

# UGB Amendments History

*Updated May 2012*

The following are summaries of UGB amendment petitions and their outcomes. For complete information refer to official records.

## List of Cases:

CASE	PROPOSAL	RESULT
CRAG Petition No. 28: City of Sandy Order No. 77-11 12-22-77	7 acres along and south of Tickle Creek, within/adjacent to the City boundary	Approved
CRAG Petition No. 30: Robert & Agnes Guy/Mas Fujimoto Order No. 77-15 12-22-77	Withdraw 30 acres from Happy Valley to allow access to Clackamas Co. sewer services, for residential	Denied
CRAG Petition No. 31: Mas Fujimoto Order No. 77-16 12-22-77	Withdraw 70 acres from Happy Valley to allow access to Clackamas Co. sewer services, for residential	Denied
CRAG Petition No. 38: City of Portland (Lee Thompson property) Order No. 77-12, Rule No. 77-3 12-22-77	7.17 acres in Skyline Acres near Skyline Blvd. to UGB for provision of water for eventual low density residential	Approved
CRAG Petition: West Hills Study Area Order No. 17 02-23-78	4.2 sq. miles in the West Hills; designate section generally NE as Natural Resource, designate section generally SW as Urban	Approved
CRAG Petition No. 39: City of Portland Order No. 77-14 02-23-78	Amend UGB by adding 10.24 acres; change designation from Natural Resource to Urban. Annexation will allow resident to access public water	Denied
CRAG Petition No. 29/40: James J. Praggastis Order No. 77-13 02-23-78	20 acres adjacent to and surrounded on 3 sides by the City of Lake Oswego; include full area served by gravity sanitary sewers, for residential	Denied

<b>CASE</b>	<b>PROPOSAL</b>	<b>RESULT</b>
CRAG Petition: Smith/Bybee Lakes Study Area Order No. 78-2 05-25-08	2,530.38 acres (recreational and industrial use) contiguous to the northern boundary of the City of Portland; to provide urban services to the Rivergate area	Approved
CRAG Petition: Troutdale Study Area (Strebin Rd.) Order No. 78-17	270 acres adjacent to the City of Troutdale's eastern boundary near Gresham; change designation from Urban to Natural Resource	Approved
CRAG Petition No. 1: City of Tualatin Order No. 75-15 10-26-78	Sever urban corridor of 1,082 acres west of Tualatin and NE of Sherwood to reduce industrial sprawl, slow industrial development inside the city and slow impact on traffic volumes	Denied
CRAG Petition No. 2: 209 <sup>th</sup> Rule 78-6 10-26-78	Change designation of 183 acres near 209 <sup>th</sup> and Farmington in Washington County from Urban to Natural Resource	Withdrawn
CRAG Petition No. 4: Cornelius Rule No. 78-15 11-16-78	6 acres, north side of Council Creek, to conform the UGB to existing city limits; designate as Natural Resource	Approved
CRAG Petition No. 7: West Union Rule No. 78-8 11-16-78	520 acres on West Union Rd. for prime agricultural land; propose rural designation	Approved
CRAG Petition No. 8: Joseph Pellicano 11-16-78	4.6 acres in order to have property included in Lake Oswego service district	Approved
CRAG Petition No. 8: Multnomah County Rule 78-17 11-16-78	2 acres on Sauvie Island, to provide consistency between county and regional plans; change from Natural Resource to Rural	Approved

<b>CASE</b>	<b>PROPOSAL</b>	<b>RESULT</b>
CRAG Petition No. 12: Multnomah County Rule 78-31 11-16-78	274 acres south of Gresham city limits; remove to bring county and regional plans into compliance; no need for urban land; change from Urban to Natural Resource	Denied
CRAG Petition No. 12: City of Troutdale Rule 78-14 11-16-78	14 acres north of I-84, on west side of Sandy River; to create a more logical boundary, for commercial and industrial	Approved
<a href="#">80-1</a> : Clackamas County Ordinance No. 80-89	941 acres east & south of Oregon City	Approved
Clackamas County: West of Marylhurst Southern Subarea (1980)	28 acres for residential development	Denied
81-2: Waldo View Estates Ordinance No. 83-162 & 86-209	add 191 acres East of Oregon City and remove 182 acres (Canemah) S. of Oregon City for Sr. Citizen's mobile home development; net gain 9 acres	Approved
<a href="#">81-3</a> : City of Hillsboro Ordinance No. 81-117	50 acres	Approved
<a href="#">81-4</a> : Seely Property Ordinance No. 81-118	2 acres west of Wilsonville	Approved
<a href="#">81-5</a> : WKG Development Ordinance No. 81-119	30 acres near Forest Grove	Approved
<a href="#">81-6</a> : Lynd/Schope/Scott Ordinance No. 83-158	5 acres near Portland	Approved
81-7: Foster	This case was withdrawn. No records are available	Withdrawn
<a href="#">81-8</a> : Cereghino Ordinance No. 82-145	11 acres near Sherwood	Approved
<a href="#">81-9</a> : Corner Terrace Ordinance No. 82-148 and Ordinance No. 84-171	30.16 acres added at NW 185 <sup>th</sup> and NW West Union Rd; Delete 20.26 acres S of NW Springville Rd. in Washington County for unknown development	Council approved. Appealed to LUBA, remanded back. No action by Council, tabled, case expired without resolution; then withdrawn.

<b>CASE</b>	<b>PROPOSAL</b>	<b>RESULT</b>
<a href="#">81-10</a> : Sharp Property Ordinance No. 82-149	Trade in Tualatin area. Net addition of 10.82 acres.	Approved
Bethany (1982)	Remove 700 acres of property from the Bethany area	Withdrawn
<a href="#">82-1</a> : Spangler Ordinance No. 83-160	6 acres in Clackamas County @ 135 <sup>th</sup> St and Hwy 212 for residential development	Approved
<a href="#">82-2</a> : Hayden Island	748 acres at the W end of Hayden Island for industrial development	Approved
<a href="#">83-1</a> : DeShirlia/McCarthy Ordinance No. 85-187	14.3 acres in Gresham at SE 190 <sup>th</sup> Dr & Butler Rd for SFR	Approved
<a href="#">83-2</a> : Edmund Duyck Ordinance No. 84-170	8 acres in Cornelius at 345 <sup>th</sup> Ave & TV Hwy for commercial development	Approved
<a href="#">84-1</a> : Ray Ordinance No. 84-182	8.77 acres W of Stafford Rd near Palisades Heights subdivision for SFR	Approved
<a href="#">84-2</a> : PGE	50 acres @ SW Beef Bend Rd & SW 131 <sup>st</sup> Ave for residential	Denied
<a href="#">84-3</a> : Happy Valley	39 acres in Clackamas S of Clatsop St and E of 155 <sup>th</sup> for sewer upgrade in residential zone	Denied
<a href="#">85-1</a> : Wilsonville/May	46 acres N of Wilsonville @ SW St. Helens Dr. & SW Salish Lane for SFR and water reservoir	Denied/ appealed
<a href="#">85-2</a> : Tualatin Hills Church	1.8 acres in Tualatin @ SW Norwood & Boones Ferry Rds. for Church	Approved
<a href="#">85-4</a> : Foster Ordinance No. 85-193	12.28 acres @ W. Burnside and SW Skyline for planned unit development.	Approved
<a href="#">85-5</a> : Griffin	2.18 acres S of Cornelius @ TV Hwy and NW 34 <sup>th</sup>	Withdrawn
<a href="#">85-7</a> : Kaiser	453 acres S of Sunset Hwy in Hillsboro for industrial development	Approved
<a href="#">85-8</a> : BenjFran	472 acres S of TV Hwy and W of 209 <sup>th</sup> in Hillsboro for Industrial development	Denied, appealed, LUBA affirmed Metro's decision

<b>CASE</b>	<b>PROPOSAL</b>	<b>RESULT</b>
<a href="#">85-9</a> : Riviera Ordinance No. 86-208	88 acres N of Sunset Hwy in Hillsboro for industrial development	Approved
<a href="#">86-1</a> : Zurcher	46 acres S of Forest Grove, TV Hwy between Maple & Elm for Industrial development	Withdrawn
<a href="#">86-2</a> : West Coast Auto Salvage	8/100 <sup>th</sup> acre in Sherwood at Eddy Rd & Pacific Hwy	Approved
<a href="#">87-1</a> : PGE Ordinance No. 87-234	Trade for 10 net acres of vacant land @ 6 corners in Sherwood	Approved
<a href="#">87-2</a> : Angel Order No.88-17	42.5 acres @ Salzman Rd & Skyline for SFR	Denied
<a href="#">87-3</a> : Blazer Homes	43 acres south of LO for residential development	App'd by MC; appealed to LUBA & Sup Ct; denied by new MC
<a href="#">87-4</a> : Brennt	4.6 acres south of Lake Oswego for SFR	Approved
87-5: BenjFran	483 acres south of TV Highway from 209 <sup>th</sup> Ave to 229 <sup>th</sup> Ave	Denied
<a href="#">88-1</a> : Zurcher (St. Mary's)	38 acres south of Forest Grove for industrial park use	Approved by MC, appealed to LUBA & remanded back; not in UGB
<a href="#">88-2</a> : Mt. Tahoma	10 acres north of Wilsonville for SFR or commercial	Denied
<a href="#">88-3</a> : St. Francis Ordinance No. 89-318	4 acres adj. To Wilsonville for church	Approved
<a href="#">88-4</a> : Bean Ordinance No. 89-286	15 acres east of Oregon City for senior housing	Approved
<a href="#">89-1</a> : Gravett Ordinance No. 90-345	5.8 acres along Hogan Road south of Gresham for residential	Approved
<a href="#">90-1</a> : Wagner Ordinance No. 91-395	6.3 acres east of Wilsonville for residential	Approved
90-2: West Coast Grocery	1.3 acres southwest of Wilsonville for access to commercial lot	Withdrawn

<b>CASE</b>	<b>PROPOSAL</b>	<b>RESULT</b>
90-3: Washington County Ordinance No. 91-384	6.7 acres along Tualatin-Sherwood Rd. for widening	Approved
<a href="#">91-1</a> : Dammasch Ordinance No. 92-441	184-acre major amendment to resolve sewage problems	Approved
<a href="#">91-2</a> : Forest Park Ordinance No. 92-461A	Trade involving 120 acres in Forest Park by Portland. No net change in acreage.	Approved
<a href="#">91-3</a> : Tsugawa	15 acres at Cornelius Pass & West Union for residential	Withdrawn
<a href="#">91-4</a> : PCC Rock Creek	160-acre major amendment at Springville Rd & 185th	Approved (staff rec approval)
<a href="#">93-1</a> : Columbia South Shore Ordinance No. 93-506A	65-acre legislative amendment at 185 <sup>th</sup> & Marine Dr	Approved (staff rec approval)
<a href="#">Brown Case (02/93)</a>	20 acres along Beef Bend Rd to expand mobile home park	Withdrawn
<a href="#">94-1</a> : Richards-Starr Ordinance No. 95-615	1.3 acres at I-5 interchange in Charbonneau for offices	Approved (staff rec denial)
<a href="#">94-2</a> : Piculell/Jaeger	40 acres removed for 44 acres added	Applicant did not complete petition (withdrawn)
<a href="#">95-1</a> : Harvey/Wash. Co. Ordinance No. 95-612	5 acres along TV Hwy for general commercial use	Approved (staff rec approval)
<a href="#">95-2</a> : Knox Ridge	12.87 acres along Gales Creek in Forest Grove	Denied (staff rec denial)
<a href="#">95-3</a> : Jenkins Estate Ordinance No. 95-613	68 acres in Wash. Co. for preservation as natural area	Approved (staff rec approval)
95-4: Bobosky	14.35 acres adjacent to the City of Wilsonville for commercial/industrial	Withdrawn
<a href="#">96-1</a> : Open Door Church	7.5 acres east of Troutdale for church school expansion	Withdrawn (staff rec apprw/conditions)
96-2: 147 <sup>th</sup> / Sunnyside	150 acres at 147 <sup>th</sup> Ave and Sunnyside Rd for?	Withdrawn
96-4: Wilsonville/Elligsen Rd.	1.168 acres to provide adequate right of way to SW Elligsen Rd.	Approved (administrative adjustment)

<b>CASE</b>	<b>PROPOSAL</b>	<b>RESULT</b>
<a href="#">97-1</a> : West Linn Ordinance No. 97-712	17.34 acres in Tanner Basin for new middle school	Approved (staff rec approval)
<a href="#">97-2</a> : Chamberlain	Approx. 3 acres south of Forest Grove in industrial area for school bus parking	On hold, then approved by Executive Order
98-1RR:West Linn	6,380 sq. feet to accommodate construction of a transportation facility that is part of the Parker Rd. extension	Approved
<a href="#">98-1</a> : Buford	7.37 acres south of L.O. north of Childs Road for residential subdivision	Withdrawn after staff report (staff rec denial)
<a href="#">98-2</a> : Derby Ordinance No. 98-777	14.8 acres south of L.O. west of Stafford Road for residential subdivision	Approved (staff rec denial)
<a href="#">98-3</a> : Lake Oswego	9.8 acres south of L.O. at Stafford/Rosemont for park	Withdrawn after staff report (staff rec denial)
<a href="#">98-4</a> : Tsugawa	15.5 acres in Wash Co at Cornelius Pass/Union for residential subdivision	Approved (staff rec approval)
<a href="#">98-5</a> : Valley View Ordinance No. 98-774	15.27 acres along TVH east of Cornelius for sewer (Initial petition was for inclusion of 19.18 acres)	Approved (staff initially recommend denial; petition was amended reducing acreage and staff rec approval)
<a href="#">98-6</a> : Matrix	9.9 acres south of Tualatin along Grahams Ferry Road for residential subdivision	Withdrawn after H.O. hearing (staff rec denial)
<a href="#">98-7</a> : Jenkins/Kim Ordinance No. 00-843	18.85 acres in Wash Co near Springville/Kaiser roads for residential subdivision	Approved
<a href="#">98-8</a> : Evergreen Church	15.25 acres in Wash Co at Glencoe/Evergreen roads for church expansion & school	Denied (staff rec denial)
<a href="#">98-9</a> : CGC/Persimmon Hill Ordinance No. 98-778	19.6 acres south of Gresham next to Persimmon GC for residential subdivision	Approved (staff rec denial)

