there is enough planned capacity within the east-west corridor to accommodate this proposal and there is sufficient excess capacity to accommodate continued growth through year 2005. The pie chart presented by Mr. Kittleson (Exh. T-11) indicates that the projected year 2005 p.m. peak travel demand in the westbound direction consumes only about 74 percent of the planned capacity of this east-west corridor. This proposal will use only an additional 4 percent of this available capacity leaving about 23 percent of the planned capacity available for serving normal growth beyond the year 2005 planning horizon. (Exh. T.23, p. 73; Wayne Kittleson testimony.)

6) This proposal can make use of this available capacity without causing significant additional congestion on either T.V. Highway or on any other street that services the area. Metro performed a capacity restrained assignment of the traffic generated by this proposal and the proposal will add only nine vehicles to the critical section of T.V. Highway. The remainder of the traffic increase is dispersed among the available parallel facilities, including Cornell, Baseline, Farmington, and to some extent Johnson and Kinnaman. The total capacity of the east-west corridor has not changed, nor has the total volume that is being served. And there still remains excess capacity within the corridor. (Exh. T-13; T-23, p. 75.)

7) The Hearings Officer finds that based

on the equilibrium model, the T.V. Highway and parallel systems have planned capacity to accommodate the traffic which will be generated by this proposal.

f. Kinnaman

1) The Metro staff report states there will be a significant increase on Kinnaman Road and the impact would not be consistent with the County's comprehensive plan. This issue was also raised by the State Highway Department.

2) The applicant states the proposal is not dependent on Kinnaman, however, Kinnaman was factored into the equilibrium model.

3) Kinnaman is classified as a major collector and it carries 6,500 cars per day in the vicinity of 185th. It functions as a minor arterial. The area is residential in character further east.

4) The Hearings Officer has reviewed the testimony and believes the equilibrium models findings was based on Kinnaman as a link to Farmington Road. Farmington Road is part of the parallel system to the T.V. Highway. It is unclear what the exact impact will be, but the record suggests that Kinnaman will be serving a different function. There is nothing in the record to substantiate that from a planning perspective, Kinnaman should or could perform this function. The issue of Kinnaman Road requires resolution.

g. Transit

The proposal will have a positive effect on

the regional transit system since the Tri-Met route that passes by the property is Route 57 which is a major Tri-Met route that has one of the highest riderships in the entire system. (Testimony of Wayne Kittleson; Exh. T-18, p. 60.)

h. Conclusion

1) The traffic generated by the proposal can be accommodated on the planned parallel systems, however, the issue of Kinnaman needs to be resolved before a finding can be made that this approval criteria is satisfied. The Hearings Officer understands that Kinnaman is not necessary to the proposal, but the question is what function does it serve in the equilibrium model analysis and is that function consistent with its planned designation on the County's comprehensive plan.

3. Water: Water service can be provided to the subject site with no negative impacts on other uses because the existing water system operated by the city of Hillsboro through the Joint Utilities Commission has adequate capacity to serve the property. A 42" water transmission line is immediately adjacent to the property and runs along T.V. Highway. This line is owned 2/3 by the city of Beaverton and 1/3 by the city of Hillsboro. The letter of Eldon Mills, City Manager of Hillsboro, dated March 19, 1986, indicates that there is substantial unused capacity of transmission facilities and that the existing transmission line has capacity well in excess of any development which would likely occur on the subject property. There is substantial capacity beyond the needs of the UGB as the city of Hillsboro built a water system which was designed to

serve nearly all of the County. (Exh. B-16, pp. 65-66.)

4. Fire and Police: All fire and police services can be provided with no negative impacts because:

a. The city of Hillsboro intends to serve and provide fire protection to the subject site. Presently the City can respond to calls on the subject property within an acceptable six-minute time period. (Exh. B-12, pp. 60-61.)

b. The City's fire service is supported by two different fire districts, Washington County District No. 1 and Washington County District No. 2. The City has an agreement with these two districts to provide manpower and equipment if necessary. Both districts have stations located closer to the subject property than the City station (Exh. B-12, p. 61).

c. The City is beginning to implement its Fire Protection Plan which envisions a three station system which would be able to serve the site within a four-minute emergency response from a station in the vicinity of Brookwood Avenue and the T.V. Highway. (Exh. B-11, pp. 41-59; B-12 p. 61.) However, at present the city can serve the site with adequate fire protection.

d. The majority of the property is currently served by the Washington County Sheriff's Department. Upon annexation to the city of Hillsboro, the property would be served by that City's police force. Levels of service provided by the city of Hillsboro include a total staff of 47, including five patrols and a patrol supervisor. City officials have provided assurances of adequate capacity to provide service to the property.

6. Schools:

Development of this property will not place any direct additional burden on local schools.

7. Conclusion

The Hearings Officer finds that with one exception of the Kinnaman Road issue, the services can be provided in an orderly and economic manner.

E. Goal 14, Factor 4, Efficiency of Land Uses

1. The property is surrounded on the east and north by a well developed urban area.

2. The property is located immediately adjacent to T.V. Highway, a major arterial connecting the western portions of the Washington County urban area to the central urban area. The property lies between and adjacent to those urban areas.

3. The property is adjacent to the Witch Hazel Little Farms -- an old 5- and 10-acre land partition -- which contains a mixture of one-half to 10-acre parcels used primarily for rural residential and small lot noncommercial subsistence farming. This area does not meet the requirements of the state's agricultural goal and has been excepted from those requirements in the County's Rural Comprehensive Plan. Inclusion of the property in the urban area and the subsequent provision of public services, will provide the opportunity for services in the Witch Hazel area which is outside the UGB.

4. Much of the property to the south is similar to the Witch Hazel Little Farms area and has also be exempted from the

of other such centers. Spreading such destinations along the transportation system achieves a more efficient use of that system.

10. Adding an employment center in this location will not require additional public transit services. Public transit services exist in the area. The additional demand from the development will increase the level of service to the entire area thereby increasing its convenience and usage.

11. Assuming a need can be demonstrated for the inclusion of this property within the UGB, there are both efficiencies and problems created by adding this land. The efficiencies are the fact that it is strategically located to an arterial street system and other services. The problem is that the extension of sewer creates pressure to place other lands within the UGB. Absent a regional determination of the extent of the area which should be urbanized, the provision of sewers cannot be argued a benefit. Nevertheless, if sewers are provided in a manner which does not impact land outside the UGB, the Hearings Officer would find this to be an efficient use of land.

F. Goal 14, Factor 5, Consequences

1. Environmental Consequences

a. Most of the property drains into Gordon Creek -- a portion drains into Butternut Creek. The development will impact Gordon Creek. The runoff will increase from 70 cubic to 180 cubic feet per second. There are two alternatives; one is to put detention basins on the property and the other is to allow the run off to enter Gordon Creek -- Gordon Creek has a deep channel and

requirements of the agricultural goal in the County's Rural Plan.

5. Specific development plans are being prepared for that portion of the Roseway Business Center inside the UGB and city of Hillsboro. Construction on this first phase has just begun. Expansion of the UGB will allow the development of this project and the installation of public facilities.

6. The property is a part of the Butternut Creek drainage basin. Extension of sewer through the basin will create pressure to include this area within the UGB. Expansion beyond this basin is not reasonable in the foreseeable future since complete new public utility systems would have to be constructed to accommodate that growth.

7. Transportation efficiencies may be achieved with the inclusion of this property in the urban area. This property is approximately at the mid-point between the western portions and eastern portions of the urban area of Washington County. While the property is in the southern portion of the urban area, it is not at the southern edge. The property will be at the intersection of T.V. Highway and 209/219th, a major north-south urban arterial. Development of the property does not extend the transportation network beyond the existing urban area, but will fill in land adjacent to it.

8. Placing the Sunset Corridor hi tech support industries in this location will promote a north-south movement of traffic versus the existing predominant east-west movement.

9. Development of the property will help balance traffic destinations by placing an employment center east and south

energy, however, nothing in the record suggests that it would be greater than if the use were placed anywhere else.

3. Economic Consequences

a. The property will generate approximately \$15 million in annual payroll each of the 10 years estimated to build the project. An equal amount will be spent in construction materials.

b. At full development the project will employ approximately 6,800 people and produce a \$160 million annual payroll.

c. The project will construct major public infrastructure including a road and sewerage system with direct benefits considerably in excess of the direct need of the project.

d. Full development of the project would generate approximately \$2,100,000 in traffic impact fees from the proposed Fee-Based Traffic Impact System.

4. Social Consequences

a. Two families reside on approximately 10 acres of the property. As those properties develop, those families will relocate.

b. The area adjacent to the property, but outside the UGB is a mixed rural area surrounded by growing urban activities. Except for the St. Mary's property, only a few additional parcels produce commercial crops. The immediately adjacent urban areas and their urban services form the basis for the predominant social system that exists in the area. School children from the adjacent rural areas attend the urban area schools. While

can handle the runoff, however, it will require new culverts at 229th Avenue, 234th Avenue and River Road.

b. There are no geologic hazards and the water table is at a depth of 10 feet or less throughout the property.

c. The riparian vegetation along Gordon Creek and Butternut Creek supports a variety of waterfowl, upland game and non-game animals. None of the habitat is on the property, however.

d. There was testimony that a portion of the site is an historic area.

e. The increased traffic will create addition automobile envisions, however, there is no evidence in the record regarding air quality impacts.

f. The site is located within the Portland Air Quality Maintenance Area and the Department of Environmental Quality (DEQ) is responsible for enforcing the National Ambient Air Quality Standards.

2. Energy Consequences

a. The site is located on the T.V. Highway. There are energy benefits because the use will be using the excess capacity during non-peak hours and will be using the system on a reverse flow basis. The negative energy consequences will be during the peak hour.

b. There is significant housing development in close proximity to the site making it possible to shorten work/home vehicle trips.

c. There will be a greater consumption of

represents .008 percent of the total acreage of grains in the County. It is immeasurable in relation to the acreage of grains grown in the state.

5. The acreage currently allocated to hays represents .005 percent of the total acreage of hays in the County. It is immeasurable in relation to the state total.

6. A portion of the property (60 acres) is uncultivated through the Federal Acreage Conservation Reserve program.

7. The Hearings Officer finds that this approval criterion is not satisfied. The property is prime agricultural land under Statewide Goal 3 and the petitioners have not satisfied their burden of proof in demonstrating there is a need for additional industrial land. Since there is not a need for the property for an urban use, it must be retained as agricultural land.

H. Goal 14, Factor 7, Compatibility

1. Most adjacent rural property is divided into small lot residential, non-commercial subsistence farming, grazing and pastureland, and uncultivated or fallow wasteland.

2. Most conflicts with existing agricultural activities in the area come from the adjacent residential areas. Some vandalism of equipment and gardens has been reported.

3. The planned uses are light industrial uses. That is, they are not uses which emit smoke, odor, or have other types of offsite impacts. The issues will be traffic, aesthetics, lights and noise.

the individual families living in the rural area maintain a semi-rural/semi-urban family lifestyle in their homes, their lifestyle outside of their household is almost totally urban.

c. Most families living in the rural areas adjacent to the property derive their income from jobs in the urban area.

d. Development of the Roseway Business Center will not substantially change the social structure present in the area.

5. Conclusion

a. The Hearings Officer finds there will be no significant adverse consequences of placing this property within the Boundary based on the testimony in the record and that this approval criterion is satisfied.

G. Goal 14, Factor 6, Retention of Agricultural Land

1. The majority of the property is Class II agricultural land. Some Class I exists on the property as well as some Class III and VI.

2. The soils of the property are characteristic of most agricultural soils in Washington County and in the same approximate proportions as exist throughout the County.

3. This property is not irrigated nor could it easily be brought to the property. Crops grown on the property are among the most common in the County and the state. No specialty or high value crops are grown on the property.

4. The acreage currently allocated to grains

The three petitioners were consolidated for hearing on this approval criterion. Therefore, the record contains testimony given by Kaiser Development, Inc.; Riviera Motor Co. and this petition.

3. Accommodation of the Use on Non-Resource Land That Would Not Require An Exception

There was no evidence introduced into the record that the use could be accommodated on non-resource land.

4. Resource Land Irrevocably Committed to Non-Resource Use.

a. There are four areas of exception lands as alternative sites outside UGB within the Sunset Corridor and the 20 minute travel time radius. (Table 6 entitled "Exception Lands As 'Alternative' Sites, Sunset Corridor Area (20-minute travel time Radius) (Map of Area). Table 6 indicates that these four areas are not alternative locations which can accommodate the proposed industrial use.

b. The petitioner further testified that the land at the foothills of Cooper Mountain has significant topographical constraints; the land between Reedville Farm and Hazeldale is not conducive for a large consolidated industrial park due to the interspersing of existing small rural development; the land between Evergreen and Sunset Highway is subject to small parcels and multiple ownerships which would prevent the consolidation of land for industrial uses; and the land between Hillsboro and Cornelius is constrained since sewerage service is

4. While industrial development of the property will add considerable numbers of people in the area, experience has demonstrated that such uses and activities can be made compatible through design review processes with adjacent residential uses. The county and city both have a design review process.

5. The Hearings Officer finds that this proposal can be made compatible with adjacent uses.

I. Goal 2, Exceptions, Process, Reasons

This approval criteria may be satisfied by compliance with the findings with respect to the seven factors of Goal 14 (OAR 660-04-010(1)(c)(B)(i)). The Hearings Officer has found that Goal 14, Factors 1, 2 and 6 have not been satisfied, therefore, this criterion is not satisfied.

J. Goal 2, Exceptions Process, Alternative Sites

1. Introduction

a. Petitioners argued there is a shortage of land for support industries within a 20-minute radius without regard to site characteristics in their need arguments.

b. Under this approval criterion, petitioners contend there is a need for this specific type of park of 200 acres or more. They contend there are no appropriate alternative sites within a 20-minute driving time. Therefore, the issue under this approval criterion is whether petitioner has shown that only a 200-acre site or larger will satisfy the need and whether there are alternative sites on which the proposal could be located.

2. The Record

unavailable and would be served by the city of Hillsboro treatment plant rather than the USA Rock Creek treatment plant. A new sewerage system would have to be constructed to facilitate the industrial development proposed by petitioner.

c. The Hearings Officer cannot accept the 20-minute driving time as valid, therefore, this approval criterion cannot be satisfied.

5. Accommodation of the Use Within the Urban Growth Boundary

a. Petitioner's analysis of alternative sites is based on the 20-minute travel time contour. In other words, petitioner limited its analysis of other available sites to the area within 20 minutes driving time during the p.m. peak hour. The Hearings Officer has cited the problems with this approach and has not accepted it as valid. Therefore, there is insufficient evidence to demonstrate whether there are other appropriate sites. 1000 Friends of Oregon in their testimony identified other sites have 200 acres or more such as the Leveton site in Tualatin.

b. Petitioner asserts the site must be 200 acres in size. Petitioner also states that within that 200- to 472-acre site, three to four separate industrial parks are proposed. The separate industrial parks will be 50-70 acres minimum to 100-150 acres maximum. Each park will have its own distinct character and development approach. It is envisioned that one park might be for lease only, one might be for purchase only, one might be for outdoor storage and a fourth for uses which are sensitive to

noise or vibration. Petitioner does not explain the reasons there must be four adjoining parks or in other words why four 50-acre parks separated by geographic area will not serve the same need. The Hearings Officer does not find the evidence adequately documented to support a finding that only 200-acre site will satisfy the need. Therefore, even assuming the 20-minute travel contour were valid, the question remains as to whether there are other available sites 50 acres in size.

c. The Dawson Creek property which is 306 acres and available for lease only could satisfy part of the need. In addition 1000 Friends of Oregon identified other sites in the Wilsonville area, however, petitioner rejects these sites because time is 30-40 minutes. In addition, as part of the consolidated hearing, properties were identified in the Tualatin area all of which could satisfy all or part of the need.

d. Petitioners' evidence does not persuade the Hearings Officer that this approval criteria is satisfied for two reasons. First, the Hearings Officer cannot accept the validity of the 20-minute travel time contour map which limited the analysis to that area. Second, even assuming the map were supportable, petitioner has not submitted documented evidence that only a 200- to 475-acre site can be used to satisfy the need for support industries.

K. Goal 2, Exceptions Process Consequences

1. The agricultural land that would be converted to urban uses is not presently irrigated nor could such irrigation be easily brought to the property. The crops grown on the property are

5. The Hearings Officer finds that the long-term environmental, economic, social and energy consequences resulting from the proposed use at the proposed site are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site.

L. Goal 2, Exceptions Process, Compatibility

1. The property is surrounded on two sides by urban development with mixed residential, commercial and industrial development. Industrial development on this property can be made compatible with those areas through the county or city design review process.

2. The property on the remaining two sides is divided into small lot rural residential and non-commercial subsistence farms, gardens and homesites. While industrial development of the property will increase the intensity of activities in the area, it can be made compatible with these existing uses.

3. The southern corner of the property is adjacent to commercial cropland. It is expected that these properties will continue to be farmed for the foreseeable future. Industrial development will not have a significant impact on those activities and may serve to better separate these uses from the urban areas along T.V. Highway.

4. Urban development of this property will not create any rural islands.

among the most common in the County and the state and, therefore, assuming that petitioners had demonstrated a need if there is to be a conversion, it will have the least effect on agricultural production as compared to the removal of specialty or high value crops (Exh. B-8, p. 35).

2. Since there will be no loss of any significant natural resources, and loss of habitat, there will be no effects on identified significant natural resources within the area; there will be no adverse effects on ground or surface water resources; the increase in noise and light in the area due to property development will be no grater than surrounding urban uses; and will remove dust, pesticide spray and other agricultural effects from intruding into adjacent urban areas, this property, as located, would compare favorably to any other property outside the UGB for purposes of inclusion within the UGB (Exh. B-8, p. 38).

3. Inclusion of this property within the UGB, as compared with other property outside the UGB, would increase the asessed valuation of the property from \$455,000 to \$300 million; generate \$6 million in property taxes; create 6,800 jobs and 160 million in annual payroll and generate \$1 to \$3 million of state excise tax and \$1 million in transit taxes (Exh. B-8, p. 39).

4. Inclusion of this property within the UGB as compared with other property outside the UGB provides transportation alternatives not presently available which would make the road and intersection, and transit system more efficient in the area thereby lessening the energy requirements for the area (Exh. B-8, p. 39).

5. Urbanization of this property is a logical extension of the existing urban area. It makes possible the eventual urbanization of the Witch Hazel Little Farms area, therefore, the whole area should be examined.

6. Urbanization of this property enables the construction of significant improvements in existing, planned or new public facilities. These improvements will significantly enhance existing urban areas and promote the compatibility of all urban uses.

7. The Hearings Officer finds that development on this property can be made compatible with surrounding land uses.

VIII.

CONCLUSION AND ORDER

Based on the foregoing findings, the petition of BenjFran Development, Inc. and Co-petitioners, No. 85-8, for a major amendment to the UGB, is hereby denied.

AB/JH/gl

5540C/455-2

05/02/86

REVISED 3-24 PRESENTATION

TABLE 1
EMPLOYMENT PROJECTIONS
SUNSET CORRIDOR AREA (20-TRAVEL TIME RADIUS)

AREA WITHIN TRAVEL TRAVEL TIME BOUNDARY -----	EMPLOYMENT		PERCENT CHANGE 1893 - 2005 -----
	1983 -----	2005 -----	
HILLSBORO	13,930	31,940	129 %
SUNSET CORRIDOR/ALOHA	11,170	44,860	302 %
BEAVERTON	43,750	76,180	74 %
TOTAL	68,850	152,980	122 %

PROJECTED HIGH-TECH PRIMARY
JOBS (1983 - 2005): 1/ 22,435

PROJECTED HIGH-TECH SUPPORT
JOBS (1983 - 2005): 1/ 11,217

PROJECTED HIGH-TECH EMPLOYMENT: 2/ 3/ 33,652

PROJECTED OTHER EMPLOYMENT
(1983 - 2005): 50,478

TOTAL "NEW" EMPLOYMENT
(1983 - 2005): 84,130

FOOTNOTES NEXT PAGE.

Footnotes for Table 1

-
- 1/ Based on analysis of current primary high-tech employment to total high-tech employment.
 - 2/ Based on 40 percent factor - primary jobs to total jobs. Laventhol & Horwath presentation to Sunset Corridor Association. Also used in Metro forecasts.
 - 3/ Given the area's physical characteristics, development to date, and target marketing activities: the calculation assumes that projected industrial employment will be essentially 100 percent "high-tech" or related employment.

Sources: Sunset Corridor Association.
Laventhol and Horwath.
Washington County Planning Division.
Metro Data Resource Center.

TABLE 2
 PROFILE OF PRIMARY HIGH-TECH MANUFACTURING GROWTH
 SUNSET CORRIDOR AREA (20-MINUTE TRAVEL TIME RADIUS)

	NEC -----	FUJITSU -----	EPSON -----	TOTAL/AVG. -----
ACRES	210	140	41	391
PLANNED EMPLOYMENT	3,000	2,000	600	5,600
RATIO: EMPLOYMENT TO LAND	14:1	14:1	15:1	14:1
VENDORS OF CHOICE	40-50	28-30	8-9	

 1/ FUJITSU AND EPSON BASED ON NEC; ASSUMES NUMBER OF VENDORS OF CHOICE IS RELATED TO REQUIRED PRODUCTION EMPLOYMENT AND SIZE OF FACILITY (I.E., VENDORS' PRODUCTS FLOW UPWARD THROUGH PRODUCTION CHAIN AT PROPORTIONAL RATIO).

SOURCES: CORPORATE INTERVIEWS.
 OREGON DEPARTMENT OF ECONOMIC DEVELOPMENT.

