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Via Hand Delivery
& Electronic Mail
Honorable Council President and
Members of the Metro Council

RE: Tonquin Industrial Group (TIG) Qualified OBJECTION to "Ice Age Tonquin Trail Master Plan" Including Alignment in a Regionally Significant Industrial Area

Dear Honorable Council President and Members of the Council:

Please include this letter and attachments 00-12 in the record of the proposed Metro adoption of the Ice Age Tonquin Trail Master Plan (IATMP). We have been advised that no hearing will be conducted on the IATMP. This letter is offered for the record of the IATMP and we understand Senior Counsel Roger Alfred will place it into that record.

This firm represents employers of more than 50 family wage industrial jobs in a Regionally Significant Industrial Area (RSIA). On behalf of our clients and their employees we ask that you please do not accept or adopt the IATMP without instructions that it either remove the "preferred alignment" in the 50 acre Tonquin Industrial Group (TIG) RSIA, leaving the flexibility to avoid the RSIA or include language requiring any alignment in the RSIA be shown as safe for pedestrian and drivers, does not adversely affect industrial development and freight mobility in the RSIA. There is precedent for what the TIG asks – in Sherwood there is an area where the "Trail alignment is undetermined" and TIG simply asks for a similar accommodation for the RSIA (as suggested on APP 00 until an alignment can be established that is both safe and not harmful to the RSIA. *See* APP 00.

Specifically, our TIG clients are: Terra Hydr Inc. and Tonquin Industrial LLC (11670 SW Waldo Wy., Sherwood) (includes heavy trucks/tractors and equipment); Bob and Donna Albertson and Albertson Trucking Inc.(23100 McCammant Dr. and 2 S134B000500) (includes heavy trucks / tractors); Mark Brown, McCammant Properties Inc. and Brown Transfer Inc. (23105 SW McCammant Dr., Sherwood) (includes heavy trucks/tractors) and McGuire Brothers LLC and Steve McGuire, whose property is generally described as 2S134B-00600 (proposal includes developing their property with uses involving heavy trucks / tractors). These business owners all own industrial land contemplated to be used or now used for important industrial businesses in the TIG area which is shown generally on IATMP Map 21 Tile 15 page 60 (the TIG area is roughly between "15B" and Tonquin Rd. to the north and south respectively and the railroad tracks and gravel pits to the west and east respectively.) It is also shown on IATMP Map 12 Tile 6. As noted, these companies employ approximately 50 people in the TIG area, in family wage jobs, and significantly more industrial (job) development is contemplated by these TIG employers.

Pursuant to ORS 197.615, please supply the undersigned with notice of the decision(s) regarding the acceptance or adoption of the IATMP and any amendments to the Metro RTSP or other plan reflecting or implementing the IATMP.

Attached to this letter are previous TIG comments to Metro on the IATMP and attachments. Those comments are incorporated herein. Moreover, additional attachments are supplied showing the nature of the proposed trail is region wide if not of national significance. *See* App 7. This matters because parks including linear parks of this magnitude are simply not allowed in RSIA's by the Metro Functional Plan. *See* Metro Functional Plan 3.07.426(D)/1130(D) (quoted at p 6 and 9 of this letter); App 12.

Executive Summary

The IATTMP imposes a major trailhead in and an alignment of the IATT through the TIG RSIA with no assurances that the RSIA will be protected. Specifically, the trail and trailhead in the RSIA are designed to attract hundreds if not thousands of visitors each day. It is and is **required** to be open 24 hours a day 7 days a week. This means that people will have a right to be in the RSIA near very expensive equipment at 2 am. There is no assurance that the plan thus does not cause serious security problems, as well as serious freight mobility problems; and impose current and future land use restrictions on the TIG RSIA's existing and future development. Similarly, there are no assurances that the designated trail or a trail head can feasibly be developed in a way that maintains pedestrian and freight traffic safety. TIG requests that you either deny the invitation to adopt the IATTMP or adopt the IATTMP with the express changes that:

- (1) no IATT alignment or trail head location is selected in the SWCP TIG RSIA, leaving open the possibility the trail could skirt it; and
- (2) no trail alignment or trail head will be approved by the Metro in the SWCP TIG RSIA unless that alignment or trail head is shown to not interfere with existing and future TIG RSIA uses and can be established safely for both pedestrians and drivers.

These leave open maximum flexibility that the trail can be developed to achieve its purposes without destroying the RSIA. This assures that people can get to the kolks to the far north and then either head west to connect to 124th or head east and connect to neighborhoods.

With all due respect the claims that the IATTMP is very general, or conceptual or lacks regulatory effect, is betrayed by the express words and requirements that are in the IATTMP. When such claims are being made to convince you to ignore TIG's concerns, please simply turn to the IATTMP pages 71-94 and 104-106. *See* App 10 p 9-32. We think you will agree with TIG that the plan is anything but "general" or "conceptual". As to regulatory effect consider the following Washington County Code

requirement and decide whether this means that no

Also, please don't be misled about the significance of a Metro "willing seller" policy. First, the council is well aware that land use restrictions don't follow land use acquisition. Just take a look at the Washington County land use restrictions at APP 6 to see that. Government has long imposed restrictions on the use of property that it does not own. Once a plan establishes a trail location or a trailhead location then nothing -- short of litigation arguing unconstitutional takings -- prevents the trail from serving as the basis for land use restrictions including refusing to allow industrial development at all as the county plan does (if the IATTMP is considered a Regional Park Plan) setbacks, making existing structures within trail setbacks "nonconforming uses"; forbidding vegetation removal and similar restrictions that elevate the trail to a place of greater importance than the RSIA and family wage employment. Second, the IATTMP specifically states Metro will not be doing all the land acquisition: "It is highly unlikely that the Metro funds will be adequate to purchase all land that is needed for the trail, and local jurisdictions will need to purchase some of those lands." IATTMP p 110. Third, Metro's willing seller policy is just that a policy. What Metro wants it can get. It has not divested itself of authority to release the heavy hammer of condemnation; it just asks first.

Finally, TIG hopes you understand there are plenty of other options than going through the TIG RSIA with a trail head or trail alignment. Claims that nothing else is "feasible" should be seriously questioned because they simply do not stand up. There has been no serious study to make any of the available options avoiding the TIG RSIA "infeasible."

TIG Supports the IATT in Safe, Appropriate Locations

The TIG businesses and owners support a regional trail proving the public with access to ice age phenomena. However, please understand that there are no ice age phenomena in the TIG RSIA. In the TIG RSIA, there is only heavy industry. Putting a heavy usage pedestrian trail in the TIG RSIA area as contemplated is unsafe, causes serious security problems for the RSIA businesses having expensive equipment and will significantly interfere with freight mobility. Metro need only consider the significant pedestrian traffic the Grahams Ferry portion of the constructed IATT receives to put this problem in perspective. Specifically, in years 2008-2010 the incomplete and short Tonquin Trail had an average of 743 bike and pedestrian users -- 548 of them were pedestrian users. *See Attachment 8 p 1*. There is simply no need or appropriate reason to put a trail head or a trail alignment in this busy TIG RSIA and interfere with the industrial development in the TIG and put people and jobs at risk.

Metro has numerous options. It could show the trail to the kolks just north of the TIG area and the trail heading east to the City of Tualatin residential neighborhoods or west to 124th. So far, TIG's concerns have fallen on deaf ears. Instead, parks staff has rushed the adoption of the IATTMP and pushed jurisdictions to adopt, without listening to or addressing these serious and important issues.

Ameliorative Language No Help

In response to TIG's serious concerns about safety, security and land use restrictions, Metro added the following language, which badly misses the point and is essentially meaningless to TIG's concerns:

"The goal of the Ice Age Tonquin Trail in the Southwest Tualatin Concept Plan area is to have a north/south orientation through and adjacent to the areas of highest desirability for interpretation of the Ice Age floods and the associated natural and geologic features. The exact alignment and proposed trailhead location have yet to be determined and will be developed in the future in consultation with the industrial land owners in this area, adjacent property owners, the general public and other stakeholders, no later than the time of annexation. Any property acquired by Metro for the trail will be acquired via a willing seller program."¹ P 43.

There are no ice age features in the TIG RSIA. The "exact alignment" is not the issue. The issue is any alignment in the TIG RSIA where there are not attendant assurances of safety, security and that the trail won't serve as the basis for restrictive land use requirements. If the region cannot assure that the RSIA will not be jeopardized by the introduction of large numbers of pedestrians, then the region should leave itself the flexibility to avoid the RSIA altogether. Further, this language does not say that the IATMP is not a final decision deciding that the IATT can be lawfully located in the TIG RSIA. It does not say that the TIG RSIA businesses will have rights to object to a trail alignment ultimately put through their properties that creates unsafe pedestrian conflicts and significantly interferes with freight mobility. It does not say existing industry will not become nonconforming if within a trail alignment setback. It does not say that the fact of a trail alignment will not result in vegetation removal restrictions. In short this insulting response provides no meaningful or legally binding assurance.

At the Tualatin hearing on the IATTMP and Tualatin TSP, an air quality citizen expert wholly unrelated and unconnected to TIG submitted written and oral testimony that the introduction of pedestrian traffic in areas with diesel engines is unhealthy for the sensitive populations pedestrians represent, particularly children. *See* App 11. This further establishes that the introduction of the conflicting use of a high traffic regional if not national scale trail in an RSIA builds in hopeless conflicts that reduce both the value of the trail and the RSIA.

¹ The "willing seller" idea is of course meaningless if the plan to make local governments force industrial landowners to give up their land and businesses in whole or part. The IATMP specifically contemplates that local governments, *other than Metro*, will acquire land for the trail alignment. P 110. The IATMP says nothing about those jurisdiction's rights or willingness to use eminent domain to establish the trail and as the guiding document, should restrict such authority.

Metro Verbal Representations

Metro employees tasked with establishing the IATMP and its trail alignment have verbally assured TIG that the IATMP and its trail alignment (1) are conceptual only; (2) impose no requirements or restrictions on the TIG owners; (3) supply no basis for local jurisdictions to impose requirements on them, (4) will not adversely affect freight, equipment and goods mobility based on pedestrian and bike conflicts, (5) will be followed with safeguards that protect TIG owners' / operators' from liability for personal and property injury to trail users hurt by industrial rail, truck, and equipment traffic (with which the proposed trail alignment has significant conflict), (6) will come with protections for their property and equipment from vandalism and the added burden of costs associated with otherwise having to add and maintain watchmen and security devices, and (7) in any event cannot be implemented without each of the TIG owners' agreement because Metro has a policy not to acquire trails by the heavy handed instrument on eminent domain.¹

If these are true statements, then the IATMP should reflect them. However, as written, the proposed IATMP supports none of these statements and Metro has steadfastly refused to put any of this in writing. Instead, the IATMP makes clear it is final, binding decision on a number of key issues and the TIG will not be able to raise its concerns in any meaningful way later on. The land use principle that a final decision may not be collaterally attacked later on looms large. Consider the following IATTMP statements:

- "The Ice Age Tonquin Trail Master Plan establishes a *clearly defined roadmap for taking the trail from vision to reality*. Building on work completed in the 2004 *Tonquin Trail Feasibility Study* and many other efforts, *this Master Plan provides the information needed as local and regional partners embark on trail implementation efforts*. Providing *detailed alignment, design, and implementation guidance*, this document represents the culmination of tremendous work efforts many stakeholders have undertaken over a multi-year period." P 1, 10. (Emphases supplied.)
- The IATTMP includes numerous detail trail design standards including "Special Design Requirements" See IATMP p 103-125 and costs associated with these detail elements.
- The trail in the TIG area is imminent -- before 2015: "The Ice Age Tonquin Trail needs to be incorporated into ongoing concept planning, updates to transportation system plans and other relevant transportation and land use planning processes and decisions. IATTMP P 106. In particular, there are three projects being planned in a corridor between the Tonquin Road/Morgan Road intersection and the Tonquin Road/Tonquin Loop intersection that directly overlap with the recommended trail alignment. These projects, which are shown on Map 27, include the following:
 - O The design for how the 124th Avenue Extension will tie into Tonquin Road

- The design for the westernmost portion of the new east-west connector (that will extend the 124th Avenue Extension project east toward Interstate 5)
- Improvements to Tonquin Road.

“Project partners need to work closely with Washington County to be sure that trail design is a component of these projects *and that trail right-of-way is preserved for future development* in this area. In addition, Metro’s 2035 *Regional Transportation Plan* (especially the Financially Constrained project list in that plan) needs to be updated to include the Ice Age Tonquin Trail recommended alignment.” (Emphasis supplied.) P 107.

Please note that the IATTMP does not even respect County Ordinance 750 establishing the alignment and study area for 124th Street. See APP 2 and compare App 2 p 8 with App 10 p 32.

□ “Regional trails are open 24 hours a day, 7 days a week. Because this will be their first regional trail, some jurisdictions may need to revise their policies and procedures to be sure that access to the trail is available 24 hours a day, 7 days a week, throughout its entire length.” P 146.

Metro Response

A 2010 Metro Functional Plan amendment (see Exhibit 12) requires the following to protect RSIA:

“3.07.426(D)/1130(D). Cities and counties *shall* review their land use regulations *and revise them*, if necessary, *to prohibit the siting* of schools, places of assembly larger than 20,000 square feet or *parks intended to serve people other than those working or residing in the RSIA.*” (Emphasis supplied.)

Metro has responded to TIG’s position that the IATMP trail alignment in the 50 acre TIG RSIA violates this provision. Metro explains its view that a trail is not a linear park and presumably is not a place of assembly. TIG respectfully disagrees. Many Metro documents list regional trails as “parks”, many local park providers do similarly. See for example APP 5 p 3-7; APP 5 p 10. It’s similarly hard to argue that the IATT and the trailhead planned in the TIG RSIA is not a place of assembly larger than 20,000 square feet.

Further, Metro responds that there are many trails in industrial areas. From this it reasons that trails must not be prohibited parks. Again, with the greatest respect, we simply point out that the prohibition applies only to RSIA and was only adopted in 2010. The cited trails and their associated plans are not in as far as we know in RSIA, and predate the new 2010 protective prohibition on parks and places of public assembly. Moreover, we point out that to the extent that the 2010 protective prohibition for RSIA

applied to local plans adopted after acknowledgement, then the 2010 ordinance was only acknowledged in December 2012. See App 12, p 1-97.

Metro also responds that the trail is shown on the Southwest Concept Plan so it can be shown in the IATTMP with no new regulatory significance. Here again, TIG respectfully disagrees. The SWCP specifically states: "The proposed trail system could incorporate elements of the Tonquin Trail which is in the planning process at the time of this writing. The alignments of the Tonquin Trail are an emerging issue and are not defined at this time. The proposed trails in the Concept Plan could evolve and be modified as the Tonquin Trail continues to develop." In the SWCP, the IATT had no regulatory significance.

Key IATMP Issues

The TIG employers have been clear throughout this process that IATMP trail alignment in the TIG RSIA area has potentially devastating effects on their businesses.² This is because of (1) liability, (2) safety and security concerns, and (3) concerns that it requires or supplies the foundation for industrial land use restrictions; (4) concern that the IATMP trail will be the basis for forced free-of-charge land dedications unfairly diminishing developable RSIA area. See sample Washington County regulations at Metro Letter Attachment 6. These county regulations include purported authority to demand land dedications for trails. Metro Letter Attachment 6, p 1.

Each of the TIG members either now operate or plan to operate heavy trucks and equipment throughout the area, a rail spur is proposed in this area by at least one of the TIG owners to facilitate industrial use (supporting cold storage warehouse or heavy construction distribution is the current plan) and a rail line now exists. There are numerous driveway and street intersections in this industrial area that support heavy industrial use. A regional high use bike and pedestrian trail as proposed in the IATMP in this RSIA area introduces untenable safety and security conflicts between industrial and recreational users causing potential liability, not to mention harm to users. That high recreational use is anticipated for the regional IATMP trail is clear from the IATMP itself as well as Apps 7; and trail counts from Tonquin Trail segments 3-5 years ago. See Attachment 8 p 1 submitted under separate cover at the hearing.

² To the extent that there is an idea to put the trail in the BPA easement, please understand that this would require the exercise of eminent domain as the fee interest is owned by private industry not BPA. See attached tax map and BPA deed regarding Terra Hydr's property. BPA's interest is limited to an easement for power related purposes only. It has no authority to authorize trails or any other type of public access. If the proposal were to acquire land in the BPA easement Metro would likely find a willing seller in RSIA TIG owners if the proposal was limited to trail establishment in the easement that is to the west of the towers and lines. To the east of the towers in the easement would not meet willing sellers because that would have severe adverse consequences on TIG RSIA businesses including safety, security as well as land use restriction and would impose limits on needed maneuvering and expansion area.

While there is undeveloped road right of way in this area owned by the county (McCammant Dr.), it is a narrow, dirt road – an undeveloped right of way. A recent county industrial land use approval required this right of way be partially developed with a 12 ft. drivable surface with a 20 ft. unobscured width, 13.5 ft. vertical clearance and a minimum surface of 12" of crushed rock that must be maintained as such. There is no room for a 12' trail plus industrial roadway. Moreover, this right of way is in the busiest or nearly busiest part of the RSIA being surrounded by a potential distribution facility site, and an existing freight transfer and trucking business (Brown Transfer) and heavy trucking (Albertson Trucking). It cannot be seriously contended that a pedestrian trail can be introduced here without serious safety and security conflicts as well as without causing serious harm to the integrity of the RSIA and the family wage jobs represented.

The IATMP is required by the Regional Framework Plan to be adopted by local governments like Washington County and Tualatin and the IATMP invites and in some places *requires* those adopting jurisdictions to impose setbacks and other land use restrictions on the TIG businesses to protect the IATMP trail as opposed to offering protection for the industrial users in the RSIA. For example, Washington County requires the following in development applications:

“501-8.3 Desirable Services

A. Pedestrian walkways, off-street trails and pathways and bicycle facilities

- (1) Applications may be conditioned to provide on- and off-site pedestrian walkways, off-street trails and pathways; and on- and off-site bicycle facilities, including appropriate open space or easement reservations or dedications, when identified by the appropriate agency and a direct impact or benefit to the proposed use is identified.
- (2) *Applications shall address any off-street trail, pathway or walkway identified on the Transportation Plan Trails and Pedestrian System map or the applicable Community Plan (including facilities identified in Pedestrian Connectivity Areas), that is adjacent to or in proximity to the subject site. Specifically, the applicant shall:*
 - (a) Provide documentation from the current or identified long-term trail provider about needed open space or easement reservations or dedications and/or any necessary improvements for any identified on- or off- site walkway, trail or pathway; *and*
 - (b) *Include in the submitted site plan any open space or easement reservation or dedication area and/or off-street trail, pathway or walkway identified by the trail provider in the documentation provided pursuant to (a) above. (Emphasis supplied.)*

Beyond the local requirements in the Washington County regulations quoted above and the others all at Metro letter Attachment 6, another good example from the IATMP itself follows:

“Special Design **Requirement**” that local governments impose restrictions that: “*Maximize the setback between the trail and the railroad track used by WES. The setback distance between a track centerline and the closest edge of the trail should topographic conditions and separation techniques.*” (Emphasis supplied.) IATMP p 82.

Each of the TIG businesses are located along the rail line used by WES and it is on this line that a rail spur is contemplated to support heavy industry. The question becomes: where will this requirement for a maximum setback be and will it make industrial development including a rail spur in this area impossible? The answer is anyone’s guess unless the IATMP is revised to clarify it does not require or authorize such restrictions in the TIG RSIA area.

Legal and Policy Reasons to Adequately Protect RSIA TIG Properties in the IATMP

There is no dispute that the TIG businesses are in an RSIA in the Metro UGB. There is no dispute that the proposed IATMP is a regional trail and there are efforts to give it national significance. See Attachment 7 submitted under separate cover at the hearing. As explained above, the Metro Functional Plan is explicit that regional trails (which TIG believes are defined as “Park” and “linear parks”²) and are certainly places of assembly more than 20,000 square feet, are prohibited in RSIA’s:

“3.07.426(D)/1130(D). Cities and counties *shall* review their land use regulations *and revise them*, if necessary, *to prohibit the siting* of schools, places of assembly larger than 20,000 square feet or *parks intended to serve people other than those working or residing in the RSIA.*” (Emphasis supplied.)

Metro and the jurisdictions failing to supply a reasonable accommodation to the TIG RSIA means the proposed IATMP is, with all due respect, a legal nonstarter. It also makes the IATMP infeasible because the TIG owners are not willing sellers without the reasonable assurances and accommodations they seek as outlined in this letter.

Metro’s Regional Framework Plan and the Metro Functional Plan all provide other requirements that Metro protect the TIG RSIA – which is designed to be a heavy employment area for the region -- from incompatible pedestrian attractor uses. These Metro requirements are similarly not met and are not adequately addressed by the IATMP as currently constituted. Nonexclusive examples of these governing requirements follow below.

□ **Metro Functional Plan Title 4**

“TITLE 4: INDUSTRIAL AND OTHER EMPLOYMENT AREAS

“3.07.410 Purpose and Intent

“The Regional Framework Plan calls for a strong regional economy. To improve the economy, Title 4 seeks to provide and protect a supply of sites for employment *by limiting the types and scale of non-industrial uses in Regionally Significant Industrial Areas (RSIAs), Industrial and Employment Areas. Title 4 also seeks to provide the benefits of "clustering" to those industries that operate more productively and efficiently in proximity to one another than in dispersed locations.* Title 4 further seeks to protect the *capacity and efficiency of the region's transportation system for the movement of goods and services* and to encourage the location of other types of employment in Centers, Corridors, Main Streets and Station Communities. * * *.” (Emphasis supplied.)

“3.07.420 Protection of Regionally Significant Industrial Areas

“A. Regionally Significant Industrial Areas (RSIAs) are *those areas near the region's most significant transportation facilities for the movement of freight and other areas most suitable for movement and storage of goods.* Each city and county with land use planning authority over RSIAs shown on the Employment and Industrial Areas Map shall derive specific plan designation and zoning district boundaries of RSIAs within its jurisdiction from the Map, taking into account the location of existing uses that would not conform to the limitations on non- industrial uses in this section and the need to achieve a mix of employment uses. (Emphasis supplied.)

“* * *

“C. Cities and counties *shall review their land use regulations and revise them, if necessary, to include measures to limit the siting and location of new buildings for the uses described in subsection B and for non-industrial uses that do not cater to daily customers—such as banks or insurance processing centers—to ensure that such uses do not reduce off-peak performance on Main Roadway Routes and Roadway Connectors shown on the Regional Freight Network Map in the RTP or require added road capacity to prevent falling below the standards.* (Emphasis supplied.)

D”. Cities and counties *shall review their land use regulations and revise them, if necessary, to prohibit the siting of schools, places of assembly larger than 20,000 square feet or parks intended to serve people other than those working or residing in the RSIA.* (Emphasis supplied.)

“* * *”

□ **Metro Regional Framework**

Plan: “Chapter 1 Land Use

“Introduction

“The Metro Charter requires that Metro address growth management and land use planning matters of metropolitan concern. This chapter contains the policies that guide Metro in such areas as development of centers, corridors, station communities, and main streets; housing choices; employment choices and opportunities; economic vitality; urban and rural reserves; management of the Urban Growth Boundary (UGB); urban design and local plan and policy coordination.

“* * *

“A livable region is an economically strong region. This chapter contains policies that supports a strong economic climate through encouraging the development of a diverse and sufficient supply of jobs, especially family wage jobs, in appropriate locations throughout the region.

“Six Outcomes, Characteristics of a Successful Region

“It is the policy of the Metro Council to exercise its powers to achieve the following six outcomes, characteristics of a successful region:

- “1. People live, work and play in vibrant communities where their everyday needs are easily accessible.
- “2. Current and future residents benefit from the region’s sustained economic competitiveness and prosperity.
- “3. People have safe and reliable transportation choices that enhance their quality of life.
- “4. The region is a leader in minimizing contributions to global warming.
- “5. Current and future generations enjoy clean air, clean water and healthy ecosystems.
- “6. The benefits and burdens of growth and change are distributed equitably.

“1.4 Employment Choices and Opportunities

“It is the policy of the Metro Council to:

* * *

“1.4.1. Locate expansions of the UGB for industrial or commercial purposes in locations consistent with this plan and where, consistent with state statutes and statewide goals, an assessment of the type, mix and wages of existing and anticipated jobs within subregions justifies such expansion

“1.4.4. *Require, through the Urban Growth Management Functional Plan, that local governments exercise their comprehensive planning and zoning authorities to protect Regionally Significant Industrial Areas from incompatible uses.* (Emphasis supplied.)

“1.4.5. Facilitate investment in those areas of employment with characteristics that make them especially suitable and valuable for traded-sector goods and services, including brownfield sites and sites that are re-developable.

“1.4.6. Consistent with policies promoting a compact urban form, ensure that the region maintains a sufficient supply of tracts 50 acres and larger to meet demand by traded-sector industries for large sites and protect those sites from conversion to non-industrial uses.

“1.8 Developed Urban Land

“It is the policy of the Metro Council to:

“1.8.1 Identify and actively address opportunities for *and obstacles to the continued development* and redevelopment of *existing urban land* using a combination of regulations and incentives to ensure that the prospect of living, working and *doing business in those locations remains attractive to a wide range of households and employers.* (Emphasis supplied.)

“1.8.2 Encourage, in coordination with affected agencies, the redevelopment and reuse of lands used in the past or already used for commercial or industrial purposes wherever economically viable and environmentally sound.

“1.8.3 Assess redevelopment and infill potential in the region when Metro examines whether additional urban land is needed within the UGB, and include the potential for redevelopment and infill on existing urban land as an element when calculating the buildable land supply in the region, where it can be demonstrated that the infill and redevelopment can be reasonably expected to occur during the next 20 years.

“1.8.4 Work with jurisdictions in the region to determine the extent to which redevelopment and infill can be relied on to meet the identified need for additional urban land.

“1.8.5 Initiate an amendment to the UGB, after the analysis and review in 1.8.3, to meet that portion of the identified need for land not met through commitments for redevelopment and infill

TRANSPORTATION:

“Objective 2.4 Freight Reliability

Maintain reasonable and reliable travel times and access through the region as well as between freight intermodal facilities and destinations within and beyond the region to promote the region’s function as a gateway for commerce.

“Objective 2.5 Job Retention and Creation

Attract new businesses and family-wage jobs and retain those that are already located in the region.

“Objective 3.4 Shipping Choices

Support multi-modal freight transportation system that includes air cargo, pipeline, trucking, rail, and marine services to facilitate competitive choices for goods movement for businesses in the region.

“Goal 4: Emphasize Effective and Efficient Management of the Transportation System

Existing and future multi-modal transportation infrastructure and services are well-managed to optimize capacity, improve travel conditions and address air quality goals.

“Goal 5: Enhance Safety and Security

Multi-modal transportation infrastructure and services are safe and secure for the public and goods movement.

“Objective 5.1 Operational and Public Safety

Reduce fatalities, serious injuries and crashes per capita for all modes of travel.

“Objective 5.2 Crime

Reduce vulnerability of the public, goods movement and critical transportation infrastructure to crime.

“Objective 9.2 Maximize Return on Public Investment

Make transportation investment decisions that use public resources effectively and efficiently, using performance-based planning.

‘Goal 10: Deliver Accountability

The region’s government, business, institutional and community leaders work together in an open and transparent manner so the public has meaningful opportunities for input on transportation decisions and experiences an integrated, comprehensive system of transportation facilities and services that bridge governance, institutional and fiscal barriers.

“Objective 10.1 Meaningful Input Opportunities

Provide meaningful input opportunities *for interested and affected stakeholders*, including people who have traditionally been underrepresented, resource agencies, business, institutional and community stakeholders, and local, regional and state jurisdictions that own and operate the region’s transportation system in plan development and review.

“Objective 10.2 Coordination and Cooperation

Ensure representation in regional transportation decision-making is equitable from among all affected jurisdictions and stakeholders and improve coordination and cooperation among the public and private owners and operators of the region’s transportation system so the system can function in a coordinated manner and better provide for state and regional transportation needs. (Emphases supplied)

“MANAGEMENT

“7.5 Functional Plans

It is the policy of the Metro Council to:

“7.5.1 Develop functional plans that are limited purpose plans, consistent with this Plan, which addresses designated areas and activities of metropolitan concern.

“7.5.2 Use functional plans as the identified vehicle for requiring changes in city and county comprehensive plans in order to achieve consistence and compliance with this Plan. Implementation. (Emphases supplied.)

“8.1 Implementation

“It is the policy of the Metro Council to:

“8.1.1 Enforce implementation procedures for those provisions of this Plan that are identified as functional plans as follows:

“a. The effective date section of the ordinance adopting this Plan requires city and county comprehensive plans and land use regulations to comply with this Plan within two years after adoption and compliance acknowledgment of this Plan by the Land Conservation and Development Commission.

“b. The Metro Council shall adopt provisions to adjudicate and determine the consistency of local plans with other functional plans as necessary.

“c. The effective date section of the ordinance adopting this Plan requires each city and county within the jurisdiction of Metro to begin making its land use decisions consistent with this Plan one year after compliance acknowledgment of this Plan by the Land Conservation and Development Commission until its comprehensive plan has been

determined to be consistent with this Plan.”

Further, ORS 197.712(2)(c) requires an adequate amount of industrial land and ORS 197.712(d) requires compatible uses be planned near sites zoned for industrial use and incompatible ones kept away. ORS 197.712(2)(g)(B) requires local governments to provide for industrial needs. ORS 197.723(4)(b) prohibits plan or land use regulation amendments that allow conflicting nonindustrial uses in an RSIA. ORS 197.723(4)(c) prohibits decreasing the amount of land in an RSIA – which here would happen under requirements for large setbacks or dedications required for trail land and similar. Additionally, Statewide Planning Goal 9 and its implementing rules forbid conflicting nonindustrial uses from interfering with an RSIA.

Finally, to the extent the IATMP is reflected or adopted as a part of local TSPs or the Regional RTP then the IATMP is contrary to the TPR in OAR 660-012-030(1)(c) that TSPs provide for adequate systems for the movement of goods and services to support industrial development. The proposed trail and related policy which interferes with the systems for movement of goods and services in the TIG RSIA area and no feasible strategy otherwise has been so much as suggested, is contrary to this requirement.

There are no doubt other laws that apply to protect industrial uses in an RSIA. The point of this letter is that there are strong policy and legal reasons to make the requested adjustments to the IATMP to protect the TIG RSIA and balance its needs and those of the region to enjoy the ice age history of the area, for a palatable and fair IATMP.

Thank you for this opportunity to comment. We look forward to working this out and appreciate your willingness to consider TIG’s concerns.

Very truly yours,

Wendie

Wendie L. Kellington

WLK:wlk
Enclosures submitted at hearing via hand delivery
CC: Clients

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February 26, 2013

Via Hand Delivery
& Electronic Mail

Honorable Chair and
Members of the Washington County Commission

RE: Tonquin Industrial Group (TIG) Qualified OBJECTION to "Ice Age Tonquin Trail Master Plan" Including Alignment in a Regionally Significant Industrial Area

Dear Honorable Chair and Members of the Board:

Please include this letter and attachments 00-11 in the record of the proposed county acceptance of the Ice Age Tonquin Trail Master Plan (IATMP). Thank you for this opportunity to comment. This firm represents employers of more than 50 family wage industrial jobs in a Regionally Significant Industrial Area (RSIA). On behalf of our clients and their employees we ask that you please do not accept or adopt the IATMP without instructions that it either remove the "preferred alignment" in the 50 acre Tonquin Industrial Group (TIG) RSIA, leaving the flexibility to avoid the RSIA or include language requiring any alignment in the RSIA be shown as safe for pedestrian and drivers, does not adversely affect industrial development and freight mobility in the RSIA. There is precedent for what the TIG asks – in Sherwood there is an area where the "Trail alignment is undetermined" and TIG simply asks for a similar accommodation for the RSIA (as suggested on APP 00 until an alignment can be established that is both safe and not harmful to the RSIA. See APP 00.

Specifically, our TIG clients are: Terra Hydr Inc. and Tonquin Industrial LLC (11670 SW Waldo Wy., Sherwood) (includes heavy trucks/tractors and equipment); Bob and Donna Albertson and Albertson Trucking Inc.(23100 McCammant Dr. and 2 S134B000500) (includes heavy trucks / tractors); Mark Brown, McCammant Properties Inc. and Brown Transfer Inc. (23105 SW McCammant Dr., Sherwood) (includes heavy trucks/tractors) and McGuire Brothers LLC and Steve McGuire, whose property is generally described as 2S134B-00600 (proposal includes developing their property with uses involving heavy trucks / tractors). These business owners all own industrial land contemplated to be used or now used for important industrial businesses in the TIG area which is shown generally on IATMP Map 21 Tile 15 page 60 (the TIG area is roughly between "15B" and Tonquin Rd. to the north and south respectively and the railroad tracks and gravel pits to the west and east respectively.) It is also shown on IATMP Map 12 Tile 6. As noted, these companies employ approximately 50 people in the TIG area, in family wage jobs, and significantly more industrial (job) development is contemplated by these TIG employers.

Pursuant to ORS 197.615, please supply the undersigned with notice of the

decision(s) regarding the acceptance or adoption of the IATMP and any amendments to the county's TSP or other plan reflecting or implementing the IATMP.

Attached to this letter are previous TIG comments to Metro on the IATMP and attachments. Those comments are incorporated herein. Moreover, additional attachments are supplied showing the nature of the proposed trail is regionwide if not of national significance. *See* App 7. This matters because parks including linear parks of this magnitude are simply not allowed in RSIA's by the Metro Functional Plan. *See* Metro Functional Plan 3.07.426(D)/1130(D) (quoted at p 8 of this letter); App 12.

Executive Summary

The IATTMP imposes a major trailhead in and an alignment of the IATT through the TIG RSIA with no assurances that the trail and trailhead in the RSIA, which are designed to attract hundreds if not thousands of visitors each day and is **required** to be open 24 hours a day 7 days a week; does not cause serious security problems, freight mobility problems; and current and future land use restrictions on the TIG RSIA's existing and future development. Similarly, there are no assurances that the designated trail or a trail head can feasibly be developed in a way that maintains pedestrian and freight traffic safety. TIG requests that you either deny the invitation to adopt the IATTMP or adopt the IATTMP with the express changes that:

- (1) no IATT alignment or trail head location is selected in the SWCP TIG RSIA; and
- (2) no trail alignment or trail head will be approved by the county in the SWCP TIG RSIA unless that alignment or trail head is shown to not interfere with existing and future TIG RSIA uses and can be established safely for both pedestrians and drivers.

The latter leaves open maximum flexibility that the trail can be developed to achieve its purposes without destroying the RSIA. This assures that people can get to the kolks to the far north and then either head west to connect to 124th or head east and connect to neighborhoods.

With all due respect the claims that the IATTMP is very general, or conceptual or lacks regulatory effect, is betrayed by the express words and requirements that are in the IATTMP. When such claims are being made to convince you to ignore TIG's concerns, please simply turn to the IATTMP pages 71-94 and 104-106. *See* App 10 p 9-32. We think you will agree with TIG that the plan is anything but "general" or "conceptual".

Also, please don't be misled by claims that a Metro "willing seller" policy somehow avoids significant adverse effects on the TIG RSIA businesses. First, the IATTMP specifically states Metro will not be doing all the land acquisition: "It is highly unlikely that the Metro funds will be adequate to purchase all land that is

needed for the trail, and local jurisdictions will need to purchase some of those lands.” IATTMP p 110. Second, Metro’s willing seller policy is just that a policy. What Metro wants it can get. It has not divested itself of authority to release the heavy hammer of condemnation; it just asks first. Third, the council is well aware that land use restrictions don’t have to follow land use acquisition. Government has long imposed restrictions on the use of property that it does not own. Once a plan establishes a trail location or a trailhead location then nothing -- short of litigation arguing unconstitutional takings -- prevents the trail from serving as the basis for land use restrictions including setbacks, making existing structures within trail setbacks “nonconforming uses”; forbidding vegetation removal and similar restrictions that elevate the trail to a place of greater importance than the RSIA and family wage employment.

Finally, TIG hopes you understand there are plenty of other options than going through the TIG RSIA with a trail head or trail alignment. Claims that nothing else is “feasible” should be seriously questioned because they simply do not stand up. There has been no serious study to make any of the available options avoiding the TIG RSIA “infeasible.”

TIG Supports the IATT in Safe, Appropriate Locations

The TIG businesses and owners support a regional trail proving the public with access to ice age phenomena. However, please understand that there are no ice age phenomena in the TIG RSIA. In the TIG RSIA, there is only heavy industry. Putting a heavy usage pedestrian trail in the TIG RSIA area as contemplated is unsafe, causes serious security problems for the RSIA businesses having expensive equipment and will significantly interfere with freight mobility. The county need only consider the significant pedestrian traffic the Grahams Ferry portion of the constructed IATT receives to put this problem in perspective. Specifically, in years 2008-2010 the incomplete and short Tonquin Trail had an average of 743 bike and pedestrian users – 548 of them were pedestrian users. *See Attachment 8 p 1.* There is simply no need or appropriate reason to put a trail head or a trail alignment in this busy TIG RSIA and interfere with the industrial development in the TIG and put people and jobs at risk.

Metro has numerous options. It could show the trail to the kolks just north of the TIG area and the trail heading east to the City of Tualatin residential neighborhoods or west to 124th. So far, TIG’s concerns have fallen on deaf ears. Instead, Metro has headlong rushed the adoption of the IATTMP ahead without listening to or addressing these serious and important issues.

Ameliorative Language No Help

In response to TIG’s serious concerns about safety, security and land use restrictions, Metro added the following language, which badly misses the point and is essentially meaningless to TIG’s concerns:

“The goal of the Ice Age Tonquin Trail in the Southwest Tualatin Concept Plan area is to have a north/south orientation through and adjacent to the areas of highest desirability for interpretation of the Ice Age floods and the associated natural and geologic features. The exact alignment and proposed trailhead location have yet to be determined and will be developed in the future in consultation with the industrial land owners in this area, adjacent property owners, the general public and other stakeholders, no later than the time of annexation. Any property acquired by Metro for the trail will be acquired via a willing seller program.”¹ P 43.

There are no ice age features in the TIG RSIA. The “exact alignment” is not the issue. The issue is *any* alignment in the TIG RSIA where there are not attendant assurances of safety, security and that the trail won’t serve as the basis for restrictive land use requirements. If the region cannot assure that the RSIA will not be jeopardized by the introduction of large numbers of pedestrians, then the region should leave itself the flexibility to avoid the RSIA altogether. Further, this language does not say that the IATMP is not a final decision deciding that the IATT can be lawfully located in the TIG RSIA. It does not say that the TIG RSIA businesses will have rights to object to a trail alignment ultimately put through their properties that creates unsafe pedestrian conflicts and significantly interferes with freight mobility. It does not say existing industry will not become nonconforming if within a trail alignment setback. It does not say that the fact of a trail alignment will not result in vegetation removal restrictions. In short this insulting response provides no meaningful or legally binding assurance.

At the Tualatin hearing on the IATMP and Tualatin TSP, an air quality citizen expert wholly unrelated and unconnected to TIG submitted written and oral testimony that the introduction of pedestrian traffic in areas with diesel engines is unhealthy for the sensitive populations pedestrians represent, particularly children. *See App 11*. This further establishes that the introduction of the conflicting use of a high traffic regional if not national scale trail in an RSIA builds in hopeless conflicts that reduce both the value of the trail and the RSIA.

Metro Verbal Representations

Metro employees tasked with establishing the IATMP and its trail alignment have verbally assured TIG that the IATMP and its trail alignment (1) are conceptual only; (2) impose no requirements or restrictions on the TIG owners; (3) supply no basis for local

¹ The “willing seller” idea is of course meaningless if the plan to make local governments force industrial landowners to give up their land and businesses in whole or part. The IATMP specifically contemplates that local governments, *other than Metro*, will acquire land for the trail alignment. P 110. The IATMP says nothing about those jurisdiction’s rights or willingness to use eminent domain to establish the trail and as the guiding document, should restrict such authority.

jurisdictions to impose requirements on them, (4) will not adversely affect freight, equipment and goods mobility based on pedestrian and bike conflicts, (5) will be followed with safeguards that protect TIG owners' / operators' from liability for personal and property injury to trail users hurt by industrial rail, truck, and equipment traffic (with which the proposed trail alignment has significant conflict), (6) will come with protections for their property and equipment from vandalism and the added burden of costs associated with otherwise having to add and maintain watchmen and security devices, and (7) in any event cannot be implemented without each of the TIG owners' agreement because Metro has a policy not to acquire trails by the heavy handed instrument on eminent domain.¹

If these are true statements, then the IATMP should reflect them. However, as written, the proposed IATMP supports none of these statements and Metro has steadfastly refused to put any of this in writing. Instead, the IATMP makes clear it is final, binding decision on a number of key issues and the TIG will not be able to raise its concerns in any meaningful way later on. The land use principle that a final decision may not be collaterally attacked later on looms large. Consider the following IATTMP statements:

- "The Ice Age Tonquin Trail Master Plan establishes a *clearly defined roadmap for taking the trail from vision to reality*. Building on work completed in the 2004 *Tonquin Trail Feasibility Study* and many other efforts, *this Master Plan provides the information needed as local and regional partners embark on trail implementation efforts*. Providing *detailed alignment, design, and implementation guidance*, this document represents the culmination of tremendous work efforts many stakeholders have undertaken over a multi-year period." P 1, 10. (Emphases supplied.)
- The IATTMP includes numerous detail trail design standards including "Special Design Requirements" See IATMP p 103-125 and costs associated with these detail elements.
- The trail in the TIG area is imminent -- before 2015: "The Ice Age Tonquin Trail needs to be incorporated into ongoing concept planning, updates to transportation system plans and other relevant transportation and land use planning processes and decisions. IATTMP P 106. In particular, there are three projects being planned in a corridor between the Tonquin Road/Morgan Road intersection and the Tonquin Road/Tonquin Loop intersection that directly overlap with the recommended trail alignment. These projects, which are shown on Map 27, include the following:
 - The design for how the 124th Avenue Extension will tie into Tonquin Road
 - The design for the westernmost portion of the new east-west connector (that will extend the 124th Avenue Extension project east toward Interstate 5)
 - Improvements to Tonquin Road.

"Project partners need to work closely with Washington County to be sure that trail design is a component of these projects *and that trail right-of-way is preserved for*

future development in this area. In addition, Metro's 2035 *Regional Transportation Plan* (especially the Financially Constrained project list in that plan) needs to be updated to include the Ice Age Tonquin Trail recommended alignment." (Emphasis supplied.) P 107.

Please note that the IATTMP does not even respect County Ordinance 750 establishing the alignment and study area for 124th Street. See APP 2 and compare App 2 p 8 with App 10 p 32.

□ "Regional trails are open 24 hours a day, 7 days a week. Because this will be their first regional trail, some jurisdictions may need to revise their policies and procedures to be sure that access to the trail is available 24 hours a day, 7 days a week, throughout its entire length." P 146.

Key IATMP Issues

The TIG employers have been clear throughout this process that IATMP trail alignment in the TIG RSIA area has potentially devastating effects on their businesses.² This is because of (1) liability, (2) safety and security concerns, and (3) concerns that it requires or supplies the foundation for industrial land use restrictions; (4) concern that the IATMP trail will be the basis for forced free-of-charge land dedications unfairly diminishing developable RSIA area. See sample Washington County regulations at Metro Letter Attachment 6. These county regulations include purported authority to demand land dedications for trails. Metro Letter Attachment 6, p 1.

Each of the TIG members either now operate or plan to operate heavy trucks and equipment throughout the area, a rail spur is proposed in this area by at least one of the TIG owners to facilitate industrial use (supporting cold storage warehouse or heavy construction distribution is the current plan) and a rail line now exists. There are numerous driveway and street intersections in this industrial area that support heavy industrial use. A regional high use bike and pedestrian trail as proposed in the IATMP in this RSIA area introduces untenable safety and security conflicts between industrial and recreational users causing potential liability, not to mention harm to users. That high recreational use is anticipated for the regional IATMP trail is clear from the IATMP itself as well as Apps 7; and trail counts from

² To the extent that there is an idea to put the trail in the BPA easement, please understand that this would require the exercise of eminent domain as the fee interest is owned by private industry not BPA. See attached tax map and BPA deed regarding Terra Hydr's property. BPA's interest is limited to an easement for power related purposes only. It has no authority to authorize trails or any other type of public access. If the proposal were to acquire land in the BPA easement, the county would likely find a willing seller in RSIA TIG owners if the proposal was limited to trail establishment in the easement that is to the west of the towers and lines. To the east of the towers in the easement would not meet willing sellers because that would have severe adverse consequences on TIG RSIA businesses including safety, security as well as land use restriction and would impose limits on needed maneuvering and expansion area.

Tonquin Trail segments 3-5 years ago. *See* Attachment 8 p 1 submitted under separate cover at the hearing.

While there is undeveloped road right of way in this area owned by the county (McCamant Dr.), it is a narrow, dirt road – an undeveloped right of way. A recent county industrial land use approval required this right of way be partially developed with a 12 ft. drivable surface with a 20 ft. unobscured width, 13.5 ft. vertical clearance and a minimum surface of 12" of crushed rock that must be maintained as such. There is no room for a 12' trail plus industrial roadway. Moreover, this right of way is in the busiest or nearly busiest part of the RSIA being surrounded by a potential distribution facility site, and an existing freight transfer and trucking business (Brown Transfer) and heavy trucking (Albertson Trucking). It cannot be seriously contended that a pedestrian trail can be introduced here without serious safety and security conflicts as well as without causing serious harm to the integrity of the RSIA and the family wage jobs represented.

The IATMP is required by the Regional Framework Plan to be adopted by local governments like Washington County and Tualatin and the IATMP invites and in some places *requires* those adopting jurisdictions to impose setbacks and other land use restrictions on the TIG businesses to protect the IATMP trail as opposed to offering protection for the industrial users in the RSIA. For example, Washington County requires the following in development applications:

“501-8.3 Desirable Services

A. Pedestrian walkways, off-street trails and pathways and bicycle facilities

- (1) Applications may be conditioned to provide on- and off-site pedestrian walkways, off-street trails and pathways; and on- and off-site bicycle facilities, including appropriate open space or easement reservations or dedications, when identified by the appropriate agency and a direct impact or benefit to the proposed use is identified.
- (2) *Applications shall address any off-street trail, pathway or walkway identified on the Transportation Plan Trails and Pedestrian System map or the applicable Community Plan (including facilities identified in Pedestrian Connectivity Areas), that is adjacent to or in proximity to the subject site. Specifically, the applicant shall:*
 - (a) Provide documentation from the current or identified long-term trail provider about needed open space or easement reservations or dedications and/or any necessary improvements for any identified on- or off- site walkway, trail or pathway; *and*

(b) *Include in the submitted site plan any open space or easement reservation or dedication area and/or off-street trail, pathway or walkway identified by the trail provider in the documentation provided pursuant to (a) above. (Emphasis supplied.)*

Beyond the local requirements in the Washington County regulations quoted above and the others all at Metro letter Attachment 6, another good example from the IATMP itself follows:

“Special Design **Requirement**” that local governments impose restrictions that: “*Maximize the setback between the trail and the railroad track used by WES. The setback distance between a track centerline and the closest edge of the trail should topographic conditions and separation techniques.*” (Emphasis supplied.) IATMP p 82.

Each of the TIG businesses are located along the rail line used by WES and it is on this line that a rail spur is contemplated to support heavy industry. The question becomes: where will this requirement for a maximum setback be and will it make industrial development including a rail spur in this area impossible? The answer is anyone’s guess unless the IATMP is revised to clarify it does not require or authorize such restrictions in the TIG RSIA area.

Legal and Policy Reasons to Adequately Protect RSIA TIG Properties in the IATMP

There is no dispute that the TIG businesses are in an RSIA in the Metro UGB. There is no dispute that the proposed IATMP is a regional trail and there are efforts to give it national significance. *See* Attachment 7 submitted under separate cover at the hearing. The Metro Functional Plan is explicit that regional trails (which are defined as “Park” and “linear parks”²) and places of assembly more than 20,000 square feet – which the trail and trailhead clearly are, are prohibited in RSIA’s:

“3.07.426(D)/1130(D). Cities and counties *shall* review their land use regulations *and revise them*, if necessary, *to prohibit the siting* of schools, places of assembly larger than 20,000 square feet or *parks intended to serve people other than those working or residing in the RSIA.*” (Emphasis supplied.)

Metro and the jurisdictions failing to supply a reasonable accommodation to the TIG RSIA means the proposed IATMP is, with all due respect, a legal nonstarter. It also makes the IAMP infeasible because the TIG owners are not willing sellers without the reasonable assurances and accommodations they seek as outlined in this letter.

Metro’s Regional Framework Plan and the Metro Functional Plan all provide other requirements that Metro protect the TIG RSIA – which is designed to be a heavy employment area for the region -- from incompatible pedestrian attractor uses. These Metro requirements are similarly not met and are not adequately addressed by the

IATMP as currently constituted. Nonexclusive examples of these governing requirements follow below.

□ **Metro Functional Plan Title 4**

“TITLE 4: INDUSTRIAL AND OTHER EMPLOYMENT AREAS

“3.07.410 Purpose and Intent

“The Regional Framework Plan calls for a strong regional economy. To improve the economy, Title 4 seeks to provide and protect a supply of sites for employment *by limiting the types and scale of non-industrial uses in Regionally Significant Industrial Areas (RSIAs), Industrial and Employment Areas. Title 4 also seeks to provide the benefits of "clustering" to those industries that operate more productively and efficiently in proximity to one another than in dispersed locations.* Title 4 further seeks to protect the *capacity and efficiency of the region's transportation system for the movement of goods and services* and to encourage the location of other types of employment in Centers, Corridors, Main Streets and Station Communities. * * *.” (Emphasis supplied.).

“3.07.420 Protection of Regionally Significant Industrial Areas

“A. Regionally Significant Industrial Areas (RSIAs) are *those areas near the region's most significant transportation facilities for the movement of freight and other areas most suitable for movement and storage of goods.* Each city and county with land use planning authority over RSIAs shown on the Employment and Industrial Areas Map shall derive specific plan designation and zoning district boundaries of RSIAs within its jurisdiction from the Map, taking into account the location of existing uses that would not conform to the limitations on non-industrial uses in this section and the need to achieve a mix of employment uses. (Emphasis supplied.)

“* * *

“C. Cities and counties *shall review their land use regulations and revise them, if necessary, to include measures to limit the siting and location of new buildings for the uses described in subsection B and for non-industrial uses that do not cater to daily customers—such as banks or insurance processing centers—to ensure that such uses do not reduce off-peak performance on Main Roadway Routes and Roadway Connectors shown on the Regional Freight Network Map in the RTP or require added road capacity to prevent falling below the standards.* (Emphasis supplied.)

D”. Cities and counties *shall review their land use regulations and revise them, if necessary, to prohibit the siting of schools, places of assembly larger than 20,000 square feet or parks intended to serve people other than those working or residing in the RSLA.* (Emphasis supplied.)

“* * *

□ Metro Regional Framework

Plan: “Chapter 1 Land Use

“Introduction

“The Metro Charter requires that Metro address growth management and land use planning matters of metropolitan concern. This chapter contains the policies that guide Metro in such areas as development of centers, corridors, station communities, and main streets; housing choices; employment choices and opportunities; economic vitality; urban and rural reserves; management of the Urban Growth Boundary (UGB); urban design and local plan and policy coordination.

“* * *

“A livable region is an economically strong region. This chapter contains policies that supports a strong economic climate through encouraging the development of a diverse and sufficient supply of jobs, especially family wage jobs, in appropriate locations throughout the region.

“Six Outcomes, Characteristics of a Successful Region

“It is the policy of the Metro Council to exercise its powers to achieve the following six outcomes, characteristics of a successful region:

- “1. People live, work and play in vibrant communities where their everyday needs are easily accessible.
- “2. Current and future residents benefit from the region’s sustained economic competitiveness and prosperity.
- “3. People have safe and reliable transportation choices that enhance their quality of life.
- “4. The region is a leader in minimizing contributions to global warming.
- “5. Current and future generations enjoy clean air, clean water and healthy ecosystems.
- “6. The benefits and burdens of growth and change are distributed equitably.

“1.4 Employment Choices and Opportunities

“It is the policy of the Metro Council to:

* * *

“1.4.1. Locate expansions of the UGB for industrial or commercial purposes in locations consistent with this plan and where, consistent with state statutes and statewide goals, an assessment of the type, mix and wages of existing and anticipated jobs within subregions justifies such expansion

“1.4.4. *Require, through the Urban Growth Management Functional Plan, that local governments exercise their comprehensive planning and zoning authorities to protect Regionally Significant Industrial Areas from incompatible uses.* (Emphasis supplied.)

“1.4.5. Facilitate investment in those areas of employment with characteristics that make them especially suitable and valuable for traded-sector goods and services, including brownfield sites and sites that are re-developable.

“1.4.6. Consistent with policies promoting a compact urban form, ensure that the region maintains a sufficient supply of tracts 50 acres and larger to meet demand by traded-sector industries for large sites and protect those sites from conversion to non-industrial uses.

“1.8 Developed Urban Land

“It is the policy of the Metro Council to:

“1.8.1 Identify and actively address opportunities for *and obstacles to the continued development* and redevelopment of *existing urban land* using a combination of regulations and incentives to ensure that the prospect of living, working and *doing business in those locations remains attractive to a wide range* of households and *employers*. (Emphasis supplied.)

“1.8.2 Encourage, in coordination with affected agencies, the redevelopment and reuse of lands used in the past or already used for commercial or industrial purposes wherever economically viable and environmentally sound.

“1.8.3 Assess redevelopment and infill potential in the region when Metro examines whether additional urban land is needed within the UGB, and include the potential for redevelopment and infill on existing urban land as an element when calculating the buildable land supply in the region, where it can be demonstrated that the infill and redevelopment can be reasonably expected to occur during the next 20 years.

“1.8.4 Work with jurisdictions in the region to determine the extent to which redevelopment and infill can be relied on to meet the identified need for additional urban land.

“1.8.5 Initiate an amendment to the UGB, after the analysis and review in 1.8.3, to meet that

portion of the identified need for land not met through commitments for redevelopment and infill

TRANSPORTATION:

“Objective 2.4 Freight Reliability

Maintain reasonable and reliable travel times and access through the region as well as between freight intermodal facilities and destinations within and beyond the region to promote the region’s function as a gateway for commerce.

“Objective 2.5 Job Retention and Creation

Attract new businesses and family-wage jobs and retain those that are already located in the region.

“Objective 3.4 Shipping Choices

Support multi-modal freight transportation system that includes air cargo, pipeline, trucking, rail, and marine services to facilitate competitive choices for goods movement for businesses in the region.

“Goal 4: Emphasize Effective and Efficient Management of the Transportation System

Existing and future multi-modal transportation infrastructure and services are well-managed to optimize capacity, improve travel conditions and address air quality goals.

“Goal 5: Enhance Safety and Security

Multi-modal transportation infrastructure and services are safe and secure for the public and goods movement.

“Objective 5.1 Operational and Public Safety

Reduce fatalities, serious injuries and crashes per capita for all modes of travel.

“Objective 5.2 Crime

Reduce vulnerability of the public, goods movement and critical transportation infrastructure to crime.

“Objective 9.2 Maximize Return on Public Investment

Make transportation investment decisions that use public resources effectively and efficiently, using performance-based planning.

“Goal 10: Deliver Accountability

The region’s government, business, institutional and community leaders work together in an open and transparent manner so the public has meaningful opportunities for input on transportation decisions and experiences an integrated, comprehensive system of

transportation facilities and services that bridge governance, institutional and fiscal barriers.

“Objective 10.1 Meaningful Input Opportunities

Provide meaningful input opportunities *for interested and affected stakeholders*, including people who have traditionally been underrepresented, resource agencies, business, institutional and community stakeholders, and local, regional and state jurisdictions that own and operate the region’s transportation system in plan development and review.

“Objective 10.2 Coordination and Cooperation

Ensure representation in regional transportation decision-making is equitable from among all affected jurisdictions and stakeholders and improve coordination and cooperation among the public and private owners and operators of the region’s transportation system so the system can function in a coordinated manner and better provide for state and regional transportation needs. (Emphases supplied)

“MANAGEMENT

“7.5 Functional Plans

It is the policy of the Metro Council to:

“7.5.1 Develop functional plans that are limited purpose plans, consistent with this Plan, which addresses designated areas and activities of metropolitan concern.

“7.5.2 Use functional plans as the identified vehicle for requiring changes in city and county comprehensive plans in order to achieve consistence and compliance with this Plan. Implementation. (Emphases supplied.)

“8.1 Implementation

“It is the policy of the Metro Council to:

“8.1.1 Enforce implementation procedures for those provisions of this Plan that are identified as functional plans as follows:

“a. The effective date section of the ordinance adopting this Plan requires city and county comprehensive plans and land use regulations to comply with this Plan within two years after adoption and compliance acknowledgment of this Plan by the Land Conservation and Development Commission.

“b. The Metro Council shall adopt provisions to adjudicate and determine the consistency of local plans with other functional plans as necessary.

“c. The effective date section of the ordinance adopting this Plan requires each city and county within the jurisdiction of Metro to begin making its land use decisions consistent

with this Plan one year after compliance acknowledgment of this Plan by the Land Conservation and Development Commission until its comprehensive plan has been determined to be consistent with this Plan.”

Further, ORS 197.712(2)(c) requires an adequate amount of industrial land and ORS 197.712(d) requires compatible uses be planned near sites zoned for industrial use and incompatible ones kept away. ORS 197.712(2)(g)(B) requires local governments to provide for industrial needs. ORS 197.723(4)(b) prohibits plan or land use regulation amendments that allow conflicting nonindustrial uses in an RSIA. ORS 197.723(4)(c) prohibits decreasing the amount of land in an RSIA – which here would happen under requirements for large setbacks or dedications required for trail land and similar. Additionally, Statewide Planning Goal 9 and its implementing rules forbid conflicting nonindustrial uses from interfering with an RSIA.

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There are no doubt other laws that apply to protect industrial uses in an RSIA. The point of this letter is that there are strong policy and legal reasons to make the requested adjustments to the IATMP to protect the TIG RSIA and balance its needs and those of the region to enjoy the ice age history of the area, for a palatable and fair IATMP.

Thank you for this opportunity to comment. We look forward to working this out and appreciate your willingness to consider TIG’s concerns.

Very truly yours,

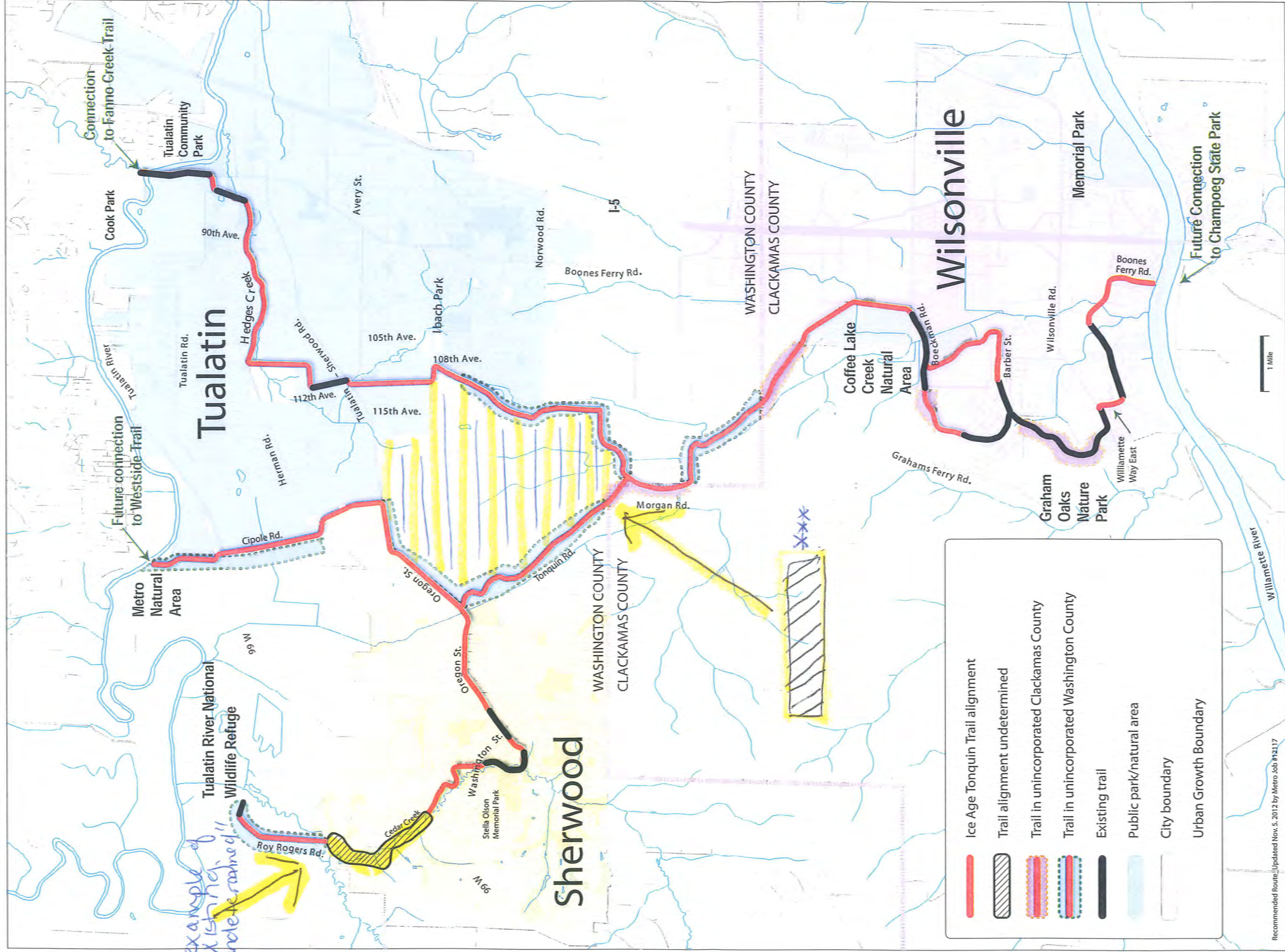
Wendie

Wendie L. Kellington

WLK:wlk

Enclosures submitted at hearing via hand delivery

CC: Clients



Recommended Route, Updated Nov. 5, 2012 by Metro Job #12117

Ice Age Tonquin Trail Route

Ice Age Tonquin Trail Master Plan

Source: Metro Data Resource Center

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January 9, 2013

Via Electronic Mail and Hand Delivery
Leslie Wells (leslie.wells@oregonmetro.gov)
Metro
600 NE Grand Ave
Portland OR

RE: Tonquin Industrial Group (TIG) Qualified OBJECTION to "Ice Age Tonquin Trail Master Plan" Including Alignment in the RSIA in Washington County Near Tualatin

Dear Ms. Wells

Please include this letter in the record of the proposed adoption of the Ice Age Tonquin Trail Master Plan (IATMP). The point of this letter is to ask that Metro either revise the IATMP to adequately protect the Regionally Significant Industrial Area (RSIA) within which the trail alignment is proposed in the 50 acre Tonquin Industrial group (TIG) area as suggested in this letter or remove the IATMP trail alignment so that it avoids the RSIA TIG area in its entirety. Thank you for this opportunity to comment.

This firm represents Terra Hydr Inc. and Tonquin Industrial LLC (11670 SW Waldo Wy., Sherwood) (includes heavy trucks/tractors and equipment); Bob and Donna Albertson and Albertson Trucking Inc.(23100 McCammant Dr. and 2 S134B000500) (includes heavy trucks / tractors); Mark Brown, McCammant Properties Inc. and Brown Transfer Inc. (23105 SW McCammant Dr., Sherwood) (includes heavy trucks/tractors) and McGuire Bearing Company and Steve McGuire, whose property is generally described as 2S134B-00600 (proposal includes developing their property with uses involving heavy trucks / tractors). These business owners all own industrial land contemplated to be used or now used for important industrial businesses in the TIG area which is shown generally on IATMP Map 21 Tile 15 page 60 (the TIG area is roughly between "15B" and Tonquin Rd. to the north and south respectively and the railroad tracks and gravel pits to the west and east respectively.) These companies employ approximately 50 people in the TIG area, in family wage jobs, and significantly more industrial (job) development is contemplated by these TIG employers.

Pursuant to ORS 197.615, please supply the undersigned with notice of the decision(s) regarding the adoption of the IATMP and any amendments to the RTP, Regional framework or Regional Functional Plan reflecting or implementing the IATMP.

Setting the Tone

The TIG businesses and owners generally support the idea of a regional trail in the 614 acre Southwest Concept Plan area. Moreover, they understand there is strong interest in providing the public with opportunities to view the ice age remnant "kolks" underlying the WES

railroad tracks in the northern part of this area. However, Metro has a number of choices including using boardwalks to enable the public to view and access the kolks and the upcoming construction of 124th Avenue including installation of the trail within that right of way (so long as the right of way remains as established in Washington County Ordinance 750 outside of the TIG business operations). Attachment 2. There is little need to interfere with the industrial development and needs of the TIG RSIA.

We wish to reinforce that boardwalks over the kolks to 124th avoiding the TIG area for the IATMP trail should be considered as an alternate to the proposed route. There is nothing prohibiting the establishment of boardwalk trails in the kolks and many reasons to do so. The IATMP even contemplates the use of boardwalks in such circumstances. Metro staff suggested they understood their authority in this regard to be more limited than it is. TIG notes that WES built a railroad track and bridge in the kolks.

We also wish to reinforce that there are alignment choices that Metro is responsible *at this juncture* to make in order to avoid the IATMP having immediate and long term adverse impacts on the appropriate development of the RSIA TIG area. TIG's involvement here is to work with Metro to establish an Ice Age Tonquin Trail alignment and related policy and requirements that balance the importance of protecting the TIG RSIA for industrial development and avoid imposing on this RSIA the hopeless conflicts between heavy industry and recreational trail policy and trailer users that now seems built in.

Moreover, TIG wishes to remind Metro that any trail acquisition must be done by the relevant governmental entity paying fair market value for what it takes; not establish the trail through demanding exactions for the same as the price of new or expanded industrial development. Those portions of the IATMP suggesting otherwise (cited in this letter) should be removed.

Metro Verbal Representations

Metro employees tasked with establishing the IATMP and its trail alignment have verbally assured TIG that the IATMP and its trail alignment (1) are conceptual only; (2) impose no requirements or restrictions on the TIG owners; (3) supply no basis for local jurisdictions to impose requirements on them, (4) will not adversely affect freight, equipment and goods mobility based on pedestrian and bike conflicts, (5) will be followed with safeguards that protect TIG owners' / operators' from liability for personal and property injury to trail users hurt by industrial rail, truck, and equipment traffic (with which the proposed trail alignment has significant conflict), (6) will come with protections for their property and equipment from vandalism and the added burden of costs associated with otherwise having to add and maintain watchmen and security devices, and (7) in any event cannot be implemented without each of the

TIG owners' agreement because Metro has a policy not to acquire trails by the heavy handed instrument on eminent domain.¹

If these are true statements, then the TIG owners ask that the IATMP be amended to state such is the case. This is because the IATMP as written, with all due respect, has the opposite effect, establishing very detailed plans and requirements that are seemingly at odds with these representations. **One part of the IATMP even seems to contemplate that the TIG owners will be asked to give away their land for trail development if they want to develop their properties industrially.** See page 99 cited below. Consider in this regard IATMP statements like (and certainly not limited to) the following:

- “S.W. concept plan area may not develop for years, delaying trail in this area. *Trail development may be required by code as industrial tenants move in.* Every effort should be made to avoid developing disconnected segments of trail, which is a common outcome of *development driven improvements.*” (Emphases supplied). P 99.
- “The Ice Age Tonquin Trail Master Plan establishes a *clearly defined roadmap for taking the trail from vision to reality.* Building on work completed in the 2004 *Tonquin Trail Feasibility Study* and many other efforts, *this Master Plan provides the information needed as local and regional partners embark on trail implementation efforts.* Providing *detailed alignment, design, and implementation guidance,* this document represents the culmination of tremendous work efforts many stakeholders have undertaken over a multi-year period.” P 1, 10. (Emphases supplied.)
- Numerous detail trail design standards including “Special design Requirements” See IATMP p 71-99 and costs associated with these detail elements. P. 106.

¹ The “willing seller” idea is of course meaningless if the plan is in truth to simply allow local governments to force industrial landowners to give away their land for trail development for free, as the price of being allowed to continue to develop their properties for industrial uses in this RSIA area. Compare IATMP p 99 with Attachment 6 p 1. Such demands for exactions would have serious unconstitutional exaction problems of the type outlined in *Dolan v. City of Tigard*. But putting industrial landowners to the expense and delay of litigation and controversy so to force constitutional implementation of the IATMP is unfair and inappropriate under Metro RSIA and state and local industrial land use policy generally. The IATMP specifically contemplates that local governments, *other than Metro*, will acquire land for the trail alignment. IATMP 110. The IATMP says nothing about those jurisdiction’s rights or willingness to use eminent domain to establish the trail and as the guiding document, should restrict such authority. Considering the latter rather large loopholes ostensibly built into the IATMP, as far as it goes, Metro’s representation about Metro trail acquisition being limited to “willing sellers” and Metro not using eminent domain, is accepted as true. See also Attachment 4. This reflects the specific restriction in *Metro’s* voter approved bond prohibiting *Metro’s* involvement in drafting the IATMP or developing the trail where the same would be accompanied by or otherwise justify the use of eminent domain for parks and trails. This restriction is also contained in Metro’s Parks Master Plan and in the IATMP itself: “Metro follows ‘willing seller’ guidelines, meaning that eminent domain, or property condemnation, *is never used to acquire land.* Metro’s 2006 Open Spaces, Parks and Trails bond measure provides acquisition guidance that must be followed when acquiring land for the trail.” IAMP 107. (Emphasis supplied.)

- Reflecting that the beginning trail implementation in the TIG area is contemplated before 2015 “The Ice Age Tonquin Trail *needs to be incorporated into ongoing concept planning, updates to transportation system plans and other relevant transportation and land use planning processes and decisions.* In particular, there are three projects being planned in a corridor between the Tonquin Road/Morgan Road intersection and the Tonquin Road/Tonquin Loop intersection that directly overlap with the recommended trail alignment. These projects, which are shown on Map 27, include the following:
 - The design for how the 124th Avenue Extension will tie into Tonquin Road
 - The design for the westernmost portion of the new east-west connector (that will extend the 124th Avenue Extension project east toward Interstate 5)
 - Improvements to Tonquin Road
- “Project partners need to work closely with Washington County to be sure that trail design is a component of these projects *and that trail right-of-way is preserved for future development* in this area. In addition, Metro’s *2035 Regional Transportation Plan* (especially the Financially Constrained project list in that plan) needs to be updated to include the Ice Age Tonquin Trail recommended alignment.” (Emphasis supplied.) P 108.
- “Regional trails are open 24 hours a day, 7 days a week. Because this will be their first regional trail, some jurisdictions may need to revise their policies and procedures to be sure that access to the trail is available 24 hours a day, 7 days a week, throughout its entire length.” P 114,

IATMP Errors

IATMP Map 27 erroneously shows the “124th Avenue Alignment Study” area. Through TIG efforts, the 124th Ave. Study area was moved off of TIG properties as shown on the attached Attachment 2, which is Washington County engrossed Ordinance 750. IAMP further erroneously suggests that the specific alignment proposed is established in Tualatin’s Southwest Concept Plan. This is incorrect. The SW Concept plan which spans a 614 acre area -- an area far larger than the approximately 50 acre TIG area -- simply states:

“The proposed trail system could incorporate elements of the Tonquin Trail which is in the planning process at the time of this writing. *The alignments of the Tonquin Trail are an emerging issue and are not defined at this time.* The proposed trails in the Concept Plan could evolve and be modified as the Tonquin Trail continues to develop.” Attachment 3.

Finally, the IATMP Map 21 Tile 15, page 60, erroneously shows a public park “Jonnie and William Koller Wetlands Park” on land that is privately owned by McGuire Bearing Company (McGuire). There may well be public land in this generally area but it

is not as depicted on the IATMP. If this land owned by McGuire is hoped to become a public park, then the public must pay for its acquisition. It should not be shown as a public park in the IATMP, however, because it is not only wrong and violative of private property rights, but also invites trespass and encourages the public to venture into unsafe circumstances.

Key IATMP Issues

This is not the first time the TIG businesses have offered comment on the IATMP trail alignment in the TIG area. The TIG businesses would appreciate Metro at last taking their concerns seriously and adjusting the IATMP to reflect a resolution of their concerns. This process is otherwise an expensive distraction from the work of running a business and employing people in the RSIA. The IAMP is Metro's document and as such, Metro has the authority and the duty to make it the clear Ice Age Tonquin Trail roadmap the IATMP claims to be, rather than a recipe for disclarity and litigation about to be sent to local government partners.

The TIG employers have been clear throughout this process that IATMP trail alignment in the TIG RSIA area has potentially devastating effects on their businesses. This is because of (1) liability, (2) safety and security concerns, and (3) concerns that it requires or supplies the foundation for industrial land use restrictions; (4) concern that the IATMP trail will be the basis for forced free-of-charge land dedications unfairly diminishing developable RSIA area. See sample Washington County regulations at Attachment 6. These county regulations include purported authority to demand land dedications for trails. Attachment 6, p 1.

These concerns are not trifling. Each of the TIG members either now operate or plan to operate heavy trucks and equipment throughout the area, a rail spur is proposed in this area by at least one of the TIG owners to facilitate industrial use (supporting cold storage warehouse or heavy construction distribution is the current plan) and a rail line now exists. There are numerous driveway and street intersections in this industrial area that support heavy industrial use. A regional high use bike and pedestrian trail as proposed in the IATMP in this RSIA area introduces untenable safety and security conflicts between industrial and recreational users causing potential liability, not to mention harm to users. That high recreational use is anticipated for the regional IATMP trail is clear from the IATMP itself as well as Attachment 1.

Moreover, the IATMP is required by the Regional Framework Plan to be adopted by local governments like Washington County and Tualatin and the IATMP invites and in some places *requires* those adopting jurisdictions to impose setbacks and other land use restrictions on the TIG businesses to protect the IATMP trail as opposed to offering protection for the industrial users in the RSIA. Beyond the local requirements in the Washington County regulations at Attachment 6, another good example from the IATMP itself follows:

1. "Special Design ***Requirement***" that local governments impose restrictions that:
"Maximize the setback between the trail and the railroad track used by WES. The setback distance between a track centerline and the closest edge of the trail should

correlate to the type, speed, and frequency of train operations, as well as the topographic conditions and separation techniques.” (Emphasis supplied.) IATMP p 82.

Each of the TIG businesses are located along the rail line used by WES and it is on this line that a rail spur is contemplated to support heavy industry. The question becomes: where will this requirement for a maximum setback be and will it make industrial development including a rail spur in this area impossible? The answer is anyone’s guess unless the IATMP is revised to clarify it does not require or authorize such restrictions in the TIG RSIA area.

Suggestions for How to Protect the TIG RSIA

The IATMP should be amended to remove the IATMP “Special Design Setback” requirement for a “maximum” setback from the WES railroad tracks. Language should instead be inserted stating that no setback shall be required that interferes with RSIA uses or development including the development and use of a rail spur.

The IATMP should be amended to include and maintain substantially the following language:

The conceptual alignment of the Ice Age Tonquin Trail in the area roughly shown on IATMP Map 21 Tile 15 page 60 follows the railroad tracks in an employment area designated by Metro as a RSIA which is composed of existing and future heavy industry and consumer storage uses, among others. If the Ice Age Tonquin Trail is aligned in this RSIA employment area, to avoid conflicts and to protect these businesses that currently employ more than 50 people in family wage jobs and future businesses, the Ice Age Tonquin Trail will neither serve as a justification, nor as any support for, residential plan and zone designations on the Basalt Concept Planning area north of Tonquin Rd and east of Tonquin Loop Rd.

To further avoid the Ice Age Tonquin Trail interfering with the growth of the RSIA TIG area, the IATMP and trail alignment shall not be the basis for any local government to impose any requirements for land dedication for the Ice Age Tonquin Trail or any setbacks from the trail or to impose restrictive land use conditions or for any refusal to approve RSIA land use applications, including but not limited to such things as a distribution center, consumer storage for boats, RVs and the like, or any new or modified use that significantly increases the amount of truck or equipment traffic, installation or use of a rail spur, outdoor storage of equipment, goods and other material; truck and equipment parking and the like. Moreover, because there is heavy truck and equipment traffic in the RSIA TIG area which would pose significant safety conflicts with pedestrian and bike traffic on the trail, the owners have advised Metro that either Metro or other local government must at the time of trail establishment provide and maintain insurance naming each business and their owners all as additional insureds against

trail user claims for personal injury, death and property damage or other equivalent liability protection.

Further, in the interest of safety and security, if the Ice Age Tonquin Trail is aligned in the TIG area, then no trail shall be constructed or installed without at least a 7 foot fence separating the trail from the TIG properties. Specific design details of any such fence will be worked out between Metro and the property owners at the time of trail right of way acquisition.

Moreover, if the Tonquin Trail is aligned in the TIG area, then it shall be the obligation and responsibility of Metro or responsible local government to install and maintain signage warning trail users of heavy truck and equipment traffic, warning the cross traffic does not stop, and warning trail users to stay on the trail as well as to install and maintain pedestrian and bike stop signs at all locations where the trail crosses a driveway or street in this TIG area.

Finally, in the interest of safety and security, there shall be no benches or restrooms on or along the Tonquin Trail in the TIG area unless all affected TIG property owners give their written consent for the same.

Legal and Policy Reasons to Adequately Protect RSIA TIG Properties in the IATMP

There is no dispute that the TIG businesses are in an RSIA in the Metro UGB. There is no dispute that the proposed IATMP is a regional trail. The Metro Functional Plan is explicit that regional trails (which are defined as “Park” and “linear parks”²) are prohibited in RSIA:

“3.07.426(D)/1130(D). Cities and counties *shall* review their land use regulations *and revise them*, if necessary, *to prohibit the siting* of schools, places of assembly larger than 20,000 square feet or *parks intended to serve people other than those working or residing in the RSIA.*” (Emphasis supplied.)

Metro failing to work with these RSIA TIG owners to come up with a reasonable accommodation means the proposed IATMP is a nonstarter. It also makes the IAMP infeasible because the TIG owners are not willing sellers without the reasonable accommodations they seek as outlined in this letter.

Metro’s Regional Framework Plan and the Metro Functional Plan all provide other requirements that Metro protect the TIG RSIA from incompatible trail uses. These Metro

² See Attachment 5. Further, Metro 1992 Greenspaces Master Plan includes the following definition: “**Parkland:** land in public ownership designated largely for recreational human uses or park purposes.” Finally, OAR 660-34-0035(2), which Metro’s program is acknowledged by LCDC as implementing Goal 8, defines trails uses as park uses.

requirements are similarly not met or are not adequately addressed by the IATMP as currently constituted. Nonexclusive examples of these governing requirements follow below.

- **Metro Functional Plan Title 4**

“TITLE 4: INDUSTRIAL AND OTHER EMPLOYMENT AREAS

“3.07.410 Purpose and Intent

“The Regional Framework Plan calls for a strong regional economy. To improve the economy, Title 4 seeks to provide and protect a supply of sites for employment *by limiting the types and scale of non-industrial uses in Regionally Significant Industrial Areas (RSIAs), Industrial and Employment Areas. Title 4 also seeks to provide the benefits of "clustering" to those industries that operate more productively and efficiently in proximity to one another than in dispersed locations.* Title 4 further seeks to protect the *capacity and efficiency of the region's transportation system for the movement of goods and services* and to encourage the location of other types of employment in Centers, Corridors, Main Streets and Station Communities. * * *.” (Emphasis supplied.)

“3.07.420 Protection of Regionally Significant Industrial Areas

“A. Regionally Significant Industrial Areas (RSIAs) are *those areas near the region's most significant transportation facilities for the movement of freight and other areas most suitable for movement and storage of goods.* Each city and county with land use planning authority over RSIAs shown on the Employment and Industrial Areas Map shall derive specific plan designation and zoning district boundaries of RSIAs within its jurisdiction from the Map, taking into account the location of existing uses that would not conform to the limitations on non-industrial uses in this section and the need to achieve a mix of employment uses. (Emphasis supplied.)

“* * *

“C. Cities and counties *shall* review their land use regulations *and revise them, if necessary,* to include measures *to limit the siting and location* of new buildings for the uses described in subsection B and *for non-industrial uses that do not cater to daily customers—such as banks or insurance processing centers—to ensure that such uses do not reduce off-peak performance on Main Roadway Routes and Roadway Connectors shown on the Regional Freight Network Map in the RTP or require added road capacity to prevent falling below the standards.* (Emphasis supplied.)

D”. Cities and counties *shall* review their land use regulations *and revise them, if necessary,* to *prohibit the siting* of schools, places of assembly larger than 20,000 square feet or *parks intended to serve people other than those working or residing in the RSIA.* (Emphasis supplied.)

“* * *”

- **Metro Regional Framework Plan:**

“Chapter 1 Land Use

“Introduction

“The Metro Charter requires that Metro address growth management and land use planning matters of metropolitan concern. This chapter contains the policies that guide Metro in such areas as development of centers, corridors, station communities, and main streets; housing choices; employment choices and opportunities; economic vitality; urban and rural reserves; management of the Urban Growth Boundary (UGB); urban design and local plan and policy coordination.

“* * *

“A livable region is an economically strong region. This chapter contains policies that supports a strong economic climate through encouraging the development of a diverse and sufficient supply of jobs, especially family wage jobs, in appropriate locations throughout the region.

“Six Outcomes, Characteristics of a Successful Region

“It is the policy of the Metro Council to exercise its powers to achieve the following six outcomes, characteristics of a successful region:

- “1. People live, work and play in vibrant communities where their everyday needs are easily accessible.
- “2. Current and future residents benefit from the region’s sustained economic competitiveness and prosperity.
- “3. People have safe and reliable transportation choices that enhance their quality of life.
- “4. The region is a leader in minimizing contributions to global warming.
- “5. Current and future generations enjoy clean air, clean water and healthy ecosystems.
- “6. The benefits and burdens of growth and change are distributed equitably.

“1.4 Employment Choices and Opportunities

“It is the policy of the Metro Council to:

* * *

“1.4.1. Locate expansions of the UGB for industrial or commercial purposes in locations consistent with this plan and where, consistent with state statutes and statewide goals, an assessment of the type, mix and wages of existing and anticipated jobs within subregions justifies such expansion

“1.4.4. *Require, through the Urban Growth Management Functional Plan, that local governments exercise their comprehensive planning and zoning authorities to protect Regionally Significant Industrial Areas from incompatible uses.* (Emphasis supplied.)

“1.4.5. Facilitate investment in those areas of employment with characteristics that make them especially suitable and valuable for traded-sector goods and services, including brownfield sites and sites that are re-developable.

“1.4.6. Consistent with policies promoting a compact urban form, ensure that the region maintains a sufficient supply of tracts 50 acres and larger to meet demand by traded-sector industries for large sites and protect those sites from conversion to non-industrial uses.

“1.8 Developed Urban Land

“It is the policy of the Metro Council to:

“1.8.1 Identify and actively address opportunities for *and obstacles to the continued development* and redevelopment of *existing urban land* using a combination of regulations and incentives to ensure that the prospect of living, working and *doing business in those locations remains attractive to a wide range* of households and *employers*. (Emphasis supplied.)

“1.8.2 Encourage, in coordination with affected agencies, the redevelopment and reuse of lands used in the past or already used for commercial or industrial purposes wherever economically viable and environmentally sound.

“1.8.3 Assess redevelopment and infill potential in the region when Metro examines whether additional urban land is needed within the UGB, and include the potential for redevelopment and infill on existing urban land as an element when calculating the buildable land supply in the region, where it can be demonstrated that the infill and redevelopment can be reasonably expected to occur during the next 20 years.

“1.8.4 Work with jurisdictions in the region to determine the extent to which redevelopment and infill can be relied on to meet the identified need for additional urban land.

“1.8.5 Initiate an amendment to the UGB, after the analysis and review in 1.8.3, to meet that portion of the identified need for land not met through commitments for redevelopment and infill

“TRANSPORTATION:

“Objective 2.4 Freight Reliability

Maintain reasonable and reliable travel times and access through the region as well as between freight intermodal facilities and destinations within and beyond the region to promote the region’s function as a gateway for commerce.

“Objective 2.5 Job Retention and Creation

Attract new businesses and family-wage jobs and retain those that are already located in the region.

“Objective 3.4 Shipping Choices

Support multi-modal freight transportation system that includes air cargo, pipeline, trucking, rail, and marine services to facilitate competitive choices for goods movement for businesses in the region.

“Goal 4: Emphasize Effective and Efficient Management of the Transportation System

Existing and future multi-modal transportation infrastructure and services are well-managed to optimize capacity, improve travel conditions and address air quality goals.

“Goal 5: Enhance Safety and Security

Multi-modal transportation infrastructure and services are safe and secure for the public and goods movement.

“Objective 5.1 Operational and Public Safety

Reduce fatalities, serious injuries and crashes per capita for all modes of travel.

“Objective 5.2 Crime

Reduce vulnerability of the public, goods movement and critical transportation infrastructure to crime.

“Objective 9.2 Maximize Return on Public Investment

Make transportation investment decisions that use public resources effectively and efficiently, using performance-based planning.

‘Goal 10: Deliver Accountability

The region’s government, business, institutional and community leaders work together in an open and transparent manner so the public has meaningful opportunities for input on transportation decisions and experiences an integrated, comprehensive system of transportation facilities and services that bridge governance, institutional and fiscal barriers.

“Objective 10.1 Meaningful Input Opportunities

Provide meaningful input opportunities *for interested and affected stakeholders*, including people who have traditionally been underrepresented, resource agencies, business, institutional and community stakeholders, and local, regional and state jurisdictions that own and operate the region’s transportation system in plan development and review.

“Objective 10.2 Coordination and Cooperation

Ensure representation in regional transportation decision-making is equitable from among all affected jurisdictions and stakeholders and improve coordination and cooperation among the public and private owners and operators of the region’s transportation system so the system can function in a coordinated manner and better provide for state and regional transportation needs
(Emphases supplied)

“MANAGEMENT

“7.5 Functional Plans

It is the policy of the Metro Council to:

“7.5.1 Develop functional plans that are limited purpose plans, consistent with this Plan, which addresses designated areas and activities of metropolitan concern.

“7.5.2 Use functional plans as the identified vehicle for requiring changes in city and county comprehensive plans in order to achieve consistence and compliance with this Plan.
Implementation. (Emphases supplied.)

“8.1 Implementation

“It is the policy of the Metro Council to:

“8.1.1 Enforce implementation procedures for those provisions of this Plan that are identified as functional plans as follows:

“a. The effective date section of the ordinance adopting this Plan requires city and county comprehensive plans and land use regulations to comply with this Plan within two years after adoption and compliance acknowledgment of this Plan by the Land Conservation and Development Commission.

“b. The Metro Council shall adopt provisions to adjudicate and determine the consistency of local plans with other functional plans as necessary.

“c. The effective date section of the ordinance adopting this Plan requires each city and county within the jurisdiction of Metro to begin making its land use decisions consistent with this Plan one year after compliance acknowledgment of this Plan by the Land Conservation and

Development Commission until its comprehensive plan has been determined to be consistent with this Plan.”

Finally, ORS 197.712(2)(c) requires an adequate amount of industrial land and ORS 197.712(d) requires compatible uses be planned near sites zoned for industrial use and incompatible ones kept away. ORS 197.712(2)(g)(B) requires local governments to provide for industrial needs. ORS 197.723(4)(b) prohibits plan or land use regulation amendments that allow conflicting nonindustrial uses in an RSIA. ORS 197.723(4)(c) prohibits decreasing the amount of land in an RSIA – which here would happen under requirements for large setbacks or dedications required for trail land and similar. Further Statewide Planning Goal 9 and its implementing rules forbid conflicting nonindustrial uses from interfering with an RSIA as here.

Finally, to the extent the IATMP will be adopted as a part of local TSPs or the Regional RTP as it stated is anticipated to follow at some point, without resolving the TIG issues such would be contrary to the TPR in OAR 660-012-030(1)(c) that TSPs provide for adequate systems for the movement of goods and services to support industrial development. The proposed trail and related policy which interferes with the systems for movement of goods and services in the TIG area is contrary to this requirement.

There are no doubt other laws that apply to protect industrial uses in an RSIA. The point of this letter is that there are strong policy and legal reasons to make the request modest adjustments to the IATMP to protect the TIG RSIA and balance its needs and those of the region to enjoy the ice age history of the area, for a palatable and fair IATMP.

Thank you for this opportunity to comment. We look forward to working with Metro toward a more palatable IATMP and hope to hear from Metro in this regard soon.

Very truly yours,

Wendie L. Kellington

Wendie L. Kellington

WLK:wlk

Enclosures

CC: Clients

Roger Alfred, Senior Assistant Metro Attorney

ATTACHMENT 1

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December 7, 2012 10:30 AM

Ice Age Tonquin Trail has new name, new master plan

The Ice Age Tonquin Trail is taking one important step back in time – and another big step forward.

Recently renamed for floods that shaped the landscape thousands of years ago, the 22-mile trail now has an official blueprint. Partners along the route worked together on the master plan, bringing the trail closer to reality for cyclists, walkers and runners.



For now, people can explore initial sections of the trail at Stella Olsen Park in Sherwood, Tualatin Community Park and Metro's Graham Oaks Nature Park in Wilsonville. Someday, they'll be able to traverse a pitchfork-shaped trail that spans two rivers, two counties and three cities. But, as Metro Councilor Carl Hosticka sees it, visitors will take the holistic view when they traverse spectacular scenery along the trail.

"People may be unaware of which jurisdiction they are in, but the trail allows them to access the entire landscape in the area and enjoy it on a regional level," said Hosticka, who has represented the southwest part of the region for 12 years. "I think that's a main benefit."

This fall, the trail formerly known as the Tonquin got a new descriptor: "Ice Age." The name was expanded at the request of community advocates, in homage to an era that dramatically reshaped the northwestern United States.

Some 15,000 years ago, a huge ice dam repeatedly broke near the Montana-Canada border, unleashing water, icebergs, glacial ice and debris. Cascading through Montana, Idaho, Washington and Oregon at the speed of a car driving on the freeway, the floods left their mark. Visitors to the Ice Age Tonquin Trail will find scoured scablands, rich wetlands and kolk ponds.

"We figured the Ice Age Tonquin Trail would bring visibility and identity to something that happened thousands of years ago," said Yvonne Addington, past president of the Tualatin Historical Society, who led the campaign for a name change.

Addington got interested in the area's natural history during the early 1960s, when she typed a research paper for a Portland State University student who discovered a mastodon skeleton in Tualatin. A decade later, when Addington was serving as Tualatin city manager, she helped bring the skeleton back to the city. More recently, she collaborated with other community advocates to create an "Ice Age Tourism Plan" – making natural history a calling card for the area.

Their work dovetailed with progress on the Tonquin Trail. Nearly four years ago, Metro joined forces with representatives from each community along the proposed route to launch a planning process. A steering committee evaluated possible routes and designs, and agreed on who would operate and maintain each section.

More than 1,000 residents have weighed in online, at open houses or at community festivals. Until January 9, people have one last opportunity to comment; after that, the plan will be forwarded to city, county and regional officials for approval.

For many trail enthusiasts, the most exciting progress will come on the ground. The rest of the trail will be built as resources are identified, starting with a 1.5-mile section in Sherwood known as the Cedar Creek Greenway. Residents will have an opportunity to help fine-tune the route and design in the coming months, before construction begins. Meanwhile, Metro is working to secure land for other sections of the trail with funds from a 2005 bond measure approved by voters across the region.

Expanding the Tonquin will be popular among cyclists who want to take longer rides, including those commuting within the southwest part of the region for work, said Clackamas County Chair Charlotte Lehan. She's also excited about helping people experience the area's unique geology, which can be overlooked when you're zooming down Interstate 5.

Existing sections of the Tonquin already have a strong following, Lehan said. She knows first-hand; she walks or bikes through Graham Oaks Nature Park a couple of times a week.

"Any hour of the day, it will be busy – and all ages. People who are leisurely strollers,

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ATTACHMENT 1

people who are clearly exercise walkers," Lohan said. "I think it's a real asset for the community."

Learn more about the Ice Age Tonquin Trail

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WASHINGTON COUNTY OREGON

August 17, 2012

To: Citizen Participation Organizations and Interested Parties

From: *AW for*
Andy Back, Interim Long Range Planning Manager
Department of Land Use & Transportation

Subject: **PROPOSED A-ENGROSSED ORDINANCE NO. 750**

On June 11, 2012, you were notified about initial public hearings before the Planning Commission and the Board of County Commissioners (Board) on proposed Land Use Ordinance No. 750. On July 11, 2012 the Planning Commission conducted a public hearing on Ordinance 750 and forwarded a recommendation to the Board for engrossment of Ordinance 750. On August 7, 2012 the Board conducted a public hearing on Ordinance No. 750, and ordered substantive amendments to this ordinance. These changes have been incorporated into proposed **A-Engrossed Ordinance No. 750** and are summarized below. As required by Chapter X of the County Charter, the Board has directed staff to prepare and provide you with notice of these amendments.

Enclosed for your information is a copy of proposed **A-Engrossed Ordinance No. 750**. Listed below is a description of the ordinance, upcoming hearing dates, and other relevant information. If you have any questions about the ordinance, or if you would like additional information, please contact the Long Range Planning Division.

Ordinance Purpose and Summary

Proposed A-Engrossed Ordinance No. 750 amends the Washington County Transportation Plan to incorporate the proposed 124th Avenue Extension.

Who Is Affected

Residents living in the vicinity of the proposed 124th Avenue Extension.

What Land is Affected

Properties located in the vicinity of the proposed 124th Avenue Extension.

Original Ordinance No. 750 Provisions

As originally filed, Ordinance 750 proposed the following amendments to the Washington County 2020 Transportation Plan:

- Amends the Washington County Transportation Plan to incorporate the proposed 124th Avenue Extension by adding the proposed 124th Avenue Extension to Policy 10 - Functional Classification Policy, Policy 11 - Road Jurisdiction Policy, and Policy 16 - Freight Policy.
- A study area is added to Policy 10 to address needs in the area as part of future concept planning within the urban reserves in the vicinity.
- Limits transportation system changes to roadways within the Urban Growth Boundary (UGB) as it existed before Metro's decision to expand the UGB in October 2011 (Metro Ordinance 11-1264 B).

Proposed A-Engrossed Ordinance No. 750 Provisions

Proposed A-Engrossed Ordinance No. 750 incorporates all of the above-described amendments, plus the following proposed amendment:

- The study area's eastern boundary has been shifted to the west. This reduces the size and expanse of the study area, thus minimizing the size and scope of the designation on the map.

Citizen Participation Organization and Interested Parties Notice
Proposed A-Engrossed Ordinance No. 750
Page 2 of 2

**Public Hearings
Time and Place**

**Board of County Commissioners
6:30 pm
August 28, 2012**

**Board of County Commissioners
10:00 am
September 18, 2012**

Hearings will be held in the Shirley Huffman Auditorium in the Public Services Building, 155 North 1st Avenue, Hillsboro, Oregon.

On September 18, 2012, the Board of County Commissioners (Board) may choose to adopt the ordinance, make changes to it, continue the hearing to a future date, or reject the ordinance. If it is adopted, it would become effective on October 18, 2012.

**How to Submit
Comments**

Submit oral or written testimony to the Board at one of the public hearings. Written testimony may be mailed or faxed to the Board in advance of the public hearings in care of the Long Range Planning Division. **We are unable to accept e-mail as public testimony.**

Washington County, Long Range Planning Division
155 N. 1st Ave., Suite 350-14, Hillsboro, OR 97124-3072
Fax: 503-846-4412

Staff Contact

Steve L. Kelley, Senior Planner
155 North 1st Ave., Suite 350-14, Hillsboro, OR 97124-3072
Telephone: 503-846-3764 Fax: 503-846-4412
e-mail: SteveL_Kelley@co.washington.or.us

**Proposed Ordinance is
available at the
following locations:**

- Washington County Department of Land Use & Transportation
Long Range Planning Division, 155 North 1st Ave.
Hillsboro, OR 97124-3072 Telephone: 503-846-3519
<http://www.co.washington.or.us/LUT/Divisions/LongRangePlanning/2012-land-use-ordinances.cfm>
- Cedar Mill Community Library and Tigard Public Library
- Citizen Participation Organizations (CPOs); Call 503-821-1128 for a directory of CPOs.

