

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ADOPTING AN ORDER) RESOLUTION NO. 11-4261
ON A REQUEST FOR AN EXTENSION OF)
TIME FOR COMPLETION OF) Introduced by Councilor Rex Burkholder
COMPREHENSIVE PLANNING FOR BONNY)
SLOPE WEST (STUDY AREA 93) BY)
MULTNOMAH COUNTY ON APPEAL FROM)
AN ORDER OF THE CHIEF OPERATING)
OFFICER)

WHEREAS, on February 25, 2011, Multnomah County requested an extension of time to complete comprehensive planning required by Title 11 of the Urban Growth Management Functional Plan (UGMFP) for Bonny Slope West (Study Area 93), added to the UGB by Ordinance No. 02-969B on December 5, 2002; and

WHEREAS, Metro Code section 3.07.830 establishes a process and criteria for extension of time for compliance with a requirement of the UGMFP; and

WHEREAS, section 3.07.830 authorizes the Chief Operating Officer (COO) to grant an extension if the COO finds that Multnomah County is making progress toward completion of Title 11 planning or that there is good cause for the county's inability to meet the deadline for completion of the planning; and

WHEREAS, the COO provided notice of the proposed extension pursuant to Metro Code 3.07.830A; and

WHEREAS, Metro has not granted a previous extension of time for completion of Title 11 planning for Study Area 93; and

WHEREAS, the Metro Planning Department reviewed the application and recommended approval; and

WHEREAS, the COO issued Order No. 11-053 (Relating to the Request by Multnomah County to extend the Time for Comprehensive Planning for Area 93) granting an extension of time on March 30, 2011; and

WHEREAS, James Crawford filed an appeal of Order No. 11-053 on April 4, 2011, pursuant to section 3.07.830D of the Metro Code; and

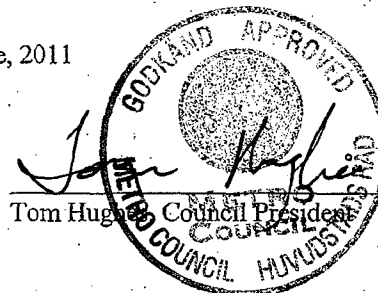
WHEREAS, the Metro Council held a public hearing on the appeal on June 2, 2011, and considered the testimony and materials presented at the hearing; now, therefore,

BE IT RESOLVED THAT the Metro Council:

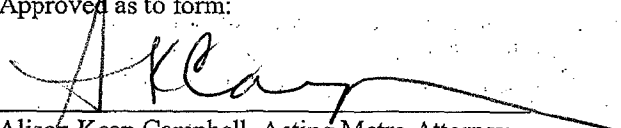
1. Enters Order No. 11-055, attached to this resolution, ruling on the appeal of Chief Operating Officer's Order No. 11-053 and on the extension of time requested by Multnomah County for completion of comprehensive planning for Bonny Slope West (Study Area 93) under Title 11 of the Urban Growth Management Functional Plan.

2. Directs the Chief Operating Officer to send a copy of Order No. 11-055 to Multnomah County, the appellant and all persons who participated at the public hearing on the extension request.

ADOPTED by the Metro Council this 9th day of June, 2011



Approved as to form:


Alison Kean Campbell, Acting Metro Attorney

BEFORE THE METRO COUNCIL

RELATING TO THE REQUEST BY) ORDER NO. 11-055
MULTNOMAH COUNTY TO EXTEND THE)
TIME FOR COMPREHENSIVE PLANNING FOR)
AREA 93

WHEREAS, on February 25, 2011, Multnomah County requested an extension of time to complete comprehensive planning required by Title 11 of the Urban Growth Management Functional Plan (UGMFP) for Bonny Slope West (Study Area 93), added to the UGB by Ordinance No. 02-969B on December 5, 2002; and

WHEREAS, Metro Code section 3.07.830 establishes a process and criteria for extension of time for compliance with a requirement of the UGMFP; and

WHEREAS, section 3.07.830 authorizes the Chief Operating Officer (COO) to grant an extension if the COO finds either that Multnomah County is making progress toward completion of Title 11 planning or that there is good cause for the county's inability to meet the deadline for completion of the planning; and

WHEREAS, the COO issued Order No. 11-053 (Relating to the Request by Multnomah County to extend the Time for Comprehensive Planning for Area 93) granting an extension of time on March 30, 2011; and

WHEREAS, James Crawford filed an appeal of Order No. 11-053 on April 4, 2011, pursuant to section 3.07.830D of the Metro Code; and