REVISED 3-24 PRESENTATION

TABLE 3
INDUSTRIAL LANDS INVENTORY
SUNSET CORRIDOR AREA (20-MINUTE TRAVEL TIME RADIUS)

LAND IN METRO INVENTORY:	TOTAL	UNCONSTRAINED	1/	PERCENT CONSTRAINED
SUNSET WEST	1,032	203		80 %
WEST UNION	498	10		98 %
HILLSBORO	1,806	658		36 %
ALOHA	122	0		100 %
BEAVERTON	420	420	2/	0
TOTAL INVENTORY	3,878	1,291		67 %

1/ UNCONSTRAINED: SEWER WITHIN 1000 FEET, NO HAZARDS, OFF RAIL.
2/ DATA NOT AVAILABLE TO DETERMINE STATUS OF VACANT LAND.

SOURCE: METRO VACANT LAND INVENTORY.

REVISED 3-24 PRESENTATION

TABLE 4
ANALYSIS OF INDUSTRIAL LANDS INVENTORY
SUNSET CORRIDOR AREA (20-MINUTE TRAVEL TIME RADIUS)

TOTAL INVENTORY: 3,878

LESS UNCONSTRAINED VACANT LAND IN LARGE PARCELS

PROPERTY	PARCELS IN ACRES	
-----	-----	
DAWSON CREEK	54	
TANASBOURNE	30 + 35	
SEAPORT	197	
BNRR/WEST UNION	103 + 40	
WINDOLPH PARK	85	
PAC TRUST	48	
FIVE OAKS	61	
JOHNSON	35	
KAISER/231ST	77	765

LESS UNCONSTRAINED VACANT LAND IN INDUSTRIAL PARKS:

INDUSTRIAL PARK	ACRES	
-----	-----	
BEAV. CREEK TECH PARK	59	
HAWTHORN FARM	35	
KOLL BUS. CTR.-WOODSIDE	40	
CORNELL OAKS	38	
FIVE OAKS	61	
ROSEWAY IND. PARK	75	
KOLL CTR.-CREEKSIDE	20	
KOLL BUS. CTR.-BEAVERTON	6	334

LESS UNCONSTRAINED VACANT LAND IN "OTHER"
PARCELS (INCLUDING SMALL PARCELS): 192

EQUALS CONSTRAINED VACANT LAND: 2,587

SOURCES: METRO VACANT LAND INVENTORY.
NORRIS, BEGGS & SIMPSON.

TABLE 5
LAND NEEDED FOR PROJECTED HIGH-TECH GROWTH
SUNSET CORRIDOR AREA (20-MINUTE TRAVEL TIME RADIUS)

WITHOUT RIVIERA/KAISER:

	PROJECTED NEW JOBS	/	JOBS/ ACRE	=	NEW ACRES NEEDED	-	AVAILABLE	=	ADDITIONAL NEEDED
	1/ 22,435		2/ 14		1,603		3/ 765		838
PRIMARY SUPPORT	11,217		14		801		526		275
TOTAL	33,652		14		2,404		1,291		1,113

WITH RIVIERA/KAISER: 4/

	PROJECTED NEW JOBS	/	JOBS/ ACRE	=	NEW ACRES NEEDED	-	AVAILABLE	=	ADDITIONAL NEEDED
	26,621		14		1,902		1,064		838
PRIMARY SUPPORT	13,310		14		951		526		425
TOTAL	39,931		14		2,853		1,590		1,263

FOOTNOTES NEXT PAGE.

Kalm 453
Riviera

Footnotes for Table 5

/ means divide.
- means minus.

- 1/ Total from Table 1. Industrial employment in this area is 2/3 primary high-tech and 1/3 other, based on employment in largest companies, as reported in January, 1985 Business Journal.
- 2/ See Table 2.
- 3/ See Tables 3 and 4 (assumes primary high-tech will locate on large parcels.
- 4/ Riviera/Kaiser combined land = 299 acres times 14 employees per acre = 4,186 new primary high-tech jobs plus number in Metro forecast (22,435) = 26,621. On a 2:1 basis, per historical ratio, this would lead to 2,093 additional support jobs. Add the 11,217 jobs in the Metro forecast = 13,310 support jobs projected with Kaiser/ Riviera. Land available for primary high-tech = existing (765) plus Kaiser and Riviera (299) = 1,064.

3-31 Presentation
Expanded Analysis
in Response to Other Testimony

Table 1

EMPLOYMENT PROJECTIONS

SUNSET CORRIDOR AREA (APPX. 20-MINUTE TRAVEL TIME RADIUS)

Area Within Travel Time Boundary -----	Employment -----		Percent Change 1893 - 2005 -----
	1983 -----	2005 -----	
Hillsboro	13,930	31,940	129 %
Sunset Corridor/Aloha	11,170	44,860	302 %
Beaverton	43,750	76,180	74 %
Total 4/	68,850	152,980	122 %

Projected High-Tech Primary
Jobs (1983 - 2005): 1/ 22,435

Projected High-Tech Support
Jobs (1983 - 2005): 1/ 11,217

Projected High-Tech Employment: 2/ 3/ 33,652

Projected Other Employment
(1983 - 2005): 50,478

Total "New" Employment
(1983 - 2005): 84,130

Footnotes next page.

Footnotes for Table 1

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- 1/ Based on analysis of current primary high-tech employment to total high-tech employment.
 - 2/ Based on 40 percent factor - primary jobs to total jobs. Laventhol & Horwath presentation to Sunset Corridor Association. Also used in Metro forecasts.
 - 3/ Given the area's physical characteristics, development to date, and target marketing activities: the calculation assumes that projected industrial employment will be essentially 100 percent "high-tech" or related employment. High-tech industries include electronics, aerospace, biotechnology, and defense.
 - 4/ Tualatin Valley Developments, Tualatin Valley Economic Development Corporation Report, January 1985. (Based on 11/84 projection data from Metro Resource Center for Districts 13, 14, and 15).

Sources: Tualatin Valley Economic Development Corporation.
Laventhol and Horwath.
Washington County Planning Division.
Metro Data Resource Center.

**3-31 Presentation
Expanded Analysis
in Response to Other Testimony**

Table 2

**PROFILE OF PRIMARY HIGH-TECH MANUFACTURING GROWTH
SUNSET CORRIDOR AREA (APPX. 20-MINUTE TRAVEL TIME RADIUS)**

	<u>NEC</u>	<u>Fujitsu</u>	<u>Epson</u>	<u>Total/Avg.</u>
Acres	210	140	41	391
Planned Employment	3,000	2,000	600	5,600
Ratio: Employment to Land	14:1	14:1	15:1	14:1
Vendors of Choice	40-50	28-30	8-9	

1/ Fujitsu and Epson based on NEC; assumes number of vendors of choice is related to required production employment and size of facility (i.e., vendors' products flow upward through production chain at proportional ratio).

**Sources: Corporate interviews.
Oregon Department of Economic Development.**

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in Response to Other Testimony

Table 3 - A
INDUSTRIAL LANDS INVENTORY
SUNSET CORRIDOR AREA (APPX. 20-MINUTE TRAVEL TIME RADIUS)

Land in Metro Inventory	Total Inventory	Ready to Develop (Sewer w/in 1000' & No Hazards)		Constrained
		Off Rail	On Rail	
Sunset West	1,032	203	348	481
West Union	498	10	10	478
Hillsboro	1,806	658	626	522
Aloha	122	0	18	104
Beaverton	420 1/	336	0	84
Total Acres	3,878	1,207	1,002	1,669
Percent	100%	31%	26%	43%

Total Unconstrained Land = 1,207 + 1,002 = 2,209

1/ Data are not available in inventory to determine status of Beaverton land. Beaverton land is assumed to be 80% unconstrained and 20% constrained. (It was assumed to be 100% unconstrained in the March 24 presentation). To compare, in Hillsboro 70% is unconstrained and 30% is constrained.

Source: Metro Vacant Land Inventory, Washington County, 10 June 1985.

There is no Table 4 in this presentation.

3-31 Presentation
Expanded Analysis
in Response to Other Testimony

Table 5 - A

LAND NEEDED FOR PROJECTED HIGH-TECH EMPLOYMENT GROWTH
SUNSET CORRIDOR AREA (APPX. 20-MINUTE TRAVEL TIME RADIUS)

Elements in Calculation -----	Without Kaiser & Riviera -----	With Kaiser & Riviera -----
Available Unconstrained Acreage from Metro Inventory	2,209 1/	2,750 1/
Less: Amount needed for Incidental Office and Commercial Uses 2/	442 -----	442 -----
Equals	1,767	2,308
Add: Acreage Equivalent in Existing Developed Industrial Space (At 95% Overall Occupancy) 3/	108 -----	108 -----
Total "Available" Land	1,875	2,416
Less: Land "Needed" for Primary High-Tech Employment Growth 4/	1,603 -----	2,144 -----
<i>Assumed number of total employees employment land ratio</i>		
Equals: Land "Available" for Support Industries	272 22,435 14	272 30,016 14
Less: Land "Needed" for Support Industry Employment Growth 4/	801 -----	1,072 -----
Equals: Shortfall (Additional Land "Needed" for Support Industries	(529)	(800)

Footnotes next page.

Footnotes for Table 5 - A

-
- 1/ $2,209 + 541 = 2,750$ (see also Table 3 - A).
- 2/ Assumed to be 20% of total available land (2,209) except for the Kaiser and Riviera projects, which were assumed not to include any commercial and office space. Basis: An important location factor for tenants is the availability of retail and personal services establishments. These kind of spaces also provide a greater return on investment to owners/developers. Therefore, it is assumed owners/developers would attempt to lease to such tenants as allowed by zoning codes and as necessary to attract industrial tenants. Washington County plan designation "I" (industrial) allows up to 50% of the land area in a project 10 acres or larger with a master plan to be developed into "other" incidental uses. Hillsboro "M-P" (industrial park) designation allows commercial services with office uses permitted outright - no percentage specified. Beaverton "CI" (campus industrial) zoning allows up to 60% office and 10% retail. 83% of vacant Beaverton land is zoned "CI". Beaverton "IP" (industrial park) zoning allows incidental office uses - no percentage specified. Beaverton "LI" (light industrial) zoning allows office as principal use up to 15%. Both Beaverton "IP" and "LI" zoning allow retail as incidental use - no percentage specified. Examples of such uses include: restaurants and delis; print shops; travel agencies; real estate, law, insurance, and finance offices. This does not include office uses within an industrial company such as executive offices, personnel, accounting, etc.
- 3/ To account for developed industrial space which is presently vacant or that which is under construction (as of the time of the vacant land inventory). The inventory includes industrial parks and stand-alone industrial buildings and was developed from several sources: 1000 Friends computer printout; Norris, Beggs & Simpson data included with 1000 Friends report; Cushman & Wakefield; Coldwell Banker; and Grubb & Ellis. Considerable variation exists among data sources. To be conservative, we took the largest available space figure for each project from among the various sources. Since we are focusing on land needs, it is necessary to convert this space to an acreage equivalent, calculated as follows:

(continued next page)

Footnotes for Table 5 - A (cont)

Calculation of acreage equivalent (based on 41 industrial projects/stand-alone buildings):

9,190,965	total square feet built or under construction	
- 1,700,938	vacant square feet	18.5 % vacant

7,490,027	occupied square feet	81.5 % occupied
9,190,965		
x .95	"ideal" occupancy factor	

8,731,417	occupied square feet at 95 % occupancy	
- 7,490,027	currently occupied square feet	

1,241,390	square feet to absorb to reach 95 % rate	
/ 11,510	square feet of building per acre of land	5/

108	acre equivalent	

Note: - means minus; x means times; / means divide.

- 4/ From Table 5. Assumes need for primary high-tech will be filled first as that is the basic industrial employment sector which creates the "need" for other employment including industrial support jobs. Also assumes that primary high-tech companies will require all types of parcel sizes and space as some will be large companies (e.g., NEC, Epson, and Fujitsu) and others will be emerging primary high-tech companies in varying stages of corporate growth.
- 5/ Calculated from existing industrial parks and building inventory (see also footnote 3/); based on total building area (built, under construction, and planned) divided by total acres.

3-31 Presentation
In Response to Other Testimony

Table 6

EXCEPTION LANDS AS "ALTERNATIVE" SITES

SUNSET CORRIDOR AREA (APPX. 20-MINUTE TRAVEL TIME RADIUS)

Land Between Evergreen and Sunset Highway -----	Land Between Hillsboro and Cornelius -----	Land Between Reedville Farm and Hazeldale -----	Land at Foothills of Cooper Mt. -----
Flat terrain	Flat terrain	Rolling terrain	Relatively hilly terrain
Reasonable access	Reasonable access	Difficult access	Difficult access
Sewer and water issues	Sewer and water issues	Sewer and water issues	Sewer and water issues
Multiple ownerships	Multiple ownerships	Multiple ownerships	Multiple ownerships
Small parcels compared to Roseway	Small parcels compared to Roseway	Small parcels compared to Roseway	Small parcels compared to Roseway
Odd shaped parcels	Odd shaped parcels	Odd shaped parcels	Odd shaped parcels
Most AF-5 & 10 are developed into other uses	Most AF-5 & 10 are developed into other uses	Most AF-5 & 10 are developed into other uses	Most AF-5 & 10 into developed into other uses
--	R-Com developed into other use	--	--
--	--	--	Suburban residential character of area
Would need to be brought into UGB for indust. development	Would need to be brought into UGB for indust. development	Would need to be brought into UGB for indust. development	Would need to be brought into UGB for indust. development

Source: Washington County Planning Department, 3/86.

BEFORE THE COUNCIL
OF THE
METROPOLITAN SERVICE DISTRICT

In the Matter of the Petition of	)	No. 85-8
BenjFran Development, Inc. and	)	EXCEPTIONS TO THE HEARINGS
Co-Petitioners for a Major	)	OFFICER'S PROPOSED FIND-
Amendment to the Urban Growth	)	INGS, CONCLUSION AND ORDER
Boundary	)	FOR PETITION NO. 85-8
)	
	)	(ORAL ARGUMENT REQUESTED)

I.

NAME OF THE PETITIONERS

BenjFran Development, Inc. (Petitioner) has entered into a purchase option agreement with the Sisters of St. Mary of Oregon and other small ownerships, or owns the subject property which is located in the Southeast area of the City of Hillsboro, in Washington County, for the purpose of developing the property as the "Roseway Business Center" to accommodate the high tech support companies that are required by the primary high tech industry that is developing in the Sunset Corridor.

II.

NATURE OF THE PROCEEDINGS

Riviera Motors, Inc., Kaiser Development Co. and BenjFran Development, Inc. individually petitioned Metro for a major amendment to the urban growth boundary. The Metro Hearings Officer conducted consolidated hearings regarding the above-mentioned applications on March 21, 1986, and on March 31, 1986. The issues consolidated for hearing were:

1. Traffic (transportation impacts); and
2. Other available sites (alternative sites).

The evidence submitted by proponents and opponents in the consolidated hearings was made a part of each individual petitioner's record for the purpose of each petitioner's findings, conclusion and order of the Hearings Officer.

The individual petitioner's hearings regarding the non-consolidated issues were before the Hearings Officer on March 24, 1986.

Subsequently, the Hearings Officer issued proposed findings, conclusion and order for each of the three applications and made the following determinations:

1. Kaiser (No. 85-7): approved with conditions;
2. Riviera (No. 85-9): approved with conditions; and
3. BenjFran (No. 85-8): Denied.

On June 12, 1986 the Metro Council, by Resolution No. 86-651, adopted as the final Order in contested case No. 85-9 (Riviera) the Hearings Officer report and recommendations.

On June 26, 1986 the Metro Council, by Resolution No. 86-650, adopted as the final Order in contested case No. 85-7 (Kaiser) the Hearings Officer report and recommendations, as modified.

The Metro Council has scheduled a hearing for August 28, 1986 to consider the Hearings Officer's proposed findings, conclusions and recommendations for BenjFran (No. 85-8) and the exceptions filed herein by BenjFran to the proposed Order.

III.

THE EXCEPTIONS PROCESS

Metro Code Section 2.05.35 provides that parties shall

be given the opportunity to file written exceptions to the proposed Hearings Officer order(s) and, upon approval of the Council, present oral argument regarding the exceptions to the Council.

Arguments before the Council shall be limited to parties who have filed written exceptions to the proposed order(s). The argument before the Council shall be limited to the written exceptions.

Petitioner respectfully requests that the Council allow Petitioner to present oral argument to the Council regarding these exceptions filed herein.

IV.

EXCEPTIONS

The Petitioner hereby submits the following written exceptions to the Hearings Officer's proposed Findings, Conclusion and Order for Petition No. 85-8 (BenjFran).

GOAL 14, FACTOR 1, DEMONSTRATED NEED

EXCEPTION NO. 1: The Hearings Officer erred in concluding that BenjFran had not demonstrated that a need exists to amend the UGB to accommodate the proposed use for the following reasons:

Hearings Officer Finding No. 1

The Hearings Officer found that high tech firms desire to have high tech support companies located in close proximity which may be within a 20-minute travel time (pg. 10, BenjFran). However, the Hearings Officer found that "[A] desire . . . is not tantamount to a need." (pg. 10, BenjFran). The Hearings Officer stated that she would "need case studies or citations to

literature which document that support companies must be located within 20-minutes driving time of the high tech companies in order to support their [BenjFran's] need argument." (pg. 10, BenjFran). The Hearings Officer stated that need could be shown in many ways; e.g.

1. Documentation to the fact that high tech firms will not locate in the Sunset Corridor unless the high tech support companies are within 20-minutes driving time; or

2. That high tech support companies cannot survive unless they are located within the 20-minute time. (pg. 10-11, BenjFran).

BenjFran Response To Hearings Officer Finding No. 1

The Hearings Officer and Metro, in Kaiser and Riviera, accepted evidence and found that high tech is a unique industry having unique locational criteria and that there is a localized need for additional industrial land in the Sunset Corridor to accommodate high tech firms. The Hearings Officer accepted evidence that high tech firms seek "locations of choice"; have a tendency to cluster (critical mass); and about their wanting to be in a place which has a well known name.

This evidence relied upon by the Hearings Officer to conclude that Kaiser and Riviera had met their burden of showing need, is a description of the desire and preference by high tech firms to locate within an area. These findings also represent a desire on the part of economic development professionals and real estate brokers to concentrate high tech growth within a localized area (i.e. the Sunset Corridor) to actively market the Sunset

Corridor in order to remain competitive with other areas outside the region to attract high tech companies. The Hearings Officer and Metro did not require Kaiser and Riviera to demonstrate that:

1. High tech firms would not locate within the region unless they could locate within the Sunset Corridor; or

2. High tech firms would not be able to survive unless they were located within the Sunset Corridor, as compared elsewhere within the region.

The evidence submitted by Kaiser and Riviera relating to agglomeration economics and critical mass to justify the need for additional large parcels within the Sunset Corridor does not rule out the possibility that other areas in the region could physically accommodate high tech industries and still satisfy the requirements of critical mass. In fact, the Hearings Officer found that ". . . other areas [within the region] can in principle physically accommodate high-tech industries" (pg. 11, Kaiser Findings).

Just as Kaiser and Riviera presented evidence stating the preference and desire of high tech industry to be located within the Sunset Corridor, BenjFran submitted evidence establishing:

1. There is a critical relationship between primary and high tech support companies and that the BenjFran proposal is intended to satisfy the need for the critical relationship between primary and support companies to meet the need as it evolves over the next 20 years of growth in the Sunset Corridor.

2. That as high tech industrial growth continues in the Greater Sunset Corridor, there will be a demand for high tech support industries. The high tech support companies are necessary to achieve an essential part of the infra structure for primary high tech industry.

3. That BenjFran's primary emphasis in its development is to accommodate the precision materials, products and services that supply the raw materials for high tech such as components, secondary assembly, clean room equipment and supplies and testing services. The Hearings Officer acknowledged that the high tech support group is important to the high tech industrial base. (pg. 7, BenjFran).

4. That the above-mentioned relationship depends upon the high tech support companies to be located within close proximity to the primary high tech companies to allow direct, constant and immediate two-way communication and physical interaction.

5. That based upon a survey conducted by BenjFran by phone of 25 high tech support companies, 84% responded that the optional travel time required by customers is 20 minutes or less.

The Hearings Officer found that BenjFran had not identified the companies interviewed, the questions posed and that the answers were not submitted into the record. The Hearings Officer is in error as BenjFran did submit this evidence as justification that there is a need for the high tech support industry to be within close proximity of the primary end user,

and the optimal travel time of 20 minutes or fewer. (BenjFran Exhibits A-16, B-9).

Specifically, BenjFran submitted the following into the record:

1. The names and addresses of the support company.
2. Date of the interview.
3. Question posed: "What do you think is the optimal travel time to get to your customers to provide them with the kind of support they require?"
4. Answer given: 84% responded with travel times of 20 minutes or fewer. (Exhibit B-9).

The Hearings Officer and Metro have also acknowledged the importance of the relationship between the growth of the high tech industry in the Sunset Corridor with the importance of providing for the high tech support industry:

1. The Hobson Report defines "agglomeration economics" as the economist's term for the "critical mass" necessary to sustain growth whereby high tech firms have a tendency to locate near each other. A factor in realization of "critical mass" is the existence of a support network of vendor firms. (pg. 11-12, Kaiser).

2. The Pope Report referred to in the Kaiser findings at pg. 12-13 indicates that critical mass is becoming the key to electronic plant location and that key services include contract manufacturing (i.e. support services).

3. Richard Carlson, Vice President of QED Research in Palo Alto, California, upon whom the Hearings Officer relied in

the Kaiser hearing, testified that the third most important criterion in high tech firms locating a site is "accessability" to other firms and the corallary support services available from such firms. (pg. 13, Kaiser).

Conclusion for Finding No. 1.

BenjFran established that primary high tech companies desire high tech support companies to be nearby, and more specifically pursuant to the above-mentioned survey, within 20 minutes or less. The Hearings Officer and Metro acknowledge the critical relationship between the high tech support and primary users. The lack of support companies close by is a negative factor for new high tech companies exploring the Sunset Corridor for potential new plant sites. To effectively market the Sunset Corridor to primary high tech companies, we need to be responsive to all of their locational desires.