<b>CASE</b>	<b>PROPOSAL</b>	<b>RESULT</b>
<a href="#">98-10</a> : JJ Development	14.18 acres in Pleasant Valley near Foster/Jenne for residential subdivision	Withdrawn after H.O. hearing (staff rec denial)
<a href="#">99-1</a> : Six Corners	13 acres north of Hwy. 99W east of Tualatin Sherwood Rd. in Washington County	Withdrawn (staff rec. denial)
99-B: NSP Development	Add 12 acres to the City of Sherwood for efficient use of utilities	Withdrawn
99-C: Beaverton School District	20 acres at NW 185 <sup>th</sup> and West Union Rd in Washington County for a school site	Withdrawn
99-?: Randall Realty	10 acres south of Oregon City for residential	Withdrawn
<a href="#">00-1</a> : Jackson Bottom Ordinance No. 00-872A	13.93 acres in Wash. Co. south of Hillsboro surrounded by Jackson Bottom Wetland at Hwy. 219 for parking lot and wetland addition	Approved (staff rec approval)
001-RR: Lake Oswego	1.44 acres on the south edge of Lake Oswego, north of Childs Rd. and east of Bryant; to include roadway in the UGB	Approved by executive order
01-1: Christian Life Church Ordinance No. 02-944	13.57 acres along 209 <sup>th</sup> in Wash Co. for purpose of legalizing the existing school function of church	Approved
01-02: Taylor	345 acres NW of Wilsonville city limits for industrial and commercial	Withdrawn
01-03: City of Wilsonville Ordinance No. 01-927A	119 acres; Clay St. on north, Oregon Electric Railroad on west, for Coffee Creek Correctional Facility	Approved
01-04: Ryland Group Inc	109 acres on north side of Springville Rd., 1/3 mile west of Kaiser Rd. for residential	Withdrawn



<b>CASE</b>	<b>PROPOSAL</b>	<b>RESULT</b>
02-01: City of Tualatin	1 acre on the westerly half of SW 120 <sup>th</sup> Ave to provide right of way from Tualatin Sherwood Rd.	Approved by executive order
03-05: Sherwood	1.07 acres, part of a property bisected by the UGB, at SW Cipole Rd., for industrial	Approved by executive order
04-02: Asakawa	2.3 acres, part of a property bisected by the UGB, at SE Sweetbriar Rd., Troutdale	Approved by executive order
05-01: Mason Order No. 06-001	1.97 acres at 1140 WI/SE 282 Ave. in Multnomah County to rectify annexation issue created in 1974, for residential	Approved by executive order
06-01: Lake Oswego/JNS Trust Order No. 06-200	Trade resulting in net gain of 2.37 acres (total parcel 12.09 acres) in Lake Oswego east of Stafford Rd., for artificial turf fields and support facilities	Approved by executive order
06-02: Rau/Gales Creek Resolution No. 07-3792	4.2 acres in vicinity of 18th Ave. and D St., Forest Grove, for residential	Approved
07-01: Geister Order No. 07-031	0.08 acre at 724 Division St., Oregon City, move UGB to accommodate existing dwelling	Approved by executive order
07-02: Cornelius	161 acres north of Cornelius and north of Council Creek for industrial	Denied
08-01: Young Order No. 08-045	0.60 acre at 20303 S Hwy 13, Oregon City, to be coterminous with the property line	Approved by executive order
08-02: Graham Oaks Order No. 08-049	8.5 acres of Graham Oaks Nature Park to the boundary at 1825 SW Wilsonville Rd., Wilsonville	Approved by executive order
08-03: Reese Order No. 08-050	1.54 acres at 12301 NW Laidlaw Rd., Multnomah County to be coterminous with the property line	Approved by executive order

Petitions - Summary As of March 2012			
	Total	20 acres or Less	Over 20 Acres
Approvals *	62	48	14
Denials	19	5	14
Withdrawals	22	16	6
No record of action	1	1	

\* Plus two trades approved at no net acreage change – total of 106 cases

## Case Summaries

### Case No. 80-1 (Clackamas County)

Petitioners: Clackamas County

Action Type: Major Amendment – addition of some land, removal of other areas

Hearings Officer: None, based on staff report recommending approval with some exceptions.

Proposed Amendment: 941 acres east & south of Oregon City

Result: Approved by Metro Council with adoption of Staff Report.

The following are summaries of some of the approval criteria addressed in the Staff Report, which form the basis of the decision:

- The staff report recommended that the removal of the Wilsonville Industrial Area should be denied. The land was found to be suitable for urban industrial use and therefore, should not be removed from the Boundary solely for the purpose of allowing development on septic tanks.
- The staff report recommended that no action be taken on the portion of the requested Holcomb-Outlook addition, or the land southeast of Oregon City, as both areas are outside of Metro’s jurisdiction.
- *Need to Accommodate Long-Range Population Growth, Consistent with LCDC Goals.* Staff found that vacant residential land in the urban areas of Clackamas County, within the Metro district is not adequate to accommodate for projections to the year 2000. The proposed UGB amendments would make available additional urban land needed to accommodate projected growth.

- *Need for Housing, Employment Opportunities and Livability.* Expansion of the boundary was found to avoid unnecessary increases in housing costs and protect livability of urban and rural areas by containing growth within the UGB. Employment opportunities would be accommodated by the provision of large-scale planned industrial development.
- *Orderly and Economic Provision for Public Facilities and Services.* Lands proposed for removal were found to be difficult to serve with sewer, while lands proposed to be added could be efficiently served with sewer service. Inclusion of land in the “East Urban Extension” was found to allow for planning of transportation projects needed to accommodate year 2000 projections.
- *Maximum Efficiency of Land Use.* Land proposed for removal was found to have steep slopes and to be subject to flood hazard. Therefore land could not be developed to urban densities. Land proposed for addition to the UGB would allow for maximum efficiency of land use.
- *Retention of Agricultural Land.* An exception statement addressed the proposed addition of land with Class I-IV soil as urbanizable land. The exception stated that the land is needed to accommodate Clackamas County’s projected population growth, that the areas had been experiencing a 50 percent septic tank failure rate, that inclusion would allow for efficient planning for and provision of sewers to the area, and that little of the area is currently used for commercial farming and it is unlikely that any of it would be used for farming in the future.

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## **Case No. 81-2 (Waldo View Estates)**

Petitioners: Clackamas County

Action Type: Locational Adjustment - Trade

Hearings Officer: No Hearings Officer’s Report. Findings, Conclusions and Recommendation from the Regional Development Committee. Hearings Officer Christopher P. Thomas heard this petition by the Vancouver Federal Savings Bank. Thomas recommended approval of the bank’s petition.

Proposed Amendment: Addition of 193 acres East of Oregon City for a senior citizens’ mobile home development and removal of 185 acres in Canemah area south of Oregon City.

Staff Report: No recommendation.

Result: Metro Council approved with conditions. The following are the conditions of approval: 1) that Waldo Estates is developed as a mobile home subdivision providing at least 700 units, available predominantly to

households with heads 50 years of age or older, 2) the Waldo Estates property is annexed to the Tri-Cities Service District, and 3) the developer of the Waldo Estates property enters into an agreement with Tri-Met to provide for adequate transit service to the site.

The conditions were amended by ordinance 86-209 after the Vancouver Federal Savings Bank petitioned the Metro Council to change them. The previous conditions were deleted, and the following conditions were added: 1) the Waldo Estates property is annexed to the Tri-Cities Service District, and 2) the development approved for Waldo Estates does not include any lots smaller than five acres on the land designated as “reduced density area” on Exhibit A-3 of Resolution 82-293.

The following are summaries of some of the approval criteria findings in the Regional Development Committee’s Report, upon which the decision to remove the Canemah land was based:

- *Orderly and Economic Provision of Public Facilities and Services.* Sanitary sewers did not exist in the area, and it is not within the Tri-Cities Service District Boundary. The area is not within or served by a water district. Service provision is difficult and costly in the area. Removal of the property was found not to impair the efficiency of services in the adjoining urban area, and instead improves efficiencies.
- *Maximum Efficiency of Land Uses.* Much of the area has steep slopes, land movement and flooding, which created development hazards in the area and which prevents development at urban densities. The area was a Douglas Fir Forest Site Class II and III and was forested. The land is almost entirely vacant, and there is no evidence that inclusion of the area facilitated needed development on adjacent lands.
- *Consequences.* Although Highway 99E runs through the area, the retention of an urban designation would provide little to enhance transit corridor development due to the low density residential development that is planned for the area, as well as the additional physical constraints to developing the area. Timber resources were found to be best protected with a non-urban designation.
- *Land Not Needed To Avoid Short-Term Land Shortages and Any Long-Term Land Shortage Can Reasonably Be Expected to be Alleviated.* No short-term shortages were anticipated, and long-term shortages would be mitigated by inclusion of the Waldo View Estates property.

The following are summaries of some of the approval criteria findings regarding addition of the Waldo View Estates from the Regional Development Committee’s Report, upon which the decision was based:

- *Orderly and Economic Provision of Public Facilities and Services.* The area can be provided with urban services. Inclusion of the area would facilitate early construction of the Tri-Cities Sewage Treatment Plan and would provide for construction of a water pump station at Molalla Avenue. Waldo Estates can be provided with sewer service more efficiently than Canemah.
- *Maximum Efficiency of Land Uses.* The property is vacant except for one house, and the level of existing development neither promotes nor inhibits urbanization. Approval of the addition would support commercial development along Mollala Avenue.
- *Consequences.* The Waldo View Estates property can be more efficiently developed and development on this land is proposed for elderly residents who have a higher proportion of transit ridership than the population as a whole. The area is also substantially less constrained by hazards than the Canemah area. The applicant expressed willingness to design the proposed subdivision in such a way that all lands east of the section line are developed at a density not to exceed one unit on every five acres, so as to provide an effective buffer between urban and resource uses.
- *Retention of Agricultural Land.* This land was determined to be irrevocably committed to non-farm use. This criteria does not apply.
- *Facilities and Services.* Development of the area would require upgrading of the Claremount Water District's facilities in order to provide adequate water supply. Some improvements were needed anyway. The addition would also allow for more efficient provision of sewer service. The benefits to the addition were found to outweigh any negative consequences to adding the property to land within the UGB. Therefore, unusual circumstances warranted approval even though some facilities would need to be upgraded as a consequence of the addition.

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## **Case No. 81-3 (City of Hillsboro)**

Petitioners: City of Hillsboro

Action Type: Major Amendment - addition

Hearings Officer: Not heard by Hearings Officer. Heard by Regional Development Committee and signed by Ernie Bonner.

Proposed Amendment: Addition of 50 acres south of Hillsboro, believed to be a mapping error.

Result: Approved by Metro Council.

The following are summaries of approval criteria findings, addressed in a report signed by the Chairman of the Regional Development Committee, which form the basis of the final decision:

- *Orderly and economic provision of public services.* All services could be efficiently provided. Each affected City of Hillsboro department supports approval. Since a 36" sewer line currently runs through the property, allowing urban development that would hook up to this line, was found to constitute a net improvement in the efficiency of services for the existing urban area.
- *Maximum efficiency of land uses.* The UGB with the adjustment would follow the floodplain to be a natural limit to urban development, instead of city limits. The advantages to following a natural barrier to development were found to outweigh disadvantages of not following property lines. The report stated that, "the property should, however, be partitioned along lines coterminous with the UGB if the amendment is to be approved. The density of development was found to be too low to either promote or preclude efficient development. No evidence was found to suggest that approval of the proposal would facilitate development of adjacent urban lands. Although this part of the criterion was not found to have been met, a positive finding was not required.
- *Retention of Agricultural Lands.* The service and land use inefficiencies created by the unamended UGB were considered sufficiently severe to warrant the conversion of agricultural land in a case involving the correction of an error.
- *Compatibility of With Nearby Agricultural Activities.* Industrial uses were found to be considerably more compatible with agricultural uses than residential uses. The justification of the adjustment was to make the UGB consistent with legislative intent (i.e. Hillsboro's Comprehensive Plan), to include within the UGB all land outside the floodplain and to provide for more efficient utilization of a sewer line running through the property. These reasons for the amendment were found to outweigh the adverse impacts of incompatibility with adjacent agricultural uses.
- *Similarly situated contiguous land.* Two lots could not be added to the UGB because they were outside Metro's jurisdiction. Inclusion of the lots following annexation to Hillsboro would bring the total addition to the UGB to 50.59 acres, slightly above the 50-acre limits for additions. The amount of buildable land, however, would be just under 38 acres (the remainder being located in the floodplain.) The criterion was found to be met.

- *Clear evidence of legislative intent.* All drafts of the UGB circulated for review and comment showed the UGB in the area as a Type II boundary following the 100-year floodplain. No changes to the boundary were discussed during a CRAG meeting. The record indicated a clear legislative intent to use the floodplain in the area as the UGB.

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## **Case No. 81-4 (Seely Property)**

Petitioners: Doug Seely

Action Type: Locational Adjustment - addition

Hearings Officer: Dale M. Hermann

Proposed Amendment: Addition of 2 acres west of Wilsonville

Result: Approved by Metro Council.

The following are summaries of approval criteria findings, addressed in the Hearings Officer's report, which form the basis of the decision:

- *Orderly and Economic Provision of Public Facilities and Services.* All major public facilities and service could be provided to the site. The proposed adjustment was found to result in net efficiencies for water service for the adjoining area, since as existing 14-inch water main runs along the non-urban side of the property. A net improvement in efficiency would result as the adjustment would bring the entire right-of-way along Ellingsen Road within city limits and allow for more efficient road maintenance and improvement.
- *Maximum Efficiency of Land Uses.* The proposal would make the UGB coterminous with Ellingsen Road, and therefore straighter and stronger than the current boundary. The City of Wilsonville also surrounds the property on three sides, and inclusion within the UGB would allow the City to coordinate development and service extension for proposed development. The development of the property for multi-family housing would also promote the provision of this needed housing type.
- *Retention of Agricultural Lands.* The property was found to be irrevocably committed to a nonfarm use because of its small size, separation from nonurban lands by Ellingsen Road, and because it is surrounded by Wilsonville on three sides.
- *Similarly Situated Contiguous Lands.* This was found to be the only property in the vicinity that is surrounded by Wilsonville on three sides and a road of the fourth side.

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## Case No. 81-5 (WKG Development)

Petitioners: WKG Development Corporation

Action Type: Locational Adjustment - addition

Hearings Officer: Dale M. Hermann

Proposed Amendment: Addition of 30 acres near Forest Grove

Result: Approved by Metro Council.

The following are summaries of approval criteria findings, addressed in the Hearings Officer's report, which form the basis of the final decision:

- *Orderly and Economic Provision of Public Facilities and Services.* The proposed adjustment was found to improve the efficiency of storm drainage and sewerage service provision of adjacent lands within the UGB.
- *Maximum Efficiency of Land Uses.* Inclusion of the site was found to include all developable land to the west of the city, and therefore, improve the efficiency of land use in the area.
- *Environmental, Energy, Economic and Social Consequences.* No resources protected by Goal 5 existed in the area affected. Development could be clustered on the buildable portion of the site, so the presence of steep slopes was determined not to have any negative environmental consequences.
- *Retention of Agricultural Land.* 15% of the site was being used for agricultural purposes, however the current location of the UGB was found to create severe negative impacts on the efficient provision of sewer and storm drainage facilities that would be impractical to ameliorate except by means of the adjustment.
- *Compatibility with Agricultural Activities.* The ravine that runs through the property was found to effectively separate the property from adjoining agricultural uses.

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## Case No. 81-6 (Lynd/Schoppe/Scott)

Petitioners: City of Portland

Action Type: Locational Adjustment - Trade

Hearings Officer: Report not signed by a hearings officer.



Proposed Amendment: Original petition included removal of an area known as Schoppe Acres from the UGB, and the addition of Jenne Lynd acres near Portland.

Result: Approved by Metro Council with condition that added land is annexed to Portland.