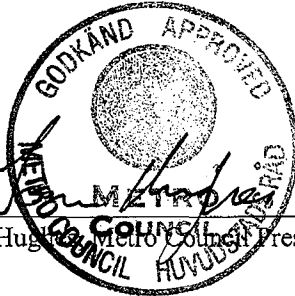
WHEREAS, the Metro Council held a public hearing on the appeal on June 2, 2011, and considered the testimony and materials presented at the hearing; now, therefore,

IT IS HEREBY ORDERED THAT:

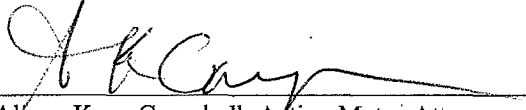
1. The appeal of Chief Operating Officer Order No. 11-053 is denied for the reasons set forth in the Staff Report dated May 25, 2011, attached to this order.
2. The request of Multnomah County for an extension of time under Metro Code 3.07.830 to complete comprehensive planning under Title 11 of the UGMFP for Bonny Slope West (Study Area 93) pursuant to Metro Code section 3.07.830 is approved under the terms and conditions set forth in section 3 of this order.

3. Multnomah County, or another governing body by agreement with the county pursuant to ORS chapter 195, shall adopt comprehensive plan provisions that comply with Metro Code 3.07.1120 within two years following the agreement, or within ten years of the date of this order, whichever comes earlier.

ENTERED this 2nd day of June, 2011.


Tom Hugo Metro Council President

Approved as to form:


Alison Kean Campbell, Acting Metro Attorney

STAFF REPORT

FOR THE PURPOSE OF ADOPTING AN ORDER ON A REQUEST FOR AN EXTENSION OF TIME FOR COMPLETION OF COMPREHENSIVE PLANNING FOR BONNY SLOPE WEST (STUDY AREA 93) BY MULTNOMAH COUNTY ON APPEAL FROM AN ORDER OF THE CHIEF OPERATING OFFICER

Date: June 9, 2011

Prepared by: Ray Valone
503-797-1808

BACKGROUND

The Metro Code (3.07.830) allows for cities and counties to request an extension of time for compliance with an Urban Growth Management Functional Plan requirement. On March 1, 2011, Multnomah County applied for such an extension of time to the Chief Operating Officer for fulfilling the requirements of Title 11 (Planning for New Urban Areas) for the Bonny Slope West Concept Plan area (Attachment 1). This area, also known as Area 93, was brought into the UGB in 2002. After a delay due to interagency discussions regarding governance and provision of services for the area, the County commenced planning to fulfill Title 11 in late 2008. The effort yielded a concept plan recommended for approval by the County Planning Commission in November 2009. The Board of County Commissioners never held a hearing on the plan, citing the need for completion of the Urban and Rural Reserves process and the more pressing need to conclude the budget process.

Section 3.07.830 of the Metro Code states that the Metro Chief Operating Officer (COO) may grant an extension if the city or county is making progress toward compliance or there is good cause for failure to meet the deadline for compliance. The COO may also “establish terms and conditions for the extension in order to ensure that compliance is achieved in a timely and orderly fashion and that land use decisions made by the city or county during the extension do not undermine the ability of the city or county to achieve the purposes of the functional plan.”

On March 31, 2011, the COO issued Order No. 11-053 to approve the County request for an extension, and established the following terms: “Multnomah County, or another body by agreement with the county pursuant to ORS chapter 195, shall adopt comprehensive plan provisions that comply with Metro Code 3.07.1120 within two years following an agreement, or within ten years of the date of this order, whichever comes earlier.” (See Attachment 2)

ANALYSIS/INFORMATION

1. **Known Opposition:** Four area residents expressed opposition to the extension of time. On April 5, 2011, the COO order was appealed to the Metro Council by James Crawford, a resident and property owner within Area 93.
2. **Legal Antecedents:** Title 8 (Compliance Procedures) of the Urban Growth Management Functional Plan provides for extensions of time for compliance with requirements of the UGMFP, including a process and criteria for the extensions. Section 3.07.830.

3. **Anticipated Effects:** If Resolution No. 11-4261 is adopted and enters Order No. 11-055, then the appeal from Mr. Crawford will be denied, the County will be granted an extension of time to complete the Title 11 planning for Area 93 under the same terms as COO Order No. 11-053.
4. **Budget Impacts:** none

RECOMMENDED ACTION

Based on the submittal from Multnomah County and the staff record for the planning effort on Area 93, staff concludes that the County has met the criteria under Metro Code 3.07.830 for an extension of time. Staff, therefore, recommends approval of the County request. Staff has no recommendation on the amount of time that the Council should grant the applicant to complete the planning effort.