Metro must apply the same standard to prove "need" in the BenjFran petition as it did in acknowledging that Kaiser and Riviera had proven need in their petitions.

Hearings Officer Finding No. 2

Based upon the need of the support companies to be within close proximity of the primary high tech industry and within 20 minutes or less, BenjFran identified an area within a 20 minute time radius of the center of the Sunset Corridor. (Exh. A-12). Its center is approximately 185th and Walker Road, the core of the Sunset Corridor. The 20-minute area constitutes Metro Districts 13, 14 and 15 for purposes of data collection.

The Hearings Officer found that BenjFran's "20 minute travel time map delineates the boundaries in which the vacant available industrial lands inventory will be conducted." (pg. 11, BenjFran). The amount of land will be the basis for determining whether additional land is needed to accommodate the proposed use.

The Hearings Officer did not accept as valid the methodology used to delineate the 20 minute travel time contour. The map represents the area within a 20 minute travel time at peak p.m. from the center of the Sunset Corridor. It identifies land within the 20 minute travel time radius which could qualify as appropriate sites to accommodate the optimal travel time between support and primary high tech companies. The basis for the Hearings Officer's finding was that businesses operate at non-peak times. Therefore, a map based on other than p.m. peak times would encompass a greater land area and it may or may not include additional industrially planned land. The Hearings Officer concluded by finding that no map was submitted into evidence showing the contour at other than the p.m. peak. (pg. 11, BenjFran).

BenjFran's Response to Hearings Officer Finding No. 2

In effect, the 20-minute travel time map is similar in concept for the high tech support companies as is the Sunset Corridor map for the primary high tech companies.

In Riviera and Kaiser the Hearings Officer was able to determine that even though there were other areas in the region which would physically accommodate high tech industries, the

Sunset Corridor is the location of choice without having to show specifically what other land within the region could accommodate high tech firms. Remember, the Hearings Officer did not require Riviera or Kaiser to show that:

1. High tech firms would not locate within the region unless they could locate within the Sunset Corridor; or

2. High tech firms would not be able to survive unless they were located within the Sunset Corridor.

It was not documented by Riviera or Kaiser that if additional land is not brought within the UGB and the Sunset Corridor that high tech companies would not locate elsewhere within the region. Yet based upon the desire of economic development professionals, real estate brokers, 1000 Friends of Oregon and Metro staff to competitively market the Sunset Corridor for high tech growth, the Hearings Officer and Metro discovered a need for more land within the corridor even though other land exists elsewhere to accommodate the use.

Based on this standard, which allows a particular area to be focused upon for adding more land to the UGB, the Hearings Officer is not justified in requiring BenjFran to specifically delineate a 20-minute time contour when the Petitioner's original intent was to show the approximate preferred distance in the relationship between primary high tech firms located in the Sunset Corridor and the location of their support companies.

The reasons for limiting the analysis to the 20-minute time frame was conceptually similar to the issue of localized

travel time boundary is specifically placed. This testimony showed that if the 20-minute area were expanded, all the numbers related to the need for additional land would change, including employment growth, but that the ultimate result of land need would not be materially effected.

BenjFran did not fail to consider planned industrial land in Tigard and Tualatin. Rather, the Petitioner based the analysis on localized need pertinent to high tech support companies which by definition excludes the Tigard and Tualatin areas. Similarly, those areas were approved for exclusion by the Hearings Officer and Metro from the Kaiser and Riviera petitions. (pg. 11, Kaiser).

Hearings Officer Finding No. 3

The Hearings Officer did not accept the employment projections provided by BenjFran which were used as a factor in determining how much land is needed to accommodate the proposed use. (pg. 12, BenjFran). The Hearings Officer asserted that BenjFran had used higher employment projections, thereby showing a greater amount of land needed. (pg. 12, BenjFran). The basis for this finding was the Hearings Officer's belief that BenjFran had not used employment projections developed by Metro, but instead had prepared its own. (pg. 12, BenjFran). In particular the Hearings Officer stated:

The Hearings Officer cannot accept the Petitioner's projections. Metro projections are the projections used by local governments for planning purposes. These projections have received regionwide scrutiny from all local governments. The Hearings Officer cannot accept Petitioner's projections absent any

need which was used and accepted in the Kaiser and Riviera petitions.

At the time of the hearing, the only map available from Metro showing the traffic impact within the 20-minute time contour was for peak p.m. traffic. No other map was available. Metro staff testified that an off-peak analysis would expand the line but was very careful not to state what difference, if any, there might be.

The Hearings Officer is accurate in stating that BenjFran did not provide a map showing a revised contour line. That was because no such map was available. However, BenjFran did address the possibility that an off-peak contour would expand the line. In testimony, BenjFran considered additional vacant building space within Tigard and Tualatin. Notwithstanding this effort, the Hearings Officer still found that the "Hearings Officer cannot access the validity of the analysis without a map". The Hearings Officer is not justified in requiring BenjFran to be exact and precise about a 20-minute time contour map, when Riviera and Kaiser were not required to demonstrate that land was available immediately adjacent to the Sunset Corridor for high tech development.

The Hearings Officer errs in understanding the petitioner's rebuttal testimony regarding vacant space in Tigard and Tualatin. This space was not included in the original analysis because it is outside of the 20-minute area. However, information was presented in rebuttal testimony to show that the need for additional land is not greatly affected by where the

Officer's findings, this is an area larger than the Sunset Corridor. The use of this area is supported by the localized need concept accepted by the Hearings Officer and Metro in the Kaiser and Riviera petitions. (pg. 12, Kaiser).

The following is a discussion of various Metro projections, including those used by the Petitioner and the Hearings Officer. They demonstrate:

- a. That the Petitioner did use Metro projections.
- b. That Metro has released several sets of projections.
- c. That there is no material difference between the projections.
- d. That the Petitioner did not use the highest projections and, thereby, base the analysis on comparatively high employment growth figures.

Metro Employment Projections

1. From "Year 2000 Growth Allocation Workshops", March-April 1982, page 27.

	<u>1980</u>	<u>2000</u>	<u>Change</u>
District 13	48,330	72,710	24,380
District 14	10,040	33,760	23,720
District 15	<u>11,790</u>	<u>27,570</u>	<u>15,780</u>
Approximate 20-Minute Area Total	70,160	134,040	63,880
SMSA Total	618,820	969,990	351,170

It should be noted that in this document, Metro broke out the above total employment projections into categories called office, industrial, and retail. For 1980, industrial employment totaled 30,770 or 43.9 percent of total employment in

explanation demonstrating the reason that Metro's projections are too low. (pg. 13, BenjFran).

BenjFran's Response to Hearings Officer Finding No. 3.

The Hearings Officer ignores the Petitioner's source of employment projections. The projections were provided by Metro, (A Population and Employment Forecast to 2005, Oct. 1984, pg. 45), whereas the Hearings Officer contends they were the Petitioner's own projections. (pg. 12, BenjFran).

The Hearings Officer apparently does not know that Metro periodically reissues population, employment, and dwelling unit projections. The projections reflect changing economic conditions and are increased or decreased depending on information (assumptions) available at the time the projections are made. Metro is considered the official local source of projections. As a result, the Petitioner used the Metro projections available at the time the analysis was conducted. It should be noted that the Petitioner has been preparing information for this process since early 1985. Subsequently, Metro has released revised projections. For the entire region between 1983 and 2005, there is no difference between the Metro projections used by the Petitioner and those cited by the Hearings Officer. For the approximate 20-minute area, there is only a difference of 204 jobs (reflecting minimal subdistrict adjustments). (See (2) and (4) below).

The Petitioner used Metro projections for a geographic area approximating the 20-minute travel time map, specifically Metro districts 13, 14, and 15. Contrary to the Hearings

	<u>1983</u>	<u>2005</u>	<u>Change</u>
District 13	44,013	76,622	32,609
District 14	11,072	44,313	33,241
District 15	<u>13,708</u>	<u>31,784</u>	<u>18,076</u>
Approximate 20-Minute Area Total	68,793	152,719	83,926
SMSA Total	584,920	910,010	325,090

In (2), (3), and (4) above, Metro changed its methodology. Instead of breaking out total employment into office, industrial, and retail categories, Metro estimated employment by sector such as agriculture, manufacturing, government, service, wholesale and retail trade. As a result, it becomes difficult to compare methodology, assumptions, and results. However, given that the year 2005 projections are for a time 20 years in the future (from when the projections were prepared), the differences are not material.

5. From "Staff Analysis - Hearings on Petitions for Major Amendment of the Urban Growth Boundary", February 4, 1986, Table 1 UGB Share of 1983 SMSA Employment and Table 2 UGB Employment Growth 1985-2005 (used by the Hearings Officer).

These tables appear to originate from the regionwide projections shown in (4) above. The staff analysis is intended to show what portion of employment growth is estimated to occur within the UGB between 1985 and 2005. This is a smaller area than the region.

Districts 13, 14, and 15. For the year 2000, industrial employment was projected to total 52,360 or 39.1 percent of total employment in Districts 13, 14, and 15. For the SMSA region, industrial employment was 227,120 or 36.7 percent of total employment in 1980 and industrial employment was projected to be 350,390 or 36.1 percent of total employment in 2000.

2. From "A Population & Employment Forecast to 2005", October 1984, page 45 (used by the Petitioner)

	<u>1983</u>	<u>2005</u>	<u>Change</u>
District 13	43,750	76,180	32,430
District 14	11,170	44,860	33,690
District 15	<u>13,930</u>	<u>31,940</u>	<u>18,010</u>
Approximate 20-Minute Area Total	68,850	152,980	84,130
SMSA Total	584,920	910,010	325,090

3. From "A Population & Employment Forecast to 2005", Errata Sheet, March 1985, replaces page 45 above.

	<u>1983</u>	<u>2005</u>	<u>Change</u>
District 13	44,070	77,240	33,170
District 14	11,090	44,670	33,580
District 15	<u>13,730</u>	<u>32,040</u>	<u>18,310</u>
Approximate 20-Minute Area Total	68,890	153,950	85,060
SMSA Total	588,290	914,160	325,870

4. From "A Regional Population & Employment Forecast to 1990 & 2005", July 1985, page 12 (apparent basis for figures used by the Hearings Officer - see (5) below).

Petitioner did use Metro projections and that the Petitioner did not intentionally use the highest projections.

The Hearings Officer also errs in stating that the applicant's analysis is based on year 2005 projections. In fact the Petitioner's analysis is based on the employment growth projected to occur between 1983 and 2005. All employment growth will not magically occur at year 2005. Land must be available before 2005 to accommodate growth through that year as the Hearings Officer and Metro found in the Kaiser and Rivera petitions. In those petitions the Hearings Officer and Metro found that land needs to be available first in order that companies can locate on it, and then create employment growth.

Hearings Officer Finding No. 4

The Hearings Officer did not accept BenjFran's inventory of vacant land planned for industrial use because the inventory was limited to the area within the 20-minute p.m. peak driving time. Further, the Hearings Officer found fault with BenjFran's "land need" argument since it was based on year 2005 employment projections, when BenjFran limited the land inventory to presently developable land. (pg. 14-15, BenjFran). The Hearings Officer specifically stated:

By the year 2005, much of the presently constrained lands will be developable. Therefore, the inventory should have matched year 2005 employment projections with the developable year 2005 planned industrial land. (pg. 15, BenjFran).

Lastly, the Hearings Officer found that Metro defined the terms "unconstrained" and "constrained" lands differently than BenjFran did in the analysis regarding the inventory of land

Estimated industrial (from employment sectors)	81,532
Estimated other employment	<u>159,778</u>

Estimated employment growth within the UGB, 1985-2005	241,310
--	---------

Fallacies in using these numbers include:

a. Growth is intended to occur within the UGB. Development restrictions on land outside of the UGB make it very unlikely that any significant employment additions will occur there.

b. If more employment growth is projected than land is available to accommodate it, then it is logical to adjust the land base, not vice versa.

c. This data set reduces the ratio of industrial employment to total employment. In these projections, regional industrial employment represents 33.8 percent of total employment compared to 36.7 and 36.1 percent shown in (1) above. (Note here that industrial employment represents a larger share in Metro District 13, 14, and 15 compared to the region - see (1) above. The largest economic benefit (multiplier effect) results from industrial employment. It seems that public policy (such as economic development activities including making land available for industrial development) should attempt to encourage growth in the industrial sector, and not accept a declining economy (even though there is growth projected in other employment sectors). The Hearings Officer appears to agree based on the recommendations to approve the Kaiser and Riviera petitions.

This long discussion of Metro employment projections shows errors in the Hearings Officer's findings: that the

The Hearings Officer maintains that the Petitioner should have included "constrained" land in the analysis as some of it will likely become "unconstrained" by the year 2005. This may or may not occur.

However, it is important to note that the Roseway property can be efficiently served with public services in a cost effective manner as demonstrated in the Petitioner's submittals concerning that issue. The Hearings Officer offers no analysis to compare changing some of the vacant land currently within the UGB from "constrained" to "unconstrained".

Further, the Hearings Officer and Metro did not require Kaiser and Riviera to consider that some "constrained" land would become "unconstrained" and thereby accommodate high tech industry growth. In those petitions, the Hearings Officer and Metro found that the need is immediate in order to competitively market the area and cites the importance of high tech support companies in attracting high tech industrial growth. The Hearings Officer places an arbitrary condition on the BenjFran application which is not made of Kaiser and Riviera.

Hearings Officer Finding No. 5: Per Acre Employee Ratio

The Hearings Officer found that "Petitioners need argument is based on a need for additional land for support industries. Important to the determination of need is the per acre employee ratio." (pg. 15, BenjFran).

BenjFran used an employment density of 14 employees per acre, and as a result, 2,404 acres of land would be required.

available for industrial use. However, the Hearings Officer finds that the technical difference (without explaining the difference) is not important to her findings. (pg. 13-14).

BenjFran's Response to Hearings Officer Finding No. 4

The Hearings Officer found that the Petitioner defines "constrained" and "unconstrained" land differently than Metro, while conceding that the difference is not important to the findings. In spite of the later opinion, the Petitioner takes exception to the former as being untrue and misrepresentative. The Petitioner used the Metro vacant land inventory and made no attempt to define the terms differently.

The Hearings Officer does not accept the inventory as shown in the Petitioner's analysis as it was limited to the approximate 20-minute travel time area which has been addressed herein supporting use of this geographic area based on empirical evidence and errors in the Hearings Officer's analysis. The area is also supportable based on the Hearings Officers and Metros acceptance of the localized need analysis as approved in the Kaiser and Riviera applications. (pg. 14, Kaiser).

The Hearings Officer contends that the inventory as used is not valid as it is related to year 2005 employment projections. Here, too, the Hearings Officer errs. The Petitioner's analysis is based on the land inventory of "unconstrained" land to accommodate employment growth between the year 1983 and 2005. It is not logical for the Hearings Officer to contend that all projected employment will not occur until the year 2005. (pg. 15, BenjFran).

Institute in Washington, D.C. ULI figures are calculated according to land use density:

High density	50	employees per acre
Medium density	18	employees per acre
Low density	<u>9.7</u>	employees per acre
Average density	25.9	employees per acre

One only has to look around at recent industrial development projects to see that the campus-style predominates with low-rise buildings, spacious landscaping, and parking. At 14:1, the major developers noted above are clearly following plans more akin to the low and medium employee per acre densities suggested by ULI than the average figure used by Metro.

Further, in the Kaiser findings the Hearings Officer states that actual on-site employment densities range from 12.5 to 17 employees per acre.

Finally, the Hearings Officer fails to understand that the Kaiser, Riviera and BenjFran petitions are all addressing the same industry, high tech. To continue the industry's growth in this area, both primary and support high tech companies are necessary. To attract them, all of their locational requirements will have to be met including labor, infrastructure and site design standards.

Therefore, it is reasonable for the Petitioner to use the 14:1 ratio based on high tech industry standards and current industrial park development standards.

Hearings Officer Finding No. 6: Determination of Need

In BenjFran's needs analysis to determine whether additional land is needed within the UGB for industrial use, two

The Hearings Officer disagrees with the employment density of 14 employees per acre for the following reasons:

1. Metro has used a figure of 25 employees per acre for high tech which would result in a need for 1,345 acres or 1000 acres less than BenjFran. (pg. 15, BenjFran).

2. BenjFran's survey of three primary high tech manufacturing companies to arrive at a density of 14:1 is not "a sufficiently representative sample". (pg. 16, BenjFran).

3. There is no empirical evidence or literature which finds that high tech companies and support industries have the same employee ratios. (pg. 16, BenjFran).

BenjFran's Response to Hearings Officer Finding No. 5

The Hearings Officer disputes the use of a 14:1 employee per acre ratio. The Petitioner did provide empirical evidence to this figure, specifically Fujitsu, Epson, and NEC. This sample is representative of current development standards within the high tech industry and the location in question, specifically the Sunset Corridor area.

This is also the ratio used to formulate the Roseway development concept, that is, utilization of the site considering roads, parking, building sites, drainage, etc. The 14:1 ratio is the current industry standard used by major industrial park developers including (in addition to BenjFran) Koll, Quadrant, Prendergast, and PacTrust.

Metro staff has previously advised the Petitioner how employee densities were developed for the employment projections. The base source was the suggested guidelines of the Urban Land

GOAL 14, FACTOR 2, NEED FOR EMPLOYMENT OPPORTUNITIES

EXCEPTION NO. 2: The Hearings Officer erred in finding that BenjFran had not adequately demonstrated a need for 11,217 high tech support industry jobs by the year 2005 for the following reasons:

Hearings Officer Finding No. 1

The Hearings Officer believes there is a need for support industries and for jobs. (pg. 20, BenjFran). However, the Hearings Officer finds that BenjFran's assertion of a need for 11,217 support industry jobs by the year 2005 (of which BenjFran's share would be 6,800) is not adequately supported by the evidence. Further, the Hearings Officer finds that it has not been shown that the need can only be met by amending the UGB. (Pg. 21, BenjFran).

BenjFran's Response to Finding No. 1

The Hearings Officer and Metro, in determining that Kaiser and Riviera had satisfied Goal 14, Factor 2 made the following findings to justify its decision:

1. ". . . Oregon's economic and employment needs are two-fold: (1) to replace jobs lost through the erosion of traditional employment bases; and (2) the need to rebuild and diversify the states basic industries." (pg. 27, Kaiser).
2. "The evidence submitted showed that high-tech industries are significant generators of new jobs." (pg. 27, Kaiser) Manufacturing firms are basic to the economy . . . and create an economic multiplier effect in support and service jobs. On average, for every manufacturing job, approximately 1.8 support and service jobs are created." (pg. 26, Kaiser (emphasis added)).

scenarios were presented: In one, that Kaiser and Riviera were not approved, and in another analysis, assumed that both petitions were approved.

The Hearings Officer made the finding that "adding land to the UGB" does not automatically mean more jobs. "Industrial expansion is not simply a factor of the amount of vacant industrial land." (pg. 19-20, BenjFran).

Response to Hearings Officer Finding No. 6

The Hearings Officer states disagreement with the Petitioner's analysis of land need under two scenarios: without Kaiser and Riviera; and with Kaiser and Riviera. When the UGB was formed, it was planned so that it would accommodate projected employment growth for the next 20 years. Since then, industrial economics in the region, and specifically in the Sunset Corridor, have changed as demonstrated by all petitioners. Previously unforeseen employment opportunities have presented themselves. It logically follows that allowing the Kaiser and Riviera parcels into the UGB creates the opportunity to add employment opportunities in the area and thus to increase the employment projections. (pg. 19 and 20).

The type and amount of land originally provided within the UGB are not adequate to accommodate these new opportunities in the primary high tech and high tech support industry. The Hearings Officer agrees there is a need for the industry itself. Then it logically follows that appropriate land must be provided for them within the UGB.

predicted in the Kaiser and Riviera petitions. In fact, the Hearings Officer summarily states that BenjFran does not specifically discuss the need for jobs and how its petition will address the need. BenjFran will in fact satisfy the need through the creation of 6,800 jobs.

The Hearings Officer disputes the 2:1 ratio of primary high tech employment to support industries employment. The ratio is an estimate based on employment figures contained in the February 4, 1985 issue of The Business Journal (inadvertantly reported as January - typographical error in Footnote 1 Table 5) and the Washington County insert in the Oregon Business Magazine. The Business Journal reports on the region's top 25 electronics companies. The applicant refined this list to reflect employment within the approximate 20-minute time area as of 1983 (date of employment projections). The calculation assumes these companies are "primary" as they are the largest; the balance of employment representing "support" companies. The ratio was then applied to the growth projected to occur between 1983 and 2005.

Once again the Hearings Officer finds the Petitioner fails to provide literature research. Because of the lack of available literature citations, the Petitioner performed primary research to provide empirical evidence to support assumptions and methodologies. The Hearings Officer did not require the same burden of proof in the analysis relative to Kaiser and Riviera.

GOAL 14, FACTOR 6, RETENTION OF AGRICULTURAL LAND

EXCEPTION NO. 3: The Hearings Officer erred in concluding that the Petitioner had not demonstrated a "need" for

3. "The Hearings Officer finds that the statistical evidence demonstrates that there has been a decline in the state's basic industries, and that because manufacturing industries are needed to generate further growth, there exists the need to rebuild and diversify the state's basic industries. The Hearings Officer finds that, because high-tech industries are basic growth industries nationwide and in Oregon, fostering high-tech growth serves the dual needs of generating jobs and rebuilding the state's basic industries. The Hearings Officer therefore finds that the amendment to the UGB, the purpose of which is to develop high-tech industries, addresses the need for employment opportunities and livability in the state. Approving the application supports Factor 2 by securing an adequate supply of land in the area's prime high-tech corridor which will encourage location of new companies in the area.

Therefore, the Hearings Officer and Metro determined that adding the Riviera and Kaiser land to the UGB provides land for employment opportunities and liveability in the state.