The following are approval criteria, addressed in Exhibit B of the ordinance, which form the basis of the decision:

- *Orderly and Economic Provision of Public Facilities and Services.* Staff concluded that the area can be provided with services in an orderly and economic fashion provided that it is annexed to a city which is responsible for sewer extension and capable of identifying and implementing transportation improvements. Urbanization would increase efficiency of existing water and sewerage facilities in the adjacent urban area.
- *Maximum Efficiency of Land Uses.* The area was abutted by the UGB and the city limits of Portland and Gresham on three sides. The soils in the area were rated poor for subsurface sewerage disposal, and there had been septic tank denials in the immediate area. The land in the adjacent area continues to develop, creating greater pressure on Jenne Lynd Acres, the area being a subdivision containing 70 lots and about 35 ownerships. The City of Portland had voted to support a triple majority petition for annexation of the area.
- *Environmental, Energy, Economic and Social Consequences.* Any negative storm drainage impacts were found to be balanced against the positive impacts of urbanization which includes the environmental benefit of replacing septic tanks with sewers and the overall environmental, energy, and economic benefits of development of the property which is in close proximity to urban facilities, shopping, and employment opportunities.
- *Net Amount of Vacant Land.* The net amount of vacant land proposed to be added cannot exceed 10 acres, and the net amount of vacant land proposed to be removed cannot exceed 50 acres. The trade results in a net removal of approximately 35 vacant acres.
- *Land Proposed to be Added More Suitable Than Land to be Removed.* Existing water and sewer lines, water storage facilities and a sewage treatment plan could serve Jenne Lynd Acres. Schoppe Acres, to be removed, could only be developed at considerable cost and inefficiency.

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## Case No. 81-8 (Cereghino)

Petitioners: David and Gerda Cereghino

Action Type: Locational Adjustment - addition

Hearings Officer: Dale M. Hermann

Proposed Amendment: Addition of 11 acres near Sherwood

Result: Approved by Metro Council.

The following are approval criteria findings, addressed in the Hearings Officer's report, which form the basis of the final decision:

- *Orderly and Economic Provision of Public Facilities and Services.* An eight-inch sewer lateral could serve properties on the north side of the road in addition to properties on the south side, increasing the efficiency of the sewer line, if the adjustment was approved. Economically, the Local Improvement District in the area would benefit from more equitably amortized and additional revenues to be gained by increased hookups for sanitary and water services.
- *Maximum Efficiency of Land Uses.* The Hearings Officer found that the area within the UGB not only bisects the only dwelling on the site, but also creates an irregularly shaped area. The parcel that would be created north of Edy Road would be sized and shaped by the proposal in order for more efficient use of land for future industrial development.
- *Environmental, Energy, Economic and Social Consequences.* The proximity of the site to existing transportation facilities and urban services was found to promote the energy conscious use and development of the site. The more efficiently sized and shaped parcel was found to contribute economically through more tax dollars and a better financed urban services system.
- *Compatibility with Nearby Agricultural Activities.* The wooded character of the site was found to allow for effective perimeter buffering for the one agricultural activity north of the site.
- *Similarly Situated Contiguous Land.* There is land of similar soils, physical characteristics, and existing land uses, however, the more direct proximity other properties to agricultural activities on two sides, were found to create greater impacts on agricultural lands than the subject property.

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## Case No. 81-9 (Corner Terrace)

Petitioners: Corner Terrace Partnership

Action Type: Locational Adjustment - trade

Hearings Officer: None, proposed findings by petitioners accepted by Metro Council.

Proposed Amendment: 30.16 acres added at NW 185<sup>th</sup> and NW West Union Rd. 20.26 acres south of NW Springville Road in Washington County deleted.

Result: Initially Hearings Officer recommended denial. Petitioner requested a continuance of the case to resubmit as a trade. Metro Council then approved. Problems were subsequently found: 1) the Corner Terrace property was outside the District boundary, and therefore outside of Metro's jurisdiction, and 2) the findings attached to Ordinance No. 82-148 were improperly affixed. Therefore, the procedural issues were corrected in Ordinance No. 84-171 and Metro Council approved the amendment.

The case was then appealed to LUBA and remanded back to the Metro Council. Council took no action. There is no record of a resolution to the case and it was tabled without action.

The following are approval criteria findings, addressed in the petitioner's accepted findings, which form the basis of the Metro Council's original approval decision:

### Some of the Relevant Criteria for inclusion of land in the UGB

- *Orderly and Economic Provision of Public Facilities and Services.* The utilization of existing arterials was found to be more efficient than constructing new roads within the UGB, as was the utilization of existing water and sewer lines. Therefore, the maximization of existing in-place facilities and services was found to be more efficient than the continued construction of new facilities and broader provision of service to currently undeveloped areas where facilities do not exist.
- *Efficiency of Land Uses.* One quadrant of an intersection was vacant and unused, resulting in poor urban form and the creation of conflicts between incompatible land uses. The inclusion of the 30.26 acre site was found to contribute to the support and maintenance of urban services, facilitating the development of adjacent lands within the UGB.
- *Environmental, Energy, Economic, and Social Consequences.* The impact of the development of the site was found to be positive because it would help to strengthen the existing transit service, which runs adjacent to the site. Although the farm unit would be reduced from approximately 114 acres to 83.5 acres, no evidence was provided which supports the case that the remaining 83.5-acre farm site cannot remain a viable farm unit.

- *Retention of Agricultural Lands.* The site was found not to be irrevocably committed to farm use based on the serviceability of the site and the initial service plans of various agencies prior to the establishment of the UGB.
- *Compatibility with Nearby Agricultural Activities.* Proposed urban areas were found not to be incompatible when buffering such as fencing, landscaping, and setbacks is provided and services are not extended further beyond the UGB.

Some of the findings for relevant criteria for removing land from the UGB

- *Appropriateness of Exclusion from the UGB.* The site is not currently serviced and is not part of future service plans by United Sewerage Agency, Wolf Creek Highway Water District, or Tri-met. Historic use of the site is for farm use purposes, with soils classified as agricultural soils.
- *Not Irrevocably Committed to Nonfarm Use.* Because both the Corner Terrace and Malinowski properties contain Class II and III soils, both are equally capable in terms of agricultural potential, therefore deciding factors become serviceability and land use efficiency.
- *Similarly situated contiguous land.* Due to the 10 net vacant acre limitation on additions to the UGB not all similarly situated contiguous land had been included. To include this land would have resulted in addition of approximately 18 net vacant acres. The Metro Council added more than was requested by the applicant by including the developed Jeffries property at the northwest corner of the intersection of West Union Road and 185<sup>th</sup>. The final addition was 10.65 acres of vacant land.

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## **Case No. 81-10 (Sharp Property)**

Petitioners: Hilda Sharp

Action Type: Locational Adjustment - Trade

Hearings Officer: Not heard by Hearings Officer. Staff report and Regional Development Commission recommended approval.

Proposed Amendment: Addition of approximately 30 acres southwest of Tualatin and removal of approximately 19 acres south of Springville Road in northwest Washington County.

Staff Report: Recommended approval.

Result: Metro Council approved petition, initially. At a later meeting, the petition was approved as a trade.

The following are summaries of findings to approval criteria, addressed in the Staff Report, which form the basis of the decision:

#### Removal of Land from the UGB

- *Orderly and Economic Provision of Public Facilities and Services.* The property lacked sewer and water service. Schools, fire, and police protection were provided at rural levels. Staff determined that the area could be adjusted to reflect exclusion from the UGB with no loss of efficiency in public service provision.
- *Maximum Efficiency of Land Uses.* The political and legal boundaries of the UGB were found to be equally effective in demarcating the UGB.
- *Retention of Agricultural Uses and Compatibility with Nearby Agricultural Activities.* The property includes class II and III agricultural soils that are suitable for agricultural use; uses were found to be compatible.
- *Not Needed for Short-Term Land Shortages.* The properties were tentatively planned for densities of 0-5 units per acre. There would be fewer than 100 housing units lost. This loss was not found to exacerbate land shortages.
- *Underutilized Capacity.* Existing roads were built to rural standards and sewer and water lines had not been constructed; therefore, there would be no resulting under-utilization of public facilities.

#### Addition to the UGB

- *Orderly and Economic Provision of Public Facilities.* There would be improvement in efficiency, as inclusion in the UGB would allow for looped rather than stub-ended sewer and water lines to areas already located within the UGB.
- *Maximum Efficiency of Land Uses.* A gravel pit and industrial lands surround the property, and development of the area as industrial land would lend to the efficient pattern of land uses in the area.
- *Environmental, Energy, Economic, and Social Consequences.* Some portions of the site were identified as having the potential to contain aggregate resources, but the resources were not identified as having regional significance. There was a minor drainage hazard.
- *Retention of Agricultural Land.* The property included Class II-IV soils and was zoned by the County for Exclusive Farm Use. The property has poor drainage and is underlain by basalt. While geologic and drainage problems are not deemed relevant in showing that the land is committed

to nonfarm use, the property is surrounded on all sides by non-agricultural land, deemed intensive and incompatible. Potential loss of farmland was found to be mitigated by the removal of the Jenkins and Hough properties.

### Trades

- *Total Net Addition.* The amount of vacant land added cannot exceed 10 acres according to c(4) of the code. While the total net addition exceeds ten acres by .82 acres, the report recognized that land suitable for addition or removal from the UGB are not available in small discrete units, and that recognizing this, the difference of a fraction is negligible.

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## **Case No. 82-1 (Spangler)**

Petitioners: Mutual Materials, Inc.

Action Type: Locational Adjustment - Addition

Hearings Officer: Michael A. Holstun

Proposed Amendment: Addition of 6 acres in Clackamas County at 135<sup>th</sup> Street and Highway 212 for residential development.

Result: Metro Council approved.

The following are summaries of approval criteria findings, addressed in the Hearings Officer's report, which form the basis of the decision:

- *Orderly and Economic Provision of Public Facilities and Services.* Water could be provided at the petitioner's expense, and would improve the system as a whole. The Hearings Officer concluded that provision of public facilities is possible, and that there will be slight positive improvement to water service, and would result in use of underutilized school and sewerage facilities.
- *Maximum Efficiency of Land Uses.* The Hearings officer found that although need for housing is not a direct consideration for approval of criteria, that the parcel would provide needed housing adjacent to a significant employment center. This needed housing would, in turn, facilitate development on adjoining urban lands. Development of the property for agricultural uses was found to be impracticable due to lack of feasible access by farm equipment from the south.
- *Environmental, Energy, Economic, and Social Consequences.* Steep slopes and a ravine were mentioned as physical constraints. The property would be subject to local site planning development restraints, which should resolve these physical constraints.

- *Retention of Agricultural Land and Compatibility with Nearby Agricultural Activities.* The Hearings Officer determined that the area was committed to a nonfarm use because the area has not been farmed, differences in elevation make use of farm equipment difficult, and there was only a small portion of the parcel has agricultural soils. The Hearings Officer noted that this criterion had been narrowly met, as had the issue of compatibility. The Clackamas River separates uses. Agricultural lands to the south are separated by elevation, which does not completely isolate the uses, but was determined to provide a sufficient buffer.
- *Improvement of the UGB.* The Hearings Officer stated: “There is no reason why the property should be left in its natural state as its use for agricultural purposes is restricted by its small size and the slopes, ravines, and natural barriers that separate it from adjoining parcels.” The inclusion of the property was found to facilitate development on adjacent lands within the UGB. The adjustment would also result in the UGB following natural boundaries formed by the Clackamas River and the sloping southern property line.

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## Case No. 82-2 (Hayden Island)

Petitioners: Portland General Electric, Western Transportation Company, Hayden Island, Inc., and Burlington Northern, Inc.

Action Type: Major Amendment

Hearings Officer: Frank Josselson

Proposed Amendment: 760 acres located on the western portion of Hayden Island for industrial development.

Result: Approved by Metro Council.

The following are summaries of approval criteria findings, addressed in the Hearings Officer’s report, which form the basis of the final decision:

- *Demonstrated need to accommodate long-range urban population growth requirements.* The Hearings Officer found that there was no dispute that there would be a year 2000 need for additional marine terminal facilities, and that alternative sites elsewhere on the Willamette and Columbia rivers do not exist.
- *Environmental, Energy, Economic and Social Consequences.* The Hearings Officer found that although urban development would mostly likely impair wildlife habitat, but that the area does not constitute “unique” or “significant” habit. The county’s Area of Significant Environmental Concern overlay zone already applied to the area and the county

believed that environmental impacts could be minimized. Therefore, the importance of marine industrial facilities to the social and economic growth and vitality of the region was found to outweigh negative environmental consequences.

- *Compatible uses.* Most of the surrounding uses are industrial except for houseboat moorages, which are non-conforming uses.
- *Public Facilities and Services.* The only essential service not present at an acceptable level was transportation surface transportation on the west side of the island, and to and from the island. Applicants proposed to construct a new bridge to connect West Hayden Island to North Portland roads; to widen North Portland road; to connect West Hayden Island to East Hayden with a new road; and to utilize carpooling, transit, and flexible work schedules to minimize-peak hour traffic. The proposal was found to do everything reasonable to minimize impacts. The Hearings Officer found that there was not evidence that the applicants' proposal would aggravate existing traffic problems and that present inadequacies do not constitute a basis for denial.

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## **Case No. 83-1 (DeShirlia/McCarthy)**

Petitioners: Carl DeShirlia, Michael and Mary McCarthy

Action Type: Locational Adjustment - Addition

Hearings Officer: E. Andrew Jordan

Proposed Amendment: Addition of 14.3 acres in Gresham at SE 190<sup>th</sup> Drive and Butler Road for Single Family Residential development.

Result: Metro Council adopted the Hearings Officer's Report, approving the petition.

The following are summaries of some of the approval criteria findings, addressed in the Hearings Officer's report, which form the basis of the final decision:

- *Similarly Situated Contiguous Land.* Contiguous property, not already in the UGB, to the west and south of the property was found not to be similarly situated. The Hearings Officer found that there is no evidence to suggest that inclusion in the UGB is necessary to facilitate adjacent development in the existing UGB: the land is separated from the subject property by a minor arterial and major collector, the land would have impacts on neighboring agricultural uses if included in the UGB, and existing densities on the property to the west is substantially less than the subject property.



- *Orderly and Economic Provision of Public Facilities and Services.* Areas to the east and south of the subject property, which are within the City of Gresham boundary, do not have access to water or sewer lines. Much of the City could not develop with extension of these services. Therefore, inclusion of the subject property within the UGB would result in a net improvement in efficiency.
- *Maximum Efficiency of Land Uses.* As mentioned above, inclusion of the subject property was found to facilitate needed development on nearby properties already within the UGB.
- *Retention of Agricultural Land.* The positive impacts of inclusion of the subject property within the UGB were found to outweigh the negative impacts of developing on a site with Class III soils.
- *Compatibility with Nearby Agricultural Uses.* Nearby agricultural activities were found to be buffered from the subject property by 190<sup>th</sup> Drive and Butler Road, as well nearby residential dwellings. Therefore, the adverse impact on adjacent agricultural lands were found to be minimal. The Hearings Officer also responded to a City of Gresham request that the location of the UGB to take in all of 190<sup>th</sup> Drive, or include all of 190<sup>th</sup> Drive right of way along certain portions of the road. The Hearings Officer determined that there is no reason that the UGB should not run along the centerline of both 190<sup>th</sup> Drive and Butler Road.