AGENDA

Continued from August 28, 2012

WASHINGTON COUNTY BOARD OF COMMISSIONERS

Agenda Category: Public Hearing – Third Reading and Third Public Hearing
Land Use & Transportation; County Counsel (CPO 5)

Agenda Title: PROPOSED A-ENGROSSED ORDINANCE NO. 750 – AN
ORDINANCE ADDING THE EXTENSION OF SW 124TH AVENUE
TO THE 2020 TRANSPORTATION PLAN

Presented by: Andrew Singelakis, Director, Land Use & Transportation
Alan Rappleyea, County Counsel

SUMMARY:

A-Engrossed Ordinance No. 750 adds the proposed 124th Avenue extension to the Washington County Transportation Plan Policy 10 – Function Classification Policy, Policy 11 – Road Jurisdiction Policy, and Policy 16 – Freight Policy. A study area is added to Policy 10 to address needs in the area as part of the future concept planning within the urban reserves in the vicinity. The ordinance is posted on the county's land use ordinance web page at the following link:

<http://www.co.washington.or.us/LUT/Divisions/LongRangePlanning/2012-land-use-ordinances.cfm>

The Board conducted the first public hearing for Ordinance No. 750 on August 7, 2012. At the hearing the Board ordered engrossment of the ordinance to adjust the study area map as requested by the Tonquin Industrial Group and as recommended by the Planning Commission at its July 11, 2012 public hearing for Ordinance No. 750. The Board continued the hearing to August 28, and September 18, 2012 for the required public hearings for the engrossed ordinance.

- Consistent with Board policy, testimony about the ordinance is limited to two minutes for individuals and five minutes for a representative of a group.

DEPARTMENT'S REQUESTED ACTION:

Read A-Engrossed Ordinance No. 750 by title only and conduct the third public hearing. At the conclusion of the hearing, adopt the Ordinance.

COUNTY ADMINISTRATOR'S RECOMMENDATION:

I concur with the requested action.

ADOPTED

Agenda Item No.	4.b.
Date:	09/18/12

AUG 10 2012

Washington County
County Clerk

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR WASHINGTON COUNTY, OREGON

A-ENGROSSED ORDINANCE 750

An Ordinance Adding the Extension of SW 124th
Avenue to the 2020 Transportation Plan

The Board of County Commissioners of Washington County, Oregon, ordains as follows:

SECTION 1.

A. The Board of County Commissioners of Washington County, Oregon, recognizes that the Transportation Plan Element of the Comprehensive Plan (Volume XV) was adopted on October 25, 1988, by way of Ordinance Nos. 332 and 333, with portions subsequently amended by Ordinance Nos. 343, 382, 409, 419, 426, 432, 450, 463, 470, 471, 473, 474, 480, 483-485, 493, 494, 503, 515, 526, 537, 542, 546, 552, 556, 588, 601, 609, 611, 626, 627, 631, 642, 649, 663, 674, 683, 712, 713, 717, 718, 730, 739, and 744.

B. Subsequent ongoing planning efforts of the County indicate a need for changes to the Transportation Plan to incorporate the proposed 124th Avenue Extension in order to ensure sufficient capacity and safe operations due to increased future use. Exhibit 3 is replaced with a map depiction reflecting a change to the SW 124th Avenue extension study area. The Board takes note that such changes are necessary for the benefit of the health, safety, and general welfare of the residents of Washington County, Oregon.

C. Under the provisions of Washington County Charter Chapter X, the Department of Land Use and Transportation has carried out its responsibilities, including preparation of notices, and the County Planning Commission has conducted public hearings on the proposed

1 amendments and has submitted its recommendations to the Board. The Board finds that this
2 Ordinance is based on that recommendation and any modifications made by the Board, as a result
3 of the public hearings process.

4 D. The Board finds and takes public notice that it is in receipt of all matters and
5 information necessary to consider this Ordinance in an adequate manner, and that this Ordinance
6 complies with the Statewide Planning Goals, the Metro Urban Growth Management Functional
7 Plan, and the standards for legislative plan adoption, as set forth in Chapters 197 and 215 of the
8 Oregon Revised Statutes, the Washington County Charter, and the Washington County
9 Development Code.

10 SECTION 2.

11 The following exhibits, attached and incorporated herein by reference, are hereby adopted as
12 amendments to the Transportation Plan:

- 13 (A) Exhibit 1: Figure 4D – Washington County Functional Classification System map, is
14 amended to add the proposed 124th Avenue Extension;
- 15 (B) Exhibit 2: Figure 5 – Washington County Lane Numbers map, is amended to add the
16 proposed 124th Avenue Extension;
- 17 (C) Exhibit 3: Adds the 124th Extension Study Area Overlay Map to the Transportation
18 Plan;
- 19 (D) Exhibit 4: Adds text describing the 124th Extension Study Area to the list of Study
20 Areas in the Transportation Plan;
- 21 (E) Exhibit 5: Figure 10 – Countywide Road System map, is amended to add the
22 proposed 124th Avenue Extension; and,

(F) Exhibit 6: Figure 14 – Countywide Through-Truck Route map, is amended to add the proposed 124th Avenue Extension.

SECTION 3.

All other Comprehensive Plan provisions that have been adopted by prior ordinance, which are not expressly amended or repealed herein, shall remain in full force and effect.

SECTION 4

All applications received prior to the effective date shall be processed in accordance with ORS 215.427.

SECTION 5.

If any portion of this Ordinance, including the exhibits, shall for any reason be held invalid or unconstitutional by a body of competent jurisdiction, the remainder shall not be affected thereby and shall remain in full force and effect, and any provision of a prior land use ordinance amended or repealed by the stricken portion of this Ordinance shall be revived and again be considered in full force and effect.

SECTION 6.

The Office of County Counsel and Department of Land Use and Transportation are authorized to prepare planning documents to reflect the changes adopted under Section 2 of this Ordinance, including deleting and adding textual material and maps, renumbering pages or sections, and making any technical changes not affecting the substance of these amendments as necessary to conform to the Washington County Comprehensive Plan format.

///

////

SECTION 7.

This Ordinance shall take effect thirty (30) days after adoption.

ENACTED this 18 day of September, 2012, being the 3rd reading and
3rd public hearing before the Board of County Commissioners of Washington County,
Oregon.

BOARD OF COUNTY COMMISSIONERS
FOR WASHINGTON COUNTY, OREGON

ADOPTED

Andy Ona
CHAIRMAN

Barbara Hejtmank
RECORDING SECRETARY

READING

PUBLIC HEARING

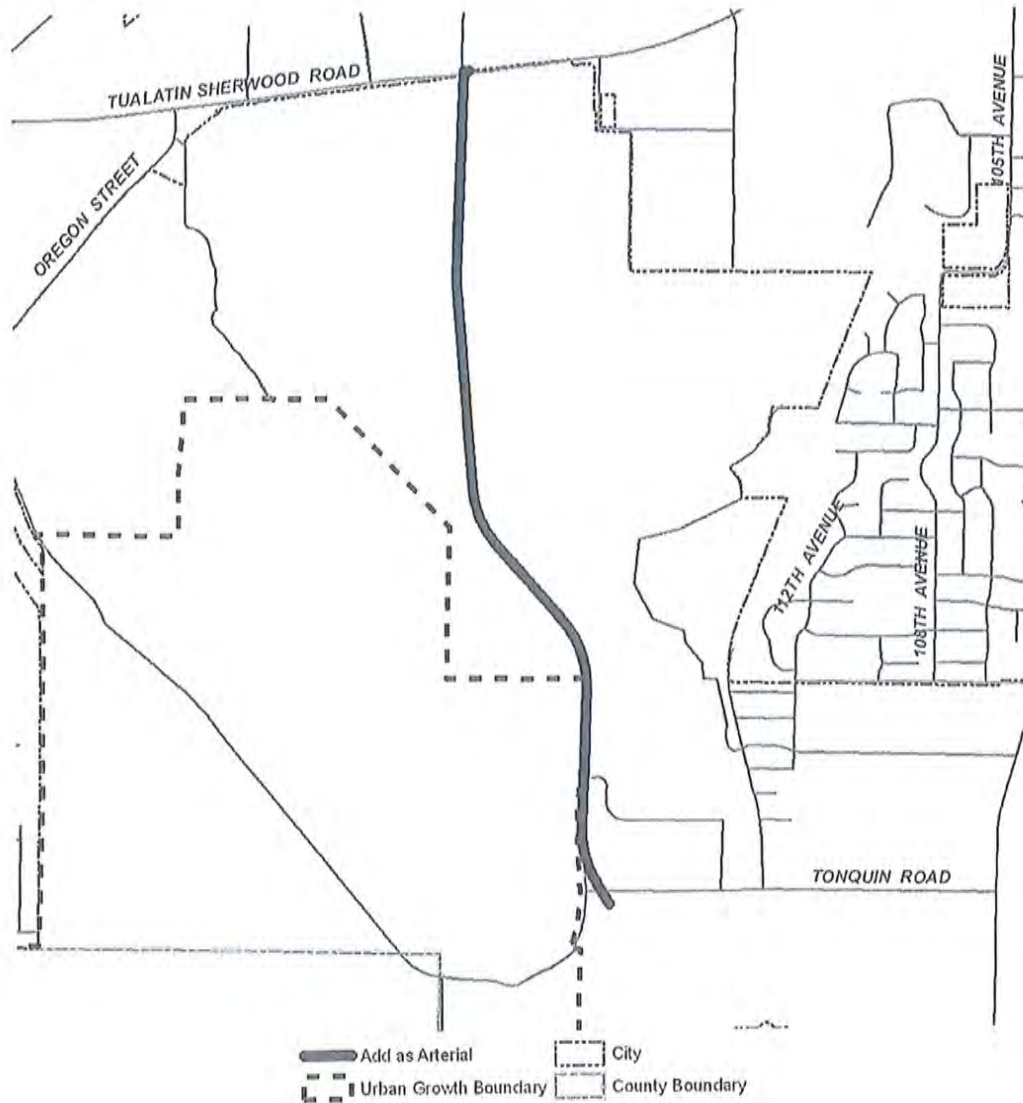
First August 7, 2012
Second August 28, 2012
Third September 18, 2012
Fourth _____
Fifth _____

First August 7, 2012
Second August 28, 2012
Third September 18, 2012
Fourth _____
Fifth _____

VOTE: Aye: Duyck, Schouten, Rogers, Nay: _____
Malinowski, Terry
Recording Secretary: Barbara Hejtmank Date: 9-18-12

A-Engrossed Ordinance No. 750
Exhibit 1
August 10, 2012
Page 1 of 1

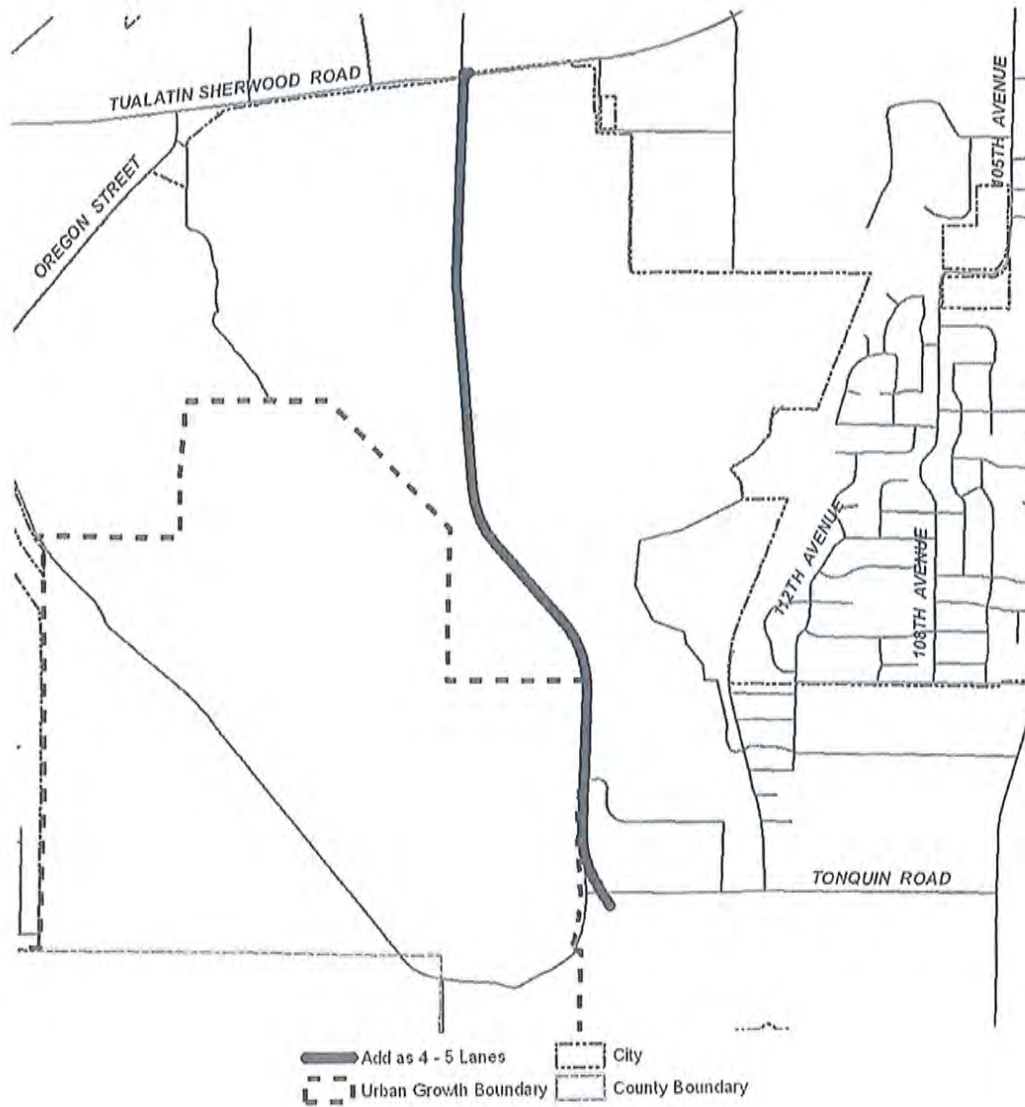
Figure 4D – Washington County Functional Classification System map, is amended as follows:



Abcdef Proposed additions
Abcdef Proposed deletions

A-Engrossed Ordinance No. 750
Exhibit 2
August 10, 2012
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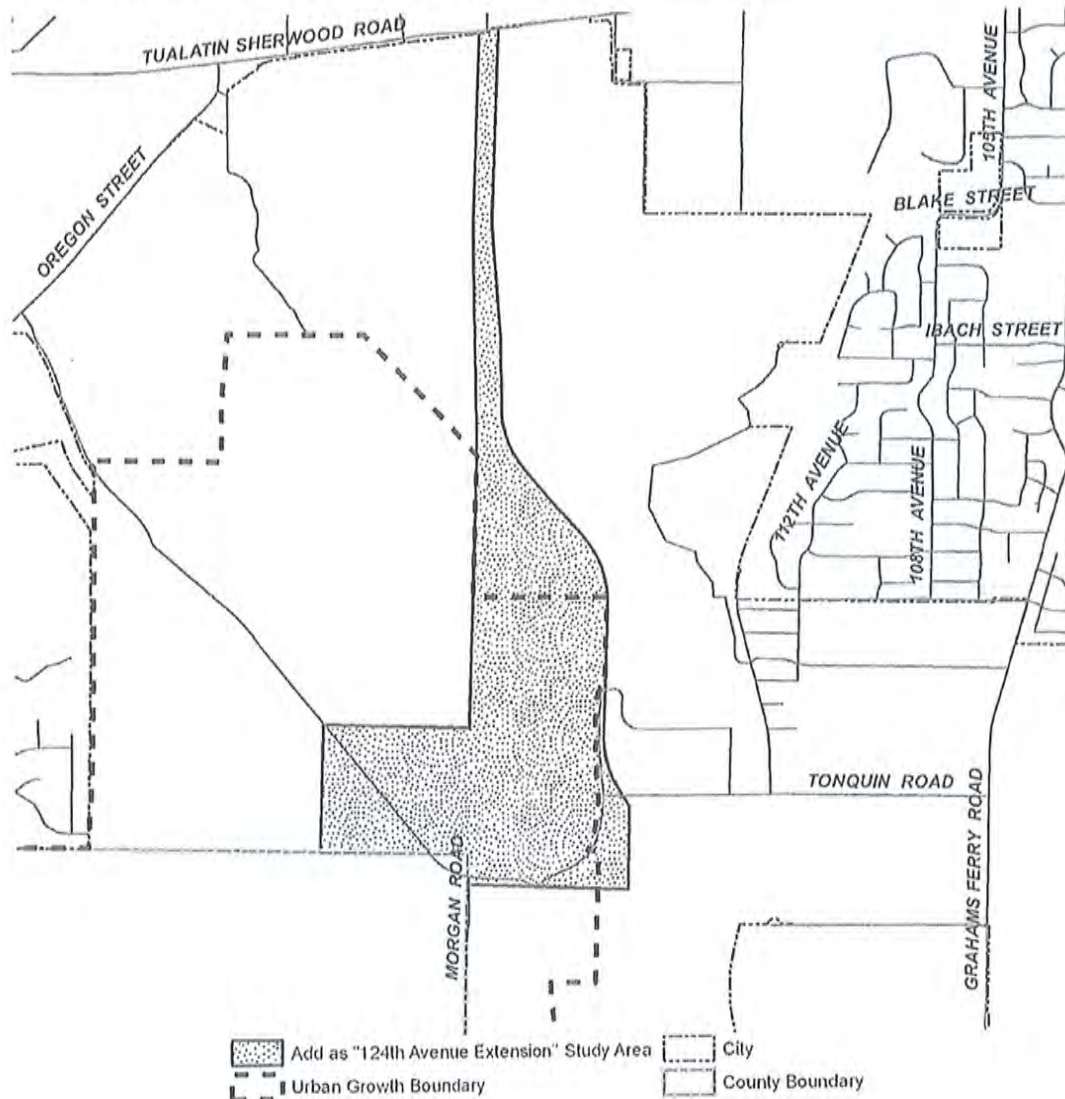
Figure 5 – Washington County Lane Numbers map, is amended as follows:



Abcdef Proposed additions
Abedef Proposed deletions

A-Engrossed Ordinance No. 750
Exhibit 3
August 10, 2012
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Add the following 124th Avenue Study Area Overlay Map as Figure 9C in the Functional Classification Policy Section of the Washington County Transportation Plan:



Abcdef Proposed additions
Abedef Proposed deletions

A-Engrossed Ordinance No. 750
Exhibit 4
August 10, 2012
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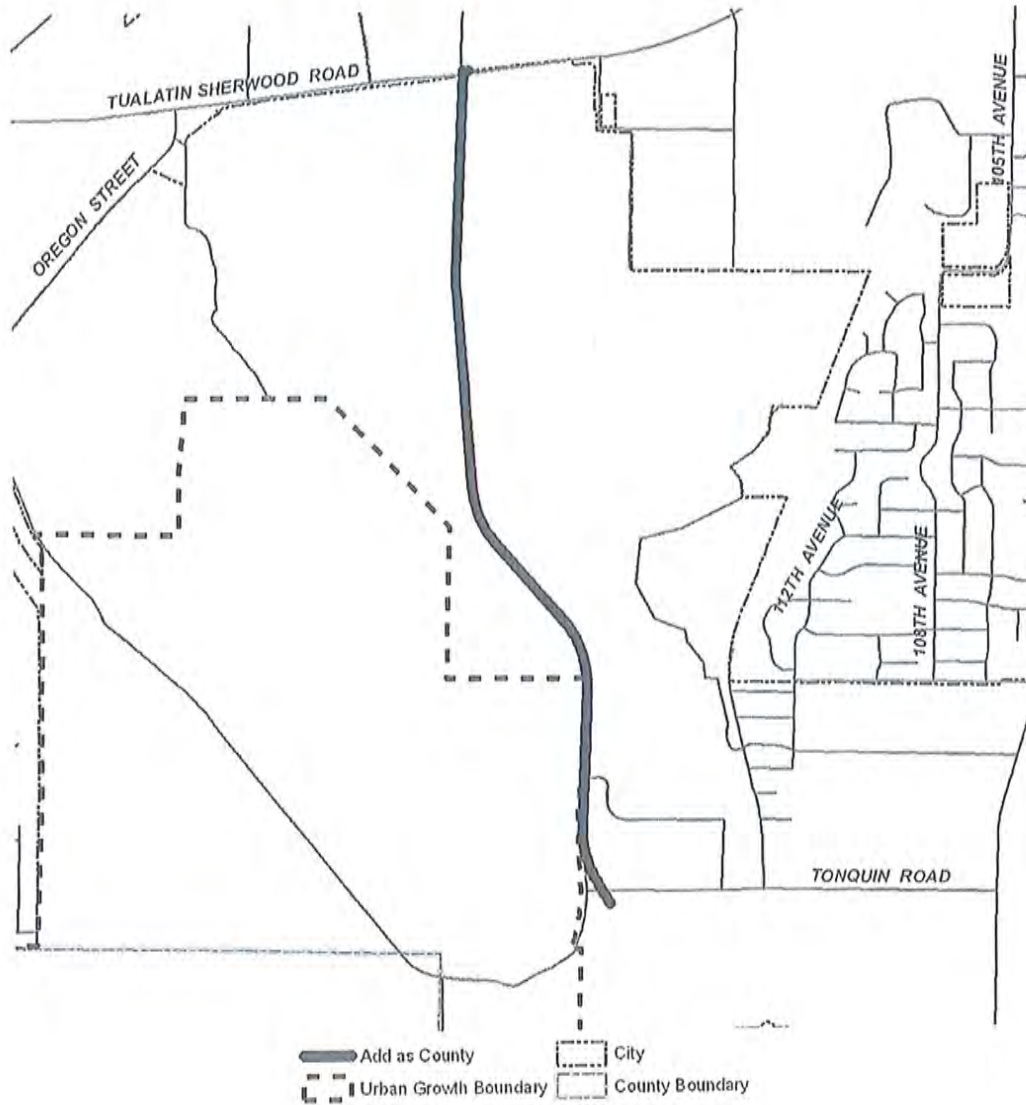
Add text describing a 124th Avenue Extension Study Area to the list of study Areas in the Functional Classification Policy section of the Washington County Transportation Plan, as follows:

124th Avenue Extension Study Area:

There is a need for a generally north-south arterial roadway and freight route in vicinity of the 124th Avenue extension as shown on the Washington County Study Areas Map (Figure 9). The Study Area is more specifically described on the 124th Avenue Study Area Overlay Map (Figure 9C). The County anticipates undertaking a broader planning process to address the needs in the area as part of an evaluation and concept planning of the potential future urban reserve lands within the area. A possible realignment of 124th Avenue and/or Tonquin Road may need to be considered in the future.

A-Engrossed Ordinance No. 750
Exhibit 5
August 10, 2012
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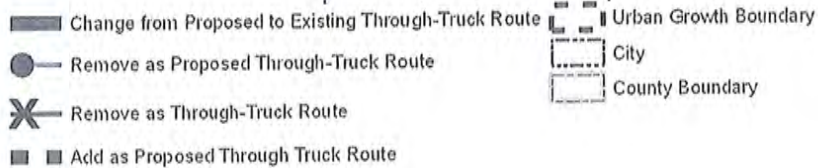
Figure 10 – Countywide Road System map, is amended as follows:



Abcdef Proposed additions
Abcdef Proposed deletions

August 10, 2012

Figure 14 – Countywide Through-Truck Route map, is amended as follows:



Abcdef	Proposed additions
Abedef	Proposed deletions

buffers around sensitive areas and 35 feet from the top of the bank on slopes greater than 25%).

- Areas within BPA and PGE easements are subject to the following constraints:
 - Cannot be used for parking, buildings, or water quality facilities
 - No buildings can be constructed within 25 feet of the vertical members of the transmission line towers
 - Potentially could be used for public open space, such as a trail

It is assumed that impacts on potential floodplains and wetlands could be mitigated offsite and would not reduce developable area. Any offsite mitigation would be subject to the applicable regulations of the affected jurisdictions (e.g., Washington County or Clean Water Services).

The local resources in the Natural Resources Map would be protected, where appropriate, and enhanced as a condition for new development.

The Portland & Western Railroad right-of-way (owned by ODOT) traverses the area in a north-south alignment along the eastern boundary of the SWCP. ODOT's Rail Division has indicated that no new public at-grade street or pedestrian crossings would be allowed. The 2010 transportation analysis update proposes constructing one bridge over the railroad right-of-way. This bridge would connect Tonquin Road in the southern end of the study area. Additionally, this plan proposes a pedestrian and bike connection that could cross the railroad either as a bridge or a tunnel in the vicinity of SW Blake Street. This pedestrian and bike facility would connect SW 108th Street with the trail system and a proposed Blake Street cul-de-sac west of the Portland & Western Railroad. Trails are proposed to follow the utility easements in the area and the existing tree stand

along the eastern boundary. The proposed trail system could incorporate elements of the Tonquin Trail which is in the planning process at the time of this writing. **The alignments of the Tonquin Trail are an emerging issue and are not defined at this time. The proposed trails in the Concept Plan could evolve and be modified as the Tonquin Trail continues to develop.**

FUTURE URBAN EXPANSION

When the SWCP area is annexed into the City of Tualatin, it will form the southwestern city limits. The Concept Plan area is partially surrounded on two sides by land that is currently inside the City of Tualatin city limits. The land on the west, south and east of the SWCP area is currently within unincorporated Washington County. However, most of these areas will become urbanized in the future. Adjacent to the SWCP area on the northwest is the approximately 300-acre "Quarry Area," that will be annexed into the City of Sherwood as the Tonquin Employment Area. Land on the southeast, 645-acres are (approximate), known as the "Basalt Creek Area" was brought into the UGB by Metro in June 2004 for future industrial and residential development. In 2009 additional land was added to the SWCP area including 66 acres of industrial land located west of the railroad right-of-way and south of Knife River. Additionally, an urban reserve area of 117 acres currently outside the UGB and located directly south and southeast of the SWCP area was added.

Traffic Analysis

BACKGROUND

As discussed above, in December 2002 and June 2004, Metro added land designated for future industrial development in Southwest Tualatin to the Portland regional UGB. This, together with pre-2002 UGB land, the land in the industrial land west of the railroad and the urban reserve land, make up the 614-acre Southwest Tualatin Concept Plan area. The SWCP area is located south of Tualatin-Sherwood Road and west of the current Tualatin city limits and in the future will be annexed into the

Appendix E

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF SUBMITTING TO THE)	RESOLUTION NO. 06-3672B
VOTERS OF THE METRO AREA A GENERAL)	
OBLIGATION BOND INDEBTEDNESS IN THE)	
AMOUNT OF \$227.4 MILLION TO FUND)	
NATURAL AREA ACQUISITION AND WATER)	Introduced by Metro Council
QUALITY PROTECTION)	President David Lincoln Bragdon

WHEREAS, the Metro Council has taken a leadership role in identifying remaining natural areas in the Metro Area and planning for their protection; and

WHEREAS, in May 1995 voters in the Metro Area approved a \$135.6 million Open Spaces, Parks and Streams Bond Measure (1995 Open Spaces Bond Measure) with a stated goal of acquiring land in 14 of the 57 regional natural areas identified in the Greenspaces Master Plan and six of the 34 regional trails and greenways identified in the Greenspaces Master Plan; and

WHEREAS, the implementation of the 1995 Open Spaces Bond Measure has been successfully completed and the Metro Council has acquired, to date, over 8,100 acres (3,278 hectares) of open spaces in 14 target areas and 6 trails and greenways, and has protected 74 miles (119 kilometers) of stream and river frontage, greatly surpassing the 6,000-acre (2,428 hectares) minimum acquisition goal identified in the 1995 Open Spaces Bond Measure; and

WHEREAS, the 1995 Open Spaces Bond Measure was never intended to acquire all of the natural areas in the Metro Area identified as needing protection, and with human population growth continuing to occur, there is an urgent need to acquire additional natural areas to provide opportunities for outdoor recreation, to protect air and water quality, and to preserve fish and wildlife habitat; and

WHEREAS, the Metro Policy Advisory Committee (MPAC), composed of officials representing the Metro Area's local governments, adopted a "Vision Statement" in 2000 to enunciate the Metro Area's commitment to improve the ecological health of the Metro Area's fish and wildlife habitat; and

WHEREAS, on April 25, 2001, MPAC unanimously adopted the Final Report of its Parks Subcommittee, which, among other things, noted the need for additional land acquisition for parks and open spaces beyond the scope of the 1995 Open Spaces Bond Measure; and

WHEREAS, on December 9, 2004, the Metro Council adopted Resolution No. 04-3506A, "For the Purpose of Revising Metro's Preliminary Goal 5 Allow, Limit, or Prohibit Decision; and Directing the Chief Operating Officer to Develop a Fish and Wildlife Habitat Protection and Restoration Program That Relies on a Balanced Regulatory and Incentive-Based Approach," in which the Metro Council resolved to develop and take before the voters by November 2006 an open spaces acquisition bond measure that included authorization to acquire regionally significant fish and wildlife habitat from willing sellers; and

WHEREAS, on May 12, 2005, the Metro Council adopted Resolution No. 05-3574A "Establishing a Regional Habitat Protection, Restoration and Greenspaces Initiative Called Nature In Neighborhoods" ("Nature In Neighborhoods Initiative"); enacting a regional conservation policy that promotes a consistent and effective level of region-wide habitat protection using a variety of means, including acquisition of critical fish and wildlife habitat from willing sellers and restoration of key wetland, streamside and upland sites; and

Appendix E

WHEREAS, the Nature In Neighborhoods Initiative specifically called for the Metro Council to place a bond measure before the voters in November 2006 that would create a funding source to acquire critical fish and wildlife habitat from willing sellers in the urban area; and

WHEREAS, on September 29, 2005, the Metro Council adopted Resolution No. 05-3612, "For the Purpose of Stating An Intent to Submit to the Voters the Question of the Establishment of a Funding Measure to Support Natural Area and Water Quality Protection and Establishing a Blue Ribbon Committee; and Setting Forth the Official Intent of the Metro Council to Reimburse Certain Expenditures Out of the Proceeds of Obligations to be Issued in Connection with the Regional Parks and Greenspaces Program," stating the Metro Council's intent to submit to the voters of the Metro Area a general obligation funding measure to protect habitat, river and stream frontages and natural areas, through land acquisition, restoration, and enhancement, and establishing a Blue Ribbon Committee to make specific recommendations to the Metro Council regarding aspects of the bond measure program, said bond measure to be included on either the primary or general election ballot no later than November 2006; and

WHEREAS, the Blue Ribbon Committee returned its report to the Metro Council on December 8, 2005, recommending that the Metro Council undertake \$220 million in bond indebtedness to protect habitat, river and stream frontages and natural areas through acquisition, restoration, and enhancement; provide \$44 million to cities, counties and local park providers for acquisition, restoration, and enhancement of habitat, river and stream frontages and natural areas; and create a \$11 million Nature in Neighborhoods Capital Grants Program Fund; and

WHEREAS, the Metro Council is authorized under the laws of the State of Oregon and the Metro Charter to issue bonds and other obligations for the purpose of providing long-term financing for natural area protection; now therefore

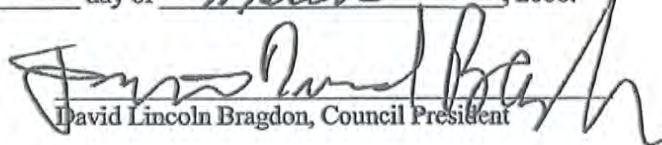
BE IT RESOLVED by the Metro Council that:

1. The Metro Council hereby submits to the qualified voters of the Metro Area the question of contracting a General Obligation Bond indebtedness of \$227.4 million for the purposes of preserving natural areas and stream frontages, maintaining and improving water quality, and protection of fish and wildlife habitat, through acquisition, protection, restoration, and enhancement of natural areas and stream frontage, including \$44 million to be distributed to cities, counties and local park providers for said purpose, and a \$15 million Nature in Neighborhoods Capital Grants Program Fund to be provided to local organizations and public entities for land acquisition and projects that protect and enhance natural resources in the urban environment, as further set forth in the attached Exhibit A – 2006 Natural Areas Bond Measure (the "Bond Measure"); Exhibit B – Local Share Guidelines-2006 Bond Measure (the "Local Share Guidelines"); and Exhibit C – Nature in Neighborhoods Capital Grants Program Detail (the "Nature in Neighborhoods Capital Grants Fund Detail");
2. No Bond Measure funds shall be used to condemn or threaten to condemn land or interests in land, and all acquisitions of land or interests in land with Bond Measure funds shall be on a "willing seller" basis;
3. The Metro Council hereby certifies the Ballot Title attached as Exhibit D for placement of the Bond Measure on the ballot for the November 7, 2006 General Election;

Appendix E

4. The Metro Council authorizes and directs the Metro Chief Operating Officer to submit this Resolution and the Ballot Title to the County Elections Officers, the Secretary of State, and the Tax Supervising and Conservation Commission in a timely manner as required by law; and
5. The Metro Council authorizes and directs the Metro Chief Operating Officer to submit this Bond Measure, the Ballot Title, and the Explanatory Statement attached as Exhibit E to the County Elections Officers for inclusion into the affected counties' voters' pamphlets for the November 7, 2006 General Election.

ADOPTED by the Metro Council this 9th day of March, 2006.


David Lincoln Bragdon, Council President

Approved as to Form:


Daniel B. Cooper, Metro Attorney

**Resolution No. 06-3672B
Exhibit A**

2006 NATURAL AREAS BOND MEASURE

Purpose and Intent

The Metro Council's proposed 2006 Natural Areas Bond Measure is designed to build on the successful conservation efforts of the past by renewing the region's ability to protect critical headwaters, rivers, streams, and forests through continued land acquisition. Protection of these natural areas throughout the greater Portland metropolitan region will help safeguard critical groundwater and drinking water resources, water quality, and important fish and wildlife habitat for the future. The proposed 2006 Natural Areas Bond Measure conserves the region's most valuable natural resources such as clean air and water while helping to manage growth and maintain the region's heralded quality of life for future generations.

In 1995, the voters of the Portland metropolitan region created a model program for protecting the area's most significant natural areas, fish and wildlife habitat and lands near rivers and streams. By approving a \$135.6 million Open Spaces, Parks and Streams Bond Measure, voters directed Metro to protect these places for future generations and embarked on a significant new partnership among landowners, neighbors, businesses and governments to achieve the program's goals. Today these protected areas total more than 8,100 acres and include approximately 74 miles of stream and river frontage that benefit fish and wildlife and offer important natural buffers from development to protect water quality.

Metro's 1995 Open Spaces, Parks and Streams Bond Measure was the result of nearly a decade of intensive regional planning, public involvement and debate. The basis for the land acquisition program is founded in the 1992 Metropolitan Greenspaces Master Plan, which was adopted by the Metro Council along with all 24 local cities and three counties within Metro's jurisdiction. At that time it was noted that many significant natural areas, wildlife habitat and water quality protection needs would not be met with the limited amount of bond funds available in the 1995 measure. Additional efforts would be required in the future to fulfill the vision of an interconnected system of parks, natural areas, trails and greenways described in the 1992 Metropolitan Greenspaces Master Plan. Current growth projections make this effort all the more critical today than it was a decade ago. The proposed 2006 bond measure will allow the region to continue that effort toward protecting water quality and fish and wildlife habitat for generations to come.

Metro's 2006 Natural Areas Bond Measure

The proposed bond measure consists of three basic elements:

- Regional natural area and greenway acquisitions in the amount of \$168.4 million dollars
- Local Share Program in the amount of \$44 million dollars
- Nature in Neighborhoods Capital Grants Program in the amount of \$15 million dollars

Regional Natural Area and Greenway Acquisitions

More than 40 scientists and natural resource experts from around the region helped Metro staff identify the proposed target areas for regional natural area and greenway acquisition. The criteria for selecting these areas are based on ecological principles established by decades of collaborative natural resource protection work in the region and rooted in the 1992 Metropolitan Greenspaces Master Plan, Regional Greenspaces System Concept Map (adopted 2002), the Regional Trails Plan Map (adopted 2002) and the

Appendix E

Nature in Neighborhood Map (Fish & Wildlife Habitat Protection Program, Resource Classification Map).

Regional Target Area Selection Criteria

- Water Quality: Contributes to the protection of watersheds and water quality
- Habitat Value: Supports a diversity of plant and animal life
- Rarity: Reflects the relative rarity of an ecosystem or possesses unique natural features
- Parcel Size: Sustains fundamental biological features
- Restoration Potential: Provides opportunities for restoration action
- Connectivity: Links stream and wildlife corridors, existing parks, natural areas and trail systems
- Scenic Resources: Protects views to and from the visual resources representative of the region's natural and cultural landscapes
- Public Access: Provides opportunities for nature-based recreation activities near where people live.

Refinement Process

Target area boundaries are conceptual only and are much larger in scale than the Metro Council would be able to purchase completely. Using a process similar to that conducted after the passage of the 1995 bond measure, called refinement, Metro will work with citizens, scientists and similar experts, neighbors, and others from around the region to gather additional information about each individual target area and begin zeroing in on particular parcels that would be valuable to acquire. The Metro Council will set forth guidelines allowing staff to begin acquiring properties from "willing sellers" based on these publicly refined target area plans. Metro shall not exercise its powers of eminent domain in the implementation of this bond measure.

Due to its unique soils and interconnectedness with adjacent lands, the Wapato Lake Target Area will have a more focused refinement process. The refinement process for this target area will include criteria that identify land for acquisition and other government programs that minimizes potential impact on agricultural uses. Prior to completion of refinement, property owners will be surveyed and Metro, after consultation with the Oregon Department of Agriculture, will determine which properties may be acquired that will best achieve the goals for this target area with the least impact on agricultural uses. The Metro Council may determine that it is infeasible to meet this requirement and eliminate the target area and choose another area as provided in this measure or concentrate efforts on other target areas in the same watershed.

Regional Target Areas

Despite the successful implementation of Metro's 1995 Open Spaces, Parks and Streams Bond Measure, many critical lands still remain in need of protection to preserve our region's water quality, fish and wildlife habitat, facilitate healthy biological functions and promote effective land management. The 2006 Natural Area Bond Measure is designed to conserve a regional system that maximizes connectivity. It establishes new priority target areas for protection by incorporating some of the target areas established in the 1995 bond measure and adding new areas that have been identified as priorities during the past decade.

East Buttes. The remaining undeveloped wooded slopes of extinct lava domes in our eastern metropolitan region provide opportunities to protect water quality and large areas for wildlife habitat and wildlife corridors from the outer reaches of the Cascades to the inner Portland urban area such as Scouter Mountain and buttes in the Damascus area. Panoramic vistas east and south from the butte tops provide stunning views of valleys, farmland and the Cascades. The forested buttes frame the valleys, create a unique geography for local residents and provide welcome visual relief from surrounding land uses.

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Expansion of the urban growth boundary in and around Damascus presents a sense of urgency to preserve these features.

Deep Creek and Tributaries. The intact, steeply wooded slopes of Deep Creek canyon in eastern Damascus hold some of the largest contiguous wildlife habitat remaining in the region. The creek's sweeping alignment serves as the principal corridor connecting the Clackamas River to habitat areas within the more urbanized portions of the county. The corridor includes the Cazadero Trail that will link Gresham, Barton and public lands in the area. It will also complete the Springwater Corridor from downtown Portland to Barton.

Clackamas River Bluffs and Greenway. Clackamas River Bluffs represent the last remaining opportunity to protect a large regional park site within this rapidly developing portion of Clackamas County. Uncommon habitat types in this area, resulting from wet and dry conditions in close proximity, create a rich diversity of plant and animal habitats (e.g., oak, madrone, and fir mixed into side canyons of cedar). The site also abuts the Clackamas River North Bank Greenway from Barton Park to Clackamette Park and provides an important link to the lower river and the developing communities of Damascus and Happy Valley.

Clear Creek. Supporting the most abundant salmon populations in the lower Clackamas River, Clear Creek remains a premier large creek in the metropolitan region. Completing key acquisitions in and surrounding Clear Creek public lands will protect the public investment made to date in establishing a significant regional natural area.

Abernethy and Newell Creeks. With successful protection of portions of Newell Creek, continued acquisition of undeveloped lands along its lower portion and along Abernethy Creek will expand fish and wildlife habitat critical to the area in and around Oregon City, especially threatened habitat for native steelhead and cutthroat populations.

Stafford Basin. Connecting existing public lands in the Lake Oswego/West Linn/ Tualatin area along tributary creeks to the Tualatin River will enhance water quality protection and secure diverse natural areas for local residents.

Tryon Creek Linkages. Acquisition of key land parcels will build on the successful efforts to protect Tryon Creek State Natural Area and riparian areas of Tryon Creek's major tributaries.

Willamette Narrows and Canemah Bluff. Descending the Willamette River, this greenway forms the corridor gateway to Willamette Falls, Oregon City, and urbanizing areas of the lower Willamette River. Flowing through islands and past steep bluffs, this portion of the river retains a sense of wildness like no other reach of the lower river. The narrows provide high quality wildlife and important fish habitat.

Tonquin Geologic Area. Bearing visible marks left by the ancient floods that shaped our region, the area from Wilsonville to Sherwood and Tualatin is unique. Protection of the rocky outcrops that frame these former lake bottoms will provide wildlife habitat of considerable complexity and richness and preserve the area's rare geologic features. Within this area, a 12-mile trail corridor will connect nearby cities and the new town center of Villebois to regionally significant natural areas (e.g., Graham Oaks Natural Area, Tualatin River National Wildlife Refuge, Kolk Ponds, the Cedar Creek Greenway in Sherwood and the Willamette River Greenway). The corridor will also provide an important recreation and commuter connector from Wilsonville north to Tualatin.

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Lower Tualatin Headwaters. Watersheds in the southwest Chehalem Mountains retain significant wildlife habitat value and include Chicken, Cedar and Baker creeks. Protection of riparian lands within these headwaters will safeguard water quality in the lower Tualatin River basin.

Tualatin River Greenway. Providing additional access points along the river and increasing floodplain protection through acquisition and restoration will allow people to use the river and see improvements in wildlife habitat and water quality.

Cooper Mountain. Acquiring remaining oak communities and streamside forests will build on the investment already made in protecting Oregon white oak and rare prairie habitat at Cooper Mountain near Beaverton.

Chehalem Ridgetop to Refuge. The northern end of the Chehalem Mountains provides opportunities for the protection of large, undeveloped tracts of forestland to protect water quality and wildlife connections from this mountain range to area river bottomlands.

Wapato Lake. This ancient lakebed historically supported large numbers of waterfowl, including tundra swans. This flood-prone bottomland of the Tualatin River is being considered as a future wildlife refuge that will connect to existing public lands to the north located near Forest Grove and Hillsboro and attract tourists to Washington County. The area has the highest potential for protecting wildlife habitat and water quality in this part of the region, and also offers significant restoration opportunities.

Dairy and McKay Creeks Confluence. The creeks converge at the interface of farmland and the urban growth boundary, forming broad wetlands accessible to a rapidly urbanizing area. Protecting the riparian areas and associated wetlands in the confluence area will contribute significantly to improved water quality in these major tributaries of the Tualatin River.

Killin Wetland. One of the largest peat soil wetlands remaining in the Willamette Valley, this wetland supports a rare assemblage of plants and animals. Although much of the wetland is currently in public ownership, acquisition of the remaining portions of the wetland and main tributaries is essential to the long-term protection of this highly valuable fish and wildlife habitat.

Rock Creek Headwaters and Greenway. A major tributary of the Tualatin River, upper Rock Creek and its tributaries are under intense development pressure as urban growth expands throughout the watershed. Watershed managers have identified protection of the upper watershed as a high priority for meeting water quality protection goals in the lower watershed. Opportunities to improve and protect habitat also exist through the protection of key tributaries and their associated wetlands. In addition, the protection of key undeveloped sites in the lower reaches of Rock Creek, particularly in Hillsboro, will buffer growth, protect water quality and provide nature in neighborhoods for local residents.

Forest Park Connections. Connecting Forest Park to Rock Creek and the Westside Trail will keep important wildlife corridors intact and provide trail connections between the region's largest urban park and Washington County. Acquiring key properties will capitalize on recent successful acquisitions of land adjacent to and beyond Forest Park, connecting the park with the larger Pacific Greenway.

Columbia Slough. The Columbia Slough is one of very few areas in North and Northeast Portland with the potential for restoring fish and wildlife habitat. Acquisition along the slough will improve water quality in its critical reaches, provide trail connections to existing recreation and wildlife corridors and help complete an important section of the 40-Mile Loop Trail.

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Johnson Creek and Watershed. Johnson Creek remains the most densely urbanized creek in our region. Opportunities remain to acquire tracts within the remaining floodplain, upland habitat areas adjacent to the main stem, and along both Butler and Kelly creeks to protect water quality and connect public holdings with the Damascus Buttes.

Sandy River Gorge

Acquisitions along this wild and scenic waterway and its tributaries will provide important fish and wildlife habitat and water-quality benefits.

Willamette River Greenway. Acquisition and connections between existing public holdings along the greenway from Wilsonville to the Multnomah Channel will protect fish and wildlife habitat, water quality, scenic resources and improve public access to the river.

Fanno Creek Linkages. Additions to this existing west side greenway will extend the corridor from the Tualatin River into a highly urbanized, 'walker challenged' area of the city, and further protect water quality in one of our critical regional rivers.

Westside Trail. This 24-mile north/south alignment stretches from the Tualatin River in Tigard north through Beaverton, unincorporated Washington County and Multnomah Counties through Forest Park to the Willamette River. The corridor, located within one mile of over 120,000 residents, and near numerous parks, schools, regional centers and the MAX line, could become a primary westside recreation and commuter spine.

Springwater Corridor. Funding will complete the 1-mile corridor between the existing Springwater on the Willamette Trail and the Three Bridges project at Southeast 19th Avenue in Portland. This will provide the final connection of the Springwater Corridor between downtown Portland east through Milwaukie and Gresham to Boring.

Cazadero Trail. This forested 4-mile corridor located between Boring and Barton Park runs along the north fork of Deep Creek and follows an historic rail line used to ship timber from Cascade forests to the Portland riverfront. Enhancement of the corridor for trail use will connect campgrounds, future inter-urban trails, and Portland (via the Springwater Corridor) to Mt. Hood and the Pacific Crest Trail.

Gresham-Fairview Trail. This multi-use trail is a major north-south connection through the Gresham area. It connects the Springwater Corridor at Linneman Junction and crosses the eastside MAX light-rail line at Ruby Junction. Continuing north to Blue Lake Regional Park, the trail ends at the Columbia River and connects to the existing Lewis and Clark Discovery Greenway Trail (part of the 40-Mile Loop) along Marine Drive. Acquisition of the remaining corridor is needed to complete the trail and secure an important eastern spine of the regional trail system.

These target areas will be the first priority for acquisitions from the bond proceeds. Other critical natural areas and greenways identified in the 1992 Metropolitan Greenspaces Master Plan, Regional Greenspaces System Concept Map (adopted 2002), the Regional Trails Plan Map (adopted 2002), and the Nature in Neighborhood Map (Fish & Wildlife Habitat Protection Program, Resource Classification Map) may be acquired if proposed regional target areas become degraded, cost prohibitive or otherwise infeasible as determined by the Metro Council after a public hearing. Additionally, the Metro Council may add new target areas if existing target area goals have been achieved, as determined by the Metro Council after a public hearing. New target areas will be selected to retain a regional balance of sites acquired, with substitute target areas selected from the same watershed as the area being replaced, whenever feasible.

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The Metro Council intends to use a variety of methods to acquire and protect the natural areas identified in this bond measure. These methods include outright purchase of title to the land, purchase through a nonprofit land preservation organization, purchase of easements or development rights, etc. Donations, bequests and grants will be sought to enable the program to protect and preserve additional natural area lands. Agreements for Metro to acquire any interest in land shall be negotiated with willing sellers. Metro shall not exercise its powers of eminent domain in the implementation of this bond measure.

Natural area and greenway lands acquired by the Metro Council will be land banked with the property interest owned by Metro. Metro may operate and maintain these lands or enter into cooperative arrangements with other public agencies or appropriate community organizations to manage them. All lands acquired with bond funds will be managed in a manner consistent with the purposes of the bond measure and the principles set forth in the 1992 Metropolitan Greenspaces Master Plan. Initially, most of these lands will be held with limited maintenance and enhancement beyond initial site stabilization and possible habitat restoration. Once the 2006 Natural Areas Bond Measure is approved by voters, Metro will commit existing excise taxes to this basic level of maintenance, with Metro having sufficient resources currently to manage the newly acquired properties in this manner for a period of approximately ten (10) years. No bond funds can legally be used for any operating expenses. Limited improvements can be made with bond funds to lands in target areas to provide public access, use and enjoyment of these sites in the future.

Other allowable expenditures for this program include administrative expenses, bond issuance costs and reimbursable bond preparation expenses related to the design, planning and feasibility of the acquisition program. Administrative expenses include, but are not limited to, assistance from professional realtors, real estate appraisals, surveys, title reports, environmental evaluations and general program administration expenses. Bonds mature in not more than 20 years. The Metro Council may annually allocate interest earnings on unspent bond proceeds between the regional natural area and greenway acquisitions and the Nature in Neighborhoods Capital Grants Program.

Local Share Program

Up to \$44 million of the total bond measure funds would be provided directly to local cities, counties and park districts on a per capita basis for:

- Acquiring natural areas or park lands
- Restoring fish and wildlife habitat
- Enhancing public access to natural areas
- Designing and constructing local or regional trails
- Providing enhanced environmental education opportunities

The Local Share Program allows flexibility for each community to meet its own needs, and offers citizens improved access to nature in neighborhoods all across the region.

Local Share Program Project List:

Beaverton

Beaverton Creek Trail acquisition
 Erickson Creek acquisition and native plantings
 Sexton Mountain Drive acquisition
 Willow Creek acquisition
 Snowy Owl and Siskin Terrace acquisition
 Trail right of way acquisition near Highway 217
 Sexton Mountain reservoir restoration and native plantings
 Beaverton Creek Channel restoration and native plantings
 Griffith Park trail construction

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*Local Share Program Project List:***Cornelius**

Tualatin River land acquisition and improvements near South Linden Street
Park land acquisition off Holladay Drive
Tualatin River greenway acquisition and improvements near South 12th Avenue
Free Orchard Park acquisition and improvements
Job's Ditch Council Creek natural area acquisition and improvements
Council Creek acquisition and improvements for future park and trail

Damascus

Land acquisition and development for future parks and greenways

Durham

Trail extension from Durham City Park to Fanno Creek Trail
Neighborhood trail connections to Durham City Park
Heron Grove Park trail improvements and restoration

Fairview

Natural area acquisition
Gresham to Fairview Trail acquisition and construction
Security lighting at Salish Ponds
Salish Ponds Nature Park trail expansion, plantings and interpretive signage
Salish Ponds Nature Trail boardwalk construction

Forest Grove

Thatcher Park acquisition
Stites Nature Park acquisition of access point
Lincoln Park acquisition
Gales Creek trailhead acquisition
Thatcher Park public facilities
Stites Nature Park public facilities

Gladstone

Dahl Beach trail construction
Restroom at Cross Memorial Park
Natural area improvements
Landscaping along Abernethy Lane path
Restrooms at Dahl Beach, Meldrum Bar boat ramp and High Rocks parks
Meldrum Bar bicycle and pedestrian path extension

Gresham

Gresham to Fairview Trail acquisition and construction
Natural area acquisition in the East Buttes
Public facilities and trails at Hogan Butte Nature Park
Johnson Creek habitat improvements
Resource area acquisition in Pleasant Valley and Springwater
Restoration and public use facilities at natural area parks

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*Local Share Program Project List:***Happy Valley**

Nature park acquisition and development near Aldridge Road
 Mitchell Creek natural area acquisition
 Rock Creek Trail easement procurement and construction
 Mt. Scott Creek Trail easement procurement and construction

Hillsboro

Rock Creek Greenway and Trail acquisition and development
 Greenway acquisition and trail development along Orenco, Dawson, Beaverton and Bronson creeks

Johnson City

Johnson City Park habitat enhancement

King City

King City Park wetlands improvements

Lake Oswego

Stafford Basin acquisition
 Stafford trail extension
 Pedestrian bridge over Tryon Creek
 Iron Mountain Park restoration
 Canal Area master plan implementation
 Willamette shore bike and pedestrian pathway

Milwaukie

Acquisition west of 32nd Avenue
 Acquisition south of Lake Road
 Creekside acquisition along Johnson and Kellogg creeks
 Milwaukie Riverfront Park natural areas and/or paths
 Spring Park wetland enhancement and trail
 Minthorn Wetland trail
 Homewood Park play equipment

Oregon City

High school area land acquisition
 Canemah area land acquisition
 Meyers Road/Caufield Creek area watershed acquisition
 Holcomb Creek watershed acquisition

Portland

Westside wildlife corridor acquisition
 Westside stream corridor acquisition
 Willamette Bluffs acquisition
 Johnson Creek natural area acquisition
 Columbia Slough natural area acquisition
 East Buttes natural area acquisition
 Forest Park acquisition
 Tryon Creek acquisition
 Centennial neighborhood park acquisition
 Cully neighborhood park acquisition
 Argay neighborhood park acquisition

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Local Share Program Project List:

Portland (Continued)

Marine Drive trail acquisition
Columbia Slough trail acquisition
Tryon Creek trail acquisition
Willamette greenway trail acquisition
Springwater Trail acquisition
Red Electric (Fanno Creek) trail acquisition
Forest Park trail restoration

Stephens Creek Natural Area trail restoration
Powell Butte trail restoration
Whitaker Ponds trailhead and canoe launch
Forest Park habitat restoration
Oaks Bottom habitat restoration
Powell Butte habitat restoration
Big Four Corners habitat restoration
Southwest Portland natural area/park restoration
City riparian habitat restoration

Rivergrove

Lloyd Minor Park improvements
River bank and river access improvements

Sherwood

Natural area acquisition
Cedar Creek trail acquisition
Senior Center to Stella Olsen Park trail acquisition and development
Edy Road path acquisition and development
Stella Olsen Park restoration

Tigard

Natural area acquisition
Park land acquisition
Fanno Creek Greenway trail construction

Troutdale

Natural area acquisition
Sandy River trail construction
Mt. Hood Community College natural area restoration and improvements
Beaver Creek Greenway Trail improvements

Tualatin

Tualatin River greenway land acquisition

West Linn

Joseph Fields Homestead site acquisition
Rosemont Road Trail development
Wilderness Park restoration
Maddox Woods Park improvements
Wilderness, Burnside, Maddox Woods and Mary S. Young parks restoration

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Local Share Program Project List:

Wilsonville

Graham Oaks Natural Area trail head and pathway development
Graham Oaks Natural Area restoration
Graham Oaks Natural Area visitor and interpretive facilities
CREST Environmental Center gateway development
Memorial Park trails construction
Memorial Park Willamette River overlook development
Boeckman Creek Trail easement acquisition

Wood Village

Donald L. Robertson City Park Wetlands Pond and Island Preserve

Clackamas County

Barton Park acquisition
Barton Park development
Onahlee Park acquisition
Eagle Fern Park development

North Clackamas Parks and Recreation District

Park acquisition near Southeast 142nd
Scouter Mountain acquisition
Johnson Creek acquisition
Clackamas River North Bank acquisition
North Clackamas Park improvements
District Park improvements
Mt. Scott Creek Trail development
Stringfield Property improvements

Washington County

Beaverton Creek, Westside Trail and other greenway acquisitions

Tualatin Hills Park and Recreation District

Beaverton Creek Trail acquisition and development
Central Beaverton park and natural area acquisition, restoration and improvements
Southwest district park and natural area acquisition
Park and trail acquisition north of Sunset Highway in Washington County
Jordan-Husen Park development

Local share projects may be substituted if targeted land acquisition or proposed improvements become degraded, cost prohibitive or otherwise infeasible. Additionally, local cities, counties and park districts may add projects to their list if approved projects are less expensive than anticipated or become funded through other sources. Local cities, counties or park providers must notify the Metro Council in writing in advance of proposed substitutions and demonstrate how the substitute project meets local share project guidelines. Changes to local share projects must be approved by that city, county or park district's governing body at a public meeting, in accord with that body's adopted public meeting procedures.

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Projects funded by the 2006 Natural Areas Bond Measure must be maintained for their intended natural area, wildlife habitat, water quality, trail, or recreation purpose. Agreements for park providers, cities and counties to acquire any interest in land shall be negotiated with willing sellers. Local governments shall not exercise their powers of eminent domain in the implementation of this bond measure. Exhibit B attached (Local Share Guidelines) establishes guidelines for the Metro Council to further refine requirements for the Local Share Program.

Nature in Neighborhoods Capital Grants Program

The purpose of the Nature in Neighborhoods Capital Grants is to complement the regional and local share portions of the 2006 bond measure by providing opportunities for the community to actively protect fish and wildlife habitat and water quality near where people live and work. The program will provide funds to purchase lands or easements that increase the presence of natural features and their ecological functions in neighborhoods throughout the region. The program will also provide funding for projects that recover or create additional plant and animal habitats to help ensure that every community enjoys clean water and embraces nature as a fundamental element of its character and livability.

This new grant program comprises up to \$15 million of the total bond measure funds and will engage schools, community groups, non profit organizations, park providers and others in neighborhood projects that benefit nature as part of the Metro Council's larger Nature in Neighborhood initiative. The grant funds are also designed to allow the region to respond to unforeseen opportunities that may arise over the next 8-10 years.

Because of the restrictions of the bond measure, grant funding is allowed only for capital projects and is not allowed for operating expenses. Grant funds must be spent to either acquire property (or easements) for public ownership or fund capital improvements to publicly owned property.

The program will:

- Safeguard water quality in our local rivers and streams
- Protect and enhance fish and wildlife habitat
- Promote partnerships that protect and enhance nature in neighborhoods
- Increase the presence of ecological systems and plant and animal communities in nature-deficient and other disadvantaged neighborhoods within the region.

Grant funds must be expended within the Metro area Urban Growth Boundary (UGB) and/or the Metro jurisdictional boundary. The applicant must demonstrate leveraging of the public's investment through at least \$2.00 of non-bond funds for each \$1.00 of bond funds. Match may be cash, in-kind donations of goods or services, staff time, or volunteer hours from sources other than Metro. Eligible match expenses cannot be made prior to award of the Metro grant and execution of grant contract unless specifically provided for in the grant contract. The Metro Council has the right to waive the match requirement.

Acquisition of natural areas, wildlife and trail corridors and undeveloped parcels which have been identified as regional priorities in the 1992 Metropolitan Greenspaces Master Plan, Regional Greenspaces System Concept Map (adopted 2002), the Regional Trails Plan Map (adopted 2002) and the Nature in Neighborhood Map (Fish & Wildlife Habitat Protection Program, Resource Classification Map) or have been determined to be locally significant, is allowed with these funds. Local acquisition projects can include natural areas, wildlife habitat and trail corridors, nature-related pocket parks or other opportunities for increasing, connecting, restoring or recreating healthy functioning ecological systems. Agreements to acquire any interest in land shall be negotiated with willing sellers. Due to bond restrictions, the federal government may not own property purchased with these bond funds. Grant projects funded by the bond measure must be maintained for their intended natural area, wildlife habitat,

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water quality, trail, or recreation purpose. For more information about the grant fund criteria and requirements as defined by the Metro Council see Exhibit C (Nature in Neighborhoods Capital Grants Program Detail).

Independent Review Committee

An independent citizen advisory committee shall review progress in the acquisition of regional target areas, local share project implementation and grant administration. An annual financial audit of the expenditure of the bond proceeds shall be conducted by a public accounting firm and the results published in the local newspaper of record.

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**Resolution No. 06-3672B
Exhibit B**

**Local Share Guidelines
2006 Bond Measure**

In order to be eligible for Local Share Funds, projects or associated costs must meet criteria established by the Metro Council that are consistent with these guidelines:

1. Eligible agency is a city or park provider as of November 6, 2006.
2. Funds must be expended only on natural area related activities or acquisition of land for parks, including:

Acquisition

- Fee Simple (or easement) purchase of Greenspaces natural areas, wildlife and/or trail corridors identified in the Metropolitan Greenspaces Master Plan, Regional Greenspaces System Concept Map (adopted 2002), the Regional Trails Plan Map (adopted 2002), the Nature in Neighborhood Map (Fish & Wildlife Habitat Protection Program, Resource Classification Map), and/or locally determined significant natural areas, neighborhood and pocket parks, wildlife habitat and/or trail corridors.
- Out-of-pocket costs associated with property acquisition.

Capital Improvement Projects

- Restoration or enhancement of fish and wildlife habitat.
 - Improvements to existing parks to enhance the integrity of habitat and increase natural plantings.
 - Improvements to existing natural area amenities to provide universal access to the public (meets Americans with Disabilities Act requirements).
 - Public use facilities such as trailheads, rest rooms, picnic tables and shelters, children's play areas, viewing blinds, water systems, camp sites and barbeque pits, fishing piers, associated accessories such as information signs, fences, security lighting, and circulation facilities (i.e., entry, egress and circulation roads, parking areas).
 - Environmental education structures or accessories (e.g., nature centers and/or interpretive displays).
 - Trail design, engineering, construction and landscaping.
3. The city or park provider will enter into an Intergovernmental Agreement (IGA) to be approved by the Metro Council and the governing board of the city or park provider. The IGA shall require signage at the project site in an appropriate location(s) to acknowledge Metro, the park provider, and other project partners for project funding; funds from the bond measure shall not be used to replace

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local funds on the project; and funds from the bond measure should leverage other sources of revenue when possible.

4. A list of local share projects approved by the governing board of each jurisdiction is set forth in the Bond Measure. The Metro Council may establish a formal process providing for the substitution of new projects where appropriate as long as the proposed new project is consistent with the Bond Measure.
5. Greenspace sites subject to local share funding will be maintained for their intended natural area, trail or recreation activities. Any decision by a park provider to convey title or grant real property rights to property that said park provider purchased with bond proceeds shall be made by vote of its duly elected or appointed governing body at a public meeting, in accord with said governing body's adopted public meeting procedures. Any proceeds from the sale of the property or from the rights to the property shall be used for the purpose set out in the appropriate local share Intergovernmental Agreement (IGA).
6. Local share funds should be used to the greatest extent possible to fund new projects and not pay agency overhead or indirect costs. In no event shall the staff, overhead and indirect costs on local share projects exceed 10% of the cost of any project.

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**Resolution No. 06-3672B
Exhibit C**

Nature in Neighborhoods Capital Grants Program Detail

The following criteria are intended to provide guidance to the grant selection committee as appointed by the Metro Council (see below). These criteria may be further refined by Metro Council action.

Selection Criteria

Projects that best address all the following criteria will be recommended for funding:

- “Re-nature” neighborhoods by increasing and/or recovering the presence and function of ecological features and processes in them to protect water quality and animal and plant habitat.
- “Re-green” urban neighborhoods by increasing the presence of water, trees and other vegetation to improve their appearance, enrich peoples’ experience of nature and help strengthen a physical connection to the region’s ecology.
- Demonstrate multiple benefits for people and natural systems. For example, projects that use ecological features to improve ecological functions in the urban environment and provide access to nature and reinforce neighborhood/local community identity and improve neighborhood appearance.
- Demonstrate cost-efficient ecological design solutions that improve natural infiltration, biofiltration and natural drainage patterns, land form and soil structure, shade and wind protection through increases in tree canopy cover, etc.
- Increase the region’s fish and wildlife inventory through techniques that restore diverse riparian vegetation structure and stream character, and increase fish passages and/or wildlife crossings.
- Restore and/or improve habitats of concern such as eligible lands identified under the above-mentioned land acquisition criteria and/or headwaters and confluences of the region’s important urban stream and river corridors.
- Improve natural amenities to provide universal access to the public (meets Americans with Disabilities requirements).

Bonus Selection Criteria

Bonus points in the grant evaluation criteria will be given to projects that, in order of priority:

- Are located in low-income neighborhoods.
- Are identified in existing watershed, park comprehensive or master plans, or advance Metro’s 2040 Growth Concept.
- Add to the existing system of natural areas by increasing networks, corridors and other linkages between them.
- Demonstrate an innovative project for which there is no other source of funding.
- Are adjacent to public land or rights-of-way providing public access to the project site. Contribute to storm water management for an area larger than the individual site.
- Use sustainable construction techniques and materials.
- Leverage public dollars beyond the 2:1 match requirement.

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Applicant Eligibility

In order to be eligible for grant funds, applicants must meet the following criteria:

- The eligible applicant is a non-profit, 501(c)(3), education district or higher education organization, city, county, special district or park provider at the time of application to Metro. The property owner must be a partner on the grant application and the application must include a letter of support from the owner.
- The project must demonstrate the existence of public and private partners who can and will leverage human and financial resources.
- The applicant must verify their ability to carry out the project and maintain the site over the long term.

Project Selection Process

Grants will be solicited and awarded once yearly for a total of up to ten years. The Metro Council will seek to develop a program that limits the expenditure of funds to no more than 15% of the total program amount in any given year. Grant recipients will have three (3) years to expend the funds awarded by Metro.

A grant review committee composed of no fewer than seven members, staffed by Metro, will review all applications based on Metro-approved eligibility criteria. Committee members may rotate on an annual basis, or serve terms of several years. Metro staff will screen applications, pre-evaluate them based on ranking criteria and present them to the grant review committee for final evaluation and selection. The Metro Council will make all final grant awards.

The grant review committee may include:

- Metro Councilors (one or three positions)
- Water quality specialists (two positions)
- Metro natural resource staff (one position)
- Non-Metro fish and wildlife experts (one position)
- Other representatives such as community or neighborhood, non-profit, parks, design, development, business representatives (up to three positions).

No more than 10% of grant funds shall be used for staff time directly related to a project. Overhead and/or indirect costs are not reimbursable.

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Resolution No. 06-3672B

Exhibit D

Ballot Title

- "Caption: Bonds to preserve natural areas, clean water; protect fish, wildlife"
- "Question: Shall Metro preserve natural areas; protect fish, wildlife; improve water quality; issue \$227.4 million in general obligation bonds; audit spending? If bonds are approved, they will be payable from taxes on property ownership that are not subject to the limits of section 11b, Article XI of the Oregon Constitution."
- "Summary: Protects specific natural areas, lands near rivers and streams, wildlife and trail corridors through land acquisition and restoration. Funds specific local water quality, wildlife and park protection projects for local parks providers. Funds water quality and wildlife habitat restoration matching grant program for local communities. Requires 2 to 1 match for local community grants. Match may be met with volunteer hours. Approved bonds will:
- Preserve specified natural areas
 - Protect and restore watersheds for improved water quality
 - Protect streams, fish and wildlife
 - Increase the presence of nature in neighborhoods
- This measure directs Metro to buy and restore natural areas for the protection of water quality and preservation of fish and wildlife habitat for the benefit and enjoyment of current and future generations, establishes a citizens oversight committee and requires a yearly independent financial audit to be published in local newspapers. Bonds mature in not more than 20 years. Bond cost estimate is about 19 cents per \$1,000 of assessed value per year. The average homeowner in the region pays \$2.50-\$2.92 per month."

Appendix E

**Resolution No. 06-3672B
Exhibit E****Bond Measure - Ballot Title's Explanatory Statement****Explanatory Statement**

With passage of the Bond Measure, voters would direct Metro to protect natural areas and lands near rivers and streams throughout the Metro area, safeguarding the quality of our water while managing the impacts of growth and maintaining the Metro area's quality of life for future generations.

The \$227.4 million general obligation bond measure would provide:

- \$168.4 million for Metro to purchase, in 27 specifically identified target areas, regionally significant river and stream corridors, headwaters, wildlife areas, other natural areas and trail corridors to hold in public trust for their protection, enhancement and restoration of habitat for fish, wildlife and water quality. The target areas emphasize protection of natural area lands now in urban areas or in areas where development is likely to occur. Other target areas are designated to protect water quality inside the urban area. Target areas include: the Tualatin River and tributaries in the Stafford, Sherwood and Forest Grove areas; the Rock Creek watershed near Bethany in Washington County; the Clackamas River and tributaries near Damascus; headwaters and buttes such as Scouter Mountain, and Johnson Creek and tributaries in Multnomah and Clackamas County.
- \$44 million to be provided to 28 cities, counties and local park providers in the Metro area, on a per capita basis for: purchase of specifically identified natural areas, wildlife and trail corridors; for restoration and enhancement of water quality, fish and wildlife habitat; and for identified neighborhood parks and capital improvement projects providing public access use and education. Identified projects include: acquisition of lands along Erickson Creek and restoration of lands along Beaverton Creek in Beaverton; greenway acquisition along Orenco, Dawson, Bronson and Rock Creeks in Hillsboro; acquisition along Johnson Creek in the North Clackamas Parks and Recreation District, acquisition of natural area adjacent to Forest Park, in the Tryon Creek watershed, and along Johnson Creek and the Columbia Slough in Portland; and central Beaverton park and natural area acquisition and restoration in the Tualatin Hills Park and Recreation District.
- \$15 million for a Nature in Neighborhoods Capital Grants Program for schools, local neighborhood associations, community groups and other non-profits, cities, counties and public parks providers to provide funds to increase natural features and their ecological functions on public lands in neighborhoods, and to help ensure that every community enjoys clean water and nature as an element of its character and livability. Grants will be awarded competitively, and should be matched by the applicant with outside funding or in-kind services equivalent to twice the grant amount; and
- Establishes a citizen oversight committee and requires a yearly independent financial audit to be published in the local newspapers.

In the first year following its passage, the 2006 Natural Areas Bond Measure would likely cost property owners 19 cents per \$1,000 of assessed value. For the average homeowner, the total annual cost is likely to be \$30-35 per year. That annual cost will likely decrease during the repayment period of the bonds, which will be no more than 20 years.

Appendix E

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 06-3672B, FOR THE PURPOSE OF
SUBMITTING TO THE VOTERS OF THE METRO AREA A GENERAL OBLIGATION
BOND INDEBTEDNESS IN THE AMOUNT OF \$227.4 MILLION TO FUND NATURAL
AREA ACQUISITION AND WATER QUALITY PROTECTION

Date: March 3, 2006

Prepared by: Heather Nelson Kent

BACKGROUND

Current Status and Challenge

The Portland metropolitan region will add one million people to the area over the next 25 years, according to recent projections. Much of this new population will live in the city of Portland itself, settle in suburban communities along the city's borders or move into new urban centers developing throughout the region. The shape of these communities will have great staying power and is being created by the decisions being made today and will continue to be made over the next several years. In anticipation of this population growth and the emergence of new communities, it is essential to ensure that our burgeoning region continues to conserve the important landscapes and experience of nature that Oregonians treasure.

The proposed 2006 Natural Areas Bond Measure is designed to build on the successes of the past by renewing the region's ability to protect natural areas throughout the greater Portland metropolitan region that will help safeguard critical groundwater and drinking water resources, water quality and important fish and wildlife habitat for the future. The proposed 2006 Natural Areas Bond Measure conserves the region's most valuable natural resources such as clean air and water while helping to manage growth and maintain the region's heralded quality of life for future generations.

Acquisition through a willing-seller program has been demonstrated to be the strongest tool for protection of the region's critical natural areas without the use of a regulatory program. However, the cost of land continues to rise. In the past decade, residential land values inside the region's urban growth boundary have risen about 100 percent. Prices are likely to continue to increase as we anticipate the addition of another one million new residents to the Portland metropolitan area during the next 25 years. Given the growth that is expected in our region and the rapid and continuing rise in land costs, an investment in these remaining natural areas will pay significant dividends over the long term for the citizens of the region.

The passage of this bond measure is a critical component of the Metro Council's Nature in Neighborhoods initiative. Nature in Neighborhoods is committed to protecting the region's water quality and critical habitat areas through a variety of tools, including the acquisition and restoration of natural areas with funding provided by this measure, but also through education, encouraging better development practices and other coordinated approaches between the public and private sector.

1995 Open Spaces, Parks and Streams Bond Measure

In 1995, the voters of the metropolitan region created a model program for protecting the area's most significant natural areas, fish and wildlife habitat and lands near rivers and streams. By approving Metro's \$135.6 million Open Spaces, Parks and Streams Bond Measure, voters directed Metro to protect these places for future generations and embarked on a significant new partnership with landowners, neighbors, businesses and governments to achieve the program's goals. The land that was protected today totals

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more than 8,100 acres and includes nearly 74 miles of stream and river frontage which offer important natural buffers from development while allowing greater public access to local waterways.

The bond measure also gave \$25 million directly to local park providers for investment in county and city park improvements and natural area land acquisition. More than 100 local park projects in neighborhoods across the region were funded by the bond measure. Today these projects provide residents more biking, hiking, wildlife watching and other opportunities to experience nature close to home.

Promises Made, Promises Kept

The Metro Council and program staff stretched the 1995 bond measure dollars. As of June 2005, more than \$10 million has been leveraged from state and local partners to buy land. Seven private landowners donated their property to the open spaces program and four more provided partial donations -- for a total of nearly 200 acres. In some cases, landowners donated conservation easements or agreed to a "bargain" sale of their property. Additionally, more than \$2 million has been obtained in grants and donations for habitat restoration and enhancements of these natural areas, which has allowed the planting of more than 1 million trees and shrubs. Volunteers have donated more than 50,000 hours in activities on these new sites assisting with everything from wildlife tracking and monitoring to collecting native seeds and eradicating noxious weeds.

Total acreage protected far surpassed what was anticipated when the bond measure was put to voters in 1995. It was estimated that 6,000 acres would be protected and 13.35 percent of the bond proceeds would be spend on overhead and administrative costs. In fact, 8,120 acres have been acquired (as of March 2006) and administrative costs have averaged only 9.6 percent.

The approach taken by the Metro region, where voters directed Metro to acquire land on a willing seller basis in designated target areas, has been successful. The result is the efficient implementation of one of the most ambitious habitat protection efforts ever undertaken by a major metropolitan area in the United States. It has greatly complemented Metro's larger growth management strategies (such as the 2040 Growth Concept Plan) aimed at accommodating future growth in a manner that will best protect the region's natural character and quality of life.

Public Process

Metro's 1995 Open Spaces, Parks and Streams Bond Measure was the result of nearly a decade of intensive regional planning, public involvement and debate. The basis for the land acquisition program is founded in the 1992 Metropolitan Greenspaces Master Plan, which was adopted by the Metro Council along with all 24 local cities and three counties within Metro's jurisdiction. At that time it was noted that many significant natural areas, wildlife habitat and water quality protection needs would not be met with the limited amount of bond funds available in the 1995 measure. Additional efforts would be required in the future to fulfill the vision of an interconnected system of parks, natural areas, trails and greenways described in the 1992 Metropolitan Greenspaces Master Plan.

Due to the success of the 1995 Open Spaces, Parks and Streams Bond Measure implementation, Metro and local partners now have a solid foundation of experience and a track record on which to build another natural area land acquisition program. When asked, citizens repeatedly stress that protecting wildlife habitat and water quality are among their highest priorities. By submitting this measure to the voters, the Metro Council is being responsive to these public priorities.

In 2000-2001, the Metro Policy Advisory Committee (MPAC), a task force composed of elected officials from throughout the region, emphasized the need to protect and improve the ecological health of fish and

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wildlife habitat in the region and urged the Metro Council to extend its land acquisition efforts beyond the scope of the successful 1995 Open Spaces, Parks and Streams Bond Measure.

In January 2004 the Metro Council created the Greenspaces Policy Advisory Committee (GPAC) to advise Metro in establishing and protecting a regional network of natural areas linked by rivers, streams and trails throughout the Portland metropolitan region. The 15-member committee consists of representatives from local park agencies, natural resource groups, the home building community and citizen park advocates.

In December 2004, the Council adopted a resolution that resolved to take before the voters a fish and wildlife habitat protection and restoration program bond measure by November 2006. In response, the Council established the Blue Ribbon Committee in September 2005. The committee was composed of 18 business, civic and citizen representatives recruited by Council President Bragdon. As charged by the Metro Council, the Blue Ribbon Committee made recommendations to the Council on the scope, size and elements of a natural areas bond measure program.

In January 2006 the Metro Council embarked on a targeted and strategic outreach program to solicit public and local government comments about the Blue Ribbon Committee recommendations for a 2006 Natural Areas Bond Measure. The Council's outreach is made up of three primary elements that have directly engaged citizens in discussions about the proposal:

- Seven public forums have been held around the Metro region at which broad information on the bond measure proposal was shared and discussion facilitated around the core elements of the bond measure proposal. At least one member of the Metro Council or the Metro Council President participated in each forum.
- Presentations by Metro Councilors and the Metro Council President to 19 city councils and the Tualatin Hills Park and Recreation District's elected board with an overview of the bond measure and its main elements, a discussion of possible local share projects in each community and discussion with local elected officials on the contents of the bond measure.
- Three Metro Council public hearings are to be held between February 23 and March 9, at which formal public testimony will be received and the details of the bond measure proposal will be determined, culminating in a vote to refer the measure to the voters at the November 7, 2006 General Election.

Detailed information about the Council's public involvement efforts is available.

Metro's 2006 Natural Areas Bond Measure

The proposed 2006 Natural Areas Bond Measure is intended to help this region's goals for protecting clean water, fish and wildlife habitat and lands near local rivers and streams. The protection of these lands will build on the success of previous land protection efforts including the 1995 Open Spaces Parks and Streams measure and the implementation of the region's growth management strategies.

The proposed 2006 Natural Areas Bond Measure consists of three basic elements:

- Regional natural area and greenway acquisitions
- Local Share Program
- Grants for Nature in Neighborhoods Capital Grants Program

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See Exhibit "A" to Resolution No. 06-3672A for the full description of the proposed bond measure.

ANALYSIS/INFORMATION**1. Known Opposition**

The Metro Council has received several comments from citizens opposing any type of tax increase at this time.

2. Legal Antecedents

Metro is authorized under ORS 268.520 and the Metro Charter, Chapter III, Sections 10 and 12, to issue and sell voter-approved general obligation bonds in accord with ORS Chapters 287 and 288, to finance the implementation of Metro's authorized functions.

Metro Council Resolution No. 92-1637, "For the Purpose of Considering the Adoption of the Metropolitan Greenspaces Master Plan," adopted July 23, 1992.

Metro Council Resolution No. 94-2049B, "For the Purpose of Modifying the Submission to the Voters of a General Obligation Bond Indebtedness to Proceed with the Acquisition of Land for a Regional System of Greenspaces."

Metro Council Resolution No. 04-3506A, "For the Purpose of Revising Metro's Preliminary Goal 5 Allow, Limit, or Prohibit Decision; and Directing the Chief Operating Officer to Develop a Fish and Wildlife Habitat Protection and Restoration Program That Relies on a Balanced Regulatory and Incentive Based Approach," adopted December 9, 2004.

Metro Council Resolution No. 05-3574A, "For the Purpose of Establishing a Regional Habitat Protection, Restoration and Greenspaces Initiative Called Nature In Neighborhoods," adopted May 12, 2005.

Metro Council Resolution No. 05-3612, "For the Purpose of Stating An Intent to Submit to the Voters the Question of the Establishment of a Funding Measure to Support Natural Area Protection and Establishing a Blue Ribbon Committee; and Setting Forth the Official Intent of Metro to Reimburse Certain Expenditures Out of the Proceeds of Obligations to be Issued in Connection with the Regional Parks and Greenspaces Program," adopted September 29, 2005.

3. Anticipated Effects

The effect of this resolution will be the referral to voters of a general obligation bond measure in the November 7, 2006 General Election.

4. Budget Impacts

Budget authority was established by the Metro Council in FY 2005-06 to pay for expenses related to the development of the bond measure referral, including expenses related to public involvement meetings and the acquisition of property options. The Council President's 2006-07 Proposed Budget will include a continuation of expenditures as part of the information development and distribution for the referral and ongoing options work. If the 2006 Natural Areas Bond Measure is approved by voters, these related expenses can be reimbursed from bond proceeds.

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The referral of this measure to the voters will require Metro to pay for election expenses, estimated at approximately \$150,000. This amount can change based on the number of issues on the ballot, and the number of region-wide items on the ballot. The Council President's 2006-07 Proposed Budget will include appropriation for this expense.

At the recommendation of the TSCC, budget authority for program expenses after the voters approve the measure are not anticipated to be included in the FY 06-07 adopted budget. The Council will have the legal authority to establish appropriation authority related to the successful passage of the measure, once the election has been certified. It is anticipated that, upon passage of the measure, staff will work with Council on the development of the bond measure program and the necessary budgetary appropriation to be approved by Ordinance at a later date.

RECOMMENDED ACTION

Staff recommends adoption of Resolution No. 06-3672B.

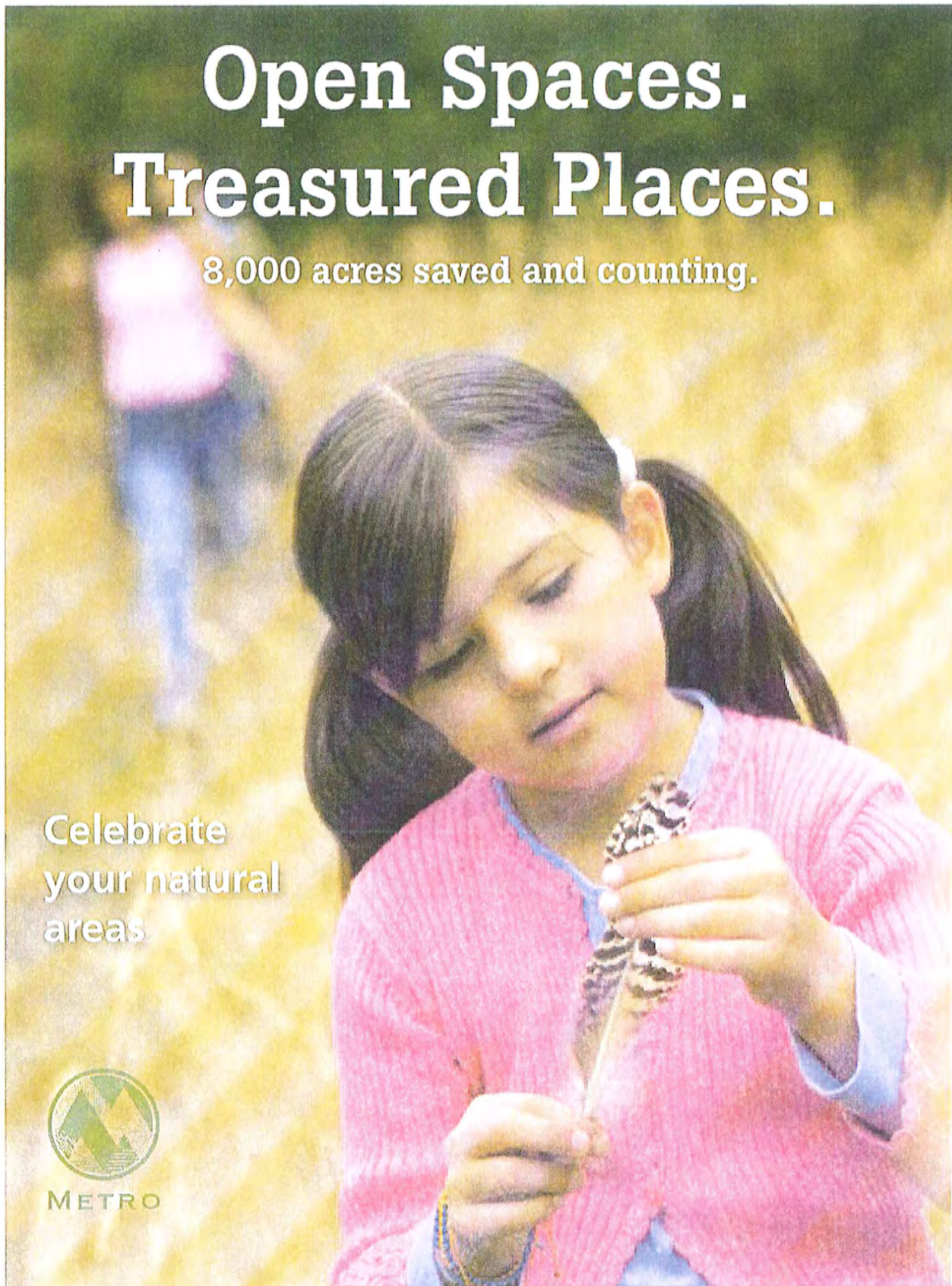
Open Spaces. Treasured Places.

8,000 acres saved and counting.

Celebrate
your natural
areas



METRO



Dear GreenScene reader



What does it take to protect and restore health to our local rivers and streams? How do we support fish and wildlife habitat? Do we have the skill – and the courage – to restore swimmable, drinkable waterways in the Portland region for ourselves and generations to come?

We can and we did. All of us, together.

In 1995, the voters of the metropolitan region created a model program for landowners, neighborhoods, businesses and government to work together to protect land near our rivers and streams – more than 8,000 acres and counting. By approving the \$135.6 million open spaces, parks and streams bond measure, voters directed the Metro Council to protect our precious butte tops, stream corridors, river canyons, wetlands and prairies with significant water quality, wildlife habitat and recreational benefits for the region. Our acquisitions include nearly 74 miles of stream and river frontage which offer an important natural buffer from development while allowing greater public access to local waterways.

This special edition of GreenScene features voices and stories from across the region. I hope you enjoy reading about some of the people, places and ideas that shaped the open spaces program and made our mutual success possible.

Let's celebrate.

Today, nearly all of the bond money has been spent and it's time to celebrate the investment we have all made in our children's future and the region's health and economy. During a special series of events from Sept. 1-11, you'll find an inviting variety of opportunities to get to know your newly acquired natural areas. I hope you'll join me in celebrating all that has been accomplished.

Eight thousand acres saved and counting. It's quite a legacy that you have given to this place. On behalf of all the citizens of the metropolitan region – those here today and those yet to come – I thank you.

Sincerely,

David Bragdon, Metro Council President

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Come. Explore. Repeat.

**Presented by
Portland General
Electric and
The Oregonian**

A ROOM WITH A VIEW

First Thursday Dedication Event
Photographic Image Gallery
Featuring photos by Bruce Forster
Sept. 1

CONCERTS ON THE LAWN

McMenamins Grand Lodge
The John Bunzo Trio
Sept. 2

BIKE TO THE MAX

Bike the Springwater Trail from
the Woodstock Bike Gallery
Sept. 3

OPEN HOUSE IN OPEN SPACE

Open Space Walking Tours
Cooper Mountain Vineyards
Sept. 4

WILDLIFE OF THE OPEN SPACES

Oregon Zoo Amphitheater
Sept. 5

JUDE AT THE ALADDIN

Tickets at Ticketmaster
Sept. 9

ANCIENT FOREST HIKE

With Friends of Forest Park
Sept. 10



Michael McDermott photo

Open Spaces. Treasured Places. Celebrate Sept. 1-11

UP THE RIVER WITH A PADDLE

Join Willamette Riverkeeper, Next
Adventure and eNRG Kayaking
Willamette Park, West Linn
Sept. 10

THE HARVEST FAIR

Sauvie Island's Annual
Wintering In
Sept. 10 and 11

LEGACY BREAKFAST AND BUS TOUR

Grandparents Day with Elmer's
Restaurants and TriMet
Sept. 11

Sign up to be a "Treasured Friend"
at these events or on the
Metro web site and be eligible
to win a bicycle or a kayak.

For registration information and event details,
visit www.metro-region.org/parks or call (503) 797-1928.



Portland General Electric

The Oregonian



Promises made, promises kept

What did we get for our money?

More than 8,130 acres of valuable natural areas and nearly 74 miles of stream and river frontage have been protected by the open spaces, parks and streams bond measure.

The bond measure also gave \$25 million directly to local park providers for investment in local county and city park improvements and, in some cases, even more land acquisition. More than 100 local park projects in neighborhoods across the region offer biking, hiking and wildlife watching opportunities close to home.

Exceeding expectations – Metro makes your dollars work harder

The Metro Council and program staff have worked hard to stretch your open space investment. As of June 2005, more than \$10 million has been leveraged from state and local partners to buy land. Seven private landowners donated their property to the open spaces program and four more provided partial donations – for a total of nearly 200 acres. In some cases, landowners donated conservation easements or agreed to a “bargain” sale of their property.

When the bond measure was put to voters in 1995, it was estimated that 6,000 acres would be protected and 13.35 percent of the bond proceeds



Willamette Narrows
C. Bruce Forster photo

would be spent on overhead and administrative costs. Not only were acreage goals far surpassed, but administrative costs averaged only 9.6 percent.

Administration/overhead
9.6%

Local share program
15.4%

Trail construction
1.4%

Land costs
73.6%

Regional natural area acquisition

Gales Creek (606 acres)
Wetlands and riparian forests acquired along Gales Creek south of Forest Grove protect wildlife habitat and water quality near the Tualatin River and connect to other large regional natural areas such as Fernhill Wetlands.

Jackson Bottom/McKay and Dairy creeks (493 acres)

Acquisitions along these tributaries of the Tualatin River support water quality enhancement efforts in the Tualatin Basin and add wildlife habitat to the Jackson Bottom Wetlands Preserve management area.

Tualatin River access points (398 acres)

Acquisitions along the Tualatin River provide rare habitat types and at least four future public access points for canoeing, kayaking, fishing, picnicking and wildlife viewing.

Cooper Mountain (256 acres)

Oak woodland, dry native prairie, mixed conifer forest, and stream and wetland areas will be the backdrop for a public natural area being planned for Cooper Mountain near Beaverton.

Rock Creek (117 acres)

A tributary of the Tualatin River, Rock Creek flows through an area of rapid urban growth. Acquisitions protect some of the natural features of the area, provide wildlife habitat, help maintain water quality and offer recreational opportunities.

Forest Park buffer/expansion (865 acres)

Acquisition of inholdings and adjacent buffer areas protects the future of Forest Park, a 5,000-acre park in urban Northwest Portland.

Willamette River Greenway (959 acres)

Acquisitions from Wilsonville to the Multnomah Channel protect fish and wildlife habitat and provide scenic value

and future river access. Specific Willamette River Greenway projects include Multnomah Channel (326 acres), Willamette Cove in North Portland (27 acres), Willamette Narrows near West Linn (472 acres) and Canemah Bluff near Oregon City (134 acres).

Tonquin geologic area (487 acres)

This area near Tualatin links to the Tualatin River National Wildlife Refuge and contributes scenic value to the cities of Wilsonville and Tualatin. It also features unique geologic evidence of prehistoric glacial flooding.



Tryon Creek linkages (58 acres)

Stream greenways leading to Tryon Creek help protect water quality in the watershed as well as support the integrity of Tryon Creek State Natural Area.

Newell Creek Canyon (280 acres)

Newell Creek flows through a forested canyon near Oregon City. Acquisitions include nearly 6 miles of stream frontage and help protect salmon and trout habitat.

Clear Creek Canyon (520 acres)

Acquisitions along this tributary of the Clackamas River support a salmon fishery and provide habitat for more than 100 species of fish and wildlife, including coyotes, cougar, blacktail deer, elk, cutthroat trout, chinook and coho salmon and 76 species of birds.

East Buttes/Boring Lava Domes (856 acres)

A group of extinct volcanoes and lava domes in north Clackamas and east Multnomah counties provides unique geographic character

to the region, excellent wildlife habitat and panoramic vistas.

Columbia River shoreline (271 acres)

Riparian forest and island acquisitions west of the Sandy River improve public access to the Columbia River and preserve remaining undeveloped habitat.

Sandy River Gorge (1,082 acres)

Acquisitions along this wild and scenic waterway and its tributaries provide important fish and wildlife habitat and water quality benefits.

Regional trails and greenways

Fanno Creek Greenway (39 acres)

Acquisitions will help complete the 15-mile regional trail planned from the shores of the Willamette River in Southwest Portland to the confluence of Fanno Creek and the Tualatin River. These properties also provide water quality protection in a highly urbanized area.

Peninsula Crossing Trail (1 acre)

Located in North Portland, this 3.5-mile trail connects the Columbia Slough and Smith and Bybee Wetlands Natural Area with the Willamette Greenway. The trail is open for public use.

OMSI to Springwater Corridor (53 acres)

Now home to the Springwater on the Willamette Trail, this critical link in the regional trails system is used by more than 400,000 people per year.

Clackamas River North Bank Greenway (608 acres)

Acquisition of land along the Clackamas River between Barton and Clackamette parks provides significant habitat restoration opportunities, flood storage, water quality protection and future recreational values.

Beaver Creek Canyon Greenway (110 acres)

Near Troutdale, this tributary of the Sandy River offers an important fish and wildlife corridor. The city of Troutdale has also completed several segments of a regional greenway trail in the canyon for hiking and wildlife watching.

Burlington Northern rails-to-trails (2 acres)

This corridor was originally envisioned to provide public access from Sauvie Island just north of the island bridge, over the Tualatin Mountains to the Tualatin Valley. At this time, a trail option is not likely, since the railroad company has not abandoned the rail corridor as previously planned.

Native plants and trees thrive in natural areas protected by Metro's open spaces bond measure.

C. Bruce Forster photos



Building a green ethic

The Greenspaces Master Plan was the first major legislation on the agenda when Susan McLain joined the Metro Council in 1991. Biologists had inventoried the significant undeveloped natural areas in the region and the plan reflected a hope of what habitat might be protected and restored to give people the kind of outdoor experience that they enjoy and care about. Metro conducted a livability survey that year and among the top three items was "being close to nature." People clearly expressed that nature was important to them, and played a special role in their lives. "I felt proud to vote on that," Susan recalls. "It was a lot of fun to get started with something I care so much about."

Susan says, "It was hard to decide how to follow through on the Greenspaces Master Plan – what were the best tools to restore, acquire and preserve the area's most critical habitats? We decided to support a bond measure." In 1992, the Metro Council put a natural areas bond measure on the ballot, and it failed.

"We're not giving up," Susan insisted. Instead, she and the other councilors tried to figure out how best to give people the natural areas and parks close to home that they said they wanted. In 1995, another bond measure was put on the ballot and Metro came up with a new strategy. "We gave the public more specific information about the areas we would go after – we identified key properties and projects and promised we would purchase 6,000 acres."

She joined the campaign's speaker's bureau and made nearly 70 presentations – sometimes two or three in one evening – to neighborhood and community groups, parks providers, even groups like water conservation agencies. She went door-to-door to convince voters to support the plan. When the \$135.6 million bond measure passed, Susan says, "We took a dream and made it into a reality. We promised 6,000 acres and ultimately gave more than 8,000 acres. The bond measure was a turning point for the region."

Mike Houck, director of the Urban Greenspaces Institute and urban naturalist for the Audubon Society of Portland comments, "Councilor McLain has been one of the most consistent voices on the Metro Council for the protection and res-



Metro Councilor Susan McLain
Jeffrey Simon photo

toration of urban greenspaces. Her support for the acquisition program has been critical to maintaining the political will to go to the voters for their support."

The Regional Trails Plan was another aspect of the Greenspaces Master Plan implementation and Susan, along with the other councilors, was involved in development of the Springwater Corridor, Rock Creek Greenway Trail, Fanno Creek Greenway Trail, Peninsula Crossing Trail and more. The combination of citizen support, agency commitment and success securing some federal transportation dollars moved many projects on their way.

The U.S. Fish and Wildlife Service, which provided funding for the region-wide inventory, also collaborated with Metro to create a Greenspaces grant program, and Susan was appointed to the panel that would choose the grant recipients. "That was another area I loved. I sat on the panel for close to five years, from 1996 to 2000, and it was an exciting time." With \$2.2 million in grants, more than 300 project recipients leveraged that money into \$9 million to carry out their work on the ground.

"These were projects that were important for restoration and education in four counties – Multnomah, Clackamas, Washington and Clark. Families and children would go out on Saturdays and plant trees, or clean up a stream. It presented people with a way to build a green ethic. It was fun, it was educational. The grant recipients were always groups that had a lot of partners. One project might have a middle school partnering with a county, a scout troop and a watershed organization. It was very proactive."