BenjFran presented evidence similar to Riviera and Kaiser to establish the need to improve the state's economic base by promoting the high tech industry, of which the high tech support companies are a part. The evidence presented in all three petitions, and accepted by the Hearings Officer, is that high tech support companies are an integral part of the success of the Sunset Corridor area and its future growth opportunities.

The standard of proof imposed on Riviera and Kaiser was if you add industrial land it will generate jobs and improve the economy. However, in the BenjFran findings, the Hearings Officer completely excludes any reference that the support industries are an integral piece to the success of high tech growth in the Sunset Corridor which will allow for the employment opportunities

"This approval criteria may be satisfied by compliance with the findings with respect to the seven factors of Goal 14 (OAR 660-04-010(1)(c)(B)(i)). The Hearings Officer has found that Goal 14, Factors 1, 2 and 6 have not been satisfied, therefore, this criterion is not satisfied." (pg. 37, BenjFran).

BenjFran's Response to Hearings Officer Finding No. 1

As set forth above, in Exception Nos. 1, 2 and 3, the Petitioner has demonstrated compliance with factors 1, 2 and 6 of Goal 14. The Petitioner has demonstrated need; the fact that the need cannot be met within the existing UGB, and therefore, that the UGB should be amended to accommodate the need addressed by the BenjFran petition.

GOAL 2, EXCEPTIONS PROCESS, ALTERNATIVE SITES

EXCEPTION NO. 5: The Hearings Officer erred in concluding that the Petitioner had not demonstrated compliance with Goal 2, Exceptions process, alternative sites, and OAR 660-04-020.

Hearings Officer Finding No. 1: Accommodation of the use on non-resource land that would not require an exception.

The Hearings Officer defines the issue under this approval criterion as follows: "Whether Petitioner has shown that only a 200-acre site or larger will satisfy the need [i.e. industrial land for support companies within an approximate 20-minute drive time of the primary high tech firms within the Sunset Corridor]. (pg. 37, BenjFran).

The Hearings Officer found that "there was no evidence introduced into the record that the use could be accommodated on

additional land and inclusion within the UGB, and therefore the property should be retained as agricultural land.

Hearings Officer Finding No. 1

The Hearings Officer found that the subject property is not irrigated nor could it easily be brought to the property. Further, crops grown on the property are among the most common in the County and the state, and no speciality or high value crops are grown on the property. (pg. 35, BenjFran).

The Hearings Officer found that this approval criterion was not satisfied because of her previous finding under Goal 14, Factor 1. Specifically, the Hearings Officer found:

"Since there is not a need for the property for an urban use, it must be retained as agricultural land." (pg. 36, BenjFran).

BenjFran's Response to Hearings Officer Finding No. 1

Since BenjFran has established a need for the property for an urban use, then it does not need to be retained as agricultural land.

GOAL 2, EXCEPTIONS, PROCESS REASONS

EXCEPTION NO. 4: The Hearings Officer erred in finding that the Petitioner had not demonstrated compliance with Goal 14, Factors 1, 2 and 6 and therefore had not demonstrated compliance with Goal 2, exceptions, process, reasons.

Hearings Officer Finding No. 1

The Hearings Officer finding regarding this criterion was:

"The Hearings Officer cannot accept the 20-minute driving time as valid, therefore, this approval criterion cannot be satisfied." (pg. 39, BenjFran).

In other words, the Hearings Officer requires BenjFran to examine sites which are outside of the Sunset Corridor and the 20-minute travel time radius which was not required of Kaiser and Riviera.

BenjFran's Response to Hearings Officer Finding No. 2

In Kaiser and Riviera, the Hearings Officer and Metro did not require those petitioners to search for alternative sites except for those within the Sunset Corridor or adjacent to it, based upon the localized need concept.

However, in BenjFran the Hearings Officer requires a more extensive search even though BenjFran is addressing the same high tech industry and its localized need requirements. Hence, BenjFran is subjected to a more stringent burden of proof.

The evidence presented by BenjFran indicates that the four areas reviewed cannot accommodate the proposed use because of constraints of lack of proper zoning, lack of sewers, and multiple ownerships.

Hearings Officer Finding No. 3: Accommodation of the use within the urban growth boundary

The Hearings Officer found:

Petitioners' evidence does not persuade the Hearings Officer that this approval criteria is satisfied for two reasons. First, the Hearings Officer cannot accept the validity of the 20-minute travel time contour map which limited the analysis to that area. Second, even assuming the map were supportable, petitioner has not submitted documented

non-resource land". (pg. 38, BenjFran).

BenjFran's Response to Hearings Officer Finding No. 1

BenjFran has satisfied this criterion since there are no non-resource lands outside the UGB that would not require a new exception within the approximate 20-minute time travel map.

In Kaiser and Riviera, the Hearings Officer and Metro acknowledged that due to the uniqueness of the requirements of the industry, the issue of alternative sites is limited to a showing that there are inadequate sites within the Sunset Corridor. (pg. 70, Kaiser). Specifically, the Hearings Officer and Metro found in Kaiser and Riviera, that there are no nonresource lands which are contiguous to the urban growth boundary which are within the Sunset Corridor (pg. 70, Kaiser).

Equally so, there are no nonresource lands that would not require a new exception which are contiguous to the urban growth boundary which are within the approximate 20-minute time travel map. Based on the reasoning above, BenjFran is legally entitled to the same conclusion regarding the 20-minute map as Riviera and Kaiser were regarding the map of the Sunset Corridor.

Hearings Officer Finding No. 2: Resource lands irrevocably committed to non-resource use.

Even though BenjFran submitted evidence of four areas of exception lands as alternative sites outside the UGB and within the 20-minute travel time radius, and that these four areas are not alternative locations which can accommodate the proposed industrial use, the Hearings Officer found that:

that addresses the unique locational requirements of support companies.

It should be mentioned that in the Petitioner's needs analysis, all vacant land was included in the inventory regardless of parcel size. The analysis showed a need to add 800 acres to the UGB with the approval of the Kaiser and Riviera applications.


CONCLUSION

The Hearings Officer in her Findings, Conclusion and Order determined that the urbanization of the BenjFran property is a logical extension of the existing urban area. (pg. 43, BenjFran). Further, the Hearings Officer found that:

"Urbanization of this property enables the construction of significant improvements in existing, planned or new public facilities. These improvements will significantly enhance existing urban areas and promote the compatibility of all urban uses" (pg. 43, BenjFran).

The Hearings Officer found that BenjFran has met its burden of proof regarding all of the relevant criteria for an amendment to the UGB except for the criteria stated above and for which the Petitioner has filed exceptions.

BenjFran respectfully requests the Metro Council to approve its Petition No. 85-8 for a major amendment to the urban growth boundary based upon Metro's approval of Kaiser and Riviera to promote industrial growth within the Sunset Corridor, the evidence submitted by BenjFran, and these exceptions.


Gregory S. Hathaway
Of Attorneys for Petitioner

evidence that only a 200- to 475-acre site can be used to satisfy the need for support industries. (pg. 40, BenjFran).

BenjFran's Response to Hearings Officer Finding No. 3

The applicant proposes to develop a large industrial park to meet the needs of high tech support companies. Even though the park is planned to have several "development zones" with unique characteristics, it is planned to target support companies within one basic industry, high tech. Therefore, the industrial park will have a single unified theme and market approach.

Therefore, it will allow for a variety of uses and company sizes in one compatible environment.

The Petitioner surveyed support companies and found that they need to be in close proximity to each other as well as to their customers to best increase market knowledge and sharing of technical information.

The large size of BenjFran's proposed industrial park is the only way to achieve this closeness - a need which is unique to high tech support companies compared to other industries.

Further, the large site size provides development economics and cost efficiencies related to site improvements and the extension of services. This benefit is so great, in fact, that other properties (and indeed the general community) will enjoy public utilities and transportation improvements.

Therefore, the Petitioner examined alternative sites of 200 acres or larger within the localized need area. None were found to be able to accommodate the proposed uses in a manner

the city of Hillsboro and it is in Washington County. (Figures 1 and 2 of Exhibit B-8).

III.

NAME OF THE PETITIONERS

BenjFran Development, Inc. (Petitioner) has entered into a purchase option agreement with the Sisters of St. Mary of Oregon and other small ownerships, or owns the above-identified property for the purpose of developing the property as the "Roseway Business Center" to accommodate the support industries that are required by the primary hi tech companies that are developing in the Sunset Corridor area. (Exhibit B-8, pp. 1-2).

IV.

NATURE OF THE PROCEEDINGS

The Hearings Officer, pursuant to the authority of Metro Ordinance No. 85-189, Section 5, ordered the consolidation of certain issues for hearing with the three (3) petitioners for a major amendment to the UGB. The three petitions are:

1. Riviera Motors Inc. and Co-petitioners, No. 85-6;
2. Kaiser Development Co. and Co-petitioners, No. 85-7; and
3. BenjFran Development, Inc. and Co-petitioners No. 85-8.

The issues consolidated for hearing were:

1. Traffic (transportation impacts); and
2. Other available sites (alternate sites).

The consolidated hearings regarding the above-mentioned

BEFORE THE HEARINGS OFFICE
OF THE
METROPOLITAN SERVICE DISTRICT

IN THE MATTER OF THE PETITION OF	)	NO. 85-8
BENJFRAN DEVELOPMENT, INC. AND)	
CO-PETITIONERS FOR A MAJOR AMEND-	)	FINDINGS, CONCLUSION AND
MENT TO THE URBAN GROWTH BOUNDARY	)	ORDER

I.

NATURE OF APPLICATION

The petition is for the amendment of the Urban Growth Boundary (UGB) to include the following property:

<u>Owner</u>	<u>Acres</u>
Sisters of St. Mary of Oregon	461.08
Antiond Habib & Diana Kanaan	1.01
Leslie Lee	<u>10.13</u>
Total	472.22

The petition also requests the Metropolitan Service District (Metro) to approve the annexation of the above-mentioned properties, with the addition of:

<u>Owner</u>	<u>Acres</u>
BenjFran Development, Inc.	31.68

into its area of jurisdiction and forward the approval to the Metropolitan Boundary Commission. The total acreage requested for annexation to Metro is 503.90 acres.

II.

LOCATION OF THE PROPERTY

The subject property is located in the southeast area of

2. Demonstration of need for employment opportunities that would be created by the proposal.

3. Demonstration that public facilities and services can be provided in an orderly and economic manner to accommodate the property.

4. Demonstration that the petition will promote the maximum efficiency of land uses within and on the fringe of the existing urban area.

5. Demonstration that the environmental, energy, economic and social consequences will not be unreasonably adverse by amending the UGB.

6. Demonstration that expansion of the UGB to include this property will not unreasonably affect the goal of retaining prime agricultural lands.

7. Demonstration that the industrial uses to be developed on the subject property will not be incompatible with nearby agricultural activities.

The Goal 2, Exception process, requires a finding that:

1. Areas which do not require a new exception cannot reasonably accommodate the proposed industrial use. This factor can be satisfied by demonstrating that:

- a. the proposed industrial use cannot be accommodated on non-resource land or on resource land irrevocably committed to non-resource use.
- b. the proposed industrial use cannot be accommodated on alternative locations inside the UGB that are more appropriate and can meet the need.

issues were before the Hearings Officer on March 21, 1986, and on the issue of "other available sites" was continued for purposes of rebuttal on March 31, 1986. The evidence submitted by proponents and opponents in the consolidated hearings is made a part of each individual petitioners' record for the purpose of each petitioners' Findings, Conclusion and Order.

The individual petitioners' hearings regarding the non-consolidated issues were before the Hearings Officer on March 24, 1986.

The Hearings Officer conducted all hearings herein pursuant to the Contested Case procedures of Metro Ordinance No. 85-189.

V.

RELEVANT CRITERIA

In considering this petition, the Hearings Officer must apply statewide Goal 14, Urbanization, and the standards and procedures for taking a statewide goal exception under Statewide Goal 2. The standards and criteria applicable to this petition are:

A. Goal 14, Urbanization; and

B. The Exceptions process embodied in Goal 2, Planning,

which requires a finding as to why the state policy embodied in the applicable goals should not apply, i.e., why should this petition be provided for within the Metro UGB? This factor can be satisfied by compliance with the seven (7) factors of Goal 14:

1. Demonstration of need to accommodate long-range industrial land requirements that this petition would provide.

companies.

VII

FINDINGS

A. Introduction

The amendment of an established urban growth boundary requires extensive data, complex methodologies and complex computations. Therefore, the Hearings Officer invited the petitioner to submit proposed findings. The purpose was to allow the petitioner to assemble the testimony in a manner which satisfies the burden of proof.

The Hearings Officer has reviewed the petitioners proposed findings and finds the findings do not satisfy the requisite burden of proof. The petitioners proposed findings have been made a part of the record along with proposed findings submitted by 1000 Friends of Oregon.

B. Goal 14, Factor 1, Demonstrated Need

The Hearings Officer believes there is a need for support industries, however the petitioner has not demonstrated that a need exists to amend the UGB to accommodate this use. This conclusion is supported by the Boundary Findings.

1. As hi tech industrial growth continues in the region and primarily in the Greater Sunset Corridor, there will be a demand for support industries. The support industries necessary to achieve an essential part of the infrastructure for primary hi tech industries fall into four groups.

a. Development Services Industries:

2. Demonstration that the long-term environmental, economic, social and energy consequences resulting from the proposed use at the proposed site (with measures designed to reduce adverse impacts) are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site.

3. Demonstration that the proposed industrial uses are compatible with other adjacent uses or will be made compatible through measures designed to reduce adverse impacts.

VI.

APPLICANTS PROPOSAL

The petitioner is proposing to develop the 472.22 acre site into three or four individual industrial parks of 50-70 acres minimum to 100-150 acres maximum. Each park will have its own distinct character and development approach based upon the needs of individual support industries. It is envisioned that one park might include land for purchase only, another for lease only, a third developed to meet outdoor storage requirements or the ability to grow through the provision of flex space and a fourth park with restricted uses due to noise, privacy or electrical or vibration sensitivity. The petitioner is proposing that approximately 60 percent of the site will be leased and 40 percent of the site will be sold. It is envisioned the project will be developed over a number of years. The land uses on the site will be limited to support industries which provide the raw materials, components, services, products and supplies that are required by hi tech

two-way communication and physical interaction.

This proposal is intended to satisfy the need for the critical relationship between primary and support companies and to meet the need as it evolves over the next 10-15 years of growth in the Sunset Corridor. (Testimony of Gordon Davis.)

3. Petitioners case is predicated on the following argument:

a. There is a need for land for support industries;

b. The land must be within 20 minutes driving time of the Sunset Corridor;

c. There is a shortage of "unconstrained" land planned for industrial development within the 20 minute driving time; and

d. This proposal satisfies that need.

4. Petitioners support their position using two different methodologies. The Hearings Officer does not accept the methodologies or the data sets. This will be discussed in detail in the following findings. The methodologies are set forth in Appendix I and Appendix II.

5. Basis for 20-Minute Driving Time Standard

a. Petitioners contend that it is desirable for support industries to be located within 20 minutes driving time from the hi tech "control mass" and based their need argument on their conclusion that there is not enough land with the 20-minute driving time.

Industries that design and construct hi tech sites, plants and facilities.

b. General Business Services: Industries that provide goods and services necessary for general business operations including office supplies, equipment and furnishings, janitorial, telecommunications, and professional services.

c. Precision Materials, Products and Services: Industries that supply the raw materials for hi tech such as components, secondary assembly, "clean room" equipment and supplies, testing services, etc.

d. General Community Support Services: Industries related to the construction and operation of the infrastructure (utilities, roads, sewers, water systems, waste disposal), homes, schools, medical supplies, hotel/restaurant supplies, commercial supplies, etc.

Of these four support groups, the "precision materials, products and services" support group is important to the hi tech industrial base. The market for this support industry is the companies that produce the consumer's end product, such as NEC America, or Fujitsu. (Exh. B-8, pg. 7.) The petitioners' primary emphasis in its development is to accommodate this group of support services. (Exh. B-8, pg. 1; Testimony of Gordon Davis.)

2. A relationship exists between the primary hi tech companies and their support industries. It is a relationship that depends on a) high quality products, b) price sensitivity, and c) proximity to each other to allow direct, constant and immediate

secondary consideration. The prime consideration is that the products and services are available which meet the specifications and secondarily they must be price competitively. He stated that communication with suppliers is carried on by phone.

e. Petitioners stated they conducted a survey by phone of 25 hi tech support industries. Eight-four percent responded that the optimal travel time required by customers is 20 minutes or less. This survey forms the basis for the 20-minute travel time contour. The identify of the companies interviewed, the questions posed and the answers have not been submitted into the record.

f. The Hearings Officer believes that hi tech firms desire to have support industries located in close proximity which may be within a 20-minute travel time. A desire, however, is not tantamount to a need. The Hearings Officer believes that the cornerstone of this need argument must be supported by empirical evidence. There is no empirical evidence in the record that documents the land use pattern in other hi tech areas. In fact, the petitioner did not cite to any charging land use relationships in the Portland area as a result of the hi tech development within the Sunset Corridor. The Hearings Officer will need case studies or citations to literature which document that support industries must be located within 20-minute driving time of the hi tech companies in order to support their need argument. Need could be shown in many ways; e.g., documentation to the fact that hi tech firms will not locate in the Corridor unless the support industries are within 20

b. Mr. Donald Watson, Director of Manufacturing for NEC America, Inc., testified regarding the relationship between the primary hi tech and support industries. He made it clear that his testimony was not in support or in opposition to the petition. He stated that the philosophy of NEC America is to buy all American, and it is to try to buy locally, that is, as close to the plant as possible. The standards for vendors in support industries are prioritized as follows: 1) stability of the firm, 2) quality assurance, 3) accessibility, and 4) competitiveness with other vendors. Quality is always a priority over distance. The reason for having the vendors in close proximity is twofold: 1) to facilitate communication; and 2) to implement the "just in time" inventory process. He stated that it is important to have vendors close by, but it is not absolutely required. He did not define "close by," but rather he stated that NEC will take the closer vendor when quality is equal. He cited an example that 20-30 minutes would be preferred over a 50-minute travel time. He also said that about 20 percent of the electronics companies in the area are using the "just in time" inventory process.

c. 1000 Friends of Oregon submitted a copy of a letter to Mr. Howard Mikesell at Tektronics asking the proximity of its suppliers. The response was that approximately 5 percent are within 0-5 miles, 10 percent are within 5-20 miles, 10 percent are within 20-50 miles and 75 percent are more than 50 miles in distance.

d. Mr. Joseph R. Breivogel, a staff engineer at Intel testified to this point. He said that proximity is a

accept the methodology used to identify the area in which the land use inventory is conducted.

15. Employment Projections

a. Employment projections are a factor in determining how much land is needed. The higher the employment projections, the greater the amount of land needed. There are two sets of employment projections; i.e., projections prepared by Metro and projections prepared by the applicant. The Hearings Officer does not accept the projections provided by the applicant as being valid based on the following explanation.

b. Petitioners need argument is based on year 2005 employment projections (see Table 1, Revised 3-24 Presentation, Appendix I and Table 1-A, 3-31 Expanded Analysis, Appendix II.) The following table contrasts petitioners projections with Metro's year 2005 projections. Metro projections are regionwide and petitioners projections are limited to the Sunset Corridor.

Year 2005 Employment Projections

	<u>Petitions</u>	<u>Metro</u>
Manufacturing, Electric)	33,652	39,000
Manufacturing, Other)		12,147
Construction, Mining		29,485
Wholesale		81,532
Subtotal	<u>33,652</u>	
Other	50,478	159,778
Total	84,130	241,310

Petitioners project there will be 22,435 primary hi tech jobs and 11,217 support jobs for a total of 33,652

minutes driving time or that support industries cannot survive unless they are located within the 20-minute time.

14. Map Delineating the 20-Minute Travel Time

a. The 20-minute travel time map delineates the boundaries in which the vacant available industrial lands inventory will be conducted. The amount of vacant land will be the basis for determining whether additional land is needed. Therefore, this map is a critical factor in petitioners analysis.

b. Assuming there was empirical evidence to support the 20-minute travel time standard, the Hearings Officer cannot accept as valid the methodology used to delineate the 20-minute travel time contour. The map is based on p.m. peak travel time. Roadways are heavily congested during this peak time. The businesses on the otherhand operate at non-peak times. No map was submitted into evidence showing the contour at other than the p.m. peak. A map based on other than p.m. peak times would encompass a greater land area and it may or may not include additional industrially planned land.

c. In rebuttal testimony petitioners stated that they considered additional vacant building space within Tigard and Tualatin, but they did not provide a map showing a revised contour line. The Hearings Officer cannot access the validity of the analysis without a map. It is not possible to determine whether vacant space which should have been considered was considered. Further, vacant planned industrial land was not considered.

d. The Hearings Officer, therefore, does not

types of land; "constrained" and "unconstrained" land. Metro in its studies defines the terms to mean something different than the petitioners. The technical differences are not important to these findings however. "Unconstrained" lands are considered to be developable now while "constrained" lands are not considered to be presently undevelopable for some reason such as the fact that sewer is not within 1,000 feet of the property. The Hearings Officer does not accept the inventory as being valid because the inventory is limited to the area within the 20-minute p.m. peak driving time. It is important to note that all computations on which petitioner relies are based on the inventory of land conducted within the 20-minute p.m. peak travel time. In rebuttal petitioner did speak to an expanded boundary and stated that an expanded boundary would affect every number -- petitioner only examined the affect of including vacant existing developed building space -- this limited analysis does not overcome the problems with the 20-minute p.m. peak contour map used for the inventory.

b. The first inventory prepared by petitioners is contained on Table 3, 3-24 Presentation (see Appendix I). The second inventory is contained on Table 3-A, 3-31 Expanded Analyses (see Appendix II). Both inventories are limited to the same geographic area. The difference is that the second inventory includes land on rail. The first inventory concludes there are 1,291 vacant unconstrained acres. The second inventory concludes there are 2,209 vacant unconstrained acres. In total there are 3,878 vacant acres of land planned for industrial use.

manufacturing jobs. Metro's projections project 22,485 hi tech jobs regionwide and 17,415 jobs in other types of manufacturing for a total of 39,000 manufacturing jobs. Petitioners state that hi tech jobs cannot be classified as electric and nonelectric. Assuming this is true, the Hearings Officer placed electric and other manufacturing jobs into one classification and the result is that only 6,248 new manufacturing jobs will be created in other parts of Washington, Multnomah and Clackamas counties over the next 19 years. This means that the Sunset Corridor will capture 84 percent of the region's industrial growth. The Hearing Officer cannot accept petitioners projections as being reasonable particularly when the region's "unconstrained" regional vacant industrial lands inventory is examined.

c. The Hearings Officer cannot accept the petitioner's projections. Metro's projections are the projections used by local governments for planning purposes. These projections have received regionwide scrutiny from all local governments. The Hearings Officer cannot accept petitioners projections absent any explanation demonstrating the reason that Metro's projections are too low. There is no evidence in the record challenging Metro's projections. Petitioner's projections do not appear reasonable and are not supported by an explanation which the Hearings Officer finds persuasive.