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## **Case No. 83-2 (Edmond Duyck)**

Petitioners: Edmond Duyck, Dan Speer, Jerry Davis, Ron Smith, and Ronal Dusick

Action Type: Locational Adjustment - Addition

Hearings Officer: Frank Josselson

Proposed Amendment: Addition of 8.23 acres in Cornelius at 345<sup>th</sup> Avenue and Tualatin Valley Highway for commercial development.

Staff Report: Recommended approval.

Result: Metro Council adopted the Hearings Officer's Report, approving the petition.

The following are summaries of some of the approval criteria addressed in the Hearings Officer's report, which form the basis of the final decision:

- *Orderly and Economic Provision of Public Facilities and Services.* Tax lots 102 and 103, that were within Cornelius, could not be developed without

extension of sewer and water services. Extension would need to be across TV Highway. The extension of services across the highway was found to be uneconomical unless the costs were spread over the subject properties.

- *Maximum Efficiency of Land Uses.* The subject property is located between city limits and a heavily developed residential area that is not included in the UGB. The Hearings Officer concluded that eventually the residential area would need to be included in the UGB, which would require inclusion of the subject properties, otherwise an island of rural land would be created.
- *Agricultural Land.* The subject land is determined by Washington County to be committed to non-farm use. Nearby agricultural land is separated from subject properties by a railroad right of way.

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## **Case No. 84-1 (Ray)**

Petitioners: William and Diana Ray and Mrs. Ernestine B. Crow

Action Type: Locational Adjustment

Hearings Officer: Frank Josselson. Recommended approval, revised report after staff report recommended revisions.

Proposed Amendment: 8.77 acres west of Stafford Road near Palisades Heights subdivision for single family residential.

Staff Report: Recommended approval of the Hearings Officer's Report with suggested revisions.

Result: Metro Council accepted the revised Hearings Officer's report and approved the petition.

The following are summaries of some of the findings in the Hearings Officer's Report upon which the decision of the Metro Council was based:

- *Orderly and Economic Provision of Facilities and Services.* The development of the applicants' properties was found to enable the use of gravity sewers in parcels already within the UGB. If the applicants' land were not available, connection of the parcels to a trunk line would be difficult, if not impossible. The Hearings Officer also found that despite the testimony of opponents, Meadowlark Lane is of sufficient width to serve the development of the subject property. The Hearings Officer found that complaints about stormwater drainage could also be addressed through the urbanization of the area. The Hearings Officer determined that addition of the land would facilitate development on adjacent land already within the UGB.

- *Maximum Efficiency of Land Uses.* The Hearings Officer determined that development is needed, citing the legislative history of the ordinance defining the term “needed” as intended to mean “consistent with comprehensive plan and/or applicable regional plans.”
- *Environmental, Energy, Economic, and Social Consequences.* Opponents of the petition stated that the site had some areas with landslide and erosion potential. The Hearings Officer said that it is appropriate for the city to condition development approval to protect against geologic hazards, rather than Metro. Opponents also stated that development of the area would result in a loss of open space. The Hearings Officer found that applicants cannot be required to preserve their property for open space unless they are compensated. Finally, opponents stated that the site is remote from mass transit. The Hearings Officer’s Report concludes that not all low-density residential land can be served by mass transit. Because of the small size of the property, and the low-density of proposed residential development, the area would not require mass transit service.

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## **Case No. 84-2 (PGE)**

Petitioners: Portland General Electric, Tigard School District, Tualatin Development Company, and David and Karen Ricklick

Action Type: Locational Adjustment - addition

Hearings Officer: Christopher P. Thomas. Recommended denial.

Proposed Amendment: 50 acres at SW Beef Bend Road and SW 131<sup>st</sup> Avenue for residential.

Staff Report: No recommendation.

Result: Metro Council denied the petition.

The following are summaries of some of the findings in the Hearings Officer’s Report upon which the decision of the Metro Council was based:

- *Orderly and Economic Provision of Public Facilities and Services.* The Hearings Officer found that by expanding the use of fixed storage and distribution facilities, the water district would make its service to land within the UGB slightly more cost effective, since there would be more customers supporting the same facilities through water rates. There would also be improvements to efficiency of sewerage, transportation, and fire protection facilities and service in the adjoining areas within the UGB. While it would be physically possible to serve some of the residential areas south of the proposed UGB, extension would require pumping with additional cost. While inclusion of the property would realize \$270,000 to \$360,000 more money in the sale of property for the

School District if the property were inside the UGB, the Hearings Officer determined that this was not the kind of efficiency referred to in the ordinance. In summary, the Hearings Officer found that there would be a slight net improvement in efficiency.

- *Maximum Efficiency of Land Uses.* Because there is virtually no development on the land proposed to be added to the UGB, the Hearings Officer found that there could be efficient use of the land. The proposed amendment would also reduce sewer LID assessments per equivalent dwelling unit and add participants to proceedings to improve roads to major collector standards, slightly facilitating needed development on adjacent urban lands.
- *“The larger the proposed addition, the greater the difference shall be between suitability of the proposed UGB and suitability of the existing UGB....”* Although the above criteria, as well as other criteria not mentioned in this summary were found to be met, the Hearings Officer found that in order to add 50 acres of vacant land, applicants must respond to a greater burden of proof. The level of superiority of the proposed UGB over the existing UGB was found to be not great as to any of the factors or the sum total of the factors combined. The Hearings Officer stated in the report, “After considering all of these factors, and even after considering the profit to the School District if the land were inside the UGB, which may not be a proper consideration, it appears only that the proposed UGB would be better, but not greatly better, than the existing UGB.” The Hearings Officer added an addendum, further explaining why the petition does not meet the greater burden of proof.

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## **Case No. 84-3 (Happy Valley)**

Petitioners: Larry Burrignt, Happy Valley Homes, and others

Action Type: Locational Adjustment - addition

Hearings Officer: E. Andrew Jordan

Proposed Amendment: 39 acres in Clackamas south of Clatsop Street and east of 155<sup>th</sup> for sewer upgrade in residential zone.

Result: Denied

Metro Council adopted the Hearings Officer’s report and denied the petition for a locational adjustment. The following are some of the findings upon which the decision was based:

- *Orderly and Economic Provision of Service.* The Hearings Officer found that there was insufficient evidence that there would be net improvement in efficiency of service as a result of the addition. The extension of sewers

to the area would produce a leapfrogging of a substantial amount of undeveloped land.

- *Maximum Efficiency of Land Uses.* Because the likelihood of sewer extension to the area was found to be questionable, the Hearings Officer could not conclude that the amendment would result in facilitation of presently needed development in existing urban areas.
- *Vacant Land.* The amendment included more than ten acres of vacant land without justification for including this vacant land in the amendment.
- *Similarly Situated Contiguous Land.* There were no findings regarding similarly situated contiguous properties. These findings are required by Metro Code 3.01.040(d)(2).

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### **Case No. 85-1 (Wilsonville/May)**

Petitioners: City of Wilsonville and Earle May

Action Type: Locational Adjustment addition

Hearings Officer: E. Andrew Jordan

Proposed Amendment: 46.25 acres N of Wilsonville and SW St. Helens Dr. and SW Salish Lane for SFR and Water reservoir.

Result: Denied and appealed to LUBA

Metro Council: Denied. The principle purpose of amendment is to allow City of Wilsonville to build a water reservoir. It was found that while some efficiency may be realized through urbanization of the property, this added efficiency was not significant enough to reach the higher burden of proof.

The following are summaries of approval criteria findings upon which the decision was based:

*Maximum Efficiency of Land Uses.* The requirement that urbanization of the property be required to allow for development on adjacent land, was not met due to the higher burden of proof required for locational adjustments. It was found that while the property may contribute to the widening of Ellingsen Road which would facilitate traffic flow in that area; however, urbanization of the property is not needed to allow for adjacent development.

LUBA: Metro Council's land use decision was affirmed.

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## Case No. 85-2 (Tualatin Hills Church)

Petitioners: Tualatin Hills Church

Action Type: Locational Adjustment addition

Hearings Officer: Beth Mason

Proposed Amendment: 1.8 acres located at the Southeast corner of the intersection of SW Norwood and Boones Ferry Roads, adjacent to the City of Tualatin Planning Area.

Result: Metro Council approved the petition, adopting the Hearings Officer's Report and Recommendations.

The following are summaries of some of the approval criteria findings upon which the final decision was based (from the Hearings Officer's report):

- *Orderly and Economic Provision of Public Facilities and Services*. A net improvement in water and sewer services and fire protection was anticipated. There were no anticipated net improvements in storm drainage, transportation, or schools.
- *Maximum Efficiency of Land Uses*. The adjustment was not needed in order to enable existing urban land to develop for maximum efficiency of land uses.
- Similarly Situated Contiguous Land. Other land contiguous to the property was not in need of approved water service for fire protection, as there were no contiguous public uses, and no need to include any additional land for the particular public use. There was no similarly situated contiguous land that could also be appropriately included within the UGB as part of the adjustment.

## Case No. 85-4 (Foster)

Petitioners: Foster Consolidated, Inc.

Action Type: Locational Adjustment - addition

Hearings Officer: Christopher P. Thomas. Recommended approval.

Proposed Amendment: Addition of 12.28 acres at W Burnside and SW Skyline for planned unit development.

Result: Metro Council approved addition, adopting the recommendations of the Hearings Officer.

The following are summaries of some of the findings from the Hearings Officer's Report upon which the decision was based:

- *Public Facilities and Services.* Approval of the petition was determined to result in a slightly improved efficiency of water, sewerage, fire protection and school facilities and services within adjoining areas within the UGB.
- *Land Use Efficiency.* Approval of the petition was found to greatly facilitate needed development on adjacent land. Due to the hilly nature of the entire parcel, part of which is inside and part outside of the UGB, inclusion of the entire parcel would be most efficient and economical if developed as a Planned Unit Development.
- *Consequences of Development.* The area proposed to be added to land within the UGB, is an area zoned Multiple Use Forest due to its serving as wildlife habitat, its topography, and its scenic beauty. The Hearings Officer found that, although development would involve the loss of some forested land, the loss would be outweighed by the increased accessibility of the forest beauty to people.
- *Superior UGB.* The Hearings Officer found that the most significant factors supporting the conclusion that the new UGB would be superior are: the greater efficiency in developing the front part of the applicant's parcel with the proposed addition of the back lot as one single planned development, and the ability to have an urban level of residential development in a forest setting so close to downtown.

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## Case No. 85-5 (Griffin)

Petitioners: Mert Griffin and Ryan O'Brian

Action Type: Locational Adjustment addition

Hearings Officer: Beth Mason

Proposed Amendment: 2.18 acres, south of Cornelius at TV Highway and NW 34th

Result: Withdrawn

Petitioner Ryan O'Brien stated that, "The main purpose for this withdrawal is the fact that this application was recently reviewed by the Cornelius City Council for the third time and it was found that the City was not willing to take a very strong position on adding the subject property to the Cornelius Urban Growth Boundary. At the last City Council meeting, the City Council decided to take no action.... The [other] main consideration is the fact that the City of Cornelius currently has a sewer moratorium in the northern portion of the City in the area where the subject property is located."

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### **Case No. 85-7 (Kaiser)**

Petitioners: Kaiser Development Corporation and 12 co-petitioners

Action Type: Major amendment

Hearings Officer: Adrienne Brockman

Proposed Amendment: 453 acres south of Sunset Highway in Hillsboro for industrial development

Result: Metro Council approved with conditions.

Conditions: Annexation proceedings for the property to the City of Hillsboro will be initiated; The applicant will apply for an Industrial Park (IP) zoning designation, The applicant agrees to special conditions upon rezoning: 1) the site will be a Specially Regulated Area (SRA) under the Hillsboro Comprehensive Plan, 2) the applicant will demonstrate consistency with Metro resolution No. 82-348, 3) a master plan for the property will be consistent with Hillsboro's Comprehensive Plan. The Master Plan can be reevaluated on a yearly basis, and an amendment can be made with only after public hearing.

The following are some of the pertinent approval criteria findings upon which the decision was based:

- *Demonstrated need to accommodate long-range urban population growth requirements consistent with LCDC goals.* Petitioners maintained that high tech industry is unique, and that despite the fact that there is adequate land on a regionwide basis, that there is localized need along the Sunset Corridor. It was found that the Sunset Corridor is "virtually the only locational choice of emerging industrial high-tech firms (both foreign and domestic) in the Portland Metropolitan area." It was also found that the Sunset Corridor exhibits "critical mass" in high-tech industrial growth.
- *Need for Housing, Employment Opportunities, and Community Livability.* The Hearings Officer found that there was evidence demonstrating a decline in Oregon's basic industries and that manufacturing industries are required to generate further growth. High-tech industries were found to be "basic industries" and amending the UGB in order to develop high-tech industry provides for employment opportunities and livability in the state.
- *Need for adequate supply of suitable sizes, types, locations, and service levels for commercial uses.* There was found to be a demonstrated unmet need for



large-sized parcels for industrial uses. The land in question was identified as having the potential to meet this need.

- *Orderly and Economic Provision for Public Facilities and Services.* Although no regional storm sewerage system exists within the area, the site was found to meet this requirement. A large high-tech facility is anticipated on the site, and because this type of use “does not generate substantial off-site flows due to the large areas committed to landscaping, the relatively small amount of paved road surface per acre of development (as compared to residential or commercial development), and the ease of dealing with stormwater on-site,” the Hearings Officer’s report reflected that this criteria was met. Also due to the industrial nature of future development, police services were determined to be effectively provided as additional private security would serve to take care of most security issues, maximizing the effectiveness of public services.

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## **Case No. 85-8 (Benjfran)**

Petitioners: Benjfran Development, Inc. and Co-petitioners

Action Type: Major amendment

Hearings Officer: Adrienne Brockman

Proposed Amendment: 472.22 acres south of T.V. Highway and west of 209<sup>th</sup> in Hillsboro for industrial development.

Result: Denied, appealed to LUBA. LUBA affirmed Metro’s decision.

Metro Council accepted the Hearing Officer’s report and the following are summaries of some of the findings from the report upon which the final order was based:

- *Demonstrated need.* The Hearing Officer accepted the argument that there is need for support industries, however the Officer did not find that the petitioners’ argument for amending the UGB would fulfill this need. The petitioners’ had also based their argument on the statement that “it is desirable to have support industries within 20 minutes driving time of the hi tech ‘critical mass.’” This argument was not accepted as it refers to desirable location of support industries instead of a demonstrating need. There was also fault found with the petitioners’ employment projections.
- *Efficiency of Land Uses.* Both efficiencies and problems were identified. The main issue is that extension of sewer services was determined to likely cause more to place additional lands within the UGB.

- *Accommodation of use within the UGB.* Because the petitioners' arguments were based on the assumption that all appropriate land for industrial development would be within 20 minutes, the petitioners' analysis of alternative sites was found to be insufficient.