The Council may amend the conditions in the COO order.

Jeff Cogen, Multnomah County Chair



501 SE Hawthorne Blvd., Suite 600
Portland, Oregon 97214
Phone: (503) 988-3308
Email: mult.chair@co.multnomah.or.us

February 25, 2011

Michael Jordan
Chief Operating Officer
Metro
600 NE Grand
Portland OR 97232

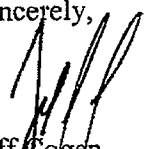
Dear Michael,

Thanks for meeting with me to discuss Area 93, aka Bonny Slope West, and the status of the Urban Concept Plan. As we discussed, the County has undertaken the Concept Plan work with due diligence but we are stymied for bringing the Plan to completion primarily due to being unable to identify a governing body. As you know the County does not provide urban planning services and the City of Portland is legally unable to provide those services for the County in this situation.

We believe that the best way we can be accountable to Metro and the citizens of the area is to request an extension of time for completion. We have acted in the best interest of the required ordinance to date, but we are still unable to complete the requirements. Please accept the enclosed application as Multnomah County's request to Metro to extend the compliance deadlines set in the Urban Growth Management Functional Plan. Extending the deadlines would amend Metro Ordinance 02-969B, dated December 5, 2002.

I appreciate your efforts to work with the County on this challenging project. Please let me know what the County can do to support this action.

Sincerely,


Jeff Cogen
Multnomah County Chair

C: Sherry Oeser

I had to send this
quickly to get there
before you abandon ship!





METRO

Extension of Compliance Deadlines

Jurisdiction: Multnomah County

January 11, 2011

Date:

Adam Barber, Senior Planner

Contact:

503-988-3043 x 22599

Telephone:

503-988-3389

Fax:

adam.t.barber@multco.us

Email:

Requests for extensions of compliance deadlines set in the Urban Growth Management Functional Plan, as authorized in Title 8 of the plan, must be filed with Metro's Chief Operating Officer on this application form.

Metro Code 3.07.850 sets forth the criteria and procedure for Metro Council consideration of extensions of compliance deadlines. The criteria, from Metro Code 3.07.850B, are as follows:

The Council may grant an extension if it finds that: (1) the city or county is making progress toward accomplishment of its compliance work program; or (2) there is good cause for failure to meet the deadline for compliance.

Please complete this application and submit it to

Sherry Oeser
Metro
600 NE Grand Avenue
Portland, OR 97232

Part I (to be completed by the local government)

a. Describe progress made toward compliance with the Functional Plan requirement(s) for which the local government needs more time.

Metro Ordinance No. 02-969B identifies Multnomah County as the agency responsible for Title 11 planning of study Area 93 which is more commonly referred to as Bonny Slope West. Title 11 of Metro's Urban Growth Management Functional Plan requires that the responsible agency develop a concept plan and comprehensive plan provisions to guide the conversion from rural to urban land. Multnomah County has made measurable progress towards this goal including -

- 1). Entering into an IGA with the City of Portland's Bureau of Planning and Sustainability to help prepare the concept plan,
- 2). Completion of an *Existing Conditions, Opportunities & Constraints Report* for study Area 93,
- 3). Coordination with the City of Portland to create and maintain a webpage,
- 4). Formation of a (TAC) Technical Advisory Committee,
- 5). Managing a four day, three night planning charrette with members of the public and TAC,
- 6). Completion of an on-line urban concept preference study,
- 7). Exploration of urban concepts with the County Planning Commission during public worksessions in August and September of 2009, and
- 8). Conducting a Planning Commission hearing on the concept plan November 2nd, 2009.

The Multnomah County Planning Commission recommended approval of the urban concept plan to the Board of County Commissioners recognizing that although the majority of the preferred service providers have been identified, a viable governance option has not. A hearing on the concept plan in front of the Board of County Commissioners has not yet been scheduled. The concept plan, along with supporting documentation, can be viewed on the project webpage: <http://www.portlandonline.com/bps/index.cfm?c=48729>

b. Or, explain why the local government has not been able to meet the deadline set for compliance with the Functional Plan requirement(s).

Multnomah County does not have an urban development and planning program. Multnomah County Resolution A, adopted in 1983, directed the county to transition away from providing municipal services within urban areas recognizing that municipal services are more efficiently provided by cities. Over the intervening years, the county has successfully reduced urban service functions. The result is that the county provides fewer development services and those are at a rural scale.