15. Land Use Inventory

a. The land use inventory is an inventory of vacant land planned for industrial use. The inventory includes two

ratio is very important.

b. Petitioners are proposing to put support industries on the site. There are two problems with their employee density ratio. First, Table 2 examines only three primary high manufacturing companies. The Hearings Officer believes this is not a sufficiently representative sample. More important, however, petitioner has not provided empirical evidence or cited to literature which finds that hi tech primary companies and support industries have the same employee ratios. With the importance of the ratio to the need analysis, the evidence is not shown to be relevant to support industries and is an insufficient representation.

c. Petitioner did submit a list of nine support firms in the Portland area to prove another point. The list showed the building sizes, but did not compute an employee land ratio (see Typical High Technology Support Industries). These are representative firms and are more appropriate to document employee ratios. The Hearings Officer cannot accept the ratio of 14 employees per acre for support industries. Petitioners testimony taken as a whole also sheds some light on the issue. A major thrust of petitioner's argument is that support industries cannot afford high land costs -- one factor which contributes to hi tech low employee per acre figure is their preference for campus environments. This means there is a greater investment made in land than is made by other types of industry.

17. Determination of Need

a. This finding will discuss petitioners

c. Assuming the Hearings Officer accepted the inventory as valid, there is an additional problem which makes the inventory inaccurate. The problem is that petitioners need argument is based on year 2005 employment projections, however, petitioner limits the inventory to presently developable land. The Hearings Officer finds that the methodology used in this analysis is not correct. By the year 2005, much of the presently constrained lands will be developable. Therefore, the inventory should have matched year 2005 employment projections with the developable year 2005 planned industrial land. It should be noted that petitioners talked about 20- to 50-year time frames and 10- to 15-year time frames with regard to site development. Since the record is not clear and petitioners rely on the year 2005 population projections, the Hearings Officer has assumed a 20-year time frame.

16. Per Acre Employee Ratio

a. Petitioners need argument is based on a need for additional land for support industries. Important to the determination of need is the per acre employee ratio. Petitioners employee per acre ratio is shown on Table 2, Revised 3-24 Presentation (Appendix I) and Table 2, 3-31 Expanded Presentation (Appendix II). The following is an example of how this ratio fits into petitioners analysis. Petitioner states there will be 33,652 new hi tech jobs and at an employment density of 14 employees per acre, 2,404 acres will be required. Metro has used a figure of 25 employees per acre for hi tech which would result in a need for 1,345 acres or 1,000 acres less than petitioner. Therefore, the

amount of land needed is computed as follows:

i. Total Amount of Land Needed = $\frac{\text{Year 2005 Employment Projections}}{\text{Number of Employees Per Acre}}$

ii. The total amount of land needed based on the year 2005 employment projections is then compared to the current inventory of "unconstrained" land and the petitioners find a need for additional land.

(B) Summary of Findings

1) The Hearings Officer did not accept the 20-minute driving contour as valid because it is based on an unproven need and because it is based on p.m. peak driving times. Therefore, the Hearings Officer cannot accept the inventory as valid.

2) The Hearings Officer did not accept petitioners employment projections. The projections are inconsistent with Metro's projections and there is no explanation which shows that Metro's figures are incorrect.

3) The Hearings Officer did not accept petitioners employee ratios. Petitioner is proposing to place support industries on the site, however, petitioner used hi tech industries to compute a ratio. In addition, petitioners sample is too small.

4) Petitioners vacant

determination that additional planned industrial land is needed. First, however, it is helpful to review the findings to date and to do so with reference to Appendix I and Appendix II.

1) Need for Support Industries

(A) The Hearings Officer believes there is a need for support industries, but petitioners have not demonstrated that the need can only be met by amending the UGB.

2) The Support Industries must be within 20 minutes Driving Time

(A) Petitioners contend that it is desirable to have support industries within 20 minutes driving time of the hi tech "critical mass." The Hearings Officer found that desirable is not tantamount to need and that petitioners did not document a need for the support industries to be located within the 20-minute driving time contour.

3) Amount of Land Needed

(A) Methodology. The following is a summary of petitioner's methodology:

1) Inventory. Petitioners compute the inventory of current vacant "unconstrained" within the 20-minute driving time contour.

2) Employment Projections. The year 2005 employment projections are computed.

3) Employee Density. The number of employees per acre are computed for hi tech firms.

4) Amount of Land Needed. The

amount of vacant industrial land. In addition, for example, Metro uses a factor of 25 employees per acre for hi tech, while petitioners contend it is 14 employees per acre. Should it be something less than 25 employees per acre, this factor alone would contribute to a need for additional industrial land. Need must be based on 20-year employment projections since the boundary is a 20-year boundary. Petitioner computes year 2005 projections (20-year projections) and then adds employment figures based on the assumption that Kaiser and Riviera petitions are approved. The Hearings Officer cannot accept this methodology without supporting evidence to show that this is more likely to occur than not.

c. Conclusion and Finding

1) With regard the needs analysis contained in Table 5, Revised 3-24 Presentation. The Hearings Officer cannot accept it for the reasons stated in all of the prior findings.

d. With regard to the needs analysis contained in Table 5-A, 3-31 Expanded Analysis, the Hearings Officer cannot accept it for the reasons stated in all of the prior findings.

C. Goal 14; Factor 2, Need for Employment Opportunities.

The Hearings Officer believes there is a need for support industries and for jobs. The petitioners data, however, does not provide sufficient information for the Hearings Officer to determine the extend of the need. Specifically, the petitioner's petition and testimony does not specifically discuss the need for jobs and how this application will address that need. Petitioner

industrial land inventory is based on current "unconstrained" land. "Unconstrained" land is land which is currently available and developable. There are in total 3,873 acres of land planned for industrial use in petitioners 20-minute driving time contour which will be developable over the next 20 years. Most of it will be developable as sewers and others services are extended. Therefore, there will be approximately 3,873 acres available by the year 2005. The Hearings Officer found that petitioners used year 2005 employment projections, but used a current inventory of land and that this is an incorrect methodology. The year 2005 employment projections should be compared to the year 2005 unconstrained developable land inventory.

b. There are additional considerations in petitioners need analysis which the Hearings Officer cannot accept.

1) Petitioner has submitted two different needs analysis. The first analysis is shown on Table 5, Revised 3-24 Presentation. The second analysis is shown on Table 5-A, 3-31 Expanded Testimony.

2) In each needs analysis petitioner includes two alternatives. One analysis assumes that the Kaiser and Riviera petitions are not approved. The other analysis assumes that both petitions are approved. In the event that the Kaiser and Riviera petitions are approved, petitioner adds 6,279 jobs. The Hearings Officer cannot accept that adding land to the UGB automatically means more jobs. There is no basis for this conclusion. Industrial expansion is not simply a factor of the

options. Some options will cause trunk lines to be constructed outside the UGB. This could have negative land use implications. The Hearings Officer also believes, however, that construction of sewer to this site could be done without adversely affecting land outside the growth boundary. Therefore, the Hearings Officer finds that it is possible to provide sewer service in an orderly and economic manner.

2. Transportation

a. Assumption

The analysis of the traffic impacts is based on the equilibrium model. The Hearings Officer accepts that model for purposes of these findings. There was no evidence challenging the mode.

b. Analysis

The petition was evaluated by Metro staff assuming this petition, the petition by Riviera and the petition by Kaiser were each approved. The roads affected by the approval of all three are Sunset Highway, 216th and 231st.

c. Sunset Highway

1) Metro's initial analysis indicated that this proposal would add approximately 100 vehicles in the westbound direction to Sunset Highway during the p.m. peak hour, and thus cause a capacity deficiency so long as the freeway was only four lanes wide. (Testimony of Wayne Kittleson; Exh. T-23.)

2) Pursuant to the equilibrium assignment of regional traffic this proposal only contributed eight vehicles on

does make the contention there will be 22,435 primary tech jobs by the year 2005 and that the ratio of hi tech jobs to support jobs is 2:1. Therefore, based on this ratio there will be a need for 11,217 support jobs. The question is whether that need can be met within the existing boundary.

The Hearings Officer did not specifically discuss the 2:1 ratio under Factor 1, but rather found the petitioners population projections inconsistent with the MSD projections. The Hearings Officer, however, does not accept the ratio. It is based on stated but undocumented current ratios in the Portland area and ratios change as the population grows. In order to support an amendment to the UGB, the Hearings Officer will require documented evidence. The evidence needs to document the current Portland situation in order for the Hearings Officer to be able to review it for relevance. Evidence from other areas is also need to show if the ratio remains constant or if it changes, that is, if there are economies of scale.

In summary while the Hearings Officer believes there is a need for support industries, the Hearings Officer finds that petitioners assertions of a need for 11,217 jobs is not adequately supported by evidence. It is recognized that petitioner's share of the support industry jobs would be 6,800 jobs. Further it is not shown that the need can only be met by amending the UGB.

D. Goal 14; Factor 3, Order and Economic Provision of Services

1. Sewers: The evidence in the record supports a finding that the site can be served with sewer. There are a number

approval of this petition would not have a significant impact on Sunset Highway and the impact on Sunset Highway would not be a significant enough problem on which to base a denial.

d. 216th or 231st

The Kaiser petition and this proposal together will have an impact on 216th or 231st from Cornell Road to the T.V. Highway. Both facilities are planned to be five lanes, however, by the year 2005 they are projected to be three-lane facilities. Approval of both applications will require improvement of one of the facilities to five lanes between Cornell Road and Baseline Road. The Hearings Officer finds that since the facilities are planned to be five lanes; it is possible to make one of the streets five lanes and, therefore, there are possible solutions. This problem would not be grounds for a denial.

e. T.V. Highway

1) Metro staff testified that approval of this petition would put the T.V. Highway over capacity even if the road were improved to six lanes. The staff stated that no improvements are planned to the current four-lane facility which also has a turning lane. It is presently over capacity. Staff stated it will be necessary to establish a parallel system.

2) The portion of T.V. Highway that is now and will continue to experience capacity deficiencies is generally bounded by Murray on the east and 185th on the west. Metro's transportation model projects that by year 2005 without including this proposal, this critical section of T.V. Highway will

a freeway that carries 4,200 vehicles per day in each direction. These eight (8) additional vehicles do not cause a capacity deficiency on this section of Sunset Highway. (Exh. T-19; Exh. T-23, pg. 77.)

3) The City of Portland raised two concerns about the transportation effect of the Roseway proposal on a) the Sunset/Cornell/Barnes Road street system east of Sylvan and that b) an extension of the UGB may cause a disproportionate increase in the need for additional public investment in the regional transit system. (Exh. T-16, p. 58.)

This proposal would not have an effect on this section since the projected capacity deficiency is in the westbound direction during the evening peak hour, which is away from Portland and toward Washington County, which is the reverse commute direction for this area. (Exh. T-23, p. 79; Exh. T-17.)

This proposal will generate approximately 40 additional westbound vehicle trips in this area during the p.m. peak hours. This represents an increase of one-half of 1 percent in this critical area where the capacity of the Corridor is 7,000 vehicles per hour. The effect will be to extend the length of the p.m. peak hour by approximately 20 seconds, which is negligible. (Exh. T-23, p. 79.)

This site is at least 10 miles away from this critical road segment and is beyond a reasonable impact area. (Exh. T-23, p. 80.)

4) The Hearings Officer finds that the

5) The primary transportation impacts of the proposal will be in an east-west direction of travel. However, there is enough planned capacity within the east-west corridor to accommodate this proposal and there is sufficient excess capacity to accommodate continued growth through year 2005. The pie chart presented by Mr. Kittleson (Exh. T-11) indicates that the projected year 2005 p.m. peak travel demand in the westbound direction consumes only about 74 percent of the planned capacity of this east-west corridor. This proposal will use only an additional 4 percent of this available capacity leaving about 23 percent of the planned capacity available for serving normal growth beyond the year 2005 planning horizon. (Exh. T.23, p. 73; Wayne Kittleson testimony.)

6) This proposal can make use of this available capacity without causing significant additional congestion on either T.V. Highway or on any other street that services the area. Metro performed a capacity restrained assignment of the traffic generated by this proposal and the proposal will add only nine vehicles to the critical section of T.V. Highway. The remainder of the traffic increase is dispersed among the available parallel facilities, including Cornell, Baseline, Farmington, and to some extent Johnson and Kinnaman. The total capacity of the east-west corridor has not changed, nor has the total volume that is being served. And there still remains excess capacity within the corridor. (Exh. T-13; T-23, p. 75.)

7) The Hearings Officer finds that based

be carrying almost 2,500 westbound vehicles during the evening peak hour, or almost 400 over its estimated capacity. (Exh. T-23, pp. 66-67.)

3) A possible solution to this deficiency in capacity would be to add additional lanes. By using the Metro transportation model and by assuming six lanes on T.V. Highway instead of four, there is still a capacity deficiency on this critical section. (Exh. T-23, pp. 67-68; Exh. T-6.) Wayne Kittleson of Kittleson and Assoc. testified that Metro staff had indicated that this same capacity deficiency would occur if there were eight lanes on T.V. Highway instead of six or four. Thus, there is a huge latent demand for travel on T.V. Highway that cannot be met simply by adding lanes to the highway. T.V. Highway is the primary route of choice of east-west drivers traveling through central Washington County. (Exh. T-23, pp. 68-71; Exh. T-8.)

4) Any excess demands on T.V. Highway must be served by parallel east-west roadways such as Cornell, Evergreen and Walker, Baseline and Farmington since the demand for travel on T.V. Highway will exceed its practical capacity no matter how many through lanes are added. It was stated that the simplest and most efficient means for dealing with future increases in east-west travel demand is to improve these parallel facilities and thereby provide reasonable alternates to T.V. Highway. Metro has stated that a solution to excess demand on T.V. Highway is not to add additional lanes to T.V. Highway, but to improve the other roads that are contained within the east-west corridor. (Exh. T-23, p. 70.)

the regional transit system since the Tri-Met route that passes by the property is Route 57 which is a major Tri-Met route that has one of the highest riderships in the entire system. (Testimony of Wayne Kittleson; Exh. T-18, p. 60.)

h. Conclusion

1) The traffic generated by the proposal can be accommodated on the planned parallel systems, however, the issue of Kinnaman needs to be resolved before a finding can be made that this approval criteria is satisfied. The Hearings Officer understands that Kinnaman is not necessary to the proposal, but the question is what function does it serve in the equilibrium model analysis and is that function consistent with its planned designation on the County's comprehensive plan.

3. Water: Water service can be provided to the subject site with no negative impacts on other uses because the existing water system operated by the city of Hillsboro through the Joint Utilities Commission has adequate capacity to serve the property. A 42" water transmission line is immediately adjacent to the property and runs along T.V. Highway. This line is owned 2/3 by the city of Beaverton and 1/3 by the city of Hillsboro. The letter of Eldon Mills, City Manager of Hillsboro, dated March 19, 1986, indicates that there is substantial unused capacity of transmission facilities and that the existing transmission line has capacity well in excess of any development which would likely occur on the subject property. There is substantial capacity beyond the needs of the UGB as the city of Hillsboro built a water system which was designed to

on the equilibrium model, the T.V. Highway and parallel systems have planned capacity to accommodate the traffic which will be generated by this proposal.

f. Kinnaman

1) The Metro staff report states there will be a significant increase on Kinnaman Road and the impact would not be consistent with the County's comprehensive plan. This issue was also raised by the State Highway Department.

2) The applicant states the proposal is not dependent on Kinnaman, however, Kinnaman was factored into the equilibrium model.

3) Kinnaman is classified as a major collector and it carries 6,500 cars per day in the vicinity of 185th. It functions as a minor arterial. The area is residential in character further east.

4) The Hearings Officer has reviewed the testimony and believes the equilibrium models findings was based on Kinnaman as a link to Farmington Road. Farmington Road is part of the parallel system to the T.V. Highway. It is unclear what the exact impact will be, but the record suggests that Kinnaman will be serving a different function. There is nothing in the record to substantiate that from a planning perspective, Kinnaman should or could perform this function. The issue of Kinnaman Road requires resolution.

g. Transit

The proposal will have a positive effect on

6. Schools:

Development of this property will not place any direct additional burden on local schools.

7. Conclusion

The Hearings Officer finds that with one exception of the Kinnaman Road issue, the services can be provided in an orderly and economic manner.

E. Goal 14, Factor 4, Efficiency of Land Uses

1. The property is surrounded on the east and north by a well developed urban area.

2. The property is located immediately adjacent to T.V. Highway, a major arterial connecting the western portions of the Washington County urban area to the central urban area. The property lies between and adjacent to those urban areas.

3. The property is adjacent to the Witch Hazel Little Farms -- an old 5- and 10-acre land partition -- which contains a mixture of one-half to 10-acre parcels used primarily for rural residential and small lot noncommercial subsistence farming. This area does not meet the requirements of the state's agricultural goal and has been excepted from those requirements in the County's Rural Comprehensive Plan. Inclusion of the property in the urban area and the subsequent provision of public services, will provide the opportunity for services in the Witch Hazel area which is outside the UGB.

4. Much of the property to the south is similar to the Witch Hazel Little Farms area and has also be exempted from the

serve nearly all of the County. (Exh. B-16, pp. 65-66.)

4. Fire and Police: All fire and police services can be provided with no negative impacts because:

a. The city of Hillsboro intends to serve and provide fire protection to the subject site. Presently the City can respond to calls on the subject property within an acceptable six-minute time period. (Exh. B-12, pp. 60-61.)

b. The City's fire service is supported by two different fire districts, Washington County District No. 1 and Washington County District No. 2. The City has an agreement with these two districts to provide manpower and equipment if necessary. Both districts have stations located closer to the subject property than the City station (Exh. B-12, p. 61).

c. The City is beginning to implement its Fire Protection Plan which envisions a three station system which would be able to serve the site within a four-minute emergency response from a station in the vicinity of Brookwood Avenue and the T.V. Highway. (Exh. B-11, pp. 41-59; B-12 p. 61.) However, at present the city can serve the site with adequate fire protection.

d. The majority of the property is currently served by the Washington County Sheriff's Department. Upon annexation to the city of Hillsboro, the property would be served by that City's police force. Levels of service provided by the city of Hillsboro include a total staff of 47, including five patrols and a patrol supervisor. City officials have provided assurances of adequate capacity to provide service to the property.

of other such centers. Spreading such destinations along the transportation system achieves a more efficient use of that system.

10. Adding an employment center in this location will not require additional public transit services. Public transit services exist in the area. The additional demand from the development will increase the level of service to the entire area thereby increasing its convenience and usage.

11. Assuming a need can be demonstrated for the inclusion of this property within the UGB, there are both efficiencies and problems created by adding this land. The efficiencies are the fact that it is strategically located to an arterial street system and other services. The problem is that the extension of sewer creates pressure to place other lands within the UGB. Absent a regional determination of the extent of the area which should be urbanized, the provision of sewers cannot be argued a benefit. Nevertheless, if sewers are provided in a manner which does not impact land outside the UGB, the Hearings Officer would find this to be an efficient use of land.

F. Goal 14, Factor 5, Consequences

1. Environmental Consequences

a. Most of the property drains into Gordon Creek -- a portion drains into Butternut Creek. The development will impact Gordon Creek. The runoff will increase from 70 cubic to 180 cubic feet per second. There are two alternatives; one is to put detention basins on the property and the other is to allow the run off to enter Gordon Creek -- Gordon Creek has a deep channel and

requirements of the agricultural goal in the County's Rural Plan.

5. Specific development plans are being prepared for that portion of the Roseway Business Center inside the UGB and city of Hillsboro. Construction on this first phase has just begun. Expansion of the UGB will allow the development of this project and the installation of public facilities.

6. The property is a part of the Butternut Creek drainage basin. Extension of sewer through the basin will create pressure to include this area within the UGB. Expansion beyond this basin is not reasonable in the foreseeable future since complete new public utility systems would have to be constructed to accommodate that growth.

7. Transportation efficiencies may be achieved with the inclusion of this property in the urban area. This property is approximately at the mid-point between the western portions and eastern portions of the urban area of Washington County. While the property is in the southern portion of the urban area, it is not at the southern edge. The property will be at the intersection of T.V. Highway and 209/219th, a major north-south urban arterial. Development of the property does not extend the transportation network beyond the existing urban area, but will fill in land adjacent to it.

8. Placing the Sunset Corridor hi tech support industries in this location will promote a north-south movement of traffic versus the existing predominant east-west movement.

9. Development of the property will help balance traffic destinations by placing an employment center east and south

energy, however, nothing in the record suggests that it would be greater than if the use were placed anywhere else.