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### **Case No. 85-9 (Riviera)**

Petitioners: Riviera Motors

Action Type: Major amendment

Hearings Officer: Adrienne Brockman. Recommended approval (Note: Cannot confirm that report in file is actually that of the Hearings Officer. The record refers to an exhibit B, which is said to be the Hearings Officer's Report; however the document is unsigned and appears to have been submitted by Riviera Motors. This summary assumes that the report found in the file is that of the Hearings Officer.)

Proposed Amendment: 88 acres north of Sunset Hwy in Hillsboro for industrial development.

Staff Report: Recommended approval.

Result: Metro Council approved with conditions. These conditions are that promptly after the entry of the Final Order, Riviera Motors must initiate proceedings with Washington County to both amend the Washington County Comprehensive Framework Plan to designate the property "industrial" and to establish a Special Industrial Overlay District on the property.

The following is a summary of some of the relevant findings upon which the decision was based.

- *Orderly and Economic Provisions for Public Facilities and Services.* The Hearings Officer concluded that the site, due to its proximity to existing facilities and services, can be rapidly developed with little public expenditure and can make efficient and economic use of the existing facilities and services. The Hearings Officer concluded that if the Sunset Highway were widened to six lanes, there would be adequate capacity to serve the proposed development. At the time, there was consideration of widening Sunset Highway to six lanes east of 185<sup>th</sup>. There was found to be the ability to serve the area with water and sewer. Storm sewers were sized assuming that the area was farmland and this caused the Sunset Highway to act like a dam when there was rainfall in excess of the culvert's capacity. County staff found that the proposed development would amplify potential flooding north of the highway, but the Hearings Officer's report stated that on-site retention would be included in development of the property and this would mitigate potential flooding problems.

- *Maximum Efficiency of Land Use.* The Hearings Officer found that the inclusion of the area in the UGB would result in maximum efficiency of land use because the site is adjacent to a planned industrial area within the Urban Growth Boundary. The need for large acreages for high-tech uses was also found to contribute to satisfying this criterion.
- *Environmental, Energy, Economic and Social Consequences.* The Hearings Officer found no adverse consequences. In economic terms, the net gain to the surrounding community was found to be beneficial. The current use as a large farm was found to be inefficient as the property owner had stated that it was unsafe for him to move large farming machines to and from the property.
- *Retention of Agricultural Land.* The Hearings Officer found that this criterion had been satisfied as the need for industrial development, as was proposed for the site, cannot be satisfied on lower class land within the Sunset Corridor.
- *Compatibility.* The Hearings Officer found that the proposal would not create any greater incompatibility between urban and agricultural uses than already exists.
- *Exception Criteria.* The Hearings Officer determined that all seven factors of Goal 14 had been met.

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### **Case No. 86-1 (Zurcher)**

Petitioners: Glen, Theodore, and Ava Zurcher

Action Type: Major amendment

Hearings Officer: Christopher P. Thomas

Proposed Amendment: 46 acres south of Forest Grove. Tualatin Valley Highway between Maples and Elm for industrial development.

Result: Withdrawn

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### **Case No. 86-2 (West Coast Auto Salvage)**

Petitioners: West Coast Auto Salvage

Action Type: Location adjustment addition

Hearings Officer: Hearing before Metro Council instead of Hearing Officer.

Proposed Amendment: 8/100<sup>th</sup> acre in Sherwood at Eddy Road and Pacific Highway.

Result: Approved

Metro Council: The area that was proposed to be added to the UGB was claimed to be a surveyor error in which a garage was left straddling the UGB. There was evidence that CRAG had meant to include the parcel within the Urban Growth Boundary, and that there may have been error in the mapping of the parcel and adjacent parcels.

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### **Case No. 87-1 (PGE)**

Petitioners: Columbia-Willamette Development Company, agent for Portland General Electric, Tigard School District, Hillman Properties Northwest, and the City of Sherwood.

Action Type: Locational Adjustment (trade)

Hearings Officer: Christopher. P. Thomas

Proposed Amendment: Trade for 10 net acres of vacant land at six corners in Sherwood.

Result: Approved

Metro Council accepted the Hearing Officer's report and the following are summaries of findings from the report upon which the final order was based:

- *Public Facilities and Services.* It was determined that there would be a net improvement of efficiency for water, sewerage, and transportation facilities. A slight improvement in efficiency would result for schools, and fire and police protection. The trade was found not to affect the efficiency of storm drainage facilities. On-site storm drainage facilities were found to be not unusual for development, and therefore the parcels can handle storm drainage in an orderly and economical fashion.
- *Land Use Efficiency.* Three of the four parcels proposed to be included within the UGB were partially developed. It was determined; therefore, that the urbanization of all four parcels would be consistent with and supportive of development of adjacent urbanized land. Parcels proposed to be removed from the UGB were judged to be unlikely to have significant development.

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## Case No. 87-2 (Angel)

Petitioners: Joseph W. and Lynne I. Angel

Action Type: Locational Adjustment - addition

Hearings Officer: Christopher P. Thomas

Proposed Amendment: 42.5 acres at NW Skyline Boulevard and Saltzman Road.

Result: Metro Council approved a petition to waive approval criteria 3.01.020(d): "No petition will be accepted under this chapter if the proposed amendment to UGB would... create an island of non-urban land within the UGB." The Department of Land Conservation and Development submitted letters stating that, "We do not, however, find it appropriate for Metro to waive case-by-case selected criteria." In another letter DLCD wrote: "The correct way to change these [approval criteria] is through the post-acknowledgement amendment procedure; not through a waiver of mandatory standards." There is no record of final action taken by the Metro Council.

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## Case No. 87-3 (Blazer Homes)

Petitioners: Blazer Homes

Action Type: Locational Adjustment - addition

Hearings Officer: Christopher P. Thomas

Proposed Amendment: 43.7 acres south of Lake Oswego for residential development.

Result: Approved by Metro Council. Appealed to LUBA. Remanded to Metro Council. Metro Council denied the petition.

### History:

- Hearings Officer published a report recommending denial of the petition on April 27, 1988. Exceptions were filed by petitioners and opponents Bill and Carole Atherton. The Council granted the petitioner's request to introduce additional evidence and the Hearings Officer heard the case again. On July 27, 1988 the Hearings Officer again recommended denial of the petition. Exceptions were again filed by the same parties. On September 8, 1988 the Council rejected the recommendation of the Hearings Officer and approved the UGB adjustment.
- LUBA found that Metro had erred in finding that the petition met the approval criteria that "locational adjustments shall be consistent with... orderly and economic provision of public facilities and services." LUBA found that an additional pumping station would have to be built to accommodate the addition and this would result in a "wasted capital

investment,'" There was no additional information that was unambiguous that was found to support the Metro Council's decision that sewer services can be efficiently provided.

- Additionally, LUBA assigned error in that the Metro Council did not base its decision regarding efficient service provision on whether improvement of services which will occur as the result of the amendment. Instead the Metro Council was found to have made its decision based on the building of a Westview extension instead of basing it on the proposed UGB amendment.
- LUBA also found error in that Metro Council did not explain whether a 10-year-old traffic report was still reliable in determining whether street and traffic services will improve due to the proposed amendment.
- On December 13, 1990, the Metro Council adopted a Final Order denying the petition of Blazer Homes, Inc. The Metro Council found that because there would be only slight net improvement in some public facilities and services, that the proposed UGB is not greatly superior to the present UGB. According to the Final Order: "The larger the proposed adjustment over 10 acres, the greater must be the weight of evidence of increased suitability of the proposed UGB. Since this proposed 43.7 acres is near the 50-acre limit for locational adjustments, the evidence must demonstrate a greatly superior UGB as a result of the adjustment. Water, sewer, storm sewer, and traffic improvements were slight. There was no increase in the efficiency of police services. Therefore, the UGB as proposed is not sufficiently more suitable than the existing UGB based on the consideration of the factors...."

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## **Case No. 87-4 (Brennt)**

Petitioners: Wally and Thea Brennt

Action Type: Locational Adjustment - addition

Hearings Officer: Christopher P. Thomas

Proposed Amendment: Approximately 4.61 acres south of Lake Oswego

Result: Metro Council approved.

Metro Council accepted the Hearing Officer's report and the following are findings from the report upon which the final order was based:

- *Public Facilities and Services*. There were found to be slight improvements in the efficiency of water, sewer, transportation, and school facilities.

There were no improvements found in fire, police, and storm drainage services and facilities.

- *Land Use Efficiency.* Adjoining areas within the UGB were found to be developed at urban levels, therefore the proposed amendment would not facilitate any additional development in the adjoining areas.
- *Superiority of UGB.* Although the proposed amendment would result in only slight superiority in the UGB, because the proposed amendment is under ten acres, "...any improvement at all from the proposed change in relationship to UGB land abutting the addition area is enough of an improvement in the UGB to establish superiority.

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### **Case No. 88-1 (Zurcher)**

Petitioners: Glen, Theodore, and Ava Zurcher

Action Type: Major Amendment

Hearings Officer: Christopher P. Thomas

Proposed Amendment: Approximately 38 acres south of Forest Grove for industrial park use.

Result: Approved by Metro Council. Appealed to LUBA and remanded.

Metro Council approved the petition in September of 1988, adopting the hearings officer's report. Approval was based on the following approval criteria findings:

- *Need for Housing, Employment Opportunities, and Livability.* Petitioners asserted the UGB did not have a sufficient supply of industrial land. The Hearings Officer reported that although industrial land to meet employment opportunities appeared to be sufficient, criteria would be met due to the need to add the acreage for Forest Grove's livability. Citing high property tax rates, the hearing officer concluded that the amendment would assist in reducing Forest Grove's tax rate.
- *Maximum Efficiency of Land Uses Within and On the Fringe of Existing Urban Area.* According to the Hearing's Officer, the addition of the acreage to the UGB would make development of adjacent land more efficient. The Hearings Officer also stated: "Since the UGB contains more industrial land than Forest Grove needs over the long term, addition of the Site to the UGB should result in other industrially designated land within the UGB not being developed. As indicated by the analysis under Factor 3, the undeveloped land is likely to be marginal, and its non-

development will not diminish the orderly and efficient provision of public facilities and services within the UGB.”

- *Environmental, Energy, Economic, and Social Consequences.* The Hearings Officer concluded that there would be some positive energy consequences as some of Forest Grove’s residents would be able to work nearer to their residence. He also included that there would be significant positive economic and social consequences, and no negative environmental consequences.
- *Retention of Agricultural land.* The Hearings Officer did find that the addition of the site to the UGB would result in the loss of 44 acres of prime agricultural land. He concluded that although this was a loss of agricultural land, the benefits would outweigh costs.

LUBA:

1000 Friends of Oregon filed a petition to appeal the Metro Council’s decision. LUBA sustained error and remanded the decision. The following are summaries of the assignments of error:

- LUBA found that Metro had improperly applied the criteria of livability. The petition had been granted by the Council on the premise that a high tax rate for moderate levels of school revenue was a negative livability factor. LUBA concluded: “If the livability consideration could be satisfied so easily, it would be a meaningless limitation on establishment and expansion of the UGB. Rather, a correct application of the livability criterion requires, in addition to identification of a significant livability problem, an evaluation of probable positive and negative livability impacts that may occur if the UGB is amended to solve the identified livability problem... Metro would be in a position to explain why the probable livability benefits of the UGB amendment outweigh any negative impacts on livability that could be expected if the amendment is approved.”
- LUBA found that there was a lack of substantial evidence that the tax rate detracts from livability and that the UGB amendment would lower property tax rates.
- LUBA assigned error in that the respondent did not include findings showing that providing needed services to existing vacant industrial parcels would not be adversely affected. Instead Metro shifted the burden of proof saying that there was no evidence showing that existing parcels would be effected.
- LUBA found that there was no evidence to support the finding that adjoining agricultural land would not be effected. There was also no



explanation as to why addition of the site would be superior to developing lands zoned industrial that already exist within the UGB.

- There were no findings explaining the rationale behind stating that the loss of agricultural land was appropriately balanced against the need to address livability concerns. There were also no findings as to whether there were properties with Class III or higher soils that may be available elsewhere for the proposed industrial use.
- LUBA assigned error in that the respondent's findings that the proposed use would be compatible with adjacent uses were found to be simply conclusions without substantial evidence.
- LUBA found that the respondent had dismissed a number of potential developable sites on the basis of various constraints and infrastructure costs, "without explaining why those costs of constraints make development infeasible." There were no findings as to the costs of assembling an appropriately sized parcel, or how large the parcel would be, showing no evidence to the position that vacant industrially zoned land within the UGB could not be developed economically. There is also no evidence that there is need for short-term solutions to alleged livability problems.

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## Case No. 88-2 (Mt. Tahoma)

Petitioners: Terry McClain, on behalf of Mt. Tahoma Leasing, and Connie Plainfield.

Action Type: Locational Adjustment - Addition

Hearings Officer: Larry Epstein

Proposed Amendment: Addition of 10 acres north of Wilsonville for single family residences or commercial uses.

Result: Metro Council accepted the Hearings Officer's report and denied the petition.

The following are summaries of the findings upon which the decision was based:

- *Orderly and Efficient Provision of and Net Improvement in Efficiency of Public Facilities and Services.* The petitioner argued that more industrial land was needed in the vicinity. This was irrelevant to the case, as it is a locational adjustment and not a major amendment. The hearings officer concluded that granting the petition would not ensure that sewers are extended to the property in a timely manner, and the petition would not

increase the potential for or lower the cost of sewer extension. The petitioner argued that including the site within the UGB would result in a larger area to spread costs of water and sewer provision. This argument was found to be irrelevant, as it did not result in net improvement of efficiencies. The Hearings Officer also concluded that adding the property would result in a decrease in road service efficiency.

- *Maximum Efficiency of Land Uses.* The petitioner argued that the addition was needed to make its holdings to the south more economic to develop, because improvement costs could be spread over a larger area. This argument was found to be irrelevant as it did not enhance land use efficiency.
- *Superiority of the UGB.* The Hearings Officer found that the adjustment would not result in a superior UGB, citing early findings regarding sewer and water provision and conflicts with agricultural activities.

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### **Case No. 88-3 (St. Francis)**

Petitioners: Reverend Thomas Cummins of St. Francis of Assisi Episcopal Church

Action Type: Locational Adjustment - Addition

Hearings Officer: Larry Epstein

Proposed Amendment: Addition of four acres adjacent to Wilsonville for a church.

Result: Metro accepted Hearings Officer's Report, approving the petition.

The following are summaries of the findings of the Hearings Officer's Report, which form the basis of the final decision:

- *Orderly and Economic Provision and Net Improvement in the Efficiency of Public Facilities and Services.* Public Facilities and Services were found to be able to be provided efficiently and in an orderly fashion. The addition of the site was found to result in a slight improvement in the efficiency of public water and transportation services. Inclusion of the property would allow the subject property that is within the UGB to be connected to the public water system. Inclusion of the property in the UGB would also facilitate its use as a park and ride lot, increasing the efficiency of Miley Road by providing for additional road capacity.
- *Land Use Efficiency.* The Hearings Officer found that granting the petition would result in maximum efficiency of land uses because classifying the

site as urban would allow the site to be fully developed. The development of the site was found to facilitate development by providing social services to the adjoining community.