Red-flowering currant
C. Bruce Forster photo

Thousands of people volunteered over the course of the Greenspaces grant program, which inspired the Metro Council to fund a staff position for a volunteer coordinator to tap into that resource. The program matured quickly. In 2004, 1,500 volunteers donated 32,000 hours of service to Metro Regional Parks and Greenspaces. "I'm proud of that," Susan adds. "We have been able to engage the community and the result is having these great natural areas that are good for habitat, good for recreation, good for clean air and clean water."

In addition to using acquisition, education and restoration to protect the region's great natural areas, the Metro Council has worked with local governments in the region to develop key regulatory programs that help improve water quality, prevent flooding and protect important fish and wildlife habitat. This fall, the Metro Council plans to adopt a fish and wildlife habitat protection plan called Nature in Neighborhoods. "It's been contentious, complicated, exciting, and a long time in coming," says Susan. "In September when the plan is complete, we'll have another success story. It will show our commitment to fish and wildlife, the forest canopy, and maintaining the beauty of the region and our connection to nature."

A fifth-generation Oregonian, Susan grew up in Clackamas County and has lived for 30 years in Forest Grove. In the mornings, she teaches English, speech and debate at Glencoe High School. Her four children and three grandchildren strengthen her commitment to protecting the region's natural resources. "Being a mother and a grandmother is a good reality test of how you're spending the public money, and what the benefits will be." She is pleased with what's coming next. "The council is looking at 2006 for another possible natural areas bond measure, to take a needed next step and continue the important and good work that we have only just begun."



Former Metro Councilor explains the willing seller approach

The 1995 open spaces bond measure was unanimously referred to voters by the Metro Council with the provision that it would be a willing seller program. This meant that landowners must voluntarily choose to sell their land to Metro and that the government's power of condemnation would be used, if ever, only in the most extreme circumstances. The program has remained 100 percent faithful to the willing seller policy and philosophy in all 261 transactions completed with landowners. The willing seller policy was championed by Metro Councilor, Don Morissette. In an interview with Metro staff, Don talked about why.

Q: Was the willing seller policy controversial?

A: The willing seller approach was really breaking new ground in 1994, but there was some resistance to this policy both internally and externally. There was a fear that it might not work. We proved to a lot of skeptics that it would work. Not to mention that litigation and argument cost a lot of money and a lot of money could have been wasted that wasn't. Ultimately this provided more benefit to the public.

Q: Why was the willing seller policy so important to you personally?

A: I wouldn't support the bond measure until the willing seller policy was included as a provision. I thought it was important to show that people would be far more receptive to selling their land than maybe people thought. I wanted buy-in from the community to have open space but also for us as government to learn to deal with citizens on equal footing. The message was, we're not big brother, we're just like you, trying to make the Portland area a better place for our children and our grandchildren.



C. Bruce Forster photo

I believe that government doesn't have to rely on a heavy hand to be successful. I thought that many private landowners would be shocked that we were there to work with them, not to force them.

Q: Were there other benefits to the willing seller policy?

A: I think there was a lot more support for the measure from unusual areas because we were working with people, not forcing people.

Q: Why did you think willing seller was the right approach?

A: By limiting our program to willing sellers we allowed them to see the benefits to the community rather than being deterred by their fear that we would be taking something from them against their will. The legacy of this program is so powerful. I knew it could be used effectively to motivate landowners to become willing sellers.

Don Morissette has been a home builder in the Portland metropolitan area for more than 30 years. He was president of the Home Builders Association of Metropolitan Portland in 1992 and served as a Metro Councilor from 1994 to 1995.

The art of the deal: a willing seller program in action

by Jim Desmond, director of Metro Regional Parks and Greenspaces



Springwater on the Willamette Trail
C. Bruce Forster photo

Metro officials often emphasize that the open spaces bond measure has been a strictly willing seller program, which is a nice way of saying we didn't force anyone to sell us their land using condemnation. Although it's worth noting that nearly every other metropolitan natural area protection program in the country has resorted to condemnation, the words "willing seller" mean a lot more than that.

For those of us fortunate enough to have worked on this program, "willing seller" isn't a real estate construct – it's about people and building relationships. Consider that very few of the 261 parcels of land that Metro has purchased as of July 2005 were for sale. We identified key properties and approached the landowners about selling their land. This is not-so-affectionately known as "cold calling" in the sales business, and it isn't always easy. But this strategy worked well, and along the way we met great people, accumulated some amazing stories, and learned a lot about how people in the region feel about their land and their community.

"The railroad wins"

Few of our successes were more dramatic than the purchase of the corridor that became the 3-mile Springwater on the Willamette Trail, starting just south of OMSI and proceeding south along the east side of the Willamette River, through Oaks Bottom Wildlife Refuge to Umatilla Street at the foot of the Sellwood Bridge.

We bought what is known in the real estate business as the "underlying fee interest" (i.e. the dirt) from Portland General Electric for a price well below market in a deal that PGE made as easy as any we ever did. But that purchase was subject to an existing right-of-way in favor of an operating rail line that had existed there for more than one hundred years, formerly called the Portland Traction line. The current owner of the railroad rights was Dick Samuels, whose company, Oregon Pacific Railroad, moved freight through the corridor and operated a seasonal excursion train known as Samtrak between OMSI and Oaks Park.

When we started the deal, many people warned me about Mr. Samuels, predicting he would be difficult to deal with as he had tangled with various city bureaus and neighbors for many years. We did

some initial research to figure out if we could build the trail without his consent, as Metro did after all own the land now. But we quickly discovered the truth of what a senior partner at the Chicago law firm where I started my career had told me many years ago when he sat me down, legal pad and pen in hand, to receive what he said would be a "detailed primer" on railroad law. He uttered just three words: "The railroad wins."

Trains, trails and tuna melts

In most of the areas where Metro was buying land, if we couldn't get our first choice, there were frequently alternative sites of high quality. But this was an all or nothing scenario – there would be no trail unless Mr. Samuels agreed. So it became my job to convince him to either sell to us altogether or agree to coexist in a "rail-with-trail" scenario. I called him up in early 1996 and suggested we meet. He said I could meet him for lunch at Libbie's Restaurant in Milwaukie where, I quickly discovered, Mr. Samuels ate lunch nearly every day, and everyone knew him. I was right where I needed to be – on his turf.

We ate lunch at Libbie's every month or so for about two years, though we had six or seven meetings before I attempted to "negotiate" anything. Instead, I tried to simply listen, and learn about Mr. Samuels and his business. I came to understand that this was far more than a business for this man. He loved trains, loved them in a way that other men might love golf, or bird watching, or that I love old Marvin Gaye records. He was a buff of train history and especially the old Portland Traction line. Mr. Samuels himself drove the freight trains through the corridor at 7 a.m. His company employed his sons and his wife and they all worked together to operate the trains. Business is one thing, but a man's passionate hobby is quite another, and family usually trumps them both, so here I had the trifecta of commitment that made any discussion with Mr. Samuels about a lot more than money. Metro buying him out of his business was out of the question.

Eventually, in between Mr. Samuels' passionate opinions about overly aggressive city bureaucrats and dog owners trespassing along his tracks (despite his extensive signage including one that

read, "KEEP OUT - THIS MEANS YOU"), I began to introduce the concept of a "rail with trail." I explained that a fence would separate them and probably decrease the amount of trespassing on his tracks. I showed him photos of a similar successful project from Seattle.

Many tuna melts later, we found ourselves talking generally about relocating the track to the eastern side of the corridor to maximize the river views, how the trail could be designed to avoid any crossing of the tracks at all by trail users, and other approaches that would address Mr. Samuels' concerns - which, by then, I had been hearing about for months and come to understand and respect. He had mentioned that one of his sons was a bike rider, so I also outlined how critical this corridor was to the regional off-street trail system and the legacy he would be leaving his grandchildren if we could put a deal together. And I had learned that all he needed to operate trains in the corridor was 17 feet and that most of the corridor was 60-100 feet, so Metro would be buying a portion of his right-of-way that he didn't actually need.

When we finally did get around to talking about money, we both agreed the value of the right-of-way was not easy to assess. But Mr. Samuels had mentioned his dream of operating a rail museum someday, so I proposed the idea of Metro buying a building suitable for that purpose and trading it for most of the right-of-way and his consent to install the trail next to his operating rail corridor. We went to look at a warehouse in Sellwood that Mr. Samuels thought would do the trick, and through one of the best strokes of good luck I've ever had, the asking price was exactly what we thought the right-of-way was worth.

So we struck a deal, over lunch at Libbie's of course - Metro would pay for the track relocation (which Mr. Samuels and his sons did for a small percentage of the going rate for such a job), and acquire from Mr. Samuels all but 17 feet of the rail corridor, in exchange for the building in Sellwood.

Then we ran into a series of complications. We learned that when Mr. Samuels' company bought the rail line, Portland Traction reserved the right to approve any subsequent changes to the rail easement or future improvements in the corridor. So suddenly we were thrown

into another negotiation with a railroad company in Nebraska. Meanwhile, the Oregon Department of Transportation let us know how high the fence had to be to meet their safety requirements and the city of Portland told us such a fence would violate their Willamette River Greenway requirements designed to promote wildlife passage. (Being a government agency, by the way, does not exempt you from government bureaucracy.) We methodically worked our way through each issue and the deal closed in July 1998, two years after I first started talking to Mr. Samuels.

Through it all, I came to know Mr. Samuels well and deeply respect his commitment to his work and the importance of rail traffic. And I had learned that his word was his bond. He made good on every promise he ever made me. I made sure that Metro did, too.

Debuting "our trail"

When the city of Portland built the trail and it officially opened to the public in 2002, a ceremony was held with various federal, Metro and city officials. Some people walked the new 3-mile trail while others climbed aboard Mr. Samuels' train as he drove people back and forth through the corridor. He told me that day how excited he was about "our trail."

Last weekend, my five-year-old twin daughters learned to ride bikes (without training wheels, they would want me to add), so I took them down to the trail for a ride. From the distance, I heard a train approaching. About the time I could tell for sure the conductor was Mr. Samuels, he stuck his arm out the window and waved at us, though with my sunglasses and helmet on, I'm sure he couldn't have recognized me. Over my right shoulder was the best view in town of the downtown Portland skyline. A lone kayaker was paddling near Ross Island and a great blue heron soared over the river across the trail and the tracks to a graceful, muddy landing in Oaks Bottom. One of my kids said, "Daddy, look, a train!" Job satisfaction doesn't get any better than that for me.

Remember, every time you hear the phrase "willing seller," that there are stories behind those words - 261 stories and counting.

Jim Desmond has been the director of Metro Regional Parks and Greenspaces since 2003. He came to Metro in 1995 to run the open spaces acquisition program and manage a team of real estate negotiators and support staff. Before that, he was a project manager for the Trust for Public Land and a regional attorney for The Nature Conservancy. He started his career as a business attorney in Chicago.

The Springwater on the Willamette Trail was designed and built by the city of Portland with city and federal funds and money from Portland's local share of the bond measure. It is estimated that more than 400,000 people per year use the trail for wildlife watching, recreation, exercise and getting to work.



In 2003, the Springwater on the Willamette Trail won the Rail-Trail Design Recognition Award for "rail-with-trail" projects from the Rails-to-Trails Conservancy and the American Society of Landscape Architects.

PGE continues partnership with Metro to improve fish habitat

By Stephen Quennoz, vice president of power supply for Portland General Electric

In the electric business, we know the value of connections. By working together with others in our service territory and throughout the region, we've all been able to accomplish great things for our community. One shining example of this is the environmental stewardship efforts that Metro, Portland General Electric and other partners have developed during the last decade through the Metro open spaces program.

In 1995, Oregonians spoke loud and clear: parks and natural areas are an important investment. We couldn't agree more and as Oregon's largest utility, we've contributed millions of dollars in restoring the environment, including \$3 million to enhancing fish habitat along the Clackamas River.

During the last three years, PGE and Metro have partnered to restore environmentally sensitive land in Clackamas County, an area where we operate four hydroelectric facilities. These facilities provide about 30 percent of our annual hydroelectric generation, an important renewable resource for customers.

In 2004, we worked with Metro, Oregon Wildlife Heritage Foundation, Oregon Department of Fish and Wildlife and riparian restoration specialists Inter-Fluve, Inc. to complete restoration of the former side channels along the Clackamas River. With the goal of providing habitat for juvenile salmon in the Clackamas River near the Barton Bridge, this \$1.3 million project will increase the survival of young salmon migrating downstream to the Pacific Ocean, ultimately resulting in more adult salmon returning to the Clackamas River.

The project site is within 608 acres of riparian and island natural area that was purchased by Metro with funds from the open spaces bond measure. Within weeks of completing construction, hundreds of steelhead, coho and Chinook salmon



PGE project manager John Esler (left) and Metro natural resource manager Jim Morgan translated a unique partnership into remarkable results on the ground. Their work together along the Clackamas River will benefit wild salmon for generations.

PGE photo

were observed utilizing the cooler water and log structures of the ground water side channel near Barton Park.

We share Metro's vision of restoring river habitat so its lands can contribute to a healthy, functioning river system, and we continue to work with Metro to develop the environmental potential of natural areas along the Clackamas River and its tributaries. I'm not aware of any other utility that has this unique relationship with a government organization to restore public lands.

We have a long-standing history of incorporating environmental perspectives in our utility operations and business practices. In fact, the first aquatic biologists started working for PGE almost 50 years ago, and we now have 12 biologists working on fisheries issues where we have hydroelectric facilities: the Sandy,

Clackamas, Deschutes and Willamette rivers.

Improving the environment of the rivers where our customers benefit from the generation of hydro power is an issue our customers care about, and the stewardship of these resources is a commitment we take very seriously.

PGE, Metro and local nonprofit organizations will continue to strengthen the health of the river system with two additional projects.

Clear Creek

The first project is restoration activities in Clear Creek, an important tributary that enters the Clackamas River near Carver. Metro protected 520 acres along Clear Creek as part of the open spaces bond measure, and PGE is contributing \$500,000 to fund a series of projects

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June 4, 2012 2:00 PM

Trolley Trail opens, reinventing historic rail line as six-mile path between Milwaukie and Gladstone

By Laura Oppenheimer Odom. Bystandees are Metro staff. Stories with a byline do not necessarily represent the opinions of Metro or the Metro Council. Metro news is committed to transparency, fairness and accuracy. [Learn more](#)



Many area residents arrived at the grand opening of the Trolley Trail on Saturday by foot or bike, using the new six-mile pathway between Milwaukie and Gladstone.

More than a century in the making, the six-mile Trolley Trail opened last weekend with a few hundred people on hand to celebrate the new connection between Milwaukie and Gladstone.

The trail, which chugs through the heart of Oak Grove, traces the route of an historic trolley that once linked downtown Portland with Oregon City. Ever since the trolley closed for business in the late 1950s and freight service stopped a decade later, the community has rallied to reinvent the tracks as a trail.



[Click to enlarge](#)

Realizing that vision was a team effort. Metro helped secure right-of-way with a natural areas bond measure, led the planning process and invested transportation money in building the trail. The North Clackamas Parks and Recreation District collaborated on the planning, contributed to the project, managed construction and operates the new Trolley Trail. But it never would have materialized without dedicated citizens as champions. Metro Councilor Carotta Collette told the crowd at Saturday's grand opening.

"Nothing like this happens without hundreds of people working endless hours of their own time. It's not the government saying 'Let's build a park,' it's people like you saying 'Let's build a park, let's build a trail.' And here it is," said Collette, who lives in Milwaukie and represents most of the region's southern suburbs. "That's what we're celebrating today, not just that we've got a path, but that we've got a community that builds a path over 20 years."

The Trolley Trail runs north-south, passing residential neighborhoods, retirement communities, parks and business districts along the way. Many nearby residents arrived at Saturday's celebration on foot or bike, pulling off the flat, paved Trolley Trail at Oak Grove Elementary School. They listened to a marimba band, munched on snacks, climbed aboard a fire truck, toured a vintage trolley that once operated along the route – and reminisced about the trail's history.

Elaine Hamm, who grew up along the trolley line, recalled riding as a toddler in the late 1950s; she cried because the bell was so loud. Her family has fond memories, too, such as a conductor who frequently stopped the trolley to shoo their cat from the tracks.

"I'd love to see the trolley come back," said Hamm, who lives in her childhood home. "But this is the next best thing."

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Timed for National Trails Day, the celebration brought together many partners who have collaborated on the Trolley Trail.

Clackamas County Commissioner Paul Savas recalled getting involved as a board member of the Oak Lodge Sanitary District, then seeing the project come to fruition as a county commissioner. He described the trail a model of regional collaboration, saying "Instead of just talking about something, we got something accomplished."

Longtime advocates with the community-based Friends of the Trolley Trail said this milestone didn't come quickly or easily. It took lots of meetings, negotiations with government staff over trail details, and cleanup days that unearthed everything from poison oak to electrical appliances. And their work isn't done. Group leaders envision creating an "adopt a trail section" program, lighting part of the trail and providing bags and disposal stations to pick up after dogs.

But it's rewarding to see so many people enjoying the trail already, said Dick Jones, one of the founders of Friends of the Trolley Trail. He notices people getting to know their neighbors better and getting healthier.



Longtime Trolley Trail advocate Dick Jones chats with Metro Councillor Carlotta Collette at the grand opening celebration.

"We said the trail would be a safe place for kids. We said bikers would have a safe travel lane apart from highway traffic. We said it would open up more direct routes to school, to the library, to the post office and shopping. We said it

would be a linear park. We said the trail would become a gem of this community," Jones said. "The good news is, we've been able to deliver on everything we said and much more."

Laura Oppenheimer Odom can be reached at laura.odom@oregonmetro.gov or 503-797-1879. Follow Metro on Twitter @oregonmetro.

[Learn more about Metro's Natural Areas Program](#)

[Learn more about Metro's regional flexible funding program](#)

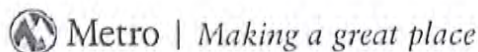
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Planning future parks

PLANNING AND CONSERVATION > NATURAL AREAS, PARKS AND TRAILS > PLANNING PARKS AND TRAILS > PLANNING FUTURE PARKS

Help shape tomorrow's great places. Metro plans new nature parks and facilities across the region and updates its stewardship strategies for existing natural areas.

Tualatin River Water Trail

Find out about plans to improve paddling access to the Tualatin River. Metro and its partners are studying two Metro natural areas to determine the best place for a new launch site. [More](#)

Glendoveer Golf Course and Fitness Trail facility assessment and business plan

Learn about a new study that will evaluate potential improvements at the Glendoveer Golf Course and Fitness Trail in East Portland. [More](#)

Smith and Bybee Wetlands natural resource management plan update

Find out how Metro and its partners are working to ensure the health and well-being of the unique habitat at Smith and Bybee Wetlands. An updated plan will guide stewardship of the natural area for the next 20 years. [More](#)

Chehalem Ridge Natural Area

At 1,143 acres, Chehalem Ridge is the largest property ever purchased by the Portland region's voter-approved Natural Areas Program. Along with all that land, Metro took on a lot of opportunities. The science team is learning more about the land's forests, streams and habitats, and considering options for public access. [More](#)

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503-797-1650
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RELATED LINKS

Cooper Mountain Nature Park

Explore the trails, natural garden and visitor facilities and enjoy the views and rare habitats at the new Cooper Mountain Nature Park near Beaverton.

The Intertwine

The Metro Council is teaming up with governments, businesses, nonprofits and other nature lovers to create the world's best network of parks, trails and natural areas.

Proposed local park projects

Park providers around the region have identified more than 100 projects that would be prioritized for funding with their share of the bond measure funds. Review the list of proposed local projects.

Heritage garden and memorial at Lone Fir

Learn about the vision for a heritage garden and memorial to honor Chinese workers and asylum patients buried at Lone Fir Pioneer Cemetery in the 1800s. Find out how you can get involved.

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SMITH AND BYBEE COMPREHENSIVE PLAN PROJECT

CHEHALEM RIDGE NATURAL AREA

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THE INTERTWINE

INTERACTIVE MAP

Impassioned
civil discourse
in your pajamas.



FEATURED VIDEO



It's Our Nature

Transport yourself to a few of the forests and trails, clearings and creeks protected by Metro's voter-approved Natural Areas Program. Goosebumps guaranteed.

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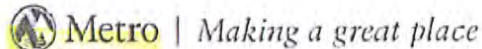


The Intertwine is the name for the region's ever-growing network of integrated parks, trails and natural areas. See a regional map of The Intertwine's best-loved outdoor recreation and education locations, and find nature activities, bike rides, bird walks, volunteer opportunities and many workshops on the calendar.

[Explore the map](#)
[Browse the calendar](#)

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Proposed local park projects

PLANNING AND CONSERVATION » NATURAL AREAS, PARKS AND TRAILS » PROTECTING NATURAL
AREAS » PROJECTS IN YOUR COMMUNITY » PROPOSED LOCAL PROJECTS

Park providers around the region have identified more than 100 projects that would be prioritized for funding with their share of the bond measure funds. Review the list of proposed local projects.

When voters approved a natural areas bond measure in 2006, they asked Metro to distribute \$44 million for local communities to invest in nature close to home.

Funds are provided directly to local cities, counties and park districts. Communities have flexibility to meet their own needs and give citizens better access to nature in neighborhoods all across the region.

From Forest Grove to Troutdale and North Portland to Wilsonville, new nature parks are opening, trails are being built and habitat is being restored.

For more information about the proposed projects, contact individual jurisdictions directly.
Find jurisdictional contact information



Beaverton

- **Beaverton Creek restoration**
Restore Beaverton Creek channel between Cedar Hills Boulevard and Hocken Avenue
- **Beaverton Creek Trail**
Acquire and develop a segment of the Beaverton Creek Trail
- **Erickson Creek Acquisition**
Acquire land to expand Erickson Park
- **Griffith Park**
Construct trail around Griffith Park which will provide future regional trail connections
- **Jordan-Husen Park**
Develop visitor facilities at Jordan-Husen Park in partnership with Tualatin Hills Parks and Recreation District
- **Sexton Mountain**
Acquire natural area near Sexton Mountain Elementary School
- **Sexton Mountain**
Restore and enhance reservoir site near Sexton Mountain Meadows Park
- **Southwest area park and natural area**
Acquire land for a new park and/or natural area
- **Willow Creek**
Acquire land along Willow Creek linking two existing parks

Clackamas County and North Clackamas Parks and Recreation District

- **Barton Lake Development**
Master plan and develop property at Barton Park to include facilities for camping, day use and non-motorized trails for walking, hiking, biking and equestrian use
- **Barton Park West Campground**
Pave the west campground to enhance property and minimize noise and dust
- **Billy Goat Island Access**
Acquire additional land to provide access to existing county-owned riverfront property and establish caretaker facilities
- **Boring Station Trailhead Park**
Plan, design and construct a park and trailhead in Boring and provide access to the Springwater Corridor
- **Carver Curves -- Clackamas River**
Acquire property and provide improved parking, restrooms and a boat launch on the Clackamas River at the Carver Curves
- **Knights Bridge -- Mollala River**
Acquire property and provide parking, restrooms and a boat launch on the Mollala River at Knights Bridge
- **Madrone Wall Site Plan**
Develop a conceptual plan that will determine feasible recreational purposes for the site
- **North Clackamas Park**
Create a concept plan and implement natural resource enhancements and facility improvements on the park's "north side" (25 acres)
- **Rock Creek Community Park acquisition**
North Clackamas Parks and Recreation District purchased 33 acres of parkland at Southeast 162nd Ave.
- **Rosemont Trail**
Help construct a portion of the Rosemont Trail connecting Lake Oswego and West Linn
- **Springwater Corridor**

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Plan, design and construct approximately 2.2 miles of the Springwater Corridor from Highway 212 in Boring north to the county line at Rugg Road

- **Stringfield Property**
Implement the approved concept plan, which includes restoring the stream corridor, developing a trailhead for the Trolley Trail and providing a playground, internal trails and restrooms

Cornelius

- **Arboretum Park**
Make improvements to Arboretum Park
- **Steamboat Park**
Make improvements to Steamboat Park
- **Natural area acquisition**
Acquire and protect natural area land

Damascus

- **parks and greenways**
Acquire and develop land for future parks and greenways

Durham

- **Fanno Creek Greenway Trail**
Extend trail from Durham City Park to Fanno Creek Greenway Trail
- **Durham City Park**
Improve neighborhood trail connections to Durham City Park
- **Heron Grove Park**
Restore natural areas and improve trails at Heron Grove Park

Fairview

- **Gresham-Fairview Trail**
Acquire and construct segments of the Gresham-Fairview Trail
- **natural area**
Acquire natural area near Blue Lake
- **Salish Ponds Nature Park**
Construct trails and boardwalk, install signage and security lighting and other improvements at Salish Ponds Nature Park

Forest Grove

- **Stites Nature Park**
Acquired 4.5 acres to provide better public access to Stites Nature Park

Gladstone

- **Abernethy Lane**
Improve Abernethy Lane path
- **Cross Memorial Park**
Install restrooms at Cross Memorial Park
- **Dahl Beach**
Build trail and install restrooms at Dahl Beach
- **High Rocks Park**
Install restrooms at High Rocks Park
- **Meldrum Bar Park**
Extend bicycle and pedestrian path and install restrooms at Meldrum Bar Park
- **natural area**
Restore natural area

Gresham

- **Butler Creek Park**
Restore natural areas and develop public use facilities at Butler Creek Park
- **East Buttes**
Acquire natural areas in the East Buttes
- **East Gresham Park**
Restore natural areas and develop public use facilities at East Gresham Park
- **Gresham-Fairview Trail**
Acquire and construct segments of the Gresham-Fairview Trail
- **Hogan Butte Nature Park**
Develop trails and public use facilities at Hogan Butte Nature Park
- **Johnson Creek**
Improve habitat along Johnson Creek
- **Kane Road Park**
Restore natural areas and develop public use facilities at Kane Road Park
- **Main City Park**
Restore natural areas and develop public use facilities at Main City Park
- **Pleasant Valley area**
Acquire environmentally sensitive lands in the Pleasant Valley resource area
- **Springwater area**
Acquire environmentally sensitive lands in the Springwater resource area

Happy Valley

- **Aldridge Road**
Acquire and develop nature park near Aldridge Road
- **Mitchell Creek**
Acquire natural area near Mitchell Creek
- **Mount Scott Creek Trail**
Procure easements and construct Mount Scott Creek Trail
- **Rock Creek Trail**

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Procure easements and construct Rock Creek Trail

Hillsboro

- **Beaverton Creek**
Acquire and/or develop land for greenway and trail along Beaverton Creek
- **Bronson Creek**
Acquire and/or develop land for greenway and trail along Bronson Creek
- **Dawson Creek**
Acquire and/or develop land for greenway and trail along Dawson Creek
- **Orenco Creek**
Acquire and/or develop land for greenway and trail along Orenco Creek
- **Rock Creek Greenway Trail**
Acquire and develop land to extend the Rock Creek Greenway Trail

King City

- **King City Park**
Enhance wetlands at King City Park

Lake Oswego

- **Canal Area**
Implement Canal Area master plan
- **Iron Mountain Park**
Restore natural areas at Iron Mountain Park
- **Stafford Basin**
Acquire land for future parks or natural areas
- **Stafford Trail**
Develop Stafford trail extension
- **Tryon Creek**
Construct pedestrian bridge over Tryon Creek
- **Willamette shore**
Develop bike and pedestrian pathway

Milwaukie

- **Ardenwald Neighborhood**
Acquire future park or natural area land in the Ardenwald Neighborhood
- **Homewood Park**
Develop play area at Homewood Park
- **Johnson Creek**
Acquire natural areas along Johnson and/or Kellogg creeks
- **Johnson City Park habitat enhancement**
Enhance habitat at Johnson City Park
- **Kellogg Creek**
Acquire natural areas along Johnson and/or Kellogg creeks
- **Lake Road Neighborhood**
Acquire future park or natural area land in the Lake Road Neighborhood
- **Milwaukie Riverfront Park**
Enhance natural areas and/or paths at Milwaukie Riverfront Park
- **Minthorn Wetland**
Develop trail at Minthorn Wetland
- **North Clackamas Park**
Improve visitor facilities at North Clackamas Park
- **Spring Park**
Enhance wetland and develop trail at Spring Park

Oregon City

- **Canemah**
Acquire land for future park or natural area
- **Caufield Creek**
Acquire land for future park or natural area
- **High school area**
Acquire land for future park or natural area
- **Holcomb Creek**
Acquire land for future park or natural area

Portland

- **Local natural area acquisitions**
Acquire natural area lands throughout the City of Portland including at Johnson Creek, Columbia Slough, Forest Park, Fanno Creek, Tryon Creek, Willamette Greenway and the Willamette Wildlife Corridor
- **Neighborhood park acquisitions**
Acquire land for future parks in the Argay, Centennial and Cully neighborhoods
- **Close gaps in Portland's regional trails**
Acquire land or easements for important regional trails within Portland with the goal of filling gaps in the 40-Mile Loop Trail and regional trails plan
- **Habitat restoration and trail improvements**
Restore fish and wildlife habitat and improve trails in natural area parks throughout Portland

Rivergrove

- **Lloyd Minor Park**
Enhance habitat and improve visitor facilities at Lloyd Minor Park
- **Tualatin River**
Restore river bank and improve river access

ATTACHMENT 5

7 of 15

HOME

CALENDAR

PLACES AND ACTIVITIES

GARBAGE AND RECYCLING

SUSTAINABLE LIVING

PLANNING AND CONSERVATION

GET INVOLVED

REGIONAL PLANNING AND POLICY

URBAN DEVELOPMENT AND REVITALIZATION

TRANSPORTATION AND LAND USE PROJECTS

NATURAL AREAS, PARKS AND TRAILS

MANAGING GARBAGE AND RECYCLING

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Sherwood

- **Cedar Creek**
Acquire land for Cedar Creek Trail
- **Edy Road**
Acquire and develop land for trail along Edy Road
- **Senior Center to Stella Olsen Park**
Acquire and develop land for trail from Senior Center to Stella Olsen Park
- **Stella Olsen Park**
Restore habitat and improve interpretive facilities at Stella Olsen Park

Tigard

- **Various locations**
Acquire natural areas
- **Various locations**
Acquire land for future parks

Troutdale

- **Beaver Creek Greenway Trail**
Improve Beaver Creek Greenway Trail
- **Mount Hood Community College**
Restore and improve Mount Hood Community College natural area
- **natural area**
Acquire natural area on southeast side of Troutdale
- **natural area**
Acquire natural area on west side of Troutdale
- **Sandy River trail**
Develop a trail along the Sandy River

Tualatin

- **natural area**
Acquire natural area in urban growth expansion area
- **Tualatin River Greenway**
Acquire land in the Tualatin River Greenway

Tualatin Hills Parks and Recreation District

- **Beaverton Creek Trail and park**
Acquire land west of Highway 217 and north of Allen Boulevard for future Beaverton Creek Trail and park

Washington County

- **parks and trails north of Sunset Highway**
Acquire land for parks and trails in newly developing areas north of Sunset Highway in Washington County
- **various locations**
Acquire natural areas and land for future trail corridors

West Linn

- **Burnside Park**
Restore and enhance forested areas at Burnside Park
- **Joseph Fields Homestead**
Acquire Joseph Fields homestead site
- **Maddox Woods Park**
Restore and enhance forested areas, improve visitor facilities at Maddox Woods Park
- **Mary S. Young State Park**
Restore and enhance forested areas at Mary S. Young State Park
- **Rosemont Road Trail**
Develop trail from Carriage Way to Luscher Farm
- **Wilderness Park**
Restore and enhance forested areas, remove parking lot at Wilderness Park

Wilsonville

- **Boeckman Creek Trail**
Acquire easements for trail access to Boeckman Creek Trail
- **CREST Environmental Center**
Develop gateway to Graham Oaks Natural Area at the CREST Environmental Center
- **Graham Oaks Natural Area**
Restore natural areas, develop trailhead paths and interpretive facilities at Graham Oaks Natural Area
- **Memorial Park**
Construct trails and develop Willamette River overlook at Memorial Park

Wood Village

- **Donald L. Robertson City Park**
Restore wetlands at Donald L. Robertson City Park

NEED ASSISTANCE?

Natural Areas Program
503-797-1545
naturalareas@oregonmetro.gov

PROTECTING NATURAL AREAS

ACQUIRING NATURAL AREAS

PROJECTS IN YOUR COMMUNITY

PROPOSED LOCAL PROJECTS

LOCAL PROJECT CONTACTS

PERSONAL NATURE ESSAYS

IT'S OUR NATURE VIDEO

RESTORING THE LANDSCAPE

PLANNING PARKS AND TRAILS

INTERACTIVE MAP

PLACES AND ACTIVITIES



The Intertwine is the name for the region's ever-growing network of integrated parks, trails and natural areas. See a regional map of The Intertwine's best-loved outdoor recreation and education locations, and find nature activities, bike rides, bird walks, volunteer opportunities and many workshops on the calendar.

Explore the map
Browse the calendar

430-97 Parks (Public and Private)

A Park, which includes a playground, includes the use of an area set apart for recreation of the public to promote its health, enjoyment and the environment. A Playground is a park with playground equipment.

430-97.1 Type I

Parks are allowed through a Type I procedure when no building permit is required, except for playground equipment, or off-street parking facilities are required and the use is not carried on as a business.

430-97.2 Type II

Where a building permit or parking facilities are required, except as specified in Section 430-97.1, or if the chief activity of the park is carried on as a business, the following standards shall apply:

- A. All side and rear setbacks to any building or swimming pool shall be no less than forty-five (45) feet;
- B. The front yard setback shall be the same as the primary district; and
- C. Facilities and structures, except as permitted as a Special Recreation Use (Section 430-131), that are incidental and subordinate to the park may be permitted, including but not limited to service yards, maintenance equipment storage and repair, indoor picnic facilities, and except in the EFU, AF-20 and EFC Districts, caretaker residences. In the EFC District only caretaker residences for public parks may be permitted.
- D. Park approvals shall be conditioned to provide for maintenance.

430-99 Private Club

A Private Club includes buildings and grounds used for and operated by a nonprofit organization, whose membership is by invitation and election according to qualifications in the club's charter or bylaws. The use of the club's facilities is primarily restricted to members and their guests. Private clubs may be allowed subject to the following:

- 430-99.1 A minimum lot size of fifteen thousand (15,000) square feet;
- 430-99.2 A minimum front and rear yard of twenty (20) feet;
- 430-99.3 A minimum side yard of twenty (20) feet;
- 430-99.4 Where a golf course is included - See Section 430-51 for additional standards; and
- 430-99.5 Where other sports facilities are involved see Section 430-131 (Special Recreation Use) for additional standards.

including the Beaverton School District, City of Beaverton, Tualatin Valley Fire and Rescue, Tualatin Valley Water District, Metro, Portland Community College (PCC), Washington County and others. It has implemented new procedures for tracking maintenance and operation costs and practices. In partnership with sports groups and the Beaverton School District, it has expanded the use of synthetic turf fields to prolong field life and make more efficient use of resources. It has undertaken detailed planning for playing fields, natural areas and trails. It has created a world class nature center and community facility at the Tualatin Hills Nature Park, and it has raised the bar for construction of new multi-purpose recreational facilities with construction of the Conestoga Recreation and Aquatic Center.

New recreational or special use facilities constructed since 1997, or currently under construction, include a nature park classroom, athletic center basketball courts, a new recreation complex at the PCC Rock



Tualatin Hills Park & Recreation District
Comprehensive Plan, 2006—Trails Plan

Creek Campus, and the following improvements to the H.M. Terpenning (HMT) Recreation Complex:

- Skate park and expansion.
- Tennis structure.
- Two ADA-accessible play equipment areas
- Two synthetic turf fields.

In 1996, the District had a total of 1,229 acres of park land. By 2006, the District had 1,565 total acres and 200 total parks and facilities. Between 1997 and 2006, the District developed or added:

- 32 acres of neighborhood parks.
- 80 acres of trails.
- 40 acres of community parks.
- 125 acres of natural areas.

In comparison to its adopted 1996 standards, the District is:

- Close to meeting the standard for neighborhood parks.
- Meeting standards for community parks when considered in combination with special use facilities such as the Jenkins Estate and Tualatin Hills Nature Park.
- Generally meeting its standards for aquatic and community recreation standards.
- Meeting levels of service standards for some but not all types of playing fields.

- Generally meeting its overall core park land standards (combined standard for neighborhood, community, linear parks and natural areas).
- Exceeding standards for acquisition of natural resource properties.

Summary of Needs

The Park District enjoys a strong reputation as one of the region's largest park and recreation providers with a high level of satisfaction among District residents and patrons. To continue to satisfy recreational needs and demands, consistent with standards and practices recommended in this Plan, the Park District will need to do the following:

- **Acquire and develop approximately 58 acres of neighborhood parks and 90 acres of community parks and special use facilities** within its existing service area over the next twenty years. Neighborhood park needs are concentrated in the the northeast quadrant of the District, due north of Highway 26; northwest quadrant, due north and south of the Westside Max light rail corridor; southwest corner of the District; and the southeast quadrant, southern edge of the Park District. The northwest quadrant of the District is most in need of neighborhood and community parks and special use facilities.

An additional 80 acres of park land, including approximately three neighborhood parks, one community park and 40 acres of linear parks and open space will be needed in the North Bethany and surrounding area as the District expands there. The newly planned recreational complex at the PCA Rock Creek Campus will help fulfill this need.

- **Create approximately 80 additional playing fields and or replace 28 existing fields** with artificial turf playing surfaces to prolong their life and expand their capacity; build 33 more tennis courts. Facilities planned for the PCA Rock Creek Campus will help meet these needs.

- **Create a strong north-south and east-west trail spine and expand and connect other trails segments throughout the Park District.** Priority connections include portions of the Westside, Beaverton Creek, Waterhouse, Fanno and Tualatin Valley Highway trails.

- **Build two new large community recreation and aquatic centers and renovate, expand or replace one or two additional aquatic centers.** The new Rock Creek complex will help fulfill a portion of this need. A new facility in the southwestern portion of the District also ultimately will be needed. Major renovation or replacement of recreation and aquatic facilities in the eastern portion of the District also is recommended in the long-term.

- **Implement minor programming improvements needed to accommodate the needs of existing and future District residents** including an extensive wellness program, performing and cultural arts programs, and programs for younger, active seniors. More ethnically-focused programs, non-traditional sports programs and non-structured activities also will be needed to meet future demand and need.

- **Continue to strengthen maintenance programs and efficiency** in part by moving the Park District's primary maintenance facility from the HMT Recreation Complex to a different location and constructing several satellite maintenance facilities. This will help the District to more cost-effectively conduct operations and to make better use of land at the HMT site.

Overall Recommended Approach to Meet Needs

The following approaches also are recommended to meet specific needs:

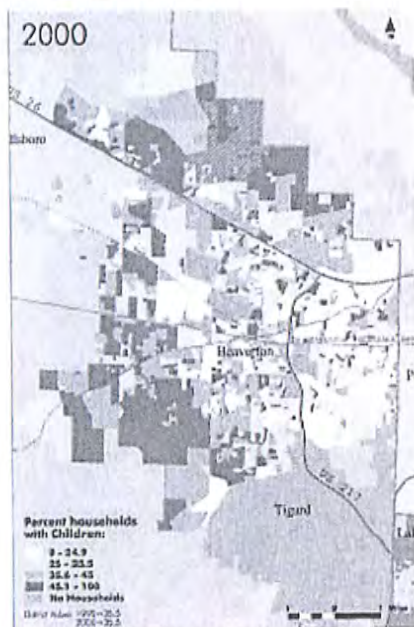
- Ensure that all residents are within one-half mile of a neighborhood park and acquire enough land to provide 0.9 acres of neighborhood parks per thousand residents. Where land is scarce or unavailable, this acreage standard may be lower.

In newly developing areas, it may be higher (e.g., 1.0 acre per thousand residents).

- Ensure that all residents are within two miles of a community park or special use facility and acquire enough land to provide two acres of these facilities (combined) per thousand residents.
- Continue to acquire enough land to provide for 6.3 to 6.5 acres of park land (including neighborhood, community, linear parks and natural areas) per thousand residents. Where land is scarce or unavailable, this acreage standard may be lower. In newly developing areas, it should be at the top end of this range.
- In building new recreation and aquatic centers, construct relatively large, multi-purpose, multi-generational facilities, similar to the Conestoga Center. The Park District does not expect to build additional stand-alone aquatic centers or single-purpose facilities (e.g., new senior centers). Instead, those components will be incorporated in multi-use facilities.
- Continue to take a multi-use approach to playing fields (rather than a dedicated field approach). The Park District will continue to partner with other agencies and user groups when possible to develop, manage and maintain fields and will build new or renovate existing fields with artificial surfaces where it is a cost-effective solution to increasing capacity and field life.

Overview

Currently, the area of the District includes most of the city limits of the City of Beaverton, as well as unincorporated areas of Washington County east of the City of Hillsboro, covering a total of 29,000 acres or approximately 50 square miles.



Source: US Census 2000, Portland State University (PSU).
Prepared by Ken Radin, PSU, Population Research Center, 2005.

Tualatin Hills Park & Recreation District
Comprehensive Plan, 2006

Table 1. Current, Future District Population Trends by Percentage of Age

Age	2000	2005	2010	2015	2020	2025
0-19	28.0%	27.5%	27.4%	27.1%	27.0%	27.1%
20-64	63.1%	64.4%	64.9%	65.0%	64.6%	64.3%
65+	8.9%	8.1%	7.7%	7.9%	8.4%	8.7%

Source: Portland State University, 2006

Demographics

The District, which covers 6.2 percent of Washington County, holds an estimated 42.3% of the County population, or approximately 209,800 people.

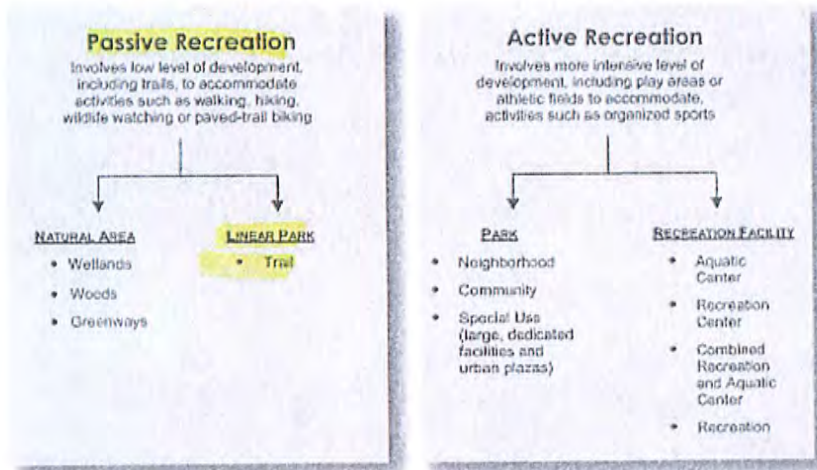
In the year 2000, approximately 35% of households in the Park District included children, with people under 24 making up about 35% of the population and people 65 and over accounting for 8.9 percent. Families with children are more common in the southwestern quadrant of the District and north of Hwy 26; seniors are somewhat concentrated in the southeastern quadrant. According to demographic analyses prepared for the District by Portland State University, the distribution of people in different age groups is not expected to change significantly in the future (see Future Conditions section).

Over the last 15 years, the ethnic make-up of the Park District has changed markedly, with an increasing percentage of Latino and Asian residents.

The proportion of Latinos has increased from about three percent in 1990 to nine percent in 2000. The percentage of Asian residents increased from six to nine percent during the same period. The percentage of minority residents is expected to continue to increase, although at a slower rate than in the past two decades. The most significant concentrations of Asian residents are in the northwestern corner of the District. The largest concentrations of Hispanic residents are in the central portion of the District and in the southeastern and southwestern quadrants.

Parks and Facilities

The Park District owns and manages a wide variety of facilities. Some are used primarily for active recreation (e.g., neighborhood and community parks, playing fields, recreation centers and sports complexes), while others are designed more for passive uses (open spaces, natural areas, and trails), with some overlap among or within individual facilities.



In total, the Park District owns and operates about 200 parks and recreation facilities. District-owned parks, open space, natural areas and special use facilities total about 1,407 acres. Other District-owned facilities (e.g., sports complexes, aquatic centers and community recreation facilities) total another 158 acres.

As part of the process of updating this Comprehensive Plan, the Park District reformulated its classification system into the categories described in the above

diagram and the table on page 11. Individual park and other facility classifications are based on primary intended use. However, as noted above, many facilities serve multiple purposes. For example, some neighborhood parks include significant natural areas or features. Some large linear parks include play areas or other neighborhood park amenities. In addition, individual facility classifications may change over time as facilities are expanded, redeveloped or programmed for alternative uses.

This new classification system represents a significant change in comparison to the Park District's previous system. The previous system included only five primary classes - neighborhood parks, community parks, regional parks, mini-parks and a combined open space/greenway/ natural area category. Detailed descriptions of facility classes and associated amenities also have been added to this draft of the Comprehensive Plan.

The proposed new classification system does not include a Regional Facility category, primarily because facilities are intended to be oriented primarily to District residents and because the Park District is part of a larger regional metropolitan area. However, it is recognized that a number of facilities help serve regional needs (e.g., the Tualatin Hills Nature Park and Jenkins Estate). Although the Howard M. Terpenning (HMT) Recreation Center is classified as both a recreational complex and aquatic center, it also acts as a special use facility to some degree. In addition, the Park District may work with other agencies such as Metro to help manage or maintain facilities that those agencies may designate as regional (e.g., Cooper Mountain).

Table 2. Park and Recreation Facility Descriptions

General Description	Existing Service Area Radius	Recommended Size Range	Sample Facilities
PARKS			
Neighborhood Park			
Parks that meet the recreation needs of a surrounding residential neighborhood, including informal play areas, green open space, and opportunities for informal recreation. Includes mini parks. Examples include Forest Hills Park and Hinkaway Park.	1/2 mile	2 to 5 acres	Children's play areas; picnic areas; trails; open grass areas for passive use; outdoor basketball courts; pet areas; and multi-use sport fields, may include natural features but they do not dominate the site.
Community Park			
Larger park that provides active and passive recreational opportunities for all Park District residents. Accommodates large group activities, including facilities for organized recreation activities and programs. Examples include Cedar Hills and Commonwealth Lake Parks.	1 miles	10 to 25 acres	Sport fields; group picnic areas; covered play areas; informal play areas; walking paths; community gardens; skate or BMX facilities; pet areas; and support facilities such as on-site parking and permanent restrooms, may include natural features but they do not dominate the site.
Special Use Park			
Includes urban plazas and large special use areas or facilities dedicated to a specific purpose and that do not fit into other categories and/or serve multiple needs. Urban plazas also are included and support community interaction, highlight cultural or historic resources, enhance the pedestrian experience, and take advantage of occasional small urban spaces not otherwise suitable for park development. This category includes the Jenkins Estate, Tualatin Hills Nature Park, and Lanner Lavishouse.	NA	Variable; Sufficient size to accommodate activities	Special event (rental) facilities, interpretive areas, day-use camps, and associated open space; educational facilities; natural areas and recreational features. Urban plazas may include interpretive signage, drinking fountains, historical features, benches, trash receptacles, landscaping, paved walkways and plazas, decorative/splash fountain.
RECREATION FACILITIES			
Aquatic Center			
Indoor and outdoor swimming pools and associated facilities (e.g., restrooms, changing rooms, etc.) that provide opportunities for swimming and other aquatic classes, leisure pool activities, competitive swimming events and other water-related activities. Examples include the Harman and Aloha Swim Centers.	1 - 3 miles	Existing: 1,700 to 20,000 square feet for dedicated aquatic facility on sites ranging from 1.3 to 16 acres; larger for aquatic/recreation facility	Swimming pools and associated facilities (e.g., restrooms, changing rooms, etc.) and instructional programs. Note: Additional stand-alone facilities not recommended. Future facilities should be combined aquatic/recreation centers.
Recreation Center			
Facilities that provide year-round, community social, cultural, and recreational activities, including services and programs for pre-school and school-age children, adults, teens, seniors, and families. Examples include the Elsie Stahl Center and Cedar Hills Recreation Center.		Existing: 20,000 to 50,000 square feet per facility, on 4-7 acres of land	Community meeting rooms, gymnasium, multi-purpose classrooms, fitness rooms, cooking or other specialized instructional/educational facilities, performance spaces, parking and play areas. Note: Additional stand-alone facilities not recommended. Future facilities should be combined aquatic/recreation centers.

Table 3. Summary of Existing Park District Facilities

Facility Type	No. Facilities by Ownership		Total Acres by Ownership		Average Size	Existing Level of Service
	THPRD	Other	THPRD	Other		
Community Parks	10	1	225	NA	21.9	0.8 acres/1,000 people
Special Use Facilities	5	1	308	1	72.3	1.4 acres/1,000 people
Neighborhood Parks	57	9	167	26	3.0	0.9 acres/1,000 people
Subtotal	70	11	680	27		
Linear Parks	26	1	222	1	8.7	1.1 acres/1,000 people
Natural Areas	89	2	485	22	5.7	2.3 acres/1,000 people
Subtotal	115	3	707	23		
All parks and natural areas	187	14	1,407	50		6.4 acres/1,000 people
Aquatic Centers*	8**	0	27	1		1 per 30,300 residents
Community/Recreation Centers***	3	0	17	0		1 per 53,000 residents
Other Recreation Facilities (HMT Complex and playing fields, including those owned by the Beaverton School District)	3	60	114	156		
Subtotal	13****	60	156	157		
All Facilities	200	74	1,565	207		

* Includes HMT Complex and Conestoga.

** All aquatic centers are counted as complete facilities. However some facilities are not open year-round and could be considered 'partial' facilities.

*** Does not include Conestoga.

**** Subtotal adjusted to reflect the fact that HMT Complex is included under two subcategories.

The Park District manages over 15 miles of paved trails, as well as additional unpaved hiking trails. They include a combination of paved multi-use paths, paved walking trails (narrower than multi-use trails), and unpaved hiking trails. Trails are classified as neighborhood, community and regional trails.

The Park District has a total of 300 playing fields within 265 facilities. The Park District also operates and/or maintains another 75 facilities owned by other agencies.

Table 3, above, summarizes the number, average size and total acres of each type of Park District facility.

As noted previously, individual park and other facility classifications are based on primary intended use.

Programs and Services

Within its facilities, the Park District provides a wide variety of programs for people of all ages. The level of recreation programming offered by the Park District is extremely strong and diverse.

Primary program categories include those listed in the table on page 14, which shows programs provided to specific age groups. Shaded cells within the table indicate that some programs are not provided (or intended) for some age groups.

The majority of programs are provided at the Park District's aquatic and community recreation centers, as well as the HMT facility, the Jenkins Estate and the Tualatin Hills Nature Park. As shown in the table on page 7, programs range from aquatics, sports and other fitness programs, to general interest, arts, cultural, and early childhood development programs, as well as camps, clinics and other special events.

LEVEL OF SERVICE

In order to plan for acquisition and development of future land and facilities, the Park District must identify and adopt overall standards for their facilities.

Table 4. Park District Recreational Programs

Program Type	Infant/ Toddler	Pre- School	Youth	Teen/ Adult	Senior (55+)	Family (All Ages)	Special Population
Aquatics	✓	✓	✓	✓	✓	✓	✓
Other Sports/Fitness	✓	✓	✓	✓	✓	✓	✓
Special Events	✓	✓	✓	✓	✓	✓	✓
General Interest	✓	✓	✓	✓	✓	✓	✓
Dance, Arts & Crafts	✓	✓	✓	✓	✓	✓	✓
Nature and Outdoors		✓	✓	✓	✓	✓	✓
Early Childhood Development	✓	✓				✓	
Health and Wellness	✓	✓	✓	✓	✓	✓	✓
Camps and Clinics			✓	✓		✓	✓
Before/After School Care			✓	✓			✓
Trips and Tours		✓	✓	✓	✓	✓	✓
Therapeutic Recreation			✓	✓	✓	✓	✓

Standards generally fall into the following categories:

- Acreage standards, typically measured in acres per 1,000 residents.
- Standards for number of recreation facilities (e.g., one aquatics facility per each 25,000 residents).
- Distance standards, identifying proximity to different types of facilities (e.g., all residents should be within one-half mile of a neighborhood park).

The Park District's existing standards have been used to assess the Park District's current (2006) levels of service for selected facilities. A preliminary level of service analysis revealed the following:

- The Park District is close to meeting previously adopted level-of-service standards for neighborhood parks in terms of both area and distance, although there are gaps in some areas. The most significant gaps in coverage are in

the central portion of the District (northwest quadrant) and around the edges, particularly the southwest corner and in the southeast quadrant. In addition, while some areas appear to be well served based on simple distance standards, barriers such as major roads and topography create obstacles for people within those service areas.

- The District is very close to meeting its overall standard for all parks and natural areas and over 90% of residents are within ½ mile of some type of park or natural area.
- The Park District is generally meeting its previously adopted standards for aquatic and community recreation standards in terms of the number of facilities per 1,000 residents. However, there are some gaps in specific service areas.
- Current levels-of-service vary significantly for different types of playing fields. Some conflicts exist with multi-use fields.
- The Park District offers a strong, diverse array of programming, with virtually no significant shortcomings in the types or areas where programs are offered. Overall, the Park District does an outstanding job in providing recreation programs and services to its constituents. The

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ARTICLE V: PUBLIC FACILITIES AND SERVICES
501 - PUBLIC FACILITY AND SERVICE REQUIREMENTS

K. Law Enforcement Services

No development shall be approved on property that is located outside of the Washington County Enhanced Sheriff's Patrol District. The subject property shall be annexed into the district prior to being granted final approval of a development application. For applications where both preliminary and final approval are not required, the property shall annex into the district prior to being granted preliminary approval.

501-8.3 Desirable Services

A. Pedestrian walkways, off-street trails and pathways and bicycle facilities

- (1) Applications may be conditioned to provide on- and off-site pedestrian walkways, off-street trails and pathways; and on- and off-site bicycle facilities, including appropriate open space or easement reservations or dedications, when identified by the appropriate agency and a direct impact or benefit to the proposed use is identified.
- (2) Applications shall address any off-street trail, pathway or walkway identified on the Transportation Plan Trails and Pedestrian System map or the applicable Community Plan (including facilities identified in Pedestrian Connectivity Areas), that is adjacent to or in proximity to the subject site. Specifically, the applicant shall:
 - (a) Provide documentation from the current or identified long-term trail provider about needed open space or easement reservations or dedications and/or any necessary improvements for any identified on- or off- site walkway, trail or pathway; and
 - (b) Include in the submitted site plan any open space or easement reservation or dedication area and/or off-street trail, pathway or walkway identified by the trail provider in the documentation provided pursuant to (a) above.

B. Park and recreation facilities

- (1) Properties not currently located within the boundary of a Park District shall annex to the District when the following conditions are met:
 - (a) The property lies within an area identified for park service by the Park District in an urban service agreement; or,
 - (b) If no urban service agreement applies to the property, the property lies between the Hillsboro, Tigard and Portland Urban Service Boundaries or lies within an area for which the District is designated a party in a cooperative agreement; and
 - (c) The Park District has adopted a Park Master Plan for the area the property is located in.

ARTICLE III: LAND USE DISTRICTS
383 - STATE PARK OVERLAY DISTRICT

III-263

383 STATE AND REGIONAL PARK OVERLAY DISTRICT

383-1 Intent and Purpose

The intent of the State and Regional Park Overlay District is to facilitate the development of state and regional parks that meet the provisions of Oregon Administrative Rule 660, Division 34 and the applicable provisions of this Code.

383-2 Applicability of the Overlay District

The State and Regional Park Overlay District designation shall be applied on the appropriate Plan map once the Board of County Commissioners gives their final approval of a State or Regional Park Master Plan. Uses which are not consistent with an approved Master Plan shall require an amendment to the State or Regional Park Master Plan before processing a development application.

383-3 Conflicts

The requirements of this section are in addition to the standards of the underlying district. In the event of a conflict between the requirements of this section and requirements of any other provision of the adopted State or Regional Park Master Plan, the requirements of this section shall control. In the event of a conflict between the requirements of an adopted State or Regional Park Master Plan and requirements of the underlying land use district, the requirements of the Master Plan shall control.

383-4 Uses Permitted Through a Type I Procedure

- A. Park uses, consistent with a State or Regional Park Master Plan subject to clear and objective standards of review.
- B. Park uses accessory to the uses identified in an approved State or Regional Park Master Plan.
- C. Accessory buildings, not to exceed 120 (one-hundred twenty) square feet.

383-5 Uses Permitted Through a Type II Procedure

- A. Park Uses, consistent with a State or Regional Park Master Plan subject to discretionary standards of review.

383-6 Dimensional Requirements

A. Setbacks:

The minimum setbacks shall be that of the underlying land use district except that the following facilities shall be a minimum of 200 (two-hundred) feet from the perimeter park boundary:

- (1) Day use areas;
- (2) Group camp;

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ARTICLE III: LAND USE DISTRICTS
383 - STATE PARK OVERLAY DISTRICT

- (3) Horse camp;
- (4) Tent/RV campground;
- (5) Group tent camp; and
- (6) Walk-in camp.

B. Height:

The maximum height for any structure shall be sixty (60) feet.

C. Parking and Landscaping:

The parking and landscaping standards shall be as provided in an approved State or Regional Park Master Plan.

383-7 Minor Revisions to State or Regional Park Master Plans without Master Plan Amendments

The purpose of minor revisions are to allow flexibility in site design in order to accommodate changes that inevitably occur between the master planning process and final plans. When revisions are proposed, the original master plan must remain fundamentally intact. For example, site plans, street layouts, and use areas may not be reversed (flip-flopped). The Type I minor revision process only allows changes that have no off-site impacts. Therefore, only limited changes are allowed through this process.

A. Minor revisions to an approved State or Regional Park Master Plan may be made through a Type I procedure to the location or size of structures, uses and roads, subject to the following:

- (1) The change will not result in the location of a use, structure, or road within 200 (two-hundred) feet of the perimeter park boundary;
- (2) The change will not result in an increase in average daily trips as compared to the average daily trips in the traffic analysis prepared for the State or Regional Park Master Plan.
- (3) A maximum of 20 (twenty) percent one-time increase in the number of planned parking spaces in any parking lot or park use area;
- (4) Extension of a road to provide access to a planned use that is expanded or relocated only if the extension is needed to serve the expanded or relocated use; and
- (5) Building locations, parking areas, and use areas shall not be relocated in areas designated Water Areas and Wetlands, Water Areas and Wetlands and Fish and Wildlife Habitat, or Significant Natural Areas.

B. No reduction to the screening and buffering standards (Section 411) are allowed.

ARTICLE III: LAND USE DISTRICTS
383 - STATE PARK OVERLAY DISTRICT

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- C. All other revisions consistent with the approved State or Regional Park Master Plan shall be processed as a new Type II application, subject to the standards herein and those in effect at the time the new application is submitted. Allowed changes may include a maximum 20 (twenty) percent increase in the total number of campsites, a maximum 20 (twenty) percent increase in floor area of permanent buildings, except restroom and shower buildings, garbage and recycling collection buildings, campground registration buildings and storage buildings which may expand beyond 20 (twenty) percent, subject to land use review.
- D. Revisions to add uses, structures or roads not included the State or Regional Park Master Plan, or changes to the location or size of structures, uses and roads not allowed as specified above, will require an amendment to the Master Plan, per the standards in the State Park Administrative Rules.

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ARTICLE III: LAND USE DISTRICTS
383 - STATE PARK OVERLAY DISTRICT

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ARTICLE IV: DEVELOPMENT STANDARDS
405 - OPEN SPACE

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405 OPEN SPACE

405-1 The following categories identified in the Site Analysis, Section 404-1, shall be preserved as open space, except as may be otherwise provided:

405-1.1 Confirmed land movement hazard areas, as identified through the application of the standards of Section 410, or mapped as a Significant Natural Area on the Community Plan;

405-1.2 Areas confirmed to have severe erosion potential due to soil type, geologic structure and vegetation, as identified through the application of the standards of Section 410, or mapped as a Significant Natural Area on the Community Plan;

405-1.3 Bodies of water such as rivers or lakes;

405-1.4 Land within the Flood Plain, Drainage Hazard Area or riparian zone, except as provided in Sections 421 and 422; or

405-1.5 Other specific areas identified for open space within the Community Plan, including areas identified as Density Restricted Lands in the North Bethany Subarea of the Bethany Community Plan.

405-2 Protection

Site Planning and development shall avoid disturbance of identified open space resources. Full use should be made of density transfers, siting of structures and roads, and other appropriate means in designing the development around the open space.

405-3 Classification

405-3.1 Private Open Space - Areas intended for the private use of an individual owner or group of owners (owners' association).

405-3.2 Public Open Space - Areas intended for common and public use either privately or publicly owned and maintained.

405-4 Maintenance

At a minimum, maintenance shall include the following:

405-4.1 In natural areas, areas of undisturbed vegetation or areas replanted with vegetation after construction and woodlands, woodland swamps or wetlands, maintenance is limited to removal of litter and hazardous plant materials. Except as provided by Section 421, natural water courses are to be maintained as free-flowing.

Stream channels shall be maintained so as not to alter flood plain or drainage hazard area levels, except as provided by Section 421;

405-4.2 For garden plots which are the division of open space into plots for cultivation as gardens by residents, maintenance may be limited to weeding and fallowing;

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ARTICLE IV: DEVELOPMENT STANDARDS
405 - OPEN SPACE

405-4.3 For recreational areas which are areas designed for specific active recreational uses such as totlots, tennis courts, swimming pools, ballfields, and similar uses, maintenance shall insure that no hazards, nuisances, or unhealthy conditions exist;

405-4.4 For greenways which are linear green belts linking residential areas with other open-space areas, maintenance shall insure that there exist no hazards, nuisances, or unhealthy conditions. These greenways may contain bicycle paths, footpaths, and bridle paths. Connecting greenways between residences and recreational areas are encouraged;

405-4.5 For lawn areas which are grass with or without trees, maintenance may be limited to mowing to insure neatness and usability.

405-5 Ownership Maintenance

Open space areas shall be maintained so that their use and enjoyment as open space are not diminished or destroyed. Open space areas may be owned, preserved and maintained as required by this Section by any of the following mechanisms or combinations thereof:

405-5.1 Dedication of open space to an appropriate public agency, when a public agency is willing to accept the dedication.

405-5.2 Ownership of the open space by a homeowners' association or property owner(s) assuming full responsibility for its maintenance.

405-5.3 Dedication of development rights of open space to an appropriate public agency with ownership remaining with the applicant or owner or homeowners' association. Maintenance responsibility shall remain with the property owner.

405-5.4 Deed-restricted private ownership which prevents development of the open space land and provides for maintenance.

ARTICLE VII: PUBLIC TRANSPORTATION FACILITIES
701 - INTENT AND PURPOSE

VII-1

701 PUBLIC TRANSPORTATION FACILITIES

701 INTENT AND PURPOSE

The intent of this Article is to identify public transportation improvements that are subject to development review and establish the standards and procedures for such review. Public transportation improvements that are not authorized by this Article, such as airport improvements, are permitted as specified by Article III Land Use Districts.

701-1 Applicability

701-1.1 This Article applies to project development for the design, construction, operation, maintenance, repair and preservation of public transportation facilities including roadways and bridges, and transit, bicycle and pedestrian facilities authorized by the Washington County Transportation Plan. Conditions of approval may be imposed to address significant impacts demonstrated to arise from the specific location or design of the improvements or decisions authorized by this Article. Except as expressly provided in this Article, the improvements and decisions identified herein:

- A. Are permitted in each district, and
- B. Shall be subject only to the standards set forth in this Article.

701-1.2 Except as expressly provided in this Article, the standards of this Article shall not apply to Local and Neighborhood Route streets inside an urban growth boundary. The standards in this Article are applicable to all public roads and highways outside an urban growth boundary.

701-1.3 The review standards of this Article are intended to address community or neighborhood impacts rather than isolated impacts on individual properties from which right-of-way or easements are to be obtained. These isolated impacts shall be addressed through right-of-way acquisition, the eminent domain process or dedications required by development in accordance with the procedures and standards applicable thereto.

701-2 Project Categories

The following categories of public transportation improvement projects are established:

- A. **Exempt Projects:** Projects that are exempt from the provisions of this Code. Decisions authorizing exempt projects are not land use decisions.
- B. **Category A Projects:** Projects that involve land use standards that do not require interpretation or the exercise of policy or legal judgment. Decisions authorizing Category A projects are not land use decisions.
- C. **Category B Projects:** Projects that involve land use criteria that are reasonably objective and generally require only limited discretion or judgment. Category B projects are assumed to be appropriate in the District. Decisions authorizing Category B projects are land use decisions.

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**ARTICLE VII: PUBLIC TRANSPORTATION FACILITIES
701 - INTENT AND PURPOSE**

- D. **Category C Projects:** Projects that involve land use criteria that require the exercise of a more significant level of discretion and judgment. Category C projects generally have more significant impacts or involve more complex land use issues. Decisions authorizing Category C projects are land use decisions.

701-3 Supplemental Procedures and Standards

In addition to the standards of this Article, public transportation improvements are subject to other regulations that are not land use regulations and other practices and procedures that do not involve land use decision-making. It is not the intent of this Article to convert these supplemental regulations, procedures or practices into land use criteria or proceedings. Rather, they are mentioned to inform the public that the public transportation improvement process involves actions that extend beyond land use decision-making. These regulations, procedures and practices include the following:

- A. Uniform road improvement design standards and other uniformly accepted engineering design standards and practices that are applied during project development.
- B. Procedures and standards for right-of-way acquisition as set forth in Oregon Revised Statutes.
- C. Public involvement guidelines and practices for involving the public during the project development phase of a public transportation improvement, as approved by the Washington County Board of Commissioners.
- D. Interagency coordination, including coordination among affected Departments and Divisions within Washington County, and coordination with cities, Tri-Met, special districts, state and federal agencies, public utilities, and other service providers.
- E. Compliance with applicable local, state, or federal rules and regulations outside of this Code.

It is recognized that public entities have a responsibility to the public to ensure furtherance of certain non-land use objectives, including the need to rapidly address safety problems so as to protect the health and safety of the public, the need for fiscal responsibility and for efficient provision of transportation facilities and compliance with non-land use statutes or ordinances. This Article shall be construed so as to minimize interference with, and promote the furtherance of, non-land use public policy objectives.

701-4 Definitions

In addition to the definitions set forth in Article I, the following govern this Article:

- 701-4.1 **Access Road:** Outside an urban growth boundary, a low-volume public road that principally provides access to property.
- 701-4.2 **Ancillary Easements:** Easements related to a transportation facility, including slope, drainage, pedestrian, traffic control, construction and utility easements.

ARTICLE VII: PUBLIC TRANSPORTATION FACILITIES
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- 701-4.3 Channelization: Outside an urban growth boundary, separation or regulation of conflicting traffic movements into definite paths of travel by traffic islands or pavement markings to facilitate the safe and orderly movement of vehicles, bicycles, and pedestrians. Examples include, but are not limited to, left turn refuges, right turn refuges including the construction of islands at intersections to separate traffic, and raised medians at driveways or intersections to permit only right turns. "Channelization" does not include continuous median turn lanes.
- 701-4.4 Continuous Median Turn Lane: A turn lane typically providing for left turn movements in both travel directions and extending continuously at full width between two or more public street intersections.
- 701-4.5 Existing Right-Of-Way: Property held by a governmental body in fee or pursuant to dedication for roadway, bridge, pedestrian, bicycle, transit, or other public transportation facility purposes at the time that project development for a public transportation improvement is commenced or maintenance or reconstruction of an existing transportation facility is conducted. For project development of a public transportation improvement, existing right-of-way includes property dedicated for public transportation facility purposes to fulfill a condition of development, regardless of when that occurs.
- 701-4.6 Final Engineering: Activities necessary to allow an improvement to be advertised for bid. Activities include but are not limited to final design engineering and right-of-way acquisition.
- 701-4.7 Interim Improvement: Improvements which are constructed to less than a twenty (20) year design life or are constructed with less than the maximum number of lanes shown on the Transportation Plan. For town centers and transit station areas, improvements that do not provide the pedestrian, bicycle, or transit facilities or improvements set forth specifically in the Community Plan shall be considered "interim."
- 701-4.8 Intersection: The center point of the convergence of two or more county or public roads. Transportation facility modifications with travel or turn lanes extending up to one thousand (1000) linear feet from the center of the convergence point are considered intersection modifications.
- 701-4.9 Maintenance: Recurring activities that are needed to keep an existing transportation facility in good operating condition in order to maintain the functional integrity and safe operation of the facility. Maintenance activities are carried out within existing right-of-way and result in no increase of traffic capacity or change in the character of a facility. Maintenance activities include but are not limited to: ditch cleaning and shaping; culvert or pipe repair, cleaning or in-kind replacement; road surface repair, sealing, reconstruction or reversion; grading of aggregate roads; street cleaning and flushing; vegetation management; and bridge cleaning and repair.
- 701-4.10 New Road: Outside an urban growth boundary, a public road or road segment that is not a realignment of an existing road or road segment.
- 701-4.11 Public Transportation Facilities: Facilities that move or assist in the movement of people or goods. For purposes of this Article, public transportation facilities include roadways and bridges, and transit, bicycle and pedestrian facilities, as well as their component and appurtenant structures. For roadways, these structures include the roadway surface, base, and subgrade; shoulders; embankments and revetments;

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ARTICLE VII: PUBLIC TRANSPORTATION FACILITIES
701 - INTENT AND PURPOSE

bridges; traffic signals; signs; guardrails; landscaping; illumination and drainage facilities. For purposes of this Article, public transportation facilities include related facilities such as water quality and quantity improvement facilities and wetland mitigation sites. Public transportation facilities may include utilities and other service facilities that are located within or make use of the transportation facility.

- 701-4.12 Public Transportation Improvements: Improvements to public transportation facilities that are authorized by the Washington County Transportation Plan.
- 701-4.13 Realignment: Outside an urban growth boundary, rebuilding an existing roadway on a new alignment where the new centerline shifts outside the existing right-of-way, and where the existing road surface is either removed, maintained as an access road or maintained as a connection between the realigned roadway and a road that intersects the original alignment. The realignment shall maintain the function of the existing road segment being realigned as specified in the acknowledged comprehensive plan.
- 701-4.14 Reconstruction: Rebuilding substandard or deteriorated transportation facilities including roadways and bridges, and bicycle, pedestrian, and transit facilities. For roadways, the primary objective of reconstruction activities is to improve the roadway base or its sub-grade. The dimensions of a road either remain unchanged or are only slightly modified and no lanes are added.
- 701-4.15 Roadway Prism: The original constructed embankment or excavation of an existing roadway.
- 701-4.16 Significant (Substantial) Reduction in Peak Hour Travel Time: Outside an urban growth boundary, a rural improvement project significantly reduces peak hour travel time when, based on recent data, the time to travel the route is reduced more than fifteen (15) percent during weekday peak hour conditions over the length of the route located within the urban fringe. For purposes of measuring travel time, a route shall be identified by the predominant traffic flows in the project area.
- 701-4.17 Travel Lane: A lane designed primarily for through travel. Travel lane does not include a climbing, passing or turn lane, or lanes that are part of an interchange such as on and off ramps.
- 701-4.18 Turn Lane: A lane designed for right or left turn movement provided at intersections or driveways.
- 701-4.19 Ultimate Improvement: Improvements that are constructed to a twenty (20) year or greater design life, or are constructed to the maximum number of lanes shown on the Transportation Plan.
- 701-4.20 Urban Fringe: Lands outside the urban growth boundary that are within five (5) miles of the Portland Metro urban growth boundary.

ARTICLE VII: PUBLIC TRANSPORTATION FACILITIES
701 - INTENT AND PURPOSE

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701-5 Review Procedures

- 701-5.1 Except as provided in Section 701-6, Category A projects shall be reviewed and processed in the same manner as Type I actions. A project authorized under Section 703 may be elevated by the Director to a Category B project.
- 701-5.2 Except as provided in Section 701-6, Category B projects shall be reviewed and processed in the same manner as Type II actions. A project authorized under Section 704 may be elevated by the Director to a Category C project.
- 701-5.3 Except as provided in Section 701-6, Category C projects shall be reviewed and processed in the same manner as Type III actions.
- 701-5.4 Review approval shall expire automatically five (5) years from the date of approval unless a request for an extension is filed with the County prior to expiration.

701-6 Project Review Committee

The Director shall establish a Project Review Committee to act in a technical advisory capacity for the review of all public transportation improvement applications subject to this Article.

- 701-6.1 The Project Review Committee shall consist of representatives of all affected Department of Land Use and Transportation divisions, and may include representatives of other County departments and affected agencies as appropriate.
- 701-6.2 It shall be the duty of the Project Review Committee to review all public transportation improvement applications subject to this Article for completeness and conformance with the applicable requirements of this Article, the applicable Community Plan or Rural/Natural Resources Plan, and the Transportation Plan. The Project Review Committee also shall review these applications for conformance with road improvement design and engineering standards and other applicable non-land use regulations. The Project Review Committee shall make recommendations to the Review Authority about an application's conformance with the applicable requirements.

ARTICLE IV: DEVELOPMENT STANDARDS
418 - SETBACKS

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418 SETBACKS

418-1 Obstruction in Required Yards

Required yards shall be horizontally unobstructed except as follows:

- 418-1.1 Cornices, eaves, belt courses, sills, canopies, or other similar architectural features (not including bay windows or vertical projections) may extend, or project into a required side yard not more than two (2) inches for each (1) foot of width of such side yard and may extend or project into a required front or rear yard not more than thirty (30) inches. Chimneys may not project into a front or rear yard more than twenty-four (24) inches. Chimneys may project up to twenty-four (24) inches into a side yard setback, but no closer than three (3) feet to a property line.
- 418-1.2 Open balconies and unenclosed stairways more than thirty (30) inches in height and not covered by a roof or canopy, may extend or project into a required rear yard not more than four (4) feet and such porches may extend into a required front yard not more than thirty (30) inches.
- 418-1.3 A ground level deck not more than thirty (30) inches in height and not covered by a roof or canopy may be allowed in any yard regardless of the setback requirements.
- 418-1.4 A deck more than thirty (30) inches in height, not covered by a roof or canopy, may be allowed in a required rear yard not closer than five (5) feet to the rear property line when the rear yard abuts a designated open space or public non-buildable tract. Such tracts may include flood plains, power line easements, or drainage courses.
- 418-2 Additional Setbacks Required for Future Right-of-Way**
- 418-2.1 Where a yard or setback abuts a street having insufficient right-of-way width, the minimum yard or setback requirement shall be increased by half the additional right-of-way necessary to meet the County Standard. Classification of streets and roads shall be determined by the Transportation Plan, including the Functional Classification Transportation System Map.
- 418-2.2 Prior to issuance of a building permit where the land use action is subject to growth management, an applicant shall dedicate the additional right-of-way to meet the County Standard. Notwithstanding the above, outside the UGB, dedication of additional right-of-way to meet the County standards shall be required prior to the issuance of any building permit where required as a valid condition of approval.
- 418-2.3 Setback requirements shall be determined from future rights-of-way as set forth by the official Washington County Functional Classification System Map, and as indicated on the Washington County Transportation Plan. When a stub street abuts a site, the property owner shall place all on-site structures in such a way as to not preclude extension of that stub street into or through the site.

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ARTICLE IV: DEVELOPMENT STANDARDS
418 - SETBACKS**418-3 Corner Vision**

Lots or parcels on street corners (public and/or private) shall maintain a sight triangle with no sight obstruction between three (3) feet and ten (10) feet in height as measured from street grade. Sight obstructions include, but are not limited to, fences, vegetation, berms, and structures. The sight triangle shall be measured from the street corner (apex), a distance of twenty (20) feet along each street side (see Figure 1). For the purpose of this Section, street corner is defined as that point where the extended edge of the road surface of two intersecting streets meet. The County may require additional vision clearance based on a hazard identified by the County. Nothing in this Section shall supersede proper application of the sight distance standards in Section 501-8.5 E.

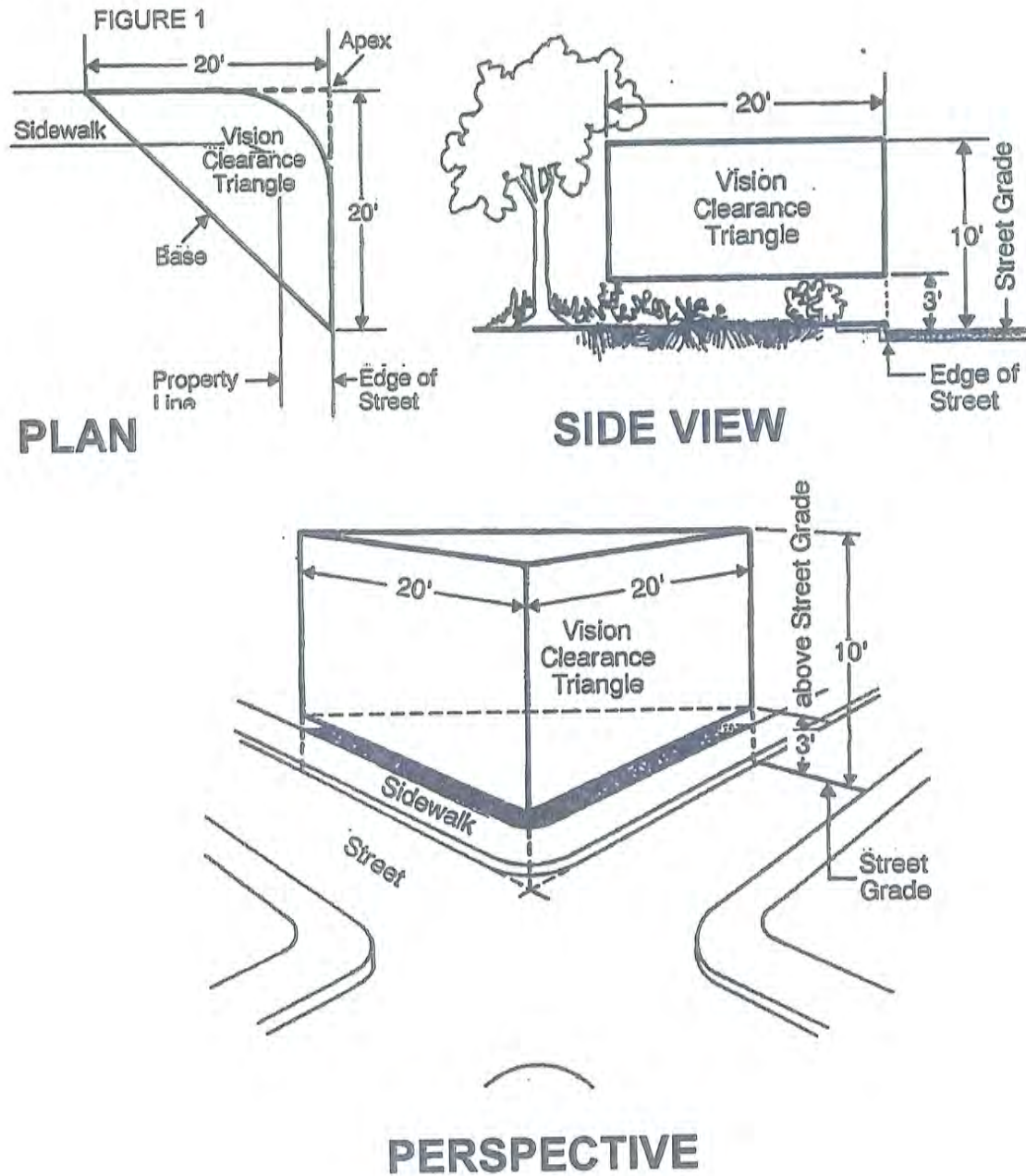
418-4 Fences and Retaining Walls

The setback requirements of this Code are not applicable to the following fence or retaining wall structures (or any combination thereof) except as required by Section 418-3:

- 418-4.1 A fence, wall (includes retaining wall), screen or lattice work not more than seven (7) feet in height.
- 418-4.2 A fence, wall (includes retaining wall), screen or lattice work not more than eight (8) feet in height along a rear, side or front yard which abuts an arterial or limited-access highway.
- 418-4.3 A combination fence [not more than six (6) feet in height] and retaining wall structure [not more than four (4) feet in height] located in a side or rear yard (for design standards see Section 419-4).
- 418-4.4 Tiered retaining wall structures not exceeding seven (7) feet in height in any required yard. The maximum height measurement includes all tiers located within the yard or setback area. All non-tiered retaining walls located within the yard or setback area shall not exceed a combined total of seven (7) feet in height.
- 418-4.5 All retaining wall structures, exceeding seven (7) feet in height, not within a required yard or setback area, on two or more contiguous properties, are exempt from the side yard setback requirement.
- 418-4.6 A wall not more than eight (8) feet in height along a side or rear property line as required by Section 411.
- 418-4.7 Residential lots or parcels shall maintain a clear vision area with no sight obscuring fence or wall (does not include retaining wall) more than three (3) feet in height, measured from finished grade, within a fifteen (15) by fifteen (15) foot triangle along a driveway. A clear vision area shall be measured from the property line, sidewalk, or easement for public travel, whichever is closest to the fence line (for design standards see Figure 2 and Figure 3).

ARTICLE IV: DEVELOPMENT STANDARDS
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ARTICLE IV: DEVELOPMENT STANDARDS
418 - SETBACKS

Figure 2. Plan View

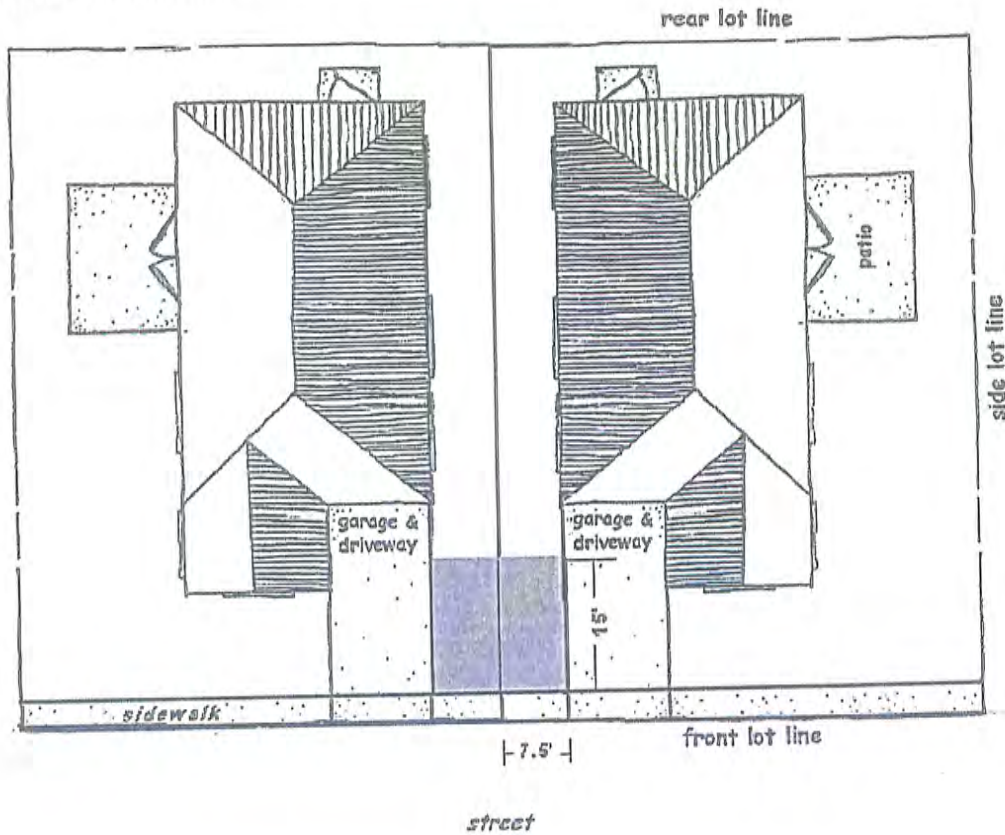
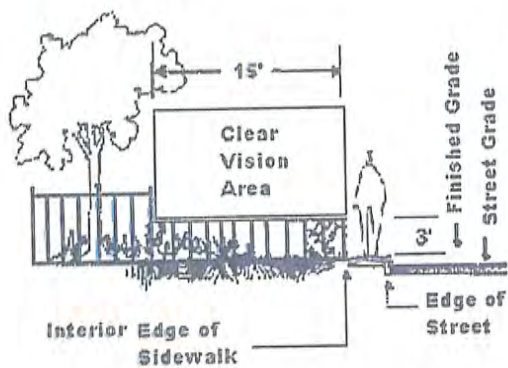


Figure 3. Side View



ARTICLE IV: DEVELOPMENT STANDARDS
411 - SCREENING AND BUFFERING

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411 SCREENING AND BUFFERING

411-1 Applicability

411-1.1 Screening and Buffering requirements are in addition to the setback requirements in residential and institutional districts and inclusive of the setback requirements in the commercial and industrial districts, as well as the setback requirements and design standards of the transit oriented districts, and shall be provided on the subject site at the time of development.

411-1.2 Screening and Buffering shall apply to all Development permits as determined in Section 411-3 or as determined by the Review Authority.

411-2 Location

Screening and Buffering shall be located on the perimeter of a lot or parcel, extending to the lot or parcel boundary line. Buffering shall not be located on any portion of an existing or dedicated public or private street or right-of-way. In a case of two overlapping types of buffers, the higher type shall prevail.

411-3 Determination of Screening and Buffering Requirements

411-3.1 To determine the type of Screening and Buffering required, the following procedure shall be used:

- A. Identify the primary district of the subject site by referring to the applicable Community Plan;
- B. Identify the primary district(s) of the surrounding properties by referring to the applicable plan(s);
- C. Determine the Screening and Buffering type by referring to the Screening and Buffering Matrix (Section 411-5); and
- D. Determine the Screening and Buffering Standards by referring to the Screening and Buffering Standards (Section 411-6).

411-3.2 Responsibility for Screening and Buffering:

- A. When a property is the first to develop adjacent to a vacant parcel, the first property shall provide the buffer identified in the vacant land use category as shown on the Screening and Buffering Matrix, Section 411-5.
- B. The second use to develop shall, at the time it develops, provide all additional plant materials, landscaping, and land necessary to provide total screening and buffering required by the Screening and Buffering Matrix for developed uses.
- C. Screening and buffering is not required when lots or parcels are separated by a public street or road.
- D. Where two adjacent developments in different districts are developed with the same housing type and maintain the same standards as the lower density

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ARTICLE IV: DEVELOPMENT STANDARDS
411 - SCREENING AND BUFFERING

district, the screening and buffering requirements may be reduced to the level of the lower density use through a Type II procedure when a recorded legal instrument (including a final subdivision plat) insures that the lot and house type will remain the same as the lower density requirements for the life of development.

411-4 Limitations

All areas for screening and buffering shall remain void of buildings, building mechanical equipment (e.g., heat pumps, air conditioners), parking, service areas (e.g., solid waste and recyclables storage and pick-up facilities, loading and delivery areas), signing, lighting (except lighting of pathways) and utilities (unless underground). Area required for screening and buffering may be used to satisfy landscape and open space requirements and be included in the density calculation of the site.

411-5 Screening and Buffering Matrix

ADJACENT LAND USE DISTRICT

	DEVELOPED							VACANT						
	R-5 R-6	R-9/R-15 TO:R9-12	R-24/R-25+ TO:R12-18	NC/OC TO:R18-24	CBD/GC TO:BUS TO:RC TO:R24-40	IND TO:EMP TO:R40-60 TO:R60-120	Other ¹	R-5 R-6	R-9/R-15 TO:R9-12	R-24/R-25+ TO:R12-18	NC/OC TO:R18-24	CBD/GC TO:BUS TO:RC TO:R24-40	IND TO:EMP TO:R40-60 TO:R60-120	Other ¹
R-5 R-6	0	1	2	2	3	3		0	1	2	2	3	3	
R-9/R-15 TO:R9-12	2	0	0	1	3	4		1	0	0	1	1	3	
R-24/R-25+ TO:R12-18	3	2	0	1	3	4		2	1	0	1	1	1	
NC/OC TO:R18-24	4	4	3	0	0	3		3	3	2	0	0	1	
CBD/GC TO:BUS TO:RC TO:R24-40	5	4	4	0	0	1		4	3	3	0	0	0	
IND TO:EMP TO:R40-60 TO:R60-120	6	6	6	5	4	0		5	5	4	3	1	1	
Other ¹	to be determined by review authority													

ARTICLE IV: DEVELOPMENT STANDARDS
411 - SCREENING AND BUFFERING

¹ When adjacent to the Urban Growth Boundary, City Limits or the Institutional District, the Screening and Buffering shall be determined by the Review Authority.

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ARTICLE IV: DEVELOPMENT STANDARDS
411 - SCREENING AND BUFFERING

- 411-5.1 The numbers in the Screening and Buffering Matrix refer to the Screening and Buffering Standards in Section 411-6.
- 411-5.2 Required fences shall be located as near the property line as practical or most effective.
- 411-5.3 Walls, fences and berms shall be the requirement of the higher intensity use.
- 411-5.4 All plant unit fractions are rounded up, and existing vegetation may be used to satisfy planting requirements.
- 411-5.5 Screening and Buffering requirements for Commercial, Industrial, Institutional Districts and special uses outside the Urban Growth Boundary shall be determined by the Review Authority based on impact to surrounding uses.
- 411-5.6 Gaps in berms, fences, walls or landscaping are allowed if required by Section 408.

411-6 Screening & Buffering Standards

	SCREENING & BUFFERING TYPE	REQUIRED PLANT UNITS PER 100 LINEAL FEET	ADDITIONAL SETBACK OPTIONS (IN FEET)	PLANT UNIT MULTIPLIER	STRUCTURE REQUIRED (SEE SECTION 411-7)
411-6.1	#1	2 Canopy trees 2 Understory trees	5.0	1.0	S-1
			7.5	0.8	None
			10.0	0.6	None
			12.5	0.4	None
411-6.2	#2	2 Canopy trees 4 Understory trees	5.0	1.0	S-1
			7.5	0.8	S-1
			10.0	0.6	S-1
			12.5	0.4	S-1
411-6.3	#3	4 Canopy Trees 4 Understory trees 10 Shrubs	10.0	1.0	S-2
			15.0	0.8	S-2
			20.0	0.6	S-1
411-6.4	#4	5 Canopy trees 10 Understory trees 15 Shrubs	15.0	0.9	S-3
			20.0	1.0	S-2
			25.0	0.8	None
			30.0	0.6	None
411-6.5	#5	6 Canopy trees 9 Understory trees 36 Shrubs 18 Evergreen/conifer trees	25.0	0.6	S-4
			30.0	0.75	S-3
			40.0	1.0	B-2 or S-2
			50.0	0.8	B-1 or S-2
			75.0	0.6	None
411-6.6	#6	10 Canopy trees 15 Understory trees 60 Shrubs 30 Evergreen/conifer trees 30 Evergreen/conifer trees	40.0	.6	BW3
			75.0	.8	BW2
			100.0	1.0	BW1 or S-4
			115.0	1.0	None
			125.0	.8	None

ARTICLE IV: DEVELOPMENT STANDARDS
411 - SCREENING AND BUFFERING

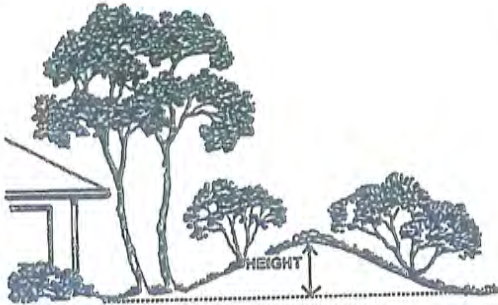
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ARTICLE IV: DEVELOPMENT STANDARDS
411 - SCREENING AND BUFFERING

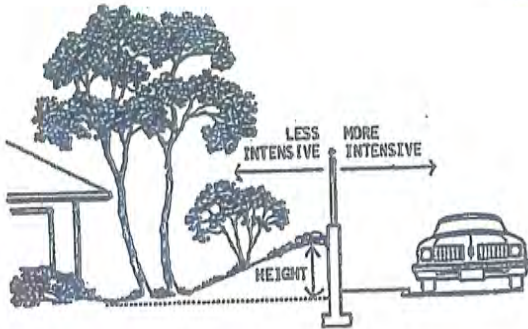
411-7 Structures

BERM



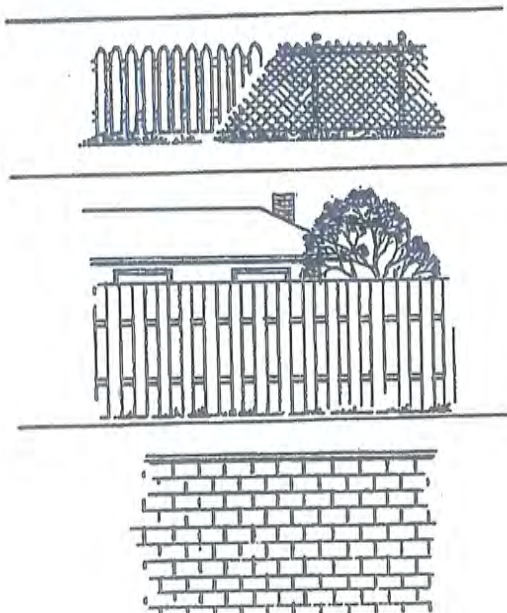
SYMBOL	HEIGHT	MATERIAL
B-1	4'	EARTHEN
B-2	5'	EARTHEN
B-3	6'	EARTHEN

BERM & WALL



SYMBOL	HEIGHT
BW-1	4' BERM W/ 6' WALL (S-4)
BW-2	5' BERM W/ 7' WALL (S-4)
BW-3	6' BERM W/ 8' WALL (S-4)

FENCE



SYMBOL	HEIGHT	MATERIAL
S-1	5'	WOOD/CYCLONE BARRIER FENCE
S-2	6'	SITE OBSCURING FENCE
S-3	6'	WALL OF: CEMENT BLOCK, ROCK, CONCRETE, BRICK, ETC.
S-4	8'	

ARTICLE IV: DEVELOPMENT STANDARDS
406 - BUILDING, SITING AND ARCHITECTURAL DESIGN

406 BUILDING, SITING AND ARCHITECTURAL DESIGN

406-1 Review Standards

The Review Authority shall evaluate all building and site plans, including detached dwelling units, for conformance to the following standards:

- 406-1.1 The development is permitted within the primary district;
- 406-1.2 The development is sited to maintain all minimum setback and lot coverage requirements; and
- 406-1.3 The development meets the maximum height requirements of the primary district.

406-2 Additional Requirements for Type II and Type III Development

In addition to the requirements of Section 406-1, all Type II and Type III structures and site plans shall:

- 406-2.1 Have a distance between primary structures on a single lot no less than the sum of the required setbacks;
- 406-2.2 When required by the Uniform Building Code, provide facilities for the disabled pursuant to the Uniform Building Code, edition in effect at this time;
- 406-2.3 Incorporate design features which reflect or complement the surrounding structural and architectural character through building style and materials. Use, in open space or park settings, lines and materials (including plant materials) which blend with the natural features of the site or site background;
- 406-2.4 Renovate or revitalize existing structures identified within the Community Plan;
- 406-2.5 Arrange structures and use areas for compatibility with adjacent developments and surrounding land uses, using the following design and siting techniques:
 - A. Locate and design structures and uses not to obscure or degrade identified scenic views or vistas from adjacent properties and public thoroughfares, considering setbacks, building height, bulk and landscaping;
 - B. Orient major service activity areas (e.g., loading and delivery areas) of the proposed development away from existing dwellings;
 - C. "Street furniture" such as bus shelters, streetlights, drinking fountains, benches and mailboxes shall be similar in design and materials to the buildings of the development.