Due to Resolution A, the county explored options with regional partners to decide who would be best suited to conduct the urban concept planning process for the county. Multnomah County contracted with the City of Portland's Bureau of Planning and Sustainability to help prepare the plan. This approach was taken because Multnomah County does not provide urban planning services and because it was assumed that Portland would ultimately govern Area 93. This outcome was recognized as a possibility in the Metro ordinance which required "Multnomah County or, upon annexation of the area to City of Portland, the city shall complete Title 11 planning for the portion of Study Area 93 shown on Exhibit N."

In 2008, Metro and Multnomah County entered into an IGA for the purposes of providing funding to the county to assist with the concept planning process. The IGA also established work product milestones and the county has completed milestones (1) execution of the IGA, (2) summarizing existing conditions, and (3) creating a draft urban growth diagram. Remaining milestones include (4) adoption of the preferred urban growth diagram, (5) adoption of comprehensive plan amendments outlining preliminary public service options and conditions under which urbanization can occur, and (6) selecting a final service option and adopting comprehensive plan and ordinance language to implement the concept plan. The IGA discusses that the county shall use its best efforts to accomplish the milestones in a timely and diligent manner, but acknowledges that milestone (6) may not be entirely within the county's control.

Continuation of this planning project requires a viable governance program. Multnomah County does not have an urban development and planning program and Portland policy restricts the city's urban serviceability to lands inside the city's urban service boundary. Area 93 falls outside of and is not contiguous to the city's urban service boundary and therefore expansion of the service boundary to include Area 93 would be required for Portland governance. The city is currently prohibited from expanding the urban service boundary to include Area 93 because the intervening land between the city and Area 93 falls outside of the urban growth boundary. The intervening rural land can not be included in the urban growth boundary for at least the next 50 years in accordance with the Rural Reserves designation recently adopted for the intervening land by the Board of Multnomah County Commissioners and Metro. The City of Portland indicated during the urban and rural reserves process in a January 11, 2010 letter to Metro that it would not be cost effective for the city to govern Area 93 suggesting challenges would still exist even if the city was not prevented from governing Area 93.

Multnomah County respectfully requests that Ordinance No. 02-969B be amended to extend completion of the urban concept plan until such time that a viable governance option is identified. This amendment recognizes Multnomah County's need for an urban planning partner to complete the concept planning

process and preserves the right for that partner to fully participate in the decisions impacting how the plan is implemented.

Thank you for considering this request.

Part II (to be completed by Metro)

- a. Metro staff recommendation

\\gm\community_development\projects\COMPLIANCE\ExtensionRequests\Extension of Compliance Deadline Form.doc

BEFORE THE CHIEF OPERATING OFFICER

RELATING TO THE REQUEST BY MULTNOMAH)
COUNTY TO EXTEND THE TIME FOR) Order No. 11-053
COMPREHENSIVE PLANNING FOR AREA 93)

WHEREAS, on February 25, 2011, Multnomah County requested an extension of time to complete comprehensive planning required by Title 11 of the Urban Growth Management Functional Plan (UGMFP) for Bonny Slope West (Study Area 93), added to the UGB by Ordinance No. 02-969B on December 5, 2002; and

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WHEREAS, the COO provided notice of the proposed extension pursuant to Metro Code 3.07.830A; and

WHEREAS, the COO has not granted a previous extension of time for completion of Title 11 planning for Study Area 93; and

WHEREAS, the Metro Planning Department has reviewed the application and recommends approval; and

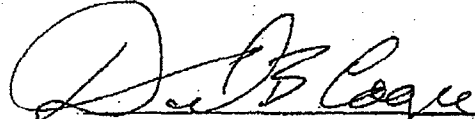
WHEREAS, the COO finds that the county is making progress toward completion of Title 11 planning by obtaining a grant from Metro for the planning of Study Area 93, executing an IGA with partner agencies, completing a summary of existing conditions and drafting an urban growth diagram for the area, and gaining a recommendation for the county's Planning Commission for the urban growth diagram; now, therefore,

IT IS HEREBY ORDERED THAT:

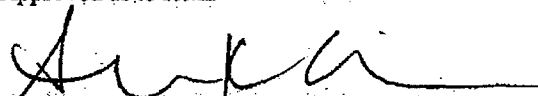
1. The request of Multnomah County for an extension of time under Metro Code 3.07.830 to complete comprehensive planning for Study Area 93 pursuant to Title 11 of the UGMFP is approved under the terms and conditions set forth in section 2 of this order.