3. Economic Consequences

a. The property will generate approximately \$15 million in annual payroll each of the 10 years estimated to build the project. An equal amount will be spent in construction materials.

b. At full development the project will employ approximately 6,800 people and produce a \$160 million annual payroll.

c. The project will construct major public infrastructure including a road and sewerage system with direct benefits considerably in excess of the direct need of the project.

d. Full development of the project would generate approximately \$2,100,000 in traffic impact fees from the proposed Fee-Based Traffic Impact System.

4. Social Consequences

a. Two families reside on approximately 10 acres of the property. As those properties develop, those families will relocate.

b. The area adjacent to the property, but outside the UGB is a mixed rural area surrounded by growing urban activities. Except for the St. Mary's property, only a few additional parcels produce commercial crops. The immediately adjacent urban areas and their urban services form the basis for the predominant social system that exists in the area. School children from the adjacent rural areas attend the urban area schools. While

can handle the runoff, however, it will require new culverts at 229th Avenue, 234th Avenue and River Road.

b. There are no geologic hazards and the water table is at a depth of 10 feet or less throughout the property.

c. The riparian vegetation along Gordon Creek and Butternut Creek supports a variety of waterfowl, upland game and non-game animals. None of the habitat is on the property, however.

d. There was testimony that a portion of the site is an historic area.

e. The increased traffic will create addition automobile envisions, however, there is no evidence in the record regarding air quality impacts.

f. The site is located within the Portland Air Quality Maintenance Area and the Department of Environmental Quality (DEQ) is responsible for enforcing the National Ambient Air Quality Standards.

2. Energy Consequences

a. The site is located on the T.V. Highway. There are energy benefits because the use will be using the excess capacity during non-peak hours and will be using the system on a reverse flow basis. The negative energy consequences will be during the peak hour.

b. There is significant housing development in close proximity to the site making it possible to shorten work/home vehicle trips.

c. There will be a greater consumption of

represents .008 percent of the total acreage of grains in the County. It is immeasurable in relation to the acreage of grains grown in the state.

5. The acreage currently allocated to hays represents .005 percent of the total acreage of hays in the County. It is immeasurable in relation to the state total.

6. A portion of the property (60 acres) is uncultivated through the Federal Acreage Conservation Reserve program.

7. The Hearings Officer finds that this approval criterion is not satisfied. The property is prime agricultural land under Statewide Goal 3 and the petitioners have not satisfied their burden of proof in demonstrating there is a need for additional industrial land. Since there is not a need for the property for an urban use, it must be retained as agricultural land.

H. Goal 14, Factor 7, Compatibility

1. Most adjacent rural property is divided into small lot residential, non-commercial subsistence farming, grazing and pastureland, and uncultivated or fallow wasteland.

2. Most conflicts with existing agricultural activities in the area come from the adjacent residential areas. Some vandalism of equipment and gardens has been reported.

3. The planned uses are light industrial uses. That is, they are not uses which emit smoke, odor, or have other types of offsite impacts. The issues will be traffic, aesthetics, lights and noise.

the individual families living in the rural area maintain a semi-rural/semi-urban family lifestyle in their homes, their lifestyle outside of their household is almost totally urban.

c. Most families living in the rural areas adjacent to the property derive their income from jobs in the urban area.

d. Development of the Roseway Business Center will not substantially change the social structure present in the area.

5. Conclusion

a. The Hearings Officer finds there will be no significant adverse consequences of placing this property within the Boundary based on the testimony in the record and that this approval criterion is satisfied.

G. Goal 14, Factor 6, Retention of Agricultural Land

1. The majority of the property is Class II agricultural land. Some Class I exists on the property as well as some Class III and VI.

2. The soils of the property are characteristic of most agricultural soils in Washington County and in the same approximate proportions as exist throughout the County.

3. This property is not irrigated nor could it easily be brought to the property. Crops grown on the property are among the most common in the County and the state. No specialty or high value crops are grown on the property.

4. The acreage currently allocated to grains

The three petitioners were consolidated for hearing on this approval criterion. Therefore, the record contains testimony given by Kaiser Development, Inc.; Riviera Motor Co. and this petition.

3. Accommodation of the Use on Non-Resource Land That Would Not Require An Exception

There was no evidence introduced into the record that the use could be accommodated on non-resource land.

4. Resource Land Irrevocably Committed to Non-Resource Use.

a. There are four areas of exception lands as alternative sites outside UGB within the Sunset Corridor and the 20 minute travel time radius. (Table 6 entitled "Exception Lands As 'Alternative' Sites, Sunset Corridor Area (20-minute travel time Radius) (Map of Area). Table 6 indicates that these four areas are not alternative locations which can accommodate the proposed industrial use.

b. The petitioner further testified that the land at the foothills of Cooper Mountain has significant topographical constraints; the land between Reedville Farm and Hazeldale is not conducive for a large consolidated industrial park due to the interspersing of existing small rural development; the land between Evergreen and Sunset Highway is subject to small parcels and multiple ownerships which would prevent the consolidation of land for industrial uses; and the land between Hillsboro and Cornelius is constrained since sewerage service is

4. While industrial development of the property will add considerable numbers of people in the area, experience has demonstrated that such uses and activities can be made compatible through design review processes with adjacent residential uses. The county and city both have a design review process.

5. The Hearings Officer finds that this proposal can be made compatible with adjacent uses.

I. Goal 2, Exceptions, Process, Reasons

This approval criteria may be satisfied by compliance with the findings with respect to the seven factors of Goal 14 (OAR 660-04-010(1)(c)(B)(i)). The Hearings Officer has found that Goal 14, Factors 1, 2 and 6 have not been satisfied, therefore, this criterion is not satisfied.

J. Goal 2, Exceptions Process, Alternative Sites

1. Introduction

a. Petitioners argued there is a shortage of land for support industries within a 20-minute radius without regard to site characteristics in their need arguments.

b. Under this approval criterion, petitioners contend there is a need for this specific type of park of 200 acres or more. They contend there are no appropriate alternative sites within a 20-minute driving time. Therefore, the issue under this approval criterion is whether petitioner has shown that only a 200-acre site or larger will satisfy the need and whether there are alternative sites on which the proposal could be located.

2. The Record

noise or vibration. Petitioner does not explain the reasons there must be four adjoining parks or in other words why four 50-acre parks separated by geographic area will not serve the same need. The Hearings Officer does not find the evidence adequately documented to support a finding that only 200-acre site will satisfy the need. Therefore, even assuming the 20-minute travel contour were valid, the question remains as to whether there are other available sites 50 acres in size.

c. The Dawson Creek property which is 306 acres and available for lease only could satisfy part of the need. In addition 1000 Friends of Oregon identified other sites in the Wilsonville area, however, petitioner rejects these sites because time is 30-40 minutes. In addition, as part of the consolidated hearing, properties were identified in the Tualatin area all of which could satisfy all or part of the need.

d. Petitioners' evidence does not persuade the Hearings Officer that this approval criteria is satisfied for two reasons. First, the Hearings Officer cannot accept the validity of the 20-minute travel time contour map which limited the analysis to that area. Second, even assuming the map were supportable, petitioner has not submitted documented evidence that only a 200- to 475-acre site can be used to satisfy the need for support industries.

K. Goal 2, Exceptions Process Consequences

1. The agricultural land that would be converted to urban uses is not presently irrigated nor could such irrigation be easily brought to the property. The crops grown on the property are

unavailable and would be served by the city of Hillsboro treatment plant rather than the USA Rock Creek treatment plant. A new sewerage system would have to be constructed to facilitate the industrial development proposed by petitioner.

c. The Hearings Officer cannot accept the 20-minute driving time as valid, therefore, this approval criterion cannot be satisfied.

5. Accommodation of the Use Within the Urban Growth Boundary

a. Petitioner's analysis of alternative sites is based on the 20-minute travel time contour. In other words, petitioner limited its analysis of other available sites to the area within 20 minutes driving time during the p.m. peak hour. The Hearings Officer has cited the problems with this approach and has not accepted it as valid. Therefore, there is insufficient evidence to demonstrate whether there are other appropriate sites. 1000 Friends of Oregon in their testimony identified other sites have 200 acres or more such as the Leveton site in Tualatin.

b. Petitioner asserts the site must be 200 acres in size. Petitioner also states that within that 200- to 472-acre site, three to four separate industrial parks are proposed. The separate industrial parks will be 50-70 acres minimum to 100-150 acres maximum. Each park will have its own distinct character and development approach. It is envisioned that one park might be for lease only, one might be for purchase only, one might be for outdoor storage and a fourth for uses which are sensitive to

5. The Hearings Officer finds that the long-term environmental, economic, social and energy consequences resulting from the proposed use at the proposed site are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site.

L. Goal 2, Exceptions Process, Compatibility

1. The property is surrounded on two sides by urban development with mixed residential, commercial and industrial development. Industrial development on this property can be made compatible with those areas through the county or city design review process.

2. The property on the remaining two sides is divided into small lot rural residential and non-commercial subsistence farms, gardens and homesites. While industrial development of the property will increase the intensity of activities in the area, it can be made compatible with these existing uses.

3. The southern corner of the property is adjacent to commercial cropland. It is expected that these properties will continue to be farmed for the foreseeable future. Industrial development will not have a significant impact on those activities and may serve to better separate these uses from the urban areas along T.V. Highway.

4. Urban development of this property will not create any rural islands.

among the most common in the County and the state and, therefore, assuming that petitioners had demonstrated a need if there is to be a conversion, it will have the least effect on agricultural production as compared to the removal of specialty or high value crops (Exh. B-8, p. 35).

2. Since there will be no loss of any significant natural resources, and loss of habitat, there will be no effects on identified significant natural resources within the area; there will be no adverse effects on ground or surface water resources; the increase in noise and light in the area due to property development will be no grater than surrounding urban uses; and will remove dust, pesticide spray and other agricultural effects from intruding into adjacent urban areas, this property, as located, would compare favorably to any other property outside the UGB for purposes of inclusion within the UGB (Exh. B-8, p. 38).

3. Inclusion of this property within the UGB, as compared with other property outside the UGB, would increase the asessed valuation of the property from \$455,000 to \$300 million; generate \$6 million in property taxes; create 6,800 jobs and 160 million in annual payroll and generate \$1 to \$3 million of state excise tax and \$1 million in transit taxes (Exh. B-8, p. 39).

4. Inclusion of this property within the UGB as compared with other property outside the UGB provides transportation alternatives not presently available which would make the road and intersection, and transit system more efficient in the area thereby lessening the energy requirements for the area (Exh. B-8, p. 39).

5. Urbanization of this property is a logical extension of the existing urban area. It makes possible the eventual urbanization of the Witch Hazel Little Farms area, therefore, the whole area should be examined.

6. Urbanization of this property enables the construction of significant improvements in existing, planned or new public facilities. These improvements will significantly enhance existing urban areas and promote the compatibility of all urban uses.

7. The Hearings Officer finds that development on this property can be made compatible with surrounding land uses.

VIII.

CONCLUSION AND ORDER

Based on the foregoing findings, the petition of BenjFran Development, Inc. and Co-petitioners, No. 85-8, for a major amendment to the UGB, is hereby denied.

AB/JH/gl

5540C/455-2

05/02/86

Footnotes for Table 1

-
- 1/ Based on analysis of current primary high-tech employment to total high-tech employment.
 - 2/ Based on 40 percent factor - primary jobs to total jobs. Laventhol & Horwath presentation to Sunset Corridor Association. Also used in Metro forecasts.
 - 3/ Given the area's physical characteristics, development to date, and target marketing activities: the calculation assumes that projected industrial employment will be essentially 100 percent "high-tech" or related employment.

Sources: Sunset Corridor Association.
Laventhol and Horwath.
Washington County Planning Division.
Metro Data Resource Center.

REVISED 3-24 PRESENTATION

TABLE 1
EMPLOYMENT PROJECTIONS
SUNSET CORRIDOR AREA (20-TRAVEL TIME RADIUS)

AREA WITHIN TRAVEL TRAVEL TIME BOUNDARY	EMPLOYMENT		PERCENT CHANGE 1893 - 2005
	1983	2005	
HILLSBORO	13,930	31,940	129 %
SUNSET CORRIDOR/ALOHA	11,170	44,860	302 %
BEAVERTON	43,750	76,180	74 %
TOTAL	68,850	152,980	122 %

PROJECTED HIGH-TECH PRIMARY
JOBS (1983 - 2005): 1/ 22,435

PROJECTED HIGH-TECH SUPPORT
JOBS (1983 - 2005): 1/ 11,217

PROJECTED HIGH-TECH EMPLOYMENT: 2/ 3/ 33,652

PROJECTED OTHER EMPLOYMENT
(1983 - 2005): 50,478

TOTAL "NEW" EMPLOYMENT
(1983 - 2005): 84,130

FOOTNOTES NEXT PAGE.

REVISED 3-24 PRESENTATION

TABLE 3
INDUSTRIAL LANDS INVENTORY
SUNSET CORRIDOR AREA (20-MINUTE TRAVEL TIME RADIUS)

LAND IN METRO INVENTORY:	TOTAL	UNCONSTRAINED	1/	PERCENT CONSTRAINED
SUNSET WEST	1,032	203		80 %
WEST UNION	498	10		98 %
HILLSBORO	1,806	658		36 %
ALOHA	122	0		100 %
BEAVERTON	420	420	2/	0
TOTAL INVENTORY	3,878	1,291		67 %

1/ UNCONSTRAINED: SEWER WITHIN 1000 FEET, NO HAZARDS, OFF RAIL.

2/ DATA NOT AVAILABLE TO DETERMINE STATUS OF VACANT LAND.

SOURCE: METRO VACANT LAND INVENTORY.

TABLE 2
PROFILE OF PRIMARY HIGH-TECH MANUFACTURING GROWTH
SUNSET CORRIDOR AREA (20-MINUTE TRAVEL TIME RADIUS)

	NEC -----	FUJITSU -----	EPSON -----	TOTAL/AVG. -----
ACRES	210	140	41	391
PLANNED EMPLOYMENT	3,000	2,000	600	5,600
RATIO: EMPLOYMENT TO LAND	14:1	14:1	15:1	14:1
VENDORS OF CHOICE	40-50	28-30	8-9	

1/ FUJITSU AND EPSON BASED ON NEC; ASSUMES NUMBER OF VENDORS OF CHOICE IS RELATED TO REQUIRED PRODUCTION EMPLOYMENT AND SIZE OF FACILITY (I.E., VENDORS' PRODUCTS FLOW UPWARD THROUGH PRODUCTION CHAIN AT PROPORTIONAL RATIO).

SOURCES: CORPORATE INTERVIEWS.
OREGON DEPARTMENT OF ECONOMIC DEVELOPMENT.

REVISED 3-24 PRESENTATION

TABLE 4
ANALYSIS OF INDUSTRIAL LANDS INVENTORY
SUNSET CORRIDOR AREA (20-MINUTE TRAVEL TIME RADIUS)

TOTAL INVENTORY: 3,878

LESS UNCONSTRAINED VACANT LAND IN LARGE PARCELS

PROPERTY	PARCELS IN ACRES	
-----	-----	
DAWSON CREEK	54	
TANASBOURNE	30 + 35	
SEAPORT	197	
BNRR/WEST UNION	103 + 40	
WINDOLPH PARK	85	
PAC TRUST	48	
FIVE OAKS	61	
JOHNSON	35	
KAISER/231ST	77	765

LESS UNCONSTRAINED VACANT LAND IN INDUSTRIAL PARKS:

INDUSTRIAL PARK	ACRES	
-----	-----	
BEAV. CREEK TECH PARK	59	
HAWTHORN FARM	35	
KOLL BUS. CTR.-WOODSIDE	40	
CORNELL OAKS	38	
FIVE OAKS	61	
ROSEWAY IND. PARK	75	
KOLL CTR.-CREEKSIDE	20	
KOLL BUS. CTR.-BEAVERTON	6	334

LESS UNCONSTRAINED VACANT LAND IN "OTHER"
PARCELS (INCLUDING SMALL PARCELS): 192

EQUALS CONSTRAINED VACANT LAND: 2,587

SOURCES: METRO VACANT LAND INVENTORY.
NORRIS, BEGGS & SIMPSON.

REVISED 3-24 PRESENTATION

TABLE 5
LAND NEEDED FOR PROJECTED HIGH-TECH GROWTH
SUNSET CORRIDOR AREA (20-MINUTE TRAVEL TIME RADIUS)

WITHOUT RIVIERA/KAISER:

	PROJECTED NEW JOBS	/	JOBS/ ACRE	=	NEW ACRES NEEDED	-	AVAILABLE	=	ADDITIONAL NEEDED
	1/ 22,435		2/ 14		1,603		3/ 765		838
PRIMARY SUPPORT	11,217		14		801		526		275
TOTAL	33,652		14		2,404		1,291		1,113

WITH RIVIERA/KAISER: 4/

	PROJECTED NEW JOBS	/	JOBS/ ACRE	=	NEW ACRES NEEDED	-	AVAILABLE	=	ADDITIONAL NEEDED
	26,621		14		1,902		1,064		838
PRIMARY SUPPORT	13,310		14		951		526		425
TOTAL	39,931		14		2,853		1,590		1,263

FOOTNOTES NEXT PAGE.

Kam 453
Riviera

Footnotes for Table 5

/ means divide.
- means minus.

- 1/ Total from Table 1. Industrial employment in this area is $\frac{2}{3}$ primary high-tech and $\frac{1}{3}$ other, based on employment in largest companies, as reported in January, 1985 Business Journal.
- 2/ See Table 2.
- 3/ See Tables 3 and 4 (assumes primary high-tech will locate on large parcels.
- 4/ Riviera/Kaiser combined land = 299 acres times 14 employees per acre = 4,186 new primary high-tech jobs plus number in Metro forecast (22,435) = 26,621. On a 2:1 basis, per historical ratio, this would lead to 2,093 additional support jobs. Add the 11,217 jobs in the Metro forecast = 13,310 support jobs projected with Kaiser/ Riviera. Land available for primary high-tech = existing (765) plus Kaiser and Riviera (299) = 1,064.

3-31 Presentation
Expanded Analysis
in Response to Other Testimony

Table 1

EMPLOYMENT PROJECTIONS

SUNSET CORRIDOR AREA (APPX. 20-MINUTE TRAVEL TIME RADIUS)

Area Within Travel Time Boundary -----	Employment -----		Percent Change 1893 - 2005 -----
	1983 -----	2005 -----	
Hillsboro	13,930	31,940	129 %
Sunset Corridor/Aloha	11,170	44,860	302 %
Beaverton	43,750	76,180	74 %
Total 4/	68,850	152,980	122 %

Projected High-Tech Primary
Jobs (1983 - 2005): 1/ 22,435

Projected High-Tech Support
Jobs (1983 - 2005): 1/ 11,217

Projected High-Tech Employment: 2/ 3/ 33,652

Projected Other Employment
(1983 - 2005): 50,478

Total "New" Employment
(1983 - 2005): 84,130

Footnotes next page.

Footnotes for Table 1

-
- 1/ Based on analysis of current primary high-tech employment to total high-tech employment.
 - 2/ Based on 40 percent factor - primary jobs to total jobs. Laventhol & Horwath presentation to Sunset Corridor Association. Also used in Metro forecasts.
 - 3/ Given the area's physical characteristics, development to date, and target marketing activities: the calculation assumes that projected industrial employment will be essentially 100 percent "high-tech" or related employment. High-tech industries include electronics, aerospace, biotechnology, and defense.
 - 4/ Tualatin Valley Developments, Tualatin Valley Economic Development Corporation Report, January 1985. (Based on 11/84 projection data from Metro Resource Center for Districts 13, 14, and 15).

Sources: Tualatin Valley Economic Development Corporation.
Laventhol and Horwath.
Washington County Planning Division.
Metro Data Resource Center.

**3-31 Presentation
Expanded Analysis
in Response to Other Testimony**

Table 2

**PROFILE OF PRIMARY HIGH-TECH MANUFACTURING GROWTH
SUNSET CORRIDOR AREA (APPX. 20-MINUTE TRAVEL TIME RADIUS)**

	<u>NEC</u>	<u>Fujitsu</u>	<u>Epson</u>	<u>Total/Avg.</u>
Acres	210	140	41	391
Planned Employment	3,000	2,000	600	5,600
Ratio: Employment to Land	14:1	14:1	15:1	14:1
Vendors of Choice	40-50	28-30	8-9	

1/ Fujitsu and Epson based on NEC; assumes number of vendors of choice is related to required production employment and size of facility (i.e., vendors' products flow upward through production chain at proportional ratio).

Sources: Corporate interviews.
Oregon Department of Economic Development.

3-31 Presentation
Expanded Analysis
in Response to Other Testimony

Table 3 - A

INDUSTRIAL LANDS INVENTORY

SUNSET CORRIDOR AREA (APPX. 20-MINUTE TRAVEL TIME RADIUS)

Land in Metro Inventory	Total Inventory	Ready to Develop (Sewer w/in 1000' & No Hazards)		Constrained
		Off Rail	On Rail	
Sunset West	1,032	203	348	481
West Union	498	10	10	478
Hillsboro	1,806	658	626	522
Aloha	122	0	18	104
Beaverton	420 1/	336	0	84
Total Acres	3,878	1,207	1,002	1,669
Percent	100%	31%	26%	43%

Total Unconstrained Land = 1,207 + 1,002 = 2,209

1/ Data are not available in inventory to determine status of Beaverton land. Beaverton land is assumed to be 80% unconstrained and 20% constrained. (It was assumed to be 100% unconstrained in the March 24 presentation). To compare, in Hillsboro 70% is unconstrained and 30% is constrained.

Source: Metro Vacant Land Inventory, Washington County, 10 June 1985.

There is no Table 4 in this presentation.