406-3 Energy Conservation Guidelines

Type II and Type III Developments:

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ARTICLE IV: DEVELOPMENT STANDARDS
406 - BUILDING, SITING AND ARCHITECTURAL DESIGN

- 406-3.1 Where possible, lay out streets and building lots for multi-family, commercial, industrial and institutional developments to allow buildings maximum solar access, using techniques such as:
- A. East-west street direction so that principal building facades will face south;
 - B. Make configuration of lots to allow orientation of the front or rear of buildings within twenty (20) degrees of true south in order to maximize potential solar access.
- 406-3.2 Where possible, design multi-family, commercial, industrial and institutional buildings conducive to energy efficiency and conservation.
- 406-3.3 Where possible, subject to compliance with applicable review standards, design multi-family developments so structures will not shade the buildable area of urban residential property to the north that is or will be developed with a single-family dwelling or a manufactured dwelling in order to protect solar access to these properties.
- 406-3.4 Where applicable, compliance with the standards of Section 427-3.
- 406-4 **Privacy Guidelines**
- Type II and Type III Developments, where possible shall:
- 406-4.1 Design entry areas in residential developments to act as an outdoor extension of each dwelling or transition between semi-public and private areas, using such techniques as:
- A. Changing the level, color, scale, texture or direction of a path; and
 - B. The use of gates, fences, doors and landscaping.
- 406-4.2 Design and cluster units to maximize privacy, using such techniques as:
- A. Facing main housing areas toward garden areas, open space and exposure to sun; and
 - B. Placement of buildings to minimize the potential of windows facing directly toward primary living areas of other units/homes.
- 406-5 **Storage**
- Provide for storage of articles such as bicycles, barbecues, luggage, outdoor furniture, etc. These areas shall be completely enclosed and easily accessible to dwelling units.
- 406-6 **Mixed Solid Waste and Recyclables Storage Facilities**
- The mixed solid waste and source-separated recyclables storage standards of this section shall apply to new multi-unit and single family attached residential buildings containing five or more units and to new commercial, industrial and institutional

ARTICLE IV: DEVELOPMENT STANDARDS
406 - BUILDING, SITING AND ARCHITECTURAL DESIGN

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construction that is subject to a Type II or III review procedure and is located inside the Regional Urban Growth Boundary.

New construction shall incorporate functional and adequate space for on-site storage and efficient collection of mixed solid waste and source-separated recyclables prior to pick-up and removal by haulers by complying with the standards of this Section.

To provide for flexibility in designing functional storage areas, this section provides three different methods to meet the objectives of providing adequate storage space for mixed solid waste and recyclables and improving the efficiency of collection. An applicant shall choose one of the following three methods to demonstrate compliance: 1) minimum standards; 2) waste assessment; or 3) comprehensive recycling plan.

406-6.1 Minimum Standards Method

This method specifies a minimum storage area requirement based on the size and general use category of the new construction. This method is most appropriate when the specific use of a new building is not known. It provides specific dimensional standards for the minimum size of storage areas by general use category.

The size and location of the storage area(s) shall be indicated on the site plan of any construction subject to this section. Compliance with the general and specific requirements set forth below is verified during the site plan review process.

A. General Requirements:

- (1) The storage area is based on the predominant use(s) of the building (e.g., residential, office, retail, wholesale/warehouse/manufacturing, educational/institutional, or other). If a building has more than one of the uses listed herein and that use occupies 20 percent or less of the floor area of the building, the floor area occupied by that use shall be counted toward the floor area of the predominant use(s). If a building has more than one of the uses listed herein and that use occupies more than 20 percent of the floor area of the building, then the storage area requirement for the entire building shall be the sum of the requirement for the area of each use.
- (2) Storage areas for multiple uses on a single site and single family attached or multi-family buildings may be combined and shared.
- (3) The specific requirements are based on an assumed storage height of four feet for solid waste/recyclables. Vertical storage higher than 4 feet but no higher than 7 feet may be used to accommodate the same volume of storage in a reduced floor space (potential reduction of 43 percent of specific requirements). Where vertical or stacked storage is proposed, the site plan shall include drawings to illustrate the layout of the storage area and dimensions of containers.

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ARTICLE IV: DEVELOPMENT STANDARDS
406 - BUILDING, SITING AND ARCHITECTURAL DESIGN

B. Specific Requirements

- (1) Multi-unit and single family attached residential buildings containing 5-10 units shall provide a minimum storage area of 50 square feet. Buildings containing more than 10 units shall provide an additional 5 square feet per unit for each unit above 10. Individual curbside collection for single family attached units may be permitted pursuant to Section 406-6.4 C. (4).

- (2) Non-residential buildings shall provide a minimum storage area of 10 square feet plus:

Office: 4 square feet/1000 square feet gross floor area (GFA);

Retail: 10 square feet/1000 feet GFA;

Wholesale/Warehouse/Manufacturing: 6 square feet/1000 square feet GFA;

Educational and Institutional: 4 square feet/1000 square feet GFA; and

Other: 4 square feet/1000 square feet GFA.

406-6.2 Waste Assessment Method

This method tailors the storage area size to a waste assessment and management program for the specific user of a new building. It is most appropriate when the specific use of a building is known and the type and volume of mixed solid waste to be generated can be estimated.

A pre-application conference with the solid waste coordinator for the Washington County Health and Human Services Solid Waste and Recycling Program and development review staff is required if the waste assessment method is proposed. The applicant shall estimate the volumes of source-separated recyclables/mixed solid waste generated. From this information, the applicant can design a specific management, storage and collection system. Techniques such as a compactor or cardboard bailer may be implemented to minimize the square footage of the site which must be set aside for a storage area.

The waste assessment method shall be prepared by the applicant and submitted with the site plans. The plans must identify the size and location of interior or exterior storage area(s), specialized equipment, collection schedule, etc. required to accommodate the volumes projected in the waste assessment. The application shall demonstrate that the mixed solid waste and recyclables volumes expected to be generated can be stored in less space than is required by the Minimum Standards Method. The solid waste coordinator shall review and approve the waste assessment method as part of the development review process.

406-6.3 Comprehensive Recycling Plan Method

The comprehensive recycling plan method is most appropriate when an applicant has independently developed a comprehensive recycling plan that addresses materials collection and storage for the proposed use. This method can be used when a comprehensive recycling plan has been developed for a specific individual facility or

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for single family attached or multi-family buildings. It is most suited to large non-residential uses such as hospitals, schools and industrial facilities.

A pre-application conference with the solid waste coordinator for the Washington County Health and Human Services Solid Waste and Recycling Program and development review staff is required if the comprehensive recycling plan method is proposed. The comprehensive recycling plan shall be submitted at the same time site plans are submitted for development review. The applicant shall submit plans and text that show how mixed solid waste and recyclables generated by the proposed development will be served under a comprehensive recycling plan. The application shall also demonstrate that the mixed solid waste and recyclables volumes expected to be generated can be stored in less space than is required by the Minimum Standards Method. The solid waste coordinator shall review and approve the comprehensive recycling plan as part of the development review process.

406-6.4 Location, Design and Access Standards for Storage Areas

The following location, design and access standards for storage areas are applicable to all three methods of compliance: 1) minimum standards; 2) waste assessment; and 3) comprehensive recycling plan.

A. Location Standards:

- (1) To encourage its use, the storage area for source-separated recyclables shall be co-located with the storage area for residual mixed solid waste.
- (2) Indoor and outdoor storage areas shall comply with Uniform Building Code requirements.
- (3) Storage area space requirements can be satisfied with a single location or multiple locations, and can combine both interior and exterior locations.
- (4) Exterior storage areas shall be located in central and visible locations on the site to enhance security for users.
- (5) Exterior storage areas can be located in a parking area, if the proposed use provides at least the minimum number of parking spaces required for the use after deducting the area used for storage.
- (6) The storage area shall be accessible for collection vehicles and located so that the storage area will not obstruct pedestrian or vehicle traffic movement on the site or on public or private streets adjacent to the site.
- (7) Exterior storage areas shall comply with the yard requirements of the primary district and the sight triangle requirements of Section 418-3.

B. Design Standards:

- (1) The floor area of an interior or exterior storage area required by Section 406-6 shall be excluded from the calculation of lot coverage and from the

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ARTICLE IV: DEVELOPMENT STANDARDS
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calculation of building floor area for purposes of determining minimum storage requirements.

- (2) The dimensions of the storage area shall accommodate containers consistent with current methods of local collection.
- (3) Storage containers shall meet Uniform Fire Code standards and be made and covered with waterproof materials or situated in a covered area.
- (4) Exterior storage areas shall meet the enclosure and screening and buffering requirements of Section 403-2.3 E (3). Gate openings which allow access to users and haulers shall be provided. Gate openings for haulers shall be a minimum of twelve (12) feet wide and shall be capable of being secured in a closed and open position.
- (5) Storage area(s) and containers shall be clearly labeled to indicate the type of materials accepted.

C. Access Standards:

- (1) Access to storage areas can be limited for security reasons. However, the storage area shall be accessible to users at convenient times of the day, and to collection service personnel on the day and approximate time they are scheduled to provide collection service.
- (2) Storage areas shall be paved and designed to be easily accessible to collection trucks and equipment, considering paving, grade of storage areas and vehicle access. A minimum of twelve (12) feet horizontal clearance and fourteen (14) feet of vertical clearance is required if the storage area is covered.
- (3) Storage areas shall be accessible to collection vehicles without requiring backing out onto a public or private street (includes alleys). If only a single access point is available to the storage area, adequate turning radius shall be provided to allow collection vehicles to safely exit the site in a forward motion.
- (4) Curbside collection of solid waste and recyclables from individual dwelling units in single family attached buildings containing five or more units on a public or private street (includes alleys) may be permitted by the solid waste coordinator.

406-7 Submittal Requirements

In all development review applications which are required to conform to the standards of Building Siting and Architectural Design, or are required to demonstrate compliance with standards related to building facades, the following information must be submitted:

- 406-7.1 Site Plan showing the location of all proposed structures, including required storage facilities for mixed solid waste and recyclables;

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- 406-7.2 Building Floor Plans;
- 406-7.3 Building Elevations and Sections;
- 406-7.4 Building Materials for all nonresidential uses, except as specified otherwise by a provision of this Code; and
- 406-7.5 Building Shadow Plan.
- 406-7.6 For new development required by Section 406-6 to provide mixed solid waste and recyclables storage facilities, a written statement from the Washington County Health and Human Services Solid Waste and Recycling Program concerning the adequacy of the proposed method, design, location and accessibility of the storage facilities as required by Sections 406-6.1, 406-6.2, 406-6.3, 406-6.4 A. (6), 406-6.4 B. (4), and 406-6.4 C.

ARTICLE III: LAND USE DISTRICTS
308 - FUTURE DEVELOPMENT 20 ACRE DISTRICT (FD-20)

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308 FUTURE DEVELOPMENT 20 ACRE DISTRICT (FD-20)

308-1 Intent and Purpose

The FD-20 District applies to the unincorporated urban lands added to the urban growth boundary by Metro through a Major or Legislative Amendment process after 1998. The FD-20 District recognizes the desirability of encouraging and retaining limited interim uses until the urban comprehensive planning for future urban development of these areas is complete. The provisions of this District are also intended to implement the requirements of Metro's Urban Growth Management Functional Plan.

308-2 Uses Permitted Through a Type I Procedure:

The following uses may be permitted unless specified otherwise by the applicable Community Plan or Policy 41 of the Comprehensive Framework Plan for the Urban Area. These uses are permitted subject to the specific standards for the use set forth below and in applicable Special Use Sections of Section 430, as well as the general standards for the District, the Development Standards of Article IV and all other applicable standards of this Code.

308-2.1 Accessory Uses and Structures - Section 430-1.

308-2.2 Any Type II or III use, expansion of an existing use or change of use which meets all of the following:

- A. Is exempt from application of the Public Facility Standards under Section 501-2;
- B. Is not in an "Area of Special Concern" as designated on the applicable Community Plan or the Future Development Areas Map in Policy 41 of the Comprehensive Framework Plan for the Urban Area;
- C. Is on an existing lot;
- D. Does not amend any previous approval or previous condition of approval;
- E. Is in compliance with all applicable standards of this Code; and
- F. Is not a telecommunication facility.

308-2.3 Bus Shelter - Section 430-23.

308-2.4 Detached Dwelling Unit (one) - when a city's future comprehensive plan designation for the subject property is single family residential; or when the County land use district that was applicable to the property prior to designating the subject property FD-20 permitted a detached dwelling through a Type I procedure - Section 430 - 37.1.A. and 430-37.1.B.(1) & (2).

308-2.5 Home Occupation - Section 430-63.1.

308-2.6 Parks - Section 430-97; see also Section 308-7.1.

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308 - FUTURE DEVELOPMENT 20 ACRE DISTRICT (FD-20)

- 308-2.7 Public and Private Conservation areas and structures for the conservation of water, soil, open space, forest or wildlife resources
- 308-2.8 Temporary Use - Section 430-135.1.
- 308-2.9 Manufactured Home - Section 430-76.
- 308-2.10 Co-located antennas, excluding those antennas exempt pursuant to Sections 430-109.1 and 201-2 – Section 430-109.3; see also Section 308-7.1.
- 308-2.11 Facility 2 communication towers to a maximum height of one hundred (100) feet, excluding those towers exempt pursuant to Sections 430-109.1 and 201-2 – Section 430-109.4; see also Section 308-7.1.

308-3 Uses Permitted Through a Type II Procedure

The following uses may be permitted unless specified otherwise by the applicable Community Plan or Policy 41 of the Comprehensive Framework Plan for the Urban Area. These uses are permitted subject to the specific standards for the use set forth below and in applicable Special Use Sections of Section 430, as well as the general standards for the District, the Development Standards of Article IV and all other applicable standards of the Code. Approval may be further conditioned by the Review Authority pursuant to Section 207-5.

- 308-3.1 Home Occupation - Section 430-63.2.
- 308-3.2 Parks - Section 430-97; see also Section 308-7.1.
- 308-3.3 Construction of a local street not in conjunction with a development application or within existing right-of-way.
- 308-3.4 Temporary Use - Section 430-135.2 A.
- 308-3.5 Co-located antennas, not otherwise allowed through a Type I Procedure – Section 430-109; see also Section 308-7.1.
- 308-3.6 Day Care Facility - 430-53.2 I., except as prohibited in Area of Special Concern 7 in Policy 41 of the Comprehensive Framework Plan for the Urban Area, and Areas of Special Concern 6 and 7 in the East Hillsboro Community Plan.
- 308-3.7 Tree removal in areas identified in the applicable Community Plan as Significant Natural Resources, subject to Section 407-3.

308-4 Uses Which May Be Permitted Through a Type III Procedure

The following uses may be permitted unless specified otherwise by the applicable Community Plan or Policy 41 of the Comprehensive Framework Plan for the Urban Area. These uses may be permitted subject to the specific standards for the use set forth below and in applicable Special Use Sections of Section 430, as well as the general standards for the District, the Development Standards of Article IV and all other applicable standards of the Code. Approval may be further conditioned by the Review Authority pursuant to Section 207-5.

ARTICLE III: LAND USE DISTRICTS

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308 - FUTURE DEVELOPMENT 20 ACRE DISTRICT (FD-20)

- 308-4.1 Cemetery - Section 430-27., except as prohibited in Area of Special Concern 7 in Policy 41 of the Comprehensive Framework Plan for the Urban Area, and Areas of Special Concern 6 and 7 in the East Hillsboro Community Plan; see also Section 308-7.1.
- 308-4.2 Church - Section 430-29., except as prohibited in Area of Special Concern 7 in Policy 41 of the Comprehensive Framework Plan for the Urban Area, and Areas of Special Concern 6 and 7 in the East Hillsboro Community Plan; see also Section 308-7.1.
- 308-4.3 Commercial Chicken or Rabbit Raising.
- 308-4.4 Commercial Greenhouse.
- 308-4.5 Commercial Equestrian Uses, including Training Tracks, Riding Arenas and Stables (See Boarding of Horses - Section 430-21).
- 308-4.6 Contractor's Establishment.
- 308-4.7 Day Care Facility - Section 430-53.2., except as prohibited in Area of Special Concern 7 in Policy 41 of the Comprehensive Framework Plan for the Urban Area, and Areas of Special Concern 6 and 7 in the East Hillsboro Community Plan; see also Section 308-7.1.
- 308-4.8 Public Building - Section 430-103; see also Section 308-7.1.
- 308-4.9 Public Utility - Section 430-105; see also Section 308-7.1.
- 308-4.10 Facility 3 and 4 communication towers, to a maximum height of one hundred (100) feet - Section 430-109; see also Section 308-7.1.
- 308-4.11 Broadcast Towers a maximum height of one hundred (100) feet - Section 430-109; this use is prohibited in the North Bethany Subarea Plan.
- 308-4.12 School - Section 430-121., except as prohibited in Area of Special Concern 7 in Policy 41 of the Comprehensive Framework Plan for the Urban Area, and Areas of Special Concern 6 and 7 in the East Hillsboro Community Plan; see also Section 308-7.1.
- 308-5 Prohibited Uses
- 308-5.1 Structures or uses not specifically authorized in Section 308.
- 308-5.2 Structures or uses prohibited by the applicable Community Plan or Policy 41 of the Comprehensive Framework Plan for the Urban Area.
- 308-5.3 The use of a recreational vehicle as a residence except where specifically authorized as a temporary use in Sections 308-2.8 and 308-3.4.
- 308-5.4 The outdoor parking or storage of any five (5) or more vehicles on a single lot or parcel for more than forty-eight (48) hours, except as approved in conjunction with a development.

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ARTICLE III: LAND USE DISTRICTS
308 - FUTURE DEVELOPMENT 20 ACRE DISTRICT (FD-20)

- 308-5.5 Keeping of fowl for sale, keeping of swine (except for up to three (3) purebred potbelly pigs as household pets and not for breeding purposes) or operating a feed lot, except as provided in Section 308-4.3.
- 308-5.6 Mounting a communication tower or antenna, that is not a permitted accessory use, on a detached dwelling.
- 308-5.7 Mounting an antenna, that is not a permitted accessory use, on a communication tower that is accessory to a detached dwelling.
- 308-5.8 Auto wrecking yards.
- 308-5.9 Any parking or storage of tractor-trailers, semi-trucks, or heavy equipment, except in conjunction with an approved development or with a farm or forest use.

308-6 Dimensional Requirements

In applying the minimum lot size provisions of this District, the boundary lines used in the deed or sales contract shall be used. If a lot is bounded by a dedicated road, fifty (50) percent of the area of the road contiguous to the lot shall be considered as a portion of the lot. If the lot is severed by the road, one hundred (100) percent of the road area within the lot shall be considered a portion of the lot. This provision shall be liberally construed in favor of the landowner.

308-6.1 Lot Area:

- A. The minimum lot area shall be twenty (20) acres unless specified otherwise by the applicable Community Plan or Policy 41 of the Comprehensive Framework Plan for the Urban Area, or as provided below.
- B. Partitions or property line adjustments to create or reconfigure parcels less than twenty (20) acres may be allowed for public facilities and services associated with the provision of sewer, water, school, fire, and park and recreation services. If the partition is required to accommodate the sale of land for the noted public facilities and services, application submittal materials shall include the following in order to demonstrate proof of a qualified service provider's intent to purchase the parcel(s) created through such a partition:
 - (1) A letter of intent to purchase or signed purchase agreement from the applicable service provider for the proposed parcel(s), and
 - (2) Application by all the owners of the subject property and the service provider(s) intending to purchase the proposed parcel(s), or any person authorized in writing to act as agent of the owners or service providers.
- C. In the North Bethany Subarea Plan, the minimum lot area for a property line adjustment may be less than twenty (20) acres when the following requirements are met:
 - (1) The proposed configuration of each parcel is consistent with the applicable land use district(s) shown on the Subarea Plan's "Future Land Use Designations" map;

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ARTICLE III: LAND USE DISTRICTS
308 - FUTURE DEVELOPMENT 20 ACRE DISTRICT (FD-20)

- (2) The proposed configuration of each parcel is consistent with the dimensional standards of the applicable land use district shown on the "Future Land Use Designations" map or the lot dimensions of Section 308-6.4, whichever is greater;
- (3) The proposed configuration of each parcel complies with any applicable requirements of the North Bethany Subarea Plan; and
- (4) The proposed configuration of each parcel complies with the provisions of Section 605-1.3.

308-6.2 Yard Requirements:

The minimum yard requirements shall be:

- A. Thirty (30) foot front yard;
- B. Ten (10) foot side yard;
- C. Thirty (30) foot street side yard;
- D. Twenty-five (25) foot rear yard;
- E. Additional setbacks may be required as specified in Sections 411 and 418; and
- F. Required yards shall be horizontally unobstructed except as provided by Section 418.

308-6.3 Height:

- A. The maximum height for structures shall be thirty-five (35) feet, except as modified by other Sections of this Code.
- B. The maximum height for accessory structures shall be fifteen (15) feet except as modified by other Sections of this Code.
- C. Normal building appurtenances and projections such as spires, belfries, cupolas, chimneys, ventilators, elevator housings or other structures placed on or extending above roof level may exceed the thirty-five (35) foot building height limit to a maximum height of sixty (60) feet.
- D. The height of telecommunication facilities are regulated by the Permitted Use sections of this Land Use District, Sections 201, 430-1, 430-109 and other applicable provisions of this Code.
- E. For any detached dwelling or manufactured dwelling (except manufactured dwellings in a manufactured dwelling park or a manufactured dwelling approved as a temporary use), and their accessory structures, the maximum building height shall comply with the Solar Balance Point Standard in Section 427-4.

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ARTICLE III: LAND USE DISTRICTS
308 - FUTURE DEVELOPMENT 20 ACRE DISTRICT (FD-20)

308-6.4 Lot Dimensions:

- A. The minimum lot width at the street shall be forty (40) feet;
- B. The minimum lot width at the building line shall be seventy (70) feet; and
- C. The minimum lot depth shall be one hundred (100) feet.

308-7 Additional Standards

- 308-7.1** All new permitted uses shall be constructed in a manner which does not interfere with future conversion of the land to planned urban densities and/or uses. In the North Bethany Subarea Plan, new or expanded permitted uses shall be consistent with the requirements of the North Bethany Subarea Plan (excluding land use designations).
- 308-7.2** Lawful nonconforming uses in the FD-20 District may be expanded or rebuilt to the limit of available services, through a Type II procedure when in conformance with the adopted Comprehensive Plan for the area. Expansion or replacement shall be subject to the provisions of development review and shall not include new uses.
- 308-7.3** Property in an Area of Special Concern on the Future Development Areas Map in the Comprehensive Framework Plan for the Urban Area is subject to the applicable Area of Special Concern provisions in Plan Policy 41.

308-8 Access

All lots in this District shall either:

- 308-8.1** Abut a public street; or
- 308-8.2** Have an easement of record at least forty (40) feet wide at the street or as approved by the appropriate fire marshal. In cases where no fire marshal has jurisdiction, the easement shall be subject to the standards of Fire District #1.

308-9 Article IV - Development Standards

In addition to the requirements of this District, the standards of Article IV - Development Standards, including Section 422 (Significant Natural Resources), are applicable as required by Subsection 403-3.

ARTICLE III: LAND USE DISTRICTS**309 - FUTURE DEVELOPMENT 10 ACRE DISTRICT (FD-10)****309 FUTURE DEVELOPMENT 10 ACRE DISTRICT (FD-10)****309-1 Intent and Purpose**

The FD-10 District applies to the unincorporated portions of some city active planning areas where these cities are the only available source of urban services. The FD-10 District is in limited agricultural, forest, or residential use. The FD-10 District recognizes the desirability of encouraging and retaining limited interim uses until a need for more intensive urban land use activities develops and such lands are annexed to a city.

309-2 Uses Permitted Through a Type I Procedure:

The following uses are permitted subject to the specific standards for the use set forth below and in applicable Special Use Sections of Section 430, as well as the general standards for the District, the Development Standards of Article IV and all other applicable standards of the Code.

309-2.1 Accessory Uses and Structures - Section 430-1.**309-2.2 Any Type II or III use, expansion of an existing use or change of use which meets all of the following:**

- A. Is exempt from application of the Public Facility Standards under Section 501-2;
- B. Is not in an "Area of Special Concern" as designated on the applicable Community Plan map;
- C. Is on an existing lot;
- D. Does not amend any previous approval or previous condition of approval;
- E. Is in compliance with all applicable standards of this Code; and
- F. Is not a telecommunication facility.

309-2.3 Bus Shelter - Section 430-23.**309-2.4 Detached Dwelling Unit (one) only in areas designated for residential use by the applicable city - Section 430-37.1.****309-2.5 Home Occupation - Section 430-63.1.****309-2.6 Parks - Section 430-97.****309-2.7 Public and Private Conservation areas and structures for the conservation of water, soil, open space, forest or wildlife resources****309-2.8 Temporary Use - Section 430-135.1.****309-2.9 Manufactured Home - Section 430-76.**

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ARTICLE III: LAND USE DISTRICTS
309 - FUTURE DEVELOPMENT 10 ACRE DISTRICT (FD-10)

- 309-2.10 Co-located antennas, excluding those antennas exempt pursuant to Sections 430-109.1 and 201-2 – Section 430-109.3.
- 309-2.11 Facility 2 communication towers to a maximum height of one-hundred (100) feet, excluding those towers exempt pursuant to Sections 430-109.1 and 201-2 – Section 430-109.4.

309-3 Uses Permitted Through a Type II Procedure

The following uses are permitted subject to the specific standards for the use set forth below and in applicable Special Use Sections of Section 430, as well as the general standards for the District, the Development Standards of Article IV and all other applicable standards of the Code. Approval may be further conditioned by the Review Authority pursuant to Section 207-5.

- 309-3.1 Home Occupation - Section 430-63.2.
- 309-3.2 Parks - Section 430-97.
- 309-3.3 Construction of a local street not in conjunction with a development application or within existing right-of-way.
- 309-3.4 Temporary Use - Section 430-135.2 A.
- 309-3.5 Co-located antennas, not otherwise allowed through a Type I Procedure – Section 430-109.
- 309-3.6 Day Care Facility - 430-53.2 I.
- 309-3.7 Tree removal in areas identified in the applicable Community Plan as Significant Natural Resources, subject to Section 407-3.

309-4 Uses Which May Be Permitted Through a Type III Procedure

The following uses may be permitted subject to the specific standards for the use set forth below and in applicable Special Use Sections of Section 430, as well as the general standards for the District, the Development Standards of Article IV and all other applicable standards of the Code. Approval may be further conditioned by the Review Authority pursuant to Section 207-5.

- 309-4.1 Cemetery - Section 430-27.
- 309-4.2 Church - Section 430-29.
- 309-4.3 Commercial Chicken or Rabbit Raising.
- 309-4.4 Commercial Greenhouse.
- 309-4.5 Commercial Equestrian Uses, including Training Tracks, Riding Arenas and Stables (See Boarding of Horses - Section 430-21).
- 309-4.6 Contractor's Establishment.

III-69

ARTICLE III: LAND USE DISTRICTS
309 - FUTURE DEVELOPMENT 10 ACRE DISTRICT (FD-10)

309-4.7 Day Care Facility - Section 430-53.2.

309-4.8 Public Building - Section 430-103.

309-4.9 Public Utility - Section 430-105.

309-4.10 Facility 3 and 4 communication towers, to a maximum height of one-hundred (100) feet - Section 430-109.

309-4.11 Broadcast Towers a maximum height of one hundred (100) feet - Section 430-109.

309-5 Prohibited Uses

309-5.1 Structures or uses not specifically authorized in Section 309.

309-5.2 The use of a recreational vehicle as a residence except where specifically authorized as a temporary use in Sections 309-2.8 and 309-3.4.

309-5.3 The outdoor parking or storage of any five (5) or more vehicles on a single lot or parcel for more than forty-eight (48) hours, except as approved in conjunction with a development.

309-5.4 Keeping of fowl for sale, keeping of swine (except for up to three (3) purebred potbelly pigs as household pets and not for breeding purposes) or operating a feed lot, except as provided in Section 309-4.3.

309-5.5 Mounting a communication tower or antenna, that is not a permitted accessory use, on a detached dwelling.

309-5.6 Mounting an antenna, that is not a permitted accessory use, on a communication tower that is accessory to a detached dwelling.

309-5.7 Auto wrecking yards.

309-5.8 Any parking or storage of tractor-trailers, semi-trucks, or heavy equipment, except in conjunction with an approved development or with a farm or forest use.

309-6 Dimensional Requirements

In applying the minimum lot size provisions of this District, the boundary lines used in the deed or sales contract shall be used. If a lot is bounded by a dedicated road, fifty (50) percent of the area of the road contiguous to the lot shall be considered as a portion of the lot. If the lot is severed by the road, one hundred (100) percent of the road area within the lot shall be considered a portion of the lot. This provision shall be liberally construed in favor of the landowner.

309-6.1 Lot Area:

The minimum lot area shall be ten (10) acres.

III-70

ARTICLE III: LAND USE DISTRICTS
309 - FUTURE DEVELOPMENT 10 ACRE DISTRICT (FD-10)

309-6.2 Lot of Exception:

Exceptions to the minimum lot area may be granted by the Review Authority subject to the following:

- A. No lot created through this provision may be reduced below eight (8) acres;
- B. The request is in accord with the intent and purpose of this District;
- C. The request is processed through a Type II procedure; and
- D. The Review Authority may impose reasonable conditions consistent with the intent and purpose of this District for the lots approved.

309-6.3 Yard Requirements:

The minimum yard requirements shall be:

- A. Thirty (30) foot front yard;
- B. Ten (10) foot side yard;
- C. Thirty (30) foot street side yard;
- D. Twenty-five (25) foot rear yard;
- E. Additional setbacks may be required as specified in Sections 411 and 418; and
- F. Required yards shall be horizontally unobstructed except as provided by Section 418.

309-6.4 Height:

- A. The maximum height for structures shall be thirty-five (35) feet, except as modified by other Sections of this Code.
- B. The maximum height for accessory structures shall be fifteen (15) feet except as modified by other Sections of this Code.
- C. Normal building appurtenances and projections such as spires, belfries, cupolas, chimneys, ventilators, elevator housings or other structures placed on or extending above roof level may exceed the thirty-five (35) foot building height limit to a maximum height of sixty (60) feet.
- D. The height of telecommunication facilities are regulated by the Permitted Use sections of this Land Use District, Sections 201, 430-1, 430-109 and other applicable provisions of this Code.
- E. For any detached dwelling or manufactured dwelling (except manufactured dwellings in a manufactured dwelling park or a manufactured dwelling approved as a temporary use), and their accessory structures, the maximum building height shall comply with the Solar Balance Point Standard in Section 427-4.

ARTICLE III: LAND USE DISTRICTS
309 - FUTURE DEVELOPMENT 10 ACRE DISTRICT (FD-10)

309-6.5 Lot Dimensions:

- A. The minimum lot width at the street shall be forty (40) feet;
- B. The minimum lot width at the building line shall be seventy (70) feet; and
- C. The minimum lot depth shall be one-hundred (100) feet.

309-7 Additional Standards

The following additional standards are applicable to new development in the FD-10 District:

- 309-7.1** All new permitted uses shall be constructed in a manner which does not interfere with future conversion of the land to planned urban densities and/or uses.
- 309-7.2** Lawful nonconforming uses in the FD-10 District may be expanded or rebuilt to the limit of available services, through a Type II procedure when in conformance with the adopted Comprehensive Plan for the area. Expansion or replacement shall be subject to the provisions of development review and shall not include new uses.

309-8 Access

All lots in this District shall either:

- 309-8.1** Abut a public street; or
- 309-8.2** Have an easement of record at least forty (40) feet wide at the street or as approved by the appropriate fire marshal. In cases where no fire marshal has jurisdiction, the easement shall be subject to the standards of Fire District #1.

309-9 Article IV - Development Standards

In addition to the requirements of this District, the standards of Article IV - Development Standards, including Section 422 (Significant Natural Resources), are applicable as required by Subsection 403-3.

RESOLUTION NO. 5120-12

RESOLUTION OF SUPPORT OF CHANGING THE NAME OF THE TONQUIN TRAIL TO ICE AGE TONQUIN TRAIL TO PROMOTE PUBLIC AWARENESS, AND ENHANCE FUNDING OPPORTUNITIES AND ECONOMIC DEVELOPMENT THROUGH TOURISM AND SCIENTIFIC RESEARCH

WHEREAS toward the end of the last Ice Age, some 12,000 to 17,000 years ago, a series of cataclysmic floods representing the greatest floods on earth, occurred in what is now the northwest region of the United States, leaving a lasting mark of dramatic and distinguishing features on the landscape of parts of the states of Montana, Idaho, Washington and Oregon, including the Willamette Valley; and

WHEREAS in 2009 Congress established the Ice Age Floods National Geologic Trail in the states of Montana, Idaho, Washington, and Oregon enabling the public to view, experience, and learn about the features and story of the Ice Age floods through the collaborative efforts of public and private entities; and

WHEREAS the national geologic trail is in its earliest stages of planning through the leadership of the National Park Service and the Ice Age Floods Interagency Coordination Committee to collaborate and oversee the activities that will enhance interpretation of the Ice Age Floods story and features along the flood pathways of the Ice Age Floods National Geologic Trail pursuant to the attached Foundation Document for the Ice Age Floods National Geologic Trail; and

WHEREAS the national geologic trail will consist of a network of marked touring routes with interpretive opportunities distributed across this vast area and existing roadways will link many of the region's superb geologic resources by way of a long, central pathway and designated loops and spurs, and where in places foot and bicycle trails that enable access and provide interpretive opportunities of fundamental and other important resources and values will also be a part of this network; and

WHEREAS Metro, in partnership with Clackamas and Washington counties, and the cities of Sherwood, Tualatin, and Wilsonville are now in the process of completing the Tonquin Trail Master Plan and will fund and operate the proposed 22-mile regional trail that will travel through landscape and unique geological features that were formed by the Ice Age Floods within and near the Tonquin Geologic Area in order to interpret the natural resources and tell the incredible story of the Ice Age Floods; and

WHEREAS there may be funding opportunities by tying the regional trail to the national, trail, and linking the two trails may result in economic development by bringing more tourists and scientific research to the communities the regional trail will serve; and

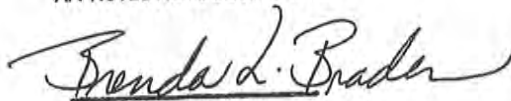
WHEREAS renaming the conceptual Tonquin Trail to Ice Age Tonquin Trail would require consensus from the partner jurisdictions.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, OREGON, that:

A. The City of Tualatin supports renaming the Tonquin Trail to Ice Age Tonquin Trail.

INTRODUCED AND ADOPTED this 27th day of August, 2012.

APPROVED AS TO LEGAL FORM


CITY ATTORNEY

CITY OF TUALATIN, OREGON

BY


Mayor

ATTEST:

BY


City Recorder

DESCRIPTION OF ICE AGE FLOODS NATIONAL GEOLOGIC TRAIL

"At the end of the last Ice Age, some 12,000 to 17,000 years ago, a series of cataclysmic floods occurred in what is now the northwest region of the United States, leaving a lasting mark of dramatic and distinguishing features on the landscape of parts of the States of Montana, Idaho, Washington, and Oregon."

Public Law 111-11, March 30, 2009

Today, evidence of the immense floods remains in many forms including high water lines, huge current dunes, boulders transported hundreds of miles, giant coulers and dry falls, and enormous gravel bars. These reminders of the floods exist on public and private lands across the four states of Montana, Idaho, Washington, and Oregon. Many of the most dramatic features are managed by federal, state, and local governments.

The national geologic trail will consist of a network of marked touring routes with interpretive opportunities distributed across this vast area. Existing roadways will link many of the region's superb geologic resources by way of a long, central pathway and designated loops and spurs. In places, other types of foot and vehicle trails may also be a part of this network.



Map selected from *Ice Age Floods Study of Alternatives and Environmental Assessment*, February 2011, prepared for the National Park Service by Jones & Jones Architects and Landscape Architects.

National Park Service
U.S. Department of the Interior
Ice Age Floods National Geologic Trail
Montana, Idaho, Washington, and Oregon



Foundation Document Ice Age Floods National Geologic Trail



Purpose

The Ice Age Floods National Geologic Trail tells the stories of the cataclysmic Ice Age floods and invites people to discover and explore the resulting extraordinary landscapes and distinctive features. Interpretation, research, and stewardship are achieved through collaboration between public and private partners.

Interpretive Themes

Interpretive themes are the key concepts to be communicated to visitors to help them understand and appreciate the significance of the trail.

Geologic Setting. A remarkable alignment of past geologic forces, resulting terrain, and Ice Age conditions produced a series of some of the greatest floods on earth, dramatically sculpting 16,000 square miles of the northwestern United States and as much of the Pacific Ocean floor.

Cataclysmic versus Incremental. The Ice Age floods remind us that the slow, incremental processes shaping our earth can be punctuated by sudden, epic, cataclysmic events, and that such events are possible in our lifetimes.

Evidence that Remains. In the wake of the floods, a wide array of flood-formed features remained, just waiting for human curiosity to discover. Some features are gigantic—readily visible from space; others are subtle—only revealed and appreciated through close observation.

In Search of the Truth. Unraveling the mysteries of the Ice Age floods reveals the human, often subjective and sometimes contentious, side of the scientific method that arises when new evidence challenges prevailing paradigms.

Lives and Livelihoods. Just as the Ice Age floods left an enduring mark on the landscape of the northwestern United States, so too has that landscape profoundly shaped human history and culture across the region. The impact of the floods continues to this day.

Fundamental Resources and Values

Fundamental resources and values are those features, systems, processes, experiences, stories, scenes, sounds, smells, or other attributes that are critical to achieving purpose and maintaining significance. That which is most important about the trail could be jeopardized if these resources and values are allowed to degrade.

Outstanding Floods-Related Geologic Resources. Numerous floods-related geologic features exist within this four-state area, but not all have been inventoried. Resources are categorized into seven types, including bedrock features, terrain features pre-existent to the floods, erosional landforms created by Ice Age floods, depositional landforms created by Ice Age floods, glacial features, lake features, and features deposited by wind.

Exceptional Scenery and Views. Vast landscapes and stunning scenery created by the floods are present at many places along the proposed trail routes. Views of natural and human-influenced scenery enable visitors to comprehend the scale of the floods, to appreciate the grandeur that the floods created, and to understand the impact of the floods on human settlement and on the natural world.

Scientific Knowledge and Research. Investigation of the Ice Age floods has greatly contributed—and continues to contribute—to the body of scientific knowledge. In bringing to light the story of the floods, J. Harlan Bretz, Joseph Pardee, and other geologists yielded a new theory for the origin of many landforms in the northwest. Added by new technologies, subsequent researchers built upon these early discoveries and further advanced our knowledge of the floods and landform features.



Significance

Significance statements define what is most important about the trail's resources and values. They express why the trail and its resources are significant within a regional, national, and global context—focusing attention on those exceptional qualities that Congress felt were important to preserve and interpret.

Cataclysmic Ice Age Floods. Ice Age Floods National Geologic Trail represents the greatest floods on earth. Repeated cataclysmic releases of water exploding from glacially dammed Lake Missoula thundered across the landscape to the Pacific Ocean, carrying water, debris, rock, and ice with a discharge equal to 10 times the flow from all of today's rivers worldwide.

Distinctive Geologic Resources. The Ice Age floods sculpted extraordinary landscapes and left behind a variety of distinctive geologic features across a vast area of the northwestern United States. Gigantic beach combers, enormous dry falls, and flood ripples of immense proportion are just a few examples of the evidence that survives to illustrate the scale and power of the floods.

Science and Research. The discovery and investigation of the Channeled Scabland led to an understanding of cataclysmic origin that challenged prevailing geologic thought. Ongoing research has established the Ice Age floods as the quintessential example of megaflood landscapes throughout the world.

Human Settlement. The Ice Age floods transformed the environment of the northwestern United States, greatly influencing the use of the land and its resources from early native peoples to contemporary society.

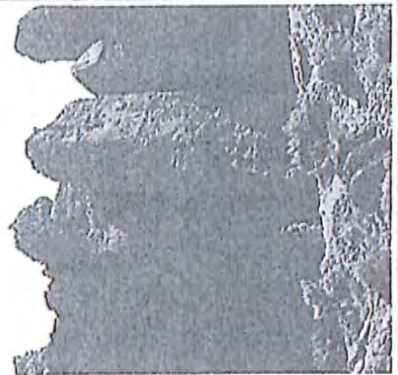


Other Important Resources and Values

The identification of certain resources and values as fundamental is not meant to imply that other resources are not important. The National Park Service draws this distinction because it can help trails and other national park system units set priorities among competing management concerns.

Floods-Related Cultural Resources. Although geologic resources are the primary focus of the national geologic trail, the human history of the region adds another dimension to the floods' story. The federal and state partners responsible for managing the trail also manage cultural resources in accordance with laws and regulations that mandate their protection. Cultural resources along the trail corridor convey thousands of years of human history and patterns of settlement across the numerous, varied landscapes shaped by Ice Age floods.

Access to Diverse Recreational and Educational Opportunities. Providing for enjoyment and understanding of resources is central to the mission of the National Park Service and to every park unit or trail that the agency administers. Through partnerships, the national geologic trail offers access to a variety of recreational and educational opportunities that enable visitors to learn about, appreciate, and experience the floods features.



**LETTERS SUPPORTING THE ADDITION OF "ICE AGE" TO THE TONQUIN TRAIL
NAME FROM THE FOLLOWING ORGANIZATIONS:**

1. Washington County Board of Commissioners
2. Washington County Visitors Association
3. Tualatin Historical Society
4. Tualatin Chamber of Commerce
5. Wilsonville Chamber of Commerce
6. Sherwood Chamber of Commerce



WASHINGTON COUNTY
OREGON

August 10, 2012

Tualatin Historical Society
P. O. Box 1055, 8700 S. W. Sweek Drive
Tualatin, Oregon 97062

Re: Ice Age Tonquin Trail

Dear Ms. Addington,

Thank you for the letter regarding the proposal to add "Ice Age" to the name of the "Tonquin Trail" which is planned to travel through Washington County and become part of the existing Tonquin Geological Area.

We are very fortunate to have this significant natural resource in our community. The request from the Tualatin Historical Society to have the name of the trail reflect the origins of this geological treasure seems very strategic and well thought out. It would provide greater awareness to visitors and county residents alike about the opportunity to hike the trail and witness the fascinating history associated with the ice age floods that gave us fertile soil and many of our unique geological features.

The Washington County Board of Commissioners is in full support of this effort to attract visitors and positive attention to the region and highlight yet another reason why people should visit Washington County. We support naming the trail the "Ice Age Tonquin Trail" and thank you for your efforts.

Sincerely,

A handwritten signature in cursive script that reads "Andy Duyck".

Andy Duyck, Chairman
Washington County Board of Commissioners



WASHINGTON COUNTY
OREGON
VISITORS ASSOCIATION

REC'D
CITY OF TUALATIN
AUG 09 2012
MAYOR COUNCIL POLICE ASST
FINANCE CHAMBER ADULT OPEN
COMMISSIONERS SHERIFFS TRAVEL

August 6, 2012

Metro Regional Government
Metro Council President Tom Hughes and Council Members
600 Northeast Grand Avenue
Portland, OR 97232

Subject: *Ice Age Tonquin Trail*

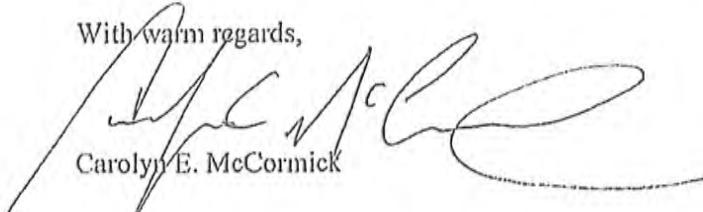
Dear Council President Tom Hughes and Members of the Metro Council:

On behalf of the Washington County Visitors Association, I would like to encourage the Metro Council to consider the addition of *Ice Age* to the *Tonquin Trail* official name. It has come to my attention that there is a small window of opportunity to present the value of the association with the Department of Interior's project to create a national ice age floods trail and the Tonquin Trail. It appears the opportunity is presently upon us.

It is incumbent for us to work together in sustaining the history, culture and social importance of elevating awareness of the geological events that have led to the creation of what makes Oregon a dynamic place to visit and live. The Metro Council has a wonderful opportunity to include our area in the recent federally created Ice Age Floods National Geologic Trail currently planned from Lake Missoula, Montana/Canada border through Idaho, Washington, down to the Columbia River to the Pacific Ocean.

I thank the Metro Board for your sincere consideration. Please do not hesitate to contact me directly at 503-644-5555 ext 103 or via email at Carolyn@wcva.org for any questions or comments you may have pertaining to this very important project.

With warm regards,


Carolyn E. McCormick

cc: Yvonne L. Addington, Past President Tualatin Historical Society
Linda Moholt, CEO Tualatin Chamber of Commerce
Washington County Commissioners
Clackamas County Commissioners
Tualatin, Sherwood, Wilsonville City Council



Tualatin Historical Society

Tualatin Heritage Center

July 28, 2012

Established in 1986 to preserve, promote and interpret the rich and colorful history of Tualatin.

Clackamas County Commission
Washington County Commission

City of Sherwood City Council
City of Tualatin City Council
City of Wilsonville City Council

Re: Proposed "Tonquin Trail" Name

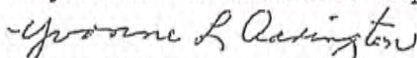
Honorable Officials:

Metro's Regional Government has asked the Tualatin Historical Society to seek the approval of the above Commissions and Councils regarding adding just two words—"Ice Age"—to the proposed name of the "Tonquin Trail". This 22 mile trail is planned to go through the above jurisdictions, all of which were affected by the worldly unique cataclysmic Ice Age floods over 12,000 years ago. Much of the local area was covered up to the 400' elevation with icy flood waters which backed up into the Willamette River and its tributaries. The agriculturally rich valleys, the Tonquin Scablands, Cipole swamps, and local wetlands were created or affected by these floods.

There are many positive possibilities by further identifying this area on international mapping systems with the ice age words. One possibility, already included in Metro's Tonquin Trail plan, would enhance job creating possibilities by visitors and businesses, thus bringing new money into the area. The words "Ice Age" on international satellite mapping, GIS, GPS, visitor information and related media could better guide the public to the area. Many public and private organizations are just becoming aware of the economic possibilities and want to pursue them. The central location along I-5, I-205, highways to the Pacific Ocean, and the rapidly emerging wine industry enhance efforts.

The local area is generally included in maps in the 2009 federal legislation creating the Ice Age Floods National Geologic Trail from Montana, through Idaho, Washington and Oregon to the Pacific Ocean via the Columbia River. (explained further in accompanying documents). However, current planning of the national trail has not yet included our local area for detailed information or enhancements because the national and state planning officials are just learning of our interests. This would definitely show local interest.

Our request to add the words "Ice Age" to the Tonquin Trail name was first submitted to Metro's Tonquin Trail Steering Committee over two years ago, and again to Metro on May 29, 2012, (copy sent to you). However, no formal action has been taken to consider it in their master plan and they now advise they need signed consent of all of the above governments by mid-August in order to incorporate it into the master plan. Therefore, we ask your earliest consideration and cooperation. Thank you so much.


Yvonne Addington, Past President



August 27, 2012

Metro Regional Government
Metro Council Tom Hughes and Council Members
600 Northeast Grand Avenue
Portland, OR. 97232
Subject: Changing the Name of the Tonquin Trail to the "Ice Age" Tonquin Trail

Dear Council President Tom Hughes and Members of the Metro Council:

For the past several years, the Tualatin Chamber of Commerce, the Tualatin Historical Society and the City of Tualatin have been working in conjunction with the Washington County Visitors Association to create a Tourism initiative based on the geologic history of the Missoula Ice Age Floods some 12,000 to 17,000 years ago. As the Ice Age ended, Tualatin was carved by gigantic floods bursting down from today's Montana and Canada. The waters moved icebergs carrying unusual boulders called "glacial erratics". These monoliths were strangers to our region and are still being discovered today. The result makes up our beautiful community parks and trails including the "Ice Age" Tonquin Trail. The bones of giant mastodons, sloths and other mega-fauna have been discovered and are on display now in Tualatin.

In 2009, Congress established the Ice Age Floods National Geologic Trail in the states of Montana, Idaho, Washington and Oregon enabling the public to view, experience, and learn about the features and story of the Ice Age floods through the collaborative efforts of public and private entities. The national geologic trail will consist of a network of marked touring routes with interpretive opportunities distributed across this vast area.

The Metro Region has a very time sensitive and unique opportunity to connect itself with the creation of the National Park Service Ice Age Floods National Geologic Trail through a simple but descriptive name change. By adding "Ice Age" to the Tonquin Trail we will then be permanently linked to the master trail system and with the potential economic impact by bringing more tourists and scientific research to the communities that the regional trail will serve.

We want to thank the Metro Council in advance for your consideration to amend the name of the Tonquin Trail to the "Ice Age" Tonquin Trail. If you have further questions or comments, please do not hesitate to give us a call.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Linda Moholt'.

Linda Moholt
CEO

A handwritten signature in dark ink, appearing to read 'Kevin Ferrasci O'Malley'.

Kevin Ferrasci O'Malley
Tualatin Chamber Board Chair

PO Box 701
18791 SW Martinazzi Ave.
Tualatin, OR. 97062

Phone: 503-692-0780
Chamber@tualatinchamber.com
www.TualatinChamber.com

August 27, 2012

Metro Regional Government
Metro Council President Tom Hughes and Council Members
600 Northeast Grand Avenue
Portland, OR 97232

Subject: Tonquin Trail rebranding

Dear Council President Tom Hughes and Members of the Metro Council:

On behalf of the Wilsonville Area Chamber of Commerce, I would like to encourage the Metro Council to consider the addition of *Ice Age* to the **Tonquin Trail** official name. It has come to my attention that there is a small window of opportunity to present the value of the association with the Department of Interior's project to create a national ice age floods trail and the Tonquin Trail. I think we should take advantage of that opportunity.

Wilsonville is rich with history, from Boone's Crossing to our agricultural roots, so we understand the importance of celebrating the past. With the Graham Oaks Nature Park having sections of the Tonquin Trail, we would welcome the name change and advocate that information be put in Graham Oaks, if appropriate. We believe that elevating the awareness of geological events will only add to the heritage of the area. The Metro Council has an opportunity to include our area in the recent federally created Ice Age Floods National Geologic Trail currently planned from Lake Missoula, Montana/Canada border through Idaho, Washington, down to the Columbia River to the Pacific Ocean.

I thank the Metro Board for your consideration. Please do not hesitate to contact me at 503-682-0411 or via email at Steve@wilsonvillechamber.com for any questions or comments you may have.

Thank you,



Steve Gilmore, CEO
Wilsonville Area Chamber of Commerce



SHERWOOD AREA CHAMBER OF COMMERCE
& VISITOR'S CENTER

August 17, 2012

Mr. Carl Hosticka,
Councilor, Dist. 3
Metro
600 N. E. Grand Ave.
Portland, Oregon 97232-2736

Dear Mr. Hosticka:

As the organization dedicated to Sherwood, Oregon's economic opportunity and to a positive business climate in the region, we encourage adoption and inclusion of the word "Tonquin" to the official description of our geographic area. It would thus become the Tonquin Ice Age National Geologic Trail. The closer identification of the area in the National Park Service designation of the "Ice Age Floods National Geologic Trail" will provide significant local economic impact to educational, scientific and tourism communications regarding this unique resource.

The Sherwood, Tualatin and Wilsonville communities are part of the 21 miles of trails which follow much of the ice age flood trajectory. This will be a productive and meaningful partnership of the communities, the National Park Service, Metro and Oregon tourism.

Thank you for your consideration.

Leanna Knutson,
President
Sherwood Chamber of Commerce

Cc: Jane Hart, Metro Senior Regional Planner

**CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
RESOLUTION NO. 12-39**

A RESOLUTION IN SUPPORT OF CHANGING THE NAME OF THE TONQUIN TRAIL TO THE ICE AGE TONQUIN TRAIL TO PROMOTE PUBLIC AWARENESS, AND ENHANCE FUNDING OPPORTUNITIES AND ECONOMIC DEVELOPMENT THROUGH TOURISM AND SCIENTIFIC RESEARCH

WHEREAS, toward the end of the last Ice Age, some 12,000 to 17,000 years ago, a series of cataclysmic floods, representing the greatest floods on earth, occurred in what is now the northwest region of the United States, leaving a lasting mark of dramatic and distinguishing features on the landscape of Montana, Idaho, Washington and Oregon, including the Willamette Valley; and

WHEREAS, in 2009 Congress established the Ice Age Floods National Geologic Trail in the states of Montana, Idaho, Washington and Oregon enabling the public to view, experience, and learn about the features and story of the Ice Age floods through the collaborative efforts of public and private entities; and

WHEREAS, the national geologic trail is in its earliest stages of planning through the leadership of the National Park Service and the Ice Age Floods Interagency Coordination Committee to collaborate and oversee the activities that will enhance interpretation of the Ice Age floods story and features along the flood pathways of the Ice Age Floods National Geologic Trail pursuant to the attached Foundation Document (Exhibit A) for the Ice Age Floods National Geologic Trail; and

WHEREAS, the national geologic trail will consist of a network of marked touring routes with interpretive opportunities distributed across this vast area and existing roadways will link many of the region's geologic resources by way of a long, central pathway and designated loops and spurs, and where in places foot and bicycle trails that enable access and provide interpretive opportunities of fundamental and other important resources and values will also be a part of this network; and

WHEREAS, Metro, in partnership with Clackamas and Washington Counties, and the cities of Sherwood, Tualatin, and Wilsonville are now in the process of completing the Tonquin Trail Master Plan and will fund and operate the proposed 22-mile regional trail that will travel through landscape and unique geological features that were formed by the Ice Age Floods within and near the Tonquin Geologic Area in order to interpret the natural resources and tell the story of the Ice Age Floods; and

WHEREAS, there may be funding opportunities by tying the regional trail to the national trail, and linking the two trails may result in economic development by bringing more tourists and scientific research to the communities the regional trail will serve.

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

SECTION 1: The City of Tigard supports changing the name of the Tonquin Trail to the Ice Age Tonquin Trail.

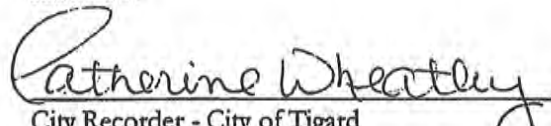
SECTION 2: This resolution is effective immediately upon passage.

PASSED: This 23rd day of October 2011.



Mayor - City of Tigard

ATTEST:



City Recorder - City of Tigard

Significance

Significance statements define what is most important about the trail's resources and values. They express why the trail and its resources are significant within a regional, national, and global context—focusing attention on those exceptional qualities that Congress felt were important to preserve and interpret.

Cataclysmic Ice Age Floods. Ice Age Floods National Geologic Trail represents the greatest floods on earth. Repeated cataclysmic releases of water exploding from glacially dammed Lake Missoula thundered across the landscape to the Pacific Ocean, carrying water, debris, rock, and ice with a discharge equal to 10 times the flow from all of today's rivers worldwide.

Distinctive Geologic Resources. The Ice Age floods sculpted extraordinary landscapes and left behind a variety of distinctive geologic features across a vast area of the northwestern United States. Gigantic basalt coulees, enormous dry falls, and flood ripples of immense proportion are just a few examples of the evidence that survives to illustrate the scale and power of the floods.

Science and Research. The discovery and investigation of the Channeled Scabland led to an understanding of cataclysmic origin that challenged prevailing geologic thought. Ongoing research has established the Ice Age floods as the quintessential example of megaflood landscapes throughout the world.

Human Settlement. The Ice Age floods transformed the environment of the northwestern United States, greatly influencing the use of the land and its resources from early native peoples to contemporary society.



Fundamental Resources and Values

Fundamental resources and values are those features, systems, processes, experiences, stories, scenes, sounds, smells, or other attributes that are critical to achieving purpose and maintaining significance. That which is most important about the trail could be jeopardized if these resources and values are allowed to degrade.

Outstanding Floods-Related Geologic Resources

Numerous floods-related geologic features exist within this four-state area, but not all have been inventoried. Resources are categorized into seven types, including bedrock features, certain features pre-existent to the floods, erosional landforms created by Ice Age floods, depositional landforms created by Ice Age floods, glacial features, lake features, and features deposited by wind.

Exceptional Scenery and Views. Vast landscapes and stunning scenery created by the floods are present at many places along the proposed trail routes. Views of natural and human-influenced scenery enable visitors to comprehend the scale of the floods, to appreciate the grandeur that the floods created, and to understand the impact of the floods on human settlement and on the natural world.

Scientific Knowledge and Research. Investigation of the Ice Age floods has greatly contributed—and continues to contribute—to the body of scientific knowledge. In bringing to light the story of the floods, J. Harlan Bretz, Joseph Pardee, and other geologists yielded a new theory for the origin of many landforms in the northwest. Aided by new technologies, subsequent researchers built upon these early discoveries and further advanced our knowledge of the floods and landform features.



Other Important Resources and Values

The identification of certain resources and values as fundamental is not meant to imply that other resources are not important. The National Park Service draws this distinction because it can help trails and other national park system units set priorities among competing management concerns.

Floods-Related Cultural Resources. Although geological resources are the primary focus of the national geologic trail, the human history of the region adds another dimension to the floods' story. The federal and state partners responsible for managing the trail also manage cultural resources in accordance with laws and regulations that mandate their protection. Cultural resources along the trail corridor convey thousands of years of human history and patterns of settlement across the numerous, varied landscapes shaped by Ice Age floods.

Access to Diverse Recreational and Educational Opportunities. Providing for enjoyment and understanding of resources is central to the mission of the National Park Service and to every park unit or trail that the agency administers. Through partnerships, the national geologic trail offers access to a variety of recreational and educational opportunities that enable visitors to learn about, appreciate, and experience the floods features.



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RESOLUTION NO. 2381

A RESOLUTION OF THE CITY OF WILSONVILLE IN SUPPORT OF CHANGING THE NAME OF THE TONQUIN TRAIL TO "ICE AGE TONQUIN TRAIL" TO PROMOTE PUBLIC AWARENESS, AND ENHANCE FUNDING OPPORTUNITIES AND ECONOMIC DEVELOPMENT THROUGH TOURISM AND SCIENTIFIC RESEARCH.

WHEREAS, toward the end of the last Ice Age, some 12,000 to 17,000 years ago, a series of cataclysmic floods representing the greatest floods on earth, occurred in what is now the northwest region of the United States, leaving a lasting mark of dramatic and distinguishing features on the landscape of parts of the states of Montana, Idaho, Washington, and Oregon, including the Willamette Valley; and

WHEREAS, in 2009 Congress established the Ice Age Floods National Geologic Trail in the states of Montana, Idaho, Washington, and Oregon enabling the public to view, experience, and learn about the features and story of the Ice Age floods through the collaborative efforts of public and private entities; and

WHEREAS, the national geologic trail is in its earliest stages of planning through the leadership of the National Park Service and the Ice Age Floods Interagency Coordination Committee to collaborate and oversee the activities that will enhance interpretation of the Ice Age Floods story and features along the flood pathways of the ice Age Floods National Geologic Trail pursuant to the attached Foundation Document for the Ice Age Floods National Geologic Trail; and

WHEREAS, the national geologic trail will consist of a network of marked touring routes with interpretive opportunities distributed across this vast area and existing roadways will link many of the region's superb geologic resources by way of a long, central pathway and designated loops and spurs, and where n places foot and bicycle trails that enable access and provide interpretive opportunities of fundamental and other important resources and values will also be a part of this network; and

WHEREAS, Metro, in partnership with Clackamas and Washington counties, and the cities of Sherwood, Tualatin, and Wilsonville are now in the process of completing the Tonquin Trail Master Plan and will fund and operate the proposed 22-mile regional trail that will travel through landscape and unique geological features that were formed by the Ice Age Floods within

and near the Tonquin Geologic Area in order to interpret the natural resources and tell the incredible story of the Ice Age Floods; and

WHEREAS, there may be funding opportunities by tying the regional trail to the national, trail, and linking the two trails may result in economic development by bring more tourists and scientific research to the communities the regional trail will serve; and

WHEREAS, renaming the conceptual Tonquin Trail to "Ice Age Tonquin Trail" would require consensus from the partner jurisdictions.

NOW, THEREFORE, THE CITY OF WILSONVILLE RESOLVES AS FOLLOWS:

1. The City Council supports adding the words "Ice Age" somewhere in the trail name, including the possibility of using those words as a byline or tagline that would follow the existing Tonquin Trail name.
2. This resolution is effective upon adoption.

ADOPTED by the Wilsonville City Council at a regular meeting thereof this 5th day of November, 2012, and filed with the Wilsonville City Recorder this date.

TIM KNAPP, MAYOR

Attest:

Sandra C. King, MMC

SUMMARY OF VOTES:

Mayor Knapp - Yes
Council President Núñez - Yes
Councilor Goddard - Yes
Councilor Starr - Yes

Attachment: National Park Service Foundation Document *Ice Age Floods National Geologic Trail*.

1 (b) STUDY AND REPORT.—Section 5(b) of the Wild
2 and Scenic Rivers Act (16 U.S.C. 1276(b)) is amended
3 by adding at the end the following:

4 “(19) MISSISQUOI AND TROUT RIVERS,
5 VERMONT.—Not later than 3 years after the date on
6 which funds are made available to carry out this
7 paragraph, the Secretary of the Interior shall—

8 “(A) complete the study of the Missisquoi
9 and Trout Rivers, Vermont, described in sub-
10 section (a)(140); and

11 “(B) submit a report describing the results
12 of that study to the appropriate committees of
13 Congress.”.

14 (c) AUTHORIZATION OF APPROPRIATIONS.—There
15 are authorized to be appropriated such sums as are nec-
16 essary to carry out this section.

17 **Subtitle C—Additions to the**
18 **National Trails System**

19 **SEC. 5201. ARIZONA NATIONAL SCENIC TRAIL.**

20 Section 5(a) of the National Trails System Act (16
21 U.S.C. 1244(a)) is amended by adding at the end the fol-
22 lowing:

23 “(27) ARIZONA NATIONAL SCENIC TRAIL.—

24 “(A) IN GENERAL.—The Arizona National
25 Scenic Trail, extending approximately 807 miles

1 across the State of Arizona from the U.S.–Mex-
2 ico international border to the Arizona–Utah
3 border, as generally depicted on the map enti-
4 tled ‘Arizona National Scenic Trail’ and dated
5 December 5, 2007, to be administered by the
6 Secretary of Agriculture, in consultation with
7 the Secretary of the Interior and appropriate
8 State, tribal, and local governmental agencies.

9 “(B) AVAILABILITY OF MAP.—The map
10 shall be on file and available for public inspec-
11 tion in appropriate offices of the Forest Serv-
12 ice.”.

13 **SEC. 5202. NEW ENGLAND NATIONAL SCENIC TRAIL.**

14 (a) AUTHORIZATION AND ADMINISTRATION.—Sec-
15 tion 5(a) of the National Trails System Act (16 U.S.C.
16 1244(a)) (as amended by section 5201) is amended by
17 adding at the end the following:

18 “(28) NEW ENGLAND NATIONAL SCENIC
19 TRAIL.—The New England National Scenic Trail, a
20 continuous trail extending approximately 220 miles
21 from the border of New Hampshire in the town of
22 Royalston, Massachusetts to Long Island Sound in
23 the town of Guilford, Connecticut, as generally de-
24 picted on the map titled ‘New England National
25 Scenic Trail Proposed Route’, numbered T06/

1 80,000, and dated October 2007. The map shall be
2 on file and available for public inspection in the ap-
3 propriate offices of the National Park Service. The
4 Secretary of the Interior, in consultation with appro-
5 priate Federal, State, tribal, regional, and local
6 agencies, and other organizations, shall administer
7 the trail after considering the recommendations of
8 the report titled the 'Metacomet Monadnock
9 Mattabesset Trail System National Scenic Trail
10 Feasibility Study and Environmental Assessment',
11 prepared by the National Park Service, and dated
12 Spring 2006. The United States shall not acquire
13 for the trail any land or interest in land without the
14 consent of the owner.'".

15 (b) MANAGEMENT.—The Secretary of the Interior
16 (referred to in this section as the "Secretary") shall con-
17 sider the actions outlined in the Trail Management Blue-
18 print described in the report titled the "Metacomet Mo-
19 nadnock Mattabesett Trail System National Scenic Trail
20 Feasibility Study and Environmental Assessment", pre-
21 pared by the National Park Service, and dated Spring
22 2006, as the framework for management and administra-
23 tion of the New England National Scenic Trail. Additional
24 or more detailed plans for administration, management,
25 protection, access, maintenance, or development of the

1 trail may be developed consistent with the Trail Manage-
2 ment Blueprint, and as approved by the Secretary.

3 (c) COOPERATIVE AGREEMENTS.—The Secretary is
4 authorized to enter into cooperative agreements with the
5 Commonwealth of Massachusetts (and its political subdivi-
6 sions), the State of Connecticut (and its political subdivi-
7 sions), and other regional, local, and private organizations
8 deemed necessary and desirable to accomplish cooperative
9 trail administrative, management, and protection objec-
10 tives consistent with the Trail Management Blueprint. An
11 agreement under this subsection may include provisions
12 for limited financial assistance to encourage participation
13 in the planning, acquisition, protection, operation, develop-
14 ment, or maintenance of the trail.

15 (d) ADDITIONAL TRAIL SEGMENTS.—Pursuant to
16 section 6 of the National Trails System Act (16 U.S.C.
17 1245), the Secretary is encouraged to work with the State
18 of New Hampshire and appropriate local and private orga-
19 nizations to include that portion of the Metacomet-Monad-
20nock Trail in New Hampshire (which lies between
21 Royalston, Massachusetts and Jaffrey, New Hampshire)
22 as a component of the New England National Scenic
23 Trail. Inclusion of this segment, as well as other potential
24 side or connecting trails, is contingent upon written appli-
25 cation to the Secretary by appropriate State and local ju-

1 risdictions and a finding by the Secretary that trail man-
2 agement and administration is consistent with the Trail
3 Management Blueprint.

4 **SEC. 5203. ICE AGE FLOODS NATIONAL GEOLOGIC TRAIL.**

5 (a) FINDINGS; PURPOSE.—

6 (1) FINDINGS.—Congress finds that—

7 (A) at the end of the last Ice Age, some
8 12,000 to 17,000 years ago, a series of cata-
9 clysmic floods occurred in what is now the
10 northwest region of the United States, leaving
11 a lasting mark of dramatic and distinguishing
12 features on the landscape of parts of the States
13 of Montana, Idaho, Washington and Oregon;

14 (B) geological features that have excep-
15 tional value and quality to illustrate and inter-
16 pret this extraordinary natural phenomenon are
17 present on Federal, State, tribal, county, mu-
18 nicipal, and private land in the region; and

19 (C) in 2001, a joint study team headed by
20 the National Park Service that included about
21 70 members from public and private entities
22 completed a study endorsing the establishment
23 of an Ice Age Floods National Geologic Trail—

24 (i) to recognize the national signifi-
25 cance of this phenomenon; and

1 (ii) to coordinate public and private
2 sector entities in the presentation of the
3 story of the Ice Age floods.

4 (2) PURPOSE.—The purpose of this section is
5 to designate the Ice Age Floods National Geologic
6 Trail in the States of Montana, Idaho, Washington,
7 and Oregon, enabling the public to view, experience,
8 and learn about the features and story of the Ice
9 Age floods through the collaborative efforts of public
10 and private entities.

11 (b) DEFINITIONS.—In this section:

12 (1) ICE AGE FLOODS; FLOODS.—The term “Ice
13 Age floods” or “floods” means the cataclysmic floods
14 that occurred in what is now the northwestern
15 United States during the last Ice Age from massive,
16 rapid and recurring drainage of Glacial Lake Mis-
17 soula.

18 (2) PLAN.—The term “plan” means the cooper-
19 ative management and interpretation plan author-
20 ized under subsection (f)(5).

21 (3) SECRETARY.—The term “Secretary” means
22 the Secretary of the Interior.

23 (4) TRAIL.—The term “Trail” means the Ice
24 Age Floods National Geologic Trail designated by
25 subsection (c).

1 (c) DESIGNATION.—In order to provide for public ap-
2 preciation, understanding, and enjoyment of the nationally
3 significant natural and cultural features of the Ice Age
4 floods and to promote collaborative efforts for interpreta-
5 tion and education among public and private entities lo-
6 cated along the pathways of the floods, there is designated
7 the Ice Age Floods National Geologic Trail.

8 (d) LOCATION.—

9 (1) MAP.—The route of the Trail shall be as
10 generally depicted on the map entitled “Ice Age
11 Floods National Geologic Trail,” numbered P43/
12 80,000 and dated June 2004.

13 (2) ROUTE.—The route shall generally follow
14 public roads and highways.

15 (3) REVISION.—The Secretary may revise the
16 map by publication in the Federal Register of a no-
17 tice of availability of a new map as part of the plan.

18 (e) MAP AVAILABILITY.—The map referred to in sub-
19 section (d)(1) shall be on file and available for public in-
20 spection in the appropriate offices of the National Park
21 Service.

22 (f) ADMINISTRATION.—

23 (1) IN GENERAL.—The Secretary, acting
24 through the Director of the National Park Service,

1 shall administer the Trail in accordance with this
2 section.

3 (2) LIMITATION.—Except as provided in para-
4 graph (6)(B), the Trail shall not be considered to be
5 a unit of the National Park System.

6 (3) TRAIL MANAGEMENT OFFICE.—To improve
7 management of the Trail and coordinate Trail activi-
8 ties with other public agencies and private entities,
9 the Secretary may establish and operate a trail man-
10 agement office at a central location within the vicin-
11 ity of the Trail.

12 (4) INTERPRETIVE FACILITIES.—The Secretary
13 may plan, design, and construct interpretive facili-
14 ties for sites associated with the Trail if the facilities
15 are constructed in partnership with State, local, trib-
16 al, or non-profit entities and are consistent with the
17 plan.

18 (5) MANAGEMENT PLAN.—

19 (A) IN GENERAL.—Not later than 3 years
20 after funds are made available to carry out this
21 section, the Secretary shall prepare a coopera-
22 tive management and interpretation plan for
23 the Trail.

24 (B) CONSULTATION.—The Secretary shall
25 prepare the plan in consultation with—

1 (i) State, local, and tribal govern-
2 ments;

3 (ii) the Ice Age Floods Institute;

4 (iii) private property owners; and

5 (iv) other interested parties.

6 (C) CONTENTS.—The plan shall—

7 (i) confirm and, if appropriate, ex-
8 pand on the inventory of features of the
9 floods contained in the National Park
10 Service study entitled “Ice Age Floods,
11 Study of Alternatives and Environmental
12 Assessment” (February 2001) by—

13 (I) locating features more accu-
14 rately;

15 (II) improving the description of
16 features; and

17 (III) reevaluating the features in
18 terms of their interpretive potential;

19 (ii) review and, if appropriate, modify
20 the map of the Trail referred to in sub-
21 section (d)(1);

22 (iii) describe strategies for the coordi-
23 nated development of the Trail, including
24 an interpretive plan for facilities, waysides,
25 roadside pullouts, exhibits, media, and pro-

1 grams that present the story of the floods
2 to the public effectively; and

3 (iv) identify potential partnering op-
4 portunities in the development of interpre-
5 tive facilities and educational programs to
6 educate the public about the story of the
7 floods.

8 (6) COOPERATIVE MANAGEMENT.—

9 (A) IN GENERAL.—In order to facilitate
10 the development of coordinated interpretation,
11 education, resource stewardship, visitor facility
12 development and operation, and scientific re-
13 search associated with the Trail and to promote
14 more efficient administration of the sites associ-
15 ated with the Trail, the Secretary may enter
16 into cooperative management agreements with
17 appropriate officials in the States of Montana,
18 Idaho, Washington, and Oregon in accordance
19 with the authority provided for units of the Na-
20 tional Park System under section 3(l) of Public
21 Law 91-383 (16 U.S.C. 1a-2(l)).

22 (B) AUTHORITY.—For purposes of this
23 paragraph only, the Trail shall be considered a
24 unit of the National Park System.

1 (7) COOPERATIVE AGREEMENTS.—The Sec-
2 retary may enter into cooperative agreements with
3 public or private entities to carry out this section.

4 (8) EFFECT ON PRIVATE PROPERTY RIGHTS.—
5 Nothing in this section—

6 (A) requires any private property owner to
7 allow public access (including Federal, State, or
8 local government access) to private property; or

9 (B) modifies any provision of Federal,
10 State, or local law with respect to public access
11 to or use of private land.

12 (9) LIABILITY.—Designation of the Trail by
13 subsection (c) does not create any liability for, or af-
14 fect any liability under any law of, any private prop-
15 erty owner with respect to any person injured on the
16 private property.

17 (g) AUTHORIZATION OF APPROPRIATIONS.—There
18 are authorized to be appropriated such sums as are nec-
19 essary to carry out this section, of which not more than
20 \$12,000,000 may be used for development of the Trail.

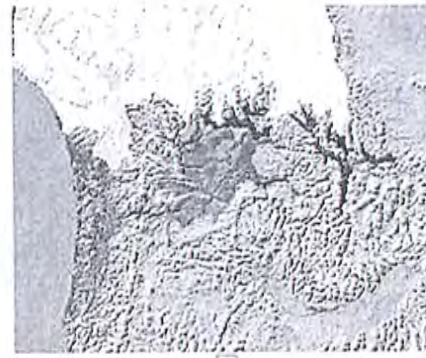
21 **SEC. 5204. WASHINGTON-ROCHAMBEAU REVOLUTIONARY**
22 **ROUTE NATIONAL HISTORIC TRAIL.**

23 Section 5(a) of the National Trails System Act (16
24 U.S.C. 1244(a)) (as amended by section 5202(a)) is
25 amended by adding at the end the following:



Ice Age Floods National Geologic Trail

The Ice Age Floods National Geologic Trail or Ice Age Floods Trail is designated as the first National Geologic Trail in the United States. It will consist of a network of routes connecting facilities that will provide interpretation of the geological consequences of the Glacial Lake Missoula floods of the last glacial period that began about 110,000 years ago.



Glacial Lake Columbia (west) and Glacial Lake Missoula (east) are shown south of the Cordilleran Ice Sheet. The areas inundated in the Columbia and Missoula floods are shown in red.

Contents

- 1 History of "Ice Age Floods Trail" creation
- 2 Geologic basis for the trail
- 3 Probable features of the trail
- 4 See also
- 5 References
- 6 External links



Tweet

History of "Ice Age Floods Trail" creation

The National Park Service (NPS) commissioned an Environmental Assessment, which concluded that Option 3 - creation of a "National Geologic Trail—designating the Floods pathways managed by the National Park Service, with an Interagency Technical Committee representing the federal, tribal, and state agencies and a Trail Advisory Committee to assist the Trail Manager and staff" was the preferred option. As a result, the Ice Age Floods Trail was established by the Omnibus Public Land Management Act of 2009, in which Congress authorized establishing the Ice Age Floods National Geologic Trail in parts of Montana, Idaho, Washington, and Oregon states, and established NPS administration of the Trail.^[1]

Tonquin Trail - Charts

Total Usage

Weekday Extrapolation (September)				
	Daily	Weekly	Monthly	Yearly
Bike Total	195	1,625	6,964	87,054
Pedestrian Total	548	4,563	19,554	244,420
Wheelchair Total	0	0	0	0
Other Total	0	0	0	0
Total	743	6,188	26,518	331,473

Weekend Extrapolation (September)

NO DATA

Overall Usage (Average of weekday and weekend count)				
	Daily	Weekly	Monthly	Yearly
Bike Total	239	1,674	7,254	87,054
Pedestrian Total	670	4,700	20,368	244,420
Wheelchair Total	0	0	0	0
Other Total	0	0	0	0
Total	908	6,374	27,623	331,473

Gender Balance (Weighted Average of Weekday and Weekend Rates)

Male	1,725	46%
Female	1,988	54%
Total	3,713	100%



* insufficient number of surveys collected for analysis



APP 9
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Tract No. OC-E-18

TRANSMISSION LINE EASEMENT

The GRANTOR, herein so styled whether one or more, **WILLIAM MARVIN WALDO AND RUTH ARLENE WALDO, husband and wife,**

for and in consideration of the sum of **NINE HUNDRED FORTY** ----- Dollars (\$ 940.00), in hand paid by the **UNITED STATES OF AMERICA**, receipt of which is hereby acknowledged, hereby grants, bargains, sells, and conveys to the **UNITED STATES OF AMERICA** and its assigns, a perpetual easement and right to enter and erect, operate, maintain, repair, rebuild, and patrol one or more electric power transmission lines and appurtenant signal lines, poles, towers, wires, cables, and appliances necessary in connection therewith, in, upon, over, under, and across the following-described parcel of land in the County of **Washington**, in the State of **Oregon**, to wit:

That portion of the **N $\frac{1}{2}$ SE $\frac{1}{4}$** of Section 34, Township 2 South, Range 1 West of the Willamette Meridian, Washington County, Oregon, which lies within a strip of land 250 feet in width, the boundaries of said strip lying 62.5 feet distant westerly from and 187.5 feet distant easterly from and parallel to the survey line of the Oregon City-Keeler section of the Big Eddy-Keeler transmission line, said survey line being particularly described as follows:

Beginning at survey station 5224+28.2, a point on the south line of Section 34, Township 2 South, Range 1 West, W. M., said point being S. 88°41'10" E. a distance of 2074.5 feet from the southwest corner of said Section 34; thence N. 11°25'30" W. a distance of 2197.3 feet to survey station 5246+25.5; thence N. 42°59'00" W. a distance of 674.5 feet to survey station 5253+00.0, a point on the East-West quarter section line of said Section 34, said point being S. 88°46'10" E. a distance of 1063.3 feet from the quarter section corner on the west line of said Section 34.

The right to cut danger trees is limited to a strip of land 75 feet in width on the east side of and beyond the outside limits of the right-of-way, and to one 24-inch Douglas fir located 74.5 feet west of and beyond the outside limits of the right-of-way at Survey Station 5231+75.

The Grantor agrees to remove all buildings from aforesaid right-of-way on or before May 1, 1957. In the event of their failure to remove the buildings by said date, they shall become the property of the Grantee and may be disposed of by sale, burning or otherwise without the payment of any further consideration.

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together with the right to clear said parcel of land and keep the same clear of all brush, timber, structures, and fire hazards; provided however, the words "fire hazards" shall not be interpreted to include growing crops; and also the present and future right to top, limb, fell, and remove all growing trees, dead trees or snags (collectively called "danger trees") located on Grantor's land adjacent to said parcel of land, which could fall upon or against said transmission and signal line facilities.

TO HAVE AND TO HOLD said easement and rights unto the UNITED STATES OF AMERICA and its assigns, forever.

The Grantor covenants to and with the UNITED STATES OF AMERICA and its assigns that the title to all brush and timber cut and removed from said parcel of land and also all growing trees, dead trees or snags (collectively called "danger trees") cut and removed from Grantor's land adjacent to said parcel of land, is and shall be vested in the UNITED STATES OF AMERICA and its assigns and that the consideration paid for conveying said easement and rights herein described is accepted as full compensation for all damages incidental to the exercise of any of said rights.

The Grantor also covenants to and with the UNITED STATES OF AMERICA that Grantor is lawfully seized and possessed of the lands aforesaid; has a good and lawful right and power to sell and convey same; that same are free and clear of encumbrances, except as above indicated; and that Grantor will forever warrant and defend the title to said easement and the quiet possession thereof against the lawful claims and demands of all persons whomsoever.

Dated this 10th day of November, 1956.

William Marvin Waldo
William Marvin Waldo

Ruth Arlene Waldo
Ruth Arlene Waldo

APP 9
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STATE OF *Oregon*
COUNTY OF *Washington*

On the *16* day of *November*, 1956, personally came before me, a notary public in and for the State of *Oregon*, the within-named *WILLIAM MARTIN WALDO AND RUTH ANNE WALDO, husband and wife*, to whom it is known to be the identical persons described in and who executed the within and foregoing instrument and acknowledged to me that they executed the same as their free and voluntary act and deed for the uses and purposes therein mentioned.

Given under my hand and official seal the day and year last above written.



M. Lynn Judy
Notary Public in and for the
State of *Oregon*
Residing at *Hillsboro, Oregon*

My commission expires:
M. LYNN JUDY
NOTARY PUBLIC FOR OREGON
MY COMMISSION EXPIRES DEC. 12, 1957

STATE OF *OREGON*
COUNTY OF *Washington*

I CERTIFY that the within instrument was received for the record on the *16* day of *Nov.*, 1956, at *1:00 P.M.*, and recorded in book *388* on page *240*, records of said County.

Witness my hand and seal of County affixed.

R. N. TORBET, COUNTY CLERK

By *Deputy Hansen*
Deputy.

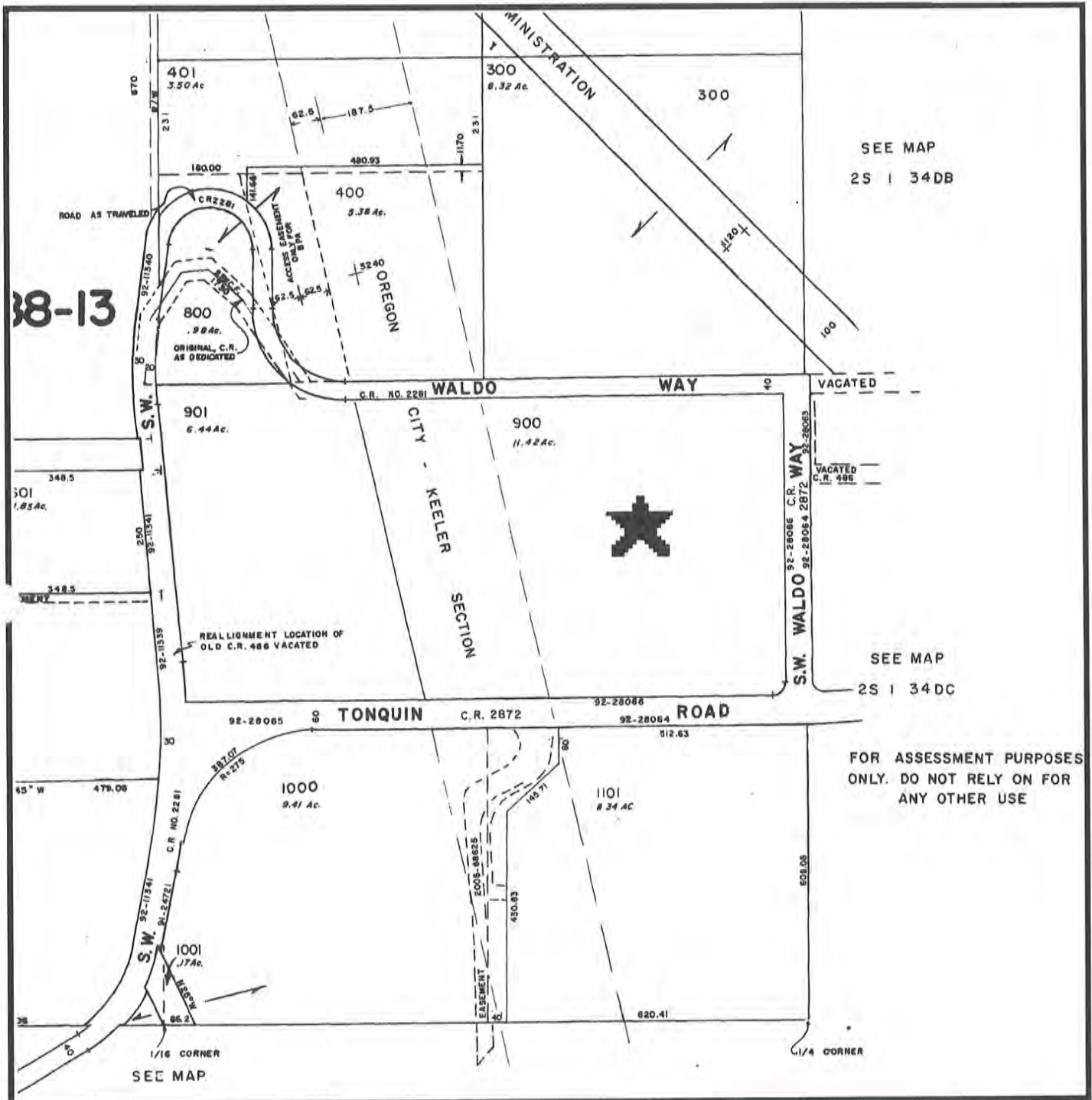
After recording, please return to:

TITLE SECTION, BRANCH OF LAND
BONNEVILLE TOWER ADMINISTRATION
P.O. BOX No. 3537
PORTLAND 8, OREGON

APP 9
00004



Reference Parcel #: 2S134C0 00900



First American
Title Company of Oregon

Property Information Department
121 SW Morrison Street Suite 300 Portland, OR 97204
Phone: 503.219.TRIO (8746) Fax: 503.790.7872
Email: pid.portland@firstam.com

THIS MAP IS PROVIDED AS A CONVENIENCE IN LOCATING PROPERTY. FIRST AMERICAN TITLE COMPANY OF OREGON ASSUMES NO LIABILITY FOR ANY VARIATIONS AS MAY BE DISCLOSED BY AN ACTUAL SURVEY

Chapter 3: Trail Segment Options Analysis and Preferred Trail Alignment

Segment Options Analysis

Working with the project steering committee, stakeholders, and local agency staff, the project team undertook an extensive process to identify and evaluate trail segment options. This process included the following key steps:

- An initial set of trail study segments were identified in late 2009, based on a review of background information, a “fatal flaw” analysis of segments proposed in the 2004 Tonquin Trail Feasibility Study, property research, and extensive input from stakeholders and the public.
- Additional study segments were added in 2010 in response to other concurrent planning efforts (for example, future 124th Avenue Extension between Tualatin-Sherwood Road and Tonquin Road) and additional public input.
- Adjustments to some study segments were made in 2011 as follow-up property research, additional discussions with stakeholders, and input from local agency staff and elected officials became available.

The evaluation was primarily based on an Evaluation Framework (including 6 goals, 19 criteria, and over 30 evaluative measures) jointly developed by the project team and project steering committee at the outset of the planning process. The project team performed a detailed evaluation of nearly 20 segment options based on each measure within the Evaluation Framework. This approach provided an objective means to compare the segments against one another. The project team then vetted the findings of the preliminary analysis with stakeholders, local decision makers, and the public, and made refinements, as needed, to develop the preferred Ice Age Tonquin Trail alignment.

Appendix B contains the Evaluation Framework memorandum and other technical background information related to the development and evaluation process.

Preferred Trail Alignment

Overview

Spanning approximately 22 miles, the preferred Ice Age Tonquin Trail alignment will provide a seamless active transportation link between the Willamette and Tualatin Rivers while connecting the communities of Wilsonville, Sherwood, and Tualatin. The preferred alignment will provide a convenient, comfortable, and safe atmosphere for trail users of all ages and abilities; provide access (but limit impacts) to natural and cultural resources; and enhance non-motorized connectivity in the Portland region. Equally important, the alignment is implementable and has garnered support from the communities through which it passes.

From its southern terminus at the Willamette River, the preferred Ice Age Tonquin Trail alignment will pass through several Wilsonville neighborhoods and Graham Oaks Nature Park before splitting into three

segments, as depicted on Map 5. The western segment will traverse a bluff above Tonquin Road before descending into downtown Sherwood and Stella Olsen Park. This segment will follow Sherwood's majestic Cedar Creek corridor on its way to a Tualatin River National Wildlife Refuge trailhead near Roy Rogers Road. The central segment will follow Oregon Street and Cipole Road along the Sherwood/Tualatin boundary, access the Tualatin River at a Metro-owned natural area, and offer a connection to the future Westside Regional Trail. Making its way to Tualatin, the eastern segment will pass within close proximity of several historic and geologic features north of Tonquin Road. This segment will travel adjacent to Tualatin's Hedges Creek Greenway en route to Tualatin Community Park, and seamlessly link with the Fanno Creek Regional Trail via an existing bicycle/pedestrian bridge traversing the Tualatin River.

Recommended Trail Alignment

Tables 2 through 20 and the accompanying Maps 6 through 25 illustrate the preferred Ice Age Tonquin Trail alignment in greater detail, and describe specific recommended improvements. Beginning at the Willamette River in Wilsonville, the maps progress north first toward Sherwood, and conclude in Tualatin. The maps illustrate site-specific improvements that include the following:

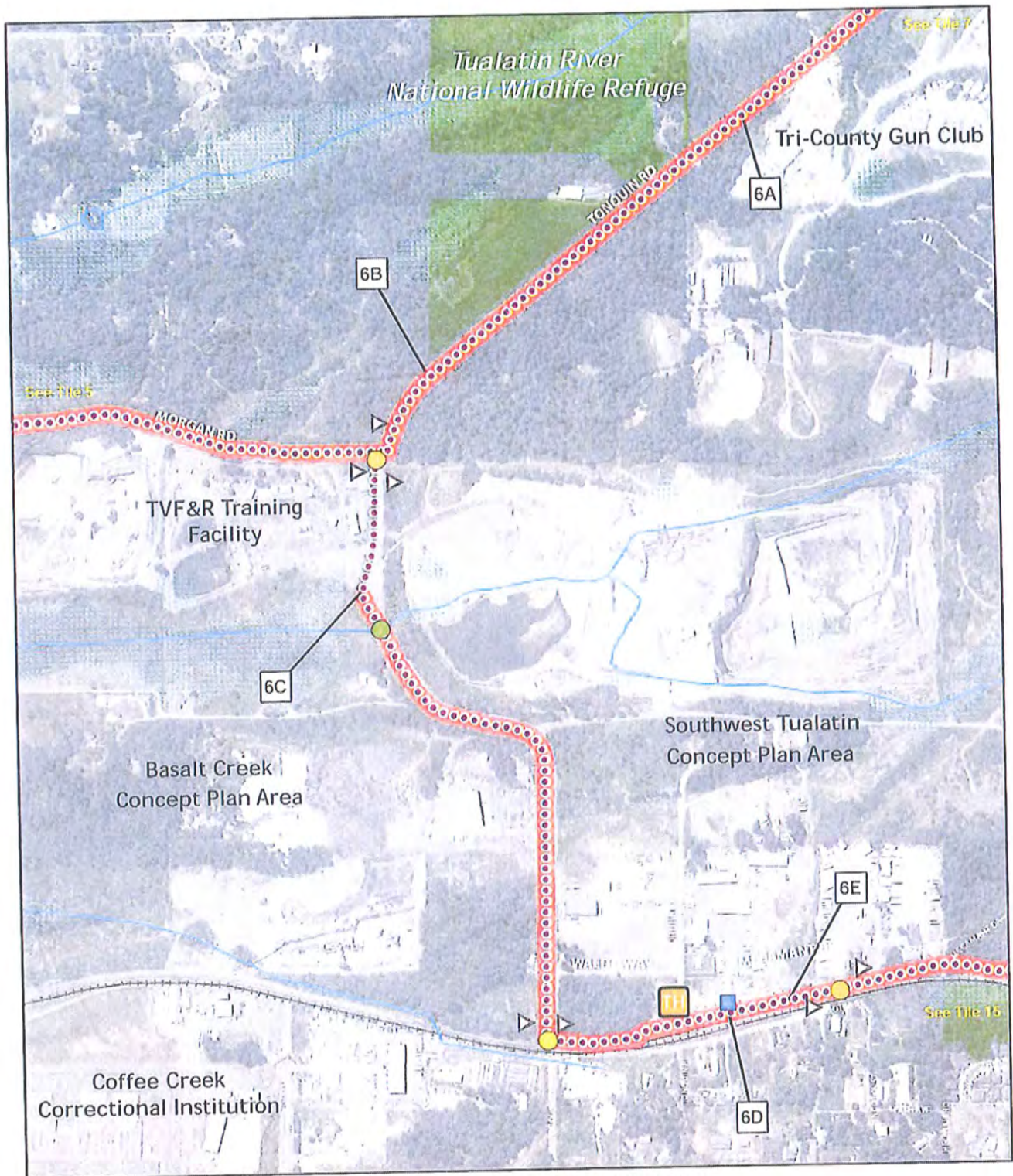
- Recommended trail type (for example, shared use path, boardwalk)
- Proposed at-grade and grade-separated trail crossings
- Proposed trailhead locations
- Art, educational, and interpretive opportunities
- Potential wayfinding signage locations
- Potential trail spurs
- Locations where property easements or acquisitions will be needed to accommodate the trail
- Other features including wetlands, parks, natural areas, schools, and major destinations

The accompanying tables provide additional information where necessary to augment the features shown on each map.

Due to the diverse physical landscapes and settings through which the preferred alignment travels in its 22-mile course, the specific trail facility type will vary by location. The facility types are grouped into four main categories:

- **Shared Use Path.** A facility physically separated from motor vehicle traffic, dedicated for the exclusive use of bicyclists, pedestrians, joggers, in-line skaters, and other non-motorized users.
- **Boardwalk.** Similar to a shared use path and used in and near environmentally sensitive areas such as wetlands and sensitive wildlife habitat.
- **Bike Lanes/Sidewalks.** Where physical or other constraints (primarily in urban settings) preclude development of a shared use path, bicyclists would be accommodated with striped bike lanes while sidewalks would accommodate pedestrians.
- **Shared Roadway.** Where physical or other constraints along lower-volume and/or lower-speed streets preclude development of a shared use path, bicyclists and motorists would share the road (possibly augmented by shared lane markings), while sidewalks would accommodate pedestrians. Where vehicle volumes and speeds are very low, pedestrians, cyclists, and motorists would potentially use the same space.

While this section depicts locations of site-specific improvements, the Ice Age Tonquin Trail Design Guidelines in Chapter 4 provide more detailed design guidance for the facility types listed above. It should be noted, however, that appropriate design treatments will vary on a case-by-case basis depending on location and further analysis at the time the Master Plan is implemented.