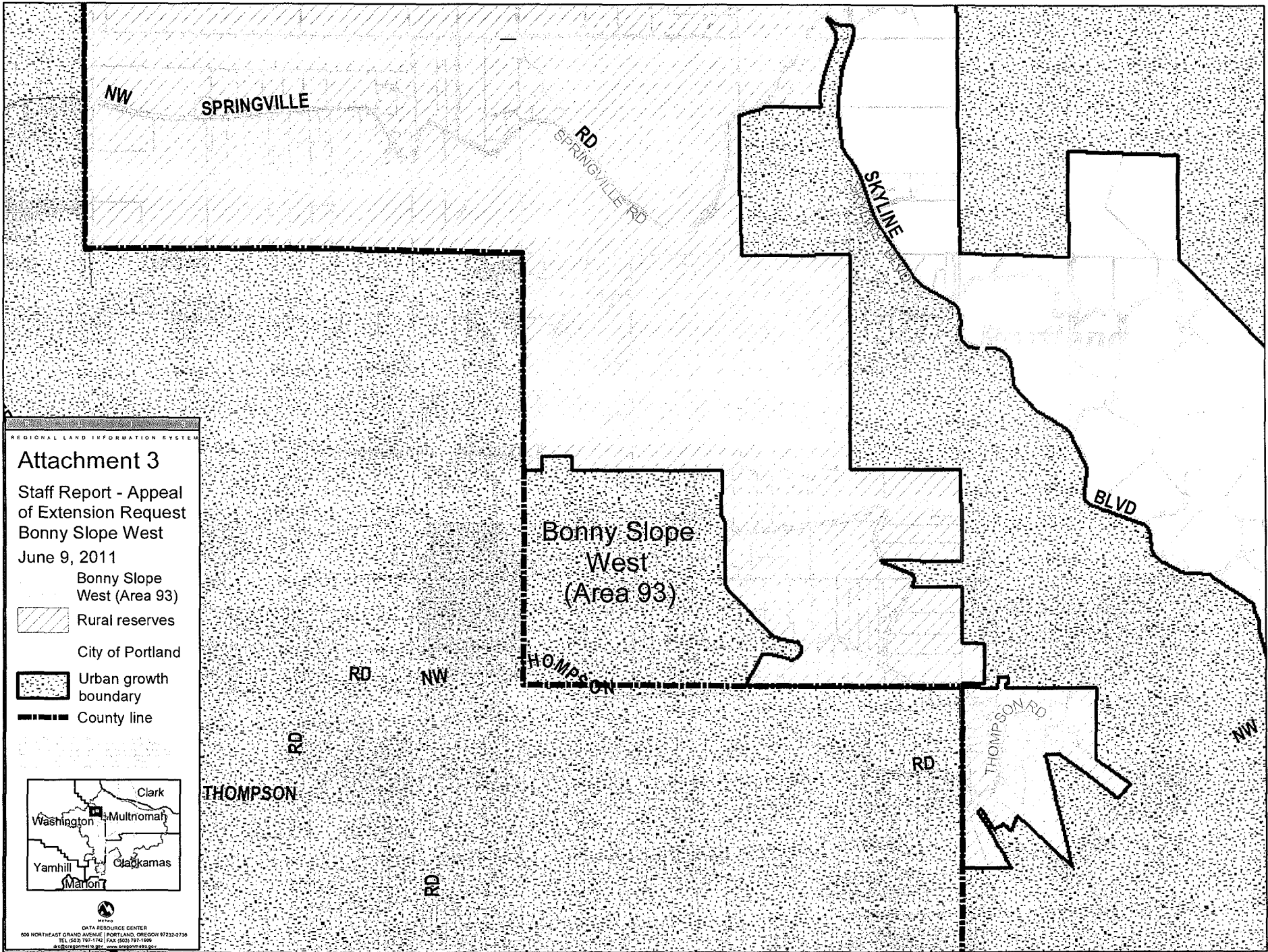
2. Multnomah County, or another governing body by agreement with the county pursuant to ORS chapter 195, shall adopt comprehensive plan provisions that comply with Metro Code 3.07.1120 within two years following the agreement, or within ten years of the date of this order, whichever comes earlier.

ENTERED this 30th day of March, 2011.


Daniel B. Cooper, Acting Chief Operating Officer

Approved as to form:


Alison Kean Campbell, Acting Metro Attorney



Attachment 3


Staff Report - Appeal
of Extension Request
Bonny Slope West


June 9, 2011

Bonny Slope
West (Area 93)

 Rural reserves

City of Portland

 Urban growth
boundary

 County line



DATA RESOURCE CENTER
800 NORTHEAST GRAND AVENUE, PORTLAND, OREGON 97232-2736
TEL (503) 797-1742 FAX (503) 797-1696
WWW.CITYOFPORTLAND.ORG