3-31 Presentation
Expanded Analysis
in Response to Other Testimony

Table 5 - A

LAND NEEDED FOR PROJECTED HIGH-TECH EMPLOYMENT GROWTH
SUNSET CORRIDOR AREA (APPX. 20-MINUTE TRAVEL TIME RADIUS)

Elements in Calculation -----	Without Kaiser & Riviera -----	With Kaiser & Riviera -----
Available Unconstrained Acreage from Metro Inventory	2,209 1/	2,750 1/
Less: Amount needed for Incidental Office and Commercial Uses 2/	442 -----	442 -----
Equals	1,767	2,308
Add: Acreage Equivalent in Existing Developed Industrial Space (At 95% Overall Occupancy) 3/	108 -----	108 -----
Total "Available" Land	1,875	2,416
Less: Land "Needed" for Primary High-Tech Employment Growth 4/	1,603 -----	2,144 -----
<i>Assumed number of total employees employment land ratio</i>		
Equals: Land "Available" for Support Industries	272 14	272 14
Less: Land "Needed" for Support Industry Employment Growth 4/	801 -----	1,072 -----
Equals: Shortfall (Additional Land "Needed" for Support Industries	(529)	(800)

Footnotes next page.

Footnotes for Table 5 - A (cont)

Calculation of acreage equivalent (based on 41 industrial projects/stand-alone buildings):

	9,190,965	total square feet built or under construction	
-	1,700,938	vacant square feet	18.5 % vacant

	7,490,027	occupied square feet	81.5 % occupied
x	9,190,965		
	.95	"ideal" occupancy factor	

	8,731,417	occupied square feet at 95 % occupancy	
-	7,490,027	currently occupied square feet	

	1,241,390	square feet to absorb to reach 95 % rate	
/	11,510	square feet of building per acre of land	5/

	108	acre equivalent	

Note: - means minus; x means times; / means divide.

- 4/ From Table 5. Assumes need for primary high-tech will be filled first as that is the basic industrial employment sector which creates the "need" for other employment including industrial support jobs. Also assumes that primary high-tech companies will require all types of parcel sizes and space as some will be large companies (e.g., NEC, Epson, and Fujitsu) and others will be emerging primary high-tech companies in varying stages of corporate growth.
- 5/ Calculated from existing industrial parks and building inventory (see also footnote 3/); based on total building area (built, under construction, and planned) divided by total acres.

Footnotes for Table 5 - A

-
- 1/ $2,209 + 541 = 2,750$ (see also Table 3 - A).
- 2/ Assumed to be 20% of total available land (2,209) except for the Kaiser and Riviera projects, which were assumed not to include any commercial and office space. Basis: An important location factor for tenants is the availability of retail and personal services establishments. These kind of spaces also provide a greater return on investment to owners/developers. Therefore, it is assumed owners/developers would attempt to lease to such tenants as allowed by zoning codes and as necessary to attract industrial tenants. Washington County plan designation "I" (industrial) allows up to 50% of the land area in a project 10 acres or larger with a master plan to be developed into "other" incidental uses. Hillsboro "M-P" (industrial park) designation allows commercial services with office uses permitted outright - no percentage specified. Beaverton "CI" (campus industrial) zoning allows up to 60% office and 10% retail. 83% of vacant Beaverton land is zoned "CI". Beaverton "IP" (industrial park) zoning allows incidental office uses - no percentage specified. Beaverton "LI" (light industrial) zoning allows office as principal use up to 15%. Both Beaverton "IP" and "LI" zoning allow retail as incidental use - no percentage specified. Examples of such uses include: restaurants and delis; print shops; travel agencies; real estate, law, insurance, and finance offices. This does not include office uses within an industrial company such as executive offices, personnel, accounting, etc.
- 3/ To account for developed industrial space which is presently vacant or that which is under construction (as of the time of the vacant land inventory). The inventory includes industrial parks and stand-alone industrial buildings and was developed from several sources: 1000 Friends computer printout; Norris, Beggs & Simpson data included with 1000 Friends report; Cushman & Wakefield; Coldwell Banker; and Grubb & Ellis. Considerable variation exists among data sources. To be conservative, we took the largest available space figure for each project from among the various sources. Since we are focusing on land needs, it is necessary to convert this space to an acreage equivalent, calculated as follows:

(continued next page)

3-31 Presentation
In Response to Other Testimony

Table 6

EXCEPTION LANDS AS "ALTERNATIVE" SITES

SUNSET CORRIDOR AREA (APPX. 20-MINUTE TRAVEL TIME RADIUS)

Land Between Evergreen and Sunset Highway -----	Land Between Hillsboro and Cornelius -----	Land Between Reedville Farm and Hazeldale -----	Land at Foothills of Cooper Mt. -----
Flat terrain	Flat terrain	Rolling terrain	Relatively hilly terrain
Reasonable access	Reasonable access	Difficult access	Difficult access
Sewer and water issues	Sewer and water issues	Sewer and water issues	Sewer and water issues
Multiple ownerships	Multiple ownerships	Multiple ownerships	Multiple ownerships
Small parcels compared to Roseway	Small parcels compared to Roseway	Small parcels compared to Roseway	Small parcels compared to Roseway
Odd shaped parcels	Odd shaped parcels	Odd shaped parcels	Odd shaped parcels
Most AF-5 & 10 are developed into other uses	Most AF-5 & 10 are developed into other uses	Most AF-5 & 10 are developed into other uses	Most AF-5 & 10 into developed into other uses
--	R-Com developed into other use	--	--
--	--	--	Suburban residential character of area
Would need to be brought into UGB for indust. development	Would need to be brought into UGB for indust. development	Would need to be brought into UGB for indust. development	Would need to be brought into UGB for indust. development

Source: Washington County Planning Department, 3/86.

The evidence submitted by proponents and opponents in the consolidated hearings was made a part of each individual petitioner's record for the purpose of each petitioner's findings, conclusion and order of the Hearings Officer.

The individual petitioner's hearings regarding the non-consolidated issues were before the Hearings Officer on March 24, 1986.

Subsequently, the Hearings Officer issued proposed findings, conclusion and order for each of the three applications and made the following determinations:

1. Kaiser (No. 85-7): approved with conditions;
2. Riviera (No. 85-9): approved with conditions; and
3. BenjFran (No. 85-8): Denied.

On June 12, 1986 the Metro Council, by Resolution No. 86-651, adopted as the final Order in contested case No. 85-9 (Riviera) the Hearings Officer report and recommendations.

On June 26, 1986 the Metro Council, by Resolution No. 86-650, adopted as the final Order in contested case No. 85-7 (Kaiser) the Hearings Officer report and recommendations, as modified.

The Metro Council has scheduled a hearing for August 28, 1986 to consider the Hearings Officer's proposed findings, conclusions and recommendations for BenjFran (No. 85-8) and the exceptions filed herein by BenjFran to the proposed Order.

III.

THE EXCEPTIONS PROCESS

Metro Code Section 2.05.35 provides that parties shall

BEFORE THE COUNCIL
OF THE
METROPOLITAN SERVICE DISTRICT

In the Matter of the Petition of	)	No. 85-8
BenjFran Development, Inc. and	)	EXCEPTIONS TO THE HEARINGS
Co-Petitioners for a Major	)	OFFICER'S PROPOSED FIND-
Amendment to the Urban Growth	)	INGS, CONCLUSION AND ORDER
Boundary	)	FOR PETITION NO. 85-8
)	
	)	(ORAL ARGUMENT REQUESTED)

I.

NAME OF THE PETITIONERS

BenjFran Development, Inc. (Petitioner) has entered into a purchase option agreement with the Sisters of St. Mary of Oregon and other small ownerships, or owns the subject property which is located in the Southeast area of the City of Hillsboro, in Washington County, for the purpose of developing the property as the "Roseway Business Center" to accommodate the high tech support companies that are required by the primary high tech industry that is developing in the Sunset Corridor.

II.

NATURE OF THE PROCEEDINGS

Riviera Motors, Inc., Kaiser Development Co. and BenjFran Development, Inc. individually petitioned Metro for a major amendment to the urban growth boundary. The Metro Hearings Officer conducted consolidated hearings regarding the above-mentioned applications on March 21, 1986, and on March 31, 1986. The issues consolidated for hearing were:

1. Traffic (transportation impacts); and
2. Other available sites (alternative sites).

literature which document that support companies must be located within 20-minutes driving time of the high tech companies in order to support their [BenjFran's] need argument." (pg. 10, BenjFran). The Hearings Officer stated that need could be shown in many ways; e.g.

1. Documentation to the fact that high tech firms will not locate in the Sunset Corridor unless the high tech support companies are within 20-minutes driving time; or

2. That high tech support companies cannot survive unless they are located within the 20-minute time. (pg. 10-11, BenjFran).

BenjFran Response To Hearings Officer Finding No. 1

The Hearings Officer and Metro, in Kaiser and Riviera, accepted evidence and found that high tech is a unique industry having unique locational criteria and that there is a localized need for additional industrial land in the Sunset Corridor to accommodate high tech firms. The Hearings Officer accepted evidence that high tech firms seek "locations of choice"; have a tendency to cluster (critical mass); and about their wanting to be in a place which has a well known name.

This evidence relied upon by the Hearings Officer to conclude that Kaiser and Riviera had met their burden of showing need, is a description of the desire and preference by high tech firms to locate within an area. These findings also represent a desire on the part of economic development professionals and real estate brokers to concentrate high tech growth within a localized area (i.e. the Sunset Corridor) to actively market the Sunset

be given the opportunity to file written exceptions to the proposed Hearings Officer order(s) and, upon approval of the Council, present oral argument regarding the exceptions to the Council.

Arguments before the Council shall be limited to parties who have filed written exceptions to the proposed order(s). The argument before the Council shall be limited to the written exceptions.

Petitioner respectfully requests that the Council allow Petitioner to present oral argument to the Council regarding these exceptions filed herein.

IV.

EXCEPTIONS

The Petitioner hereby submits the following written exceptions to the Hearings Officer's proposed Findings, Conclusion and Order for Petition No. 85-8 (BenjFran).

GOAL 14, FACTOR 1, DEMONSTRATED NEED

EXCEPTION NO. 1: The Hearings Officer erred in concluding that BenjFran had not demonstrated that a need exists to amend the UGB to accommodate the proposed use for the following reasons:

Hearings Officer Finding No. 1

The Hearings Officer found that high tech firms desire to have high tech support companies located in close proximity which may be within a 20-minute travel time (pg. 10, BenjFran). However, the Hearings Officer found that "[A] desire . . . is not tantamount to a need." (pg. 10, BenjFran). The Hearings Officer stated that she would "need case studies or citations to

2. That as high tech industrial growth continues in the Greater Sunset Corridor, there will be a demand for high tech support industries. The high tech support companies are necessary to achieve an essential part of the infra structure for primary high tech industry.

3. That BenjFran's primary emphasis in its development is to accommodate the precision materials, products and services that supply the raw materials for high tech such as components, secondary assembly, clean room equipment and supplies and testing services. The Hearings Officer acknowledged that the high tech support group is important to the high tech industrial base. (pg. 7, BenjFran).

4. That the above-mentioned relationship depends upon the high tech support companies to be located within close proximity to the primary high tech companies to allow direct, constant and immediate two-way communication and physical interaction.

5. That based upon a survey conducted by BenjFran by phone of 25 high tech support companies, 84% responded that the optional travel time required by customers is 20 minutes or less.

The Hearings Officer found that BenjFran had not identified the companies interviewed, the questions posed and that the answers were not submitted into the record. The Hearings Officer is in error as BenjFran did submit this evidence as justification that there is a need for the high tech support industry to be within close proximity of the primary end user,

Corridor in order to remain competitive with other areas outside the region to attract high tech companies. The Hearings Officer and Metro did not require Kaiser and Riviera to demonstrate that:

1. High tech firms would not locate within the region unless they could locate within the Sunset Corridor; or

2. High tech firms would not be able to survive unless they were located within the Sunset Corridor, as compared elsewhere within the region.

The evidence submitted by Kaiser and Riviera relating to agglomeration economics and critical mass to justify the need for additional large parcels within the Sunset Corridor does not rule out the possibility that other areas in the region could physically accommodate high tech industries and still satisfy the requirements of critical mass. In fact, the Hearings Officer found that ". . . other areas [within the region] can in principle physically accommodate high-tech industries" (pg. 11, Kaiser Findings).

Just as Kaiser and Riviera presented evidence stating the preference and desire of high tech industry to be located within the Sunset Corridor, BenjFran submitted evidence establishing:

1. There is a critical relationship between primary and high tech support companies and that the BenjFran proposal is intended to satisfy the need for the critical relationship between primary and support companies to meet the need as it evolves over the next 20 years of growth in the Sunset Corridor.

the Kaiser hearing, testified that the third most important criterion in high tech firms locating a site is "accessability" to other firms and the corallary support services available from such firms. (pg. 13, Kaiser).

Conclusion for Finding No. 1.

BenjFran established that primary high tech companies desire high tech support companies to be nearby, and more specifically pursuant to the above-mentioned survey, within 20 minutes or less. The Hearings Officer and Metro acknowledge the critical relationship between the high tech support and primary users. The lack of support companies close by is a negative factor for new high tech companies exploring the Sunset Corridor for potential new plant sites. To effectively market the Sunset Corridor to primary high tech companies, we need to be responsive to all of their locational desires.

Metro must apply the same standard to prove "need" in the BenjFran petition as it did in acknowledging that Kaiser and Riviera had proven need in their petitions.

Hearings Officer Finding No. 2

Based upon the need of the support companies to be within close proximity of the primary high tech industry and within 20 minutes or less, BenjFran identified an area within a 20 minute time radius of the center of the Sunset Corridor. (Exh. A-12). Its center is approximately 185th and Walker Road, the core of the Sunset Corridor. The 20-minute area constitutes Metro Districts 13, 14 and 15 for purposes of data collection.

and the optimal travel time of 20 minutes or fewer. (BenjFran Exhibits A-16, B-9).

Specifically, BenjFran submitted the following into the record:

1. The names and addresses of the support company.
2. Date of the interview.
3. Question posed: "What do you think is the optimal travel time to get to your customers to provide them with the kind of support they require?"
4. Answer given: 84% responded with travel times of 20 minutes or fewer. (Exhibit B-9).

The Hearings Officer and Metro have also acknowledged the importance of the relationship between the growth of the high tech industry in the Sunset Corridor with the importance of providing for the high tech support industry:

1. The Hobson Report defines "agglomeration economics" as the economist's term for the "critical mass" necessary to sustain growth whereby high tech firms have a tendency to locate near each other. A factor in realization of "critical mass" is the existence of a support network of vendor firms. (pg. 11-12, Kaiser).

2. The Pope Report referred to in the Kaiser findings at pg. 12-13 indicates that critical mass is becoming the key to electronic plant location and that key services include contract manufacturing (i.e. support services).

3. Richard Carlson, Vice President of QED Research in Palo Alto, California, upon whom the Hearings Officer relied in

Sunset Corridor is the location of choice without having to show specifically what other land within the region could accommodate high tech firms. Remember, the Hearings Officer did not require Riviera or Kaiser to show that:

1. High tech firms would not locate within the region unless they could locate within the Sunset Corridor; or

2. High tech firms would not be able to survive unless they were located within the Sunset Corridor.

It was not documented by Riviera or Kaiser that if additional land is not brought within the UGB and the Sunset Corridor that high tech companies would not locate elsewhere within the region. Yet based upon the desire of economic development professionals, real estate brokers, 1000 Friends of Oregon and Metro staff to competitively market the Sunset Corridor for high tech growth, the Hearings Officer and Metro discovered a need for more land within the corridor even though other land exists elsewhere to accommodate the use.

Based on this standard, which allows a particular area to be focused upon for adding more land to the UGB, the Hearings Officer is not justified in requiring BenjFran to specifically delineate a 20-minute time contour when the Petitioner's original intent was to show the approximate preferred distance in the relationship between primary high tech firms located in the Sunset Corridor and the location of their support companies.

The reasons for limiting the analysis to the 20-minute time frame was conceptually similar to the issue of localized

The Hearings Officer found that BenjFran's "20 minute travel time map delineates the boundaries in which the vacant available industrial lands inventory will be conducted." (pg. 11, BenjFran). The amount of land will be the basis for determining whether additional land is needed to accommodate the proposed use.

The Hearings Officer did not accept as valid the methodology used to delineate the 20 minute travel time contour. The map represents the area within a 20 minute travel time at peak p.m. from the center of the Sunset Corridor. It identifies land within the 20 minute travel time radius which could qualify as appropriate sites to accommodate the optimal travel time between support and primary high tech companies. The basis for the Hearings Officer's finding was that businesses operate at non-peak times. Therefore, a map based on other than p.m. peak times would encompass a greater land area and it may or may not include additional industrially planned land. The Hearings Officer concluded by finding that no map was submitted into evidence showing the contour at other than the p.m. peak. (pg. 11, BenjFran).

BenjFran's Response to Hearings Officer Finding No. 2

In effect, the 20-minute travel time map is similar in concept for the high tech support companies as is the Sunset Corridor map for the primary high tech companies.

In Riviera and Kaiser the Hearings Officer was able to determine that even though there were other areas in the region which would physically accommodate high tech industries, the

travel time boundary is specifically placed. This testimony showed that if the 20-minute area were expanded, all the numbers related to the need for additional land would change, including employment growth, but that the ultimate result of land need would not be materially effected.

BenjFran did not fail to consider planned industrial land in Tigard and Tualatin. Rather, the Petitioner based the analysis on localized need pertinent to high tech support companies which by definition excludes the Tigard and Tualatin areas. Similarly, those areas were approved for exclusion by the Hearings Officer and Metro from the Kaiser and Riviera petitions. (pg. 11, Kaiser).

Hearings Officer Finding No. 3

The Hearings Officer did not accept the employment projections provided by BenjFran which were used as a factor in determining how much land is needed to accommodate the proposed use. (pg. 12, BenjFran). The Hearings Officer asserted that BenjFran had used higher employment projections, thereby showing a greater amount of land needed. (pg. 12, BenjFran). The basis for this finding was the Hearings Officer's belief that BenjFran had not used employment projections developed by Metro, but instead had prepared its own. (pg. 12, BenjFran). In particular the Hearings Officer stated:

The Hearings Officer cannot accept the Petitioner's projections. Metro projections are the projections used by local governments for planning purposes. These projections have received regionwide scrutiny from all local governments. The Hearings Officer cannot accept Petitioner's projections absent any

need which was used and accepted in the Kaiser and Riviera petitions.

At the time of the hearing, the only map available from Metro showing the traffic impact within the 20-minute time contour was for peak p.m. traffic. No other map was available. Metro staff testified that an off-peak analysis would expand the line but was very careful not to state what difference, if any, there might be.

The Hearings Officer is accurate in stating that BenjFran did not provide a map showing a revised contour line. That was because no such map was available. However, BenjFran did address the possibility that an off-peak contour would expand the line. In testimony, BenjFran considered additional vacant building space within Tigard and Tualatin. Notwithstanding this effort, the Hearings Officer still found that the "Hearings Officer cannot access the validity of the analysis without a map". The Hearings Officer is not justified in requiring BenjFran to be exact and precise about a 20-minute time contour map, when Riviera and Kaiser were not required to demonstrate that land was available immediately adjacent to the Sunset Corridor for high tech development.

The Hearings Officer errs in understanding the petitioner's rebuttal testimony regarding vacant space in Tigard and Tualatin. This space was not included in the original analysis because it is outside of the 20-minute area. However, information was presented in rebuttal testimony to show that the need for additional land is not greatly affected by where the

Officer's findings, this is an area larger than the Sunset Corridor. The use of this area is supported by the localized need concept accepted by the Hearings Officer and Metro in the Kaiser and Riviera petitions. (pg. 12, Kaiser).

The following is a discussion of various Metro projections, including those used by the Petitioner and the Hearings Officer. They demonstrate:

- a. That the Petitioner did use Metro projections.
- b. That Metro has released several sets of projections.
- c. That there is no material difference between the projections.
- d. That the Petitioner did not use the highest projections and, thereby, base the analysis on comparatively high employment growth figures.

Metro Employment Projections

1. From "Year 2000 Growth Allocation Workshops", March-April 1982, page 27.

	<u>1980</u>	<u>2000</u>	<u>Change</u>
District 13	48,330	72,710	24,380
District 14	10,040	33,760	23,720
District 15	<u>11,790</u>	<u>27,570</u>	<u>15,780</u>
Approximate 20-Minute Area Total	70,160	134,040	63,880
SMSA Total	618,820	969,990	351,170

It should be noted that in this document, Metro broke out the above total employment projections into categories called office, industrial, and retail. For 1980, industrial employment totaled 30,770 or 43.9 percent of total employment in

explanation demonstrating the reason that Metro's projections are too low. (pg. 13, BenjFran).

BenjFran's Response to Hearings Officer Finding No. 3.

The Hearings Officer ignores the Petitioner's source of employment projections. The projections were provided by Metro, (A Population and Employment Forecast to 2005, Oct. 1984, pg. 45), whereas the Hearings Officer contends they were the Petitioner's own projections. (pg. 12, BenjFran).

The Hearings Officer apparently does not know that Metro periodically reissues population, employment, and dwelling unit projections. The projections reflect changing economic conditions and are increased or decreased depending on information (assumptions) available at the time the projections are made. Metro is considered the official local source of projections. As a result, the Petitioner used the Metro projections available at the time the analysis was conducted. It should be noted that the Petitioner has been preparing information for this process since early 1985. Subsequently, Metro has released revised projections. For the entire region between 1983 and 2005, there is no difference between the Metro projections used by the Petitioner and those cited by the Hearings Officer. For the approximate 20-minute area, there is only a difference of 204 jobs (reflecting minimal subdistrict adjustments). (See (2) and (4) below).

The Petitioner used Metro projections for a geographic area approximating the 20-minute travel time map, specifically Metro districts 13, 14, and 15. Contrary to the Hearings

	<u>1983</u>	<u>2005</u>	<u>Change</u>
District 13	44,013	76,622	32,609
District 14	11,072	44,313	33,241
District 15	<u>13,708</u>	<u>31,784</u>	<u>18,076</u>
Approximate 20-Minute Area Total	68,793	152,719	83,926
SMSA Total	584,920	910,010	325,090

In (2), (3), and (4) above, Metro changed its methodology. Instead of breaking out total employment into office, industrial, and retail categories, Metro estimated employment by sector such as agriculture, manufacturing, government, service, wholesale and retail trade. As a result, it becomes difficult to compare methodology, assumptions, and results. However, given that the year 2005 projections are for a time 20 years in the future (from when the projections were prepared), the differences are not material.