Map 12: Tile 6 - Tonquin Road/Morgan Road and Vicinity

Ice Age Tonquin Trail Master Plan
Preferred Alignment
Source: Metro Data Resource Center

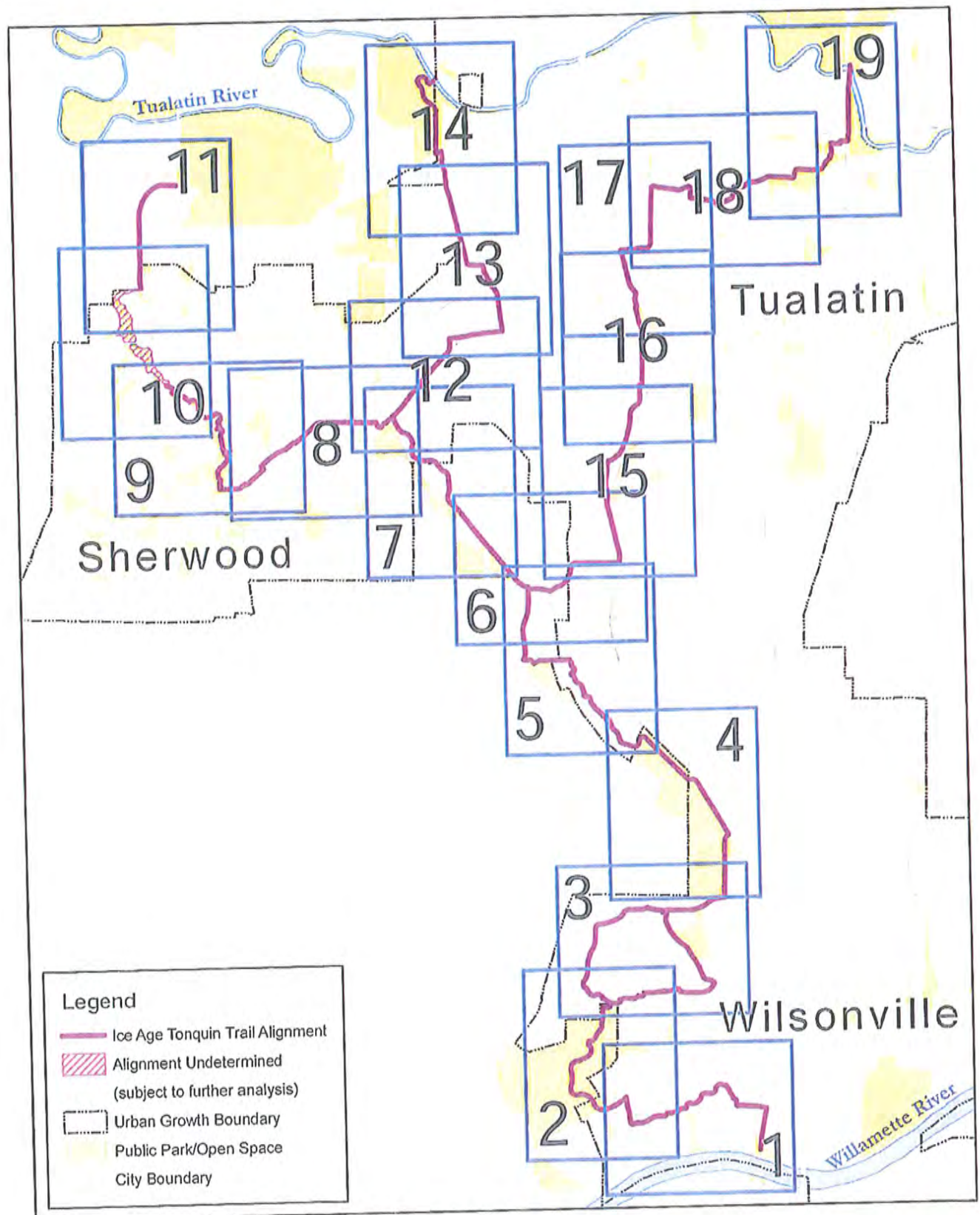
0 500 1,000 2,000 Feet



- | | | | |
|-------------------------------|--|---|--|
| Ice Age Tonquin Trail | Alignment Undetermined | Proposed Grade-Separated Crossing | An Educational or Interpretive Opportunity |
| Existing Trail | Potential Easement or Acquisition Needed | Proposed At-Grade Crossing (Signalized) | Proposed Trail Head |
| Proposed Bike Lanes/Sidewalks | Existing Neighborhood Connection | Proposed At-Grade Crossing (Unsignalized) | Existing Parking or Trail Head |
| Proposed Boardwalk | Potential Future Connection | Potential Wayfinding Sign Location | |
| Proposed Shared Roadway | Wetland | | |
| Proposed Shared Use Path | Parker Natural Area | | |
| | River/Stream/Drainage Ditch | | |

Table 7 - Tile 6: Tonquin Road/Morgan Road and Vicinity

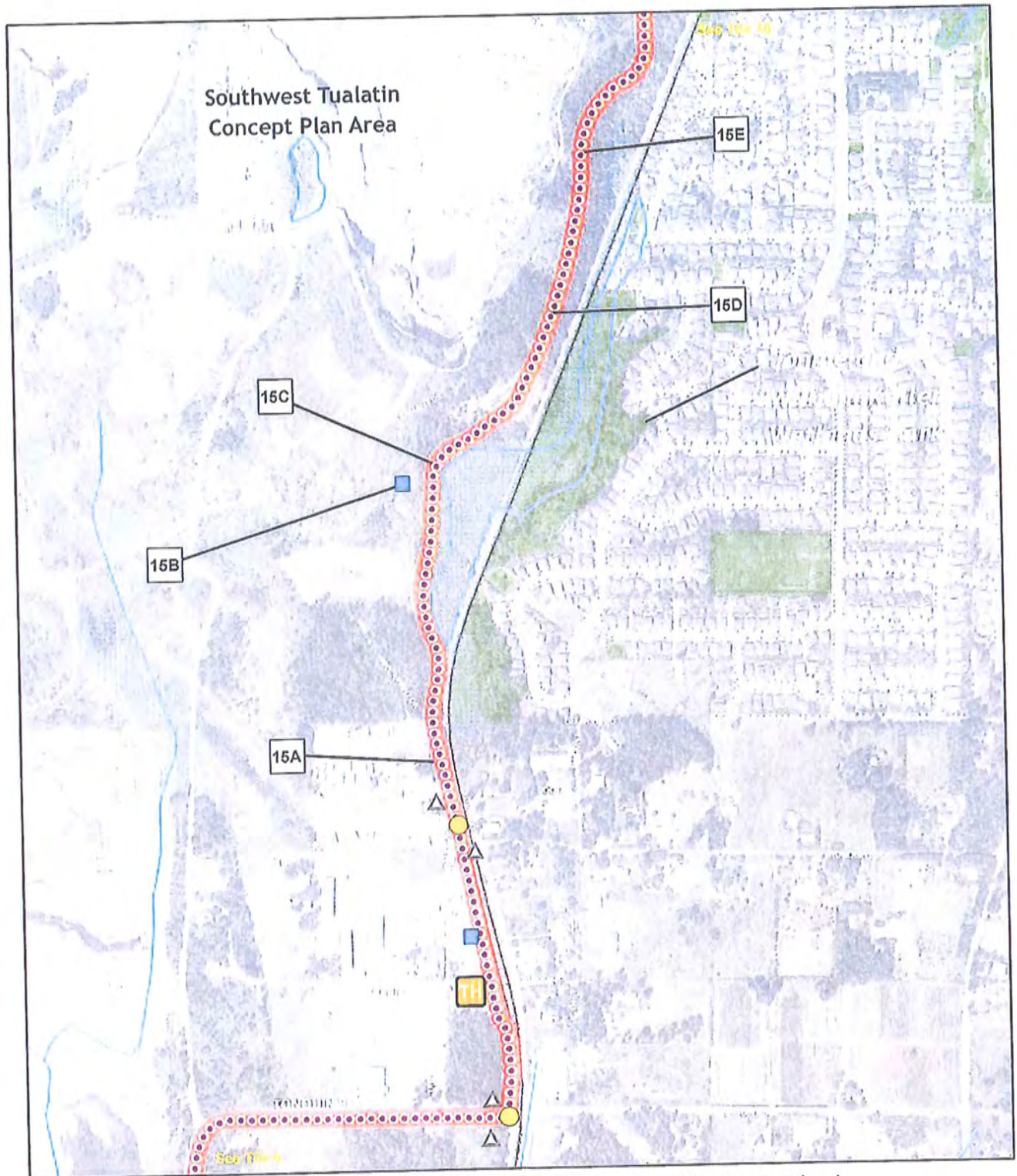
Reference # (see Tile 6 map)	Recommended Improvements and Opportunities
6A	Trail alignment proposed to follow east side of Tonquin Road (west of Morgan Road intersection); potential need for retaining walls between Tri-County Gun Club entrance and quarry entrance to the northwest; potential need for utility pole and/or guywire relocation in some locations north of Morgan Road; some vegetation removal necessary between Morgan Road and Tri County Gun Club entrance.
6B	Washington County's <i>Transportation System Plan</i> (TSP) recommends widening Tonquin Road; this could potentially enable the trail to be constructed on the roadway's west side within the existing right-of-way; continue to monitor Washington County's plans for Tonquin Road improvements, but pursue acquisition for the trail on east side of the road.
6C	<p>The recommended alignment shown along Tonquin Road between Morgan Road and Tonquin Loop Road (including the intersection of Morgan and Tonquin Roads) was determined before the Basalt Creek Concept Planning process began and in the early stages of the 124th Avenue Extension project. The alignment shown here will be finalized during the design for the east-west corridor in the Basalt Creek Concept Plan, 124th Avenue Extension, and improvements to Tonquin Road.</p> <p>For purposes of the Master Plan documentation, details regarding the alignment that is shown include the following—trail to follow south side of Tonquin Road (east of Morgan Road intersection); existing right-of-way encroachment along several adjacent properties (would necessitate relocation of existing fencing and mailboxes); potential need for utility pole and/or guywire relocation in some locations; and vegetation removal necessary.</p>
6D	Potential historic railway art, educational or interpretive opportunity
6E	The goal of the Ice Age Tonquin Trail in the Southwest Tualatin Concept Plan area is to have a north/south orientation through and adjacent to the areas of highest desirability for interpretation of the Ice Age floods and the associated natural and geologic features. The exact alignment and proposed trailhead location have yet to be determined and will be developed in the future in consultation with the industrial land owners in this area, adjacent property owners, the general public and other stakeholders, no later than the time of annexation. Any property acquired by Metro for the trail will be acquired via a willing seller program.



Map 6: Key to Tile Maps

Ice Age Tonquin Trail Master Plan
Preferred Alignment
Source: Metro Data Resource Center





Map 21: Tile 15 - SW Tualatin Concept Plan Area (Southern Portion)

Ice Age Tonquin Trail Master Plan
Preferred Alignment
Source: Metro Data Resource Center

Ice Age Tonquin Trail

- Existing Trail
- Proposed Boardwalk
- Proposed Shared Roadway
- Proposed Shared Use Path

- Alignment Undetermined
- Potential Easement Acquisition Needed
- Existing Neighborhood Connection
- Potential Future Connection
- Wetland
- Park or Natural Area
- River/Stream/Drainage Ditch

- Proposed Grade-Separated Crossing
- Proposed At-Grade Crossing (Signalized)
- Proposed At-Grade Crossing (Unsignalized)
- Potential Wayfinding Sign Location

- Art, Educational or Interpretive Opportunity
- Proposed Trail Head
- Existing Parking or Trail Head

**Table 16 - Tile 15: Southwest Tualatin Concept Plan Area
(Southern Portion)**

Reference # (see Tile 15 map)	Recommended Improvements and Opportunities
15A	The goal of the Ice Age Tonquin Trail in the Southwest Tualatin Concept Plan area is to have a north/south orientation through and adjacent to the areas of highest desirability for interpretation of the Ice Age floods and the associated natural and geologic features. The exact alignment and proposed trailhead location have yet to be determined and will be developed in the future in consultation with the industrial land owners in this area, adjacent property owners, the general public and other stakeholders, no later than the time of annexation. Any property acquired by Metro for the trail will be acquired via a willing seller program.
15B	Potential kolk ponds art, educational or interpretive opportunity
15C	The Ice Age Tonquin Trail will follow an alignment shown in the Southwest Tualatin Concept Plan in this area; trail alignment to avoid steep slopes to the greatest extent possible.
15D	Vegetation removal and mitigation necessary to accommodate trail throughout the Southwest Tualatin Concept Plan area
15E	Trail alignment to follow ridge between quarry and railroad through Southwest Tualatin Concept Plan area

Chapter 4: Trail Design Guidelines

Overview

Ice Age Tonquin Trail Design Guidelines

This section presents recommended design guidelines for the Ice Age Tonquin Trail. The guidelines are meant to cover a broad range of agency standards for shared use paths; bicycle lanes; shared lane markings; trail-roadway intersections; trail related facilities; signage and wayfinding; special design requirements; and environmentally sensitive trail design, including bridges and boardwalks. Trail design guidelines refer to the characteristics of a trail that provide varying levels of access, enhance the trail user experience, and provide environmental protection and/or restoration. To select the appropriate trail guidelines, a number of factors such as the following should be considered.



Built section of the Ice Age Tonquin Trail in Graham Oaks Nature Park in Wilsonville.

- Corridor location and environmentally sensitive areas
- Anticipated trail traffic volumes and seasonal demands
- Trail user types
- Drainage needs
- Preservation of as many existing trees as possible
- Maintenance needs
- Maintenance costs and schedules

Site-specific treatments are shown and described in the maps and tables in Chapter 3.

While these guidelines provide recommendations for design of the Ice Age Tonquin Trail, it should be noted that each jurisdiction that the Ice Age Tonquin Trail passes through has different design standards that will need to be met. In addition, survey and preliminary engineering have not yet been completed for the trail. Therefore, grading, drainage, and retaining-wall design will be required at the time of Master Plan implementation.

Design with Active Transportation in Mind

One of the goals of the Intertwine Alliance is to increase opportunities for active transportation within the region. Active transportation as it applies to the Ice Age Tonquin Trail includes the following items:

- Expanding the regional trail network by connecting the Ice Age Tonquin Trail to nearby regional trails.
- Safely accommodating a mix of uses and trail users of all abilities.
- Providing access from neighborhoods to local destinations and venues.
- Providing high quality connections for all users to the goods and services needed for daily life.
- Increasing the number of bicycle and pedestrian trips, reducing the number of auto trips.
- Providing informational and wayfinding signs that help people reach their destination.

Trail Theme

A trail theme creates a cohesive and memorable trail, while establishing a distinct identity or “sense of place.” The theme brands a trail system with unifying materials, elements, images, and colors. These features define the system as a unique place and provide a reason for people to experience it. A unifying theme serves to inform subsequent design elements from site furnishings to interpretive information. The Ice Age Tonquin Trail should be a celebration of the Glacial Lake Missoula Ice Age flood events. As such, the design should tie together the natural features along the route that are evidence of the flood events. Material selections should be native, including rock, wood, and plant material. Placement of glacial erratics as mileage markers is a good example of celebrating the Ice Age Tonquin Trail. Consistency in the look and feel of the trail amenities will help to provide a seamless aesthetic experience for trail users. Examples include, but are not limited to, signage, site furnishings, and a planting palette.

Off-Street Facilities



Figure 1 – Typical cross-section for a shared use path

Shared Use Paths

The Ice Age Tonquin Trail will primarily be a shared use path where possible. Shared use paths are completely separated from motorized vehicular traffic and are constructed in their own corridor, often within an open-space area. The following list of trail design recommendations are also illustrated in Figure 1:

- Permeable asphalt is the recommended surface treatment, though concrete, asphalt, and permeable concrete may be acceptable.
- The typical cross section is 12 feet wide with 2-foot-wide compacted crushed stone shoulders.
- The constrained cross section is 10 feet wide with 2-foot-wide shoulders.
- The running slope (for example, the grade at which the trail travels) should be less than 5 percent.



Shared use paths are typically constructed in their own corridor, and are physically separated from motor vehicle traffic.

- The cross slope (for example, slope running perpendicular to the trail) should be 2 percent maximum.
- Use centerline and fog line striping in constrained areas or on sharp or blind curves.

Shared Use Paths Adjacent to Roadways

Shared use paths located within the roadway corridor right-of-way or adjacent to roads provide a comfortable walking space for pedestrians and enable children and recreational bicyclists to ride without the discomfort of riding in a busy street.

This configuration works best along roadways with limited driveway crossings and with services primarily located on one side of the roadway, or along a riverfront or other natural feature (see Figure 2). *Not recommended in areas with frequent driveways or cross streets.*



One cyclist passing another on shared use path.

- A minimum 10-foot width is necessary for bicyclists to pass one another safely (12 feet for areas expecting high use).
- A 5-foot-wide minimum vegetated buffer should be provided between the edge of the path and the edge of the roadway.
- Vegetated buffer can be used as a low impact water quality swale.
- The Ice Age Tonquin Trail shared use paths adjacent to the roadway will be within areas of future road right-of-way acquisition.
- Seek opportunities to close/decommission unused or wider than necessary driveways.

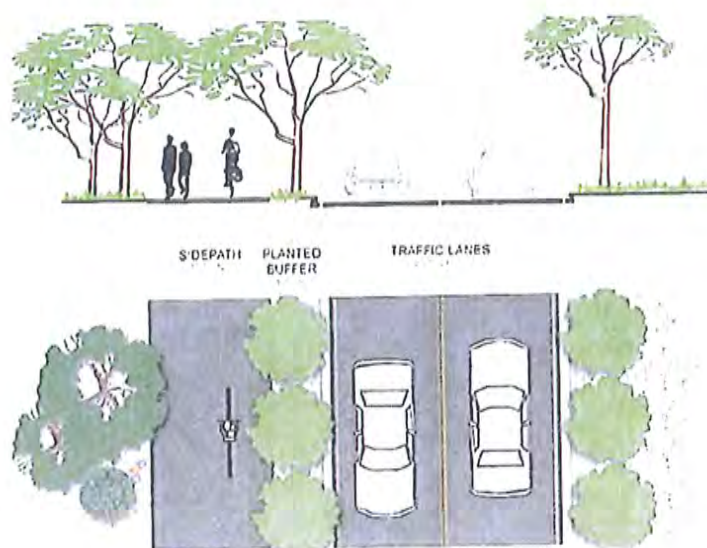


Figure 2 – Shared use path adjacent to roadway

On-Street Facilities

Bicycle Lanes

Sections of the trail will require on-street bicycle facilities such bicycle lanes (see Figure 3). A bicycle lane is a portion of the roadway that has been designated by striping, signing, and pavement markings for the preferential and exclusive use of bicyclists. Bicycle lanes are located on both sides of the road, except on most one-way streets, and carry bicyclists in the same direction as adjacent motor vehicle traffic. Recommended bicycle lane design features include the following:

- Without parking, 6 feet from curb face or edge of pavement
- With parking, 14.5 feet from curb face to edge of bike lane
- White 8-inch barrier line between bike lane and traffic lane
- Bike friendly catch basin grates shall be used for on-street segments
- Should be used on roadways with average daily traffic (ADT) counts of 3,000 or more
- Not suitable where there are a high number of commercial driveways
- Suitable for 2-lane or 3-lane facilities and 4-lane divided facilities

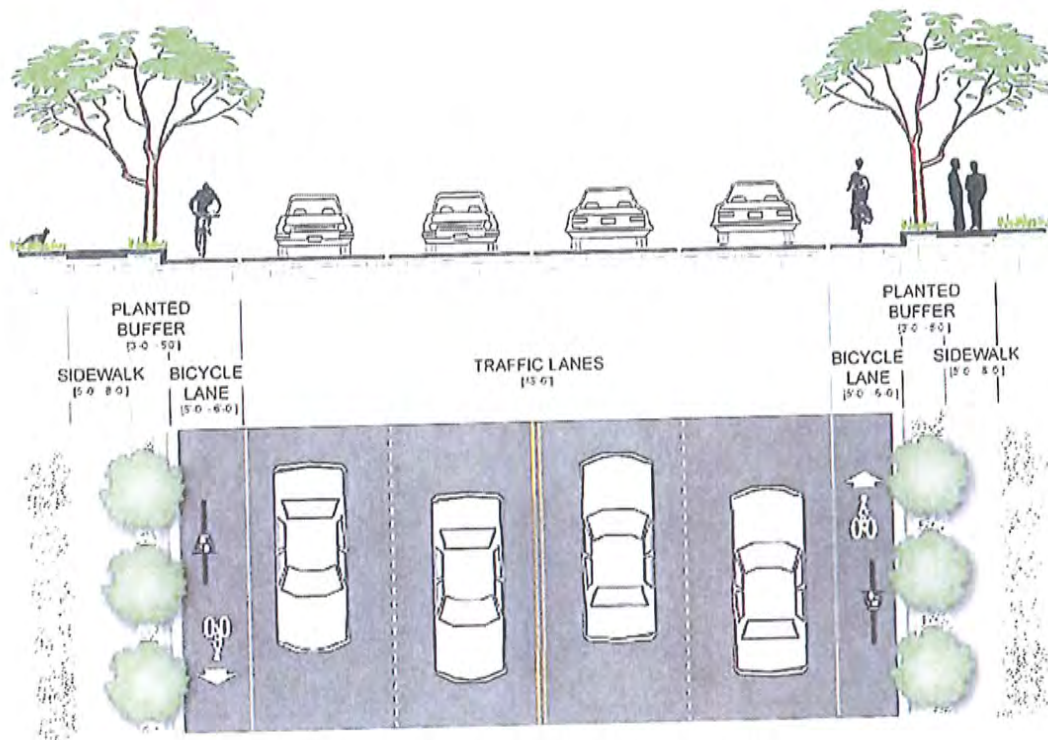


Figure 3 – On-street trail design includes bike lanes and sidewalks

Shared Lane Markings

Shared lane markings (or “sharrow”) can serve a number of purposes, such as making motorists aware of bicycles occupying the travel lane, showing bicyclists the appropriate direction of travel, and, with proper placement, reminding bicyclists to bike further from parked cars to prevent “dooring” collisions. As shown in Figure 4, shared lane markings are typically used in the following situations:

- Where lanes are too narrow for striping bike lanes
- Where the posted speed limit does not exceed 35 miles per hour
- With or without on-street parking (with on-street parking, the center of the shared lane marking should be placed a minimum of 11 feet from the curb face; without on-street parking, the center of the marking should be placed a minimum of 4 feet from the curb face or edge of pavement)

Cities throughout the United States have effectively used this treatment for many years; it is now officially part of the Federal Highway Administration’s (FHWA’s) 2009 *Manual on Uniform Traffic Control Devices* (MUTCD). Additional guidance is also available in the 2012 American Association of State Highway and Transportation Officials’ (AASHTO’s) *Guide for the Development of Bicycle Facilities*.

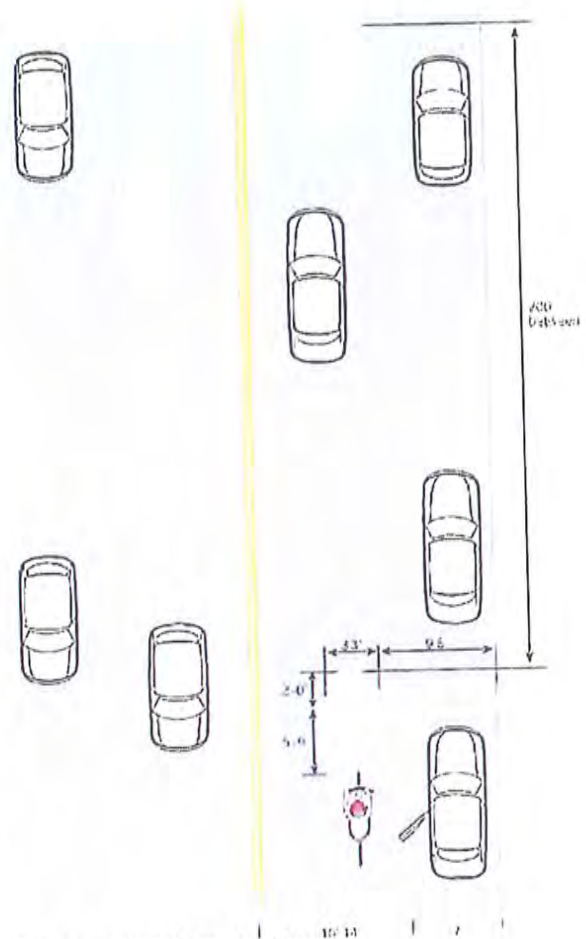


Figure 4 – Shared lane markings

Trail-Roadway Intersections

The following sections provide design guidance for trail/roadway intersections. The guidelines presented in this chapter represent conceptual recommendations. Specific trail/roadway intersection treatments should be determined on a case-by-case basis based on further engineering analysis conducted by each respective local agency.

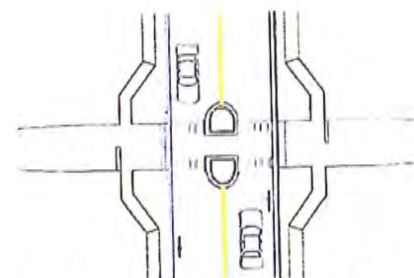


Figure 5 - Median refuge and shared use path with sidewalks

Non-Signalized Intersections

- Site the crossing area at a logical and visible location. The crossing should be a safe enough distance (based on travel speeds and sight lines) from neighboring intersections to not interfere (or be interfered) with traffic flow. Crossing at a roadway with flat topography is desirable to increase motorist visibility of the path crossing. The crossing should occur as close to perpendicular (90 degrees) to the roadway as possible.
- Warn motorists of the upcoming trail crossing and trail users of the upcoming intersections. Motorists and trail users can be warned with signage (including trail stop signs), changes in pavement texture, flashing beacons, raised crossings, striping, and so forth.
- Maintain visibility between trail users and motorists by clearing or trimming vegetation that obstructs the view between them.
- Intersection approaches should be made at relatively flat grades so that cyclists are not riding downhill into intersections.
- If the intersection is more than 75 feet from curb to curb, it is preferable to provide a center median refuge area (see Figures 5 and 6). A refuge is needed in conditions exhibiting high volumes/speeds and where the primary user group crossing the roadway requires additional time, such as schoolchildren and the elderly. Where possible, the refuge island should be angled so that crossing pedestrians are visually oriented to the leg of roadway in which they intend to cross.
- If possible, it may be desirable to bring the path crossing up to a nearby signalized crossing in situations with high speeds/average daily traffic and design and/or physical constraints.

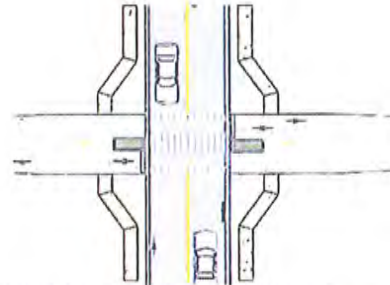


Figure 6 - Mid-block crossing and shared use path with sidewalks and medians



Bicyclist approaching a trail/roadway crossing.



Sample signage and pavement marking treatments at a trail/roadway crossing.

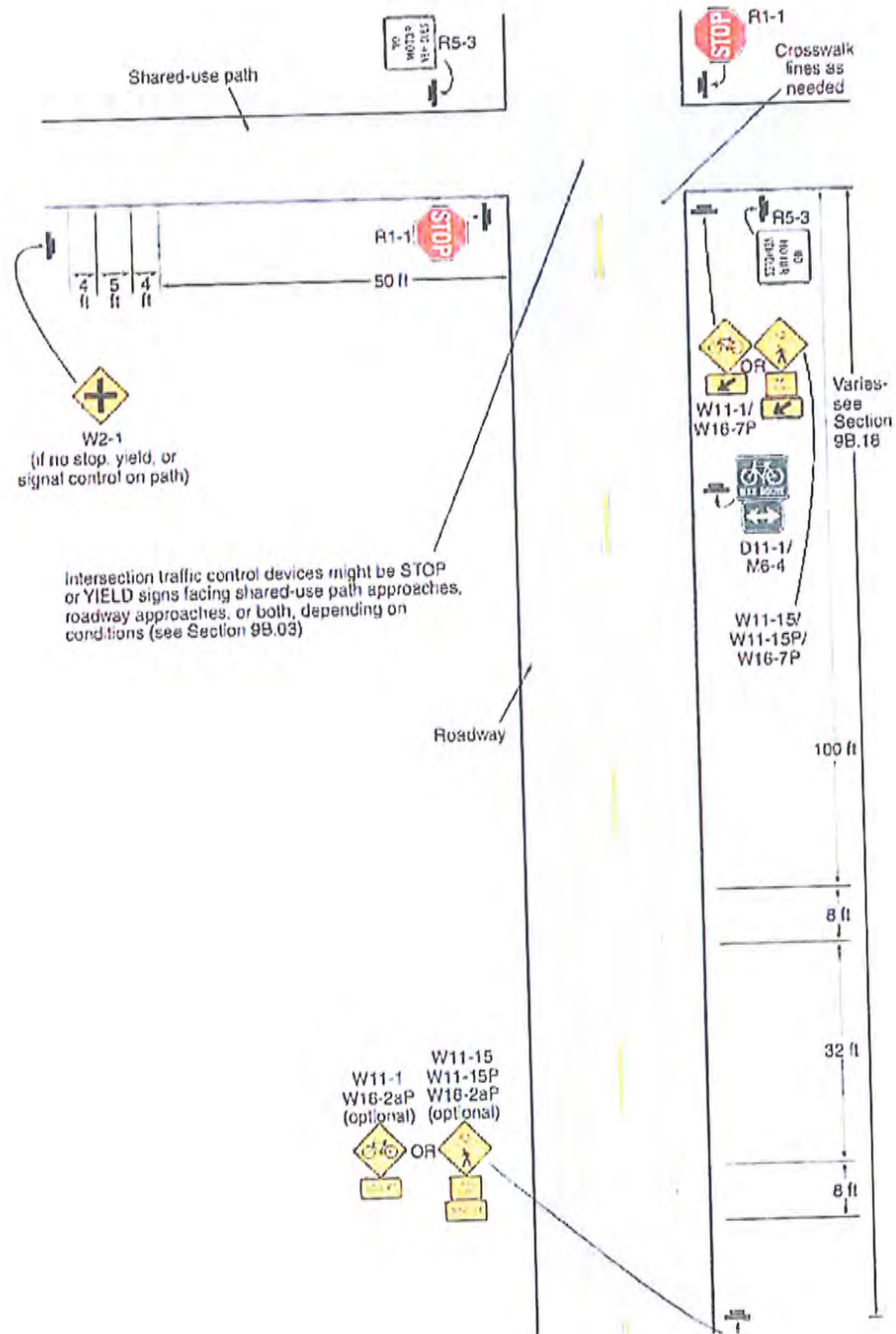


Figure 7 - Trail/roadway crossing design guidance
(Source: FHWA's 2009 Manual on Uniform Traffic Control Devices)

Signalized Intersections

- Signalized crossings may be necessary on high-volume trail segments that intersect with high-volume roadways, but the 2009 MUTCD warrants must be met for the installation of a signalized crossing. Consult the MUTCD or ODOT for signal, sign, and light placement.
- The FHWA issued an interim approval for the optional use of rectangular rapid flashing beacons as warning beacons supplementing pedestrian crossing or school-crossing warning signs at crossings across uncontrolled approaches. An analysis by the Center for Education and Research in Safety found them to have much higher levels of effectiveness in making drivers yield at crosswalks than the standard over-head and side-mount round flashing beacons.
- Pedestrian Hybrid Beacons (also known as HAWK signals) help alert motorists to stop for non-motorized users that are crossing mid-block, without the assistance of traffic signals or stop signs. When not activated, the signal is blanked out. The HAWK signal is typically activated by a pedestrian push button. The overhead signal begins flashing yellow, followed by solid yellow, advising motorists to prepare to stop. The signal then displays a solid red and shows the bicyclist/pedestrian a "Walk" indication. Finally, an alternating flashing red signal indicates that motorists may proceed when safe, after coming to a full stop. The bicyclist/pedestrian is shown a flashing "Don't Walk" with a countdown indicating the time left to cross.
- Bicycle detection is recommended at signalized intersections, either in the form of loop, video or microwave detection.



Rectangular rapid flashing beacons at a trail/roadway crossing.

Grade-Separated Crossings

Grade-separated crossings can represent one of the most important elements of a community's non-motorized transportation network, and can overcome major barriers hindering direct travel. Grade-separated crossings can address real or perceived safety and convenience issues by providing a formalized means for traversing these "problem areas."

Grade-separated crossings work best when the trail user can pass over or under the barrier without changing speed, grade, or direction; in other words, make a seamless transition. In many cases, however, grade-separated crossings need to rise above or travel beneath the natural ground line to cross major barriers, thus requiring stairways, access ramps or other provisions. In these situations, it is important to provide crossing choices. Bicyclists, for instance, may choose to carry their bikes up stairways even if a ramp is provided.

Grade-separated crossings should include the components necessary to enhance user comfort, safety, and security. Wider structures not only facilitate easier travel by minimizing user conflicts, they could also minimize the perception of isolation (especially for tunnels or bridges with fully enclosed fencing). These crossings should also provide sufficient vertical clearances to accommodate various users including maintenance and emergency vehicles, as needed. Access ramps should be designed with appropriate grades, landings, railings, fences, and lighting to promote user safety and comfort.

Grade-separated crossings should also include provisions for mobility-impaired users (for example, elevators or ramps with level landings). Wider stairways and access ramps with broader turns (for example, avoiding switchbacks) facilitate easier maneuverability for all users, and can minimize potential conflicts between users traveling at varying speeds.

Special Design Requirements

Bonneville Power Administration (BPA) Design Requirements for Trails Within Power Line Corridors

- Trail alignment
 - Preferably as close to the edge of power line corridor as possible, and away from power pole bases (recommended 50-foot clear zone from steel transmission towers; 25-foot clear zone from wood poles)
 - Trail crossings of power lines should be minimized; provide the shortest crossing distance as possible where crossings are needed (minimum 60-degree angle)
 - Should not inhibit maintenance vehicle access to power poles
- Trail surfacing. Must support Highway Standard 20-ton vehicle loading (BPA will use trail to access power poles)
- Lighting. Fixtures should be placed at least 25 feet away from conductors
- Structures. Prohibited within power line corridors
- Vegetation. Prohibited within power line corridors
- Future detailed trail design should involve BPA to expedite approval process

Westside Express Service (WES) Commuter Rail

A chain link fence (4 feet high minimum, 6 feet high maximum) and/or other separation techniques should be a part of the trail design in the area adjacent to the railroad tracks.

Maximize the setback between the trail and the railroad track used by WES. The setback distance between a track centerline and the closest edge of the trail should correlate to the type, speed, and frequency of train operations, as well as the topographic conditions and separation techniques.

The maximum setback is subject to railroad, regional, state, and federal guidelines and to the advice of engineering and safety experts. Exceptions to the recommended setbacks may include the following:

- Constrained areas (bridges, cut-and-fill areas)
- Low speed and low frequency train operations

In these cases, the minimum recommended setback is 8.5 feet from the track centerline or 9.5 feet on curves.



Photo of chain link fence used along a rail-with-trail within a constrained corridor (Springwater Trail).

Trail-Related Facilities

Fences

Fences, where needed, are important features along trails. They define the public space and protect trail users in areas where there may be a cliff or steep slope or hazardous adjacent land use or physical feature. Fencing may be necessary in some areas along the trail (such as adjacent to active rail lines and industrial areas).

- At a minimum, fences should consist of a horizontal top and bottom rail.
- Picket style fencing should be avoided because it presents a safety hazard for bicyclists.
- Maximum fence height should be 4 feet unless a taller fence is required for safety or privacy.
- Wildlife friendly fences should be used in sensitive natural resource areas to separate users from protected habitat and breeding areas.
- In rural areas, 4-foot-high split-rail style fencing should be used.
- Use a chain link fence to separate the trail users from active rail lines. The chain link fence may include vinyl coating if required by a local agency.



Wildlife friendly fence with 6-inch vertical gap at the bottom for small animal passage (Springwater Trail).

Trail Lighting

Pedestrian-scaled, low level lighting improves safety, enables the trail to be used year-round and can improve the aesthetic of the trail. Good pedestrian-scaled lighting provides high quality lighting without the glare and light pollution that is produced by typical cobra-type street fixtures. Each jurisdiction will determine trail lighting standards for their segment. Minimal or no lighting should be used in sensitive natural resource areas as it can have negative effects on wildlife. If lighting is required in these areas, full-cutoff fixtures should be used to minimize light pollution.

Bollards

Minimize the use of bollards to avoid creating obstacles for bicyclists. Bollards, particularly solid bollards, have caused serious injury to bicyclists. Instead, design the path entry and use signage to alert drivers that motor vehicles are prohibited. In cases where bollards must be used, a single post placed in the center of the path entry is preferred, and bollards should be installed to be removed or be flexible to allow passage of maintenance or emergency vehicles. They should also include reflective paint or tape so that they are visible in times of low light. Solid bollards that are secured to the base with a lock should use combination locks.

Public Art on Trails

Efforts should be made to include public art within the overall design of the trail system. Local artists may be commissioned to provide art for the trail system, making it uniquely distinct and memorable. Many trail art installations are functional as well as aesthetic, as they may provide places to sit and play on. According to American Trails,

"Art is one of the best ways to strengthen the connection between people and trails. Across America and elsewhere, artists are employing a remarkably wide range of creative strategies to support all phases of trail activities, from design and development to stewardship and interpretation. In particular, art can be an effective tool for telling a trail's story compellingly and memorably."

Examples of art programs for trails can be found at www.americantrails.org/resources/art/ArtfulWays.html.



Example of public art on trails.

Trailheads

Major access points should be established near commercial developments and transportation nodes, making them highly accessible to the surrounding communities. Minor trailheads should be simple pedestrian and bicycle entrances at locally known spots, such as parks and residential developments.

A minor trailhead could include facilities such as parking, drinking fountains, benches, a bicycle rack, trash receptacles, pet waste bag dispensers, and an information kiosk and/or signage. Major trailheads could include all of these facilities plus additional amenities, such as rest rooms, shelters, picnic areas, wayfinding, interpretive signs, a secure bike parking area, a bike maintenance station, a fitness course, an emergency telephone, and a larger parking area.

Partnerships could also be sought with owners of existing parking lots near trails. Benefits are threefold—businesses benefit from trail-user patronage; trail owners benefit from not having to buy more land to construct a parking facility; and the environment benefits from less development in the watershed.

Trailhead development will likely be opportunity driven. Site-specific amenities will be determined during the design process.



A major trailhead featuring concessions and bicycle, canoe, and kayak rentals.



A major trailhead with bike racks, air compressor (for bicycle tires), water fountain, restrooms, phone, and benches.

Trail Signage

A comprehensive system of signage provides information to trail users to ensure that they can travel safely, find their way easily, and have opportunities to learn about the trail's unique natural and cultural setting.

Signage is divided into the following categories:

- Identity/logo signs
- Directional/wayfinding signs
- Regulatory and warning signs
- Educational/interpretive signs

The *Intertwine Regional Trail Signage Guidelines* (see Appendix C) are recommended for new and retrofitted directional, wayfinding, and regulatory and warning signage throughout the Ice Age Tonquin Trail corridor. Using the Intertwine signage guidelines will create a consistent look and feel as the Ice Age Tonquin Trail travels through multiple jurisdictions. The Ice Age Tonquin Trail signage will also be consistent with the Intertwine signage used on other regional trails with which it connects. The Intertwine signage guidelines embrace local trail providers' existing branding and provide flexibility for jurisdictions that already have trail sign standards.

Metro's *Signage Manual* is recommended for new and retrofitted educational and interpretive signage. Using Metro's signage guidelines for these types of signs will create a consistent look throughout the trail corridor. Examples of existing educational and interpretive signage that currently follow these guidelines exist on the Ice Age Tonquin Trail at Graham Oaks Nature Park. The chapter on educational and interpretive signage from Metro's *Signage Manual* is included in Appendix C.

Ice Age Tonquin Trail Identity/Logo Signs

The Ice Age Tonquin Trail logo should be used to aid in reinforcing the trail's identity. Identity signs with the logo reflecting the trail's overall theme should be placed at each major and secondary entry point to the trail system. An identity sign is the first step in the trail visitor's way-finding experience. Images and text on the identity sign should be clear and legible from a roadway when oriented towards those arriving via motorized vehicle. Smaller scaled signs, legible from the pedestrian perspective, are recommended for neighborhood gateway points.

- Identity signs should be simple, direct, and easy to identify.
- A skilled professional graphic designer should be consulted when generating the design for the trail logo.
- Be consistent with the logo throughout the trail by using it as a stand-alone sign, on other signage, or incorporating it into trail furnishings, such as benches or waste receptacles.



Intertwine signage on the Fanno Creek Trail.

- The Ice Age Tonquin Trail logo will be designed as a separate effort following Master Plan completion.

Directional/Wayfinding Signs

The purpose of a directional sign is to direct trail users and motorists to the location of trailheads and other nearby destinations, provide incremental distances along the trail, and illustrate overall maps of the regional trail system to help orient visitors.

- Kiosks are a great facility for directional signage by providing a wealth of information at once, including other trail opportunities, regional maps, or local/seasonal events occurring along the trail.
- Locate trail access signs with overall trail maps at trail access points to help users entering the trail determine their next destination.
- Locate “you are here” signs at intervals along the trail to help users identify their destination or orient their position.
- The trail should be signed seamlessly with information on how to connect to other alternative transportation routes, such as bicycle routes to neighboring jurisdictions, other trails, historic and/or cultural walking tours, and where ever possible, local transit systems.
- Locate mile markers 3 feet from the edge of the paved trail surface and at one-mile intervals beginning at the northern and southern ends of the trail network to help users determine their location and the distance to their destination.



Various examples of wayfinding/directional signs for the trail include kiosks, regional maps, or mile markers.

Regulatory and Warning Signs

Regulatory and warning trail signs should conform to FHWA’s 2009 MUTCD and AASHTO’s *Guide for the Development of Bicycle Facilities*. Trail signage should also be coordinated with county as well as citywide networks. These signs typically address safety-related elements such as tight turns, intersection approaches and railroad crossings.

Educational Signs/Interpretive Elements

Educational and Interpretive signage provides trail users with information about the trail; native flora and fauna; history and culture; and significance of elements along the trail.

- There is a wide variety of interpretive signage styles and the amount/type of information they provide.
- Tie signage themes to the Ice Age Floods National Geologic Trail themes (see Appendix E).
- Consider the character of the trail and surrounding elements when designing educational signage.
- A skilled graphic designer should be used for sign design.
- The edge of the interpretive elements should maintain 3 feet clear from trail edge.

Possible interpretive sign themes for the Ice Age Tonquin Trail could include the following:

- Geology, natural history
- Wildlife, habitat
- Native plants, ecology
- Cultural History
- Glacial Lake Missoula Ice Age floods



Educational signage provides opportunities for gathering and learning about local environment.



Wayfinding signage along Tualatin's Hedges Creek Greenway.

Quick Response Codes

Quick Response (QR) Codes (images that Smartphone users can scan with free downloadable applications) can be added to any trail sign. QR codes typically send scanners to websites for more information including GPS coordinates, regional maps, agency websites, videos, additional interpretive information, and so forth.

An advantage of using the QR codes is that the information can easily be updated without replacing a sign, and more information can fit onto a website than your typical sign for those seeking a greater depth of knowledge.



Example of a QR Code

Environmentally Sensitive Trail Design

An overarching goal of the Ice Age Tonquin Trail design in natural resource areas is to site, design, build, and maintain the trail in a manner that minimizes, or if possible, avoids impacts to sensitive natural resource areas. Align the trail to avoid or minimize impacts to sensitive resources to the greatest extent practicable. When impacts are unavoidable, trail construction should leave the areas in better shape than the original condition. Low impact trail design standards include the following:

- Installing locally occurring native plant species between the trail and existing riparian vegetation. Plantings should consist of native species to increase the diversity and width of the riparian corridor, and may include species that discourage human access into the riparian area.
- Installing plant species that support local bird and wildlife habitat.
- Using permeable asphalt trail 10 feet wide with 2-foot shoulders in vegetated buffer areas to minimize stormwater runoff into nearby creeks.
- Minimizing creek crossings and improvement of existing barriers to wildlife passage.
- Including signs indicating the sensitive nature of all creek habitats and restricting entrance into the areas posted along the corridor fencing and on boardwalks.
- Avoiding cutting mature trees; replacing trees at a 1:1 ratio.
- Using vegetated buffers as a low impact water quality swale.
- Removing invasive plant species within the project limits.
- Seeking opportunities to align trails through degraded areas to minimize impact to higher quality areas and provide restoration.

Wetland, Stream and Creek Crossings (Typical)

Where the trail will be located near natural resource areas, including streams, wetlands, and sensitive wildlife habitat, special structures may need to be included in the design.

Different animals have different needs. Some species avoid edges and narrow corridors and prefer a landscape buffer for cover. Some species will cross bridges and boardwalks if planting is provided up to the edges of the structure. Other species are more reclusive and will prefer to use the stream or wetland to travel under the structure. It is important to provide connectivity by design through these areas.



Bridge design allows for wildlife to pass beneath it.

Trail Bridges

Shared use path bridges (also “bicycle/pedestrian bridges” or “footbridges”) are most often used to provide trail access over natural features such as streams and rivers, where a culvert is not an option. The type and size of bridges can vary widely depending on the trail type and specific site requirements (see Figure 8). Some bridges often used for shared use paths include suspension bridges, prefabricated span bridges and simple log bridges. When determining a bridge design for a shared use path, it is important to consider emergency and maintenance vehicle access.

- If a corridor already contains a bridge such as an abandoned rail bridge, an engineer should be consulted to assess the structural integrity before deciding to remove or reuse it.
- One advantage of bridges is that they typically span the floodway thereby not causing impacts to local flood levels.
- A trail bridge should support 6.25 tons; Information about the load-bearing capacity of bridges can be found in AASHTO’s *Standard Specifications for Highway Bridges*.
- There are many options in terms of high quality, prefabricated pedestrian bridges available. Prefabricated bridges are recommended because of their relative low cost, minimal disturbance to the project site, and usually, simple installation.
- All abutment design should be approved by a qualified structural engineer and all relevant permits should be filed.
- The bridge and path should be connected to the greatest extent possible to avoid creating a gap when settling of the ground occurs.

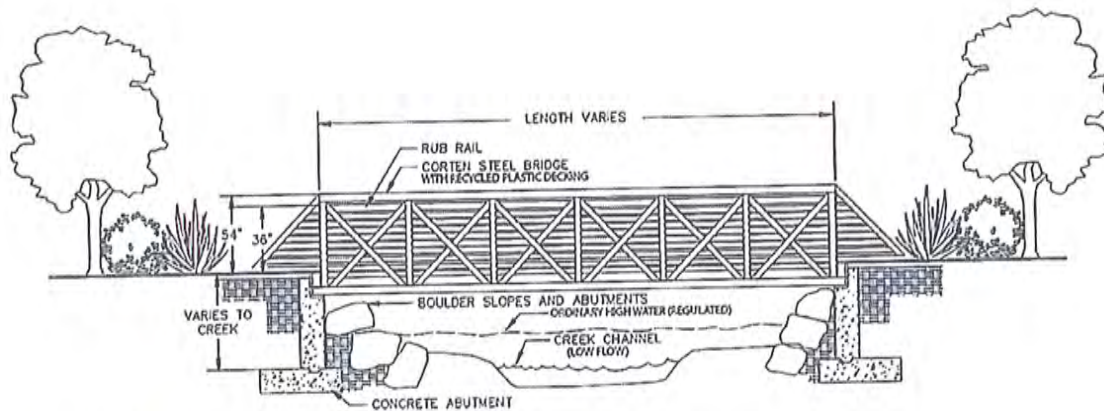


Figure 8 – Environmentally-friendly trail bridge design

Boardwalks

A boardwalk is typically required when crossing wetlands, other poorly drained areas or wildlife habitat. They are constructed of wood planks, recycled plastic material planks or steel grates (which offer light penetration below) that form the top layer of the boardwalk (see Figure 9). The recycled plastic material is preferred to wood because it lasts much longer, especially in wet conditions, although initial investment is greater. A variety of low-impact boardwalk support systems are also available that reduce the disturbance within wetland areas to the greatest extent possible.

- The boardwalk should be 2 feet wider than the trail approaching it and have at minimum a 6-inch-high wheel rail at the edge.
- If a boardwalk is needed in an environmentally sensitive area, the clear width of the boardwalk may be reduced to 10 feet.
- If the height of the boardwalk exceeds 30 inches above the finish grade, railings will be required.
- A pedestrian railing should be 42 inches above the surface.
- A bicyclist railing should be 54 inches above the surface.



Boardwalks are an appropriate trail design treatment in wetlands or sensitive wildlife habitat areas.

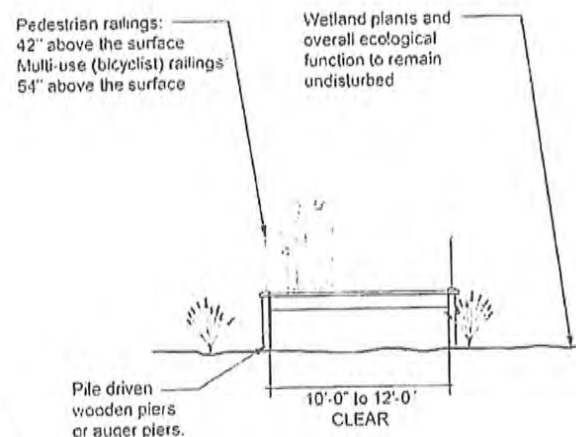


Figure 9 – Boardwalk design guidance

- The middle railing functions as a “rub rail” for bicyclists and should be located 33 inches and 36 inches above the surface.
- Provide a smooth transition between trail and boardwalk and flare the approach to minimize collision potential.

Culvert Improvements

There are some existing culverts in the trail corridor serving as partial or complete barriers to wildlife passage. Where trail crossings intersect with existing culverts at Edy Road, Roy Rogers Road, and Teton Avenue, culvert improvements will improve the function of the Cedar Creek and Hedges Creek Greenway corridors for wildlife passage.

In addition, a grade-separated crossing where the trail meets Oregon 99W is recommended. The existing culvert near the trail corridor at Oregon 99W contains Cedar Creek and is not adequate for a trail and creek. Replacement of the culvert would provide safety for trail users and improve the wildlife corridor function throughout that trail segment.

Cedar Creek Trail Segment – Trail Siting Guidelines

The Ice Age Tonquin Trail follows the same route as the Cedar Creek Trail in Sherwood. Design and construction for this trail segment will begin in the spring of 2013, and construction will be complete in 2015. The following are general goals regarding design of this segment:

- Consolidate and formalize the existing footpaths.
- Preserve the corridor’s width as much as possible.
- Preserve as many existing trees as possible.
- Minimize the amount of trail that is within the floodplain (except at pinch points, as necessary).
- Develop a trail on the floodplain’s edge to the greatest extent possible.
- Where crossing wetlands is unavoidable, use boardwalks.
- Mitigate and enhance the natural resource area that trail occupies as required by regulatory agencies.
- Design roads to accommodate trail users over creek crossings (for example, Edy Road and Roy Rogers Road).
- Maintain and, where possible, create wide uninterrupted “bands” of wildlife corridor.
- Consider on-street alignments that allow for efficient travel in areas with major constraints.
- Develop a trail that addresses the primary concerns of nearby property owners.
- Identify critical east/west and north/south connections to the trail and consolidate creek crossings where feasible.

- Provide environmental education and interpretation opportunities.

Hedges Creek Greenway Trail Segment – Trail Siting Guidelines

Another area that will require special attention as the project progresses further into design is the segment adjacent to Hedges Creek Greenway. The Hedges Creek Greenway Trail segment will require the following considerations during design:

- Increase the vegetated buffer and provide habitat areas through property acquisition from willing sellers.
- If possible, avoid locating the trail or boardwalk in the wetland and vegetated buffer.
- Purchase trail easement on the industrial properties north of The Wetlands Conservancy (TWC) where sellers are willing and when funding is available.
- To the extent possible, place the trail within the same easement as the buried sewer line through Hedges Creek Greenway; ensure trail design does not conflict with sewer maintenance.
- Improve degraded habitat and restore newly acquired habitat when funding is available.
- Preserve as many existing trees as possible.
- Improve wildlife crossings.
- Replace the culvert at Teton Road with a wildlife friendly crossing, when funding is available.
- Locate the trail to one side of the Greenway, unless unavoidable.
- Minimize impacts to the natural resource area as much as possible.
- Mitigate and enhance the natural resource area that trail occupies as required by regulatory agencies.
- Limit paved trails to the upland areas as much as possible and do not place them in wetland areas.
- Coordinate closely with landowners, regulatory agencies, and other stakeholders when designing the trail.
- Provide environmental education and interpretation opportunities.

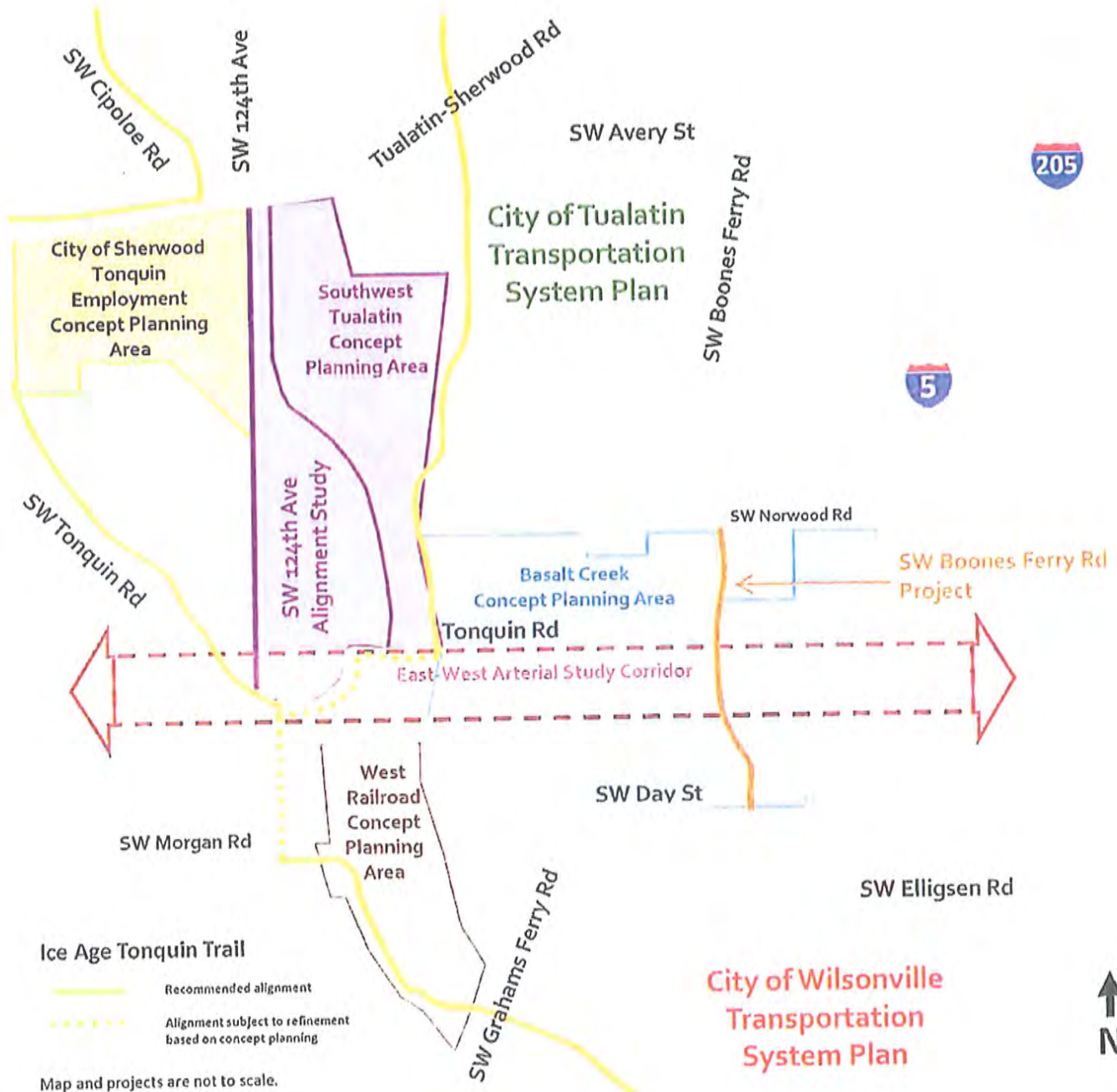
Domesticated Animals on the Trail

Dogs

Local jurisdictions will decide whether to allow dogs on the trail, especially near natural areas. The Ice Age Tonquin Trail travels within close proximity to natural areas throughout its length, including the Graham Oaks Nature Park and Coffee Lake Creek wetlands in Wilsonville, Cedar Creek in Sherwood, and the Hedges Creek Greenway in Tualatin. Where dogs are permitted, it is recommended that they be on leash, as is the policy for the existing section of the Ice Age Tonquin Trail near Graham Oaks Nature Park.

Horses

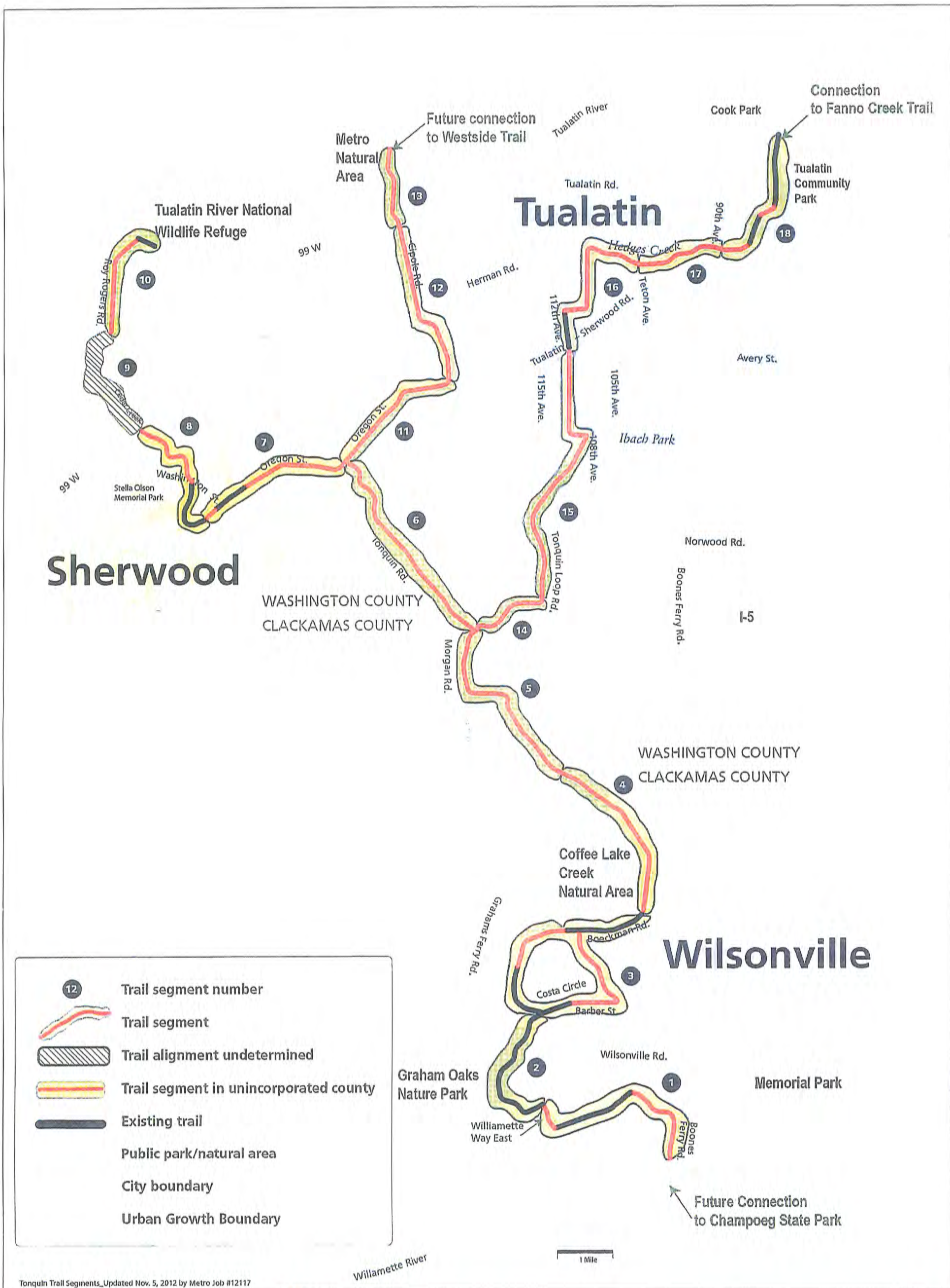
The project team determined that horses were not a compatible use on the Ice Age Tonquin Trail based on feedback from the Oregon Equestrian Trails group. They indicated that riders desired more rural settings with longer stretches of trail uninterrupted by road crossings. In addition, Wilsonville and Tualatin do not have designated equestrian areas, and the trail in Sherwood will travel close to major roads (for example, Tonquin Road, Oregon Street) or along Cedar Creek, where steep slopes are prone to erosion. Census data also indicate a low number of households with horses in the study area.



Map 27: Trail alignment in relation to land use planning efforts

Ice Age Tonquin Trail Master Plan

Source: Metro Data Platform Center



Map 26: Ice Age Tonquin Trail Segments

Ice Age Tonquin Trail Master Plan

Source: Metro Data Resource Center

Table 21 - Ice Age Tonquin Trail Implementation, cont'd

Segment description	Who will construct?	What stages are funded?	Who will operate/maintain?	Unresolved issues and why?	Needed action	Who is responsible for actions?
Street intersection to immediately north of Tualatin-Sherwood Road.					Include trail in Sherwood's TSP update. Update trail description in Metro's 2035 RTP, including the Financially Constrained list.	
					Sherwood to acquire trail.	
11 Immediately north of Tualatin Sherwood Road to immediately west of Cipole Road	Sherwood	None	Sherwood	Need to acquire land from 8 land owners between Tonquin Rd. and Oregon St. Trail is recommended on north side of road in Right of Way.	Include trail in Sherwood and Washington County TSP updates. Update trail description in Metro's 2035 RTP, including the Financially Constrained list.	Sherwood, Tualatin, Washington County, Metro
				Funding not identified for design/construction	Sherwood to identify funding strategy	
12 Immediately west of Cipole Road to immediately north of Highway 99	Undetermined. Trail route is in Sherwood up to railroad; north of the railroad portions of the trail are outside urban growth boundary in unincorporated Washington County. Construction likely to occur by special agreement between Sherwood and Tualatin.	None	Operation and maintenance likely to occur by special agreement between Sherwood and Tualatin.	Part of segment is in Sherwood, part is outside the urban growth boundary in unincorporated Washington County. Need to work identify who will acquire/develop/operate/maintain.	Include trail in Tualatin and Sherwood TSP updates. Update trail description in Metro's 2035 RTP, including the Financially Constrained list.	Sherwood, Tualatin, Washington County, Metro
				Need to acquire land from 5 land owners on west side of road.	Sherwood, Tualatin and Washington County need to develop strategy for trail acquisition/development.	
13 Immediately north of Highway 99 to south side of Tualatin River.	Trail crosses Metro land north of Pacific Drive to Tualatin River. Tualatin may develop trail in this area. Tualatin and King City likely partners to develop bridge over Tualatin River at this location.	None	Metro owns portion north of Pacific Drive; Tualatin may operate/maintain trail in this area.	Need to identify who will build / maintain trail and bridge.	Westside Trail master planning process (ongoing) will determine responsible party to build/maintain trail and bridge.	Tualatin, Metro, King City
14 Immediately east of Tonquin Road/Morgan Road intersection to intersection of Tonquin Road and Tonquin Loop (including Tonquin Road/Tonquin Loop intersection)	Tualatin or Wilsonville. Future annexations in this area will determine which jurisdiction will construct.	None	Tualatin or Wilsonville. Future annexations in this area will determine who will operate / maintain trail.	Basalt Creek concept planning efforts are underway. Trail alignment in this area subject to change based on that work.	Trail partners to coordinate with Washington County during development of Basalt Creek Concept Plan to determine whether to integrate the trail in to the east-west arterial planned just south of Tonquin Rd., and/or as improvements are made along Tonquin Rd. in this area, including how trail relates to intersection of 124 th Ave. extension and Tonquin Road.	Tualatin, Metro, Washington County, Wilsonville, Clackamas County, Sherwood
				Easements or right-of-way will be needed for the trail.	Acquire land for trail right-of-way when land acquired for east-west arterial between Morgan Road and Tonquin Rd./Tonquin Loop Rd. intersection.	
15 Immediately north of Tonquin Road/Tonquin Loop intersection to immediately south of Tualatin-Sherwood Road	Tualatin (once it is annexed into the city).	None	Tualatin (once it is annexed into the City).	S.W. concept plan area may not develop for years, delaying trail in this area. Every effort should be made to avoid developing disconnected segments of trail.	Include trail in Tualatin TSP update. Update trail description in Metro's 2035 RTP, including the Financially Constrained list.	Tualatin, Metro, Washington County
					Tualatin and Metro to develop strategy for trail in this area.	
				Need to acquire land for trail from 9 landowners in this segment.	Include trail in Basalt Creek Concept Plan recommendations.	
					Prioritize Metro bond funds for trail acquisition.	

Table 21 - Ice Age Tonquin Trail Implementation, cont'd

	Segment description	Who will construct?	What stages are funded?	Who will operate/maintain?	Unresolved issues and why?	Needed action	Who is responsible for actions?
16	Immediately south of Tualatin-Sherwood Road to immediately east of Teton Avenue	Tualatin	None	Tualatin	Need funding to design and construct trail.	Include trail in Tualatin TSP update. Update trail description in Metro's 2035 RTP, including the Financially Constrained list. Tualatin to identify funding strategy.	Tualatin, Washington County , Metro
17	Immediately east of Teton Avenue to immediately east of 90 th Avenue	Tualatin	None	Tualatin	Need to acquire land for trail from 8 land owners. Need funding to design and construct trail.	Prioritize Metro bond funds for trail acquisition. Tualatin to identify funding strategy. Include in Tualatin TSP update. Update trail description in Metro's 2035 RTP, including the Financially Constrained list.	Tualatin, Metro
18	Immediately east of 90 th Avenue to Tualatin River	Tualatin Northern section in Tualatin Community Park is complete.	None	Tualatin Northern section in Tualatin Community Park is complete.	Need to acquire land for trail from 3 land owners. May need to acquire land for trail from 2 owners.	Prioritize Metro bond funds for trail acquisition. Prioritize Metro bond funds for trail acquisition. Include in Tualatin TSP update. Update trail description in Metro's 2035 RTP, including the Financially Constrained list.	Tualatin, Metro

Table 23 - Ice Age Tonquin Trail Estimated Costs

Segment #	Approx. Length (miles)	Segment Beginning and Endpoint Description	General Improvements	Property Easement or Acquisition Needed?	Estimated Cost
1	1.48	Williamette River to immediately south of Wilsonville Road	Bike lanes; sidewalks; new paved path; creek bridge; road crossings; fencing; signage	Yes	\$2,440,000
2	1.13	Immediately south of Wilsonville Road to immediately south of Costa Circle	Signage	No	\$2,000
3	2.83	Intersection of trail at north end of Graham Oaks Nature Park with south side of Costa Circle to immediately north of Boeckman Road (includes both trail segments in Villebois)	Widen existing sidewalks; new paved path; road crossings; signage	Yes	\$2,700,000
4	1.36	Immediately north of Boeckman Road to immediately north of Grahams Ferry Road	Boardwalk; new paved path; road crossings; creek bridge; fencing; signage; wetland mitigation	No	\$9,079,000
5	1.52	Immediately north of Grahams Ferry Road to intersection of Morgan Road and Tonquin Road (including Tonquin/Morgan intersection)	New paved path; creek bridge; road crossings; trailhead; handrail/retaining wall; fencing; signage	Yes	\$7,483,000
6	1.49	Immediately west of Tonquin Road/Morgan Road intersection to intersection of Tonquin Road and Oregon Street (including Tonquin/Oregon intersection)	New paved path; road crossing; fencing; signage	Yes	\$7,005,000
7	1.14	Immediately west of Tonquin Road/Oregon Street intersection to immediately north of Park Street (downtown Sherwood)	Widen existing sidewalks; new paved path; road crossings; fencing; signage	Yes	\$1,770,000
8	1.20	Immediately north of Park Street (downtown Sherwood) to immediately south of Pacific Highway/Oregon 99W	Boardwalk; new paved path; retaining wall; signage; wetland mitigation	No	\$4,677,000
9	1.05	Immediately south of Pacific Highway/Oregon 99W to Roy Rogers Road (including Roy Rogers intersection)	Boardwalk; Oregon 99W undercrossing; new paved path; road crossing; signalized road crossing; handrail/retaining wall; fencing; signage; wetland mitigation	Possibly	\$25,400,000
10	0.81	Roy Rogers Road north to Tualatin River National Wildlife Refuge trailhead	Widen existing sidewalks; new paved path; creek bridge; trailhead; handrail/retaining wall; signage	Yes	\$4,216,000

Segment #	Approx. Length (miles)	Segment Beginning and Endpoint Description	General Improvements	Property Easement or Acquisition Needed?	Estimated Cost
11	1.00	Immediately east of Tonquin Road/Oregon Street intersection to immediately west of Cipole Road	New paved path; road crossing; hand rail/retaining wall; fencing; signage	Yes	\$2,738,000
12	1.27	Immediately west of Cipole Road to immediately north of Pacific Highway/Oregon 99W	Widen existing sidewalk; new paved path; creek bridge; road crossing; Oregon 99W overcrossing; fencing; signage	Yes	\$11,697,000
13	0.67	Immediately north of Pacific Highway/Oregon 99W to south side of Tualatin River	New paved path; road crossing; trailhead; signage	Yes	\$2,917,000
14	0.95	Immediately east of Tonquin Road/Morgan Road intersection to intersection of Tonquin Road and Tonquin Loop (including Tonquin Road/Tonquin Loop intersection)	New paved path; road crossing; signalized road crossing; handrail/retaining wall; fencing; signage	Yes	\$4,501,000
15	1.53	Immediately north of Tonquin Road/Tonquin Loop intersection to immediately south of Tualatin-Sherwood Road	New paved path; road crossing; creek crossing; trailhead; signage	Yes	\$5,702,000
16	1.26	Immediately south of Tualatin-Sherwood Road to immediately east of Teton Avenue	Boardwalk; paved path; road crossings; trailhead; signage; wetland mitigation	Yes	\$7,060,000
17	0.66	Immediately east of Teton Avenue to immediately east of 90 th Avenue	Boardwalk; paved path; road crossing; handrail/retaining wall; signage; wetland mitigation	Yes	\$7,357,000
18	1.01	Immediately east of 90 th Avenue to Tualatin River	Widen existing sidewalk; new sidewalk; new paved path; handrail/retaining wall; signage	Yes	\$1,925,000
<i>Subtotal (all segments combined)</i>					\$108,669,000
<i>Property easements (all segments combined)</i>					\$5,792,000
Total estimated costs (all segments combined)					\$114,461,000

Cost Qualifications:

- Trail/roadway crossings are at-grade and unsignalized unless otherwise noted.
- Shared use path surface consists of asphalt, permeable asphalt, or concrete depending on location.
- Shared use paths and boardwalks are assumed to measure 12 feet in width.
- Table does not include information for built portions of the trail.

Phasing

Regional trail projects can take years to grow from concept to reality. As with the Ice Age Tonquin Trail, such projects are often quite complex, involving many landowners and crossing multiple jurisdictions. The Ice Age Tonquin Trail will be completed in phases as funding becomes available for design and construction, and as trail easements are secured. It is important to avoid sections of the trail being built that do not connect to anything. This is a phenomenon that often results when developers are required to make public improvements as a condition of development approval (when development occurs incrementally over a long period of time). The following sections present a proposed phasing plan for implementing the trail. References to segment numbers in the following sections pertain to the segments shown on Map 26.

Phase I – Present to 2015

Cedar Creek Corridor (Portions of Segments 7 through 10)

The City of Sherwood secured funding for design and construction of approximately 1.5 miles of the Cedar Creek corridor section of the Ice Age Tonquin Trail. The City may need to purchase easements prior to design and construction. Construction is expected to be complete by 2015. The City, in partnership with Metro, will submit a funding application to ODOT in winter 2013 for design and construction of a pedestrian/bicycle/wildlife undercrossing of Oregon 99W. If awarded, the project will link Sherwood residents who live close to Cedar Creek to downtown Sherwood.

Purchase Trail Easements (Portions of Segments 1 through 5, and Portions of Segments 15 through 18)

- The city of Wilsonville has completed approximately 50 percent of the Ice Age Tonquin Trail passing through its jurisdiction; in a few remaining areas, easements are needed to complete the remaining trail segments.
- Secure land for the trail in the unincorporated area between Grahams Ferry Road and Morgan Road.
- Secure trail easements in the Hedges Creek Greenway area of Tualatin.

Metro and partner jurisdictions should develop an acquisition strategy for land to be acquired in this implementation phase. Metro follows “willing seller” guidelines, meaning that eminent domain, or property condemnation, is never used to acquire land. Metro’s 2006 Open Spaces, Parks and Trails bond measure provides acquisition guidance that must be followed when acquiring land for the trail.

On-Going Concept Planning, Transportation System Planning, and Other Land Use Planning (All Trail Segments)

The Ice Age Tonquin Trail needs to be incorporated into ongoing concept planning, updates to transportation system plans and other relevant transportation and land use planning processes and decisions. In particular, there are three projects being planned in a corridor between the Tonquin Road/Morgan Road intersection and the Tonquin Road/Tonquin Loop intersection that directly overlap with the recommended trail alignment. These projects, which are shown on Map 27, include the following:

- The design for how the 124th Avenue Extension will tie into Tonquin Road

- The design for the westernmost portion of the new east-west connector (that will extend the 124th Avenue Extension project east toward Interstate 5)
- Improvements to Tonquin Road

Project partners need to work closely with Washington County to be sure that trail design is a component of these projects and that trail right-of-way is preserved for future development in this area. In addition, Metro's 2035 *Regional Transportation Plan* (especially the Financially Constrained project list in that plan) needs to be updated to include the Ice Age Tonquin Trail recommended alignment.

Partners Apply for Funding in Fall 2012/Winter 2013 (Portions of Segments 1 and 3, and Portions of Segments 16 through 18)

Three programs that provide funding for bicycle and pedestrian improvements are soliciting applications in fall 2012/winter 2013. It is highly recommended that project partners pursue these funding opportunities to implement trail segments that are within their respective jurisdictions. The Hedges Creek Greenway should be a high priority.

Phase 2 – 2015 to 2020

The concept planning and transportation system plan updates occurring in Phase 1 will inform the actions needed for trail development in Phase 2. Likely actions include securing funding; right-of-way acquisition; and trail design and construction in vicinity of the Coffee Lake Creek Natural Area, Morgan Road, Tonquin Road, Tonquin Loop, McCamant Road, and Oregon Street. Where necessary, agreements should be established between partner jurisdictions that will be involved in trail development. Other Phase 2 actions include the following:

- Implementing the trail in concept planning areas (portions of Segments 4, 5, 6, 14, 11, and 15)
- Acquiring easements along Roy Rogers Road (Segment 10), and subsequently constructing the trail
- Implementing trail segments along Cipole Road (Segments 12 and 13)

Phase 3 – 2020 to 2030

Phase 3 consists of acquiring easements, designing, and completing Ice Age Tonquin Trail gaps where needed.

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Diesel

- ▶ [Living Diesel video](#)
Informative and entertaining documentary on diesel, causes and solutions; filmed in Portland, Oregon by Savannah Teller-Brown. About 18 minutes



NEW Funding/Awards: EPA is soliciting proposals in Region X for projects between \$600,000 and \$1.2 million. They anticipate awarding 1-2 projects.

- ▶ [Truck Efficiency/Reduced Idling Study Group](#)

Diesel - Why it's a problem

Diesel is the dominant fuel used by the commercial transportation sector. Diesel engines offer fuel economy, power and durability. In the United States approximately 80% of all freight is moved by diesel engines. Diesel engines also power most non-road equipment as used in the construction, agricultural, marine and locomotive sectors.

While the operational advantages of diesel are clear, diesel engines emit large amounts of nitrogen oxides and particulate matter, and toxic air pollutants. Diesel exhaust contains dozens of toxic substances but one of the leading concerns is the particulate matter which is toxic and very small in size (< 2.5 microns - a typical human hair is 70 microns). The small size makes it highly breathable to the deepest part of the lungs. These ultra-

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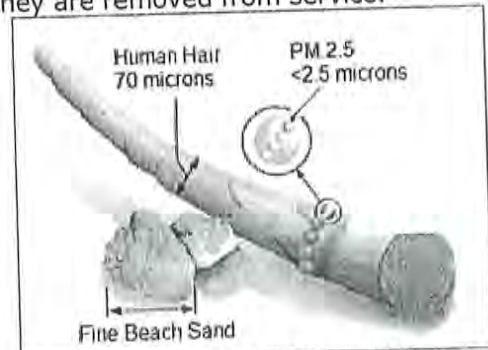
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fine particles are also known to attract other toxic substances in the air, increasing its toxicity.

Increasing studies link diesel particulate matter to serious public health impacts from aggravating asthma to heart and lung problems to cancer and premature mortality. Diesel exhaust also has environmental significance as a global warming contributor due to the black carbon particulate. It also adds to visibility impairment and regional haze. Oregonians have an increased risk for these and other health effects at present levels of exposure in everyday life-around 13 times above public health benchmarks. Federal regulations and cleaner fuels are addressing diesel exhaust over time, but existing diesel engines will continue to pollute for another 30 years before they are removed from service.

Oregon Clean Diesel Initiative

To address the concerns of diesel pollution, DEQ formed the Oregon Clean Diesel Initiative, a progressive, non-regulatory approach focused on accelerating the benefits of a clean diesel strategy, including financial assistance in the form of federal grants. For information about these opportunities and devising a clean diesel strategy for your fleet or community contact Kevin Downing, 503-229-6549.



► Fact Sheet: Burn Cleaner Fuel PDF

See the left navigation bar at the top of this page for more Clean Diesel program links.

Contact information:

► Oregon Clean Diesel Initiative (includes technical assistance).
Contact Kevin Downing at 503-229-6549

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For more information about **Air Quality** call 503-229-5359 or email.

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DEPARTMENT OF
ECOLOGY
State of Washington

Department of Ecology Air Quality Program

**Concerns about Adverse Health Effects
of Diesel Engine Emissions
White Paper**

December 3, 2008

Publication No. 08-02-032

Prepared by
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If you need this publication in another format, please contact the Air Quality Program at (360) 407-6800. If you have a hearing loss, call 711 for Washington Relay Service. If you have a speech disability, call 877-833-6341.

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Introduction

Beginning in the 1950s, the adverse health effects of diesel exhaust particles have received increasing public and scientific attention. Many published scientific studies show that diesel exhaust significantly affects public health. Diesel exhaust particles may affect the health of all who breathe them. However, they are especially problematic for people with heart or circulatory problems and people with lung disease. Exposure to diesel exhaust can result in both immediate and long-term health effects. These effects range from cardiopulmonary, immune, endocrine, and developmental and reproductive impairments to lung- and certain other types of cancer.

Because the Department of Ecology is tasked with developing policies related to diesel sources, the Air Quality Program has developed this document to summarize our position on the current regulatory guidelines available for diesel. This paper gives an overview of the health concerns about diesel emissions by exploring diesel exhaust's:

- Composition
- Human exposure
- Adverse health effects
- Health-protective exposure guidelines

A list of publications cited in this report begins on page 16.

This paper also explains our rationale for selection of the California Environmental Protection Agency Office of Environmental Health Hazard Assessment cancer potency estimate to evaluate the carcinogenic risk associated with ambient concentrations of diesel exhaust particles, and for our selection of the United States Environmental Protection Agency (USEPA) reference concentration and equivalent California Environmental Protection Agency-Office of Environmental Health Hazard Assessment reference exposure level to evaluate the non-carcinogenic effects.

Composition of diesel exhaust

The characteristics of exhaust emitted from the combustion of diesel fuel vary according to the combustion conditions. Diesel exhaust is a complex mixture composed of particulate and gaseous components. Important gaseous components include carbon dioxide (because of its 'greenhouse' effect), carbon monoxide, sulfur oxides, nitrogen oxides, and 18,000 identified volatile and semivolatile hydrocarbon compounds. Carbon

particles adsorb the majority of these compounds, which may enhance their ability to become lodged in lung tissues. Over 98% of the particles are less than 2.5 microns in diameter, and approximately 94% of those particles are less than 1 micron in diameter (California Air Resources Board, 1998). The hydrocarbon compounds adhere to these minute carbon particles during the combustion process.

The diesel exhaust particles component consists mainly of elemental carbon particles with large surface area, which adsorb numerous hydrocarbons. These hydrocarbons include carcinogenic polycyclic aromatic hydrocarbons, aldehydes, and other chemical agents. Diesel exhaust particles can also undergo atmospheric transformation after they have been emitted. For example, polycyclic aromatic hydrocarbons adhered to carbon particles may react with hydroxyl radicals in the air, and create highly mutagenic and carcinogenic nitro-polycyclic aromatic hydrocarbons (Cohen and Nikula, 1999).

The amount and composition of diesel exhaust also varies depending on the kind of engine, its mode of operation, its degree of wear, maintenance, load, and the type and the sulfur content of the fuel among other factors. The amount of sulfur in diesel fuel is one of the most critical components in determining the amount of particles in the exhaust. Sulfur in fuel combusts to sulfur dioxide, which combines with the water of combustion to form sulfurous and sulfuric acid droplets. Much of the ultrafine particles measured in the PM_{2.5} fraction are formed after exhaust leaves the tailpipe, and condenses around such sulfate cores (Kittelson and Abdul-Khalek, 1999). Use of low sulfur or ultra-low sulfur fuel decreases fine particle emissions considerably. Kittelson and Abdul-Khalek estimate that total particle emissions can be reduced by about half with the removal of sulfur from fuels.

Exposure

Determining people's exposure to air pollution is the most challenging task in assessing risk. This is due to the vagaries of air movement, differences in contribution of sources, and effects of topography, as well as human activity patterns and proximity to sources. However, scientists began to develop methods for discriminating diesel particles from other kinds of smoke in the early 1980s, and they have continued to improve and expand these methods ever since, resulting in better estimates of diesel exhaust exposure.

Some people have greater exposure to diesel exhaust than others mainly due to closer proximity to sources. Those near major roadways (within 300 meters) are especially exposed. This is of obvious importance to schools, day-care centers and hospitals close to major roadways because children and the sick are more vulnerable than average persons.

Health data are available from studies of workers in various industries, such as railroad, tunnel, heavy equipment and trucking. Exposure in working conditions studies varies by job category. This allows investigators to classify exposures as high, medium, or low or no exposures. They can then examine these exposure classifications to determine their

relationship to the number of lung cancer cases in each job category. Since these studies were mostly retrospective, investigators did not measure actual exposure concentrations but estimated exposure concentrations after the fact.

Adverse health effects

In this section, we give a technical overview of the range and scope of adverse effects associated with diesel exhaust exposure along with examples from scientific literature. This is not an exhaustive review. Readers seeking more information should refer to recent systematic reviews such as the USEPA Office of Research and Development *Health Assessment Document for Diesel Engine Exhaust*, published in 2002, and to other publications discussed in the following section.

Diesel exhaust exposure appears to cause respiratory system and circulatory system health impairments. The associations between diesel exhaust exposure and respiratory health impairment endpoints are stronger than for circulatory system impairments. However, because more people suffer from cardiovascular diseases than respiratory diseases, the population-level public health impact is greater for cardiac and circulatory problems. Likewise, research shows an association between diesel exhaust exposure and lung cancer, but the greater prevalence of both cardiovascular and respiratory diseases related to diesel exposures may be more important from a population-wide public health viewpoint. This is because these disease conditions result in illness and death for a larger portion of the population than lung cancer.

People may be more susceptible to diesel exhaust based on their age and their state of health. Many Washingtonians are members of a sensitive age group or have one or more medical conditions aggravated by air pollution. The Washington State Department of Health's Health of Washington State report informs that about 9.1% of Washington's adult residents had asthma, and there were 3117 deaths from lung cancer in Washington State in 2005 (WDOH 2007). Also, in 2006, 7734 Washingtonians died of coronary heart disease (WDOH, 2007).

Diesel exhaust particles irritate respiratory membranes and causes inflammation, allergic reactions, and worsening of allergic reactions to other allergens such as pollen or dust mites. Inhalation of diesel particles enhance the effect of allergens inhaled with or shortly after breathing in the particles (Kobayashi 2000; Steerenberg et al. 1999; Ichinose et al. 2004), and elicits allergic responses to diesel particles themselves (Walters et al., 2001; Hao et al. 2003). Animals exposed in their mother's womb to diesel particles and extracts from them show increased tendency towards allergic reaction (Watanabe and Ohsawa, 2002).

Human reactions to airborne allergens are similar to those observed in animals. Diesel exhaust particles enhance reactions to airborne allergens (Bartra et al., 2007; Dávila et al., 2007). Studies of humans exposed to diesel particles for short periods of time have shown increased airway responsiveness (Nordenhäll et al. 2001), respiratory symptoms (Rudell

et al., 1996), biochemical markers of allergic response (Wichmann, 2007), and markers of inflammation (Nordenhäll et al., 2000; Salvi et al., 1999; Salvi et al., 2000). Researchers have also observed an association between exposure and inflammation of the airways (Nightingale et al., 2000), enhancement of allergic response to other allergens such as dust mite and pollen (Fujieda et al., 1998; Svartengren et al., 2000; Fahy et al., 2000) and worsening of asthma (Pandya et al., 2002).

People with lung disease such as asthma, chronic bronchitis, or emphysema who are exposed to diesel may experience a worsening of their symptoms. People with asthma may have an immediate reaction such as an asthma attack. Over time, exposure may lead to more severe disease, with permanent airway changes, more severe asthma attacks, and symptoms requiring more medical intervention. Children who develop asthma as a result of exposure to air pollutants are more susceptible to developing serious chronic obstructive lung disease like emphysema or chronic bronchitis in later life. Animal data show that inhalation of diesel particles increases airway responsiveness (Ishihara and Kagawa, 2003), causes inflammation and increases markers for inflammation (Fujimaki et al., 2001). Asthma attacks are more frequent and more severe and the disease progresses towards greater remodeling of the airways with increased exposure to diesel exhaust (Finkelman et al., 2004; Chalupa et al., 2004; Zmirou et al., 2004; Nicolai et al., 2003; Sénéchal et al., 2003).

Diesel exhaust contains chemicals that react with ultraviolet light in sunlight to form ozone, which has also been shown to decrease lung growth and function in children, initiate asthma, and make asthma worse (Peters et al., 2004). Epidemiological studies have found associations with respiratory effects and lung function decrements in children living near roadways. The California Children's Health Study has found occurrence of new asthma cases, not only exacerbation of asthma in children exposed to particulate air pollution including diesel particulates (Peters et al. 2004; Gauderman et al. 2004). Exposure to ozone formed from the action of UV light on hydrocarbons (in part from diesel engine emissions) and nitrates formed in high temperature combustion, including that which occurs in diesel engines, also decrease lung function (Lewis et al., 2005; Peters et al., 2004).

Diesel exhaust affects the immune system by lowering resistance to infectious organisms like viruses and bacteria. It also inhibits the cells that cleanse the airways, allowing pathogenic organisms more chances to get established and cause infections. When people are exposed to diesel exhaust and infectious organisms at the same time, they are more likely to get pneumonia, influenza, or other respiratory infections. Inhalation of diesel particles inhibits respiratory defenses against infectious organisms (Castranova et al., 2001; Yang et al., 2001; Harrod et al., 2003), changes lung function (Dai et al., 2003), alters pulmonary immunity against infectious organisms (Yin et al., 2002; Yang et al., 2001), and inhalation of diesel particles increases susceptibility to infectious agents (Yang et al. 2001).

People with heart or circulatory problems who are exposed to diesel may be more likely to suffer a heart attack or stroke; or to have symptoms like chest pain, fatigue, or extreme

weakness related to impending cardiovascular events. Controlled exposures of animals to diesel exhaust and road aerosols containing diesel exhaust indicate it affects the cardiovascular system. For instance, diesel exhaust particles worsened cardiac arrhythmias induced by short period ischemia/ reperfusion in rats (Yokota et al., 2004). Spontaneously hypertensive rats responded to inhaled diesel exhaust at realistic exposure concentrations with prolonged elevated heart rate and prolonged PQ interval (assessed by electrocardiography), an index of atrio-ventricular node sensitivity in a concentration-dependent manner, indicating that the pacemaker function of the heart was affected (Campen et al., 2003).

Diesel exhaust exposure has been implicated in diminished reproductive performance. Epidemiological studies have noted reduced sperm quality in men with exposure to air pollution, primarily diesel exhaust. One of these studies investigated semen quality in men employed at highway tollgates. While sperm count, and serum levels of follicle stimulating hormone and testosterone were within normal limits in exposed men compared to an age-matched unexposed group, sperm function (total motility, forward progression and other sperm kinetics) were significantly lower in the exposed men (DeRosa et al., 2003). Other studies have found that episodes of air pollution, including diesel exhaust, were associated with decreased sperm quality in exposed young men in the Czech Republic, compared to a matched, unexposed control group (Selevan et al., 2000; Rubes et al., 2005).

Diesel exhaust exposure has been implicated in disruption of normal sexual differentiation during fetal development. For example, one study found the odds of baby boys having cryptorchidism *i.e.*, undescended testes (one of the most common congenital malformations in males) are 2.42 higher (95% confidence interval = 1.06-5.55) among babies of fathers exposed to diesel exhaust before conception than among babies of fathers without preconception diesel exhaust exposure (Kurahashi et al., 2005). A number of studies in rats and mice have shown that diesel exhaust disrupts endocrine function, affecting reproduction and development. Male animals exposed in the womb during critical windows of development seem to be more sensitive to diesel exhaust than females (Tsukue et al. 2004). While female mice do have reduction of an essential protein related to oöcyte development (Tsukue et al. 2004), male pups whose mothers were exposed had a decreased ability to produce proteins essential to development of testes and other male reproductive structures (Yoshida et al. 2002). Mothers exposed to both filtered or to total exhaust had higher levels of testosterone and lower levels of progesterone in contrast to the normal increase in both hormones during pregnancy, indicating that both gaseous exhaust and particles could be involved. In pups exposed in the wombs of these dams, differentiation of the ovaries, testes and thymus were delayed and disrupted (Watanabe and Kurita, 2001).

Epidemiological studies of truck drivers, railroad employees, heavy equipment operators and other types of workers with chronic exposure to diesel exhaust particles, and of members of the public, have found associations with chronic diseases, including lung cancer (Boffetta et al., 2001; Dawson and Alexeeff 2001; Larkin et al., 2000; Nyberg et al., 2000; Saverin et al., 1999; Bruske-Hohlfeld et al., 2000; Steenland et al., 1998;

Stayner et al., 1998; Bhatia et al., 1998; Lippsett and Campleman, 1999), bladder, and soft tissue cancers (Lee et al., 2003; Crosignani et al. 2004; Nyberg et al., 2000; Seidler et al., 1998; Zeegers et al., 2001),

Studies show an association between exposure to diesel exhaust and lung cancer, as well as cancers of the bladder and soft tissues (Guo et al., 2004). The immune suppressing effects of diesel exhaust can also increase the susceptibility to cancer among those exposed. Several extensive and detailed reviews have been conducted on the body of literature relating long-term exposure to diesel exhaust particles and lung cancer (California EPA, 1998; USEPA, 2002; Cohen and Nikula, 1999). In addition, over 40 studies conducted among those populations exposed to diesel exhaust have found increased rates of lung cancer associated with diesel exhaust particles exposure (Cohen and Nikula, 1999). Occupational studies conducted in railroad workers and truck drivers have consistently found increased lung cancer risk, even after adjusted for smoking. Similar studies conducted among bus garage workers and dock workers also demonstrate increased lung cancer risks, although these findings are not as consistent as the railroad workers and truck drivers (Cohen and Nikula, 1999).

Recent studies further support associations between occupational exposure to diesel exhaust particles and increased risk of lung cancer (Boffetta et al., 2001; Larkin et al., 2000). Other studies also show diesel exhaust can be responsible for lung cancer, as well as cancers of the bladder and soft tissues (Sydbom et al. 2001; International Agency for Research on Cancer, 1989; World Health Organization International Programme on Chemical Safety, 1996; USEPA, 2002).

The review conducted by Boffetta and Silverman (2001) examined the human epidemiological literature regarding bladder cancer and occupational exposures to diesel exhaust. These authors evaluated 35 studies, and performed a meta-analysis of 12 of these studies. The ratio of the risk of disease or death among the exposed to the risk among the unexposed, known as the relative risk, ranged from 1.1 to 1.3, suggesting a 10 to 30% increase in potential risk for developing bladder cancer in some occupationally exposed people (Boffetta and Silverman, 2001).

Experimental animal studies have been done to determine how diesel exhaust affects systems that are shared across animal species; since deliberate exposure of human subjects to concentrations of substances that can do permanent harm is unethical. Studies with animals have involved inhalation exposure to known amounts of diesel exhaust particles or whole diesel exhaust. These studies indicated a proportional relationship between the amount of exposure and adverse effects (dose-response) in tissues, organs and multi-organ systems. Such controlled studies on animals have also been used to investigate the mechanisms by which diesel exhaust causes injury. The animals used in these experiments have been generally healthy, raised in optimum conditions, and not exposed to other toxic agents. Therefore, the effects can be attributed to the experimental exposure itself. Since there is less incidence of measurable changes in the healthy homogeneous populations of animals than would be expected in a heterogeneous population of humans (that varies in susceptibilities by age, gender, genetic background and state of health), the exposure (dose) in animal studies is set considerably higher than

typical human exposure in order to create a discernable effect. Conversely, human populations in epidemiological studies are often large and varied in their susceptibilities, so effects, possibly related to diesel exhaust exposure, have been detected at far lower levels of exposure than those in the animal studies. In addition, dose-response relationships determined from animal studies have been interpolated to lower levels to give additional information on biological effects in the range of doses experienced by humans.

The carcinogenic effects of diesel exhaust in the lung have been extensively studied and in laboratory animals, using a range of different species, exposure periods, and exposure pathways. The California Environmental Protection Agency Office of Environmental Health Hazard Assessment and the USEPA have reviewed a large number of animal studies, including ones with mice, rats, monkeys, and hamsters. These studies have covered a range of exposures and observation periods from a few hours to greater than two years (or the life expectancy) of the animals. For example, rats and hamsters exposed to diesel soot for two years developed lung tumors (Brightwell et al. 1989). Hyperplastic foci (precursors to neoplastic or carcinogenic changes) resulting from DNA damage became prominent in the lungs of rats exposed to diesel exhaust, increasing over a twelve-month exposure. Persistent oxidative stress and inflammation seem to play an important role in carcinogenesis that occurs after a long latent period (Iwai et al. 2000). Short-term exposure to mouse lung changed the expression of certain genes related to defenses against oxidative stress (Risom et al., 2003). Chronic inhalation rat studies have consistently shown increases in lung tumors associated with exposure to diesel exhaust particles at levels equal to or greater than 2.2-mg/m^3 . Significant associations between lower diesel exhaust particles exposure levels (0.35 to 2.2-mg/m^3) and lung tumors in rats were not consistently observed. Gender differences in rat tumor rates could not be definitively established. Diesel exhaust particle exposure has not been shown to increase lung tumors in either monkeys or hamsters.

Summary of adverse effects

In summary, exposure to diesel exhaust is associated with increased incidence and prevalence of respiratory and cardiovascular diseases as well as lung cancer and possibly other types of cancers such as cancers of the bladder and soft tissues. The immune suppressing effects of diesel exhaust can also increase the susceptibility to cancer among those exposed. Some people with asthma, allergic rhinitis, and certain acute and chronic respiratory and cardiovascular disorders are prone to increased effects of these conditions secondary to elevation of diesel exhaust exposure. Diesel exhaust exposure heightens susceptibility to respiratory infections, and is associated with hormonal imbalances, reproductive impairments and developmental abnormalities.

As stated above, although cancer risk is of great concern to the public, cardiac and respiratory effects of diesel exposure have a larger public health impact because they cause death and illness for a greater number of people.

Health protective exposure guidelines

In this section, we briefly summarize the conclusions of systematic literature reviews of diesel-effects toxicology and epidemiology studies conducted by six different organizations. In 1989, the International Agency for Research on Cancer, and in 1996 the World Health Organization's International Programme on Chemical Safety reached the same conclusion that diesel engine exhaust is "probably carcinogenic to humans." Fifteen of the substances in diesel exhaust particles are listed by the International Agency for Research on Cancer as carcinogenic to humans, or as probable or possible human carcinogens. In 1988, the National Institute for Occupational Safety and Health concluded that diesel exhaust particulate matter is a "potential occupational carcinogen." In 1998, the State of California also concluded a likely "causal association of diesel exhaust exposure with lung cancer" in humans; and in 2000, the National Toxicology Program concluded diesel exhaust particulate matter is "reasonably anticipated to be a carcinogen." Currently, the USEPA Integrated Risk Information System database states that diesel exhaust is "likely to be carcinogenic to humans." Although USEPA has not yet adopted a cancer unit risk factor for diesel exhaust particles, it is clear that exposure to diesel exhaust particles is associated with carcinogenesis in both humans and animals.

The International Agency for Research on Cancer review of diesel exhaust evaluated animal and human studies pertaining to lung cancer and found that rat and mice studies showed increased incidence in lung tumors related to exposure concentrations. The International Agency for Research on Cancer also concluded that studies conducted in hamsters and monkeys did not show increases in lung tumor incidence associated with exposure, although study design issues precluded firm conclusions. Similar to the USEPA and California EPA, the International Agency for Research on Cancer found that the human epidemiological data provided limited evidence regarding the association between diesel exhaust particles exposure and lung cancer. They concluded that the laboratory animal evidence was sufficient to conclude diesel exhaust particulate matter is carcinogenic in experimental animals. Overall, the International Agency for Research on Cancer judged diesel exhaust to be a probable human carcinogen in Group 2A (IARC, 1989).

In 1996, the International Programme on Chemical Safety stated that diesel exhaust was a probable human carcinogen and developed a unit risk factor of $3.4 \times 10^{-5} (\mu\text{g}/\text{m}^3)^{-1}$. This factor is the upper 95% confidence interval limit of cancer risk apparently associated with lifelong continuous exposure to $1-\mu\text{g}/\text{m}^3$ of diesel particulate matter.