- *Environmental, Energy, Economic, and Social Consequences.* The Hearings Officer found that approval of the petition would facilitate the continued delivery of social services including: counseling, a park and ride lot, group meeting facilities, and social and political consciousness activities. No environmental, energy, or economic consequences were noted.
- *Retention of Agricultural Land.* While the property is designated for farm use, it is smaller than 10 acres, and more than 50 percent of the site is developed with structures and pavement.
- *Compatibility with Nearby Agricultural Land.* Nonurban uses are separated from the property by steep, forested slopes and a creek. Access for the property and agricultural uses are separate, and the property does not generate external effects perceptible on nearby agricultural land.

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## **Case No. 88-4 (Bean)**

Petitioners: James Bean

Action Type: Locational Adjustment – Addition

Hearings Officer: Christopher P. Thomas

Proposed Amendment: Addition of 15.4 acres east of Oregon City for Senior Housing.

Result: The Metro Council adopted the Hearings Officer’s Report as the Final Order, approving the petition.

The following are summaries of some of the approval criteria findings found in the Hearings Officer’s Report, which form the basis of the final decision:

- *Economic and Orderly Provision of and Net Improvement in Efficiency of Public Facilities and Services.* Inclusion of the site in the UGB was found to result in substantial improvements in the efficiency of sewerage and transportation services in adjoining areas. There was also some improvement in water and fire protection services. If the site were included one pump station or gravity flow sewerage service could be provided instead of construction of two pump stations which would result in high costs. If the site was not improved for inclusion in the UGB, commercial property to the southwest of the property would be required to give up valuable commercial land to construct adequate access to development within the UGB. If the site was included the UGB,

owners of the commercial area and of the potential elderly care facility have an agreement with the Petitioner to create a joint roadway. Inclusion of the site would also allow looped water service, which would serve the area north of Davis already within the UGB, increasing fire flows and reducing maintenance costs. Fire protection services would benefit from construction of a looped roadway system by providing greater access to nearby areas within the UG B.

- *Land Use Efficiency.* Approval of the petition was found to allow for more development to adjacent land within the UGB that were constrained at the time by a lack of public facilities and diseconomies resulting if the subject property is not included in sharing the costs of public facilities.
- *Environmental, Energy, Economical, and Social Consequences.* While there is a landslide area on the subject property, this area would not be developed.
- *Agricultural Land.* Retention of this land for agricultural land was found to preclude the efficient and economical provision of urban services to adjacent areas within the UGB.
- *Similarly Situated Contiguous Land.* While there was land south of the Site of approximately 10 acres, which could have been a possible candidate for inclusion of the UGB, the land was found not to be needed for economic and efficient provision of public services. The land is separated from the subject property by a drainageway, making it infeasible for a sewer line to be constructed on the site or provision of gravity sewer to the area south of the site.

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## **Case No. 89-1 (Gravett)**

Petitioners: Paul and Shirley Gravett

Action Type: Locational Adjustment - Addition

Hearings Officer: Christopher P. Thomas, recommended approval

Proposed Amendment: Addition of 5.8 acres in two tax lots located immediately south of the Gresham City boundary along the west side of Hogan Road.

Result: Metro Council adopted the Hearings Officer's Report as the Final Order, approving the petition.

The following are summaries of some of the approval criteria findings that form the basis for the final decision:

- *Orderly and Economic Provision of and Net Improvement in Efficiency of Public Facilities and Services.* Water facilities could be more efficiently provided to areas within the UGB by transferring some of the water line cost to the subject property, providing a better configuration for a looped water line, and generally reducing the cost of service provision to areas within the UGB. Gresham also anticipated that inclusion of the site would reduce the cost of sewer facilities adjacent to the UGB, enhancing the developability of adjacent land within the UGB. If the land were brought into the UGB, Gresham would require half-street improvements to Hogan Road, which abuts the site, and dedication of land sufficient for a 35-foot half street. Inclusion of the subject property in the UGB would then allow for continuous improvement along Hogan Road.
- *Land Use Efficiency.* The Hearings Officer found that the subject property could assist in bearing the cost of water, sewerage, and transportation facilities, relieving some of the financial burden of developing adjacent land within the UGB.
- *Compatibility with Agricultural Uses.* There was one nearby berry growing area already within the UGB. The subject property was to be zoned Low Density Residential, which would be considered a good buffer to agricultural uses in and of itself.
- *Similarly Situated Contiguous Land.* There was land across from the subject property which was zoned EFU; therefore, not qualifying for inclusion in the UGB. There was land zoned MUA-20 southeast of the site, but it was outside the sewerage basin that the Hogan Creek sewerage line would serve. The land zoned MUA-20 does not abut the City boundary, and it is not surrounded on three sides by the UGB.

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## **Case No. 90-1 (Wagner)**

Petitioners: Marvin and Bonnie Wagner

Action Type: Locational Adjustment - addition

Hearings Officer: Larry Epstein, recommended approval if property considered one unit.

Proposed Amendment: Addition of 6.3 acres east of Wilsonville to facilitate residential development and the dedication of a realigned right of way for Wilsonville Road.

Result: The Hearings Officer recommended that if the right of way portion and the remainder of the property be considered one unit for approval. If the right of way portion and remainder are considered separately, then the Hearings Officer recommends inclusion of only the right of way portion of

the subject property. Metro Council approved the petition, considering the subject property one unit.

The following are approval criteria findings from the Hearings Officer's report, which were adopted by the Metro Council as the final order:

- *Orderly and Economic Provision of and Net Improvement of Efficiency of Public Facilities and Services.* The Hearings Officer found that if the property were treated as one unit, then efficiency resulting from the right of way portion of the property would result in a net increase in efficiency for road services. The realignment and widening of the Wilsonville Road was found to be necessary for urban development on land within the UGB. Although including the remainder of the property would facilitate higher density on adjoining land inside the UGB and would expedite development, this was not found to increase or decrease net efficiency as stipulated in the approval criteria.
- *Agricultural Land.* Including the remainder of the subject property was found not to comply with this approval criterion. However, considering the right of way and remainder portion of the land as one unit, the petition meets criteria because retention of the "right of way" portion of the subject property precludes development of the realigned Wilsonville Road to full width standards.
- *Incompatibility with Nearby Agricultural Land.* The Hearings Officer found that the substantial public interest in realigning Wilsonville Road outweighs the potential incompatibility between urban and nonurban uses. The lack of public benefit from inclusion of the "remainder" portion of the land results in the remainder of the land not meeting approval criteria if considered as a separate unit.
- *Superiority of the UGB.* The UGB would be superior with approval of the petition, if the property is considered one unit.

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## **Case No. 90-3 (Washington County)**

Petitioners: Washington County

Action Type: Locational Adjustment - addition

Hearings Officer: Larry Epstein, recommended approval

Proposed Amendment: Addition of 6.7 acres to the UGB along Tualatin and Sherwood Road for widening.

Result: Metro Council approved.

The following are approval criteria findings from the Hearings Officer's report, which were adopted by the Metro Council:

- *Provision and Efficiency of Public Facilities and Services.* The proposed adjustment was found to increase efficiency of storm drainage in the vicinity as storm water from the property would be directed to improve drainage features included in the realigned right of way. The adjustment was also found to increase the efficiency of the Tualatin-Sherwood Road by facilitating improvements that increase the road's safety and capacity. The adjustment was also found to increase efficiency for land already in the UGB by providing for more efficient fire protection services and improved safety for school buses.
- *Land Use Efficiency.* The adjustment was found to be consistent with promoting maximum efficiency by facilitating road improvements, which increase safety and maintain speed of access to properties already within the UGB. The Hearings Officer concluded that unless the land is included in the UGB for road improvements, traffic would exceed capacity, which would reduce the attractiveness of adjoining urban land for development and lead to inefficient transportation.
- *Environmental, Energy, Economic, and Social Consequences.* The proposed adjustment was found to have potential positive consequences for public transit. There were no natural hazards or historic resources on the site. Some SCS Agricultural Class II soils and land in use for farm and forest purposes would be lost, but the loss was found to be relatively small. The road that would be built if the adjustment were approved would help separate urban areas to the north from the Scabland Geologic Area to the south. The road improvements were found to help reduce energy consumption for motor vehicle travel and reduce air contaminants for vehicles by reducing engine idling and providing pedestrian and bicycle facilities.
- *Agricultural Land.* Retention of the subject property as agricultural land was found to preclude the efficient and economic provisions of an arterial road, which would facilitate urbanization of land within the UGB. The proposed road improvements were found to separate urban uses on the property from resources uses to the south and east. The road improvements would not increase access to agricultural land. Positive impacts were found to outweigh the loss of agricultural land.

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**Case No. 91-1 (Dammasch)**

Petitioners: Dammasch State Hospital

Action Type: Major Amendment

Hearings Officer: Larry Epstein, recommended approval

Proposed Amendment: 184-acre legislative amendment to resolve sewerage problems.

Result: Metro Council accepted the Hearings Officer's report and approved the amendment.

The following are findings upon which the decision was based:

- *Goal 2, Land Use Planning.* The petition was found to comply with this goal as the property is developed to the extent that it may no longer be used for agricultural purposes. It was also found that the hospital represents a substantial public investment, and that the Callahan Center represents a substantial public investment that cannot be enjoyed or recovered unless the UGB is approved. Also, the amendment would not change the impact of the Hospital or its compatibility with adjacent uses. Road improvements would not be necessary and there is a forested open space and a stream corridor that buffers the site from adjacent uses.
- *Goal 3, Agricultural Lands.* Temporary disruption to adjacent agricultural lands during construction of the sewer line was found not to conflict with Goal 3.
- *Goal 6, Air, Water and Land Resources Quality.* In the absence of City sewers, "the existing facilities are reasonably likely to continue to cause sanitary waste effluent discharges that violate or threaten to violate applicable state environmental quality statutes and rules."
- *Goal 9, Economy of the State.* The Hearings Officer found that if the existing facilities continue to be treated as nonconforming uses that there would be unreasonable constraints to the ability to modify the Hospital and would prevent the use of the Callahan Center for any economically viable use. It would result in wasted economic resources if facilities remained nonconforming uses. The Callahan Center would lead to secondary and tertiary economic benefits in the region if occupied by a movie production studio being considered for the property.
- *Goal 11, Public Facilities and Services:* Access to a sewer line could be limited so that nonurban land does not have access to the sewer line. This would be consistent with Goal 11.

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**Case No. 91-2 (Forest Park)**



Petitioners: HGW, Inc. and the City of Portland

Action Type: Locational Adjustment - trade

Hearings Officer: Christopher P. Thomas, recommended approval

Proposed Amendment: Trade involving 120 acres in Forest Park by the City of Portland

Result: Metro Council approved with conditions.

Condition: The UGB will be amended upon written notification from the City of Portland that the Ramsey portion of the overall transaction “has been or will be completed in a manner that assures the acquisition by the City of 73 acres... and, at a minimum, the acquisition by the City of a 20.7 acre portion of Parcel B which is deepest into Forest Park and furthest away from NE Skyline Blvd., or that portion of Parcel B which was designed as “EF” zone as of December 2, 1991.

The following findings supported the final decision:

- *Public Facilities and Services.* There was determined to be a net increase in efficiency of public water, transportation, and fire protection facilities if the proposal was approved.
- *Land Use Efficiency.* The Hearings Officer determined that the trade would result in the facilitation of needed development on adjacent undeveloped land if the parcel were to be added. Since the other parcel is located in Forest Park, and development is not anticipated within the park, the Hearings Officer determined that there would land use efficiency by approving the proposal.
- *Nearby Agricultural Uses.* On the northern half of the parcel proposed to be added to the UGB, the land would remain undeveloped, therefore serving as a buffer that protects surrounding agricultural uses from adverse impacts of nearby urban uses.

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### **Case No. 91-3 (Tsugawa)**

Petitioners: James and Akira Tsugawa

Action Type: Locational Adjustment - addition

Hearings Officer: Larry Epstein, recommendation not recorded

Proposed Amendment: Addition of 15 acres of land on the southeast corner of West Union and Cornelius Pass Roads.

Result: Withdrawn. The withdrawal letter states: “Based upon the Findings of Staff and a review of the Standards of Approval, we feel that it would be in our best interests to withdraw the application at this time.”

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## Case No. 91-4 (PCC Rock Creek)

Petitioners: Portland Community College

Action Type: Major Amendment

Hearings Officer: Larry Epstein, recommended approval

Proposed Amendment: 160 acres north of NW Springville Road and east of NW 185<sup>th</sup> Avenue in Washington County

Staff Report: Recommended approval

Result: Metro Council approved amendment.

The following are applicable approval criteria upon which the decision was based:

- *Goal 2, Land Use Planning.* The Hearings Officer found that the petition complies with Goal 2. The campus is currently a non-conforming use; therefore, the campus cannot be expanded significantly. Increased educational services would have to be provided elsewhere, resulting in an inefficient duplication of educational facilities.
- *Goal 11, Public Facilities and Services.* Sanitary sewer, water, mass transit, storm water drainage, electricity, natural gas, telephone and cable already served the property. They do not cross agricultural or natural resource lands and therefore do not promote urban development. It was also recognized that it would be more efficient for the site to be more intensively developed, which would be more efficient. The UGB amendment would not result in untimely or disorderly development.
- *Goal 12, Transportation.* The Hearings Officer accepted the argument of opponents that NW 185<sup>th</sup> Avenue had not been improved sufficiently to accommodate expansion of the campus. The issue however, is not whether road conditions are adequate currently, but whether the system can be provided. The Amendment does not dictate expansion of the Campus, and Washington County could still require the petitioner to improve roads affected by development on the campus.
- *Goal 13, Energy Conservation.* The Hearings Officer recognized the arguments present by opponents that allowing expansion of the campus may result in an increase in the number of vehicle miles that would be traveled by students. The Hearings Officer stated that: "...the Hearings Officer is not convinced that it is more energy efficient to deny the petition for that reason alone. After all, if satellite campuses are established to substitute for proposed expansion at the Rock Creek

campus, additional miles also will have to be traveled by students, faculty, and staff to move between or among campuses.”

- *Goal 14, Urbanization.* The Hearings Officer found a demonstrated need to include the property in the UGB to accommodate urban population growth requirements and to enhance housing, employment opportunities and livability, because PCC was the only facility to provide of community college services in Washington County. Also, the property is already dedicated to an urban use, therefore, the need for urbanization does not need to be substantiated.

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### **Case No. 93-1 (Columbia South Shore)**

Petitioners: City of Gresham requested clarification of the location of the UGB

Action Type: Legislative Amendment

Hearings Officer: No hearings officer. Metro consulted Regional Technical Advisory Committee (RTAC).

Proposed Amendment: Clarification of the UGB boundary. 65 acres at 185<sup>th</sup> and Marine Drive.

Staff Report: Recommended approval

Result: Metro Council approved amendment.