5. From "Staff Analysis - Hearings on Petitions for Major Amendment of the Urban Growth Boundary", February 4, 1986, Table 1 UGB Share of 1983 SMSA Employment and Table 2 UGB Employment Growth 1985-2005 (used by the Hearings Officer).

These tables appear to originate from the regionwide projections shown in (4) above. The staff analysis is intended to show what portion of employment growth is estimated to occur within the UGB between 1985 and 2005. This is a smaller area than the region.

Districts 13, 14, and 15. For the year 2000, industrial employment was projected to total 52,360 or 39.1 percent of total employment in Districts 13, 14, and 15. For the SMSA region, industrial employment was 227,120 or 36.7 percent of total employment in 1980 and industrial employment was projected to be 350,390 or 36.1 percent of total employment in 2000.

2. From "A Population & Employment Forecast to 2005", October 1984, page 45 (used by the Petitioner)

	<u>1983</u>	<u>2005</u>	<u>Change</u>
District 13	43,750	76,180	32,430
District 14	11,170	44,860	33,690
District 15	<u>13,930</u>	<u>31,940</u>	<u>18,010</u>
Approximate 20-Minute Area Total	68,850	152,980	84,130
SMSA Total	584,920	910,010	325,090

3. From "A Population & Employment Forecast to 2005", Errata Sheet, March 1985, replaces page 45 above.

	<u>1983</u>	<u>2005</u>	<u>Change</u>
District 13	44,070	77,240	33,170
District 14	11,090	44,670	33,580
District 15	<u>13,730</u>	<u>32,040</u>	<u>18,310</u>
Approximate 20-Minute Area Total	68,890	153,950	85,060
SMSA Total	588,290	914,160	325,870

4. From "A Regional Population & Employment Forecast to 1990 & 2005", July 1985, page 12 (apparent basis for figures used by the Hearings Officer - see (5) below).

Petitioner did use Metro projections and that the Petitioner did not intentionally use the highest projections.

The Hearings Officer also errs in stating that the applicant's analysis is based on year 2005 projections. In fact the Petitioner's analysis is based on the employment growth projected to occur between 1983 and 2005. All employment growth will not magically occur at year 2005. Land must be available before 2005 to accommodate growth through that year as the Hearings Officer and Metro found in the Kaiser and Rivera petitions. In those petitions the Hearings Officer and Metro found that land needs to be available first in order that companies can locate on it, and then create employment growth.

Hearings Officer Finding No. 4

The Hearings Officer did not accept BenjFran's inventory of vacant land planned for industrial use because the inventory was limited to the area within the 20-minute p.m. peak driving time. Further, the Hearings Officer found fault with BenjFran's "land need" argument since it was based on year 2005 employment projections, when BenjFran limited the land inventory to presently developable land. (pg. 14-15, BenjFran). The Hearings Officer specifically stated:

By the year 2005, much of the presently constrained lands will be developable. Therefore, the inventory should have matched year 2005 employment projections with the developable year 2005 planned industrial land. (pg. 15, BenjFran).

Lastly, the Hearings Officer found that Metro defined the terms "unconstrained" and "constrained" lands differently than BenjFran did in the analysis regarding the inventory of land

Estimated industrial (from employment sectors)	81,532
Estimated other employment	<u>159,778</u>

Estimated employment growth within the UGB, 1985-2005	241,310
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Fallacies in using these numbers include:

a. Growth is intended to occur within the UGB. Development restrictions on land outside of the UGB make it very unlikely that any significant employment additions will occur there.

b. If more employment growth is projected than land is available to accommodate it, then it is logical to adjust the land base, not vice versa.

c. This data set reduces the ratio of industrial employment to total employment. In these projections, regional industrial employment represents 33.8 percent of total employment compared to 36.7 and 36.1 percent shown in (1) above. (Note here that industrial employment represents a larger share in Metro District 13, 14, and 15 compared to the region - see (1) above. The largest economic benefit (multiplier effect) results from industrial employment. It seems that public policy (such as economic development activities including making land available for industrial development) should attempt to encourage growth in the industrial sector, and not accept a declining economy (even though there is growth projected in other employment sectors). The Hearings Officer appears to agree based on the recommendations to approve the Kaiser and Riviera petitions.

This long discussion of Metro employment projections shows errors in the Hearings Officer's findings: that the

The Hearings Officer maintains that the Petitioner should have included "constrained" land in the analysis as some of it will likely become "unconstrained" by the year 2005. This may or may not occur.

However, it is important to note that the Roseway property can be efficiently served with public services in a cost effective manner as demonstrated in the Petitioner's submittals concerning that issue. The Hearings Officer offers no analysis to compare changing some of the vacant land currently within the UGB from "constrained" to "unconstrained".

Further, the Hearings Officer and Metro did not require Kaiser and Riviera to consider that some "constrained" land would become "unconstrained" and thereby accommodate high tech industry growth. In those petitions, the Hearings Officer and Metro found that the need is immediate in order to competitively market the area and cites the importance of high tech support companies in attracting high tech industrial growth. The Hearings Officer places an arbitrary condition on the BenjFran application which is not made of Kaiser and Riviera.

Hearings Officer Finding No. 5: Per Acre Employee Ratio

The Hearings Officer found that "Petitioners need argument is based on a need for additional land for support industries. Important to the determination of need is the per acre employee ratio." (pg. 15, BenjFran).

BenjFran used an employment density of 14 employees per acre, and as a result, 2,404 acres of land would be required.

available for industrial use. However, the Hearings Officer finds that the technical difference (without explaining the difference) is not important to her findings. (pg. 13-14).

BenjFran's Response to Hearings Officer Finding No. 4

The Hearings Officer found that the Petitioner defines "constrained" and "unconstrained" land differently than Metro, while conceding that the difference is not important to the findings. In spite of the later opinion, the Petitioner takes exception to the former as being untrue and misrepresentative. The Petitioner used the Metro vacant land inventory and made no attempt to define the terms differently.

The Hearings Officer does not accept the inventory as shown in the Petitioner's analysis as it was limited to the approximate 20-minute travel time area which has been addressed herein supporting use of this geographic area based on empirical evidence and errors in the Hearings Officer's analysis. The area is also supportable based on the Hearings Officers and Metros acceptance of the localized need analysis as approved in the Kaiser and Riviera applications. (pg. 14, Kaiser).

The Hearings Officer contends that the inventory as used is not valid as it is related to year 2005 employment projections. Here, too, the Hearings Officer errs. The Petitioner's analysis is based on the land inventory of "unconstrained" land to accommodate employment growth between the year 1983 and 2005. It is not logical for the Hearings Officer to contend that all projected employment will not occur until the year 2005. (pg. 15, BenjFran).

Institute in Washington, D.C. ULI figures are calculated according to land use density:

High density	50	employees per acre
Medium density	18	employees per acre
Low density	<u>9.7</u>	employees per acre
Average density	25.9	employees per acre

One only has to look around at recent industrial development projects to see that the campus-style predominates with low-rise buildings, spacious landscaping, and parking. At 14:1, the major developers noted above are clearly following plans more akin to the low and medium employee per acre densities suggested by ULI than the average figure used by Metro.

Further, in the Kaiser findings the Hearings Officer states that actual on-site employment densities range from 12.5 to 17 employees per acre.

Finally, the Hearings Officer fails to understand that the Kaiser, Riviera and BenjFran petitions are all addressing the same industry, high tech. To continue the industry's growth in this area, both primary and support high tech companies are necessary. To attract them, all of their locational requirements will have to be met including labor, infrastructure and site design standards.

Therefore, it is reasonable for the Petitioner to use the 14:1 ratio based on high tech industry standards and current industrial park development standards.

Hearings Officer Finding No. 6: Determination of Need

In BenjFran's needs analysis to determine whether additional land is needed within the UGB for industrial use, two

The Hearings Officer disagrees with the employment density of 14 employees per acre for the following reasons:

1. Metro has used a figure of 25 employees per acre for high tech which would result in a need for 1,345 acres or 1000 acres less than BenjFran. (pg. 15, BenjFran).

2. BenjFran's survey of three primary high tech manufacturing companies to arrive at a density of 14:1 is not "a sufficiently representative sample". (pg. 16, BenjFran).

3. There is no empirical evidence or literature which finds that high tech companies and support industries have the same employee ratios. (pg. 16, BenjFran).

BenjFran's Response to Hearings Officer Finding No. 5

The Hearings Officer disputes the use of a 14:1 employee per acre ratio. The Petitioner did provide empirical evidence to this figure, specifically Fujitsu, Epson, and NEC. This sample is representative of current development standards within the high tech industry and the location in question, specifically the Sunset Corridor area.

This is also the ratio used to formulate the Roseway development concept, that is, utilization of the site considering roads, parking, building sites, drainage, etc. The 14:1 ratio is the current industry standard used by major industrial park developers including (in addition to BenjFran) Koll, Quadrant, Prendergast, and PacTrust.

Metro staff has previously advised the Petitioner how employee densities were developed for the employment projections. The base source was the suggested guidelines of the Urban Land

GOAL 14, FACTOR 2, NEED FOR EMPLOYMENT OPPORTUNITIES

EXCEPTION NO. 2: The Hearings Officer erred in finding that BenjFran had not adequately demonstrated a need for 11,217 high tech support industry jobs by the year 2005 for the following reasons:

Hearings Officer Finding No. 1

The Hearings Officer believes there is a need for support industries and for jobs. (pg. 20, BenjFran). However, the Hearings Officer finds that BenjFran's assertion of a need for 11,217 support industry jobs by the year 2005 (of which BenjFran's share would be 6,800) is not adequately supported by the evidence. Further, the Hearings Officer finds that it has not been shown that the need can only be met by amending the UGB. (Pg. 21, BenjFran).

BenjFran's Response to Finding No. 1

The Hearings Officer and Metro, in determining that Kaiser and Riviera had satisfied Goal 14, Factor 2 made the following findings to justify its decision:

1. ". . . Oregon's economic and employment needs are two-fold: (1) to replace jobs lost through the erosion of traditional employment bases; and (2) the need to rebuild and diversify the states basic industries." (pg. 27, Kaiser).
2. "The evidence submitted showed that high-tech industries are significant generators of new jobs." (pg. 27, Kaiser) Manufacturing firms are basic to the economy . . . and create an economic multiplier effect in support and service jobs. On average, for every manufacturing job, approximately 1.8 support and service jobs are created." (pg. 26, Kaiser (emphasis added)).

scenarios were presented: In one, that Kaiser and Riviera were not approved, and in another analysis, assumed that both petitions were approved.

The Hearings Officer made the finding that "adding land to the UGB" does not automatically mean more jobs. "Industrial expansion is not simply a factor of the amount of vacant industrial land." (pg. 19-20, BenjFran).

Response to Hearings Officer Finding No. 6

The Hearings Officer states disagreement with the Petitioner's analysis of land need under two scenarios: without Kaiser and Riviera; and with Kaiser and Riviera. When the UGB was formed, it was planned so that it would accommodate projected employment growth for the next 20 years. Since then, industrial economics in the region, and specifically in the Sunset Corridor, have changed as demonstrated by all petitioners. Previously unforeseen employment opportunities have presented themselves. It logically follows that allowing the Kaiser and Riviera parcels into the UGB creates the opportunity to add employment opportunities in the area and thus to increase the employment projections. (pg. 19 and 20).

The type and amount of land originally provided within the UGB are not adequate to accommodate these new opportunities in the primary high tech and high tech support industry. The Hearings Officer agrees there is a need for the industry itself. Then it logically follows that appropriate land must be provided for them within the UGB.

predicted in the Kaiser and Riviera petitions. In fact, the Hearings Officer summarily states that BenjFran does not specifically discuss the need for jobs and how its petition will address the need. BenjFran will in fact satisfy the need through the creation of 6,800 jobs.

The Hearings Officer disputes the 2:1 ratio of primary high tech employment to support industries employment. The ratio is an estimate based on employment figures contained in the February 4, 1985 issue of The Business Journal (inadvertantly reported as January - typographical error in Footnote 1 Table 5) and the Washington County insert in the Oregon Business Magazine. The Business Journal reports on the region's top 25 electronics companies. The applicant refined this list to reflect employment within the approximate 20-minute time area as of 1983 (date of employment projections). The calculation assumes these companies are "primary" as they are the largest; the balance of employment representing "support" companies. The ratio was then applied to the growth projected to occur between 1983 and 2005.

Once again the Hearings Officer finds the Petitioner fails to provide literature research. Because of the lack of available literature citations, the Petitioner performed primary research to provide empirical evidence to support assumptions and methodologies. The Hearings Officer did not require the same burden of proof in the analysis relative to Kaiser and Riviera.

GOAL 14, FACTOR 6, RETENTION OF AGRICULTURAL LAND

EXCEPTION NO. 3: The Hearings Officer erred in concluding that the Petitioner had not demonstrated a "need" for

3. "The Hearings Officer finds that the statistical evidence demonstrates that there has been a decline in the state's basic industries, and that because manufacturing industries are needed to generate further growth, there exists the need to rebuild and diversify the state's basic industries. The Hearings Officer finds that, because high-tech industries are basic growth industries nationwide and in Oregon, fostering high-tech growth serves the dual needs of generating jobs and rebuilding the state's basic industries. The Hearings Officer therefore finds that the amendment to the UGB, the purpose of which is to develop high-tech industries, addresses the need for employment opportunities and livability in the state. Approving the application supports Factor 2 by securing an adequate supply of land in the area's prime high-tech corridor which will encourage location of new companies in the area.

Therefore, the Hearings Officer and Metro determined that adding the Riviera and Kaiser land to the UGB provides land for employment opportunities and liveability in the state.

BenjFran presented evidence similar to Riviera and Kaiser to establish the need to improve the state's economic base by promoting the high tech industry, of which the high tech support companies are a part. The evidence presented in all three petitions, and accepted by the Hearings Officer, is that high tech support companies are an integral part of the success of the Sunset Corridor area and its future growth opportunities.

The standard of proof imposed on Riviera and Kaiser was if you add industrial land it will generate jobs and improve the economy. However, in the BenjFran findings, the Hearings Officer completely excludes any reference that the support industries are an integral piece to the success of high tech growth in the Sunset Corridor which will allow for the employment opportunities

additional land and inclusion within the UGB, and therefore the property should be retained as agricultural land.

Hearings Officer Finding No. 1

The Hearings Officer found that the subject property is not irrigated nor could it easily be brought to the property. Further, crops grown on the property are among the most common in the County and the state, and no speciality or high value crops are grown on the property. (pg. 35, BenjFran).

The Hearings Officer found that this approval criterion was not satisfied because of her previous finding under Goal 14, Factor 1. Specifically, the Hearings Officer found:

"Since there is not a need for the property for an urban use, it must be retained as agricultural land." (pg. 36, BenjFran).

BenjFran's Response to Hearings Officer Finding No. 1

Since BenjFran has established a need for the property for an urban use, then it does not need to be retained as agricultural land.

GOAL 2, EXCEPTIONS, PROCESS REASONS

EXCEPTION NO. 4: The Hearings Officer erred in finding that the Petitioner had not demonstrated compliance with Goal 14, Factors 1, 2 and 6 and therefore had not demonstrated compliance with Goal 2, exceptions, process, reasons.

Hearings Officer Finding No. 1

The Hearings Officer finding regarding this criterion was:

"This approval criteria may be satisfied by compliance with the findings with respect to the seven factors of Goal 14 (OAR 660-04-010(1)(c)(B)(i)). The Hearings Officer has found that Goal 14, Factors 1, 2 and 6 have not been satisfied, therefore, this criterion is not satisfied." (pg. 37, BenjFran).

BenjFran's Response to Hearings Officer Finding No. 1

As set forth above, in Exception Nos. 1, 2 and 3, the Petitioner has demonstrated compliance with factors 1, 2 and 6 of Goal 14. The Petitioner has demonstrated need; the fact that the need cannot be met within the existing UGB, and therefore, that the UGB should be amended to accommodate the need addressed by the BenjFran petition.

GOAL 2, EXCEPTIONS PROCESS, ALTERNATIVE SITES

EXCEPTION NO. 5: The Hearings Officer erred in concluding that the Petitioner had not demonstrated compliance with Goal 2, Exceptions process, alternative sites, and OAR 660-04-020.

Hearings Officer Finding No. 1: Accommodation of the use on non-resource land that would not require an exception.

The Hearings Officer defines the issue under this approval criterion as follows: "Whether Petitioner has shown that only a 200-acre site or larger will satisfy the need [i.e. industrial land for support companies within an approximate 20-minute drive time of the primary high tech firms within the Sunset Corridor]. (pg. 37, BenjFran).

The Hearings Officer found that "there was no evidence introduced into the record that the use could be accommodated on

non-resource land". (pg. 38, BenjFran).

BenjFran's Response to Hearings Officer Finding No. 1

BenjFran has satisfied this criterion since there are no non-resource lands outside the UGB that would not require a new exception within the approximate 20-minute time travel map.

In Kaiser and Riviera, the Hearings Officer and Metro acknowledged that due to the uniqueness of the requirements of the industry, the issue of alternative sites is limited to a showing that there are inadequate sites within the Sunset Corridor. (pg. 70, Kaiser). Specifically, the Hearings Officer and Metro found in Kaiser and Riviera, that there are no nonresource lands which are contiguous to the urban growth boundary which are within the Sunset Corridor (pg. 70, Kaiser).

Equally so, there are no nonresource lands that would not require a new exception which are contiguous to the urban growth boundary which are within the approximate 20-minute time travel map. Based on the reasoning above, BenjFran is legally entitled to the same conclusion regarding the 20-minute map as Riviera and Kaiser were regarding the map of the Sunset Corridor.

Hearings Officer Finding No. 2: Resource lands irrevocably committed to non-resource use.

Even though BenjFran submitted evidence of four areas of exception lands as alternative sites outside the UGB and within the 20-minute travel time radius, and that these four areas are not alternative locations which can accommodate the proposed industrial use, the Hearings Officer found that:

"The Hearings Officer cannot accept the 20-minute driving time as valid, therefore, this approval criterion cannot be satisfied." (pg. 39, BenjFran).

In other words, the Hearings Officer requires BenjFran to examine sites which are outside of the Sunset Corridor and the 20-minute travel time radius which was not required of Kaiser and Riviera.

BenjFran's Response to Hearings Officer Finding No. 2

In Kaiser and Riviera, the Hearings Officer and Metro did not require those petitioners to search for alternative sites except for those within the Sunset Corridor or adjacent to it, based upon the localized need concept.

However, in BenjFran the Hearings Officer requires a more extensive search even though BenjFran is addressing the same high tech industry and its localized need requirements. Hence, BenjFran is subjected to a more stringent burden of proof.

The evidence presented by BenjFran indicates that the four areas reviewed cannot accommodate the proposed use because of constraints of lack of proper zoning, lack of sewers, and multiple ownerships.

Hearings Officer Finding No. 3: Accommodation of the use within the urban growth boundary

The Hearings Officer found:

Petitioners' evidence does not persuade the Hearings Officer that this approval criteria is satisfied for two reasons. First, the Hearings Officer cannot accept the validity of the 20-minute travel time contour map which limited the analysis to that area. Second, even assuming the map were supportable, petitioner has not submitted documented

evidence that only a 200- to 475-acre site can be used to satisfy the need for support industries. (pg. 40, BenjFran).

BenjFran's Response to Hearings Officer Finding No. 3

The applicant proposes to develop a large industrial park to meet the needs of high tech support companies. Even though the park is planned to have several "development zones" with unique characteristics, it is planned to target support companies within one basic industry, high tech. Therefore, the industrial park will have a single unified theme and market approach.

Therefore, it will allow for a variety of uses and company sizes in one compatible environment.

The Petitioner surveyed support companies and found that they need to be in close proximity to each other as well as to their customers to best increase market knowledge and sharing of technical information.

The large size of BenjFran's proposed industrial park is the only way to achieve this closeness - a need which is unique to high tech support companies compared to other industries.

Further, the large site size provides development economics and cost efficiencies related to site improvements and the extension of services. This benefit is so great, in fact, that other properties (and indeed the general community) will enjoy public utilities and transportation improvements.

Therefore, the Petitioner examined alternative sites of 200 acres or larger within the localized need area. None were found to be able to accommodate the proposed uses in a manner

that addresses the unique locational requirements of support companies.

It should be mentioned that in the Petitioner's needs analysis, all vacant land was included in the inventory regardless of parcel size. The analysis showed a need to add 800 acres to the UGB with the approval of the Kaiser and Riviera applications.

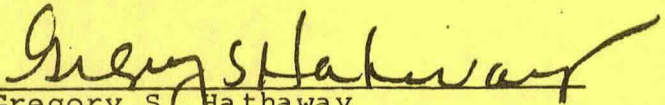
CONCLUSION

The Hearings Officer in her Findings, Conclusion and Order determined that the urbanization of the BenjFran property is a logical extension of the existing urban area. (pg. 43, BenjFran). Further, the Hearings Officer found that:

"Urbanization of this property enables the construction of significant improvements in existing, planned or new public facilities. These improvements will significantly enhance existing urban areas and promote the compatibility of all urban uses" (pg. 43, BenjFran).

The Hearings Officer found that BenjFran has met its burden of proof regarding all of the relevant criteria for an amendment to the UGB except for the criteria stated above and for which the Petitioner has filed exceptions.

BenjFran respectfully requests the Metro Council to approve its Petition No. 85-8 for a major amendment to the urban growth boundary based upon Metro's approval of Kaiser and Riviera to promote industrial growth within the Sunset Corridor, the evidence submitted by BenjFran, and these exceptions.


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