In 2002, the USEPA Office of Research and Development published their *Health Assessment Document for Diesel Engine Exhaust*. It states that diesel exhaust is "likely to be carcinogenic to humans by inhalation at any exposure condition. This characterization is based on the totality of evidence from human, animal, and other supporting studies." The USEPA reviewed numerous epidemiologic studies and concluded that many have shown increased lung cancer risks among workers in certain occupations. The relative risks or odds ratios in this systematic review ranged from 1.2 to 2.6. The *Health Assessment Document for Diesel Engine Exhaust* (USEPA ORD,

2002) also noted that two independent meta-analyses show smoking-adjusted relative risk increases of 1.35 and 1.47. Taking this information together, the USEPA analysts selected a relative risk of 1.4 as a reasonable estimate of risk in these diesel exhaust-exposed workers, which is equivalent to an additional lifetime lung cancer risk of 2% more than the average risk in the whole U.S. population. The *Health Assessment Document* gives a possible range of upper-bound risk of $1 \times 10^{-3} (\mu\text{g}/\text{m}^3)^{-1}$ to $1 \times 10^{-5} (\mu\text{g}/\text{m}^3)^{-1}$ for lifetime diesel exhaust exposure; however, to date the USEPA has not promulgated a specific point unit risk factor. To provide a perspective of the potential significance of the lung cancer hazard, the *Health Assessment Document* summarized the estimated possible unit risk factor ranges (10^{-5} to 10^{-3} per $\mu\text{g}/\text{m}^3$ "as well as lower and zero risk"). It clarified this by stating:

"Lower risks are possible and one cannot rule out zero risk. The risks could be zero because (a) some individuals within the population may have a high tolerance to exposure from [diesel exhaust] and therefore not be susceptible to the cancer risk from environmental exposure, and (b) although evidence of this has not been seen, there could be a threshold of exposure below which there is no cancer risk."

The California Environmental Protection Agency Office of Environmental Health Hazard Assessment completed a comprehensive health assessment of diesel exhaust in 1998 that formed the basis for a decision by the California Air Resources Board to identify particles in diesel exhaust as a toxic air contaminant that may pose a threat to human health. The assessment included review of in vitro, animal experiments and more than 30 epidemiology studies, and performed an epidemiological meta-analysis of these studies to assess potential and actual human health effects from exposure to diesel exhaust.

The California Environmental Protection Agency Office of Environmental Health Hazard Assessment and USEPA also systematically reviewed studies of diesel exhaust-adverse health effects, and, although both the California Environmental Protection Agency and USEPA concluded that diesel exhaust is a carcinogen, only the California Environmental Protection Agency developed a quantitative estimate of risk. The California EPA evaluated several options for developing a quantitative risk estimate, and considered both human and animal studies as the basis for the final value.

The California Environmental Protection Agency concluded that the human epidemiological data provided a more solid basis for deriving a unit risk factor for two main reasons. First, the uncertainties associated with extrapolating the laboratory rat data to humans are relatively large. Factors such as differing particle clearance mechanisms, the presence or absence of an effect threshold, and the likely presence of multiple carcinogenic agents or possible multiple mechanisms can potentially influence toxic outcomes and the exposure-response relationship. Second, a number of human epidemiological studies have been conducted and provide sufficient information on potential dose-response relationships.

The California Environmental Protection Agency focused on two studies as being especially useful for developing a range of unit risk factors for lung cancer. These are the nationwide studies of lung cancer risks for U.S. railroad workers. A case control study (Garshick et al., 1987) was used to determine the coefficient of the logistic relationship of the odds of lung cancer for the duration of the worker's exposure to diesel exhaust. The other Garshick study (1988), a cohort study, was used to calculate a relative hazard of lung cancer for increasing duration of worker exposure, using a proportional hazards model. The case-control study had information on smoking rates, while the cohort study has a smaller confidence interval for the risk estimates. Larkin and others (Larkin et al., 2000) examined the extent to which smoking may have confounded the risk of the cohort study by developing adjustment factors based on the distribution of job-specific smoking rates. After considering differences in smoking rates between workers exposed and unexposed to diesel exhaust, the authors concluded that there were still elevated lung cancer risks attributable to diesel exposure among these workers.

Subsequently, Garshick and others (2004) concluded that because shop workers who had no exposure were included in the cohort, their presence in the study diluted the effect of diesel exhaust. The California Environmental Protection Agency therefore excluded them from their analysis. Exposures of other workers, specifically train workers, were sufficiently low that their lung burden was assumed to be proportional to atmospheric exposures. Data from these studies were supplemented with more refined exposure profiles for US railroad workers collected by Woskie et al. (1988 a, b) and combined with different assumptions regarding exposure concentrations and the effect of exposure time and worker age. Exposure measures for 1982-83 (Woskie et al., 1988 a,b) showed that the train workers considered in the analysis all experienced approximately the same average concentration of $50\text{-}\mu\text{g}/\text{m}^3$, (rounded) which could be used for determining the cancer unit risk factor.

The California Environmental Protection Agency Office of Environmental Health Hazard Assessment calculated several cancer unit risk factor values based on these studies and different dose-response models and model assumptions. They determined that the model using linear and quadratic continuous covariates, age and calendar year was most satisfactory for calculating slope for relative risk per year of exposure. This slope of 0.015 yr^{-1} (95% confidence interval: 0.0086-0.022), when divided by the intermittency correction (0.033) and the assumed constant concentration (e.g. $50\text{-}\mu\text{g}/\text{m}^3$ for 29 years) and multiplied by attained age provided the excess relative hazard to determine the increase of lung cancer rates for the life table calculation of a cancer unit risk factor. Because the populations studied were healthy male workers, it was not possible to quantify the risk to women, children or other more susceptible individuals. Therefore, the California EPA used the 95% upper confidence interval limit on the slope of the dose-response curve in male workers.

These studies were conducted nationally among U.S. railroad workers. Garshick and others (1988) conducted a case-control study that obtained death certificates for over 15,000 railroad workers who died in 1981. From this group, 1256 individuals who died of lung cancer were matched with individuals of the same age but who died of natural

causes. Results from a multivariate analysis found a relative risk of 1.55 (95% confidence interval = 1.09, 2.22) for workers with over 20 years of exposure to diesel exhaust. Garshick and other's (1988) study was one involving a cohort of approximately 55,000 railroad workers who were between the ages of 40 and 62 in 1959. Approximately 25% of this cohort included "unexposed" individuals who worked as clerks or signal tenders during the study period (1959 to 1980).

The Scientific Review Panel (California Air Resources Board, 1998) recommended the final unit risk factor ($3.0 \times 10^{-4} (\mu\text{g}/\text{m}^3)^{-1}$) selected by the California Environmental Protection Agency Office of Environmental Health Hazard Assessment. In their report, the Panel considered the California EPA findings in light of several other quantitative cancer analyses.

When considering causality inference based on epidemiological studies, it is essential to know that these studies seek to find a real association between incidence of a disease or harmful endpoint and exposure to an agent, such as a toxic substance. While such studies can be carefully designed to address if an association is linked to the exposure being observed, and not some other event or concurring exposure, they can still only assure that the association is real. A single study cannot determine whether the exposure observed causes the effect observed. To infer a causal relationship between exposure and effect, scientists use certain guidelines sometimes referred to as the Hill criteria after Sir Austin Bradford Hill, who wrote about factors that contribute to the judgment that a specific exposure causes a specific harmful endpoint (Hill 1965). While not every one of the Hill criteria need to be fulfilled to infer a causal relationship between an exposure and a disease, the presence of multiple criteria strengthens the judgment of causality, as in the case of the available evidence on diesel exhaust. Both the Office of Environmental Health Hazard Assessment and the USEPA evaluated the human lung cancer-diesel exhaust particles exposure association using modified Hill criteria (Hill, 1965; Rothman, 1986):

- *Temporal relationship (the exposure occurs before the effect is observed)* – The Office of Environmental Health Hazard Assessment stated that the diesel lung cancer studies clearly meet this criterion since all of the subjects were exposed prior to contracting cancer. USEPA also stated clearly that this criterion has been met, however, they noted that a latency analysis had not been conducted on many of the studies reviewed in the *Health Assessment Document for Diesel Engine Exhaust* (USEPA ORD 2002);
- *Strength of the association (magnitude of the relative risk or odds ratio)* – USEPA concluded that the relative risks from the lung cancer studies – ranging between 1.2 to 2.6 – are weak to moderate. Nonetheless, USEPA stated that although more confidence can be given to relative risks that are stronger, the low values observed between diesel and lung cancer should not be constituted to rule out the causal link. Similarly, the California Environmental Protection Agency Office of Environmental Health Hazard Assessment found that although the relative risk of diesel exhaust particles-associated lung cancer was low, it was

similar in range to other significant health outcomes such as environmental tobacco smoke-associated cardiovascular disease (relative risk ranges from 1.3 to 2.08) and environmental tobacco smoke-associated lung cancer (relative risk range from 1.2 to 1.9);

- *Exposure-response relationship (the association of exposure concentrations to the incidence of an effect); and cessation of exposure (a particular disease outcome should be reduced if exposure to a causative agent ends)* – Since exposure in occupational diesel exposure epidemiology studies has been estimated primarily through job classifications instead of monitored workplace diesel exhaust particles concentrations, it is more difficult to show exposure-response relationships. However, the California Environmental Protection Agency Office of Environmental Health Hazard Assessment pointed to a number of studies where subgroups with the longest durations of exposure experienced the highest risks. USEPA also found that the lack of exposure information in the occupational studies severely limits the confidence in the dose-response relationship. However, they also found that "significant dose-response (using duration of employment as a surrogate) was observed in various studies for railroad workers,... truck drivers... transportation/heavy equipment operators,... and dock workers."
- *Consistency of findings (the effect is seen consistently across studies)* – USEPA found increased lung cancer in a number of human studies conducted among diesel exhaust particles exposed populations. They stated that findings from two recent meta-analyses demonstrated a consistent, positive relationship between diesel exposure and lung cancer, even though the original data reflected significant heterogeneity. The California Environmental Protection Agency Office of Environmental Health Hazard Assessment also conducted a meta-analysis that found a consistent positive association between occupational exposures and lung cancer. They noted a large degree of consistency among the worker studies such as truck drivers, railroad workers, equipment operators, although the results are not always statistically significant;
- *Biological plausibility (the effect is coherent with current biological knowledge of the effects of the exposure agent)* – Both USEPA and the California Environmental Protection Agency Office of Environmental Health Hazard Assessment summarized evidence supporting biological plausibility as:
 - a) Evidence that diesel exhaust particles cause lung cancer in laboratory animal studies,
 - b) Evidence that diesel exhaust particles contain mutagenic and carcinogenic substances such as polycyclic aromatic hydrocarbons and nitrosamines,Additional evidence cited by the California EPA included the fact that diesel exhaust particles contain compounds that occur in other carcinogenic mixtures such as cigarette smoke and coke oven emissions. Similarly, USEPA cited evidence of tumorigenicity associated with the organic components of diesel

exhaust particles, as well as DNA adducts found in blood samples of occupationally exposed workers;

- *Consideration of alternate explanations (ruling out confounders)*
 - a) *The possibility that the association is due to bias* – the California Environmental Protection Agency Office of Environmental Health Hazard Assessment considered the effect of confounding factors (e.g., smoking), recall bias, and selection bias. In brief, they concluded erroneous conclusions resulting from factors like smoking and asbestos exposure were unlikely since the association between diesel exhaust particles and lung cancer is actually strengthened in studies that control for exposures to these substances. The California EPA also stated that exposure misclassification probably occurs in these studies, but would result in a bias toward the null. Exposure was determined through job classifications obtained from unions or facility records. Relatives or others were not asked directly if the subjects were "exposed to diesel," and were therefore unlikely to bias cancer victim exposure towards diesel. Selection bias was also a possibility, since the healthy worker effect is likely to influence the results. However, the California EPA found that this type of selection bias would also result in a bias towards the null, and was not sufficient to explain the increase lung cancer rates observed in the studies.
 - b) *The likelihood that the findings are due to chance* – the California EPA noted that the majority of the occupational studies resulted in positive findings and that if the association was due to chance, the findings would represent a more even "distribution of risks above and below unity." In addition, other reviews have also demonstrated the consistency in positive results among the range of human epidemiological studies conducted in diesel exhaust exposed populations (Cohen and Nikula, 1999); and
- *Specificity of association (implying that a specific agent is associated with only one disease)*. When specificity of an association is found, it provides more support for a causal relationship. However, absence of specificity in no way negates a causal relationship because toxic outcomes often have multiple factors influencing them: Future research will not find a one-to-one relationship between exposure to each component of diesel exhaust and any single type of toxic effect.

In summary, the California Environmental Protection Agency Office of Environmental Health Hazard Assessment identified statistically significant increases in lung cancer from case-control studies in truck drivers, railroad workers, heavy equipment operators and self-reported diesel exhaust exposure. Other more recent studies have supported the association between occupational exposures to diesel exhaust particles and lung cancer (Boffetta et al., 2001).

The 1998 the California Environmental Protection Agency Office of Environmental Health Hazard Assessment health assessment of diesel exhaust established a chronic reference exposure level of 5- $\mu\text{g}/\text{m}^3$ for chronic non-cancer health effects, and proposed a

range of values for the upper confidence interval limit of the unit risk factor to be used for risk assessment. The *Health Assessment Document for Diesel Engine Exhaust* (USEPA ORD 2002) report also established a chronic non-cancer health effects exposure guidance, the reference concentration of $5\text{-}\mu\text{g}/\text{m}^3$ based on human epidemiological studies and animal bioassays.

Recommended risk-based diesel exhaust particles concentration levels

Although the cancer unit risk factor values presented by several agencies and researchers reflect some uncertainty, the estimated unit risk factors range from 1.4×10^{-2} to 3.9×10^{-4} per $\mu\text{g}/\text{m}^3$. This indicates some consistency among the estimates relative to many unit risk factor estimates for other chemicals. The authors base their recommendations primarily on reviews conducted by other agencies, particularly the USEPA and the California Environmental Protection Agency Office of Environmental Health Hazard Assessment. The Department of Ecology will apply the cancer unit risk factor developed by the Office of Environmental Health Hazard Assessment, $3.0 \times 10^{-4} (\mu\text{g}/\text{m}^3)^{-1}$ (an excess of three cancer cases in an exposed population of 10,000 per $1\text{-}\mu\text{g}/\text{m}^3$ of diesel particles breathed) in diesel particle risk assessments. Accordingly, the Department will use the California Environmental Protection Agency inhalation slope factor of $1.1\text{-mg}/\text{kg}\text{-day}$ to evaluate the potential carcinogenic risk associated with diesel exhaust particles. This is consistent also with the California Air Resources Board Scientific Review Panel's unit risk factor "reasonable estimate" of $3.0 \times 10^{-4} (\mu\text{g}/\text{m}^3)^{-1}$. The unit risk factor is the upper-bound additional lifetime cancer risk (in addition to those risks already existing without exposure to the carcinogen in question) estimated to result from continuous life-long exposure to an agent at a concentration of $1\text{-}\mu\text{g}/\text{m}^3$ air. The California Air Resources Board Scientific Review Panel's unit risk factor "reasonable estimate" of 3.0×10^{-4} is equivalent to a negligible risk (risk *de minimis*) concentration of $0.003\text{-}\mu\text{g}/\text{m}^3$. Risks that are negligible and too small to be of societal concern are usually assumed to have probabilities less than 10^{-6} .

Even the least exposed Washingtonians are likely to be exposed to higher diesel particulate contrarians than $0.003\text{-}\mu\text{g}/\text{m}^3$, but overall most Washingtonians' average daily exposures to diesel exhaust particles are probably less than $5\text{-}\mu\text{g}/\text{m}^3$ – the non-cancer respiratory effects guideline concentration. Some evidence for this is provided in the USEPA's 2002 National-Scale Air Toxics Assessment data tables. The tables contain USEPA's concentration estimates of diesel particulate matter arising from on-road sources and non-road sources in each of Washington's census tracts. The overall median concentrations of diesel particulate matter estimated to arise from on-road sources was $0.355\text{-}\mu\text{g}/\text{m}^3$, and from non-road sources was $0.601\text{-}\mu\text{g}/\text{m}^3$. These sum to a total concentration of $0.956\text{-}\mu\text{g}/\text{m}^3$. USEPA used an exposure model to develop estimates of how much diesel particulate matter people are actually exposed to. Their estimate of median exposure in Washington was $0.249\text{-}\mu\text{g}/\text{m}^3$.

USEPA's estimate of median diesel exposure concentration in Washington corresponds to an apparently non-negligible upper-bound additional lifetime cancer risk of 75 per million (using the California Environmental Protection Agency inhalation unit risk factor), but an evidently safe non-cancer respiratory hazard (Hazard quotient = 0.109, using $5\text{-}\mu\text{g}/\text{m}^3$ as a 24-hour time-weighted average to evaluate the non-carcinogenic effects. A hazard quotient lower than one is below the level of concern). Referring to the National-Scale Air Toxics Assessment data tables, the census tract USEPA found to have Washington's highest exposure to diesel exhaust would have a corresponding upper-bound additional lifetime cancer risk of 1226 per million, but a hazard quotient of just 0.817. The census tract USEPA estimated to have the lowest diesel exposure would have a corresponding upper-bound additional lifetime cancer risk of 7 per million and a hazard quotient of 0.005.

The models USEPA used in the National-Scale Air Toxics Assessment may not be able to discern risks to people located next to high-traffic roadways, truck stops, rail yards or other areas where higher diesel exhaust particles concentrations occur, despite the fact that some people live, work, attend school, or other sustained activities, near such sources. In fact, some people are routinely exposed to diesel exhaust particles levels exceeding the $5\text{-}\mu\text{g}/\text{m}^3$ guideline. For example, the average diesel exhaust particles concentrations have been estimated to be around $10\text{-}\mu\text{g}/\text{m}^3$ in the maximally impacted, high-traffic area of the Duwamish valley in south Seattle (US Department of Health and Human Services, 2008), but this area is smaller than individual census tracts in the same area.

Consistent with both USEPA and the California Environmental Protection Agency Office of Environmental Health Hazard Assessment, Ecology will use a reference concentration of $5\text{-}\mu\text{g}/\text{m}^3$ as a 24-hour time-weighted average concentration to evaluate the non-carcinogenic effects associated with diesel exhaust particles. As mentioned above, the Department will use the California Environmental Protection Agency inhalation unit risk factor of $3 \times 10^{-4} (\mu\text{g}/\text{m}^3)^{-1}$ and slope factor of $1.1\text{-mg}/\text{kg}\text{-day}$ to evaluate the potential carcinogenic risk from diesel exhaust particles.

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December 21, 2012

Tom Hughes, President
Metro Council
600 NE Grand Avenue
Portland, Oregon 97232

RE: Metro Urban Growth Boundary Amendment Approval (Order 12-UGB-001826)

Dear President Hughes: *Tom*

As you know, the Land Conservation and Development Commission approved Metro's urban growth boundary amendment submittal on June 14, 2012. The order implementing the commission's decision is enclosed. Judicial review of this order may be obtained by filing a petition for review within 21 days from the service of this final order, pursuant to ORS 197.651. Please contact your regional representative, Jennifer Donnelly, at (503) 725-2183 or jennifer.donnelly@state.or.us if you have any questions or need further assistance.

Yours truly,

Jim Rue
Director

cc: Robin McArthur, Metro Planning and Development Director
Roger Alfred, Metro Lead Land Use Attorney
Charlotte Lehan, Chair, Clackamas Co. Board of Commissioners
Jeff Cogen, Chair, Multnomah Co. Board of Commissioners
Andy Duyck, Chair, Washington Co. Board of Commissioners
Mike McCallister, Clackamas County Planning and Zoning Manager
Karen Schilling, Multnomah County Land Use Planning Manager
Andy Back, Washington County Long Range Planning Manager
Bobby Lee, Regional Solutions Team Coordinator
LCDC objectors list
Jennifer Donnelly, DLCD Metro Area Regional Representative
Rob Hallyburton, DLCD Community Services Division Manager

App 12
000002

BEFORE THE
LAND CONSERVATION AND DEVELOPMENT COMMISSION
OF THE STATE OF OREGON

IN THE MATTER OF)	APPROVAL
REVIEW OF THE METRO REGIONAL)	ORDER
URBAN GROWTH BOUNDARY IN)	12-UGB-001826
THE MANNER OF PERIODIC)	
REVIEW)	

This matter came before the Land Conservation and Development Commission (the “Commission”) on May 10-11 and June 14, 2012 as a referral of Metro’s Capacity Ordinance and Urban Growth Boundary (“UGB”) amendment submittals, pursuant to ORS 197.626(1)(a), ORS 197.633 and OAR chapter 660, division 25. This review relates to Metro Ordinance Nos. 10-1244B, 11-1252A, and 11-1264B. The submittals before the Commission include: (1) a determination of the population and employment the region is expected to support in 2030; (2) analysis, findings, and conclusions regarding how much population and employment growth the region can accommodate within the existing UGB; (3) a determination of the amount of additional land needed to be added to the UGB; and (4) analysis, findings, and conclusions regarding the appropriate locations for a UGB expansion. The Commission fully considered Metro’s submittals; oral argument and written comments, objections and exceptions of parties and Metro; and the reports of the Director of the Department of Land Conservation and Development (the “Department”).

I. Introduction

A. Procedural History

1. On December 2, 2010, the Commission consented to Metro’s request pursuant to ORS 197.274(2), to review the submittal in the manner of periodic review.
2. On December 16, 2010, Metro adopted Ordinance No. 10-1244B (the “Capacity Ordinance”).
3. On January 13, 2011, Metro adopted Ordinance No. 11-1252A (the “Title 11 Amendments”).
4. On February 2, 2011, Metro submitted the adopted ordinances to the Department.

5. On March 28, 2011, Metro submitted a revised version of Ordinance No. 10-1244B and provided new notice of the decision.¹
6. On April 22, 2011, Metro provided the Department with correspondence identifying material in the record responsive to objections pursuant to OAR 660-025-0130(4)(a).
7. On July 20, 2011, the Director referred the Capacity Ordinance and Title 11 Amendments² to the Commission pursuant to OAR 660-025-0150(1)(c).
8. On August 18, 2011, Metro requested a waiver of the requirement in OAR 660-025-0150(3) that the director take action on the submittal within 120 days.
9. On August 24, 2011, the Department notified parties that review of the Capacity Ordinance would coincide with review of the upcoming UGB expansion.
10. On October 20, 2011, Metro adopted Ordinance No. 11-1264B (the “UGB Ordinance”).
11. On November 8, 2011, Metro submitted Ordinance No. 11-1264B to the Department.
12. On December 13, 2011, Metro provided the Department correspondence identifying material in the record responsive to objections pursuant to OAR 660-025-0130(4)(a).
13. On April 19, 2012, the Department issued the director’s report pursuant to OAR 660-025-0085(4).

B. Description of Metro’s Submittals on Review

Pursuant to ORS 197.299(1), Metro is required, at least every five years, to assess the region’s capacity to accommodate the numbers of people anticipated to live in the region over

¹ Several weeks after submitting the ordinances to DLCD, Metro learned that section 16 of the submitted version differed from the version adopted by the Metro Council on December 16, 2010. But for this substitution, the package of ordinances and exhibits initially submitted by Metro on February 2, 2011, remained the same.

² Hereafter, the term “Capacity Ordinance” includes the Title 11 Amendments. *See* LCDC Record, Item 18 at 247 (describing that the Title 11 Amendments were originally intended to be adopted as part of the Capacity Ordinance but were postponed to allow adequate review by the Metro Policy Advisory Committee and other stakeholders). The Title 11 Amendments were sent to the Department together with the Capacity Ordinance as one submittal. *See* LCDC Record, Item 18 at 2.

the next 20 years.³ Metro responded to that statutory requirement by adopting Ordinance No. 10-1244B (the “Capacity Ordinance”) on December 9, 2010.

The Capacity Ordinance also included an analysis for employment needs over the next 20 years. To make these determinations, Metro forecasted population and employment growth; conducted inventories of vacant, buildable land inside the UGB; assessed the capacity of the current UGB to accommodate population and employment growth, either on vacant land or through redevelopment and infill; and determined whether additional capacity was needed. The product of this inventory and analysis is an urban growth report (“UGR”) that serves as the evidentiary basis for subsequent consideration of the actions to address any shortfall in the capacity of the UGB to accommodate the forecasted growth over the next 20 years.

The Capacity Ordinance included the UGR and the regional population and employment range forecasts. As above, the UGR identified a potential deficit in the amount of residential land in the UGB relative to forecasted need. The UGR also identified a lack of large-lot industrial sites (defined as 25 acres or more) to support the traded sector over the next 20 years. Metro did not identify a shortfall for either non-industrial or general industrial employment.

At the time the Metro Council approved the UGR, it chose to accommodate residential and employment land need based on a forecast between the low end of the forecast range and the high end of the middle third of the forecast range. The council also determined that, with efficiency measures included in the Capacity Ordinance, the Metro UGB had the capacity to accommodate at least 50 percent of the housing and employment forecast to the year 2030.

Metro identified the efficiency measures in the UGR and the August 2010 Growth Management Assessment (the “GMA”) and included the adoption of new policies in the Regional Framework Plan (the “RFP”) to focus investments in those places in the region intended to accommodate higher residential densities including regional centers, town centers, light rail station communities, and designated corridors and main streets. In addition, the framework plan amendments proposed to focus investments on parts of the region where households spend more than 50 percent of monthly income on housing and transportation. The Capacity Ordinance amended the Metro’s Urban Growth Management Functional Plan (the “UGMFP”) to implement these new policies.

Each of the above new policies, code provisions, and investment strategies directed more efficient use of land within the UGB, with the goal of significantly increasing the capacity of the existing UGB. Nevertheless, Metro was left with a small amount of unmet needs for housing and employment capacity. *See* Capacity Ordinance at 1 (LCDC Record, Item 16 at 1).

³ ORS 197.299(1) provides:

“A metropolitan service district organized under ORS chapter 268 shall complete the inventory, determination and analysis required under ORS 197.296(3) not later than five years after completion of the previous inventory, determination and analysis.”

In response, Metro adopted Ordinance No. 11-1264B (the “UGB Ordinance”), which determined the final “point” forecast and expanded the UGB by adding 1,657 acres for residential capacity and 330 acres for large-site industrial use north of Hillsboro.⁴ UGB Ordinance, Exhibit D at 11, 16, 20, and 23 (LCDC Record, Item 11 at 39, 44, 48, 51).

C. The Written Record For This Proceeding

1. The DLCD April 19, 2012 Director’s staff report with responses to objections.
2. Eight objections to the initial submittal filed pursuant to OAR 660-025-0150(1)(c) (*objectors who submitted objections to both initial capacity ordinance submittal and the resubmittal)

<u>Ref.</u>	<u>Objector</u>
1.	1000 Friends of Oregon
2.	Christine Kosinski*
3.	Elizabeth Graser-Lindsey*
4.	Coalition for a Prosperous Region*
5.	South Hillsboro Partners*
6.	Westside Economic Alliance
7.	City of Hillsboro
8.	Melissa J. Jacobsen

3. Nine Objections to the UGB amendment decision:

<u>Ref.</u>	<u>Objector</u>
1.	David Meyers
2.	South Hillsboro Partners
3.	City of Sherwood
4.	Jim Standring
5.	1000 Friends of Oregon plus other objectors
6.	Michelle Whittaker
7.	City of Hillsboro
8.	City of Forest Grove
9.	City of Cornelius

4. Ten Exceptions to the Director’s staff report:

<u>Ref.</u>	<u>Objector</u>
1.	Metro
2.	1000 Friends of Oregon
3.	City of Cornelius
4.	City of Forest Grove

⁴ Ordinance No. 11-1264B also made a “technical correction” to the UGB, adding a .83 acre island of land surrounded by the UGB near Hillsboro. LCDC Record, Item 11 at 56 (Exhibit D to Ordinance No. 11-1264B at 28).

5. City of Hillsboro
6. Coalition for a Prosperous Region
7. Elizabeth Graser-Lindsey
8. Jim Standring
9. South Hillsboro Partners
10. Westside Economic Alliance

II. Procedural Matters

A. Official Notice

At the May 10-11, 2012 hearing, Metro requested that the Commission take official notice of the ordinances adopting urban and rural reserves, which include:

- Metro Ordinance No. 10-1238A (with exhibits);
- Clackamas County Ordinance No. ZDO-223 (with exhibits);
- Multnomah County Ordinance No. 1161 and 1165 (with exhibits);
- Washington County Ordinance No. 733 (with exhibits);
- Metro Ordinance No. 11-1255 (with exhibits);
- Clackamas County Ordinance No. ZDO-223 (with revised findings);
- Multnomah County Ordinance No. 2010-1180 (with exhibits); and
- Washington County Ordinance No. 740 (with exhibits).

The Commission takes official notice of the requested items. OAR 660-025-0085(5)(h)(C).

B. Procedural Rules

Pursuant to ORS 197.633(2) and (3), the Commission has adopted rules, OAR chapter 660, division 25, to govern procedures for matters reviewed in the manner of periodic review. Under OAR 660-025-0230(1)(d), the applicable version of division 25 to this review is the version filed and effective on February 14, 2012, because the submittals were awaiting initial Department action on the effective date of the amendment. As effective on February 14, 2012, division 25 reflects the Commission's amendments necessary to conform to changes to ORS 197.633 effective June 23, 2011 made by enactment of HB 2130.

C. Objections

The Commission's rules provide the opportunity to object to Metro's submittals. The Department received a total of thirteen objections to the Capacity Ordinance or the UGB Ordinance, or both.

Under OAR 660-025-0140(2), in order for an objection to be valid, it must:

- “(a) Be in writing and filed with the department’s Salem office no later than 21 days from the date the local government mailed the notice;
- “(b) Clearly identify an alleged deficiency in the work task sufficiently to identify the relevant section of the final decision and the statute, goal, or administrative rule the task submittal is alleged to have violated;
- “(c) Suggest specific revisions that would resolve the objection; and
- “(d) Demonstrate that the objecting party participated orally or in writing in the local process leading to the final decision.”

The Court of Appeals has further explained that objectors before the Commission must “make an explicit and particular specification of error by the local government.” *1000 Friends of Oregon v. LCDC (McMinnville)*, 244 Or App 239, 268-269, 259 P3d 1021 (2011). Finally, OAR 660-025-0140(3) prohibits the Commission from considering objections that do not meet the requirements for a valid objection.

The Department analyzed the validity of each objection in the Staff Report dated April 19, 2012. The Department determined that two “objections” are not valid under OAR 660-025-0140(2) because they neither alleged a deficiency in a submittal, nor suggested any revisions to resolve the objection: (1) City of Forest Grove and (2) Melissa Jacobson.

The Commission concurs with the Department’s analysis and conclusions, and finds that the City of Forest Grove’s objection is not valid because it fails to propose a specific revision that would resolve the objection, and Melissa Jacobson’s objection is not valid because it fails to address the Capacity Ordinance or UGB Ordinance, and therefore fails to identify relevant issues or relevant solutions for consideration in this proceeding. In addition, the Commission finds that the objection filed by South Hillsboro Partners with respect to the UGB Ordinance did not identify any deficiency or suggest any revisions. Accordingly, the Commission did not consider the objections filed by Forest Grove or Ms. Jacobson, or South Hillsboro Partners’ UGB Ordinance objections.⁵

⁵ South Hillsboro Partners’ objection to the UGB Ordinance states in relevant part: “SHP supports the UGB Ordinance and urges LCDC to approve it. This ‘objection’ is submitted to preserve SHP’s standing to object to arguments raised in opposition to the [UGB] ordinance and participate in the proceedings before LCDC.” LCDC Record, Item 10 at 5. As above, such “objection” does not satisfy the requirements of OAR 660-025-0140(2)(b) and (c), and, under OAR 660-025-0140(3), will not be considered by the Commission. *See also McMinnville*, 244 Or App at 269 (explaining that an objector before the Commission must make an “explicit and particular specification of error by the local government” and citing to OAR 660-025-0140). Here, the Commission provided South Hillsboro Partners with an opportunity to present its case. In determining that South Hillsboro Partner’s UGB Ordinance objections are invalid, the Commission notes that the materials submitted by South Hillsboro Partners were already limited to items included in the record of the proceeding and are duplicative of the materials submitted by Metro.

D. Exceptions

Persons that filed a valid objection to Metro's submittals are permitted to file written exceptions to the Director's report, provided such exceptions are filed within ten days of the date the director's report was mailed. OAR 660-025-0160(5). Ten exceptions were filed with the Department, including one by the City of Forest Grove and one by South Hillsboro Partners.

On review of the submittals, the Commission only considered valid exceptions. As discussed above, the Commission previously concluded that the objection to the UGB Ordinance filed by the City of Forest Grove was not valid. Accordingly, the City of Forest Grove is not entitled to file an exception to the Director's report, and the Commission rejects the City of Forest Grove's exception. Similarly, the Commission determined that the objection to the UGB Ordinance filed by South Hillsboro Partners was not valid. Accordingly, South Hillsboro Partners was not entitled to file an exception with respect to matters relating to the UGB Ordinance, and the Commission therefore rejects that portion of South Hillsboro Partners' exception (specifically, exceptions 2 and 3). Each of the other eight exceptions and the portion of South Hillsboro Partners' exception relating to the Capacity Ordinance were timely filed by persons that filed valid objections, and are therefore accepted by the Commission.

E. Oral Argument

Pursuant to OAR 660-025-0085(5)(c), the Commission heard oral argument. The Commission heard persons who submitted valid objections to address only those issues raised in their objections.

III. Commission Review

A. Scope of Review

The Commission has exclusive jurisdiction to review certain UGB amendments pursuant to ORS 197.626 and OAR 660-025-0040(2)(a). ORS 197.626 provides, in pertinent part, that:

"A local government shall submit for review and the Land Conservation and Development Commission shall review the following final land use decisions in the manner provided by periodic review for a work task under ORS 197.633:

"(a) An amendment of an urban growth boundary by a metropolitan service district that adds more than 100 acres to the area within the urban growth boundary * * *."

In addition, ORS 197.825(2) provides that:

“The jurisdiction of the board [the Land Use Board of Appeals]:

“(a) Is limited to those cases in which the petitioner has exhausted all remedies available by right before petitioning the board for review;

“(b) Is subject to the provisions of ORS 197.850 relating to judicial review by the Court of Appeals;

“(c) Does not include a local government decision that is:

“(A) Submitted to the Department of Land Conservation and Development for acknowledgment under ORS 197.251, 197.626 or 197.628 to 197.650 or a matter arising out of a local government decision submitted to the Department for acknowledgment, unless the Director of the Department of Land Conservation and Development, in the director’s sole discretion, transfers the matter to the board * * *.”

Where the Commission reviews a UGB amendment under ORS 197.626, it does so “in the manner provided for review of a periodic review task.” That review is to determine whether the decision(s) amending the UGB and any matters arising out of that decision, comply with the applicable statewide planning goals, their implementing rules, applicable state statutes, and applicable local comprehensive plan and land use regulations. OAR 660-025-0175(1); *City of West Linn v. LCDC*, 201 Or App 419, 119 P3d 285 (2005) (reviewing LCDC order on review of Metro’s UGB decision for compliance with Metro’s code).

B. Standard of Review

The Commission reviews the submittals for compliance with the applicable goals and administrative rules. OAR 660-025-0040. Further, as described above, the Commission reviews these submittals in the manner provided for periodic review. ORS 197.296(1)(a).

Additionally, review in the manner of periodic review is subject to ORS 197.633(3):

“The commission’s standard of review:

“(a) For evidentiary issues, is whether there is substantial evidence in the record as a whole to support the local government’s decision.

“(b) For procedural issues, is whether the local government failed to follow the procedures applicable to the matter before the local government in a manner that prejudiced the substantial rights of a party to the proceeding.

“(c) For issues concerning compliance with applicable laws, is whether the local government’s decision on the whole complies with applicable statutes, statewide land use planning goals, administrative rules, the comprehensive plan, the regional

framework plan, the functional plan and land use regulations. The commission shall defer to a local government's interpretation of the comprehensive plan or land use regulations in the manner provided in ORS 197.829. For purposes of this paragraph, 'complies' has the meaning given to the term 'compliance' in the phrase 'compliance with the goals' in ORS 197.747."⁶

On review, the Commission considers whether the submittal is consistent with the applicable Goals and administrative rules and is supported by substantial evidence. OAR 660-025-0040. Metro's submittals for the Capacity Ordinance and UGB Ordinance are both legislative decisions. MC 3.01.015; *Home Builders Ass'n of Metropolitan Portland v. Metro*, 184 Or App 633, 57 P3d 204 (2002). The Goal 2 requirement for an adequate factual base requires that a legislative land use decision be supported by substantial evidence. *DLCD v. Douglas County*, 37 Or LUBA 129, 132 (1999). Substantial evidence exists to support a finding of fact when the record, viewed as a whole, would permit a reasonable person to make that finding. *Dodd v. Hood River County*, 317 Or 172, 179, 855 P2d 608 (1993). Where the evidence in the record is conflicting, if a reasonable person could reach the decision Metro made in view of all the evidence in the record, the choice between conflicting evidence belongs to Metro. *Mazeski v. Wasco County*, 28 Or LUBA 178, 184 (1994), *aff'd* 133 Or App 258, 890 P2d 455 (1995). Because Metro's submittals embody both basic findings of fact and inferences drawn from those facts, substantial evidence review involves two related inquiries: "(1) whether the basic fact or facts are supported by substantial evidence, and (2) whether there is a basis in reason connecting the inference to the facts from which it is derived." *City of Roseburg v. Roseburg City Firefighters*, 292 Or 266, 271, 639 P2d 90 (1981). Where substantial evidence in the record supports Metro's adopted findings concerning compliance with the Goals and the Commission's administrative rules, the Commission nevertheless must determine whether the findings lead to a correct conclusion under the Goals and rules. *Oregonians in Action v. LCDC*, 121 Or App 497, 504, 854 P2d 1010 (1993).

There is no statute, statewide planning goal or administrative rule that generally requires that legislative land use decisions be supported by findings. *Port of St. Helens v. City of Scappoose*, 58 Or LUBA 122, 132 (2008). However, there are instances where the applicable statutes, rules or ordinances require findings to show compliance with applicable criteria. In addition, where a statute, rule or ordinance requires a local government to consider certain things in making a decision, or to base its decision on an analysis, "there must be enough in the way of findings or accessible material in the record of the legislative act to show that applicable criteria were applied and that required considerations were indeed considered." *Citizens Against Irresponsible Growth v. Metro*, 179 Or App 12, 16 n 6, 38 P3d 956 (2002). Such findings serve the additional purpose of assuring that the Commission does not substitute its judgment for that

⁶ ORS 197.633(3) became effective on June 23, 2011. Or Laws 2011, ch 469, §2.

of the local government, in this case, Metro. *Id.*; *Naumes Properties, LLC v. City of Central Point*, 46 Or LUBA 304, 314 (2004).

In a recent decision on the City of Bend's proposed urban growth boundary, the Commission decided that where local findings are inadequate, the Commission nonetheless may affirm the local decision if the local government identifies evidence in the record that "clearly supports" its decision. *See also* OAR 660-025-0130(4) (authorizing the local government to submit certain materials in response to objections); OAR 660-025-0160(4) (authorizing parties, including the local government, to file exceptions to the director's report). This is not intended to (and cannot) alter the Commission's standard of review. Rather, it provides a substitute for inadequate evidentiary findings under Goal 2 – analogous to the express statutory authority for the Land Use Board of Appeals to affirm local land use decisions in these circumstances. The Commission is mindful that LUBA has narrowly interpreted the term "clearly supports" in ORS 197.835(11)(b) to mean "makes obvious" or "makes inevitable." *Marcott Holdings, Inc. v. City of Tigard*, 30 Or LUBA 101, 122 (1995). Thus, while ORS 197.835(11)(b) authorizes LUBA to remedy minor oversights and imperfections in local government land use decisions, it does not allow LUBA to assume the responsibilities assigned to local governments, such as the weighing of evidence." *Salo v. City of Oregon City*, 36 Or LUBA 415, 429 (1999). The Commission takes the same approach here.

C. UGB Expansion Process

Metro's submittals in this matter are the Capacity Ordinance⁷ and the UGB Ordinance. Taken together, Metro's submittals conclude that to meet the identified residential and employment need, it would be necessary to expand the UGB.

The stated purpose of Goal 14 is "[t]o provide for an orderly and efficient transition from rural to urban use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities." OAR 660-015-0000(14).

Goal 14 was amended effective April 28, 2006.⁸ Local governments initiating a UGB evaluation after April 28, 2005, are subject to the "new" Goal 14.

Goal 14 requires that the expansion of UGBs be based upon land need and an evaluation of alternative boundary locations. "Land need" must be based on the following two factors:

⁷ As noted earlier, for ease of reference and subject matter consistency, the Commission treats the Title 11 Amendments as part of the Capacity Ordinance.

⁸ The objective of the amendment was not to change the goal's requirements substantively, but rather to streamline its application.

- “(1) Demonstrated need to accommodate long range urban population, consistent with a 20-year population forecast coordinated with affected local governments;
- “(2) Demonstrated need for housing, employment opportunities, livability or uses such as public facilities, streets and roads, or any combination of the need categories in this subsection (2).”

In determining need, a local government may specify necessary characteristics (such as parcel size, topography or proximity) that must be present for land to be suitable for an identified need. OAR 660-015-0000(14).

Once a need has been established, Goal 14 requires that the location of any expansion to meet the identified need be determined by evaluating alternative boundary locations consistent with ORS 197.298 and with consideration of the following four factors:

- “(1) Efficient accommodation of identified land needs;
- “(2) Orderly and economic provisions of public facilities and services;
- “(3) Comparative environmental, energy and social consequences; and
- “(4) Compatibility of the proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB.”

The “boundary location” factors are essentially the same as Factors 3-7 (the “locational factors”) of the old Goal 14. The factors do not stand alone as independent approval criterion, rather the factors must be individually addressed, and then Metro must consider and balance the factors in reaching a conclusion concerning whether adding a specific area to the UGB achieves the overall goal to provide for orderly and efficient transition from rural to urban land use. *See Friends v. Linn County v. Linn County*, 41 Or LUBA 342, 344 (2002); *1000 Friends of Oregon v. Metro*, 174 Or App at 410 (discussing the “locational factors” under the old Goal 14 rule).

Thus, if Metro determines that the development capacity of the land inside its UGB is inadequate to accommodate its identified need under Land Need Factors 1 and 2, Metro must act to satisfy the identified need.⁹ Metro must either increase the development capacity of land already inside the UGB, or expand the UGB, or a combination of both. However, prior to expanding the UGB, Metro must demonstrate that the identified needs cannot reasonably be accommodated on land already inside the UGB. OAR 660-024-0050(4).

When considering a UGB amendment to address a need identified under Goal 14 Land Need Factors 1 and 2 that cannot be reasonably accommodated within the existing UGB, Metro must determine which land to add by evaluating alternative boundary locations. This

⁹ However, under OAR 660-024-0040(3), a “local government may review and amend the UGB in consideration of one category of land need (for example, housing need) without a simultaneous review and amendment in consideration of other categories of land need (for example, employment need).”

determination must be consistent with the priority of land specified in ORS 197.298 and the Boundary Location Factors of Goal 14.

Beginning with the highest priority of land available under ORS 197.298, Metro must determine which land in that priority can reasonably accommodate its identified need. If the amount of suitable land in the first priority category exceeds the amount necessary to satisfy the deficiency, Metro must choose which land in that priority to include in the UGB. If the amount of suitable land in the first priority category is not adequate to supply the need, Metro must determine which land in the next priority can reasonably accommodate the remaining need, and proceed using the same method until all the land needed is accommodated. The former circumstance is the case here, where Metro's land need was less than the approximately 28,000 acres designated as urban reserves.

D. Population Forecast

ORS 195.036, along with OAR 660-024-0030, requires that Metro establish and maintain a population forecast: "The coordinating body under ORS 195.025(1) shall establish and maintain a population forecast for the entire area within its boundary for use in maintaining and updating comprehensive plans, and shall coordinate the forecast with the local governments within its boundary." The administrative rule requires that forecast be developed using "commonly accepted practices and standards for population forecasting used by professional practitioners in the field of demography or economics." OAR 660-024-0030(2).

Goal 14 Land Need Factor 1 requires that a UGB amendment be "consistent with a 20-year population forecast coordinated with affected local governments." OAR 660-015-0000(14). Finally, OAR 660-024-0030(1)-(2) contains the applicable provisions concerning forecasting methods and standards, coordination among jurisdictions, adoption, and other requirements for establishing a forecast.

The Metro UGB is unique in the state in that a single body, Metro, has authority to amend the boundary, and that same body establishes the population forecast. *See* ORS 195.025; ORS 195.036. While Metro must coordinate with its constituent cities and counties when providing area-specific forecasts, the population forecast for the entire area within the regional boundary is Metro's decision to make.

Metro began by establishing a population range, with high and low forecasts for the planning period to 2030. Metro derived the forecasts for these ranges from past trends, cohort survival data, and national economic and demographic information, and adjusted them based on regional growth factors. The range was bound by the fifth and ninety-fifth percentile probabilities of growth for the seven-county region¹⁰ around Metro. LCDC Record, Item 20 at

¹⁰ Clackamas, Columbia, Multnomah, Washington, and Yamhill counties, and Clark and Skamania counties in Washington.

8158. To derive a forecast for the urban area defined by the Metro UGB, Metro assigned a “capture rate,” still defined as a range. LCDC Record, Item 18 at 106; Item 20 at 4305, 8158. Metro’s forecasts were vetted by an independent panel of economic and demographic experts from across the United States as well as by local economists and demographers. LCDC Record, Item 20 at 98-101, 4034, 3861, 3867-3868).

Metro narrowed the forecast range to the middle-third in its adoption of the Capacity Ordinance. LCDC Record, Item 16 at 3. With the adoption of the UGB Ordinance, Metro established a final point forecast at the lower end of the middle third of the population and employment range forecasts: 625,183 new people and 300,000 new jobs. LCDC Record, Item 11 at 22, 32.

Metro’s approach of determining a specific population forecast late in the UGB amendment process is unusual; however, the Commission finds that Metro’s forecast and process for establishing it does not conflict with the provisions of relevant statutes and rules. The Commission received no objections to the population forecast.

E. Amount of Land for Needed Housing

As detailed above, Goal 14 requires that any change in the regional UGB be based on a demonstrated need, which needs include housing opportunities. In order to determine whether a need for housing opportunities requires a change in the UGB to meet the identified need, Metro must first determine the capacity of the existing UGB to accommodate housing need. This is because Goal 14 provides: “Prior to expanding an urban growth boundary, local governments shall demonstrate that needs cannot reasonably be accommodated on land already inside the urban growth boundary.”

Metro completed an inventory of residential lands in the UGB. Metro describes the inventory in detail in the UGR.¹¹ LCDC Record, Item 20 at 4028. The various appendices of the UGR (in particular, Appendix 2, Appendix 6, and Appendix 8, providing the MetroScope assumptions, residential capacity methodology, and needed housing tables, respectively), as well as the GMA, supplement the capacity analysis, show the technical assumptions, and provide additional explanation. LCDC Record, Item 20 at 4247-4256, 4304-4319, 4372-4398, 6880-7137.

The following sections provide the Commission’s review of Metro’s analyses and responses to objections related to residential lands. For clarity of review, the Commission has approached these issues by substantive topic: (1) inventorying buildable lands; (2) accommodating one-half of housing needs under ORS 197.299; (3) actions to accommodate unmet residential land need; (4) determining overall housing mix and density; and (4) reconciling need and capacity; UGB amendment.

¹¹ Metro Council approved the UGR by Resolution No. 09-4094 on December 17, 2009.

1. **Inventorying buildable lands (determining capacity)**

The statutory requirement for determining capacity through a buildable lands inventory, along with some direction as to what lands are to be inventoried as “buildable,” is contained in ORS 197.296, which provides in pertinent part:

“(3)* * * a local government shall:

“(a) Inventory the supply of buildable lands within the urban growth boundary and determine the housing capacity of the buildable lands;

* * *

“(4)(a) For the purpose of the inventory described in subsection (3)(a) of this section, “buildable lands” includes:

“(A) Vacant lands planned or zoned for residential use;

“(B) Partially vacant lands planned or zoned for residential use;

“(C) Lands that may be used for a mix of residential and employment uses under the existing planning or zoning; and

“(D) Lands that may be used for residential infill or redevelopment.”

The Commission’s division 24 rules also require the inventory of buildable lands. OAR 660-024-0050(1) provides in relevant part:

“When evaluating or amending a UGB, a local government must inventory land inside the UGB to determine whether there is adequate development capacity to accommodate 20-year needs determined in OAR 660-024-0040. For residential land, the buildable land inventory must include vacant and redevelopable land, and be conducted in accordance with OAR 660-007-0045 or 660-008-0010, whichever is applicable, and ORS 197.296 for local governments subject to that statute.* * *”

Buildable lands are “lands in urban and urbanizable areas that are suitable, available and necessary for residential uses” and include “both vacant land and developed land likely to be redeveloped.” ORS 197.295(1). The Commission’s rules further define what lands are “buildable” for purposes of the buildable lands inventory. OAR 660-007-0005(3) and (8) provide that:

“(3) ‘Buildable Land’ means residentially designated land within the Metro urban growth boundary, including both vacant and developed land likely to be redeveloped, that is suitable, available and necessary for residential uses. Publicly owned land is generally not considered available for residential uses. Land is generally considered ‘suitable and available’ unless it:

“(a) Is severely constrained by natural hazards as determined under Statewide Planning Goal 7;

“(b) Is subject to natural resource protection measures determined under statewide Planning Goals 5, 6 or 15;

“(c) Has slopes of 25 percent or greater;

“(d) Is within the 100-year flood plain; or

“(e) Cannot be provided with public facilities.

* * *

“(8) ‘Redevelopable Land’ means land zoned for residential use on which development has already occurred but on which, due to present or expected market forces, there exists the likelihood that existing development will be converted to more intensive residential uses during the planning period.”

As the starting point for the residential land analysis, Metro calculated vacant land inside the current Metro UGB using manual measurements of vacant land using photogrammetric techniques and supplementary GIS data (including building permits and assessor tax lot information). LCDC Record, Item 20 at 4145, 4146 (including Map 8).¹² From this, Metro calculated capacity on environmentally constrained lands and pre-platted lots. LCDC Record, Item 20 at 4144-4146 (including Map 7). Metro applied technical assumptions to get to a net land inventory and then applied a redevelopment rate and infill expectation. LCDC Record, Item 20 at 4144-4149. Finally, Metro calculated capacity in “new urban areas” based on infrastructure availability,¹³ ultimately deriving a 20-year capacity, expressed in dwelling units. LCDC Record, Item 20 at 4144, 4150-4161.

Metro relies on MetroScope,¹⁴ a land use and transportation simulation model that forecasts how real estate markets will react to a set of policy and investment inputs. One of MetroScope’s outputs is a residential “refill” rate (described as residential infill and redevelopment in ORS 197.296(4)(a)(D)).

As explained in Metro’s findings, Metro calculated the maximum residential zoned capacity within the existing UGB from local zoning and comprehensive plan designations. LCDC Record, Item 18 at 106; Item 20 at 4150-4154. This zoned capacity is calculated not only from vacant land, but also land that is considered “developed” under Metro’s inventory methodology (RLIS). *Id.* However, according to Metro’s use of the MetroScope analysis, much of this zoned capacity will not be absorbed in the next 20 years because infrastructure and land values will not support the planned level of residential development. LCDC Record, Item 20 at

¹² Figure 44 depicts the process of calculating capacity at a regional scale. See LCDC Item 20 at 4144.

¹³ Areas added to Metro’s UGB after 1997.

¹⁴ The MetroScope scenario assumptions are well-documented in the record. See, e.g., Appendix 2 of the UGR (LCDC Record, Item 20 at 4247-4269).

4155, 6896, 7911, 7933, 8160. Relying on historic infill and redevelopment (“refill”) rates, Metro determined that the current UGB had capacity for 196,600 new dwelling units without taking actions to use more of the zoned capacity by “leading” the market. LCDC Record, Item 20 at 4157-4158.¹⁵

The Department evaluated Metro’s inventory of buildable land, reviewing in particular the UGR and Appendix 6 (Residential Capacity Methodology) and Appendix 8 (Needed Housing Data Tables). The Department concluded, and the Commission agrees, that the UGR, including in Appendices 6 and 8, provide the necessary evidence and findings to meet the requirements of ORS 197.296, 197.299, Goal 10, Goal 14, and the related administrative rules, related to completing a buildable lands inventory to determine residential capacity within the current UGB. While the Commission shares the Department’s frustration that the documents consist of separate and sometimes disconnected analyses, the Commission ultimately concludes that the problems and questions raised by the Department have either been resolved by additional review of the submittals and submittal findings, or are minor and technical and nature and therefore do not provide a basis for remand.¹⁶ ORS 197.633(3)(c); ORS 197.747.

Specifically, on pages 23-24 of the Director’s Report dated April 19, 2012, the Department set forth five reasons, which collectively prevented the Department from being able to conclude that Metro had appropriately inventoried its supply of buildable land:

- The buildable land inventory year varies from 2007 to 2008 to 2009.
- Metro uses a formula of 1.4 acres per 1000 new residents in order to estimate the 20-year land need for churches, which it took from its 1997 UGR. Cap. Ord. Rec. at 2065. The UGR lacks findings supported by substantial evidence justifying the use of a 1997 formula for the 2010-2030 periods.
- In presenting the results of its buildable land inventory, Metro does not justify the assumption that only one dwelling per current tax lot should be assumed to protect water quality. Metro does not provide the data, assumptions and calculations used to determine the amount of land to be so protected. Cap. Ord. Rec. at 1916.
- Metro does not justify the assumption that development capacity in habitat conservation areas is 80 percent of zoned capacity nor does it provide the data, calculations, or other evidence used to conclude that development capacity in habitat

¹⁵ Metro reports a refill rate of 15.6 to 34.2 percent (average of 24.6 percent) during the 1997-2006 period. LCDC Record, Item 20 at 4136-4137, 4155; *see also* UGR Appendix 9; LCDC Record, Item 20 at 4399-4421 (evaluating the historical residential refill rate and distinguishing between the “economic” and “UGR” rates).

¹⁶ None of these issues were raised by any of the objectors.

conservation areas is 80 percent of zoned capacity. Cap. Ord. Rec. at 1916.

- Metro does not justify its assumptions that infill will occur only in centers and along corridors and not in existing neighborhoods. Cap. Ord. Rec. at 2515.

a. Buildable land inventory year

The analysis undertaken in the UGR appears to utilize both Metro's 2007 vacant land survey (LCDC Record, Item 20 at 4249, 4303) and an additional vacant land analysis undertaken with manual measurements of vacant land using photogrammetric techniques and GIS data as of January 2009 (LCDC Record, Item 20 at 4306, 4145). Metro characterizes the 2007 vacant land survey as the "most up-to-date buildable land inventory that is available," further explaining that the process of analyzing and applying the buildable land definition is so time-consuming as to prevent the use of a more current inventory. LCDC Record, Item 20 at 4249, 4303. While not perfectly clear to the Commission, it appears that Metro ran several different scenarios through the MetroScope model, including at least some updated analysis. Upon further review, however, the UGR, and the housing supply calculations in Appendix 6 appear to consistently use the updated 2009 information. Accordingly, the Commission concludes that the consideration of different analyses does not provide a basis for remand.

b. Formula for churches

This issue was not raised by any of the objectors, and no evidence or argument was put forth that the facts and circumstances underlying the 1997 church per capita rate have changed such that reliance on that assumption is no longer valid. Accordingly, the Commission concludes that the 1997 UGR provides the necessary evidentiary base for Metro's analysis.

Furthermore, the Commission's charge is to make a determination that the submittal "on the whole" satisfies the applicable goals, and may determine that identified deficiencies are minor and technical in nature. Accordingly, the Commission concludes that the church per capita rate from the 1997 UGR provides the necessary evidentiary base for Metro's analysis.

In addition, the Commission agrees with the supplementary testimony offered by Metro in "Metro's Exceptions to April 19, 2012, Department's Report on Metro Capacity and UGB Ordinances" noting that the future need for churches is not part of Metro's housing need analysis and is not required by Goal 10 or the needed housing statutes, and further that Metro does not propose any expansion of the UGB to address future church needs. LCDC Record, Item 3 at 38. With that factual backdrop, and since the Commission's charge is to make a determination that the submittals "as a whole" satisfies the applicable goals, the Commission determines that the identified deficiencies are minor and technical in nature.

Therefore, the Commission determines that Metro's continued utilization of the church per capita rate from the 1997 UGR does not provide a basis for remanding Metro's submittals.

c. Assumption for Title 3 lands

Upon review of the record, the Commission finds Metro has adequately explained the evidence Metro relied upon and assumptions Metro made in “adding back” capacity for residential lands within Title 3 setbacks. Specifically, as explained in Appendix 6: the Title 3 “no build buffers” are defined by maps maintained in Metro’s Data Resource Center RLIS database; this assumption applies only to tax lots *wholly* inside the buffer area and zoned for residential development; and precedent from prior UGR studies demonstrates that landowners will have the ability to build one dwelling on lots that are entirely within the environmental protection area. *See* LCDC Record, Item 20 at 4317.

d. Assumption for Title 13 lands

As with the above issue for Title 3 land yield, the Commission finds that Appendix 6 adequately explains the evidentiary basis and assumptions Metro made with respect to lands subject to Title 13. Specifically, Metro explains that it delineated the exact areas subject to Title 13 for the UGR based on individual analysis and tabulation of local governments’ Title 13 implementation. *Id.* For cases where the local government has not yet implemented Title 13, the environmental delineation is based on Metro’s modeling (which is informed by local jurisdiction ordinances and other information). *Id.* The result of this analysis yields a determination that mitigation efforts that must be undertaken before development is permitted will use 20 percent of the zoned capacity. LCDC Record, Item 20 at 4317.

e. Assumption regarding infill

Upon further review of the submittals, particularly the UGR, it does not appear that Metro assumed that infill would only occur in centers and along corridors as stated in the April Director’s Report. *See* LCDC Record, Item 8 at 24. Instead, the UGR states that the 2040 growth concept *encouraged* infill in centers and corridors rather than in single-family neighborhoods. LCDC Record, Item 20 at 4134. Accordingly, this issue does not provide any basis for remand.

2. Accommodating one-half of the housing needs under ORS 197.299

ORS 197.299(2) requires Metro to accommodate one-half the buildable land supply determined under ORS 197.296 within one year of completing the housing need and buildable land inventories. The housing needs analysis a local government must conduct is further described in ORS 197.296(3)(b):

“Conduct an analysis of housing need by type and density range, in accordance with ORS 197.303 and statewide planning goals and rules related to housing, to determine the number of units and amount of land needed for each needed housing type for the next 20 years.”

The 20-year horizon is established by ORS 197.296(2), and carried through in the Commission's division 24 rules, which require that the UGB be based on the adopted 20-year population forecast for the urban area and "provide for needed housing * * * over the 20-year planning period consistent with the land need requirements of Goal 14 and this rule." OAR 660-024-0040(1).

As discussed previously, to determine need, Metro began with a range forecast for population, and thus, correspondingly, for housing. Specifically, the forecast predicts population in in seven-county Portland Metropolitan Statistical Area (PMSA) will grow to approximately 2.9 to 3.2 million people by the end of the 20-year planning period in 2030. LCDC Record, Item 20 at 4035, 4633.

Metro explains how the population forecast was translated into housing needs in its findings for the Capacity Ordinance:

"From the forecast, Metro estimated that the total number of households in the PMSA would range from 1,181,300 to 1,301,800. Rec. 3861; 8158. By subtracting existing households from this total, Metro determined that the PMSA would need to accommodate from 728,000 to 1,024,400 households. Rec. 4034; 3861. Relying on historical development patterns since 2000, Metro assumed 61.8 percent of these dwelling units will be built inside the regional UGB. Rec. 4305. Metro applied a vacancy rate of four percent to account for relocating households. Rec. 4304. This calculation led to a determination that the UGB would have to accommodate between 224,000 and 301,500 new dwelling units through 2030. Rec. 4633; 4304-4308; 8160."

LCDC Record, Item 18 at 106.¹⁸ With the exception of the application of the vacancy rate, discussed *infra*, the Commission received no objections on this issue.

Appendix 8 to the UGR contains the needed housing data and analysis required by ORS 197.296-ORS 197.314, Goal 10, Goal 14, and applicable administrative rules, including a showing of the region's historic performance building "needed housing" types, together with data on the mix and densities of those units and their affordability. The analysis then forecasts the performance of the region in meeting housing needs over the next 20 years. LCDC Record, Item 20 at 4372-4398.

This analysis contained in Appendix 8 of the UGR shows performance at both the high (301,500) and the low (224,000) ends of the range of housing units needed. Figures 3.3a and 3.3b show vacant land demand for each housing type at both ends of the range. LCDC Record,

¹⁸ The LCDC record corresponds to each of the citations to the record for the Capacity Ordinance (the Capacity Ordinance is LCDC Item 20, and each page is numbered consistently with Metro's record; thus, "Rec. 4633" is LCDC Record, Item 20 at 4633).

Item 20 at 4378-4379. Vacant and partially vacant land by zoning is shown in Figure 4.1B. LCDC Record, Item 20 at 4380. Figure 4.1D estimates the number of developed with infill and redevelopment opportunities based on zoning, land values, improvement values and lot sizes. LCDC Record, Item 20 at 4382. Figures 303.01a and 303.1b show projections for numbers of needed housing units by type, tenure, and affordability. LCDC Record, Item 20 at 4394-4396.

The Commission finds that the data provided in the UGR provides an adequate factual base for Metro to demonstrate compliance with ORS 197.296(3)(b) and (5) – with respect to the range forecast.²⁰ The difficulty is in trying to discern whether Metro satisfied the requirement in ORS 197.299 to provide one-half of the buildable land supply. This is because, while Metro provided data and analysis as to needed housing (consistent with ORS 197.296(5)), Metro had not yet determined the “point” within the range forecast, and therefore did not have a discrete identified land need.

The Department raised this issue in its April 19, 2012, Staff Report:

“Housing need (expressed in dwelling units) identified in Appendix 6 and Appendix 8 were never reconciled to a land need by housing type or density as required by ORS 197.296, therefore the Department is unable to determine whether Metro had at least one-half of a 20-year buildable land supply as required by ORS 197.299.” LCDC Record, Item 8 at 23.

Metro responds in a number of ways. First, Metro testified that the UGR (specifically Appendix 8) contains all of the necessary data and analysis to comply with ORS 197.296, at the low and high end of the forecast. *See also* LCDC Record, Item 4 at 7-10; Item 7 at 36-37. Metro continues, arguing that because Metro came to a point forecast that was *within* the range forecast, the analysis in Appendix 8 is adequate: “Framed by housing needs analyses at the high and low ends of the range, Metro’s adoption of a point forecast [at the low end of the middle third] completes the housing needs analysis. The Department wants Metro to retrace its analysis of capacity using these numbers.” LCDC Record, Item 7 at 37.

As above, the Commission concurs that the housing needs tables in Appendix 8 provide the data and analysis necessary to comply with ORS 197.296(3)(b) – at the stage of adopting the Capacity Ordinance. Further, with respect to reconciling housing need to land need, the Commission is persuaded that the analysis shows the high and low ends of the range, which provides an adequate factual basis for Metro’s determination of land need for purposes of demonstrating compliance with ORS 197.299(2). *See* Figure 50 of the UGR (LCDC Record, Item 20 at 4160) (graphing the household demand forecast against the residential capacity).

²⁰ As explained in Section 4, *infra*, Metro must eventually satisfy the requirement in ORS 197.296(3)(b) and (7) to determine the overall housing density and mix for the point forecast.

Second, the Capacity Ordinance narrowed the forecast range to the middle third, reducing the number of new dwelling units to 224,000 to 271,000. LCDC Record, Item 16 at 3; Item 20 at 8161, 6893. As discussed below (in Section III.E.3), pursuant to ORS 197.296(6) and Goal 14, Metro adopted a series of efficiency measures to increase the capacity within the existing UGB, the net effect of which was to accommodate another 30,300 dwelling units. LCDC Record, Item 20 at 8162. The remaining capacity gap is shown in the table below. *Id.*

Table 1: Dwelling unit surplus or shortfall at different points in the range forecast after accounting for efficiency measures (Metro UGB 2007 - 2030)

Point in demand forecast range	Remaining surplus or (shortfall) of dwelling units
Low	2,900
Low end of middle third	(15,400)
Middle	(21,000)
High end of middle third	(26,600)

Thus, having identified the range of land need, and having adopted efficiency measures, Metro was left with the need to provide between zero and 26,600 dwelling units of additional capacity. Metro explains: “In all cases, the remaining potential gap is less than the 30,000 dwelling units of capacity already attributed to efficiency measures. Consequently, as required by [ORS 197.299] less than half the capacity gap identified in the UGR would remain for the Council to address in 2011.” LCDC Record, Item 20 at 8162; *see also* LCDC Record, Item 18 at 115, 117.

Had Metro adopted a point forecast at this stage, the above analyses (and related findings) would have more easily tied to the statutory and Goal requirements. However, as laid out above, the Commission finds that substantial evidence exists in the record for Metro to make the findings it did, and concurs that Metro provided one-half of the housing need in terms of buildable lands supply within a year of making its capacity determination, satisfying the requirements of ORS 197.299.

3. Metro’s actions to accommodate unmet residential land need (efficiency measures)

Goal 14 requires Metro to first look inside its UGB before expanding: “Prior to expanding an urban growth boundary, local governments shall demonstrate that needs cannot reasonably be accommodated on land already inside the urban growth boundary.”

A corollary provision is found in ORS 197.296(6), addressing circumstances where the housing need determined under ORS 197.296(3)(b) exceeds the housing capacity inventoried under ORS 197.296(3)(a). In that circumstance, ORS 197.296(6) requires that local governments address the deficiency by: (a) expanding their urban growth boundaries to include sufficient buildable land; (b) amending their plans in ways that “demonstrably increase the

likelihood that residential development will occur at densities and sufficient to accommodate housing needs for the next 20 years without expansion of the urban growth boundary”; or (c) a combination of both actions.

As above, in its adoption of the Capacity Ordinance, Metro narrowed the range forecast to the middle third. LCDC Record, Item 16 at 3. This action narrowed the range of new dwelling units to 224,000 to 271,400. LCDC Record, Item 20 at 8161, 8184.

Metro evaluated a number of measures to increase the efficiency of land use and encourage more compact growth to reduce the need for a UGB expansion. Specifically, as discussed in Metro’s Findings of Fact and Conclusions of Law for the Capacity Ordinance, Metro looked to the “actions and measures” listed in ORS 197.296(9), and implemented actions from that list that Metro determined would demonstrably increase the likelihood that the region would absorb more of its maximum zoned residential capacity than the market would without these actions. LCDC Record, Item 18 at 108-116.

The UGR’s calculation of residential need included three primary measures of possible market responses to zoned capacity as a component of an overall strategy to increase the capacity of land inside the UGB by using it more efficiently: (a) refill rate; (b) vacant mixed-use and multi-family capacity; and (c) new urban capacity. LCDC Record, Item 18 at 113. Consequently, Metro re-evaluated those measures in light of proposed and newly adopted policies, plans, and actions: the 2005 Regional Transportation Plan; new financial incentives (such as new urban renewal plans by the cities of Hillsboro and Milwaukie, the Portland transit-oriented development abatement tax, etc.); new local policies and investments; zoning and comprehensive plan updates; changes to Metro’s functional plan; adoption of urban and rural reserves; and the designation of non-residential lands for residential purposes (adopted after the UGR was completed). Metro relied on a number of methods to assess and quantify the results of the efficiency measures, including MetroScope scenarios, a development assessment tool, and city and county planning staff. LCDC Record, Item 18 at 109; Item 20 at 6901-6902.

The results of these efficiency measures are laid out in Metro’s “Findings of Fact and Conclusions of Law” for the Capacity Ordinance as well as the GMA. LCDC Record, Item 18 at 108-116; ; LCDC Record, Item 20 at 6900-6917. Specifically, Metro found that the capacity gain from these policies, plans and actions was 30,300 dwelling units. LCDC Record, Item 18 at 115. The resulting capacity gap is represented in the table below. LCDC Record, Item 20 at 8162.

Table 1: Dwelling unit surplus or shortfall at different points in the range forecast after accounting for efficiency measures (Metro UGB 2007 - 2030)

Point in demand forecast range	Remaining surplus or (shortfall) of dwelling units
Low	2,900
Low end of middle third	(15,400)
Middle	(21,000)
High end of middle third	(26,600)

As further explained by Metro, Metro sought “real-world” confirmation of the results, including an analysis of the development (density and dollars) that have occurred along Tri-Met’s MAX line, the City of Portland’s experience using urban renewal and other financing techniques, research and other consultant reports to assess the effects of public investment on property values and development feasibility. LCDC Record, Item 118 at 115. Metro also considered the effect the recent adoption of urban and rural reserves and the changing demographics of the region. *Id.* at 116.

Based on the above information and analysis, the Commission finds that Metro evaluated the series of efficiency “actions and measures” set forth in ORS 197.296(9), and took several actions to increase the residential land capacity within the existing UGB. For example, Metro made numerous amendments to its Regional Framework Plan and Urban Growth Management Framework Plan, increased residential densities in certain areas, re-designated certain lands for non-residential use, and adoption of new incentives and strategies, including the Community Investment Strategy included as part of the GMA. LCDC Record, Item 18 at 108-116. As described above, Metro then evaluated the effect of such actions and measures to demonstrate an increase in the likelihood of higher density residential development. The Commission therefore finds that Metro has satisfied the requirements of ORS 197.296(6)(b), recognizing, however, that because there is still a deficiency between housing need and housing supply, Metro will also need to amend its UGB.

4. Determining overall housing mix and density

ORS 197.296(7) requires Metro to “determine the overall average density and overall mix of housing types at which residential development of needed housing types must occur in order to meet housing needs over the next 20 years.” OAR chapter 660, division 7 provides specific requirements to assure that planning and zoning in the Metro area provide adequate numbers of needed housing units and the efficient use of land within the Metro UGB. As a matter of law, OAR 660-007-0000 clarifies that the Commission intends OAR 660-007-0030 through 660-007-0037 to establish the regional density and mix standards to measure Goal 10 housing compliance for cities and counties within the Metro UGB and to ensure the efficient use of residential land within the UGB consistent with Goal 14 urbanization. Further, OAR 660-007-0000 also provides that the new construction density and mix standards set forth in division

7 “take into consideration *and satisfy* the price range and rent level criteria for needed housing required by ORS 197.303.” (Emphasis added).

In the May 2012 Staff Report, the Department raised concerns that Metro had failed to determine the land need for housing in the region because the submittal did not determine the number and types (mix) of housing needed as required by Goal 10. LCDC Record, Item 8 at 26-27. At the close of the May 2012 hearing, the Commission directed the Department to further evaluate the submittals to determine whether Metro had satisfied the applicable criteria and to more fully describe the process undertaken by Metro.

Having undertaken that review, the Department presented a better understanding of the manner in which Metro undertook the housing needs analysis and how ORS 197.296 relates to OAR chapter 660, division 7 (the “metropolitan housing rule”). *See, e.g.*, LCDC Record, Item 4 at 3. Specifically, Metro is not responsible for the actual zoning or regulation of development – those actions are within the purview of the cities and counties. Further, it is the cities and counties within the Metro UGB that must comply with OAR chapter 660, division 7, which rule (as outlined above) requires local governments to designate land, allow specific residential uses, and require densities in a manner that complies with Goal 10 and the housing statutes. This rule also contains specific density and housing mix requirements. Within this framework, Metro’s responsibility is to provide the *opportunity* for the cities to comply with the Metropolitan Housing Rule.

Thus, the Department concluded, and the Commission agrees, that division 7 can serve as a “safe harbor” for satisfying the housing density and mix requirements of ORS 197.296 because the cities and counties that have the zoning authority for the newly added urban areas also have the responsibility to satisfy the requirements of the Metropolitan Housing Rule.

The 15 units per acre that Metro requires by conditions in the UGB Ordinance exceed the density requirements set forth in OAR 660-007-0035,²³ satisfying the density threshold. *See* Exhibit B, Conditions on Land Added to UGB to Ordinance No. 11-1264B (LCDC Record, Item 11 at 25-27). While Metro’s UGB Ordinance does not determine the housing mix, the Commission concludes that the Metropolitan Housing Rule can serve as a substitute for a specific determination by Metro regarding housing mix. Accordingly, between the land added to the UGB, the 15 units per acre requirement in the UGB Ordinance, and the “actions and measures” included in the Capacity Ordinance, the Commission finds that Metro has provided the opportunity for the cities to comply with the Metropolitan Housing Rule and therefore the requirements of ORS 197.296 and Goal 10.

²³ OAR 660-007-0035 requires that cities within the Metro UGB provide for an overall density of six to ten units per net buildable acre.

5. Reconciling need and capacity; UGB amendment

The next issue before the Commission is whether the UGB submittal includes an appropriate amount of land to accommodate a 20-year supply of residential land. As discussed in the April 2012 Staff Report, the Department initially found the submittal lacking because Metro had not provided the needed housing data by type (mix) at the “point” population forecast – only at the low and high end of a range. *See* LCDC Record, Item 8 at 25; Item 4 at 3. However, the finding by the Commission that Metro has adequately provided the *opportunity* for cities and counties to provide the housing mix required under Goal 10 (via OAR chapter 660, division 7), as recognized in the June Staff Report, allows the Commission to evaluate whether Metro has adequately demonstrated that housing needs will be accommodated.

The Commission’s evaluation thus involves a review of the final population forecast converted to units, converted to land needed. Here, the final population forecast is 625,183 more people and approximately 254,100 new housing units by 2030. Metro determined that, with certain efficiency actions and measures, the existing UGB could accommodate all but 15,896 housing units. LCDC Record, Item 11 at 39. To achieve 15,896 housing units, Metro adopted conditions that prescribe the target number of dwelling units in planning for each of the areas added to the UGB to meet the identified housing needs: 10,766 units in South Hillsboro; 4,651 units in South Cooper Mountain; and 479 units in Roy Rogers West. Exhibit B, to Ordinance No. 11-1264B (LCDC Record, Item 11 at 25-27). With the 15 units per acre condition, the Commission finds that the 1,657 gross acres (approximately 1,000 net developable acres) added to the UGB for residential uses is adequate to accommodate housing needs through 2030.

In reaching this conclusion, the Commission relies on OAR 660-024-0040(1), which provides, in relevant part: “The 20-year need determinations are estimates which, although based on the best available information and methodologies, should not be held to an unreasonably high level of precision.” Here, the number of needed units divided by the required density results in an amount of needed acreage that is reasonably close to the number of developable acres Metro added to the UGB.

6. Commission’s Response to Objections (Needed Housing)

The Department received three objections with respect Metro’s determination of the residential land supply: a joint objection filed by 1000 Friends of Oregon, Save Helvetia, Linda Peters, Cherry Amabisca, and Robert Bailey (collectively described as “1000 Friends objections”)²⁴; a second set of objections filed by South Hillsboro Partners; and a third set of

²⁴ 1000 Friends of Oregon filed objections to the Capacity Decision, and to the UGB Decision, in which it was joined by Save Helvetia, Linda Peters, Cherry Amabisca, and Robert Bailey. *See* LCDC Record, Item 17 at 1-6; Item 10 at 75-81. 1000 Friends of Oregon also filed an exception to the Director’s Report, which exceptions were not joined by any other party. *See* LCDC Record, Item 7 at 1-14. As above, these objections and exceptions are collectively referred to as “1000 Friends objections.”

objections from the City of Sherwood. Generally, 1000 Friends' objections contend that Metro's conclusion that zoned capacity will not be achieved lacks substantial evidence and is without a legal basis in violation of Goals 2 and 14. Their objections make a similar argument with respect to the UGB expansion, arguing that adding land at the edge of the UGB is also without a factual or legal basis.

South Hillsboro Partners' objection concerns the timing of the UGB amendment, and the requirement that Metro provide one-half of the needed residential supply within one year of completing the housing capacity and needs analysis. The City of Sherwood's objection concerns the amount of land added to the UGB, asserting that it is insufficient to meet the 20-year land demand.²⁵

a. 1000 Friends' Objection 1: Residential Capacity

1000 Friends describes the first objection as follows:

"Assuming that existing planning and zoning will not be met and the investments will not be made over the 20-year UGB planning period is unrealistic, does not meet the requirements of ORS 197.296 and Goal 14, and is contrary to the methodology used by the Department of Land Conservation and Development in evaluating all other UGBs. * * * [C]ities all have acknowledged public facilities plans that describe[] the water, sewer and transportation facilities which are to support the land uses designated in the appropriate acknowledged comprehensive plans for the 20-year planning period. OAR 660-011-0005(1), (4). * * * It is not clear why these adopted and acknowledged plans cannot be relied upon to assume more of the zoned capacity will be achieved. * * * To assume otherwise indicates that the Metro Council is acting inconsistently, and without coordination, with the acknowledged land use, transportation, and public facility plans of its partner jurisdictions, in violation of Goal 2."

See 1000 Friends' Exception dated April 30, 2012 ("1000 Friends' Exception") at 4 (LCDC Record, Item 7 at 4).

Within this objection, 1000 Friends makes a number of separate arguments. For clarity of review, the Commission addresses each argument below.

²⁵The City of Sherwood raised a second objection related to the application of the Goal 14 Boundary Location Factors. That objection is addressed in Section III.G, *infra*.

i. Zoned capacity: discounting capacity for multi-family housing and new urban areas

In this objection, 1000 Friends argues that Metro impermissibly discounted the zoned capacity inside the UGB by 50 percent in some multi-family and mixed use zones, and by 50 percent in all lands added to the UGB since 1997.²⁶ See 1000 Friends Exception at 5 (LCDC Record, Item 7 at 5).

Metro's analysis of residential capacity within the existing UGB is described in detail in the UGR and Growth Management Assessment. LCDC Record, Item 20 at 4120-4161, 4304-4319, 6900-6919). Metro explains its maximum zoned capacity market-based approach at the following specific points: (a) the Capacity Ordinance Findings (LCDC Record, Item 18 at 106-107); (b) the UGB Ordinance Findings (LCDC Record, Item at 32-36); and (c) the UGR (LCDC Record, Item 20 at 4120-4121, 4134-4135, 4144, 4155-4161, 4189, 8160).

As a threshold matter, the Commission notes that ORS 197.296(5)(a) expressly requires that the determination of housing capacity be based on the "number, density, and average mix of housing types that *have* occurred * * *." (Emphasis added). Problems concerning market capacity are also implicitly recognized in the requirement that a local government show that the measures it took to use land more efficiently "demonstrably *increase the likelihood* that residential development will occur at densities sufficient to accommodate housing needs for the next 20 years * * *." ORS 197.296(6)(b) (emphasis added). One of the efficiency measures that a local government can take is to increase the permitted density on existing residential land, such as through an upzone. Importantly, a local government adopting such an action must still "ensure that land zoned for needed housing is in locations *appropriate* for the housing types identified * * * and is zoned at density ranges that are *likely to be achieved by the housing market* * * *. ORS 197.296(9) (emphasis added). Reviewed together with Metro's analysis (described below), the Commission finds that Metro reasonably applied the consideration of market factors – both in evaluating existing capacity and when evaluating methods to increase efficient land use within the boundary in undertaking its analysis under ORS 197.296.

As discussed in Metro's Capacity Ordinance Findings, Metro found that it was unrealistic to assume that full development would occur. See, e.g., LCDC Record, Item 18 at 106 *et seq.* (Capacity Ordinance Findings); Item 20 at 8160-8162 (Staff Report); Item 20 at 4304-4319 (Appendix 6 of UGR); Item 20 at 2563 ("Regional Infrastructure Analysis"); Item 20 at 2605 ("Public Infrastructure Costs – Case Studies"); Item 20 at 4155 ("Scenarios"); Item 20 at 6923 ("History of development in past UGB expansions" in GMA); Item 20 at 7911 (Johnson Reid Study: "Assessment of Efficiency Measures for 2010 Capacity Ordinance"); Item 20 at 7933 (Fregonese Study: "The Impacts of Amenities on Development Feasibility").

²⁶ These areas are hereinafter referred to as "new urban areas."

These findings were also supported by the results of MetroScope scenarios for both multi-family/mixed use development and new urban areas: when Metro input the current zoning parameters, MetroScope showed that a portion of the product would not be utilized by the market either due to the zoning being ahead of the market demand (as in the case of multi-family) or lack of infrastructure and related financing (as in the case of new urban areas). LCDC Record, Item 20 at 4156. Thus, as explained in the UGR, the discount for multi-family/mixed use and new urban areas was an output of MetroScope scenarios, not an assumption made by Metro. *Id.*

In addition to the econometric modeling undertaken in MetroScope, Metro's submittals include data on development in the 1979-UGB versus the areas added between 1998 and 2008. According to the data in the record, only five percent of all residential units permitted in the three-county area during the 1998-2008 period occurred in expansion areas, while 95 percent occurred within the original 1979 UGB. LCDC Record, Item 20 at 4134-4135. Further, almost all of the residential development in the UGB expansion areas has been single-family homes. *Id.* Given this experience, Metro concluded that accommodating the majority of future growth through UGB expansions was unrealistic for several reasons, including the unlikelihood that there will be adequate funding for infrastructure. LCDC Record, Item 20 at 4120, 4134-4136. This development data is not disputed by 1000 Friends.

Moreover, as explained in the UGB Ordinance Findings:

"Local governments in the region – both at the center of the region and in regional and town centers, corridors and main streets in communities close to the edge of the UGB – have re-zoned many areas to remove obstacles to compact, mixed-use, pedestrian and bicycle-friendly and transit supportive development. Some ordinances set no maximums on the number of dwelling units that may be authorized. Others set high maximums (as much as 350 units/acre) that have not been realized in the decade since they were established and that modeling indicates will not be fully used in this 20-year planning period. Cap Ord Rec 4150-4156. To count this zoned capacity as available during the planning period is not reasonable * * *."

LCDC Record, Item 11 at 36 (internal citations correspond to LCDC Record, Item 20 at 4150-4156).

As Metro explains in the GMA, part of the reason for the discount for new urban areas is that lands are not immediately available upon inclusion into the UGB. Planning must be completed and infrastructure must be in place before development will occur. LCDC Record, Item 6987. Thus, based on advice from city and county planners and the Metro Technical

Advisory Committee (MTAC), Metro made certain assumptions – not disputed by 1000 Friends – as to the date on which new urban areas would be available for development.²⁷

1000 Friends' objection fails to take into account the results of the efficiency measures²⁸ adopted by Metro in the Capacity Ordinance which, as demonstrated in the GMA, resulted in increased capacity in both the multi-family/mixed-used areas and the new urban areas. Specifically, after evaluating the effect of such measures, Metro determined that the multi-family capacity rose to 60 percent, and the capacity in new urban areas increased significantly, ranging between 70 and 100 percent market feasible – increasing residential capacity within the existing UGB by 8,350 dwelling units. LCDC Record, Item 18 at 115-114. As above, 1000 Friends' objections do not contest or otherwise dispute the validity of Metro's analysis and conclusions.

To the extent 1000 Friends' argument is that Metro must assume 100 percent zoned capacity, the Commission rejects that interpretation as inconsistent with the plain text of ORS 197.296. Instead, the Commission interprets ORS 197.296 to require the consideration of what has occurred and what is likely to occur; therefore, Metro acted reasonably in considering market factors and infrastructure impediments in making the capacity determination.

As above, 1000 Friends' objection fails to recognize the projected increase in development capacity due to Metro's adoption and implementation of the efficiency measures in the Capacity Decision. On that basis alone, the Commission could reject this part of 1000 Friends' objection. However, assuming *arguendo* that 1000 Friends' objection is one of magnitude, methodology (*i.e.*, not solely directed at a 50 percent discount), or both, the Commission still does not conclude that it provides a basis for remand. First, with respect to new urban areas, Metro determined that the efficiency measures raised the capacity to 70-100 percent zoned capacity; and up to 60 percent in the multi-family/mixed use areas. Second, the record contains a significant number of analysis, reports, and historical data about development impediments and the actual number, density, and average mix of housing types of residential development that has actually occurred, all of which are reflected in Metro's Capacity Findings. See LCDC Record, Item 18 at 108-112, and 114-115. Accordingly, 1000 Friends objection does not provide any basis for determining that the discount for zoned capacity is too high or otherwise inconsistent with Goal 14, Goal 2, or ORS 197.296.

ii. Failure to consider policy changes, upzoning, or investments

1000 Friends asserts that Metro impermissibly assumed that no new upzoning, policy changes or investments would occur. However, as explained in Metro's Capacity Findings, Metro accounted for a number of policy changes, investments, and upzonings. See generally

²⁷ Based on the advice and information received, Metro assumed the following dates of availability for development: Happy Valley 2010; Damascus 2020; all other, 2015. LCDC Record, Item 20 at 6987.

²⁸ The efficiency measures are discussed in detail in Section III.E.3, *supra*.

LCDC Record, Item 18 at 108-116. The additional capacity derived from these actions is apparently not taken into account in 1000 Friends' objection.²⁹

With respect to policy changes, Metro accounted for a number of additional policies, investments, and upzonings – in response to what it found in the UGR. LCDC Record, Item 4 at 8. These new policies include: new policies in the Regional Framework Plan to focus investments in places intended to accommodate higher densities; revising Title 1 of the Urban Growth Management Functional Plan to assure “no net loss” of residential capacity; the program of investments contained in the 2035 Regional Transportation Plan; additional coordinated investment strategies laid out in Metro’s “Community Investment Strategy” (including trails, pedestrian facilities, bike lanes, street treatments, parking structures, etc.); adopted and proposed new tax increment financing (e.g., Beaverton, Hillsboro, Milwaukie; new tax credit and tax abatement programs (e.g., vertical housing tax credit program in Wood Village and the adoption of variable system development charges by several cities); three upzoning actions taken by Hillsboro, Tigard, and Wood Village; re-designation of certain lands to residential use (e.g., Oregon City, Tigard, City of Portland); and the relocation or designation of town centers and a regional center (e.g., Happy Valley, Cornelius Main Street, and Tanasbourne Town Center). LCDC Record, Item 18 at 108-113; *see also* LCDC Item 20 at 8160, 6902-6917. Taken together, these new policies, investments, and upzonings increased the residential capacity within the existing UGB by 30,300 additional units. LCDC Record, Item 11 at 32; Item 18 at 115; Item 20 at 8160. The Commission finds that these actions satisfy the Goal 14 requirement to maximize the efficiency of land uses within the existing boundary.³⁰ *1000 Friends of Oregon v. North Plains*, 27 Or LUBA 372, *aff’d* 130 Or App 406, 882 P2d 1130 (1994).

Further, Metro makes a cogent and reasonable argument that zoning *capacity* was not the problem. As a result, additional upzoning and related policy changes would only provide more unachievable capacity. LCDC Record, Item 11 at 32. Metro also found that funding sources for additional infrastructure and development incentives were more limited, particularly when compared to past opportunities. Record, Item 11 at 32-36. In reaching this conclusion Metro reviewed reports, engaged experts, evaluated local case studies. *See, e.g.*, LCDC Record, Item 11 at 34-36; Item 20 at 743, 3689, 7115. The Commission finds Metro’s evaluation of residential capacity to be reasonable and supported by an adequate factual base. This portion of 1000 Friends’ objection is therefore rejected.

²⁹ 1000 Friends’ cites to the statement in the UGR describing the residential capacity based on existing policies as: “no change in policy or investment trends.” LCDC Record Item 7 at 5 (citing to page 1928 of the UGR).

³⁰ See also Section III.E.3, *supra*, which includes the Commission’s full review of the actions taken by Metro to satisfy ORS 197.296(6).

iii. Public facilities plans

In this part of its objection, 1000 Friends asserts that any discounting for zoned capacity due to infrastructure being adequate to support the zoned capacity is inconsistent with Goal 11. In making this argument, 1000 Friends does not identify any public facilities plans with which Metro conflicted, but merely asserted they exist. Further, many new urban areas are not yet in a city, and some do have not adopted a public facilities plan. As a result, in estimating densities, Metro relied on concept plans for estimating densities and infrastructure costs. LCDC Record, Item 20 at 4149, 4314. Therefore, the Commission concludes that this part of the objection does not provide a basis for remand.

Further, the Commission finds that Metro has made findings that the funding sources available for infrastructure are not fungible or readily transferrable between sites. Specifically, Metro explained:

“In existing urban areas, where ownership is more fragmented and each developer is responsible for a smaller portion of infrastructure investment needed to facilitate development, there is less economic benefit that developers will realize by financing infrastructure investments up front. While both existing and new urban areas are able to access traditional funding sources like urban renewal and system development charges, it is this impetus for developers to invest in significant infrastructure improvements that can be more common in new urban areas.

“Furthermore, according to Metro’s 2008 Regional Infrastructure Analysis³, ‘urban developments tend to require the majority of their infrastructure up-front, while urbanizing developments can finance this in phases over many years’ (Metro, Regional Infrastructure Analysis, 2008). In existing urban areas, which are more compact and must serve as functional developments for existing residents and employees, all necessary infrastructure must be built up-front. Whereas in new urban areas, which are more spread out, infrastructure investments can be phased over time and targeted to the areas where development is planned. This allows developers in new urban areas to fund infrastructure in segments, while funding infrastructure in existing urban areas at once can be challenging for the multiple developers typically found in an existing urban area.

“Funding sources for infrastructure are not interchangeable. Examination of federal, state and local funding sources in this memo reveals that funding sources for infrastructure are often tied to a specific location or development and cannot be used interchangeably. Federal or state funding, in the form of loans or grants, is often authorized for a specific project that meets

particular criteria. Local funding sources like urban renewal and local improvement districts can only be used in the areas in which they are levied. System development charges and transportation impact fees are used for a narrowly defined list of projects that is often predetermined through capital improvement plans or transportation plans. For example, taxes and fees raised with a specific purpose, such as Washington County's transportation development tax, can only be used to pay for transportation projects. Furthermore, local funding sources are constrained by geography, as a funding source raised in one area cannot be used to fund infrastructure in another. Washington County's Major Streets Improvement Program (MSTIP), approved by Washington County voters, cannot be used outside of Washington County. The examples of funding sources used in developments across the region highlight this fact that funding is often tied to a specific location."

LCDC Record, Item 11 at 33-34 (emphasis in original); *see also* LCDC Record, Item 20 at 3702-3703, 3706-3707 (reviewing the decrease in funding available for infrastructure generally).

Upon review, the Commission concludes that the evidence in the record supports Metro's findings that infrastructure financing is not readily transferrable and varies depending on the type of development (e.g., urban versus urbanizing). Consequently, this portion of 1000 Friends objection is rejected.

iv. Vacancy rate

1000 Friends asserts that Metro's use of a four percent vacancy factor is without legal or evidentiary basis, particularly when combined with the discount for multi-family/mixed-use housing and new urban areas. *See* LCDC Record, Item 7 at 8.

As Metro explains in the UGR, the vacancy rate reflects the fact that markets need some level of vacancy to function. LCDC Record, Item 20 at 4304; 4132; Item 18 at 106. For example, in order to allow for moving from one residence to another, a certain number of houses need to be vacant at any given time. The vacancy rate is also attributed to the fact that the "market cannot instantly calibrate the demand for housing from households and the supply of housing built by developers." LCDC Record, Item 20 at 4132. Metro also cites to the "loss in fidelity of information flow," describing that homebuyers and renters do not know instantaneously when housing becomes available, contributing to a lag time. *Id.* As such, the vacancy rate represents an increase in housing "need" – not a further discount of the housing capacity. LCDC Record, Item 18 at 106; Item 20 at 4132; 4304. Thus, 1000 Friends has not explained why Metro's reliance on a vacancy factor was unreasonable or inconsistent with OAR 660-024-0040. *See also* OAR 660-015-0000(10) (Goal 10 housing rule requires a determination of vacancy rates).

In this case, Metro applied a four percent vacancy rate, which was taken from the 2002 UGR. LCDC Item 20 at 4132. As discussed earlier, where Metro relies on assumptions contained in a previously approved analysis,³¹ the Commission will generally conclude that the prior analysis constitutes substantial evidence for the subsequent decision – unless at least some evidence or argument is put forth that the facts and circumstances underlying the prior analysis have changed in some material respect. Moreover, the Commission is mindful that the 20-year determinations for housing supply “are estimates which, although based on the best available information and methodologies, should not be held to an unreasonably high level of precision.” OAR 660-024-0040(1). Given this standard, and the fact that 1000 Friends has not provided any basis for determining that a four percent vacancy rate is too high,³² the Commission rejects this portion of the objection.

b. 1000 Friends Objection 2: Capacity of Lands to be added to UGB

1000 Friends describes the second objection as follows:

“Metro’s solution to this alleged capacity challenge – adding land to the edge of the UGB that lacks any urban infrastructure or zoning – is without a factual and legal basis. Assuming the policy, financial, and market constraints on developing land inside the UGB are accurate, Metro does not explain how those challenges are more likely to be solved by adding land that lacks *any* urban infrastructure or zoning. In fact, the evidence indicates the opposite. As described below, Metro admits that developing to the zoned capacity inside the UGB is less expensive per dwelling unit than developing on newly added land. * * * Metro has not met its burden under Goal 14 to demonstrate that these new areas are more likely, less expensive, more efficient, and more economical per dwelling unit to develop than inside the UGB – and within the same 20 years. That is, Metro has not met its Goal 14 burden to show that the additional residential capacity cannot be met on land already inside the UGB, and that it is more reasonable to assume it will be met on new lands added to the UGB.”

See 1000 Friends Exceptions dated April 30, 2012 (LCDC Record, Item 7 at 5) (emphasis in original).

³¹ The Commission previously rejected the same challenge in a prior Metro UGB amendment. *See* LCDC Order No. 03-WKTASK-001524. LCDC’s order was appealed, but not on this issue. *City of West Linn*, 201 Or App 419.

³² To the extent 1000 Friends would assert that it did identify conflicting evidence, the Commission’s job is not to weigh the conflicting evidence, but rather to determine if a reasonable person could reach the decision Metro did; if so, the choice between conflicting evidence belongs to Metro. *Mazeski*, 28 Or LUBA at 184. Here, the Commission finds that a reasonable person could so conclude, and rejects this portion of the objection.

The first part of this objection – that Metro has not met its Goal 14 burden to show that the housing needs can be met on land already inside the UGB – has already been addressed by the Commission in the preceding objection, as well as in Section III.E.3 *supra*, and is therefore rejected.

The second part of this of this objection contends that Metro must undertake a comparative analysis between the newly added lands and lands within the existing UGB and determine that the newly added lands would be “more likely, less expensive, more efficient and more economical per dwelling unit to develop than inside the UGB * * *.”

Goal 14, Location Factor 2 requires that changes to the UGB “shall be determined by evaluating alternative boundary locations consistent with ORS 197.298 and with consideration of the following factors: * * * (2) Orderly and economic provision of public facilities and services * * *.”

ORS 197.296(6)(a) directs a local government to consider the effects of any adopted efficiency measures in amending its UGB:

“(6) If the housing need determined pursuant to subsection (3)(b) of this section is greater than the housing capacity determined pursuant to subsection (3)(a) of this section, the local government shall take one or more of the following actions to accommodate the additional housing need:

“(a) Amend its urban growth boundary to include sufficient buildable lands to accommodate housing needs for the next 20 years. **As part of this process, the local government shall consider the effects of measures taken pursuant to paragraph (b) of this subsection.** The amendment shall include sufficient land reasonably necessary to accommodate the siting of new public school facilities. The need and inclusion of lands for new public school facilities shall be a coordinated process between the affected public school districts and the local government that has the authority to approve the urban growth boundary * * *.”

ORS 197.296(6)(a) (emphasis added).

As explained in the Director’s Report, while Goal 14 Boundary Location Factor 2 requires consideration of the “orderly and economic” delivery of infrastructure, Goal 14 does not require Metro to apply this factor in a manner that compares land already inside the UGB with potential expansion areas, but rather only among the alternative boundary locations considered for expansion. This focus is clearly expressed in the Goal 14 requirement that changes to the boundary location be determined by evaluating “alternative boundary locations.” Such limited focus makes sense because a change in the boundary location only takes place after the local government has justified that there is a deficiency of residential capacity. Goal 14; ORS 197.296(6); OAR 660-024-0050(4). The Commission has already found that Metro

demonstrated a deficiency of residential capacity within the existing UGB; therefore, Metro's determination of where to expand the boundary need only evaluate the ability to provide an orderly and economic delivery of infrastructure between the alternative expansion areas.

Nor is Metro required to show that developing to zoned capacity inside the UGB is less expensive per dwelling unit than developing on newly added land. Rather, pursuant to ORS 197.296(6)(b), Metro need only demonstrate that any adopted efficiency measures will "increase the likelihood" that residential densities will increase. As discussed in Section III.E.3, the Commission found that Metro made the required demonstration. The Commission rejects this objection.

c. South Hillsboro Partners' Objection 1: Delayed Boundary Expansion and ORS 197.299

The Commission interprets South Hillsboro Partners' objection to raise two linked issues: (a) compliance with the requirement in ORS 197.299 to provide one-half the housing supply needs within one year after completing the analysis; (b) the timing of a UGB expansion. *See* LCDC Record, Item 17 at 271.