The City of Gresham requested clarification of the location of the UGB boundary, and the issue of houseboat moorage needs for sewer, water, public safety, planning and zoning was discussed by RTAC. The scale of Metro’s current official UGB map at the time was for a scale which left the exact location of the UGB open to interpretation. Existing houseboats on the water were found to be beyond the urban growth boundary, with access and service available via urban uplands that are within the UGB. This created a legal conflict for cities that wished to serve the moorages or extend urban services beyond the UGB to these moorages.

The following were relevant approval criteria upon which the decision was based:

- Goal 2 exceptions are met because there are no available site designated for houseboat use inside the current UGB to accommodate the existing development at 185<sup>th</sup> and Marine Drive. Keeping houseboats at this location were found not to be more adverse than located them elsewhere within the UGB.

- *Legislative Intent.* The intention of Multnomah County was to have included all of the Big Eddy Marina and the east end of the Policy 26 area. The definition of the Policy 26 area was found to be in error.
- *Goal 5 (Natural Resources)* was found to be relevant. Policy 26 of the Multnomah County Comprehensive Plan designates houseboat moorage locations consistent with environmental and natural area considerations for the section of the river. The Significant Environmental Overlay zoning of the area already required design and development review of all applications, which addresses the impacts of the houseboats in the area. Urban services would also allow needed sanitary sewer treatment for the site, which was inadequately served at the time.
- *Goal 10 (Housing)* was also considered applicable because of the housing needs of the Policy 26 area, and the requirements under the Metropolitan Housing Rule for Metro to coordinate needed housing. It was concluded that the housing in this area needs to be efficiently served by adjoining municipalities to comply with state and regional goals.
- *Agricultural retention* or compatibility factors of Goal 14 (Urbanization) were found not to be applicable as the amendment deals with an extension of the boundary over submerged lands and a water area adjacent to urban uplands.

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### **Case 2/93 (Brown)**

Petitioners: Leonard L. Brown

Action Type: Locational Adjustment - addition

Hearings Officer: Does not appear to have been assigned Hearings Officer.

Proposed Amendment: 20 acres along Beef Bend Road to expand mobile home park.

Result: Withdrawn.

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### **Case No. 94-1 (Richards-Starr)**

Petitioners: Donald P. Richards and Roger A. Starr

Action Type: Locational Adjustment - addition

Hearings Officer: Larry Epstein, recommended approval with conditions

Proposed Amendment: 1.3 acres at I-5 interchange in Charbonneau for offices.

Staff Report: Recommended denial.

Result: Approved with conditions. See Environmental, Energy, Social and Economic Consequences and Net Efficiency of Urban Service criteria below for conditions.

The following are applicable approval criteria findings upon which the decision was based:

- *Increase in net efficiency of urban services.* The Hearings Officer recommended requiring that the subject property and tax lot 15700 be served by a gravity flow sewer line.
- *Environmental, energy, social and economic consequences of the petition.* The Hearings Officer recommended, as a condition of approval, requiring portions of the subject property with a slope of 20 percent or more be used for open space purposes, except for a sewer line and drainage facilities that comply with city standards.
- *Superior UGB.* The Hearings Officer found the proposed UGB to be superior, because it achieves serve efficiencies, helps reinforce Interstate-5 as a logical boundary for the UGB in this area, and makes what is now an essentially inaccessible and useless residual parcel developable with adjoining land already in the UGB.

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### **Case No. 94-2 (Piculel/Jaeger)**

Petitioners: Donald and June Jaeger

Action Type: Locational Adjustment - addition

Hearings Officer: Not assigned, as petition was incomplete.

Proposed Amendment: Addition of 44 acres of Jaeger farm property and removal of 40 acres near Boeckman Road.

Result: Applicant did not complete petition by filing deadline.

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### **Case No. 95-1 (Harvey/Washington Co.)**

Petitioners: Washington County (Harvey testified in favor of the amendment)

Action Type: Locational Adjustment - addition

Hearings Officer: Larry Epstein, recommended approval

Proposed Amendment: Addition of 5 acres along Tualatin Valley Highway for commercial use.

Staff Report: Recommended approval

Result: Metro Council approved.

The following are approval criteria upon which the decision was based:

- *Net improvement of public facilities and services.* The property was developed for urban uses and was served by all urban facilities; therefore the hearings officer applied a lower burden of proof. The Hearings Officer concluded that the locational adjustment marginally increased the efficiency of urban services to land already in the UGB by allowing more intense use of the site without building new infrastructure.
- *Superior UGB.* The Hearings Officer concluded that the adjusted UGB would be superior, because it includes land that was already urbanized and had been used for urban purposes for more than 75 years. It was also consistent with applicable comprehensive plan and zoning designations that had applied to the property for more than 30 years.

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## **Case No. 95-2 (Knox Ridge)**

Petitioners: Benchmark Land Company

Action Type: Natural Area Locational Adjustment - addition

Hearings Officer: Larry Epstein, recommended denial

Proposed Amendment: Originally file petition of a locational adjustment to add 6.2 acres to the UGB, later amended proposal to add 12.87 acres. New petition was submitted for a natural area locational adjustment along near Gales Creek in Forest Grove.

Staff Report: Recommended denial.

Result: Metro Council denied.

The following are applicable approval criteria findings upon which the decision was based:

- *50% of Land in Natural State.* At least 50% of the land and all land in excess of 40 acres in the petition must be owned or donated to a parks district in a natural state without extraction of resources or alternation of water features. The Hearings Officer found that the site was not in a natural state as the property has been altered for years by agricultural use.

- *Net Improvement of Efficiency of Public Facilities and Services.* The petition did not meet the burden of proof as the petitioner did not submit substantial evidence that including in the UGB the developable portion of the property will increase the efficiency of other services for land already in the UGB. The Hearings officer also found that including the developable portion in the UGB results in negative economic consequences, but positive social and environmental consequences.
- *Superior UGB.* The Hearings Officer found that the record does not show a superior UGB with the amendment, finding that: it would not result in service efficiencies, that it would remove land from agricultural use and could stimulate speculation on farmland on the edge of the UGB, that it could reduce the quantity of open space, and that it would relocate the boundary between urban and rural lands from a natural feature to an arbitrary location in the middle of a field.
- *Similarly Situated Contiguous Land.* The Hearings Officer found that the petition does not include all similarly situated land. The remainder of the tax lot is under the same ownership and as much as 100 contiguous acres are similar physically.

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## Case No. 95-3 (Jenkins Estate)

Petitioners: Tualatin Hills Park and Recreation District

Action Type: Natural Area Locational Adjustment - addition

Hearings Officer: Larry Epstein, recommended approval

Proposed Amendment: Add to the UGB two tax lots consisting of 68 acres in Washington County known as the Jenkins Estate. Adjacent to the UGB at SW Grabhorn Rd. and SW Farmington Rd.

Staff Report: Recommended approval.

Result: Metro Council approved with condition of limiting the permitted use of the property to the park and open space purposes and related accessory and incidental uses.

The following are some of the applicable approval criteria upon which the decision were based:

- *Land in a Natural State.* There was some development on the property; however, the majority of the property was in a forested or natural condition.
- *Condition.* Because the property could have been used for uses other than park and open space if the petition was approved, the Hearings Officer

recommended that Council impose a condition of approval prohibiting use of the property for other than park and open space purposes and related incidental and accessory purposes.

- *Superior UGB.* The Hearings Officer determined that, “The proposed UGB is superior to the existing UGB, because it includes land that is and has been used principally to serve residents of the urban area.”

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### **Case No. 96-1 (Open Door Church)**

Petitioners: Open Door Baptist Church

Action Type: Locational Adjustment - addition

Hearings Officer: Larry Epstein, dismissed after petitioner withdrew application

Proposed Amendment: Add 7.5 acres east of Troutdale for church school expansion at 27710 SE Strebin Road.

Staff Report: Recommended approval with conditions

Result: Withdrawn. Petitioner stated that could not proceed at the time and requested case to be closed.

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### **Case No. 97-1 (West Linn)**

Petitioners: City of West Linn

Action Type: Locational Adjustment - addition

Hearings Officer: J. Richard Forester, recommended approval

Proposed Amendment: Addition of 17.34 acres in Tanner Basin for new middle school.

Staff Report: Recommended approval

Result: Metro Council approved. Curtis Hunter and Jeffrey Seymour appealed case before LUBA. Case was dismissed.

The following are summaries of some of the approval criteria findings upon which the final decision was based:

- *Orderly and economic provision of public facilities and services.* The proposed school was found to make additional demands on public facilities and services, however the services that the school would have provided include “important educational needs and recreational opportunities.” The City also signed a statement providing sewer to the site, which



would allow adjacent areas to be more efficiency served through a new gravity system.

- *Maximum efficiency of land uses.* The amendment was found to facilitate needed development on adjacent existing urban land, as the new middle school would be needed to accommodate expected growth.
- *Environmental, energy, economic and social consequences.* The Hearings Officer found that the school will be located within a short distance from much of the population served; therefore, increased walking and bicycling to the site would have a beneficial impact on energy consumption and air quality. The Hearing Officer also found that there would be positive social and economic impacts for existing and future development.
- *Compatibility of proposed urban uses with nearby agricultural activities.* The Hearings Officer found that the proposed use outweighs its impacts. The use of the site is consistent with all local and regional plans and the zoning of the property allows schools as a conditional use.
- *Superior UGB.* The amendment was found to create a superior UGB because: 1) public facilities and services, including schools, would be more efficiently provided to land within the UGB if the school is brought into the UGB and annexed to West Linn, 2) developing a middle school at the site is consistent with acknowledged local plans, 3) the environmental, energy, economic, and social consequences of the proposal would be positive, and 4) agricultural or forest land would not be affected by the proposal.
- *Similarly situated contiguous land.* The rest of the 55.18 acre parcel was not included in the petition, because the school district only needed the approximately 20 acres for the new school site, provision of services to the other 37.84 acres is limited by site conditions, and the adjacent sites are not in the same ownership. The Hearings Officer found that the petition could not appropriately include additional land (greater than 20 acres) based on the locational adjustment criteria.

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## **Case No. 97-2 (Chamberlain)**

Petitioners: Joe Chamberlain

Action Type: Locational Adjustment - addition

Hearings Officer: On hold.

Proposed Amendment: Approximately 3 acres south of Forest Grove in industrial area for school bus parking. There was a dispute regarding the location of the UGB.

Staff Report: Recommended administrative approval.

Result: On hold. Metro mailed response, informing Chamberlain of the determination that the UGB line follows the floodplain line that was delineated by a field survey conducted for him. The administrative decision obviated the need to go through the locational adjustment process, unless the petitioner wants to expand the UGB beyond the floodplain line.

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### **Case No. 98-1 (Buford)**

Petitioners: Gary and Betty Buford

Action Type: Locational Adjustment - addition

Hearings Officer: Withdrawn before hearing.

Proposed Amendment: 7.37 acres south of Lake Oswego, north of Childs Road for residential subdivision.

Staff Report: Staff recommended denial.

Result: Withdrawn after staff report.

The following are some of the staff findings regarding applicable approval criteria:

- *Net Improvement in Efficiencies.* Staff found that adding 8 to 10 more users to existing water and sewer lines would not constitute a net improvement. Staff also found that the nature of the petitioner's claimed improvements were not known at the time: that the property would provide the opportunity for multi-modal transportation connectivity; the opportunity to improve safety and capacity of the local road system; and the opportunity to enhance fire and police protection.
- *Maximum Efficiency of Land Uses.* Staff found that petitioners did not identify any barriers to the future development of adjoining city land.
- *Environmental, Energy, Economic and Social Consequences.* Staff found that petitioners had not address this criterion. Further, Lake Oswego has not completed a hazard analysis of the area, which must be completed if the property is to be annexed and amended. Also, according to Metro's Title 3, Water Quality and Flood Management Map, an intermittent stream in the area is identified as a water quality protection area. It was anticipated that upon adoption of Title 3, development on the site might be subject to a 15-foot buffer from the top of a stream bank. Steep slopes also exist in the area, which could have further limited development. It

was determined that this may significantly affect the number of dwelling units that could be developed on the site.

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## Case No. 98-2 (Derby)

Petitioners: Dennis Derby

Action Type: Locational Adjustment - addition

Hearings Officer: Larry Epstein, recommended denial

Proposed Amendment: Addition of 14.8 acres south of Lake Oswego and west of Stafford Road for residential subdivision.

Staff Report: Staff recommended denial.

Result: The Hearings Officer recommended denial. The Office of General Counsel was directed by Metro Council to prepare a report to support a decision to approve the petition. Metro Council approved the petition.

The following are some of the findings to relevant approval criteria as addressed in a report from the Office of General Counsel:

- *Orderly and Economic Provision of Public Facilities and Services*. The Council concluded that the subject property in the UGB increases the net efficiency of services because the adjustment allows the extension of Meadowlark Lane through the site to the intersection of Rosemont and Stafford Roads, creating a more interconnected road system and reducing congestion and out of direction travel for residents of nearby city subdivisions. It would also facilitate improvement of a public street, enhancing access to a park. The adjustment would also allow the extension of a roadway to TL 900, which would improve efficiency of parks/open space services by allowing access to Cook Park. The adjustment would also increase the population serviced by surface water management/storm drainage, and fire/police protection services by spreading their cost over a larger population based, making services more economical. Including the Derby parcel in the UGB would also make available services to a lot already in the UGB to which services were not available.
- *Maximum Efficiency of Land Uses*. The Council found that the adjustment would facilitate needed development on the adjacent TL 900. Urban services could not be provided otherwise. Metro staff argued that “inclusion of the subject site alone does not necessarily provide maximum efficiency of land uses with regard to regional plans. Staff believes that maximum efficiency can be accomplished only by including similarly situated land outside the UGB. The Council observed that Metro staff was arguing that section 3.01.035(c)(2) included two

approval criteria, one standard in the title requiring the Council to find that including the subject site in the UGB results in the maximum efficiency of land uses, and another standard in the body of the text. The Council found Metro Staff's argument to be incorrect. The Council found that it is the text that contains the standard, and not the title, and that the title has no status independent of the text. Council also found that maximum efficiency would be served anyway, by providing the city and the region the opportunity to realize the development contemplated in an inventory of buildable lands.

- *Compatibility with Nearby Agricultural Activities.* There were limited agricultural activities on nearby lands, however, the activities were relatively small or low in intensity and the land is separated from the subject property by Stafford Road and a drainageway.
- *Similarly Situated Contiguous Land.* The Council found that the unique circumstances of the site distinguish it from other properties. Specifically, these circumstances include its unique ability to enable public services to TL 900. This would result in the ability for not only the public to access Cook Park, but also emergency vehicles.

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## **Case No. 98-3 (Lake Oswego)**

Petitioners: City of Lake Oswego

Action Type: Locational Adjustment - addition

Hearings Officer: Withdrawn before hearing.

Proposed Amendment: Addition of 9.8 acres south of Lake Oswego at Stafford and Rosemont for a Park.

Staff Report: Staff recommended denial.

Result: Withdrawn after staff report.