As to the first issue, the Commission has already determined that Metro satisfied the requirements of ORS 197.299(2)(a) to provide one-half of the needed residential land supply. *See* Section III.E.3, *supra*. Having reached that conclusion, the Commission rejects this portion of South Hillsboro Partners' objection.

As to the second issue, ORS 197.299(2)(b) requires that Metro take action to address the second half of any needed residential land supply within two years of the date of the inventory, analysis, and determination required by ORS 197.296 is completed. While the Commission understands that certain parties desired that Metro make an earlier UGB decision, nothing in South Hillsboro Partners' objections indicate that Metro was out of compliance with the statutory requirements. Accordingly, this portion of the objection is rejected.

d. City of Sherwood's Objection 1: Residential Land Need

In contrast to the objections made above by 1000 Friends, the City of Sherwood asserts that Metro failed to accommodate the projected 20-year land need, by arbitrarily electing to land on the low end of the middle third and adopting unrealistically high redevelopment and infill ("refill") rates.³³ Objector Sherwood seeks remand to Metro in order to ensure that an adequate amount of land is added to the UGB. LCDC Record, Item 10 at 7.

³³ During the Commission's hearing, the City of Sherwood clarified that their objections concerned residential (not industrial) land need. *See* LCDC Record, Item 8 at 78 (April 2012 Director's Report). Based on that representation and the objections filed, the Commission understands this objection to only concern the adequacy of the residential land supply.

As discussed in the Commission's review of Metro's submittals (subsection III.E.1 to III.E.5), the record contains considerable description of the evidence Metro relied on, how Metro completed its analysis, and why it reached the conclusions it did. Based on that evidence and Metro's analysis and articulation of its conclusions in findings, the Commission has determined that the record provides an adequate factual base. The City of Sherwood's objection does not provide any basis for determining that Metro's is in error.

Objector Sherwood does raise one issue which has not been discussed in the preceding sections, specifically the refill rate. Based on historical information and Metro scenarios, Metro initially assumed a refill rate of 33 percent through 2030. LCDC Record, Item 20 at 6906. In the GMA, Metro studied the effects of the new efficiency measures on the refill rate and determined that the policies would result in more efficient market use of zoned capacity, yielding a 41 percent refill rate through 2030. *Id.* That same scenario showed that the rate moderated in the out years, lowering to 35 percent in 2040. *Id.* at 6907. In further evaluating the 41 percent forecast refill rate, Metro considered research showing a demographic shift (likely to result in more redevelopment and infill) as well as recent development patterns and an additional development form assessment tool developed by Johnson Reid, LLC. *Id.*; *see also* LCDC Record, Item 20 at 6999. Metro explains: "Based on these sources of information, it is estimated that policies currently in place, including recently adopted efficiency measures, are likely to result in a refill rate of 38 percent through the year 2030." LCDC Record, Item 20 at 6908.

Given the above, and the fact that the City of Sherwood's objection does not provide any basis for questioning the evidence,³⁴ the Commission finds that the facts on which Metro relies are supported by substantial evidence in the record. The Commission also finds that there is a basis in reason connecting the facts to the conclusions drawn by Metro. Accordingly, this objection is rejected.

F. Metro's Inventory of Employment Land

Goal 14 requires that Metro is to base the change of the regional urban growth boundary *inter alia* on a demonstrated need for employment opportunities. In order to determine whether a need for employment opportunities requires a change to the UGB to meet the identified need, Metro must determine the capacity of the existing UGB to accommodate employment opportunities. This is because Goal 14 provides "Prior to expanding an urban growth boundary, local governments shall demonstrate that needs cannot reasonably be accommodated on land already inside the urban growth boundary."³⁵

³⁴ To the extent the City of Sherwood argues that "numerous jurisdictions and developers" documented more land was needed, the Commission finds that a reasonable person could reach the decision Metro made in view of the whole record; thus, the choice between conflicting evidence belongs to Metro. *Mazeski*, 28 Or LUBA at 184.

³⁵ This requirement derives from the Goal 2 standard for exceptions. *See McMinnville*, 244 Or App at 272; *VinCEP v. Yamhill County*, 215 Or App 414, 425, 171 P3d 368 (2007).

Metro completed an inventory of employment lands in the UGB. Metro describes the inventory in detail in the “2009-2030 Urban Growth Report, Employment and Residential” dated January 2010.³⁶ LCDC Record, Item 20 at 4028.

OAR 660-009-0015 provides in part:

“Cities and counties must review and, as necessary, amend their comprehensive plans to provide economic opportunities analyses containing the information described in sections (1) to (4) of this rule. This analysis will compare the demand for land for industrial and other employment uses to the existing supply of such land.

“* * * * *

“(3) Inventory of Industrial and Other Employment Lands. Comprehensive plans for all areas within urban growth boundaries must include an inventory of vacant and developed lands within the planning area designated for industrial or other employment use.”

On its face the rule applies to “cities and counties” and sets requirements for “comprehensive plans.”³⁷ That is appropriate because Goal 9 itself does not apply to Metro or the Regional Framework Plan. On July 25, 2005, the Commission specifically concluded that Goal 9 does not apply to Metro. (See LCDC Order 05-WKTASK-001673). However, the Commission subsequently adopted OAR chapter 660, division 24 in 2006. Division 24 clarifies procedures and requirements of Goal 14 regarding UGB amendments and provides that the employment land inventory required in the determination of employment need for Goal 14 be conducted in accordance with a provision of the Goal 9 rule, OAR 660-009-0015.

In the UGB rules, OAR 660-024-0040(5) specifically exempts Metro from the provisions of Goal 9 and its administrative rule for the determination of employment land need, but does not specify an applicable methodology to replace them.³⁸ OAR 660-024-0050(1) requires *local*

³⁶ Metro Council approved the UGR by Resolution No. 09-4094 on December 17, 2009.

³⁷ Metro does not have a “comprehensive plan” as that term is defined in ORS 197.015(5) and which is applicable to division 9 under OAR 660-009-0005. The “Metro regional framework plan” is specifically defined to not be a “comprehensive plan.” See ORS 197.015(16) (“Neither the regional framework plan nor its individual components constitute a comprehensive plan.”).

³⁸ OAR 660-024-0040(5) provides:

“Except for a metropolitan service district described in ORS 197.015(13), the determination of 20-year employment land need for an urban area must comply with applicable requirements of Goal 9 and OAR chapter 660, division 9, and must include a determination of the need for a short-term supply of land for employment uses consistent with OAR 660-009-0025. Employment land need may be based on an estimate of job growth over the planning period; local government must provide a reasonable justification for the job growth estimate but Goal 14 does not require that job growth estimates necessarily be proportional to population growth.”

governments, which expressly includes Metro, to conduct an inventory of existing employment lands in compliance with OAR 660-009-0015.³⁹ See ORS 197.015(13) and OAR 660-024-0010(4) (defining “local government”). Thus, under OAR 660-024-0050(1), the manner in which Metro is required to inventory employment land is provided in division 9. To be clear, the Commission is not holding that Goal 9 applies to Metro; it is Goal 14, as implemented by division 24, that requires Metro to utilize the methodology in OAR 660-009-0015 for conducting an employment land inventory of vacant and developed land designated for industrial or other employment use.

The Goal 14 need factors oblige Metro to provide an adequate supply of land to accommodate a “demonstrated need for * * * employment opportunities.” A question the department identified is how Metro determines its employment land need in light of the Goal 9 obligations imposed on cities and counties within Metro. Objections contend both that Metro included too little land in the UGB for employment uses (Hillsboro, Westside Economic Alliance) and that Metro did not establish that any need had been demonstrated (1000 Friends *et al.*). Because the specific provisions of Goal 9 do not apply to Metro, there are no prescribed guidelines for Metro’s determination of an adequate supply, leaving the only standard whether Metro assembled an adequate factual base and properly coordinated with its member jurisdictions as required by Goal 2.

Metro completed detailed analysis of forecasted employment, building types, and site sizes in determining the region’s employment land needs for the planning period. LCDC Record, Item 20 at 4040-4088, 4091-4093, 4113-4119, 4270-4292, and 4300-4302. Metro coordinated with cities through a variety of venues to receive input from the cities. LCDC Record, Item 11 at 1-2; Exhibit D to Ordinance No. 11-1264B at 1-2. The record contains considerable description of how Metro completed its analysis and why it made the conclusions it did. LCDC Record, Item 11 at 36-38, Item 18 at 107-108.

The Department recommended to the Commission that it remand to Metro to:

“Complete an employment land inventory in compliance with OAR 660-009-0015, as required by OAR 660-024-0050(1). Upon resubmittal, either: (1) demonstrate, based on evidence in the record, that the inventory of employment land within the UGB was completed according to these administrative rules; or (2) include a detailed inventory that identifies the supply of sites suitable for the expected uses as required by administrative rule.” LCDC Record, Item 8 at 33.

³⁹ OAR 660-024-0010 provides in part:

“In this division, the definitions in the statewide goals and the following definitions apply:

“* * * * *

“(4) ‘Local government’ means a city or county, or a metropolitan service district described in ORS 197.015(13).”

Unlike the Department, the Commission has the authority to determine that Metro's submittal includes essentially all of the elements of an employment land inventory and that therefore, Metro has complied with the purpose of Goal 9 as implemented by OAR 660-015-0015 and OAR 660-024-0050(1) because under ORS 197.633(3)(c) and ORS 197.747 failure to meet any specific requirement of those implementing rules is "technical or minor in nature."⁴⁰ Thus, in addition to the remand recommended by the Department, this Commission has the opportunity to approve Metro's submittal. The Department recognizes as much in the supplemental staff report.⁴¹

⁴⁰ In *Prentice v. LCDC*, 71 Or App 394, 397-398, 692 P2d 642 (1984), the court reversed and remanded a Commission acknowledgment order that conceded there were *de minimis* in nature goal violations, because "LCDC had no statutory authority to acknowledge plans which do not fully comply with all the applicable goals." In light of ORS 197.747 and ORS 197.633(3)(c), the Commission now has authority and obligation to look beyond strict goal compliance to determine whether a submittal achieves the overall purposes of the goals.

⁴¹ The Department's June 8, 2012 Supplemental Staff Report states:

"See pages 7-12 of Exhibit A for Metro's response to department concerns regarding the employment land inventory. All requirements in Goal 9 and its implementing rule, OAR chapter 660, division 9, apply only to 'cities and counties.' A rule in OAR chapter 660, division 24, 'Urban Growth Boundaries,' makes the inventory requirements in the Goal 9 rule applicable to 'a local government' (which includes Metro).

"Metro completed an inventory of land within the current UGB that is zoned for employment uses. The department found that the inventory was not performed according to all the requirements of OAR 660-009-0015(3) (see subsection C.3 of Attachment B to the April 19, 2012, staff report). The employment land inventory in the record includes most of the components required by the administrative rule, and many that are not required. The department found one component missing.

"Regarding the commission's boundaries in review conducted in the manner of periodic review, ORS 197.633(3) provides in relevant part:

"... The commission shall confine its review of evidence to the local record.
The commission's standard of review:

- (a) For evidentiary issues, is whether there is substantial evidence in the record as a whole to support the local government's decision.
- (b) For procedural issues, is whether the local government failed to follow the procedures applicable to the matter before the local government in a manner that prejudiced the substantial rights of a party to the proceeding.
- (c) *For issues concerning compliance with applicable laws, is whether the local government's decision on the whole complies with applicable statutes, statewide land use planning goals, administrative rules, the comprehensive plan, the regional framework plan, the functional plan and land use regulations. . . . For purposes of this paragraph, 'complies' has the meaning given the term 'compliance' in the phrase 'compliance with the goals' in ORS 197.747. (emphasis added)*

In addition to the authority of this Commission to overlook minor or technical noncompliance if the submittal on the whole complies with the goals, Metro noted that OAR 660-009-0010(5) provides:

“The effort necessary to comply with OAR 660-009-0015 through 660-009-0030 will vary depending on the size of the jurisdiction, the detail of previous economic development planning efforts, and the extent of new information on national, state, regional, county, and local economic trends. A jurisdiction’s planning effort is adequate if it uses the best available or readily collectable information to respond to the requirements of this division.”

Metro presented the Commission argument, based on five major factors, contending that in the case of Metro, a regional inventory that is somewhat more general than what would be expected of a smaller jurisdiction should inform what level of detail in this inventory is adequate, reasonable and useful. While OAR 660-009-0010(5) clearly serves to allow jurisdictions to rely on available information and to correlate the economic planning effort to the size of the jurisdiction, the Commission has not previously considered whether the rule should be construed as Metro suggests.

Metro argues that in considering the requirement to inventory “vacant and developed lands within the planning area designated for industrial or other employment use” under OAR 660-009-0015(3), the Commission’s review should consider, under OAR 660-009-0010(5), five factors:

“1. Goal 9 applies to the cities and counties of the metropolitan region. The Goal 9 rules require them to complete “Economic Opportunities Analyses”, including inventories of employment land to the level of detail in OAR 660-009-0015(3).

“2. There are over 70,000 acres of land inside the UGB that are zoned for employment or mixed uses. The sheer size of this

“ORS 197.747 provides:

“For the purposes of . . . periodic review under ORS 197.628 to 197.651, ‘compliance with the goals’ means the comprehensive plan and regulations, on the whole, conform with the purposes of the goals and any failure to meet individual goal requirements is technical or minor in nature.

“In light of the fact that Metro completed a robust employment land inventory that included consideration of many of the site characteristics as required by the rule, the commission could find that the failure to address site characteristics ‘necessary for a particular industrial or other employment use to operate’ as ‘minor in nature’ and conclude the submittal ‘on the whole, conforms with the purposes of the goals’ as Metro suggests in its response in Exhibit A.” LCDC Record, Item 4 at 4-5.

inventory naturally limits the level of detail that is readily collectible or, more importantly, practical to present.

“3. The majority of these 70,000 acres are developed. These developed sites are presumably suitable for their current uses. Identifying the specific sites that may develop over the 20-year timeframe would feign certainty that simply does not exist. Consequently, we handle these developed sites through refill rates (the share of future employment growth that we expect to occur on already developed sites).

“4. This region is comprised of 25 cities and three counties, each with its own zoning code. A regional inventory must generalize these codes to be of any use for a capacity analysis.

“5. Since we must ultimately reconcile supply and demand, the level of detail provided in the supply analysis (the inventory) should match the level of detail that is achievable or reasonable in the demand analysis. However, neither the statutes nor the rules provide comparable guidance for the level of detail required of its employment demand analysis. In other words, the above clause about the adequacy of an inventory notwithstanding, the rules require excruciating detail on the inventory of land, but provide no guidance on how that inventory (supply) should be compared with demand. The usefulness of doing this magnitude of a one-sided analysis is questionable at best. Further, we believe that forecasting detailed 20-year land demand by sector would produce spurious results. Acknowledging uncertainty, Metro’s employment analysis appropriately starts with sector-level employment forecast detail, but ultimately aggregates acreage demand into two categories – industrial and commercial – with additional analysis of niche needs for large lots. To come to a determination of need, the level of detail that is needed on the supply side is also land supply in two categories – industrial and commercial – with additional analysis of large lot supply.”

LCDC Record, Item 5 at 52.

In furtherance of its contentions that the employment land inventory both conformed with the purpose of Goal 14 and reflected an adequate effort to inventory employment lands under division 9, Metro provided the Commission a table that compared the requirements of OAR 660-009-0015(3) with what Metro included in its employment land inventory. Metro noted that local city and county staff reviewed all elements of this inventory. The comparison states:

OAR chapter 660,division 9 – Economic Development	Metro Employment Land Inventory
Inventory of vacant and developed lands within the planning area designated for industrial or other employment use.	Metro analyzed over 70,000 acres of employment land inside the UGB to determine which portions were vacant, partially vacant, or developed. <i>Metro Excpetions, Appendix D</i>
Inventory site characteristics of vacant or developed sites within each plan or zoning district.	Metro has reviewed each of the 28 zoning codes in the region and developed regional zoning classifications to allow for consistent analysis. Metro also maintains a GIS database (RLIS) of all tax lots in the three-county area. The database describes the zoning classification for each tax lot. Zoning, particularly for lands that are developed, is taken as a proxy for suitability for commercial, industrial, or mixed uses. <i>Cap Ord Rec 4101-4102</i>
Description of minimum acreage or site configuration characteristics.	This characteristic is more appropriately understood as a demand characteristic (e.g., what is the minimum size site demanded by a retail use with 20 employees). That said, Metro’s GIS database (RLIS) includes acreages for all vacant or developed tax lots in the planning area. Site sizes figure into Metro’s assessment of development readiness of vacant lands. Site sizes are also taken into account in the large-lot inventory and need analysis. <i>Cap Ord Rec 4101-4102</i>
Description of site shape	Metro’s GIS database (RLIS) includes all tax lots in the planning area. The GIS inventory depicts site shapes for all tax lots. Additionally, Metro’s GIS database depicts the shape of buildable areas. As would be expected, there is tremendous variation in site shapes across over 70,000 acres. <i>Cap Ord Rec 4101-4102</i>
Description of topography	In addition to relying on local zoning, Metro’s assessment of environmental constraints relied

	<p>on GIS analysis that identified the following constraints:</p> <ul style="list-style-type: none"> • Water quality and floodplain protection (Title 3) overlays • Slopes over 10 percent for tax lots zoned for industrial uses • Slopes over 25 percent for tax lots zoned for non-industrial employment or mixed uses <i>Cap Ord Rec 4102</i>
Description of visibility	<p>It is unclear how visibility could reasonably be assessed for over 70,000 acres of employment land. That said, Metro's GIS database (RLIS) includes tax lots and public facilities such as streets, from which a site could be visible. Visibility is primarily important for office, retail, and service sectors, many of which prefer locations in centers, corridors, main streets and station communities. Metro's GIS database depicts the locations of these design types. Metro's buildable land inventory documents which design type applies to each vacant tax lot. <i>Cap Ord Rec 4619-4626</i></p>
Description of specific types or levels of public facilities, services or energy infrastructure, or proximity to a particular transportation or freight facility such as rail, marine ports and airports, multimodal freight or transshipment facilities, and major transportation routes.	<p>Metro's GIS database (RLIS) includes the locations of public facilities including streets, arterials, major arterials, highways, sidewalks, bike routes, Port terminals, freight routes, airports, major freight rail lines, branch freight rail lines, rail yards, schools, school districts, city halls, fire stations, fire districts, police stations, libraries, light rail lines, light rail stations, bus stops, frequent bus stops, street car lines, street car stops, the aerial tram, transit districts, water district boundaries, sewer district boundaries, parks and greenspaces, park district boundaries, trails.</p> <p>Actual water, sewer, and utility lines are not depicted for security reasons. However, industrial zoning may reasonably be taken as a proxy for the existence or possible future</p>

	<p>availability of specialized infrastructure, utilities or services.</p> <p>The entire inventory of vacant employment land was analyzed, by tax lot, for development readiness. These development-readiness determinations were review by city and county staff. Factors related to public facilities include:</p> <ul style="list-style-type: none"> • Presence of urban services, infrastructure • Transportation access • Transportation congestion • Aviation flight protection overlay zones • Marine use restrictions <p><i>Cap Ord Rec 4101-4103</i></p>
<p>Description of any development constraints or infrastructure needs that affect the buildable area of sites in the inventory</p>	<p>In addition to relying on local zoning, Metro's assessment of environmental constraints relied on GIS analysis that identified the following constraints:</p> <ul style="list-style-type: none"> • Water quality and floodplain protection (Title 3) overlays • Slopes over 10 percent for tax lots zoned for industrial uses • Slopes over 25 percent for tax lots zoned for non-industrial employment or mixed uses • Streets and sidewalks reduce the amount of buildable land available on any specific tax lot. Metro's employment analysis used the same methodology described for the residential capacity analysis, setting aside percentages of land for future streets (tax lots under 3/8 acre - zero percent; tax lots between 3/8 acre and one acre - 10 percent; tax lots greater than one acre – 18.5 percent) <p>This GIS inventory of constraints was</p>

	<p>reviewed and verified by city and county staff.</p> <p>The entire inventory of vacant employment land was analyzed, by tax lot, for development readiness. These development-readiness determinations were review by city and county staff (see pages 70-74 of the UGR for a description). Factors included:</p> <ul style="list-style-type: none"> • Environmental constraints • Buildable acreage • Presence of urban services, infrastructure • Zoning • Transportation access • Transportation congestion • Existing building and land value • Owner constraints • Brownfield status • Aviation flight protection overlay zones • Marine use restrictions <p><i>Cap Ord Rec 4101-4105</i></p>
<p>For <u>cities and counties</u> within a Metropolitan Planning Organization, the inventory must also include the approximate total acreage and percentage of sites within each plan or zoning district that comprise the short-term supply of land.</p>	<p>Using the development-readiness tiers described above, the vacant land inventory was broken into short and long-term supply of land for nine market subareas and for industrial and non-industrial uses <i>see; Cap Ord Rec 4104</i> [UGR at 73].</p> <p>For developed land, refill rates were used to describe the share of future employment that is expected to occur in the short-term and the long-term through redevelopment and infill. These rates are reported for six building types and for industrial and non-industrial uses for nine market subareas (see page 77 of the UGR).</p> <p><i>Cap Ord Rec 4104-4108</i></p>

Table included in May 2012 testimony of Dick Benner and Ted Reid on behalf of Metro. LCDC Record, Item 2, Exhibit A at 7-11; Item 5 at 53-56.

With Metro's contentions in mind, the Commission returns to the resolution of how Metro is to determine its employment land need in light of the constituent cities and counties obligations under Goal 9. OAR 660-024-0050(1) requires that Metro determine whether there is adequate development capacity to accommodate its identified 20-year employment land needs by inventorying land inside the UGB.⁴² The rule specifies the methodology, providing: "for employment land, the inventory must include suitable vacant and developed land designated for industrial or other employment use, and must be conducted in accordance with OAR 660-009-0015." OAR 660-009-0015(3) provides that the inventory should be of "vacant and developed lands within the planning area designated for industrial or other employment use." Subsection (a) of that rule further requires the inventory to provide specified information for sites:

"(A) The description, including site characteristics, of vacant or developed sites within each plan or zoning district;

"(B) A description of any development constraints or infrastructure needs that affect the buildable area of sites in the inventory; and

"(C) For cities and counties within a Metropolitan Planning Organization, the inventory must also include the approximate total acreage and percentage of sites within each plan or zoning district that comprise the short-term supply of land."

The "site characteristics" referenced in OAR 660-009-0015(3)(a)(A) are defined in OAR 660-009-0005(11) to mean:

"the attributes of a site necessary for a particular industrial or other employment use to operate. Site characteristics include, but are not limited to, a minimum acreage or site configuration including shape and topography, visibility, specific types or levels of public facilities, services or energy infrastructure, or proximity to a

⁴² OAR 660-024-0050(1) provides:

"When evaluating or amending a UGB, a local government must inventory land inside the UGB to determine whether there is adequate development capacity to accommodate 20-year needs determined in OAR 660-024-0040. For residential land, the buildable land inventory must include vacant and redevelopable land, and be conducted in accordance with OAR 660-007-0045 or 660-008-0010, whichever is applicable, and ORS 197.296 for local governments subject to that statute. For employment land, the inventory must include suitable vacant and developed land designated for industrial or other employment use, and must be conducted in accordance with OAR 660-009-0015."

particular transportation or freight facility such as rail, marine ports and airports, multimodal freight or transshipment facilities, and major transportation routes.”

Again, the purpose of the inventory is to allow Metro to determine whether there is adequate development capacity in the regional UGB to accommodate its identified 20-year employment land needs.

The Commission concludes that the employment land inventory provides an adequate basis for Metro to determine the capacity of the existing UGB to accommodate employment opportunities under Goal 14. For that purpose Metro is tasked with inventorying a 70,000 acre analysis area that comprises the regional UGB. The more specific Goal 9 tasks directed at providing adequate opportunities for a variety of economic activities are requirements that apply to the region’s 25 cities and three counties. Therefore, the Commission evaluates Metro’s submittal, against the backdrop that the regulatory structure provides certainty that the Goal 9 work is required of the cities and counties at the level of detail provided in OAR 660-009-0015(3). This reflects the Commission’s determination in its rules that in-depth site characteristics and suitability analysis is appropriately assigned to the city and county level, not at the regional level. Therefore, the Commission holds that level of effort necessary by Metro under OAR 660-009-0010(5) is appropriately determined in light of the inventory information required of the 28 comprehensive plans and zoning codes of the region’s 25 cities and three counties.

In light of the cities and counties Goal 9 obligations, Metro, in determining the capacity of the existing UGB to accommodate employment opportunities, is to coordinate with the region’s local governments under Goal 2 by reviewing applicable provisions of their comprehensive plans and zoning codes.⁴³ To facilitate its determination, Metro developed regional zoning classifications to allow for consistent analysis. Metro also generally assumed that employment zoned land is suitable, leaving the specific determination of whether employment zoned land is suitable for an expected employment use to the city or county employment inventory. Metro utilized refill rates to describe the share of future employment that is expected to occur through redevelopment and infill. Metro relied on its GIS database for those site characteristics that Metro has information for: site acreage, site shape, environmental constraints that indicate topography, location of public facilities, and development constraints. The Commission concludes that Metro undertook an appropriate determination of its employment land need. The Commission further finds that the table provided by Metro

⁴³ OAR 660-009-0015(3) requires that the inventory be included in the comprehensive plans for all areas within a UGB. One manner of complying with OAR 660-009-0015(3) conceivably might be to simply assemble the EOAs included in the comprehensive plan of each city and county within the Metro UGB into a single inventory. But Metro explained that it could not do that because not all cities and counties within the Metro UGB have completed EOAs and for that do have a completed EOA, they use a variety of employment forecasts as their starting point. The Commission concludes that Metro has explained why it could not merely assemble the existing EOAs. Appendix 1 to UGR, LCDC Record, Item 20 at 4197-4199.

establishes compliance with most of the provisions of OAR 660-009-0015(3). The Commission notes that some required specificity is not presented. For example, Metro did not assess the “visibility” aspect of “site characteristics” on a regional basis. The Commission finds that omission of the “visibility” analysis component of the administrative rule is both technical and minor in nature. ORS 197.633(3)(c) and 197.747. Any specificity or detail that is not provided in Metro’s analysis will be addressed when each of the 25 cities and three counties within the Metro UGB perform the inventory necessary to comply with OAR 660-009-0015(3).

1. Commission’s Response to Objections (Employment Lands)

a. City of Cornelius

The City of Cornelius objected to Metro’s submittals alleging insufficient consideration of several of the goals. Regarding employment land, the city quotes the purpose of the rule implementing Goal 9 – “The intent of the Land Conservation and Development Commission is to provide an adequate land supply for economic development and employment growth in Oregon” – in generally objecting “Cornelius has clearly shown such a local community need and expressed it.” LCDC Record, Item 10 at 113-114. Metro generally does not have a responsibility under either division 9 or Goal 9. LCDC Order 05-WKTASK-001673. As discussed above, it is Goal 14 that requires Metro to inventory employment land and the Commission has concluded that Metro has done so; therefore, the Commission rejects this objection.

b. City of Hillsboro

i. Objection 1: Substantial Evidence

The City of Hillsboro contends that the record contains substantial evidence supporting a determination of industrial land need of 200-800 acres or 200-1,500 acres, and that the evidence establishes a need for more employment land than Metro added to the UGB. The city objects that Metro did not identify a need for enough land for large lot industrial to under Goal 14, Need Factor 2. LCDC Record, Item 10 at 95. The objection further contends that Metro ignored testimony that supported a greater need for industrial land.

The objection does not explain how Metro’s decision violates Goal 14, Need Factor 2, but merely asserts that the actual need is not completely satisfied. Thus, the city request that the Commission acknowledges the addition of the 330-acres in North Hillsboro for large industrial sites and direct Metro to add the remaining 340 acres (of the 670 acres UGB expansion in North Hillsboro) to the UGB for additional large industrial sites in the next 5-year review of the Metro UGB to be completed in 2014. *Id.* at 96. The Commission concludes that the remedy requested by the city – to direct the outcome of a future amendment process is inconsistent with Goal 14, ORS 197.298, and division 24; and furthermore is outside the authority of the Commission on

review of an UGB amendment submittal. OAR 660-025-0160(7). The Commission therefore understands the city to present a substantial evidence objection.

The objector points to evidence in the record that it contends could have justified more industrial land than Metro ultimately included. Assuming for purposes of discussion that this is the case, the objection does not establish that Metro did not comply with Goal 14, Need Factor 2. The record contains evidence that the amount of employment land Metro added to the UGB is within a justified range that Metro identified in determining its need. LCDC Record, Item 11 at 36-38; Item 18 at 107-108. Hillsboro simply maintains that Metro should have selected a different point in that range without establishing that the decision that Metro made is unsupported. Metro has explained how the decision that it made complies with the applicable law and the Commission has concluded herein that it does. In identifying its need for employment land under Goal 14, Land Need Factor 2, Metro clearly considered the range and, based on its consideration identified a different point on the range than that Hillsboro suggested by Hillsboro and the evidence it cites. However, where the evidence in the record is conflicting, if a reasonable person could reach the decision Metro made in view of all the evidence in the record, the choice between conflicting evidence belongs to Metro. *Mazeski*, 28 Or LUBA at 184. The Commission rejects this objection.

ii. Objection 2: Best Available Information

Hillsboro asserts that the capacity ordinance inventory of existing UGB large sites capacity is not “based on the best available information and methodologies” as required under OAR 660-024-0040(1). Hillsboro contends that this results in a significant under-estimation of the large-lot industrial site need. LCDC Record, Item 10 at 95-96; Item 17 at 290.

OAR 660-024-0040(1) provides:

“The UGB must be based on the adopted 20-year population forecast for the urban area described in OAR 660-024-0030, and must provide for needed housing, employment and other urban uses such as public facilities, streets and roads, schools, parks and open space over the 20-year planning period consistent with the land need requirements of Goal 14 and this rule. The 20-year need determinations are estimates which, although based on the best available information and methodologies, should not be held to an unreasonably high level of precision.”

The Commission understands Hillsboro to contend that OAR 660-024-0040(1) establishes a criterion regarding the quality of data and analysis that must be satisfied. The Commission does not construe its rule as such. It is the Goal 2 requirement for an adequate factual base that the Commission evaluates the submittals against. Hillsboro has established no more than that it disagrees with Metro’s conclusions regarding land need for employment uses and that there was evidence in the record that perhaps could have lead Metro to a large lot land

need more to the city's liking. Again, Metro has the choice between conflicting evidence. *Mazeski*, 28 Or LUBA at 184. The Commission rejects this objection.

iii. Objection 3: Site Suitability

Hillsboro objects that Metro did not consider site suitability, as required by Goal 14 Land Need Factor 2, or conduct an inventory of suitable industrial land in conformity with the requirements of OAR 660-024-0050(1). LCDC Record, Item 10 at 97; Item 17 at 290. The Commission understands Hillsboro to argue that Metro erred in not adequately considering the suitability needs of “the high tech, silicon solar manufacturing and bio-pharma traded sector industries in the Region’s Silicon Forest.” The Commission finds that the UGR specifically considered and forecasted clusters, including advanced manufacturing, bioscience, cleantech, and software. LCDC Record, Item 20 at 4066-4070, 4257-4269. Metro also specifically forecasted “large lot preference.” *Id.* at 4089-4093. Metro explained the derivation of the need for large lots. LCDC Record, Item 11 at 36-38. Metro’s findings demonstrate that it did consider site characteristics:

“Mindful of the characteristics of land that make it suitable to meet the need for large-lot industrial use (relatively large lots; relatively flat; proximate to transportation facilities capable of moving freight; adjacent or near the existing UGB), Metro eliminated from review the urban reserves without those characteristics. *Id.* at 52.

To the extent that Goal 14, Need Factor 2 or OAR 660-024-0050(1) require Metro to consider the suitability needs of the clusters that Hillsboro advocates, the Commission finds that the record indicates that Metro did so. The Commission rejects this objection.

c. 1000 Friends of Oregon *et al.*

1000 Friends of Oregon (“1000 Friends”) filed an objection to Metro’s Capacity Ordinance submittal. LCD Record, Item 17. 1000 Friends along with Save Helvetia, Linda Peters, Cherry Amabisca, and Robert Bailey (also referred to herein as “1000 Friends”) filed objections to Metro’s UGB amendment submittal that incorporated the earlier objections by reference. LCDC Record, Item 10. 1000 Friends filed an exception to the director’s report. LCDC Record, Item 7. Finally, 1000 Friends provided oral argument at the Commission’s hearing considering the UGB amendment. In each instance, 1000 Friends presented objections to Metro’s identification of an employment land need for additional land in the UGB to accommodate large lot industrial uses, which became an amendment to add 330 acres north of Hillsboro.

In its objections to the UGB amendment, 1000 Friends asserts that Metro has not justified a need for additional “large lots” for industrial use because (1) the need calculation is not based on a projection of a future need for large lots, (2) the need calculation is not consistent with the historical absorption of large lots, (3) Metro underestimates the large-lot inventory in the existing

UGB, and (4) Metro might be improperly accounting for large industrial users that are sited on larger parcels than they are currently using. Objector 1000 Friends asserts that this violates Goals 2, 9, and 14. LCDC Record, Item 10 at 81-83; Item 17 at 2. The proposed remedy is for the Commission to reverse Metro's UGB expansion of 330 acres for large-lot industrial sites, or remand the submittal with directions for Metro to do so. LCDC Record, Item 10 at 81.

i. Objection 1: Large Lot Need

Goal 14, Land Need Factor 2 requires that UGB amendments be based on a demonstrated need to accommodate, *inter alia*, employment opportunities. How Metro goes about demonstrating that it is providing an adequate supply of land for employment opportunities is largely undefined in statute and administrative rules. The submittals must contain findings supported by evidence to explain the policy choices. The findings must have an adequate factual basis and must be reasonable. This means that there must be reasons or findings that create a logical path from fact through analysis to findings. Local decision-makers can choose which evidence to believe, so long as the evidence they rely on is "substantial evidence." Local governments must identify what substantial evidence they relied on to determine the future employment land supply.

1000 Friends' objection alleges that Metro's analysis of past trends does not constitute substantial evidence of future need and points out particular evidence to support this claim. The objection further asserts that based on historical absorption of large lots, Metro can accommodate all of the identified need within the existing UGB.

Metro explained its process for establishing need in the findings attached to the UGB amendment ordinance:

"The need for large lots is derived from this general analysis of industrial land need. The more refined analysis considers only employers that have historically preferred to locate on large parcels. It is not based upon a strategy to attract new industries to the region. Cap Ord Rec 4089; 4118; 4270; 4273-4274; 4285-4292. Metro inventoried existing large employers and large parcel users and, assuming that large lot users would constitute the same proportionate share of any future employment, forecasted future large lot demand. Cap Ord Rec 4089-4091; 4118; 4270; 4273-4274; 4285-4292. Inquiries from companies seeking large lots and advice of experts corroborates the analysis." LCDC Record, Item 11 at 37.

Metro has completed considerable analysis of forecasted demand for large lots for employment uses (not just industrial), based on the types of users and buildings likely to seek to locate in the region. LCDC Record, Item 20 at 4089-4093; 4270-4292. It is correlated to the employment projection and analysis of current large employers. *Id.* Metro found that large lot

need is a subset of overall employment land need, for which Metro conducted considerable analysis beyond assessment of historical trends and coordination with local governments. *Id.* at 4044-4093. It found that large lot demand will continue at the same proportion of overall employment site demand as has been experienced. *Id.* at 4092.

1000 Friends performs its own analysis using different assumptions regarding which land is included in the inventory and how units of land are defined, and concluded the estimated large lot industrial need could be accommodated with the existing UGB. LCDC Record, Item 10 at 82; Item 7 at 2. The Commission understands 1000 Friends' analysis to be a demonstration that the submittal is not based on substantial evidence. However, the Commission has found herein that the data, findings and conclusions regarding the need for large-lot employment sites are such that a reasonable person could determine that the region has the identified need for large-lot industrial land. LCDC Record, Item 18 at 107-108. Metro's finding that that part of the region's employment land need for 2030 cannot be accommodated within the existing UGB is supported by substantial evidence. LCDC Record, Item 18 at 116-117. The Commission rejects this part of the objection.

ii. Objection 2: Inventory of Large Lots

1000 Friends argues that Metro underestimated the large-lot inventory in the existing UGB. LCDC Record, Item 10 at 83. The objector lists a number of reasons the existing inventory is too conservative. The first is that Metro erred by assessing tax lots rather than contiguous ownerships in its large lot inventory and by assuming that only lots over 25 acres would assemble into larger units. LCDC Record, Item 7 at 2; Item 10 at 83; Item 17 at 2. The Commission finds that Metro's use of tax lots is reasonable because they usually represent discrete, transferable units of land so, for the purposes of inventorying employment sites, incorrectly assuming an owner intends to keep adjacent lots under one ownership may result in a deficit of needed large lots. LCDC Record, Item 18 at 108. Regarding consolidation of lots smaller than 25 acres, Metro said: "Additional tax lot assembly opportunities involving lots smaller than 25 acres are possible, but are not included here. It is likely that assembly of multiple smaller tax lots would be more difficult to achieve." LCDC Record, Item 20 at 4117 note 23. In addition to reclamation of brownfield sites, Metro considered whether assembly of smaller parcels to provide more large parcels within the existing UGB. LCDC Record, Item 18 at 116. However, Metro found that neither it nor any city or county has developed an assembly program, largely due to lack of funds. *Id.* In the accommodating employment needs with an adequate number of sites, the Commission finds that it is reasonable for Metro to assume that lots will not consolidate.

1000 Friends cites the fact that "a Regional Industrial Lands Inventory is being conducted by Metro, the Port of Portland, Portland Business Alliance, Business Oregon, Metro, and NAIOP" as evidence that Metro underestimated the current supply of large employment sites. LCDC Record, Item 10 at 83. The objector does not cite to where this incomplete report is in the

record, and the department did not find that it is; therefore, the Commission finds that it is reasonable that Metro would not rely on an incomplete report that is not in the record.

The third part of this sub-assignment contends that all of the large employers expected to relocate to the Portland region during the planning period can be accommodated in the existing UGB; the department did not find in the record that Metro's analysis is limited to recruited employers, but includes all potential large-lot demand. "[Large-lot need] is not based upon a strategy to attract new industries to the region. LCDC Record, Item 11 at 37; Item 20 at 4089; 4118; 4270; 4273-4274; 4285-4292. The Commission rejects the part of this objections related to the large lot industrial site inventory.

iii. Objection 3: Oversized sites

The final part of 1000 Friends' objection to the UGB amendment for industrial sites relates to accounting for economic opportunities related to employers that have sited on "larger parcels than they are currently using." 1000 Friends contends that possible "double-counting" of employment land need may have occurred because, to the extent that large parcel users hold land for future business expansion opportunities, Metro has not established what portion of its identified employment need can be accommodated by such future business expansion during the planning period. LCDC Record, Item 10 at 84; Item 17 at 3.

Metro has not established the need for large industrial sites on a basis of employment projections, but rather as a proportion of the overall employment land need. LCDC Record, Item 11 at 37. While Metro derived the overall need from an employment forecast (LCDC Record, Item 18 at 107), Metro did not base its final determination of need on this assessment. LCDC Record, Item 20 at 4118. Metro considered the strengths and weaknesses of a forecast-based approach and opted to consider it rather than rely it. The UGR states:

"No amount of technical analysis can provide a completely precise assessment of future large lot demand. Thus, the Metro Policy Advisory Committee has expressed a desire to have flexibility in the region's plans to attract and retain potential traded-sector employment growth. Due to the limitations of further technical analysis, the expansion of the potential range of large lot demand is being done on a policy basis rather than through technical analysis." *Id.* at 4119.

The findings Metro adopted with the UGB Ordinance state:

"The need for large lots is derived from this general analysis of industrial land need. The more refined analysis considers only employers that have historically preferred to locate on large parcels. It is not based upon a strategy to attract new industries to the region. Cap Ord Rec 4089; 4118; 4270; 4273-4274; 4285-4292. Metro inventoried existing large employers and large parcel

users and, assuming that large lot users would constitute the same proportionate share of any future employment, forecasted future large lot demand. Cap Ord Rec 4089-4091; 4118; 4270; 4273-4274; 4285-4292. Inquiries from companies seeking large lots and advice of experts corroborates the analysis. Cap Ord Rec 4041-4088; 5123-5129; 6379-6384; UGB Ord Rec 361; 1674.

“The UGR compares the region’s supply with the region’s need for large sites for industrial use. The forecast-based analysis shows a need for lots 50 acres and larger in the range of 200 to 800 acres, depending upon the point on the forecast range. Cap Ord Rec 4113-4119; 6872; 6935; 6939-6945; 8164-8165; 1626. See also Business Oregon figures on growth of employment by size of business. UGB Ord Rec 1486. The analysis establishes the factual basis for the need for land for large-lot industrial users.

“There is also a policy basis for the Council’s decision to provide capacity for this need. This begins with the “Six Outcomes, Characteristics of a Successful Region”⁶, added to the Regional Framework Plan (RFP) by the capacity ordinance (Exhibit A). One of the Outcomes is “Current and future residents benefit from the region’s sustained economic competitiveness and prosperity.” More specific policies in the RFP are aimed to help achieve this outcome, including Policy 1.4.6.7 Cap Ord Rec 4119; 6872; 6935; 6939-6945; 8164. The Council implemented this policy by adding 330 acres suitable for large-lot industries. . .” LCDC Record, Item 11 at 37.

Because Metro did not establish need for large industrial sites based on assignment of employment to such sites, the possibility of “double-counting” jobs and underestimating the capacity of the existing UGB is not a potential outcome. The Commission rejects this part of the objection.

1000 Friends’ objections to the UGB amendment incorporated earlier objections to the Capacity Ordinance by reference, but did not reiterate them all. The immediately preceding section of this order addressed 1000 Friends’ objections to Metro’s UGB amendment expressed in its November 28, 2011 letter (LCDC Record, Item 10 at 81). The earlier objection to the Capacity Ordinance (LCDC Record, Item 17 at 1) contained objections not repeated later, and therefore not previously addressed in this order.

iv. Objection 4: Missing Sites

1000 Friends contends that Metro’s inventory of employment land “does not include certain large sites that are on Metro’s large site inventory map, such as parcels in Damascus (although the Damascus concept plan calls for large lot industrial use) and the Lents Freeway site,” leading to an erroneous finding that the Metro region needs additional large sites. LCDC

Record, Item 17 at 2; Item 7 at 3. Metro addressed the reasons these sites were not included in the inventory in the Capacity Ordinance. LCDC Record, Item 18 at 108. Metro did not include the Damascus parcels because they were designated for industrial use only in a concept plan, not an acknowledged comprehensive plan; Metro determined the Lents Freeway site is already developed. *Id.*

The Commission finds that Metro can reasonably limit the analysis of employment land supply in the current UGB to those areas that are in an acknowledged comprehensive plan for employment use. *See* OAR 660-009-0015(3) (requiring inventory of “vacant and developed lands within the planning area designated for industrial or other employment use). Similarly, although developed lands must be included in an employment lands inventory, it is reasonable for Metro to exclude developed sites from the supply of lands it considers for accommodation of new employment uses. The objection does not establish that Metro erred in leaving these sites out of its supply of available employment land. The Commission rejects this part of the objection.

v. Objection 5: Vacant buildings

1000 Friends asserts that Metro failed to account for vacant buildings, and their availability to accommodate employment uses, in its needs analysis for large industrial sites, rendering the evidentiary basis incomplete. LCDC Record, Item 17 at 3; Item 7 at 3. As an example, 1000 Friends argues “Metro does not include SolarWorld or other similar examples to show that many companies go into existing, vacant buildings.” LCDC Record, Item 17 at 3. To the extent Metro relied on the UGR for assessing large lot industrial site need, this component of need was derived as a proportion of overall employment land need. LCDC Record, Item 11 at 37. Metro employed a “refill” rate in its assessment of overall employment land need, and refill considers observed redevelopment rates, including use of existing buildings. LCDC Record, Item 20 at 4107, 4109. Metro did recognize, however, that large lot industrial use is less likely to develop on previously developed sites: “It is likely that many future large parcel needs will need to be accommodated on vacant buildable land rather than refill. Refill would appear to be a more likely source of capacity for smaller lot needs.” *Id.* at 4113.

The Commission finds that as a matter of fact, Metro did not assume that no vacant buildings would be reused. Additionally, Metro did not rely solely on the analyses contained in the UGR to determine large lot need. LCDC Record, Item 11 at 37. The Commission rejects this part of the objection.

d. Coalition for a Prosperous Region

The Coalition for a Prosperous Region (“CPR”) filed objections to the Capacity Ordinance. LCDC Record, Item 17 at 263; Item 15 at 7. CPR also submitted a letter containing “comments” regarding the UGB amendment. LCDC Record, Item 10 at 103. The latter did not allege deficiencies in the submittal, and therefore did not offer a proposed remedy as required by

OAR 660-025-0100(2)(c). Pursuant to OAR 660-025-0100(3), the Commission does not consider that letter in this order.

CPR's objection contends that the capacity ordinance is ambiguous regarding the need for large lot industrial land; the UGR projects 200 to 1,500 acres needed for large lot employment use and there is nothing to support that the capacity ordinance has accommodated a portion of this need so that only 310 acres should be added to the UGB. The proposed remedy is for the Commission's to approve the capacity ordinance and revise Sections 13 and 18 by adding specific language. In the alternative, if the Commission does not have the authority to revise the capacity ordinance, the remedy is to request that the approval order explicitly direct Metro to consider the full range of 200 to 1,500 acres needed for large lot industrial uses, and their site characteristics, in the 2011 UGB review. LCDC Record, Item 15 at 8.

Because CPR filed this objection for review of the Capacity Ordinance, prior to Metro's final consideration of the UGB, Metro further considered the issues CPR raised at that later stage of the UGB review. Metro ultimately adopted a UGB amendment to include 330 additional acres of employment land, only slightly more than CPR objected to as insufficient to satisfy the needs of the region. LCDC Record, Item 11 at 51. Metro utilized a range of forecasted need for large lot industrial land. Metro subsequently narrowed its consideration to the low end of the middle third.⁴⁴ *Id.* at 36. The 330 acres of industrial land ultimately included in the UGB approximates the low end of the middle third of the range.

Goal 14 requires that Metro accommodate the need for "employment opportunities," so Metro may choose to address employment land need by determining the number of sites, rather than acres, needed. Additionally, regarding the acreage, OAR 660-024-0040(1) provides, in part: "The 20-year need determinations are estimates which, although based on the best available information and methodologies, should not be held to an unreasonably high level of precision." Metro has established that the number of needed sites at various size ranges can be accommodated within the expanded UGB. LCDC Record, Item 11 at 36. The acreage of land included is also adequate. The Commission rejects this objection.

e. Westside Economic Alliance

Westside Economic Alliance ("WEA") filed objections to the Capacity Ordinance. LCDC Record, Item 17 at 277. The organization did not object to the UGB amendment.

WEA asserts that the UGR and Capacity Ordinance are in error for assuming a decline in manufacturing employment during the next 20 years, with a gradual shift to health care jobs,

⁴⁴ The CPR objection contends the range of large lot land need was 200 to 1,500 acres. LCDC Record, Item 15 at 8. Metro reports the Capacity Ordinance as showing a need of 200 to 800 acres. LCDC Record, Item 11 at 37. The findings in the Capacity Ordinance regarding the need for employment land list the number of parcels, not acres, needed. LCDC Record, Item 18 at 107. The UGR similarly does not establish an acreage range. LCDC Record, Item 20 at 4117.

finance and professional services. The proposed remedy is to address and correct the deficiencies and omissions noted in the objection. LCDC Record, Item 17 at 278.

Metro did not significantly change the assumptions that informed the analysis of employment land need between the adoption of the capacity ordinance, when this objection was made, and the decision on the UGB. However, objector WEA does not explain how the assumption of declining manufacturing employment affected the analysis of employment land need in a manner that is inconsistent with a statute, goal or administrative rule. The Commission finds that this objection does not provide a basis for remand; therefore, it is rejected.

i. Objection 1: Large Lot Development

WEA contends that Metro's recommendation for 310 acres to be designated for large lot development is unrealistically low and will unreasonably limit economic growth opportunities for the region. The remedy goes unstated, but is presumably to remand the decision to Metro with instructions to address and correct this deficiency. Item 17 at 279. This objection does not raise an issue of compliance with an applicable statute, goal or administrative rule; to the extent it does, the Commission rejected similar contentions, above. The Commission likewise rejects this objection.

ii. Objection 2: Inventories

WEA asserts that Metro relies on inconsistent and inflated inventories of developable land inside the UGB to meet the region's need for housing and employment. The proposed remedy goes unstated, but is presumably to remand the decision with instructions to Metro to employ a different set of assumptions in its analysis of the current UGB capacity to accommodate employment. LCDC record, Item 17 at 279.

See Section III.E concerning the Commission's analysis of residential land needs. Regarding employment land, see Section 3.F regarding the employment land inventory. The objection does not provide adequate specificity for the Commission to determine a basis for remand.

iii. Objection 3: Concentration of Growth in Centers

WEA asserts that Metro assumes future employment growth will be concentrated near existing urban centers and infrastructure services to limit needs for future UGB expansions. The proposed remedy goes unstated, but is presumably to remand the decision with instructions to Metro to employ a different set of assumptions in its analysis of where in the region employment growth will occur. LCDC Record, Item 17 at 280.

Metro's method is based on certain assumptions about local governments' ability to achieve design capacity. LCDC Record, Item 20 at 4040-4088. The objector disputes the assumptions as being unrealistic. The Commission finds that Metro did not assume that

industrial employment will become concentrated in centers and corridors in the UGB decision. The findings and conclusions in the capacity ordinance (Exhibit P; LCDC Record, Item 18 at 106) address “employment” in centers and corridors, but this is not specified as industrial employment, and when employment use is defined, it is described as “commercial” (for example, LCDC Record, Item 18 at 110). The Commission rejects this objection.

iv. Objection 4: Application of Goal 9

WEA questions whether Goal 9 should apply to Metro and asserts that Metro directly influences Goal 9 compliance obligations imposed on local jurisdictions. The objector does not propose a remedy. LCDC Record, Item 17 at 281. The objection does not identify a provision in a goal, rule, or statute that Metro’s UGB decision violates. Goal 9 does not apply to Metro; therefore the Commission rejects this objection.

f. Elizabeth Graser-Lindsey

Elizabeth Graser-Lindsey filed a letter containing objections to the Capacity Ordinance. LCDC Record, Item 17 at 9. One objection asserts that the Capacity Ordinance explains that the Metro region is in need of more large lot industrial lands to accommodate the demand identified in the 2009 UGR for large sites, and that the Beavercreek Road Concept Plan area includes significant amounts of large-lot industrial land. She also states that it is a violation of land use law for Metro to re-designate large lot industrial land to residential land when it needs just such land and it violates the law to neglect to count the land it has expressly put aside for that purpose making more UGB expansions necessary. Item 17 at 19.

Goal 14 requires an estimation of land needed within the UGB. Metro did not include the Beavercreek Concept Plan area in its employment inventory because it is not zoned for industrial use. LCDC Record, Item 18 at 108. The Commission finds that Metro can reasonably limit the analysis of employment land supply in the current UGB to those areas that are in an acknowledged comprehensive plan for employment use. *See* OAR 660-009-0015(3) (requiring inventory of “vacant and developed lands within the planning area designated for industrial or other employment use). The objector has not established that the land in the Beavercreek Road area satisfies Metro’s need for large-lot industrial sites. The Commission reject this objection

G. Boundary Location (Goal 14 Analysis)

Goal 14 states, in relevant part:

“To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for liveable communities.”

After the department had referred the submittal of the capacity ordinance to the Commission, the Court of Appeals decided *1000 Friends of Oregon v. LCDC (McMinnville)*, 244 Or App 239, 259 P3d 1021 (2011). In *McMinnville*, the court announced a new interpretation of the interplay between ORS 197.298 and *former* Goal 14 in considering an UGB amendment. While understandably Metro did not employ the methodology announced in *McMinnville* in its consideration and findings for Ordinance No. 11-1264B, in its review the Commission must additionally consider the submittal under the court's construction, mindful that some distinctions may arise regarding the application of *former* Goal 14 in the *McMinnville* analysis and the application of the current Goal 14 in this matter. The Court of Appeals expressly did not decide the relationship between the current Goal 14 and ORS 197.298. 244 Or App at 257 n 8.

1. Goal 14 Land Need

ORS 197.298(1) provides:

"In addition to any requirements established by rule addressing urbanization, land may not be included within an urban growth boundary except under the following priorities:

"(a) First priority is land that is designated urban reserve land under ORS 195.145, rule or metropolitan service district action plan.

"(b) If land under paragraph (a) of this subsection is inadequate to accommodate the amount of land needed, second priority is land adjacent to an urban growth boundary that is identified in an acknowledged comprehensive plan as an exception area or nonresource land. Second priority may include resource land that is completely surrounded by exception areas unless such resource land is high-value farmland as described in ORS 215.710.

"(c) If land under paragraphs (a) and (b) of this subsection is inadequate to accommodate the amount of land needed, third priority is land designated as marginal land pursuant to ORS 197.247 (1991 Edition).

"(d) If land under paragraphs (a) to (c) of this subsection is inadequate to accommodate the amount of land needed, fourth priority is land designated in an acknowledged comprehensive plan for agriculture or forestry, or both."

The first step under ORS 197.298(1) is to determine the "amount of land needed." *1000 Friends of Oregon v. LCDC (McMinnville)*, 244 Or App at 255.

Under Goal 14, change of an UGB is required to be based on two Land Need Factors. OAR 660-024-0040. Goal 14 provides:

“(1) Demonstrated need to accommodate long range urban population, consistent with a 20-year population forecast coordinated with affected local governments; and

“(2) Demonstrated need for housing, employment opportunities, livability or uses such as public facilities, streets and roads, schools, parks or open space, or any combination of the need categories in this subsection (2).

“In determining need, local government may specify characteristics, such as parcel size, topography or proximity, necessary for land to be suitable for an identified need.

“Prior to expanding an urban growth boundary, local governments shall demonstrate that needs cannot reasonably be accommodated on land already inside the urban growth boundary.”

When this Commission amended Goal 14 in 2005, it recognized a broader scope of considerations a local government may make under the Land Need Factors.⁴⁵ Specifically, in determining need, the Commission authorized local government to “specify characteristics, such as parcel size, topography or proximity, necessary for land to be suitable for an identified need” in recognition that a need may not, for example, be simply a need for housing, but a need for housing that has a special characteristic such as housing with walkable access to downtown. The amendment stemmed from the North Plains UGB amendment decision in which the Commission agreed that proximity to downtown was a “characteristic” of that city’s identified land need. Thus, the current Goal 14 recognizes that particular characteristics may be necessary in order for land to accommodate a specific need. *See* January 19, 2005 Goal 14 Amendment Staff Report at 3-4 (explaining changes to Land Need section of Goal 14).

Metro identified a Land Need for 1,657 acres for housing to accommodate 15,896 dwelling units and 330 acres suitable for industries that need large parcels. Metro explained the determination of housing need in significant detail, concluding that notwithstanding Metro’s actions to use land more efficiently (which provided capacity for 30,300 of the 27,400-79,300 dwelling unit need identified in the UGR), a shortfall ranging from 15,400 to 26,600 dwelling units remained to be met by expansion of the UGB. Exhibit D to Ordinance No. 11-1264B at 4-8. Similarly, Metro detailed its identified need for large-lot industrial use. *Id.* at 8-10; Staff

⁴⁵ The need factors under *former* Goal 14 provided:

“(1) Demonstrated need to accommodate long-range urban population growth requirements consistent with LCDC goals;

“(2) Need for housing, employment opportunities, and livability[.]”

Report to Ordinance No. 11-1264A at 2. The UGR determined that although there was generally sufficient capacity for employment, there is a specific deficiency in ability to meet the identified need for large-lot industrial use.⁴⁶

Metro testified to the Commission that the identified need for large-lot industrial use has certain site characteristics: slopes of less than 10 percent;⁴⁷ proximity to other industrial uses and UGMFP Title 4 Areas (within one mile) and good access to transportation facilities. For the identified residential need, the site characteristics that Metro considered included: constraints on efficient development of mixed use Centers and Corridors; distance from transportation services within the UGB; distance from public facilities and services within the UGB; willingness of cities to provide services and governance. Metro specified the proximity concern as both close in and able to develop as a designated Corridor; not merely proximity to the UGB, but to areas in the UGB that can complement adjacent development and available services. Again, Goal 14 allows Metro, in determining need, to specify characteristics, such as “parcel size, topography or proximity, necessary for land to be suitable for an identified need.” The Commission concludes that Metro has utilized such site characteristics in its identification of residential and employment land need.

Metro explained how the identified need and the site characteristic components thereof were in furtherance of Metro policy. In the capacity ordinance, Metro added “Six Outcomes, Characteristics of a Successful Region” to Regional Framework Plan Chapter 1, which states:

“It is the policy of the Metro Council to exercise its powers to achieve the following six outcomes, characteristics of a successful region:

“1. People live, work and play in vibrant communities where their everyday needs are easily accessible.

“2. Current and future residents benefit from the region’s sustained economic competitiveness and prosperity.

⁴⁶ The UGR states:

“The current employment demand forecast and the analysis of employment capacity within the UGB do not indicate a need to add land to the boundary for industrial or non-industrial purposes at the regional level to maintain sufficient capacity to support the region’s forecasted employment at the low end of the demand range. However, the analysis does show a need for additional capacity through investments, policy changes, or expansions to support the high end of the demand range for non-industrial employment. Further analysis of preferences for large lots and the current inventory results in a small potential gap in the land needed to support current preferences for large lot formats for single and multi-tenant users.” UGR at 83.

⁴⁷ The UGR determined that currently industrial employment occurs on large parcels that tend to be fairly flat. 2009 – 2030 urban growth report, Appendix 4 at A4-5.

“3. People have safe and reliable transportation choices that enhance their quality of life.

“4. The region is a leader in minimizing contributions to global warming.

“5. Current and future generations enjoy clean air, clean water and healthy ecosystems.

“6. The benefits and burdens of growth and change are distributed equitably.”

Exhibit A to Ordinance No. 10-1244B at 1. For example, Metro found that if implemented “Current and future residents benefit from the region’s sustained economic competitiveness and prosperity” and RFP 1.4.6⁴⁸ by adding 330 acres suitable for large-lot industries, by strengthening protection of all “Regionally Significant Industrial Areas” in Title 4 of the Urban Growth Management Functional Plan, and by imposing conditions to consolidate parcels and limit non-industrial uses. Exhibit D to Ordinance No. 11-1264B at 9.

Having identified a need under Goal 14 Land Need factors – 330 acres of large lot-industrial and 1,657 acres of residential need that will provide “great communities” – the consideration turns to the accommodation of the identified need. The Commission finds that Metro took the first step under ORS 197.298(1) by determining the “amount of land needed.” *McMinnville*, 244 Or App at 255. Metro’s focus on what kind of site characteristics the identified need must possess aligns with the second step under the methodology announced in *McMinnville*, the adequacy assessment.

2. Adequacy Assessment

In *McMinnville*, the court determined that ORS 197.298(1) and (3), together with Goal 14 play a role in both locating and justifying the inclusion of land to fill the quantified need. 244 Or App at 257-265. Metro’s quantified need (330 acres of large lot-industrial and 1,657 acres of residential need) is cumulatively just less than 2,000 acres of land. Metro has 28,256 acres of land designated urban reserve land under ORS 195.141 and 195.145 that is thus first priority land under ORS 197.298(1)(a).⁴⁹ In its findings, Metro stated:

“Metro began the search for the most appropriate land to add to the UGB for this capacity with review of the highest priority lands

⁴⁸ RFP 1.4.6. provides:

“Consistent with policies promoting a compact urban form, ensure that the region maintains a sufficient supply of tracts 50 acres and larger to meet demand by traded-sector industries for large sites and protect those sites from conversion to non-industrial uses.”

⁴⁹ The Commission acknowledged the urban reserves in Order No. 12-ACK-001819. Judicial review of that order is pending before the Court of Appeals. *Barkers Five, LLC v. LCDC* (CA A152351).

outside the UGB, prescribed by ORS 197.298(1): the 28,256 acres of land designated urban reserves pursuant to ORS 195.141. Metro neither studied nor included lower priority land. To evaluate urban reserves for possible inclusion, the Council used the location factors in Goal 14 and the relevant policies of Metro's Regional Framework Plan (RFP) as guides." Exhibit D to Ordinance No. 11-1264B at 10.

Were Metro to have conducted an alternative evaluation of all 28,256 acres of land under the Boundary Location factors of Goal 14, the Commission may have concluded that it need not further consider the submittal relative to the adequacy assessment step of the *McMinnville* decision. The Commission may have determined that Metro complied with ORS 197.298(1), because it only considered urban reserves. However, compliance with the criteria of ORS 197.298 does not excuse the separate application of Goal 14 to the UGB amendment. *Residents of Rosemont v. Metro*, 173 Or App 321, 332-33, 21 P3d 1108 (2001); *see also 1000 Friends of Oregon v. Metro*, 174 Or App 406, 412-14, 26 P3d 151 (2001) (compliance with ORS 197.298 in justifying an UGB change does not excuse the need to separately apply Boundary Location factor to proposed change). To accommodate the identified need for just less than 2,000 acres of housing and employment land, Metro selected 9,800 acres of the 28,256 acres of urban reserves for its alternatives analysis. The Commission finds that such an approach of selecting a smaller set of land for the alternative analysis may be consistent with the "adequacy assessment" step announced in *McMinnville*. "ORS 197.298 operates, in short, to identify land that *could* be added to accommodate a needed type of land use." 244 Or App at 265. Because that case was decided in the midst of Metro's UGB amendment process, it is understandable that Metro did not present the selection of 9,800 acres of the 28,256 acres of urban reserves in the way of findings utilizing the *McMinnville* methodology. Metro explains that it used location and site characteristics to select the 9,800 acres for detailed analysis.

Before turning to a consideration of the submittal under an "adequacy assessment" analysis, the Commission notes both legal distinctions and a factual distinction that are important to its analysis. First, as noted herein, *McMinnville* was decided under *former* Goal 14, which did not expressly allow for the identification of site characteristics in framing the identified need for housing or employment. Second, the *McMinnville* decision did not involve OAR chapter 660, division 24, the regulatory scheme the Commission adopted to implement the current Goal 14. Finally, Metro did not look to lower priority land at all, it was only selecting amongst land designated urban reserve.

According to the *McMinnville* methodology, the adequacy assessment of higher priority land involves evaluating candidate areas under ORS 197.298(3)(b) and (c) and *former* Goal 14 Factor 5 and Factor 7. Thus an area may be deemed inadequate for the identified need under the adequacy assessment based on consideration of the following:

1. Future urban services could not reasonably be provided to the higher priority lands due to topographical or other physical constraints (ORS 197.298(3)(b));
2. Maximum efficiency of land uses within a proposed urban growth boundary requires inclusion of lower priority lands in order to include or to provide services to higher priority lands (ORS 197.298(3)(c));
3. Environmental, energy, economic and social consequences (*former* Factor 5); and
4. Compatibility of the proposed urban uses with nearby agricultural activity (*former* Factor 7). *McMinnville*, 244 Or App at 264-65.

The Commission notes that *former* Factor 5 is presently Boundary Location Factor 3: Comparative environmental, energy, economic and social consequences; and *former* Factor 7 is presently Boundary Location Factor 4: Compatibility of the proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB. Therefore, Metro could utilize Boundary Location Factors 3 and 4 in an adequacy assessment. However, in order for ORS 197.298(3)(b) and (c) to have a determinative role in this matter, Metro would have had to determine that some of the nearly 2,000 acres of identified need could not be met on the 28,256 acres of urban reserve. That is because, by the terms of ORS 197.298(3), subsection (3)(b) and (c) are reasons that allow “Land of lower priority” under ORS 197.298(1) to be included in an urban growth boundary upon a finding that land of higher priority is inadequate to accommodate the amount of land estimated. In its submittal, Metro did not consider including lands of lower priority; Metro was determining which of the urban reserves were adequate to meet the identified need.⁵⁰

To be clear, Metro did not perform such an adequacy assessment analysis *per se*; however, the Commission finds that what Metro did in selecting the 9,800 acres of the 28,256 acres of urban reserves was in many ways analogous to and consistent with such an analysis. In identifying its need, Metro utilized characteristics necessary for land to be suitable for both its identified housing and employment land need. Those characteristics are embodied in the “Six Outcomes, Characteristics of a Successful Region” of Regional Framework Plan Chapter 1. In essence, consideration of the six outcomes is a consideration of the environmental, energy, economic and social consequences of Boundary Location 3. The first outcome, “People live, work and play in vibrant communities where their everyday needs are easily accessible” reflect both an economic and a social consideration. The second outcome, “Current and future residents benefit from the region’s sustained economic competitiveness and prosperity” is primarily an economic consideration. “People have safe and reliable transportation choices that enhance their quality of life,” the third outcome, embodies all four ESEE considerations. The fourth and fifth outcomes, “The region is a leader in minimizing contributions to global warming” and “Current and future generations enjoy clean air, clean water and healthy ecosystems” primarily reflect environmental considerations. Finally, the sixth outcome “The benefits and burdens of growth

⁵⁰ Similar to the “adequacy assessment” step, OAR 660-024-0060(1)(a) requires Metro to determine which lands within a particular priority under ORS 197.298 are “suitable” to accommodate the identified need.

and change are distributed equitably” invokes social and economic considerations. Thus, the adequacy assessment Metro undertook in identifying the 9,800 acres of urban reserves for close study constitutes largely a consideration of the environmental, energy, economic and social consequences of Boundary Location 3.

The Commission recognizes that considering Metro’s means of arriving at 9,800 as an adequacy assessment exercise focused on Boundary Location 3 for purposes of applying the *McMinnville* methodology could be deemed contrary to governing law. It is well established that Metro may not make a single factor determinative. *See Citizens Against Irresponsible Growth v. Metro*, 179 Or App 12, 17, 38 P3d 956 (2002) (“No single factor is of such importance as to be determinative in an UGB Amendment proceeding, nor are the individual factors necessarily thresholds that must be met.”). To be absolutely clear, the Commission would have enjoyed an easier time reviewing this submittal had Metro applied the Boundary Location Factors of Goal 14 to all 28,256 acres of urban reserves as laid out in OAR 660-024-0060(1)(a) and (b). However, under ORS 197.633(3), the Commission is tasked with reviewing what was submitted; the *McMinnville* methodology requires, or at least contemplates, that a local government must identify those lands that may be adequate to accommodate the amount of land needed; and our rules require Metro to “determine which land in that priority scheme is suitable to accommodate the need deficiency.” OAR 660-024-0060(1)(a). Here however, the Commission finds that the potential inconsistency of elevating an ESEE type analysis of Metro’s needed land characteristics is minimized because Metro had very recently engaged in the process of considering and designating the very urban reserves from which it selected areas for expansion in this submittal. The Commission first considers the background of urban reserves and the considerations that went into their designation before returning to analyzing whether Metro’s UGB amendment submittal in this matter is consistent with the current Goal 14 and the *McMinnville* methodology.

Background: What are urban reserves?

Urban Reserve Areas were a relatively late addition to the Oregon Land Use Program. The Commission created the planning tool in 1992 through adoption of OAR chapter 660, division 21, several years after the state’s initial acknowledgement of all land use plans and UGBs under the statewide planning goals. Unlike UGBs, designation of urban reserves is optional for local governments.⁵¹

An “Urban Reserve Area” (SB 1011 (2007) shortened this term to “Urban Reserve”) is land outside of – but contiguous to – an existing urban growth boundary; it must be shown on a city and county comprehensive plan map or on Metro’s Urban Growth Management Functional Plan map and is designated for ultimate urbanization as the city or region expands its urban area.

⁵¹ The 1992 urban reserve rules authorized the Commission to require some local governments to adopt urban reserves. After modification of the rules by subsequent legislation, only the cities of Sandy and Newberg were required to designate reserves.

Division 21 specified that urban reserves must “include an amount of land estimated to be at least a 10-year supply and no more than a 30-year supply of developable land beyond the 20-year time frame used to establish the urban growth boundary.”⁵² In other words, by adopting an urban reserve area in conjunction with the 20-year UGB, local governments (including Metro) may designate and plan for a 50-year supply of land for urbanization. However, it is important to note that land in an urban reserve is outside the UGB, and must remain planned and zoned as “rural land” under farm, forest or other rural zoning requirements until such time as it is brought in to the UGB. The designation of urban reserves does not change the rules for UGB expansion except on one vital point: Urban reserves are statutorily the *highest priority* for inclusion in the urban growth boundary when the boundary is expanded, regardless of whether the land in the urban reserve is farm or forest resource land. ORS 197.298(1); OAR 660-027-0070(1).

The Commission authorized local governments to plan for urban reserves for several reasons. First, local governments expressed a wish to plan for a longer-term horizon than the 20-year period provided inside a UGB, in part because many public facilities and transportation facilities are typically designed and built to last significantly longer than 20 years. By designating urban reserves, a local government gains more certainty with regard to the direction of long-term growth and, for example, may therefore size and position sewer and water lines to ultimately serve a 50-year growth area beyond the UGB. Second, urban reserves are intended as a tool to manage the parcelization of residential “exception areas” adjacent to many UGBs, areas that would be anticipated to be high priority for eventual expansion of the UGB. The piecemeal division of this potentially urbanizable land would impede efficient urbanization and, in many cases, prevent efficient provision of roads and other facilities within and beyond these areas. Finally, designation of urban reserves streamlines UGB expansion by identifying areas that must be first priority for UGB expansion, and as such may save time and costs for local governments performing the alternative “locational” analysis required for UGB expansion.

The division 21 urban reserve rules provided a “hierarchy” for choosing land for the reserves, in order to ensure that in designating reserves, the city or Metro first consider utilizing non-resource land, exception land and the “least-important” farm or forest resource land. Shortly after the 1992 adoption of division 21, the legislature utilized the hierarchy nearly verbatim in legislation (ORS 197.298) so as to require that hierarchy for UGB amendments, with one significant change: the legislation specifies that the *highest priority* land for UGB expansion is land designated as urban reserves. At the same time, the legislature enacted new urban reserve provisions in statute (ORS 195.145) that modified division 21.

Metro designated urban reserves under ORS 195.145 and division 21 in 1997, but on judicial review of the designation the Court of Appeals affirmed the Land Use Board of Appeals’ remand. *D.S. Parklane Development, Inc. v. Metro*, 165 Or App 1, 994 P2d 1205 (2000).

⁵² Rather than a 10-30 year horizon, SB 1011 specifies a 20-30 year urban reserve horizon.

Senate Bill 1011

Senate Bill 1011, enacted by the 2007 legislature (Oregon Laws 2007, chapter 723), authorizes Metro and Metro area counties to designate urban and rural reserves through an alternative process and criteria established by this Commission in rulemaking. A broad coalition of interests in the region supported SB 1011, which was based on research that Metro, Washington, Multnomah, and Clackamas counties, the Department and the Oregon Department of Agriculture (ODA), conducted in 2007 “in order to better inform the region’s approach to growth management and future urban expansion.” The “Shape of the Region” study examined land outside Metro’s UGB and asked three broad questions:

- What lands are functionally critical to the region’s agricultural economy?
- What natural landscape features are important in terms of ecological function and defining a sense of place for residents of the region?
- What attributes allow lands to most efficiently and effectively be integrated into the urban fabric of the region to create sustainable and complete communities?

In summary, SB1011 established a system under which the region may designate lands outside the regional UGB on which urban expansion will and will not occur over a 40-50-year period. The three main elements:

Section 3 (codified as ORS 195.141) authorizes the establishment of rural reserves that will be off-limits to urban expansion during the 40-50-year planning period. These lands would be selected based upon their importance to the agriculture and forestry industries and for the protection of natural systems and landscape features.

Section 6 amended ORS 195.145 to provide an additional pathway for the creation of urban reserves – areas that would be first in line for addition to the UGB – in the Portland metropolitan area. ORS 195.145 authorizes the designation of urban reserves that, in conjunction with land already in the UGB, would provide 40-50 years of “capacity” for urban growth. Metro may designate urban reserves based upon a set of “factors” that emphasizes suitability for urban development.

Section 4 (codified as ORS 195.143) provides that urban and rural reserves are to be addressed as part of an integrated planning process involving concurrent consideration and designated through “intergovernmental agreements” between Metro and participating counties.

There are two fundamental principles regarding the SB 1011 process for designation of urban and rural reserves: (1) Intergovernmental agreements are a prerequisite to formal designation, and (2) the identification and selection of reserves is requires the consideration of “factors.”

ORS 195.145(5) provides the “factors” for determining urban reserves:

“A district and a county shall base the designation of urban reserves under subsection (1)(b) of this section upon consideration of factors, including, but not limited to, whether land proposed for designation as urban reserves, alone or in conjunction with land inside the urban growth boundary:

“(a) Can be developed at urban densities in a way that makes efficient use of existing and future public infrastructure investments;

“(b) Includes sufficient development capacity to support a healthy urban economy;

“(c) Can be served by public schools and other urban-level public facilities and services efficiently and cost-effectively by appropriate and financially capable service providers;

“(d) Can be designed to be walkable and served by a well-connected system of streets by appropriate service providers;

“(e) Can be designed to preserve and enhance natural ecological systems; and

“(f) Includes sufficient land suitable for a range of housing types.”

These statutory factors for urban reserves are not a closed list; the statute indicates the factors “include, but are not limited to” those specified above. Based on this, the Commission adopted a rule, OAR 660-027-0050 that provides “Factors for Designation of Lands as Urban Reserves.”⁵³

Metro and the three counties analyzed 400,000 acres of land during the urban and rural reserves designation decision. Metro considered the Factors for Designation of Lands as Urban Reserve under OAR 660-027-0050 (and for Foundation Agricultural Lands, both the Urban

⁵³ OAR 660-027-0050 provides:

“Urban Reserve Factors: When identifying and selecting lands for designation as urban reserves under this division, Metro shall base its decision on consideration of whether land proposed for designation as urban reserves, alone or in conjunction with land inside the UGB:

“(1) Can be developed at urban densities in a way that makes efficient use of existing and future public and private infrastructure investments;

“(2) Includes sufficient development capacity to support a healthy economy;

“(3) Can be efficiently and cost-effectively served with public schools and other urban-level public facilities and services by appropriate and financially capable service providers;

“(4) Can be designed to be walkable and served with a well-connected system of streets, bikeways, recreation trails and public transit by appropriate service providers;

“(5) Can be designed to preserve and enhance natural ecological systems;

“(6) Includes sufficient land suitable for a range of needed housing types;

“(7) Can be developed in a way that preserves important natural landscape features included in urban reserves; and

“(8) Can be designed to avoid or minimize adverse effects on farm and forest practices, and adverse effects on important natural landscape features, on nearby land including land designated as rural reserves.”

Reserve factors and the Factors for Designation of Lands as Rural Reserves under OAR 660-027-0060 pursuant to OAR 660-027-0040(11)) in deciding that the 28,256 acres of land that it designated Urban Reserves under ORS 195.145(1)(b) was the best suited land for urbanization. *See* Metro Ordinance No. 11-1255 with attachments.⁵⁴ All 28,256 acres of land that Metro designated urban reserve are suitable for urbanization. All are of the same statutory priority for inclusion within the UGB under ORS 197.298(1)(a). With the foregoing background on urban reserves, the Commission returns to the inquiry as to whether the submittal properly is based on an adequacy assessment of the 28,256 acres of urban reserves for the meeting Metro's identified need for employment and housing.

In the UGB Ordinance findings, Metro described its identification of the 9,800 acres of urban reserves it deemed adequate for consideration under the Boundary Location Factor alternative analysis for selecting the 1,987 acres it added to the UGB. Metro found:

“In its first level of analysis, Metro considered all 28,256 acres of urban reserves. In 2010, Metro used past studies, such as the Great Communities Report, and findings from the urban and rural reserves process to eliminate some areas from further consideration. Metro also consulted with cities and counties to determine their interest in providing capacity for the needs identified, to provide governance and to provide infrastructure for areas that might be added. Following these consultations and consideration of Metro policies, Metro chose for further study approximately 8,300 acres close to the UGB and most suitable for the needs identified in the UGB. In 2011, Metro again invited local governments to propose other urban reserves to be more closely evaluated. Ultimately, Metro studied 9,800 acres. The process Metro followed is set forth at UGB Ord Rec 474-478.” Exhibit D to Ordinance No. 11-1264B at 10.

The Commission has accepted above that the Great Communities Report can be understood to have provided site characteristics and as a valid consideration of environmental, energy, economic, and social consequences. The stated purpose of the 2006 Great Communities Report is to “define and describe community characteristics that should be included in urbanization decision-making processes.” Great Communities Report at 1. That report defined eight Great Community urbanization characteristics – community design, complete communities, ecological systems, optimize regional public investments, governance, finance, economy, education and Workforce development – and then described in detail criteria, evaluation questions and data needs for evaluating the likelihood of an area to meet the eight characteristics through urbanization. *Id.* At 5-9, 11-20. Metro also relies on the findings from its urban and rural reserve work. Metro argues to the Commission that the urban reserves analysis largely satisfies the Goal

⁵⁴ At Metro's request, the Commission took official notice of that order along with its attachments pursuant to OAR 660-025-0085(5)(g)(C).

14 Boundary Location analysis. Metro contends that the ORS 195.145(5) reserve factors relate quite closely to the location factors of Goal 14 by listing the location factors and their closest counterparts in the reserves factors as follows:

Goal 14 Boundary Location Factor 1: "Efficient accommodation of identified land needs"

Reserve Factor: "Can be developed at urban densities in a way that makes efficient use of existing and future public infrastructure investments"

Reserve Factor: "Includes sufficient development capacity to support a healthy urban economy"

Reserve Factor: "Can be designed to be walkable and served by a well-connected system of streets by appropriate service providers"

Reserve Factor: "Includes sufficient land suitable for a range of housing types"

Goal 14 Boundary Location Factor 2: "Orderly and economic provision of public facilities and services"

Reserve Factor: "Can be developed at urban densities in a way that makes efficient use of existing and future public infrastructure investments"

Reserve Factor: "Can be served by public schools and other urban-level public facilities and services efficiently and cost-effectively by appropriate and financially capable service providers"

Reserve Factor: "Can be designed to be walkable and served by a well-connected system of streets by appropriate service providers"

Reserve Factor: "Provide easy access to recreational opportunities in rural areas, such as rural trails and parks"

Goal 14 Boundary Location Factor 3: "Comparative environmental, energy, economic and social consequences"

Reserve Factor: "Can be designed to preserve and enhance natural ecological systems"

Reserve Factor: "Are subject to natural disasters or hazards, such as floodplains, steep slopes and areas subject to landslides"

Reserve Factor: "Are important fish, plant or wildlife habitat"

Reserve Factor: "Provide a sense of place for the region, such as buttes, bluffs, islands and extensive wetlands"

Reserve Factor: "Are necessary to protect water quality or water quantity, such as streams, wetlands and riparian areas"

Reserve Factor: "Provide a sense of place for the region, such as buttes, bluffs, islands and extensive wetlands"

Reserve Factor: "Provide for separation between cities"

Reserve Factor: "Provide easy access to recreational opportunities in rural areas, such as rural trails and parks"

Goal 14 Boundary Location Factor 4: "Compatibility of the proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB"

Reserve Factor: "Are situated in an area that is otherwise potentially subject to urbanization during the applicable period"

Reserve Factor: "The adjacent land use pattern, including its location in relation to adjacent non-farm uses or non-forest uses, and the existence of buffers between agricultural or forest operations and non-farm or non-forest uses"

Reserve Factor: "The sufficiency of agricultural or forestry infrastructure in the area"

Reserve Factor: "Can serve as a boundary or buffer, such as rivers, cliffs and floodplains, to reduce conflicts between urban uses and rural uses, or conflicts between urban uses and natural resource uses."

The Commission has previously found that in considering the urban reserve factors of ORS 195.145(5) and OAR 660-027-0050, Metro considered the elements of the Boundary Location Factors. Order 12-ACK-001819. At one level, the Commission finds that it might be appropriate to decide that all that Metro's recent designation of urban reserves establishes is that Metro has determined that all 28,256 acres of urban reserves are to some extent appropriate for urbanization and therefore should be part of the alternative analysis under the Boundary Location factors. However, to the extent that Metro subsequently used the information in assessing which of the urban reserves may actually be adequate to meet its identified needs in this UGB amendment process, then Metro may rely on its prior effort here. In completing the designation of urban reserves, Metro had gathered extensive information about all 28,256 acres that it designated. Thus, when Metro undertook the UGB amendment process it was able to draw upon the recent urban reserves designation analysis in assessing which of the first priority urban reserves lands suitable for urbanization over the 50-year period might possess the site characteristics necessary to meet its current identified land need in the shorter 20-year time frame. Of the 28,256 acres of urban reserves, Metro, along with the region's cities, ultimately identified 9,800 acres to study in "great detail" under the Boundary Location Factors of Goal 14.

As detailed above, the Commission finds that Metro identified the 9,800 acres of urban reserve as potentially adequate for accommodating the identified need by identifying needed site characteristics and using the recent studies from the reserves designation process to identify nearly five times the amount of land it needed to study in a Boundary Location alternatives analysis under Goal 14. Although in so doing Metro made no findings addressing the *McMinnville* adequacy assessment step, the narrowing aligns with the considerations the court assigned to the task, specifically, the comparative environmental, energy, economic, and social consequences reflected in site characteristics including those derived from the Great Communities Report. Because Metro was only assessing lands of the same ORS 197.298(1) hierarchy, that as "urban reserves," by definition,⁵⁵ Metro has designated for their ability to

⁵⁵ ORS 195.137(2) provides:

"Urban reserve" means lands outside an urban growth boundary that will provide for:

"(a) Future expansion over a long-term period; and

accommodate some level of urbanization over the next 50-year period, the Commission finds that Metro could look to site characteristics identified as part of the Goal 14 Land Needs to assess which urban reserves lands could reasonable accommodate the identified need and focus the Goal 14 Boundary Location alternatives analysis on those lands. The Commission further finds that because the urban reserves designation occurred immediately prior to the UGB amendment, Metro's reliance on information from that exercise is reasonable and constitutes substantial evidence for this submittal. Any deviation from a precise alignment with *McMinnville* adequacy assessment, particularly in light of the differences in the applicable Goal 14 and the fact that Metro was only consider lands of the same statutory hierarchy under ORS 197.298(1), is minor or technical in nature. ORS 197.633(3)(c) and 197.747.

3. Goal 14 Boundary Location

Having identified 9,800 acres of urban reserve designated land as adequate to accommodate its identified need, Metro must use the Boundary Location Factors of Goal 14 to determine where to expand.⁵⁶ "Goal 14 works to qualify land that, having been identified already under ORS 197.298, *should* be added to the boundary." *McMinnville*, 244 Or App at 265 (emphasis in the original). Goal 14 provides that changes to the UGB "shall be determined by evaluating alternative boundary locations consistent with ORS 197.298 and with consideration of the [four Boundary Location] factors." The Court of Appeals has discussed the locational factors⁵⁷ analysis:

"[T]he locational factors are not independent approval criteria. It is not necessary that a designated level of satisfaction of the objectives of each factor must always be met before a local government can justify a change in a UGB. Rather, the local government must show that the factors were 'considered' and balanced by the local government in determining if a change in the UGB for a particular area is justified. It is within a local government's authority to evaluate the Goal 14 location factors

"(b) The cost-effective provision of public facilities and services within the area when the lands are included within the urban growth boundary."

OAR 660-027-0010(11) provides:

"'Urban reserve' means lands outside an urban growth boundary designated to provide for future expansion of the UGB over a long-term period and to facilitate planning for the cost-effective provision of public facilities and services when the lands are included within the urban growth boundary."

⁵⁶ Metro depicted that the study areas on a map. See Attachment 1 to Staff Report Ord. No. 11-1264 A.

⁵⁷ Case decided under the old Goal 14, which had the locational factors as Factors 3-7. *Ryland Homes*, 174 Or App at 408 n 1. When the Commission amended Goal 14 in 2005, Factors 3-5 and 7 were modified and retained as the Boundary Location factors in the present Goal. Factor (6) "Retention of agricultural land as defined, with Class I being the highest priority for retention and Class VI the lowest priority" was not retained because that factor became largely duplicative of ORS 197.298 when that statute was enacted in 1995.

and exercise its judgment as to which areas should be made available for growth.” *1000 Friends of Oregon v. Metro (Ryland Homes)*, 174 Or App 406, 409-410, 26 P3d 151 (2001) (citation omitted).

Metro must explain how consideration of the Boundary Location Factors led to the UGB amendment decision it submitted for Commission review. Metro has the “consider and balance” role, not the Commission. Thus, if Metro determines under a Boundary Location Factor that a city having capacity to and interest in providing public facilities and services is of great weight, it can ascribe great weight to that. Note, however, Metro may not make a single factor determinative. “No single factor is of such importance as to be determinative in an UGB Amendment proceeding, nor are the individual factors necessarily thresholds that must be met.” *Citizens Against Irresponsible Growth v. Metro*, 179 Or App 12, 17, 38 P3d 956 (2002). Thus, while Metro must establish that it considered all of the boundary location factors, it may favor outcomes more reflective of the interest represented by one or more factors. The goal of the consideration under the Boundary Location Factors is to determine the “best” land to add to the UGB, after considering each factor. *Alliance for Responsible Land Use v. Deschutes Cty*, 40 Or LUBA 304, 318-319 (2001), *aff’d* 179 Or App 348 (2002). In carrying out such consideration, each factor must be addressed.

The Commission finds that for each area added to the UGB, Metro made findings that establish that it considered each of the Boundary Location Factors. For example, for the South Hillsboro Analysis Area, for the Boundary Location Factors, Metro found:

“Factor 1: Efficient Accommodation of Identified Land Needs

“SHA has significant advantages over other areas considered for addition to the UGB: few owners; large parcels; flat land and little existing development. Two owners have parcels comprising 650 acres. These large parcels have no significant improvements. UGB Ord Rec 601; 1242; 1773. Most of the area is flat, and only 2.6 percent of the area has slopes greater than 25 percent. There are few if any geographic or physical obstacles to development. UGB Ord Rec 601; 717. Intel’s Aloha campus lies directly east of SHA, across 209th.

“The SHA and a larger area have been subject to extensive planning by Hillsboro and landowners. The planning and tentative agreements with landowners demonstrate the area can be urbanized efficiently.

“Approximately 79 percent of the gross buildable acres in SHA is unconstrained. Only eight of the other 23 areas studied yield a higher percentage of unconstrained land.¹⁴ UGB Ord Rec 497-711. None of these eight, however, has the advantages noted above.

“The Council concludes that these characteristics position SHA to accommodate residential development more efficiently – especially for street connectivity and public transit - than any other area considered. No other area has SHA’s combination of extensive community planning for flat land in large, undeveloped parcels in an area close to a proposed High Capacity Transit line. The Council concludes the area can develop as a Great Community and help achieve the Outcomes in the Regional Framework Plan.

“Factor 2: Orderly and Economic Provision of Public Facilities and Services

“SHA has high suitability for sewer, water and transportation services. Only eight other areas of the 24 studied have similar high suitabilities. UGB Ord Rec 715. Hillsboro and private landowners have capacity and financial capability to provide the public facilities needed; the city has expressed its willingness to do so. The city anticipates private developers will pay 70 to 80 percent of the cost of infrastructure. UGB Ord Rec 598-604; 1641; 1767-1771. Metro’s Regional High Capacity Transit System Plan designates the TV Highway passing by the northern edge of South Hillsboro as a High Capacity Transit Corridor. SHA is the only area studied to which TriMet currently extends high frequency bus service. Cap Ord Rec 5820.

“As with all areas under consideration, utilities, parks and schools will be expensive. UGB Ord Rec 715. But the city, in conjunction with developers and property owners in the area, has developed a community plan and an infrastructure financing strategy. UGB Ord Rec 1107; 1385; 1767-1772. The Hillsboro School District has an option to acquire school sites within SHA. UGB Ord Rec 1682. Hillsboro, service districts and landowners are updating agreements from 2008 to finance water, sewer, stormwater and road improvements. The agreement being negotiated estimates a \$90 million funding gap for transportation and a \$21 million gap for parks for “build-out” in 20 years. The parties to the agreement will eliminate or close these gaps through supplemental SDCs (paid by developers). UGB Ord Rec 1242; 1767-1771; 1773.

“The Council concludes that these efforts by the city put the South Hillsboro in a better position to provide services in an orderly and economic manner than any other area considered for expansion for housing capacity.

“Factor 3: Comparative Environmental, Energy, Economic and Social Consequences

“SHA includes segments of several streams, including Butternut Creek, which has associated wetlands and floodplains in the area. These constrained portions, however, are small in relation to the unconstrained portions. Environmental consequences to these resources will be relatively easily minimized and mitigated through application of Titles 3 and 13 of Metro’s Urban Growth Management Functional Plan¹⁷ (UGMFP), compared to other areas studied. UGB Ord Rec 598-604; 717.

“Because most of the area is devoted to agriculture, there will be adverse economic and social consequences to farmers and to agriculture in the area from loss of land base. But the consequences are limited given that the Reserves Golf Course borders the area to the west and the northern portion is bordered on three sides by the UGB and urban development. UGB Ord Rec 600-601.

“The Council concludes that the environmental, energy, economic and social consequences of urbanization of SHA are tolerable if mitigated as required by conditions in Ordinance No. 11-1264A and by Titles 3 and 13 of the UGMFP. The consequences are less adverse than those expected from urbanization of most other areas studied. UGB Ord Rec 598-604; 717. (See overall conclusions.)

“Factor 4: Compatibility of Proposed Uses with Nearby Agricultural and Forest Activities

“There is no significant portion of SHA or nearby land that is devoted to forest management. Significant agricultural land in farm use borders the area to the south and west, however, and presents compatibility issues. Pockets of rural residential development would serve as buffers between farm practices and urban development for a portion of the “edge” of SHA: the west side of River Road; southwest of the Reserves Golf Course along SW Rosa and River Roads. The golf course itself forms a buffer to the west. This development and existing large-lot rural residential development toward the southern edge reduce compatibility problems. The most important and valuable agriculture takes place south of Butternut Creek and its tributaries. There is no existing buffer between urbanization and agriculture in this part of the area. Mitigation measures, imposed by the UGB ordinance, will be required to reduce incompatibility. UGB Ordinance, Exhibit A, Rec Part 1; UGB Ord Rec 598-604.

“A few of the areas studied do not present compatibility issues with agriculture, generally because these areas do not border land in farm use or have natural or built buffers. UGB Ord Rec 598-604. But most areas studied present compatibility issues similar to those faced by urbanization of SHA, especially those areas that

border land designated for agriculture. Compared to these areas, SHA has milder compatibility problems because of its extensive edge coterminous with the UGB, the golf course to the west, large-lot residential development toward the southern edge and stream corridors (see Factor 3). UGB Ord Rec 598-604. As with the others, mitigation will reduce incompatibility. The UGB ordinance imposes a condition that requires the adoption of measures to enhance compatibility in the plan and land use regulations for urbanization of SHA. UGB Ordinance, Exhibit B, Rec Part 1. The mitigation required, together with natural and built buffers, will limit adverse effects on nearby agricultural practices.

“The Council concludes that the SHA performs as well as most areas studied under this compatibility factor, and that areas more compatible have other disadvantages that make them less satisfactory for addition to the UGB (see overall conclusions.)”

Exhibit D to Ordinance No. 11-1264B at 11-13 (footnotes omitted). Metro then turned to findings under Metro Code 3.07.1425(C)(5)-(9), before making the following overall conclusion:

“The Council concludes that SHA measures up better under the applicable factors for providing housing capacity than any area studied. With its large parcels, few owners, flat topography, a willing and capable city, developers ready to contribute millions of dollars to the capital cost of infrastructure, its presence on conflicted agricultural land, the large boundary it shares with the UGB and the Reserves Golf Course, its suitability for a compact, mixed-use, pedestrian and bicycle-friendly and transit-supportive development pattern, SHA is more likely than any area considered to become a “great community” and achieve the Outcomes set forth in the RFP.

“Compared to SHA, Gresham East has lower suitabilities for water, sewer and transportation services; and small parcels, many with development, that will make urbanization more difficult. Maplelane has the same disadvantages, but also has a high ratio of constrained to unconstrained gross vacant land, which limits its residential capacity. Beaver Creek Bluffs has the same difficulties as Maplelane, but a higher constrained land ratio. The Norwood area has lower water, sewer and transportation suitability than SHA. I-5 East has a high ratio of constrained to unconstrained land, including steep slopes that would fracture urban development in its northern portion, and many small parcels, 85 percent of which are improved. Elligsen, too, has much constrained land, difficult infrastructure issues and no easy way to ensure compatibility with agriculture to the south. The Advance area suffers from the same disadvantages. Sherwood West has a low ratio of constrained to unconstrained land, but lower suitabilities

for water, sewer and transportation services than SHA. Urbanization of Sherwood West would likely divert the city's effort from enhancing its town center. Sherwood South has a high ratio of constrained to unconstrained land, a large number of small parcels with improvements and difficult infrastructure issues. Efforts to urbanize it, too, may divert Sherwood's effort to enhance its town center.

"The Tonquin area, a quarry, has low suitability for housing and infrastructure issues. Roy Rogers West (Urban Reserve Area 6C) measures well under several factors, but has no easy way to ensure compatibility with agriculture to the west and south. Its rural residential development pattern will make it more difficult to urbanize in a compact, efficient pattern.

"Compared to SHA, the Vandermost Road area has a high ratio of constrained to unconstrained land and likely moderate to high adverse economic, social and energy consequences from urbanization. The Forest Grove North area has high suitability for services and medium sized parcels, suitable for urbanization (though not nearly as large as South Hillsboro). But it borders an extensive block of intensely farmed land with no effective buffers, rendering it incompatible with nearby agricultural practices. The Forest Grove North Purdin Road area shows lower suitability for public services than South Hillsboro. Its parcelization pattern makes it conducive to compact and efficient development. But like the Forest Grove North area, it borders an important agricultural area; urbanization there would present larger compatibility challenges than urbanization of SHA. The Forest Grove South area is small (37 acres) and sought by the city for industrial use in conjunction with an industrial site (25 acres) inside the UGB. It is well-suited for efficient and economically-serviced development. But, like the Forest Grove North study areas, Forest Grove South borders an extensive block of important farmland to the south, west and east; the impact of urban development on that block of agricultural land concerns the Council. Cornelius East has high suitability for public services and it presents few compatibility problems or adverse consequences. But its small parcels with residential development would make it very difficult to achieve efficient, compact urban development. The Cornelius South area has the same advantages as Cornelius East. Like the Forest Grove study areas, however, Cornelius South borders an extensive block of important farmland (south and east); the impact of urban development on that block of agricultural land concerns the Council.

“The Hillsboro North-Jackson School Road area is highly suitable for efficient, compact development. But it is separated from the UGB (by the Hillsboro North area, added to the UGB by this ordinance) and, hence, not immediately adjacent to urban services as is the South Hillsboro area. It is, itself, important farmland and it borders an extensive block of important farmland, which is not protected from urbanization by North-Jackson School Road or by buffering natural or built features. The Shute Road Interchange area is also highly suitable for efficient, compact development. But it faces farmland compatibility issues. Given its location across Highway 26 and some distance from the Hillsboro and Tanasbourne/Amberglen Regional Centers, it is not likely to contribute to enhancement of those centers. UGB Ord Rec 588-705.”

Id. at 15-16. Metro similarly made Boundary Location Factor findings and overall conclusions for South Cooper Mountain, *id.* at 16-18, 19-20; Roy Rogers West, *id.* at 20-24; and North Hillsboro, *id.* at 24-26, 27-28. The Commission concludes that Metro’s findings, and the materials cited therein, establish that Metro determined where to expand the urban growth boundary to meet its identified residential and employment needs by an application of the Boundary Location Factors.