The following are summaries of some of the relevant staff report findings:

- *Similarly Situated Contiguous Land.* Metro Staff found that six properties are similarly situated and should be included in one application. Staff agrees with the petitioner's argument that the six properties (which are designated first tier land in an urban reserve) would benefit from amending the UGB, however staff stated that they would most likely benefit if they are included in this petition for an amendment. Therefore, this approval criterion was not met by the proposal, according to staff.
- *Orderly and Efficient Provision of public facilities and services.* While Metro Staff found that services might be provided in an orderly fashion, there

was some question as to whether the city could provide the services economically. The city signed a statement attesting to its ability to serve the area, so this part of the criterion was met. Metro staff did not find evidence that the amendment would result in a net increase in efficiency. The City had based its argument on the net improvement of efficiency if the tier one urban reserve lands are added to the UGB, but did not show net improvement of efficiency in serving lands already within the UGB.

- *Maximum Efficiency of Land Uses.* Metro Staff found that the petitioners had not presented any evidence that the amendment would facilitate needed development on adjacent lands. Petitioners did not identify any barriers to future development, and therefore did not show that the amendment would have a significant effect on adjacent land.

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## **Case No. 98-4 (Tsugawa)**

Petitioners: Jim and Amy Tsugawa

Action Type: Locational Adjustment - addition

Hearings Officer: J. Richard Forester, recommended approval

Proposed Amendment: Addition of 15.5 acres in Washington County at Cornelius Pass/Union for a residential subdivision.

Staff Report: Recommended approval.

Result: Metro Council approved.

The following are approval criteria addressed in the Hearings Officer's report which are the basis of the decision:

- *Superior UGB.* The approval of the petition was found to have the potential to facilitate needed development inside the current UGB in that: 1) incorporation of the Tsugawa property into the UGB would allow improvements to the local street system, 2) addition of the property would improve the connectivity of the local street system by providing a connection between the Rock Creek area and the realigned Jacobson Road, and 3) development of the property would improved pedestrian connections between existing residential neighborhoods and nearby commercial areas.
- *Similarly situated contiguous land.* The Hearings Officer found that: "The UGB takes a detour around this single parcel and there are no nearby properties with sewer and water stubbed to them, and therefore the neighboring properties are not similarly situated." Adjacent property on one side is separated from the site by a roadway, which forms the UGB

boundary in the area. EFU, AF-5, and RCOM surround the neighboring property, so contiguous land to the proposed site does not fit criteria for inclusion.

- *Orderly and economic provision of public facilities and services.* Water, transportation, sewer, and storm drainage could, not only be provided with no negative economic impact, but would result in an increase in efficiency for the land area currently inside the UGB.
- *Maximum efficiency of land uses.* The Hearings Officer found that the impact on facilitation of new development is most likely neutral, and therefore the criterion was not satisfied.
- *Retention of any agricultural land.* The property was found to be part of a “Irrevocably Committed” exception granted by the DLCDC, therefore the land is not agricultural and the standard does not apply. The land is identified as AF-5, which is not considered Farm or Forest in Washington County’s Comprehensive Plan.
- *Compatibility of proposed urban uses with nearby agricultural activities.* Adjacent land zoned AF-5 is currently being used for agricultural activities, however, the proposed amendment was determined to pose no greater impacts on nearby agricultural activities than were present at the time.

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## Case No. 98-5 (Valley View)

Petitioners: Valley View Mobile Court

Action Type: Locational Adjustment - addition

Hearings Officer: Larry Epstein, recommended approval

Proposed Amendment: Addition of 15.27 acres along Tualatin Valley Highway, east of Cornelius, for sewer.

Staff Report: Metro staff initially recommended denial when petition was to include 19.18 acres of land. The existence of similarly situated contiguous land to the site would have caused the petition to exceed the 20-acre maximum for a locational adjustment. The petition was amended to reduce acreage to 15.27 acres. Staff changed recommended to approval.

Result: Metro Council approved.

The following are approval criteria addressed in the Hearings Officer’s report which are the basis of the decision:

- *Orderly and economic provision of public facilities and services.* The property is currently developed as an urban use and urban services are indistinguishable from services provided within the UGB, except for sanitary sewers. The addition of the property increases the net efficiency of sewer service as it enables the petitioners to extend sanitary sewers through the site to serve abutting commercially zoned properties that are located within the UGB.
- *Maximum efficiency of land uses.* The addition would facilitate development on adjacent existing urban land, consistent with the local comprehensive plan, because it allows development of the adjacent commercial zoned properties within the existing UGB using public sewers and gravity flow.
- *Economic, energy, social, and environmental impacts.* Extension of sewer service would be much less expensive than alternative methods of eliminating public health hazards. Cost savings would be realized as site cleanup and treatment costs due to the failure of the on-site septic systems would be eliminated. Positive energy impacts would be realized, because the land is served by public transit and is developed with existing infrastructure. Positive social impacts result as it allows retention and possible expansion of existing low-income housing.
- *Compatibility of proposed urban uses with nearby agricultural activities.* There are some limited agricultural activities on adjacent lands to the north and east of the subject property. However, the property had been used as a mobile home park for several years without any significant conflicts.
- *Superiority of the UGB.* The UGB with the proposed adjustment was found to be superior because public sanitary sewer could be provided to the property and land within the UGB, allowing development of land within the existing UGB and eliminating a public health hazard. Also, the addition would better reflect the historic urban use of the property as a mobile home park.

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## **Case No. 98-6 (Matrix)**

Petitioners: Matrix Development Corporation

Action Type: Locational Adjustment - addition

Hearings Officer: Larry Epstein, recommended denial

Proposed Amendment: Addition of 9.9 acres south of Tualatin, along Grahams Ferry Road for residential subdivision.

Staff Report: Recommended denial.

Result: Withdrawn after Hearings Officer's report.

The Hearings Officer found that:

- *The proposal does not result in a superior UGB or in a net improvement of the efficiency of public facilities and services.* The Hearings Officer found that including the property in the UGB would enable larger looped streets and make them less costly to develop, but areas with the UGB could be served without including the development and the larger loops are not inherently more efficient. The petitioner also argued that adding the property to the UGB would enhance open space services within the City, because the sensitive lands on the site would be dedicated to the City. The Hearings Officer concluded, however, that the approval of the petition will reduce the actual open space in the area by allowing clearing and development on roughly three-quarters of the currently vacant and forested site.
- *The proposal does not facilitate development of land within the existing UGB.* Urban services can be provided to adjoining properties within the existing UGB, and minimum density requirements can be met on the land, without adding the property. Also, the benefit to the petitioner of being able to amortize the cost of required road improvements over a larger development area does not constitute an improvement in efficiency.

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## **Case No. 98-7 (Jenkins/Kim)**

Petitioners: Michael Jenkins and Sang Kim

Action Type: Locational Adjustment

Hearings Officer: Larry Epstein, recommended denying petition

Proposed Amendment: Addition of 18.85 acres in Washington County near Springville and Kaiser roads for residential subdivision. Between Laidlaw and Springville Road, east of Kaiser Road.

Staff Report: Recommended approval.

Result: Approved March 2, 2000; currently being appealed to LUBA by Malinowski Farm and Gregory P. Malinowski

The following are approval criteria that were instrumental in the Council's decision to approve the petition despite the Hearings Officer's recommendation to deny the petition:

- *Net improvement in efficiency of public facilities and services.* According to the findings listed in Ordinance No. 00-843, the major dispute among the



parties regards whether the adjustment will result in any improvement in the efficiency of public facilities and services. The Council supports the conclusion of Metro Staff that approval of petition would result in an improvement in the efficiency of sewer, water, park and police services, will have no impact on fire and transportation services and will reduce efficiency of school services. This was found to sufficiently comply with Metro code.

- *Maximum efficiency of land uses.* The approval of the petition was found to facilitate needed development on adjacent land, specifically in regards to serving the Malinowski properties with gravity flow sewer. The Malinowski's stated lack of desire to develop the property was found to be irrelevant to the case. The properties are designated within the Washington County Comprehensive Plan for residential development.
- *Retention of agricultural land.* The property contains Class III and IV soils and is designated EFU. The Council found that retaining the property as agricultural land would preclude the urbanization of the Malinowski properties because gravity flow sewer services could not be provided practicably within the existing UGB. The Council found that provision of urban services to adjacent properties is impracticable without the approval of the petition.
- *Compatibility of proposed urban uses with nearby agricultural activities.* Council found that agricultural activities occurring within the UGB on the Malinowski properties to be irrelevant, interpreting "agricultural activities" to apply only to agricultural activity occurring outside of the UGB. Evidence introduced by the opponents relates primarily to potential conflicts with properties adjacent to and in proximity of the petitioners' property and within the UGB. Malinowski property that is outside of UGB was found to be buffered from any negative impacts associated with the urbanization of the petitioners' land. The Council also found that even if agricultural uses within the UGB were considered the intermittent and low intensity nature of agricultural activities on Malinowski properties within the UGB means that urbanization would not be incompatible with existing agricultural uses.

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### **Case No. 98-8 (Evergreen Church)**

Petitioners: Evergreen Christian Center

Action Type: Locational Adjustment - addition

Hearings Officer: Pamela J. Beery, recommended denial

Proposed Amendment: Addition of 15.2 acres in Washington County at Glencoe and Evergreen roads for church expansion and school

Staff Report: Recommended denial.

Result: Metro Council denied.

The following are approval criteria, addressed in the Hearings Officer's Report, upon which the decision was based:

- *Net improvement in efficiency of public facilities and services.* The Hearings Officer concluded the petitioner had not shown that there would be a net improvement of efficiency for lands already inside the UGB. Although the City of Hillsboro may benefit from the addition, there was no evidence that there is demand for parks and open space on adjacent lands within the UGB and that approval of the adjustment would alleviate that demand. There was no substantial evidence that stormwater would be provided in an orderly and economical fashion.
- *Maximum Efficiency of Land Uses.* There was no evidence that the adjustment would facilitate the development of adjacent existing land within the UGB.
- *Compatibility with Nearby Agricultural Activities.* The petitioner did not present evidence showing that the adjustment would not result in adverse impacts to adjacent agricultural activities.

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### **Case No. 98-9 (CGC/Persimmon Hill)**

Petitioners: C.G.C. Inc.

Action Type: Locational Adjustment - addition

Hearings Officer: Pamela J. Beery , recommended approval after additional evidence was submitted

Proposed Amendment: 19.6 acres south of Gresham next to Persimmon GC for residential subdivision.

Staff Report: Recommended denial.

Result: Hearings Officer initially recommended denial as petitioner was found not to have shown sufficient evidence of compliance with Metro Code 3.01.035. Recommended approval after additional evidence was submitted. Metro Council approved.

The following are approval criteria addressed in the Hearings Officer's report which are the basis of the decision:

- *Similarly Situated Contiguous Land.* Not all of the tax lot was included in the petition, however, the majority of land not included has been developed as part of the Persimmon Golf Course. Other land has been developed for residential uses. Remaining land within the tax lot is designated as Urban Reserve No. 3. Land not included in the petition, but located within the Urban Reserve consists of portions of the Persimmon Golf Course. The Hearings Officer determined that there are no similarly situated lands for urban development that have not been included in the petition.
- *Orderly and Economic Provision of Public Facilities and Services and Net Improvement in Efficiency.* The Hearings Officer found that efficiency would be improved because phase 6 of the Persimmon Community PUD would only be able to develop in an orderly and economic fashion if services are provided via a proposed loop road. The addition would also facilitate the placement of utilities to phases 5 and 6 of the PUD. The Hearings Officer wrote that: "Apparently the City and County in approving this portion of the Persimmon Community PUD and the approved road outside the UGB never required any consideration of how utilities could be provided." City and County governments are required by law to coordinate planning, and the Hearings Officer noted concern for the apparent lack of utility planning and coordination between the City of Gresham and Multnomah County. The Hearings Officer stated, however, that local governmental coordination was not the subject of the proposal, and that the criteria had been met.
- *Maximum Efficiency of Land Uses.* The criteria was met, as the Hearings Officer found that approval of the petition would allow for the provision of utility services.
- *Retention of Agricultural Land.* The Multnomah County Planning Commission had previously found that, although the area is zone Exclusive Farm Use, development was consistent with County Policy #9 regulating agricultural land because: 1) the loop road is located on land sloped 10 to 25 percent creating erosion potential that prohibits use of the area for tilling, 2) most of the loop road that was built was on Class VI soils, and 3) lot sizes and land uses to the south make it unlikely that the land used for the loop road could be combined with other land for a farm or forest purpose. This decision had been made at the original approval of the loop road in 1989. The Planning Commission had also found that the policies of Goal 3 of the statewide planning goals should not apply to the loop road.
- *Retention of any agricultural land would preclude urbanization of an adjacent area already within the UGB.* The Hearings Officer found that because the areas which contain Class IV soils have been found by the County to be

unsuitable for agricultural uses and have been granted an exception to Statewide Planning Goal 3, that the criterion has been met.

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## Case No. 98-10 (JJ Development)

Petitioners: JJ Development filed on behalf of Claire and Elaine Couturier

Action Type: Locational adjustment - addition

Hearings Officer: Larry Epstein, recommended denial

Proposed Amendment: 14.18 acres in Pleasant Valley near Foster/Jenne for residential subdivision.

Staff Report: Recommended denial.

Result: Withdrawn after Hearings Officer's report.

The following are some of the findings of the Hearings Officer in regards to relevant approval criteria:

- *Net improvement in the efficiency of services.* The Hearings Officer determined that the adjustment would not result in a net improvement in the efficiency of urban services. The net efficiency of parks and transportation services would be reduced. Petitioners argued that sewer and water extensions required to serve the property can also serve adjacent property within the UGB. This argument was rejected, however, since the extensions could be provided regardless of whether the property was added to the UGB.
- *Facilitation of development of adjacent land within the UGB.* This criterion was not met, as urban services can already be provided to adjacent properties. The Hearings Officer determined that facilitating development on adjacent Tier One urban reserve lands was not relevant to the approval criterion.
- *Consideration of environmental, energy, social and economic consequences.* The petitioners were found to have failed to provide evidence of the potential impacts to SE Foster Road, which is a regional transit corridor located within one-quarter mile of the property. The petitioners also failed to provide evidence regarding the scope or extent of the drainageway and any development limitations or hazards that may be imposed by the addition.
- *Similarly Situated Contiguous Land.* The Hearings Officer found that there are similar properties in Urban Reserve No. 5 designated as first tier. If this land had been included, it would have exceeded 20 acres, which is the maximum area permitted for a locational adjustment.

- *Superiority of the UGB.* For the reasons summarized above, the UGB resulting from the petition was found not to be superior.

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### **Case No. 99-1 (Six Corners)**

Petitioners: Six Corners Land Investments

Action Type: Locational Adjustment - addition

Hearings Officer: Larry Epstein, recommended ??

Proposed Amendment: Add 13.16 acres along Hwy. 99W north of Sherwood in Washington County

Result: Withdrawn

### **Case No. 00-1 (Jackson Bottom)**

Petitioners: Unified Sewerage Agency

Action Type: Natural Area Locational Adjustment - addition

Hearings Officer: Larry Epstein, recommended approval

Proposed Amendment: 13.93 acres in SW Washington County for parking lot to serve USA Lab building expansion plus about 10 acre dedication to City of Hillsboro for addition to Jackson Bottom Wetland Preserve.

Staff Report: recommended approval

Result: Metro Council approved

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