The April 19, 2012 staff report identified a part of the Metro COO report “Preliminary analysis of potential urban growth boundary expansion areas” that noted Boundary Location Factor 1 “Efficient accommodation of identified land needs” and a Metro Code section 3.07.1425 additional factor “are not evaluated for each analysis area, but findings for these two factors are made on the final UGB expansion decision.” Staff Report at 30-31 (quoting report, record at 476). Metro explained to the Commission that the matrix in that report addressed Boundary Location factors 2-4, but not factor 1, because at the time of the report Metro was using the range forecast and had not identified a specific need yet. Metro clearly made findings related to “Efficient accommodation of identified land needs,” as set out and identified above, after it had quantitatively identified the needs. As a result, Metro stated that findings for Boundary Location Factor 1 specifically address the four areas added to the UGB, but in so doing discuss other study areas in a comparative manner. The Commission finds that this presents another instance of the manner in which Metro approached the complicating the review of the submittal. However, the Commission can discern that Metro in fact emphasized analysis of the efficient accommodation of land needs throughout its consideration of meeting its identified land needs. Therefore, the Commission finds that the issue identified by the Department constitutes no more than a minor in nature failure under ORS 197.633(3)(c) and 197.747.

In considering the efficient accommodation of land needs and the orderly and economic provision of public facilities and services, Metro testified that it focused on governance of areas

in the alternative analysis. Metro explained that the recent experience with lands brought into the boundary that have not yet developed to their zoned capacity due to the market, lack of infrastructure, governance issues, or some combination thereof dictated particular consideration of those factors. Thus, Metro weighed the city's desire to provide governance and services to areas in consideration of the Boundary Location Factors. The Commission notes that a city's unwillingness or refusal to provide services to an area does not necessarily mean that services cannot be provided in an orderly fashion under Boundary Location Factor 2. *City of West Linn v. LCDC*, 201 Or App 419, 435-437, 119 P3d 285 (2005). The Commission also recognizes that governance issues can be a relevant consideration, particularly under the comparative analysis of Boundary Location Factor 3. For example, Metro considered annexation amongst the governance issues. Great Community Report at 16. *McMinnville* decided that "annexation potential" is a relevant ESEE analysis consideration. 244 Or App at 274. The Commission notes however, that the Goal 14 Boundary Location Analysis is not simply a "who wants in" analysis. Thus, although Metro may determine under a Boundary Location Factor that a city having capacity to and interest in providing public facilities and services is of great weight and can ascribe great weight to that, the Commission will review UGB amendments to determine that the submittal reflects a consideration of all the factors in determining between alternative areas that have been assessed to be adequate to meet the identified needs. The Commission concludes that that governance can be among the relevant considerations for land within the same hierarchy.

4. Metro Factors

The Department also identified as a concern with the analytical procedure Metro employed in its alternatives analysis Metro's consideration of its factors in Metro Code 3.07.1425(C)(5)-(9) along with the Boundary Location Factors. The Department questioned the role the additional 5 factors of Metro Code 3.07.1425C played in Metro's boundary location determination. "With Goal 14 and local factors being applied together * * * the department is unable to determine that Goal 14 location factors have been properly considered or that the final UGB decision complies with the goal." April 19, 2012 staff report at 31. The Department recommended that this Commission "remand the UGB decision with instructions to Metro to apply the Goal 14 location factors to UGB analysis areas separately from application of local factors." *Id.*

Metro argued to the Commission that no provision of law provides that Metro is not allowed to mix the Goal 14 Boundary Location factors with other considerations. May 29, 2012 Metro Response at 16. The Commission agrees, to an extent. Because the amount of suitable urban reserve land exceeds the amount necessary to satisfy the need deficiency, OAR 660-024-0060(1)(b) requires Metro to "apply the location factors of Goal 14 to choose which land in that priority to include in the UGB." However, *McMinnville* invites some mixing of comprehensive plan policies when considering a UGB amendment. 244 Or App at 266. The Commission concludes that, as a matter of law, Metro must demonstrate that the UGB amendment decision was based on the alternative analysis under the Goal 14 Boundary Location factors, but Metro

may also rely on Metro Policies so long as Metro factors are not at odds with Goal 14 or other applicable law.

Metro Code 3.07.1425, entitled “Legislative Amendment to the UGB – Criteria” provides in part:

“A. This section sets forth the factors and criteria for amendment of the UGB from state law and the Regional Framework Plan. Compliance with this section shall constitute compliance with statewide planning Goal 14 (Urbanization) and the Regional Framework Plan.

“* * * * *

“C. If the Council determines there is a need to amend the UGB, the Council shall evaluate areas designated urban reserve for possible addition to the UGB and shall determine which areas better meet the need considering the following factors:

- “1. Efficient accommodation of identified land needs;
- “2. Orderly and economic provision of public facilities and services;
- “3. Comparative environmental, energy, economic and social consequences; and
- “4. Compatibility of proposed urban uses with nearby agricultural and forest activities occurring on land outside the UGB designated for agriculture or forestry pursuant to a statewide planning goal.
- “5. Equitable and efficient distribution of housing and employment opportunities throughout the region;
- “6. Contribution to the purposes of Centers and Corridors;
- “7. Protection of farmland that is most important for the continuation of commercial agriculture in the region;
- “8. Avoidance of conflict with regionally significant fish and wildlife habitat; and
- “9. Clear transition between urban and rural lands, using natural and built features to mark the transition.”

The first four are verbatim the Boundary Location factors of Goal 14.⁵⁸ The Commission turns to a consideration of the nature of the factors in Metro Code 3.07.1425(C)(5)-(9). The fifth Metro factor – “Equitable and efficient distribution of housing and jobs” – on its face appears to refine the Goal 14 Boundary Location factors in two manners. First, in

⁵⁸ Goal 14 Boundary Location Factors:

- “(1) Efficient accommodation of identified land needs;
- “(2) Orderly and economic provision of public facilities and services;
- “(3) Comparative environmental, energy, economic and social consequences; and
- “(4) Compatibility of the proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB.”

considering the efficient accommodation of land needs under Goal 14, factor 1, Metro has required that the efficiency consideration specifically focus on the “distribution of housing and jobs.” Second, in considering the comparing the social consequences under Goal 14, factor 3, Metro has required the equitable “distribution of housing and jobs.” Metro’s findings establish that it undertook the required considerations. For South Hillsboro, South Cougar Mountain, and Roy Rogers West, Metro ultimately concluded that the additions add housing in those areas, which are proximate to jobs, including those from the North Hillsboro addition, affords the opportunity for great communities. Exhibit D to Ordinance No. 11-1264B at 13-14, 18, 22, and 25. The sixth Metro factor – “Contribution to the purposes of Centers and Corridors” – complements two Goal 14 factors. The purpose of Metro’s Centers and Corridors are in furtherance of the efficient accommodation of land needs. The RFP summary of the 2040 Growth Concept states “Fundamental to the Growth Concept are: A hierarchy of mixed-use, pedestrian friendly centers that are well connected by high capacity transit and corridors.” RFP Summary at 1. Title 6 of the Urban Growth Management Functional Plan pertains to “Centers, Corridors, Main Streets and Station Communities” and calls for regional investment in a new high-capacity transit lines to complement actions by cities. Metro Code 3.07.610 *et seq.* Thus, Centers and Corridors play a role in the orderly and economic provision of public facilities and services, because under OAR 660-024-0060(7), the “public facilities and services” for purposes of Goal 14 Boundary Location Factor 2 include “transportation facilities.” The seventh Metro factor – “Protection of farmland that is most important for the continuation of commercial agriculture in the region” – complements Goal 14 Boundary Location Factor 4: “Compatibility of the proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB.” Metro’s finding for this factor demonstrate in intertie, stating “But urbanization of SHA will present issues of compatibility with farm practices in the rural reserves. These issues are discussed above under Factor 4.” Exhibit D to Ordinance No. 11-1264B at 14. Additionally, the seventh Metro factor considers the economic consequence to commercial agriculture, and thus relates to Boundary Location Factor 3. The eighth Metro factor – “Avoidance of conflict with regionally significant fish and wildlife habitat” – is complimentary to the requirement of Boundary Location Factor 3 to compare environmental consequences. Under both factors, Metro looks to Title 3 (Water Quality and Flood Management), Metro Code 3.07.310 and Title 13 (Nature in Neighborhoods), Metro Code 3.07.1310 of the Urban Growth Management Functional Plan to minimize and mitigate environmental consequences. *See* Exhibit D to Ordinance No. 11-1264B at 12, 14 (findings under both factors for South Hillsboro). The ninth Metro factor – “Clear transition between urban and rural lands, using natural and built features to mark the transition” – appears to compliment both Goal 14 Boundary Location Factors 3 and 4. As applied by Metro, it considered the description of natural and built buffers between urban uses in South Hillsboro and lands that remain rural it made under Factors 3 and 4. Exhibit D to Ordinance No. 11-1264B at 15. However, for South Cougar Mountain and Roy Rogers West, Metro concluded neither had natural or built features to provide a clear transition between urban uses and the rural lands on portion of their perimeter.

Exhibit D to Ordinance No. 11-1264B at 19 and 23. The Commission finds that those conclusions support the determination that Metro based its submittal on consideration of the Boundary Location Factors of Goal 14 and that the consideration of Metro's additional, complimentary factors did not improperly affect the outcome under Goal 14. The Commission concludes that the factors in Metro Code 3.07.1425(C)(5)-(9) are not at odds with Goal 14 or other applicable law; to the contrary, those factors are more properly understood to refine and compliment the Goal 14 Boundary Location Factors. The Commission finds that Metro's application of Metro Code 3.07.1425(C)(5)-(9), did not displace the Boundary Location Factors either in the findings or the analysis. For example, Metro findings for South Hillsboro in Exhibit D to Ordinance No. 11-1264B at 11-16 demonstrate that Metro first considered the Boundary Location factors. Exhibit D to Ordinance No. 11-1264B at 11-13. Metro then analyzed its own factors separately from Goal 14. *Id.* at 13-15. Metro staff determined that North Hillsboro Area scored highest among the employment land alternative analysis under Metro Code Section 3.07.1425(C). Attachment 11 to Staff Report Ord. No. 11-1264A at 4. However, if you consider only at the comparative scores under the Boundary Location Factors alternative analysis and exclude the scores under the Metro factors, Metro determined that North Hillsboro fared better under Goal 14 than Jackson School Road, Waibel Creek South, or Groveland Road. *Id.*

5. Overall Goal 14 Conclusion

Metro neither strictly adhered to the clear path for complying with Goal 14 the Commission provided in division 24 or presented the most readily understandable articulation of the path to Goal 14 compliance it took. The Commission, however, is mindful that its task here is to determine whether Metro complied with the main purposes of Goal 14 by providing an orderly and efficient transition from rural to urban land use, by accommodating urban population and urban employment inside urban growth boundaries, by ensuring efficient use of land, and by providing for liveable communities. The requirement to comply with the goals is a qualitative standard that focuses on assuring that the underlying main purpose of the goal is met, even if there are minor deviations from the technical requirements of the goal or implementing rule. *1000 Friends of Oregon v. LCDC (Lane Co.)*, 305 Or 384, 397, 752 P2d 271 (1988).

The Commission finds that the submittal complies with Goal 14. The submittal provides for an orderly and efficient transition from rural to urban land use. Each area added to the UGB is subject to a condition that requires that governing city to adopt land use regulations that "include provisions – such as setbacks, buffers and designated lanes for movement of slow-moving machinery – to enhance compatibility between urban uses in [the addition] and agricultural and forest practices on adjacent land outside the UGB that is zoned for farm or forest use pursuant to statewide planning Goal 3 or 4." Exhibit B to Ordinance No. 11-1264B. The submittal accommodates urban population and urban employment inside the regional urban growth boundary. Between the efficiency actions adopted by Ordinance No. 10-1244B to significantly increase the capacity of the UGB, and an expansion of less than 2,000 acres adopted by Ordinance No. 11-1264B, Metro plans to accommodate the 625,183 new people and 300,000

new jobs. The submittal ensures efficient use of land. Metro took actions to “lead” the market to use more of the zoned capacity of the region in order to use those lands more efficiently and to minimize expansion of the UGB. Exhibit P of Ordinance No. 10-1244B at 3-11. Metro adopted new policies in the Regional Framework Plan to focus investments in those places in the region intended to accommodate higher residential densities. Metro also adopted a new approach to housing affordability: transportation investments in transit and other modes in order to make transportation more affordable, focused on parts of the region where households spend more than 50 percent of monthly income on housing and transportation. Notwithstanding Metro’s decision in the Ordinance No. 10-1244B to take all reasonable actions to use land more efficiently, to meet its identified housing and employment need, Metro added lands to the UGB. Metro added three areas to the UGB – South Hillsboro, South Cooper Mountain and a portion of the Roy Rogers area – to close the gap between need and capacity for housing (1,656 acres total). In doing so, however, Metro through implementation of UGMFP Title 11 (Planning for New Urban Areas) and conditions imposed by Exhibit B to Ordinance No. 11-1264B, the three areas will be zoned to allow a minimum of 15,896 dwellings units. Metro also added 330 acres in the North Hillsboro Analysis area to the UGB to meet the need for capacity for industries that seek large parcels with conditions to have the area provide one 100-acre tract and two 50-acre tracts. Finally, the Commission finds that the submittal provides for liveable communities. The submittal reflects Metro’s efforts to base the urbanization decision-making processes on the community characteristics identified in the Great Communities Report.

H. Remaining Objections

1. City of Cornelius

The City of Cornelius submitted a letter objecting to the UGB Ordinance, containing two objections. The objector’s proposed remedy is for the Commission to remand the decision to Metro with direction to add 266 acres of land at the south and east edge of Cornelius.

a. Objection 1: Citizen Involvement

Objector Cornelius asserts that Metro failed to comply with Goal 1, Citizen Involvement, because it disregarded the local analysis and plans and did not engage in subregional planning.

The Department recommended that the Commission reject this objection, noting that Metro’s citizen involvement program has been acknowledged for compliance with Goal 1, and that Goal 1 is only violated in the context of a legislative plan amendment only if the local government does not follow its citizen involvement program. Therefore, because Objector Cornelius has not identified any such violation, the Commission rejects this objection.

b. Objection 2: Coordination and adequate factual basis

Objector Cornelius contends that Metro’s adoption of the UGB Ordinance violates Goal 2 because it was not coordinated with local comprehensive plans and was not based upon factual

information. The objector disagrees with policy decisions made by Metro regarding growth rates and density requirements, and with population and employment forecasts employed. *See* LCDC Record, Item 10 at 113.

The Department recommended that the Commission reject this objection. Goal 2 provides “[e]ach plan and related implementation measure shall be coordinated with the plans of the affected governmental units.”⁵⁹ As used in Goal 2, a regional framework plan is “coordinated” once “the needs of all governments, semi-private and private agencies and the citizens of Oregon have been considered and accommodated as much as possible.” ORS 197.015(5). Metro must coordinate the UGB with affected local governments. The record describes the efforts Metro undertook in order to coordinate with the local governments within its boundary. Ord. 11-1264B, Exhibit D at 1-3 (LCDC Record, Item 11 at 29-31). The general accusations made by Objector Cornelius are not convincing in light of the level of interaction described in the record. The record indicates that Metro solicited and considered the input of local governments to a considerable extent. To the extent that the objection contends that Metro failed to coordinate because it did not adopt a higher housing or employment opportunities need as Objector Cornelius advocated for, the Commission finds that Metro made the required findings regarding need as required by Goal 2.

Regarding whether the UGB decision had an adequate factual basis as required by Goal 2, the objection does not demonstrate errors or omissions in the information Metro relied on, only that the objector disagrees with it. While Objector Cornelius may have preferred a different methodology or result, it has not established that Metro’s analysis is either inconsistent with the requirements of ORS 197.296 *et seq.*, Goal 10 or Goal 14, or the related administrative rules, or unsupported by substantial evidence.

Therefore, this objection is rejected.

c. Objection 3: Goals 5-13

Objector Cornelius raises several issues alleging insufficient consideration of a number of goals, including Goal 5-13. As noted in the Director’s report, these allegations come under the heading, “Goal 2 Land Use Planning,” but the objections appear to be intended to be kept separate from the other Goal 2 objections discussed above.

With respect to Goals 5-8 and 11-13, the Commission finds that each such goal was appropriately addressed by Metro in the UGB Ordinance. LCDC Record, Item 11 at 56-60 (Ord. 11-1264B, Exhibit D at 28-32). Objector Cornelius has not demonstrated that the submittal does not comply with any provision of these goals, or identified any evidence that would call Metro’s findings into question. The subject of these goals (e.g., natural resources for Goal 5, public facilities and services for Goal 11) gets considered through the application of the Goal 15

⁵⁹ Goal 2 defines “Affected Governmental Units” as “those local governments * * * which have programs, land ownerships, or responsibilities within the area included in the plan.”

Boundary Location Factors and provisions of OAR chapter 660, division 24, not through direct application of the goals. Therefore, the Commission rejects this portion of the objection.

The remaining Goal 9 issues raised by Objector Cornelius under this heading, were addressed earlier in Section III.F, *supra*.

2. Christine Kosinski

Objector Kosinski filed an objection, requesting that the Capacity Ordinance be remanded because she did not receive notice of the public hearings.

Metro describes its public involvement program and supporting materials in the findings. LCDC Record, Item 20 at 89. The record indicates that Objector Kosinski participated in the hearings leading to the adoption of the Capacity Ordinance. Accordingly, this objection is rejected.

3. David Myers

Mr. Myers objects to the expansion of the UGB west of Aloha for residential use, contending that addition of such land will add significant traffic on a system that already has serious problems. The proposed remedy is not stated, but it apparently is to remove this area from the UGB.

The Department recommended that the Commission reject this objection. Traffic and other infrastructure considerations are one of several location factors in Goal 14 that Metro must consider when deciding where to expand the UGB. Metro considered these factors (and others; see subsection III.G of this order) in making the UGB decision. LCDC Record, Item 11 at 39-45. No individual factor is determinative, as they must be weighed and balanced to arrive at a decision. Objector Myers has not demonstrated that Metro failed to appropriately consider the Goal 14 location factors; therefore, the Commission rejects this objection.

4. Jim Standring

Jim Standring filed an objection to the UGB decision, specifically arguing that Metro erred in not including his tract north of Highway 26 and west of Helvetia Road, and certain adjacent land, in the UGB. LCDC Record, Item 10 at 8. The department understood the objection to state two grounds for objection: (1) Metro erroneously applied the locational factors of Goal 14, OAR 660-024-0060, and Metro Code 3.07.1425(C) in not adding the Shute Road Interchange Analysis Area 8B (Area 8B) to the UGB; and (2) Metro failed to add enough land to meet its identified need for large lot industrial land. LCDC Record, Item 8 at 93.

Objector Standring asserts that Metro's findings for not expanding the UGB into the Area 8B do not demonstrate compliance with the requirements of Goal 14, OAR 660-024-0060, and the Metro Code. This objection raises both legal interpretation and adequacy of the findings

concerns regarding Metro's application of the location analysis requirements in Goal 14, OAR 660-024-0060, and the Metro Code. The Commission considers the adequacy of the findings aspects of the objection below.

The primary basis of the objection is that Metro included a portion of Hillsboro North Analysis Area 8A in the UGB when the record included evidence that the cost of providing public facilities and services to Area 8A is significantly greater per net buildable acre than the cost of providing such services to Area 8B. Objector argues "[s]electing a UGB expansion area for which the costs per net developable acre of providing services are substantially higher than for other available sites is not consistent with Goal 14's boundary locational factors, OAR 660-024-0060(3)-(8), and Metro Code 3.07.1425(C)." LCDC Record, Item 10 at 8. The Commission agrees that the cited provisions require Metro to undertake an evaluation and comparison of the relative costs, advantages and disadvantages of alternative UGB expansion areas with respect to the provision of public facilities and services needed to urbanize alternative boundary locations. However, to the extent that Standing asserts that that comparative analysis is determinative, the Commission finds that contention unsupported by the law. OAR 660-024-0060(3) provides:

"The boundary location factors of Goal 14 are not independent criteria. When the factors are applied to compare alternative boundary locations and to determine the UGB location, a local government must show that all the factors were considered and balanced."

In adopting that rule, this Commission was capturing judicial interpretations. For example, in *Citizens Against Irresponsible Growth v. Metro*, 179 Or App 12, 17, 38 P3d 956 (2002), the Court of Appeals addressed arguments concerning Metro's application of the public facilities and services factor under the prior version of Goal 14:

"For example, with respect to Goal 14, factor 3, petitioners appear to believe that a local government amending its UGB must find that public facilities and services can and will be economically provided to the area to be included in the UGB before the amendment can be approved. As LUBA explained, however, MC 3.01.020(b)(3) and Goal 14, factor 3, do not stand alone but represent one of several factors to be considered and balanced when amending a UGB. In other words, whether or not the planning jurisdiction amending its UGB finds conclusively that needed public facilities and services can be provided in an orderly and economic fashion does not alone determine whether the amendment should be allowed. The Metro Code provision implementing Goal 14, factor 3, represents a consideration that must be balanced against the other factors. No single factor is of

such importance as to be determinative in an UGB amendment proceeding, nor are the individual factors necessarily thresholds that must be met.”

The Commission rejects the aspect of the objection that contends that Metro erred as a matter of law in selecting a UGB expansion area for which the costs per net developable acre of providing services are substantially higher than for other available sites. Such considerations are relevant and required, but they are not determinative. Standing does not contend that Metro did not engage in a consideration of the factors (the Commission specifically finds herein that Metro did), but does assert that Metro’s findings are inadequate.

The Commission turns to the contention that Metro inadequately considered the facts when applying the Goal 14 Boundary Location Factors, and that proper consideration would have resulted in the conclusion that the 70-acre tract owned by the objector would have been selected for inclusion in the UGB instead of another tract Metro selected. The objection contends that Metro gave inadequate attention to OAR 660-024-0060(8), which addresses consideration of provision of public facilities and services when applying the Boundary Location Factors.

As discussed above, the Goal 14 Boundary Location Factors are not criteria that Metro must independently satisfy, but are instead factors that must be considered, weighed, and balanced in consideration of alternative areas for inclusion in the UGB. *McMinnville*, 244 Or App at 258. The objection does not allege that Metro failed to carry out this consideration and balancing, but rather that the objector disagrees with the conclusions.

A premise of the objection is that Metro erred in not considering the suitability of Area 8B in isolation instead of including it in the 717-acre Groveland Road study area. Objector argues “A proper analysis should have compared Area 8A as approved with Area 8B as suggested.” Objector Standing contends this violated the intent of OAR 660-024-0060(6) and (8). Objector contends that because Metro should have, but did not consider Area 8B on its own merits, that obligation falls to this Commission to do. The Commission disagrees that it may intercede in that manner under ORS 197.633(3). Perhaps the Commission might reach a different conclusion than Metro if it were to undertake the required considering and balancing of the Boundary Locational Factors regarding Area 8B and Area 8A. But that is not the errand before us. On review, the Commission considers what Metro submitted, not what Metro could have submitted. Our evidentiary review is confined to the local record, and the inquiry is whether there is substantial evidence in the record as a whole to support Metro’s decision. ORS 197.633(3)(a). Here, Metro clearly considered the Groveland Road in the Boundary Location Factor alternative analysis and included findings regarding Metro’s selection of North Hillsboro to meet its identified need. LCDC Record, Item 11 at 24-28. The Commission finds that the submittal complied with Goal 14.

Finally, Objector Standring asserts that Metro failed to add enough land to meet its identified need for large-lot industrial land. Standring argues that because the UGR identified a need for 200 to 800 acres for additional capacity for industries that need large parcels, even with the addition of Area 8A, a deficit of over 200 acres that are suitable for large lot industrial development remains (and that the appropriate place to state that need is Area 8B). This objection is rejected for the reasons articulated in subsection III.E.b (Hillsboro objections).

4. 1000 Friends

1000 Friends objects that, because the Commission's decision approving Metro's urban reserves was not complete (no signed order), it is not clear Metro could rely on the reserves in analyzing alternative locations for the UGB amendment, and should have applied ORS 197.298 as though there were no urban reserves. The proposed remedy is for the commission to remand the UGB amendment with directions to Metro to evaluate alternative expansion areas as though urban reserves do not exist. LCDC Record, Item 10 at 84-85.

The Commission finds that it has approved Metro's urban reserves. Judicial review of the Commission's order is pending before the Oregon Court of Appeals. *Bakers Five, LLC v. LCDC* (CA A152351). Even assuming the Commission agreed with objector that it is not clear that Metro could rely on urban reserves that are the subject of a judicial review; the objector does not establish that Metro is prohibited as a matter of law from choosing to do so. Having not been presented an argument why the submittal does not comply with applicable law, the Commission cannot sustain this objection.

5. Elizabeth Graser-Lindsey

a. Objection 1: Goals 3, 4, and 14

Objector Graser-Lindsey asserts that Metro has violated Goals 3, 4, and 14 concerning the land along Beaver Creek Road near Oregon City. She states that the 2002 and 2004 UGB expansions included resource lands that were justified to meet the need for industrial land and now are being proposed to be used for residential land. The proposed remedy is to remove the land from the UGB if it is no longer needed as industrial land. CITE (Graser-Lindsey, February 19, 2011 at 1).

The Department recommended that the Commission reject this objection. The factual basis and analysis for the map amendment are at LCDC Record, Item 20 at 4114-4116, 4304-4319, 6897-6898, 8160-8162, and 8202-8210 (the Capacity Ordinance). Goal 14 requires a 20-year forward estimation of land needed within the UGB, and Goal 2 requires an adequate factual basis for the determination. Metro amended the map because the UGR showed a surplus of general employment land and a deficit of residential land. Goal 14 requires Metro to accommodate land need within the existing UGB prior to expanding the boundary. Further, the land is not required to be removed from the UGB if Metro continues to show a need. Finally,

Goals 3 and 4 do not contain provisions for consideration during analysis of UGB amendments or planning for land inside UGBs. The Commission therefore rejects this objection.

b. Objection 2: Violation of Metro's Code and LCDC Order 03-WKTASK-1524

Objector Graser-Lindsey asserts that Metro has violated Metro Ordinance 02-296B, Metro Ordinance 04-1040B and LCDC Partial Approval and Remand Order 03-WKTASK-1524. She also states that in 2004 Metro Ordinance 04-1040B was adopted for the sole purpose of selecting the additional industrial land as required by LCDC's remand and now Metro intends to violate the LCDC remand and its own ordinances which committed 308 acres of land in the Beavercreek Road Concept Plan area to Title 4 industrial use. The proposed remedy is not specifically stated, although it appears to be the same as objection 4(a)—to remove the land from the UGB if it is no longer needed as industrial land.

The Department recommended that the Commission reject this objection. This objection is essentially the same as objection 4(a), above, and the response is essentially the same as well. Specifically, Metro's previous actions to include the land in the UGB for industrial use do not bind Metro to forever retain that designation. Metro's decision to amend the Title 4 map to change the designation of certain properties does not violate a former LCDC order; Metro has made findings why it needed the residential capacity. *Id.*

c. Objection 3: Goal 2 Factual Base

Objector Graser-Lindsey contends that Metro violated Goal 2 (adequate factual basis) by revising its Title 4 Employment and Industrial Areas Map to remove a portion of the Beavercreek Plan area and re-designating the portion as residential land. LCDC Record, Item 17 at 12.

The Department recommends the Commission reject this objection. Ordinance. No. 10-1244B, section 4, Exhibit D, amended the Title 4 map as objector contends. LCDC Record, Item 18 at 2, 41(map). Metro made the map change in part to comply with Goal 14: the UGR determined that the region had more employment capacity than needed and less residential capacity than needed. The factual basis and analysis for the map amendment may be found at LCDC Record, Item 20 at 4114-4116, 4304-4319, 6897-6898, 8160-8162, and 8202-8210. This objection is rejected.

d. Objection 4: Goal 2 Coordination

Objector Graser-Lindsey asserts that the Metro did not coordinate properly with Oregon City, in violation of Goal 2. The objection alleges that the city didn't know that Oregon City was not aware of the Capacity Ordinance proceedings. LCDC Record, Item 17 at 14.

The Department recommends that the Commission reject this objection. Metro supplied a letter from Oregon City dated September 27, 2010 that stated:

“On September 1, 2010, the City Commission for Oregon City reviewed the 2010 Growth Management Assessment (GMA) and would like to submit the following information into the record. The Commission supports the proposed amendment to the Title 4 Map designation within the Beavercreek Road Concept Plan area to reflect the Concept Plan land uses for the study area. The map amendment will result in a reduction of the current industrial/employment designation on the 2040 map to be consistent with the proposed employment lands as depicted on the Beavercreek Road Concept Plan.”

LCDC Record, Item 14 at 21-22. This letter was not in Metro’s original submittal, but it was in the record. Metro is permitted to supplement the submittal as set forth in OAR 660-025-0130. Accordingly, this objection is rejected.

e. Objection 5: Hearing Notice.

Objector Graser-Lindsey asserts that Metro and Oregon City did not provide proper notice of hearings where the status of the Beavercreek Road area was being considered, and that this violated Goal 1, citizen involvement, Goal 2, and the Metro Code. LCDC Record, Item 17 at 15-18.

The Department recommends that the Commission reject this objection. Objector Graser-Lindsay relates her efforts to learn that Metro was considering a designation change for the Beavercreek Concept Plan that was brought into the UGB in 2002 and 2004 and designated as a Title 4 Industrial Area as part of Metro Ordinance No. 10-124. On review of a procedural issue, the Commission reviews whether Metro “failed to follow the procedures applicable to the matter before the local government in a manner that prejudiced the substantial rights of a party to the proceeding.” ORS 197.633(3)(c). To establish a violation of Goal 1, an objection must show that the local government failed to adhere to the provisions in its acknowledged citizens involvement program. Objector specifies Metro Code 3.09.30 as providing an explanation of how notice requirements are to be effectively met, *i.e.*, as the applicable local procedure. The Commission understands the provisions of Metro Code 3.09 to apply to local government boundary changes. It is unclear the application of that provision to the circumstances objector describes. Additionally, the objection demonstrates that, in response to her inquiry, objector was provided notice of the meeting. In that circumstance, an objector has difficulty establishing that the substantial prejudice aspect of ORS 197.633(3)(c) is met. This objection is therefore rejected.

IV. Compliance with Statewide Planning Goals

Goal 1 – Citizen Involvement

Metro complied with the requirement of Goal 1 that it involve citizens in its planning efforts related to the Capacity Ordinance and UGB Ordinance. Specifically, Metro involved citizens in the: development of the population and employment forecasts; the determination of the capacity of the UGB; review of the recommendations of the Chief Operating Officer; and review of the elements of Ordinance No. 10-1244B. LCDC Record, Item 18 at 109-112; Item 20 at 3872-3892, 4194-4206, 4212-4218, 4225-4241, 8157. As the recommendations culminated into final proposals, the Metro Council held four public hearings around the region for the Capacity Ordinance. Metro followed a similar citizen involvement course for the UGB Ordinance, including publication and circulation of the recommendations of the Chief Operating Officer for the potential expansion areas, solicitation and review of comments, and two public hearings.

Goal 2 – Land Use Planning

Metro complied with the requirement of Goal 2 that it coordinate its planning efforts related to the Capacity Ordinance and UGB Ordinance with affected units of local government. Metro received a large number of comments throughout the planning process (which responses were included in the record). Metro also worked closed with local governments and agencies through its advisory committees (e.g., Metro Policy Advisory Committee, Metro Technical Advisory Committee, Joint Policy Advisory Committee on Transportation). Metro made efforts to accommodate the requests, proposals, and recommendations. The coordination requirement does not require Metro implement each local government request. Rather, Metro must offer the local government a meaningful opportunity to make its concerns known to Metro and accommodate those concerns as much as possible. *ODOT v. City of Klamath Falls*, 39 Or LUBA 641 (2001); *Northwest Aggregates Co. v. City of Scappoose*, 38 Or LUBA 291 (2000). The Commission finds that Metro's efforts to notify, receive comment, accommodate and respond to comments fulfill Metro's responsibility under Goal 2.

Goal 2 also requires that Metro's Capacity Ordinance and UGB Ordinance be based on an adequate factual base. As discussed above, the Commission concluded that Metro's decisions in the Capacity Ordinance and UGB Ordinance decisions were based on substantial evidence in the record, and articulated in the findings of fact and conclusions of law supporting the two ordinances. Accordingly, the Commission concludes that the record as a whole provides an adequate factual base for Metro's decision.

Finally, Goal 2 requires that Metro's Capacity Ordinance and UGB Ordinance be consistent with Metro's RFP and the Regional Transportation Plan ("RTP"). The findings for that Metro's Capacity Ordinance and UGB Ordinance demonstrate consistency with the RFP. The Commission incorporates and adopts those findings here.

Goal 3 – Agricultural Lands

By complying with Goal 14 and the priorities of ORS 197.298(1), Metro has complied with Goal 3.

Goal 4 – Forest Lands

By complying with Goal 14 and the priorities of ORS 197.298(1), Metro has complied with Goal 4.

Goal 5 – Open Spaces, Scenic and Historic Areas and Natural Resources

All of the actions taken or adopted by the Capacity Ordinance, Title 11 Amendments, and UGB Ordinance to use land inside the UGB more efficiently will be subject to Titles 3 and 13 of Metro's Urban Growth Management Functional Plan (UGMFP) and to the Goal 5 programs of cities and counties in the region (these titles and local land use regulations are "acknowledged" under the statewide planning program, including Goal 5). Accordingly, the Capacity Ordinance and UGB Ordinance submittals comply with Goal 5.

Goal 6 – Air, Water and Land Resources Quality

Title 11 (acknowledged) of Metro's UGMFP requires each local government to comply with Title 3 (acknowledged) of the UGMFP, acknowledged by the Commission to comply with Goal 6, when it amends its comprehensive plan and land use regulations to authorize urbanization of land added to the UGB. Metro's submittals comply with the policies of the RTP, acknowledged by LCDC to comply with the air quality provisions of Goal 6. Accordingly, the Capacity Ordinance and UGB Ordinance submittals comply with Goal 6.

Goal 7 - Areas Subject to Natural Disasters and Hazards

Metro excluded environmentally constrained and other hazard areas from the inventory of buildable land or limited its capacity (*see* UGR) in its calculation of the housing and jobs capacity of each study area (*see* Boundary Location Analysis). LCDC Record, Item 20 at 4247, 4304, 4306, 4317; Item 11 at 555. Each local government responsible for an area added to the UGB must complete the planning requirements of Title 11 (acknowledged) of the UGMFP, including compliance with Title 3 (acknowledged) of the UGMFP on floodplains, riparian areas and erosion control. *See* LCDC Partial Approval and Remand Order 03-WKTASK-001524, p. 48. Further, as amended by Ordinance No. 11-1252, Title 11 (New Urban Areas) establishes new local government planning responsibilities for urban reserve concept planning prior to inclusion in the UGB for hazard areas subject to Title 3 (Water Quality and Flood Management) upon additions of land to the UGB. Metro's Capacity Ordinance and UGB Ordinance submittals comply with Goal 7.

Goal 8 – Recreational Needs

Metro's Urban Growth Reports remove parks and open space from the inventory of buildable land and include capacity for future parks and open space in its calculation of need under Goal 14.

Metro's analysis of regional capacity remove parks and open space from the inventory of buildable land and include capacity for future parks and open space in its calculation of need under Goal 14. LCDC Record, Item 20 at 4304, 4313-4314; Item 11 622-623. As amended by Ordinance No. 11-1252, Title 11 (New Urban Areas) establishes new local government planning responsibilities for urban reserve concept planning prior to inclusion in the UGB, and for new urban areas included in the UGB, for bikeways, parks and recreational trails.

Urbanization of the South Cooper Mountain area may affect Metro's Cooper Mountain Nature Park. The UGB includes a condition requiring coordination of planning for SCMA with planning for the park. UGB Ordinance, Exhibit B (LCDC Record, Item 18 at 25). Metro's Capacity Ordinance and UGB Ordinance submittals comply with Goal 8.

Goal 9 - Economic Development

Goal 9 assigns no direct responsibility to Metro. Nonetheless, as part of the Capacity Ordinance and UGB Ordinance, Metro consulted with cities and counties about their economic development plans and priorities. The "cluster" forecast and the analysis of demand for large sites for industrial use in the UGR were responses to local Goal 9 plans and consultation with local governments. LCDC Record, Item 20 at 4257, 4270. In addition, in the UGB Ordinance adding land to the UGB for large lot industrial use, Metro placed conditions to help ensure the land's availability for that purpose. The Capacity Ordinance and UGB Ordinance comply with Goal 9.

Goal 10 - Housing

By complying with the requirements of ORS 197.296, as the Commission has concluded herein, Metro's Capacity Ordinance and UGB Ordinance submittals comply with Goal 10.

Goal 11 – Public Facilities and Services

Goal 11 requires cities and counties, not Metro, to develop public facility plans. Under Goal 11 and ORS Chapter 195, Metro is responsible for coordination of city and county public facility plans [OAR 660-011-0015(2)]. For areas added to the UGB, Metro accomplishes coordination through implementation of Title 11 (acknowledged) of the UGMFP. Title 11 requires the local government with planning responsibility over land added to the UGB to include public facility planning in the amendments to its comprehensive plan and land use regulations prior to urbanization. See LCDC Partial Approval and Remand Order 03-WKTASK-

001524, p. 49. Goal 11 applies directly to these local amendments. Metro's submittals comply with Goal 11.

Goal 12 – Transportation

The Commission acknowledged the policies of Metro's RTP in June 2010. Metro found and concluded that its decisions in the Capacity Ordinance and UGB Ordinance comply with its RTP policies. As with public facilities, Title 11 (acknowledged) of Metro's UGMFP requires the local government with planning responsibility over land added to the UGB to include transportation planning in the amendments to its comprehensive plan and land use regulations prior to urbanization. Goal 12 applies directly to these local amendments. Metro's Capacity Ordinance and UGB Ordinance submittals comply with Goal 12.

Goal 13 – Energy Conservation

By complying with Goal 14, which requires an efficient transition from rural to urban land use, and the RFP (2040 Growth Concept), which requires a compact urban form, Metro's Capacity Ordinance and UGB Ordinance submittals comply with Goal 13.

Goal 14 – Urbanization

As the Commission concluded above, Metro's submittals comply with Goal 14.

Goal 15 – Willamette River Greenway

All of the actions taken or adopted by the Capacity Ordinance will be subject to Titles 3 and 13 of Metro's Urban Growth Management Functional Plan (UGMFP) and to the Goal 15 programs of cities and counties in the region (these titles and local land use regulations are "acknowledged" under the statewide planning program, including Goal 5). Metro's Capacity Ordinance submittal complies with Goal 15.

The UGB Ordinance adds no land to the UGB that is subject to regulations to protect the Willamette River Greenway.

IV. Conclusion

Based on the foregoing findings, the Director's Report, and responses to the objections and exceptions, the Commission accepted the recommendation of the Department, in part. The Commission approves the Capacity Ordinance, Title 11 Amendments, and the UGB Ordinance.

The Commission has considered every valid objection and exception. The Commission specifically rejects all objections and exceptions, whether discussed herein or not.

Scope of Appellate Review: Pursuant to the Commission's authority under OAR 660-025-0160(7) to take appropriate action on Metro's submission of its Capacity Ordinance, Title 11 Amendments, and UGB Ordinance, the Commission hereby orders that to the extent any of the UGB expansion areas are not affected by a specific appeal of another UGB expansion area, and to the extent no appeal is made on an objection that affects all expansions, any unaffected expansion areas are severed from any further proceedings or appeals associated with the above-referenced ordinances, and Metro's decision regarding those unaffected expansion areas is acknowledged.

DATED THIS 21 DAY OF DECEMBER, 2012.

FOR THE COMMISSION:



Jim Rue, Director
Department of Land Conservation and Development

NOTE: You may be entitled to judicial review of this order. Judicial review may be obtained pursuant to ORS 197.651(3) by filing a petition for review within 21 days from the service of this final order. Judicial review is pursuant to the provision of ORS 197.650.

Copies of all exhibits are available for review at the Department's office in Salem.

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BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF MAKING THE GREATEST) Ordinance No. 10-1244B
PLACE AND PROVIDING CAPACITY FOR)
HOUSING AND EMPLOYMENT TO THE YEAR) Introduced by Chief Operating Officer
2030; AMENDING THE REGIONAL FRAMEWORK) Michael Jordan with the Concurrence of
PLAN AND THE METRO CODE; AND DECLARING) Council President Carlotta Collette
AN EMERGENCY)

WHEREAS, Metro, the cities and counties of the region and many other public and private partners have been joining efforts to make our communities into "the Greatest Place"; and

WHEREAS, state law requires Metro to assess the capacity of the urban growth boundary (UGB) on a periodic basis and, if necessary, increase the region's capacity for housing and employment for the next 20 years; and

WHEREAS, Metro forecasted the likely range of population and growth in the region to the year 2030; and

WHEREAS, Metro assessed the capacity of the UGB to accommodate the forecasted growth, assuming continuation of existing policies and investment strategies, and determined that the UGB did not provide sufficient and satisfactory capacity for the next 20 years; and

WHEREAS, the Metro Council, with the advice and support of the Metro Policy Advisory Committee (MPAC), established six desired outcomes to use as the basis for comparing optional amendments to policies and strategies to increase the region's capacity; and

WHEREAS, the outcomes reflect the region's desire to develop vibrant, prosperous and sustainable communities with reliable transportation choices that minimize carbon emissions and to distribute the benefits and burdens of development equitably in the region; and

WHEREAS, Metro undertook an extensive process to consult its partner local governments and the public on optional ways to increase the region's capacity and achieve the desired outcomes; and

WHEREAS, joint efforts to make the region "the Greatest Place" not only improve our communities but also increase our capacity to accommodate growth and achieve the desired outcomes; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. The Regional Framework Plan (RFP) is hereby amended, as indicated by Exhibit A, attached and incorporated into this ordinance, to adopt: desired outcomes toward which the Metro Council will direct its policies and efforts; new policies on performance measurement to measure progress toward achievement of the outcomes; new policies on efficient use of land, public works and other public services; and new policies on investment in Centers, Corridors, Station Communities, Main Streets and Employment Areas.

2. Title 1 (Housing) of the UGMFP is hereby amended, as indicated in Exhibit B, attached and incorporated into this ordinance, to help ensure sufficient capacity to meet housing needs to year 2030.
3. Title 4 (Industrial and Other Employment Areas) of the UGMFP is hereby amended, as indicated in Exhibit C, attached and incorporated into this ordinance, to help ensure sufficient capacity to meet employment needs to year 2030.
4. The Title 4 Industrial and Other Employment Areas Map is hereby amended, as indicated in Exhibit D, attached and incorporated into this ordinance, to show changes to design-type designations to conform to new comprehensive plan designations by cities and counties pursuant to Title 11 of the UGMFP, to respond to needs identified in the 2009 Urban Growth Report, and to make corrections requested by local governments to reflect development on the ground.
5. Title 6 (Centers, Corridors, Station Communities and Main Streets) of the UGMFP is hereby amended, as indicated in Exhibit E, attached and incorporated into this ordinance, to implement new policies and investment strategies in those places.
6. The Title 6 Centers, Corridors, Station Communities and Main Streets Map is hereby adopted, as shown on Exhibit F, attached and incorporated into this ordinance, to implement Title 6 and other functional plan requirements.
7. Title 8 (Compliance Procedures) of the UGMFP is hereby amended, as indicated in Exhibit G, attached and incorporated into this ordinance, to reduce procedural burdens on local governments and Metro.
8. Title 9 (Performance Measures) is hereby repealed, as indicated in Exhibit H, to be consistent with new policies on performance measurement.
9. Title 10 (Functional Plan Definitions) of the UGMFP is hereby amended, as indicated in Exhibit I, attached and incorporated into this ordinance, to conform to the definitions to the use of terms in the amended UGMFP.
10. Title 11 (Planning for New Urban Areas) of the UGMFP is hereby amended, as indicated in Exhibit J, attached and incorporated into this ordinance, to provide more specific guidance on planning for affordable housing in new urban areas.
11. Metro Code Chapter 3.01 (Urban Growth Boundary and Urban Reserves Procedures) is hereby repealed, as indicated in Exhibit K, to be replaced by new Title 14 adopted by section 11 of this ordinance.
12. Title 14 (Urban Growth Boundary) is hereby adopted and added to the UGMFP, as indicated in Exhibit L, attached and incorporated into this ordinance, with amendments from Metro Code Chapter 3.01 to provide a faster process to add large sites to the UGB for industrial use.
13. The urban growth boundary (UGB), as shown on the attached Exhibit M, is hereby adopted by this ordinance as the official depiction of the UGB and part of Title 14 of the Urban Growth Management Functional Plan (UGMFP). The Council intends to amend the UGB in 2011 to add approximately 310 acres of land suitable for industrial


development in order to accommodate the demand identified in the 2009 UGR for large sites, and to add land to accommodate any remaining need for residential capacity not provided by the actions taken by the ordinance.

14. Metro Code Chapter 3.09 (Local Government Boundary Changes) is hereby amended, as indicated in Exhibit N, attached and incorporated into this ordinance, to conform to revisions to ORS 268.390 and adoption of urban and rural reserves pursuant to ORS 195.141, and to ensure newly incorporated cities have the capability to become great communities.
15. The 2040 Growth Concept Map, the non-regulatory illustration of the 2040 Growth Concept in the RFP, is hereby amended, as shown on Exhibit O, attached and incorporated into this ordinance, to show new configurations of 2040 Growth Concept design-type designations and transportation improvements.
16. The *Urban Growth Report 2009-2030* and the *20 and 50 Year Regional Population and Employment Range Forecasts*, approved by the Metro Council by Resolution No. 09-4094 on December 17, 2009, and the Staff Report dated November 19, 2010, are adopted to support the decisions made by this ordinance. The Council determines that, for the reasons set forth in the 2010 Growth Management Assessment, August, 2010, it will direct its capacity decisions to a point between the low end and the high end of the middle third of the forecast range.
17. The Council adopts the Community Investment Strategy recommended by the Chief Operating Officer in the 2010 Growth Management Assessment, August 10, 2010, including the investments set forth at pages 8-21 of the Introduction to Volume 1; Assessment, pages 18-20; Appendix 1 of the Assessment, pages 32-33; and Appendix 3 of the Assessment, as a component of its overall strategy to increase the capacity of land inside the UGB by using land more efficiently.
18. The Findings of Fact and Conclusions of Law in Exhibit P, attached and incorporated into this ordinance, explain how the actions taken by the Council in this ordinance provide capacity to accommodate at least 50 percent of the housing and employment forecast to the year 2030 and how they comply with state law and the Regional Framework Plan.
19. This ordinance is necessary for the immediate preservation of public health, safety and welfare because it repeals and re-adopts provisions of the Metro Code that govern changes to local government boundaries that may be under consideration during the ordinary 90-day period prior to effectiveness. An emergency is therefore declared to exist, and this ordinance shall take effect immediately, pursuant to Metro Charter section 39(1).

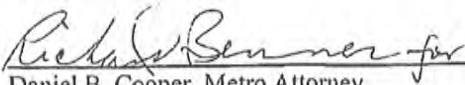
ADOPTED by the Metro Council this 16th day of December, 2010.



Carlotta Collette, Council President

Attest: 

Tony Andersen, Clerk of the Council

Approved as to form:


Daniel B. Cooper, Metro Attorney

Exhibit A to Ordinance No. 10-1244B

AMENDMENTS TO THE REGIONAL FRAMEWORK PLAN

A. Add the following:

It is the policy of the Metro Council to exercise its powers to achieve the following six outcomes, characteristics of a successful region:

1. People live, work and play in vibrant communities where their everyday needs are easily accessible.
2. Current and future residents benefit from the region's sustained economic competitiveness and prosperity.
3. People have safe and reliable transportation choices that enhance their quality of life.
4. The region is a leader in minimizing contributions to global warming.
5. Current and future generations enjoy clean air, clean water and healthy ecosystems.
6. The benefits and burdens of growth and change are distributed equitably.

It is also the policy of the Metro Council to:

Use performance measures and performance targets to:

- a. Evaluate the effectiveness of proposed policies, strategies and actions to achieve the desired Outcomes;
- b. Inform the people of the region about progress toward achieving the Outcomes;
- c. Evaluate the effectiveness of adopted policies, strategies and actions and guide the consideration of revision or replacement of the policies, strategies and actions; and
- d. Publish a report on progress toward achieving the desired Outcomes on a periodic basis.

- 1.3.7 Work in cooperation with local governments, state government, business groups, non-profit groups and citizens to create an affordable housing fund available region wide in order to leverage other affordable housing resources.
- 1.3.8 Provide technical assistance to local governments to help them do their part in achieving regional goals for the production and preservation of housing choice and affordable housing.
- 1.3.9 Integrate Metro efforts to expand housing choices with other Metro activities, including transportation planning, land use planning and planning for parks and greenspaces.
- 1.3.10 When expanding the Urban Growth Boundary, assigning or amending 2040 Growth Concept design type designations or making other discretionary decisions, seek agreements with local governments and others to improve the balance of housing choices with particular attention to affordable housing.
- 1.3.11 Consider incentives, such as priority for planning grants and transportation funding, to local governments that obtain agreements from landowners and others to devote a portion of new residential capacity to affordable housing.
- 1.3.12 Help ensure opportunities for low-income housing types throughout the region so that families of modest means are not obliged to live concentrated in a few neighborhoods, because concentrating poverty is not desirable for the residents or the region.
- 1.3.13 Consider investment in transit, pedestrian and bicycle facilities and multi-modal streets as an affordable housing tool to reduce household transportation costs to leave more household income available for housing.
- 1.3.14 For purposes of these policies, “affordable housing” means housing that families earning less than 50 percent of the median household income for the region can reasonably afford to rent and earn as much as or less than 100 percent of the median household income for the region can reasonably afford to buy.

E. Amend Chapter 1 (Land Use) Policy 1.4 as follows:

1.4 Employment Choices and Opportunities

It is the policy of the Metro Council to:

- 1.4.1 Locate expansions of the UGB for industrial or commercial purposes in locations consistent with this plan and where, consistent with state statutes and statewide goals, an assessment of the type, mix and wages of existing and anticipated jobs within subregions justifies such expansion.

- 1.4.2 Balance the number and wage level of jobs within each subregion with housing cost and availability within that subregion. Strategies are to be coordinated with the planning and implementation activities of this element with Policy 1.3, Housing Choices and Opportunities and Policy 1.8, Developed Urban Land.
- 1.4.3 Designate, with the aid of leaders in the business and development community and local governments in the region, as Regionally Significant Industrial Areas those areas with site characteristics that make them especially suitable for the particular requirements of industries that offer the best opportunities for family-wage jobs.
- 1.4.4 Require, through the Urban Growth Management Functional Plan, that local governments exercise their comprehensive planning and zoning authorities to protect Regionally Significant Industrial Areas from incompatible uses.
- 1.4.5 Facilitate investment in those areas of employment with characteristics that make them especially suitable and valuable for traded-sector goods and services, including brownfield sites and sites that are re-developable.
- 1.4.6 Consistent with policies promoting a compact urban form, ensure that the region maintains a sufficient supply of tracts 50 acres and larger to meet demand by traded-sector industries for large sites and protect those sites from conversion to non-industrial uses.

Repeal Chapter 1 (Land Use) Policy 1.6

Repeal Chapter 1 (Land Use) Policy 1.15

Exhibit C to Ordinance No. 10-1244B

TITLE 4: INDUSTRIAL AND OTHER EMPLOYMENT AREAS

3.07.410 Purpose and Intent

The Regional Framework Plan calls for a strong regional economy. To improve the economy, Title 4 seeks to provide and protect a supply of sites for employment by limiting the types and scale of non-industrial uses in Regionally Significant Industrial Areas (RSIAs), Industrial and Employment Areas. Title 4 also seeks to provide the benefits of "clustering" to those industries that operate more productively and efficiently in proximity to one another than in dispersed locations. Title 4 further seeks to protect the capacity and efficiency of the region's transportation system for the movement of goods and services and to encourage the location of other types of employment in Centers, Corridors, Main Streets and Station Communities. The Metro Council will evaluate the effectiveness of Title 4 in achieving these purposes as part of its periodic analysis of the capacity of the urban growth boundary.

3.07.420 Protection of Regionally Significant Industrial Areas

A. Regionally Significant Industrial Areas (RSIAs) are those areas near the region's most significant transportation facilities for the movement of freight and other areas most suitable for movement and storage of goods. Each city and county with land use planning authority over RSIAs shown on the Employment and Industrial Areas Map shall derive specific plan designation and zoning district boundaries of RSIAs within its jurisdiction from the Map, taking into account the location of existing uses that would not conform to the limitations on non-industrial uses in this section and the need to achieve a mix of employment uses.

B. Cities and counties shall review their land use regulations and revise them, if necessary, to include measures to limit the size and location of new buildings for retail commercial uses - such as stores and restaurants - and retail and professional services that cater to daily customers - such as financial, insurance, real estate, legal, medical and dental offices - to ensure that they serve primarily the needs of workers in the area. One such measure shall be that new buildings for stores, branches, agencies or other outlets for these retail uses and services shall not occupy more than 3,000 square feet of sales or service area in a single outlet, or multiple outlets that occupy more than 20,000 square feet of sales or service area in a single building or in multiple buildings that are part of the same development project, with the following exceptions:

1. Within the boundaries of a public use airport subject to a facilities master plan, customary airport uses, uses that are accessory to the travel-related and freight movement activities of airports, hospitality uses, and retail uses appropriate to serve the needs of the traveling public; and
2. Training facilities whose primary purpose is to provide training to meet industrial needs.

C. Cities and counties shall review their land use regulations and revise them, if necessary, to include measures to limit the siting and location of new buildings for the uses described in subsection B and for non-industrial uses that do not cater to daily customers—such as banks or insurance processing centers—to ensure that such uses do not reduce off-peak performance on Main Roadway Routes and Roadway Connectors shown on the Regional Freight Network Map in the Regional Transportation Plan or require added road capacity to prevent falling below the standards.

D. Cities and counties shall review their land use regulations and revise them, if necessary, to prohibit the siting of schools, places of assembly larger than 20,000 square feet or parks intended to serve people other than those working or residing in the RSIA.

E. No city or county shall amend its land use regulations that apply to lands shown as RSIA on the Employment and Industrial Areas Map to authorize uses described in subsection B that were not authorized prior to July 1, 2004.

F. Cities and counties may allow division of lots or parcels into smaller lots or parcels as follows:

1. Lots or parcels smaller than 50 acres may be divided into any number of smaller lots or parcels.
2. Lots or parcels 50 acres or larger may be divided into smaller lots and parcels pursuant to a master plan approved by the city or county so long as the resulting division yields at least one lot or parcel of at least 50 acres in size.
3. Lots or parcels 50 acres or larger, including those created pursuant to paragraph 2 of this subsection, may be divided into any number of smaller lots or parcels pursuant to a master plan approved by the city or county so long as at least 40 percent of the area of the lot or parcel has been developed with industrial uses or uses accessory to industrial use, and no portion has been developed, or is proposed to be developed, with uses described in subsection B of this section.
4. Notwithstanding paragraphs 2 and 3 of this subsection, any lot or parcel may be divided into smaller lots or parcels or made subject to rights-of-way for the following purposes:
 - a. To provide public facilities and services;
 - b. To separate a portion of a lot or parcel in order to protect a natural resource, to provide a public amenity, or to implement a remediation plan for a site identified by the Oregon Department of Environmental Quality pursuant to ORS 465.225;

- c. To separate a portion of a lot or parcel containing a nonconforming use from the remainder of the lot or parcel in order to render the remainder more practical for a permitted use; or
- d. To allow the creation of a lot solely for financing purposes when the created lot is part of a master planned development.

G. Notwithstanding subsection B of this section, a city or county may allow the lawful use of any building, structure or land at the time of enactment of an ordinance adopted pursuant to this section to continue and to expand to add up to 20 percent more floor area and 10 percent more land area. Notwithstanding subsection E of this section, a city or county may allow division of lots or parcels pursuant to a master plan approved by the city or county prior to July 1, 2004.

3.07.430 Protection of Industrial Areas

A. Cities and counties shall review their land use regulations and revise them, if necessary, to include measures to limit new buildings for retail commercial uses—such as stores and restaurants—and retail and professional services that cater to daily customers—such as financial, insurance, real estate, legal, medical and dental offices—in order to ensure that they serve primarily the needs of workers in the area. One such measure shall be that new buildings for stores, branches, agencies or other outlets for these retail uses and services shall not occupy more than 5,000 square feet of sales or service area in a single outlet, or multiple outlets that occupy more than 20,000 square feet of sales or service area in a single building or in multiple buildings that are part of the same development project, with the following exceptions:

- 1. Within the boundaries of a public use airport subject to a facilities master plan, customary airport uses, uses that are accessory to the travel-related and freight movement activities of airports, hospitality uses, and retail uses appropriate to serve the needs of the traveling public; and
- 2. Training facilities whose primary purpose is to provide training to meet industrial needs.

B. Cities and counties shall review their land use regulations and revise them, if necessary, to include measures to limit new buildings for the uses described in subsection A to ensure that they do not interfere with the efficient movement of freight along Main Roadway Routes and Roadway Connectors shown on the Regional Freight Network Map in the Regional Transportation Plan. Such measures may include, but are not limited to, restrictions on access to freight routes and connectors, siting limitations and traffic thresholds. This subsection does not require cities and counties to include such measures to limit new other buildings or uses.

C. No city or county shall amend its land use regulations that apply to lands shown as Industrial Area on the Employment and Industrial Areas Map to authorize uses described in subsection A of this section that were not authorized prior to July 1, 2004.

D. Cities and counties may allow division of lots or parcels into smaller lots or parcels as follows:

1. Lots or parcels smaller than 50 acres may be divided into any number of smaller lots or parcels.
2. Lots or parcels 50 acres or larger may be divided into smaller lots and parcels pursuant to a master plan approved by the city or county so long as the resulting division yields at least one lot or parcel of at least 50 acres in size.
3. Lots or parcels 50 acres or larger, including those created pursuant to paragraph (2) of this subsection, may be divided into any number of smaller lots or parcels pursuant to a master plan approved by the city or county so long as at least 40 percent of the area of the lot or parcel has been developed with industrial uses or uses accessory to industrial use, and no portion has been developed, or is proposed to be developed with uses described in subsection A of this section.
4. Notwithstanding paragraphs 2 and 3 of this subsection, any lot or parcel may be divided into smaller lots or parcels or made subject to rights-of-way for the following purposes:
 - a. To provide public facilities and services;
 - b. To separate a portion of a lot or parcel in order to protect a natural resource, to provide a public amenity, or to implement a remediation plan for a site identified by the Oregon Department of Environmental Quality pursuant to ORS 465.225;
 - c. To separate a portion of a lot or parcel containing a nonconforming use from the remainder of the lot or parcel in order to render the remainder more practical for a permitted use; or
 - d. To allow the creation of a lot solely for financing purposes when the created lot is part of a master planned development.

E. Notwithstanding subsection B of this section, a city or county may allow the lawful use of any building, structure or land at the time of enactment of an ordinance adopted pursuant to this section to continue and to expand to add up to 20 percent more floorspace and 10 percent more land area.

3.07.440 Protection of Employment Areas

A. Except as provided in subsections C, D and E, in Employment Areas mapped pursuant to Metro Code section 3.07.130, cities and counties shall limit new and expanded commercial retail uses to those appropriate in type and size to serve the needs of businesses, employees and residents of the Employment Areas.

B. Except as provided in subsections C, D and E, a city or county shall not approve a commercial retail use in an Employment Area with more than 60,000 square feet of gross leasable area in a single building, or commercial retail uses with a total of more than 60,000 square feet of retail sales area on a single lot or parcel, or on contiguous lots or parcels, including those separated only by transportation right-of-way.

C. A city or county whose zoning ordinance applies to an Employment Area and is listed on Table 3.07-4 may continue to authorize commercial retail uses with more than 60,000 square feet of gross leasable area in that zone if the ordinance authorized those uses on January 1, 2003.

D. A city or county whose zoning ordinance applies to an Employment Area and is not listed on Table 3.07-4 may continue to authorize commercial retail uses with more than 60,000 square feet of gross leasable area in that zone if:

1. The ordinance authorized those uses on January 1, 2003;
2. Transportation facilities adequate to serve the commercial retail uses will be in place at the time the uses begin operation; and
3. The comprehensive plan provides for transportation facilities adequate to serve other uses planned for the Employment Area over the planning period.

E. A city or county may authorize new commercial retail uses with more than 60,000 square feet of gross leasable area in Employment Areas if the uses:

1. Generate no more than a 25 percent increase in site-generated vehicle trips above permitted non-industrial uses; and
2. Meet the Maximum Permitted Parking – Zone A requirements set forth in Table 3.08-3 of Title 4 of the Regional Transportation Functional Plan.

3.07.450 Employment and Industrial Areas Map

A. The Employment and Industrial Areas Map is the official depiction of the boundaries of Regionally Significant Industrial Areas, Industrial Areas and Employment Areas.

B. If the Metro Council adds territory to the UGB and designates all or part of the territory Regionally Significant Industrial Area, Industrial Area or Employment Area, after completion of Title 11 planning by the responsible city or county, the Chief Operating Officer (COO) shall issue an order to conform the map to the boundaries established by the responsible city or county. The order shall also make necessary amendments to the Habitat Conservation Areas Map, described in section 3.07.1320 of Title 13 of this chapter, to ensure implementation of Title 13.

C. A city or county may amend its comprehensive plan or zoning regulations to change its designation of land on the Employment and Industrial Areas Map in order to allow uses not allowed by this title upon a demonstration that:

1. The property is not surrounded by land designated on the map as Industrial Area, Regionally Significant Industrial Area or a combination of the two;
2. The amendment will not reduce the employment capacity of the city or county;
3. If the map designates the property as Regionally Significant Industrial Area, the subject property does not have access to specialized services, such as redundant electrical power or industrial gases, and is not proximate to freight loading and unloading facilities, such as trans-shipment facilities;
4. The amendment would not allow uses that would reduce off-peak performance on Main Roadway Routes and Roadway Connectors shown on the Regional Freight Network Map in the Regional Transportation Plan below volume-to-capacity standards in the plan, unless mitigating action is taken that will restore performance to RTP standards within two years after approval of uses;
5. The amendment would not diminish the intended function of the Central City or Regional or Town Centers as the principal locations of retail, cultural and civic services in their market areas; and
6. If the map designates the property as Regionally Significant Industrial Area, the property subject to the amendment is ten acres or less; if designated Industrial Area, the property subject to the amendment is 20 acres or less; if designated Employment Area, the property subject to the amendment is 40 acres or less.

D. A city or county may also amend its comprehensive plan or zoning regulations to change its designation of land on the Employment and Industrial Areas Map in order to allow uses not allowed by this title upon a demonstration that:

1. The entire property is not buildable due to environmental constraints; or
2. The property borders land that is not designated on the map as Industrial Area or Regionally Significant Industrial Area; and
3. The assessed value of a building or buildings on the property, built prior to March 5, 2004, and historically occupied by uses not allowed by this title, exceeds the assessed value of the land by a ratio of 1.5 to 1.

E. The COO shall revise the Employment and Industrial Areas Map by order to conform to an amendment made by a city or county pursuant to subsection C or D of this section within 30 days after notification by the city or county that no appeal of the amendment was filed

pursuant to ORS 197.825 or, if an appeal was filed, that the amendment was upheld in the final appeal process.

F. After consultation with MPAC, the Council may issue an order suspending operation of subsection C in any calendar year in which the cumulative amount of land for which the Employment and Industrial Areas Map is changed during that year from Regionally Significant Industrial Area or Industrial Area to Employment Area or other 2040 Growth Concept design type designation exceeds the industrial land surplus. The industrial land surplus is the amount by which the current supply of vacant land designated Regionally Significant Industrial Area and Industrial Area exceeds the 20-year need for industrial land, as determined by the most recent "Urban Growth Report: An Employment Land Need Analysis", reduced by an equal annual increment for the number of years since the report.

G. The Metro Council may amend the Employment and Industrial Areas Map by ordinance at any time to make corrections in order to better achieve the policies of the Regional Framework Plan.

H. Upon request from a city or a county, the Metro Council may amend the Employment and Industrial Areas Map by ordinance to consider proposed amendments that exceed the size standards of paragraph 6 of subsection C of the section. To approve an amendment, the Council must conclude that the amendment:

1. Would not reduce the employment capacity of the city or county;
2. Would not allow uses that would reduce off-peak performance on Main Roadway Routes and Roadway Connectors shown on the Regional Freight Network Map in the Regional Transportation Plan below volume-to-capacity standards in the plan, unless mitigating action is taken that will restore performance to RTP standards within two years after approval of uses;
3. Would not diminish the intended function of the Central City or Regional or Town Centers as the principal locations of retail, cultural and civic services in their market areas;
4. Would not reduce the integrity or viability of a traded sector cluster of industries;
5. Would not create or worsen a significant imbalance between jobs and housing in a regional market area; and
6. If the subject property is designated Regionally Significant Industrial Area, would not remove from that designation land that is especially suitable for industrial use due to the availability of specialized services, such as redundant electrical power or industrial gases, or due to proximity to freight transport facilities, such as trans-shipment facilities.

I. Amendments to the Employment and Industrial Areas Map made in compliance with the process and criteria in this section shall be deemed to comply with the Regional Framework Plan.

J. The Council may establish conditions upon approval of an amendment to the Employment and Industrial Areas Map under subsection F to ensure that the amendment complies with the Regional Framework Plan and state land use planning laws.

K. By January 31 of each year, the COO (COO) shall submit a written report to the Council and MPAC on the cumulative effects on employment land in the region of the amendments to the Employment and Industrial Areas Map made pursuant to this section during the preceding year. The report shall include any recommendations the COO deems appropriate on measures the Council might take to address the effects.

Title 4, Industrial and Other Employment Areas

ORDINANCE 10-12448, EXHIBIT D
December 16, 2010

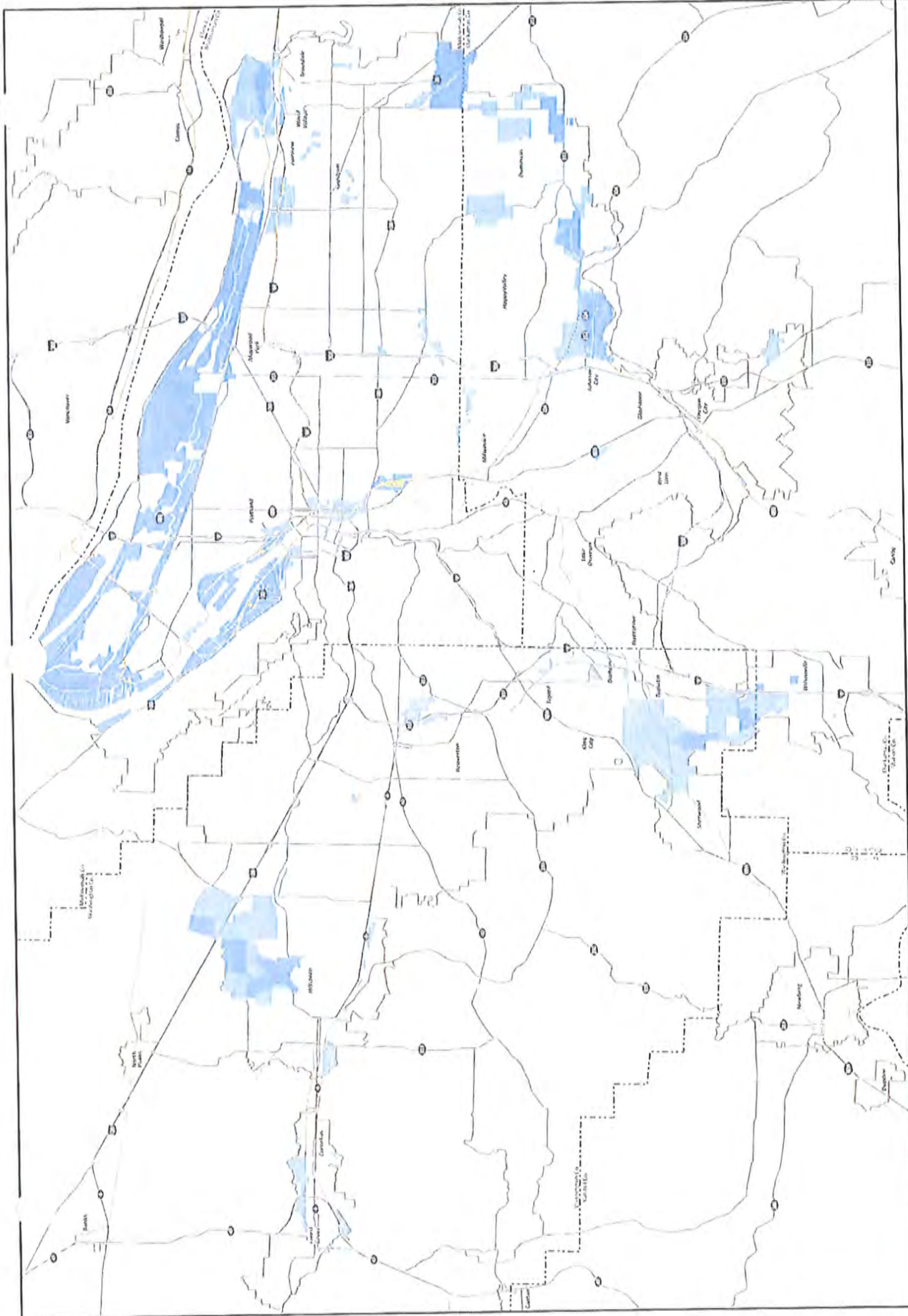


Exhibit G to Ordinance No. 10-1244B

TITLE 8: COMPLIANCE PROCEDURES

3.07.810 Compliance with the Functional Plan

A. The purposes of this chapter are to establish a process for ensuring city or county compliance with requirements of the Urban Growth Management Functional Plan and for evaluating and informing the region about the effectiveness of those requirements. Where the terms "compliance" and "comply" appear in this title, the terms shall have the meaning given to "substantial compliance" in section 3.07.1010.

B. Cities and counties shall amend their comprehensive plans and land use regulations to comply with the functional plan, or an amendment to the functional plan, within two years after acknowledgement of the functional plan or amendment, or after any later date specified by the Metro Council in the ordinance adopting or amending the functional plan. The Chief Operating Officer (COO) shall notify cities and counties of the acknowledgment date and compliance dates described in subsections C and D.

C. After one year following acknowledgment of a functional plan requirement, cities and counties that amend their comprehensive plans and land use regulations shall make such amendments in compliance with the new functional plan requirement.

D. Cities and counties whose comprehensive plans and land use regulations do not yet comply with the new functional plan requirement shall, after one year following acknowledgment of the requirement, make land use decisions consistent with the requirement. The COO shall notify cities and counties of the date upon which functional plan requirements become applicable to land use decisions at least 120 days before that date. For the purposes of this subsection, "land use decision" shall have the meaning of that term as defined in ORS 197.015(10).

E. An amendment to a city or county comprehensive plan or land use regulation shall be deemed to comply with the functional plan upon the expiration of the appropriate appeal period specified in ORS 197.830 or 197.650 or, if an appeal is made, upon the final decision on appeal. Once the amendment is deemed to comply, the functional plan requirement shall no longer apply to land use decisions made in conformance with the amendment.

F. An amendment to a city or county comprehensive plan or land use regulation shall be deemed to comply with the functional plan as provided in subsection E only if the city or county provided notice to the COO as required by subsection A of section 3.07.820.

3.07.820 Review by the Chief Operating Officer

A. A city or county proposing an amendment to a comprehensive plan or land use regulation shall submit the proposed amendment to the COO at least 45 days prior to the first evidentiary hearing on the amendment. The COO may request, and if so the city or county shall submit, an analysis of compliance of the amendment with the functional plan. If the COO submits

comments on the proposed amendment to the city or county, the comment shall include analysis and conclusions on compliance and a recommendation with specific revisions to the proposed amendment, if any, that would bring it into compliance with the functional plan. The COO shall send a copy of comment to those persons who have requested a copy.

B. If the COO concludes that the proposed amendment does not comply with the functional plan, the COO shall advise the city or county that it may:

1. Revise the proposed amendment as recommended in the COO's analysis;
2. Seek an extension of time, pursuant to section 3.07.830, to bring the proposed amendment into compliance with the functional plan; or
3. Seek an exception pursuant to section 3.07.840.

3.07.830 Extension of Compliance Deadline

A. A city or county may seek an extension of time for compliance with a functional plan requirement. The city or county shall file an application for an extension on a form provided by the COO. Upon receipt of an application, the COO shall notify the city or county and those persons who request notification of applications for extensions. Any person may file a written comment in support of or opposition to the extension.

B. The COO may grant an extension if the city or county is making progress toward compliance or there is good cause for failure to meet the deadline for compliance. Within 30 days after the filing of a complete application for an extension, the COO shall issue an order granting or denying the extension. The COO shall not grant more than two extensions of time. The COO shall send the order to the city or county and any person who filed a written comment.

C. The COO may establish terms and conditions for the extension in order to ensure that compliance is achieved in a timely and orderly fashion and that land use decisions made by the city or county during the extension do not undermine the ability of the city or county to achieve the purposes of the functional plan requirement. A term or condition must relate to the requirement of the functional plan to which the COO has granted the extension.

D. The city or county applicant or any person who filed written comment on the extension may appeal the COO's order to the Metro Council within 15 days after receipt of the order. If an appeal is filed, the Council shall hold a hearing to consider the appeal. After the hearing, the Council shall issue an order granting or denying the extension and shall send copies to the applicant and any person who participated in the hearing. The city or county or a person who participated in the proceeding may seek review of the Council's order as a land use decision described in ORS 197.015(10)(a)(A).

3.07.840 Exception from Compliance

A. A city or county may seek an exception from compliance with a functional plan requirement by filing an application on a form provided by the COO. Upon receipt of an

application, the COO shall notify the city or county and those persons who request notification of requests for exceptions. Any person may file a written comment in support of or opposition to the exception.

B. Except as provided in subsection C, the COO may grant an exception if:

1. it is not possible to achieve the requirement due to topographic or other physical constraints or an existing development pattern;
2. this exception and likely similar exceptions will not render the objective of the requirement unachievable region-wide;
3. the exception will not reduce the ability of another city or county to comply with the requirement; and
4. the city or county has adopted other measures more appropriate for the city or county to achieve the intended result of the requirement.

C. The COO may grant an exception to the housing capacity requirements in section 3.07.120 if:

1. the city or county has completed the analysis of capacity for dwelling units required by section 3.07.120;
2. it is not possible to comply with the requirements due to topographic or other physical constraints, an existing development pattern, or protection of natural resources pursuant to Titles 3 or 13 of this chapter; and
3. this exception and other similar exceptions will not render the targets unachievable region-wide.

D. The COO may establish terms and conditions for the exception in order to ensure that it does not undermine the ability of the region to achieve the purposes of the requirement. A term or condition must relate to the requirement of the functional plan to which the COO grants the exception. The COO shall incorporate the terms and conditions into the order on the exception.

E. The city or county applicant or a person who filed a written comment on the exception may appeal the COO's order to the Metro Council within 15 days after receipt of the order. If an appeal is filed, the Council shall hold a hearing to consider the appeal. After the hearing, the Council shall issue an order granting or denying the exception and send copies to the applicant and any person who participated in the hearing. The city or county or a person who participated in the proceeding may seek review of the Council's order as a land use decision described in ORS 197.015(10)(a)(A).

3.07.850 Enforcement of Functional Plan

A. The Metro Council may initiate enforcement if a city or county has failed to meet a deadline for compliance with a functional plan requirement or if the Council has good cause to believe that a city or county is engaged in a pattern or a practice of decision-making that is inconsistent with the functional plan, ordinances adopted by the city or county to implement the plan, or the terms or conditions in an extension or an exception granted pursuant to section 3.07.830 or 3.07.840, respectively. The Council may consider whether to initiate enforcement proceedings upon the request of the COO or a Councilor. The Council shall consult with the city or county before it determines there is good cause to proceed to a hearing under subsection B.

B. If the Council decides there is good cause, the Council President shall set the matter for a public hearing before the Council within 90 days of its decision. The COO shall publish notice of the hearing in a newspaper of general circulation in the city or county and send notice to the city or county, MPAC and any person who requests a copy of such notices.

C. The COO shall prepare a report and recommendation on the pattern or practice, with a proposed order, for consideration by the Council. The COO shall publish the report at least 14 days prior to the public hearing and send a copy to the city or county and any person who requests a copy.

D. At the conclusion of the hearing, the Council shall adopt an order that dismisses the matter if it decides the city or county complies with the requirement. If the Council decides the city or county has failed to meet a deadline for compliance with a functional plan requirement or has engaged in a pattern or a practice of decision-making that is inconsistent with the functional plan, ordinances adopted by the city or county to implement the plan, or terms or conditions of an extension or an exception granted pursuant to section 3.07.830 or 3.07.840, respectively, the Council may adopt an order that:

1. Directs changes in the city or county ordinances necessary to remedy the pattern or practice; or
2. Includes a remedy authorized in ORS 268.390(7).

E. The Council shall issue its order not later than 30 days following the hearing and send copies to the city or county, MPAC and any person who requests a copy.

3.07.860 Citizen Involvement in Compliance Review

A. Any person may contact Metro staff or the COO or appear before the Metro Council to raise issues regarding local functional plan compliance, to request Metro participation in the local process, or to request the COO to appeal a local enactment for which notice is required pursuant to subsection A of section 3.07.820. Such contact may be oral or in writing and may be made at any time.

B. In addition to considering requests as described in A above, the Council shall at every regularly scheduled meeting provide an opportunity for people to address the Council on any

matter related to this functional plan. The COO shall maintain a list of persons who request notice in writing of COO reviews, reports and orders and proposed actions under this chapter and shall send requested documents as provided in this chapter.

C. Cities, counties and the Council shall comply with their own adopted and acknowledged Citizen Involvement Requirements (Citizen Involvement) in all decisions, determinations and actions taken to implement and comply with this functional plan. The COO shall publish a citizen involvement fact sheet, after consultation with the Metro Committee for Citizen Involvement, that describes opportunities for citizen involvement in Metro's growth management procedures as well as the implementation and enforcement of this functional plan.

3.07.870 Compliance Report

A. The COO shall submit a report to the Metro Council by March 1 of each calendar year on the status of compliance by cities and counties with the requirements of the Urban Growth Management Function Plan. The COO shall send a copy of the report to MPAC, JPACT, MCCI and each city and county within Metro.

B. A city, county or person who disagrees with a determination in the compliance report may seek review of the determination by the Council by written request to the COO. The Council shall notify the requestor, all cities and counties, MPAC, JPACT, MCCI, the Department of Land Conservation and Development and any person who requests notification of the review. The notification shall state that the Council does not have jurisdiction to:

1. Determine whether previous amendments of comprehensive plans or land use regulations made by a city or county comply with functional plan requirements if those amendments already comply pursuant to subsections E and F of section 3.07.810; or
2. Reconsider a determination in a prior order issued under this section that a city or county complies with a requirement of the functional plan.

C. Following its review at a public hearing, the Council shall adopt an order that determines whether the city or county complies with the functional plan requirement raised in the request. The order shall be based upon the COO's report and testimony received at the public hearing. The COO shall send a copy of the order to cities and counties and any person who testifies, orally or in writing, at the public hearing.

D. A city or county or a person who participated, orally or in writing, at the public hearing, may seek review of the Council's order as a land use decision described in ORS 197.015(10)(a)(A).

Exhibit H to Ordinance No. 10-1244B

TITLE 9: PERFORMANCE MEASURES

Title 9 is repealed.

Exhibit I to Ordinance No. 10-1244B

TITLE 10: FUNCTIONAL PLAN DEFINITIONS

3.07.1010 Definitions

For the purpose of this functional plan, the following definitions shall apply:

- (a) "Balanced cut and fill" means no net increase in fill within the floodplain.
- (b) "COO" means Metro's Chief Operating Officer.
- (c) "Comprehensive plan" means the all inclusive, generalized, coordinated land use map and policy statement of cities and counties defined in ORS 197.015(5).
- (d) "DBH" means the diameter of a tree measured at breast height.
- (e) "Design flood elevation" means the elevation of the 100-year storm as defined in FEMA Flood Insurance Studies or, in areas without FEMA floodplains, the elevation of the 25-year storm, or the edge of mapped flood prone soils or similar methodologies.
- (f) "Design type" means the conceptual areas described in the Metro 2040 Growth Concept text and map in Metro's regional goals and objectives, including central city, regional centers, town centers, station communities, corridors, main streets, inner and outer neighborhoods, industrial areas, and employment areas.
- (g) "Designated beneficial water uses" means the same as the term as defined by the Oregon Department of Water Resources, which is: an instream public use of water for the benefit of an appropriator for a purpose consistent with the laws and the economic and general welfare of the people of the state and includes, but is not limited to, domestic, fish life, industrial, irrigation, mining, municipal, pollution abatement, power development, recreation, stockwater and wildlife uses.
- (h) "Development" means any man-made change defined as buildings or other structures, mining, dredging, paving, filling, or grading in amounts greater than ten (10) cubic yards on any lot or excavation. In addition, any other activity that results in the removal of more than 10 percent of the vegetation in the Water Quality Resource Area on the lot is defined as development, for the purpose of Title 3 except that less than 10 percent removal of vegetation on a lot must comply with section 3.07.340(C) - Erosion and Sediment Control. In addition, any other activity that results in the removal of more than either 10 percent or 20,000 square feet of the vegetation in the Habitat Conservation Areas on the lot is defined as development, for the purpose of Title 13. Development does not include the following: (1) Stream enhancement or restoration projects approved by cities and counties; (2) Farming practices as defined in ORS 30.930 and farm use as defined in ORS 215.203, except that buildings associated with farm practices and farm

uses are subject to the requirements of Titles 3 and 13 of this functional plan; and (3) Construction on lots in subdivisions meeting the criteria of ORS 92.040(2).

- (i) "Development application" means an application for a land use decision, limited land decision including expedited land divisions, but excluding partitions as defined in ORS 92.010(7) and ministerial decisions such as a building permit.
- (j) "Division" means a partition or a subdivision as those terms are defined in ORS chapter 92.
- (k) "Ecological functions" means the biological and hydrologic characteristics of healthy fish and wildlife habitat. Riparian ecological functions include microclimate and shade, streamflow moderation and water storage, bank stabilization and sediment/pollution control, sources of large woody debris and natural channel dynamics, and organic material sources. Upland wildlife ecological functions include size of habitat area, amount of habitat with interior conditions, connectivity of habitat to water resources, connectivity to other habitat areas, and presence of unique habitat types.
- (l) "Emergency" means any man-made or natural event or circumstance causing or threatening loss of life, injury to person or property, and includes, but is not limited to, fire, explosion, flood, severe weather, drought earthquake, volcanic activity, spills or releases of oil or hazardous material, contamination, utility or transportation disruptions, and disease.
- (m) "Enhancement" means the process of improving upon the natural functions and/or values of an area or feature which has been degraded by human activity. Enhancement activities may or may not return the site to a pre-disturbance condition, but create/recreate processes and features that occur naturally.
- (n) "Fill" means any material such as, but not limited to, sand, gravel, soil, rock or gravel that is placed in a wetland or floodplain for the purposes of development or redevelopment.
- (o) "Flood Areas" means those areas contained within the 100-year floodplain and floodway as shown on the Federal Emergency Management Agency Flood Insurance Maps and all lands that were inundated in the February 1996 flood.
- (p) "Flood Management Areas" means all lands contained within the 100-year floodplain, flood area and floodway as shown on the Federal Emergency Management Agency Flood Insurance Maps and the area of inundation for the February 1996 flood. In addition, all lands which have documented evidence of flooding.
- (q) "Floodplain" means land subject to periodic flooding, including the 100-year floodplain as mapped by FEMA Flood Insurance Studies or other substantial evidence of actual flood events.

- (r) "Growth Concept Map" means the conceptual map demonstrating the 2040 Growth Concept design types attached to this plan¹.
- (s) "Habitat Conservation Area" or "HCA" means an area identified on the Habitat Conservation Areas Map and subject to the performance standards and best management practices described in Metro Code section 3.07.1340.
- (t) "Habitat-friendly development" means a method of developing property that has less detrimental impact on fish and wildlife habitat than does traditional development methods. Examples include clustering development to avoid habitat, using alternative materials and designs such as pier, post, or piling foundations designed to minimize tree root disturbance, managing storm water on-site to help filter rainwater and recharge groundwater sources, collecting rooftop water in rain barrels for reuse in site landscaping and gardening, and reducing the amount of effective impervious surface created by development.
- (u) "Habitats of Concern" means the following unique or unusually important wildlife habitat areas as identified based on site specific information provided by local wildlife or habitat experts: Oregon white oak woodlands, bottomland hardwood forests, wetlands, native grasslands, riverine islands or deltas, and important wildlife migration corridors.
- (v) "Hazardous materials" means materials described as hazardous by Oregon Department of Environmental Quality.
- (w) "Implementing ordinances or regulations" means any city or county land use regulation as defined by ORS 197.015(11) which includes zoning, land division or other ordinances which establish standards for implementing a comprehensive plan.
- (x) "Invasive non-native or noxious vegetation" means plants listed as nuisance plants or prohibited plants on the Metro Native Plant List as adopted by Metro Council resolution because they are plant species that have been introduced and, due to aggressive growth patterns and lack of natural enemies in the area where introduced, spread rapidly into native plant communities.
- (y) "Land Conservation and Development Commission" or "LCDC" means the Oregon Land Conservation and Development Commission.
- (z) "Land use regulation" means any local government zoning ordinance, land division ordinance adopted under ORS 92.044 or 92.046 or similar general ordinance establishing standards for implementing a comprehensive plan, as defined in ORS 197.015.
- (aa) "Large-format retail commercial buildings" means a building intended for retail commercial use with more than 60,000 square feet of gross leasable area, or that amount or more of retail sales area on a single lot or parcel, or that amount or more on contiguous lots or parcels including lots or parcels separated only by a transportation right-of-way.

¹ On file in the Metro Council office.

- (bb) "Local program effective date" means the effective date of a city's or county's new or amended comprehensive plan and implementing ordinances adopted to comply with Title 13 of the Urban Growth Management Functional Plan, Metro Code sections 3.07.1310 to 3.07.1370. If a city or county is found to be in substantial compliance with Title 13 without making any amendments to its comprehensive plan or land use regulations, then the local program effective date shall be December 28, 2005. If a city or county amends its comprehensive plan or land use regulations to comply with Title 13, then the local program effective date shall be the effective date of the city's or county's amendments to its comprehensive plan or land use regulations, but in no event shall the local program effective date be later than two years after Title 13 is acknowledged by LCDC. For territory brought within the Metro UGB after December 28, 2005, the local program effective date shall be the effective date of the ordinance adopted by the Metro Council to bring such territory within the Metro UGB.
- (cc) "Metro" means the regional government of the metropolitan area, the elected Metro Council as the policy setting body of the government.
- (dd) "Metro boundary" means the jurisdictional boundary of Metro, the elected regional government of the metropolitan area.
- (ee) "MCCI" means the Metro Committee for Citizen Involvement.
- (ff) "MPAC" means the Metropolitan Advisory Committee established pursuant to Metro Charter, Chapter V, Section 27.
- (gg) "Mitigation" means the reduction of adverse effects of a proposed project by considering, in the following order: (1) avoiding the impact altogether by not taking a certain action or parts of an action; (2) minimizing impacts by limiting the degree or magnitude of the action and its implementation; (3) rectifying the impact by repairing, rehabilitating or restoring the affected environment; (4) reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action by monitoring and taking appropriate measures; and (5) compensating for the impact by replacing or providing comparable substitute water quality resource areas or habitat conservation areas.
- (hh) "Mixed use" means comprehensive plan or implementing regulations that permit a mixture of commercial and residential development.
- (ii) "Mixed-use development" includes areas of a mix of at least two of the following land uses and includes multiple tenants or ownerships: residential, retail and office. This definition excludes large, single-use land uses such as colleges, hospitals, and business campuses. Minor incidental land uses that are accessory to the primary land use should not result in a development being designated as "mixed-use development." The size and definition of minor incidental, accessory land uses allowed within large, single-use

developments should be determined by cities and counties through their comprehensive plans and implementing ordinances.

- (jj) "Native vegetation" or "native plant" means any vegetation listed as a native plant on the Metro Native Plant List as adopted by Metro Council resolution and any other vegetation native to the Portland metropolitan area provided that it is not listed as a nuisance plant or a prohibited plant on the Metro Native Plant List.
- (kk) "Net acre" means an area measuring 43,560 square feet which excludes:
- Any developed road rights-of-way through or on the edge of the land; and
 - Environmentally constrained areas, including any open water areas, floodplains, natural resource areas protected under statewide planning Goal 5 in the comprehensive plans of cities and counties in the region, slopes in excess of 25 percent and wetlands requiring a Federal fill and removal permit under Section 404 of the Clean Water Act. These excluded areas do not include lands for which the local zoning code provides a density bonus or other mechanism which allows the transfer of the allowable density or use to another area or to development elsewhere on the same site; and
 - All publicly-owned land designated for park and open spaces uses.
- (ll) "Net developed acre" consists of 43,560 square feet of land, after excluding present and future rights-of-way, school lands and other public uses.
- (mm) "Net vacant buildable land" means all vacant land less all land that is: (1) within Water Quality Resource Areas; (2) within Habitat Conservation Areas; (3) publicly owned by a local, state or federal government; (4) burdened by major utility easements; and (5) necessary for the provision of roads, schools, parks, churches, and other public facilities.
- (nn) "Perennial streams" means all primary and secondary perennial waterways as mapped by the U.S. Geological Survey.
- (oo) "Performance measure" means a measurement derived from technical analysis aimed at determining whether a planning policy is achieving the expected outcome or intent associated with the policy.
- (pp) "Person-trips" means the total number of discrete trips by individuals using any mode of travel.
- (qq) "Persons per acre" means the intensity of building development by combining residents per acre and employees per acre.

- (rr) "Practicable" means available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purpose. As used in Title 13 of this functional plan, "practicable" means available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purpose and probable impact on ecological functions.
- (ss) "Primarily developed" means areas where less than 10% of parcels are either vacant or underdeveloped.
- (tt) "Property owner" means a person who owns the primary legal or equitable interest in the property.
- (uu) "Protected Water Features"

Primary Protected Water Features shall include:

- Title 3 wetlands; and
- Rivers, streams, and drainages downstream from the point at which 100 acres or more are drained to that water feature (regardless of whether it carries year-round flow); and
- Streams carrying year-round flow; and
- Springs which feed streams and wetlands and have year-round flow; and
- Natural lakes.

Secondary Protected Water Features shall include intermittent streams and seeps downstream of the point at which 50 acres are drained and upstream of the point at which 100 acres are drained to that water feature.

- (vv) "Public facilities and services" means sewers, water service, stormwater services and transportation.
- (ww) "Redevelopable land" means land on which development has already occurred, which due to present or expected market forces, there exists the strong likelihood that existing development will be converted to more intensive uses during the planning period.
- (xx) "Regionally significant fish and wildlife habitat" means those areas identified on the Regionally Significant Fish and Wildlife Habitat Inventory Map, adopted in Metro Code section 3.07.1320, as significant natural resource sites.
- (yy) "Restoration" means the process of returning a disturbed or altered area or feature to a previously existing natural condition. Restoration activities reestablish the structure,

function, and/or diversity to that which occurred prior to impacts caused by human activity.

- (zz) "Retail" means activities which include the sale, lease or rent of new or used products to the general public or the provision of product repair or services for consumer and business goods.
- (aaa) "Riparian area" means the water influenced area adjacent to a river, lake or stream consisting of the area of transition from a hydric ecosystem to a terrestrial ecosystem where the presence of water directly influences the soil-vegetation complex and the soil-vegetation complex directly influences the water body. It can be identified primarily by a combination of geomorphologic and ecologic characteristics.
- (bbb) "Rural reserve" means an area designated rural reserve by Clackamas, Multnomah or Washington County pursuant to OAR 660-027.
- (ccc) "Significant negative impact" means an impact that affects the natural environment, considered individually or cumulatively with other impacts on the Water Quality Resource Area, to the point where existing water quality functions and values are degraded.
- (ddd) "Straight-line distance" means the shortest distance measured between two points.
- (eee) "Stream" means a body of running water moving over the earth's surface in a channel or bed, such as a creek, rivulet or river. It flows at least part of the year, including perennial and intermittent streams. Streams are dynamic in nature and their structure is maintained through build-up and loss of sediment.
- (fff) "Substantial compliance" means city and county comprehensive plans and implementing ordinances, on the whole, conforms with the purposes of the performance standards in the functional plan and any failure to meet individual performance standard requirements is technical or minor in nature.
- (ggg) "Title 3 Wetlands" means wetlands of metropolitan concern as shown on the Metro Water Quality and Flood Management Area Map and other wetlands added to city or county adopted Water Quality and Flood Management Area maps consistent with the criteria in Title 3, section 3.07.340(E)(3). Title 3 wetlands do not include artificially constructed and managed stormwater and water quality treatment facilities.
- (hhh) "Top of bank" means the same as "bankfull stage" defined in OAR 141-085-0010(2).
- (iii) "Urban development value" means the economic value of a property lot or parcel as determined by analyzing three separate variables: assessed land value, value as a property that could generate jobs ("employment value"), and the Metro 2040 design type designation of property. The urban development value of all properties containing

regionally significant fish and wildlife habitat is depicted on the Metro Habitat Urban Development Value Map referenced in Metro Code section 3.07.1340(E).

- (jjj) "UGB" means an urban growth boundary adopted pursuant to ORS chapter 197.
- (kkk) "Underdeveloped parcels" means those parcels of land with less than 10% of the net acreage developed with permanent structures.
- (lll) "Urban reserve" means an area designated urban reserve by the Metro Council pursuant to OAR 660 Division 27.
- (mmm) "Utility facilities" means buildings, structures or any constructed portion of a system which provides for the production, transmission, conveyance, delivery or furnishing of services including, but not limited to, heat, light, water, power, natural gas, sanitary sewer, stormwater, telephone and cable television.
- (nnn) "Vacant land" means land identified in the Metro or local government inventory as undeveloped land.
- (ooo) "Variance" means a discretionary decision to permit modification of the terms of an implementing ordinance based on a demonstration of unusual hardship or exceptional circumstance unique to a specific property.
- (ppp) "Visible or measurable erosion" includes, but is not limited to:
 - Deposits of mud, dirt sediment or similar material exceeding one-half cubic foot in volume on public or private streets, adjacent property, or onto the storm and surface water system, either by direct deposit, dropping discharge, or as a result of the action of erosion.
 - Evidence of concentrated flows of water over bare soils; turbid or sediment laden flows; or evidence of on-site erosion such as rivulets on bare soil slopes, where the flow of water is not filtered or captured on the site.
 - Earth slides, mudflows, earth sloughing, or other earth movement that leaves the property.
- (qqq) "Water feature" means all rivers, streams (regardless of whether they carry year-round flow, i.e., including intermittent streams), springs which feed streams and wetlands and have year-round flow, Flood Management Areas, wetlands, and all other bodies of open water.
- (rrr) "Water Quality and Flood Management Area" means an area defined on the Metro Water Quality and Flood Management Area Map, to be attached hereto². These are areas that require regulation in order to mitigate flood hazards and to preserve and enhance water

² On file in Metro Council office.

quality. This area has been mapped to generally include the following: stream or river channels, known and mapped wetlands, areas with flood-prone soils adjacent to the stream, floodplains, and sensitive water areas. The sensitive areas are generally defined as 50 feet from top of bank of streams for areas of less than 25% slope, and 200 feet from top of bank on either side of the stream for areas greater than 25% slope, and 50 feet from the edge of a mapped wetland.

- (sss) "Water Quality Resource Areas" means vegetated corridors and the adjacent water feature as established in Title 3.
- (ttt) "Wetlands." Wetlands are those areas inundated or saturated by surface or ground water at a frequency and duration sufficient to support and under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands are those areas identified and delineated by a qualified wetland specialist as set forth in the 1987 Corps of Engineers Wetland Delineation Manual.
- (uuu) "Zoned capacity" means the highest number of dwelling units or jobs that are allowed to be contained in an area by zoning and other city or county jurisdiction regulations.

Exhibit C to Ordinance No. 10-1244

TITLE 4: INDUSTRIAL AND OTHER EMPLOYMENT AREAS

3.07.410 - Purpose and Intent

The Regional Framework Plan calls for a strong regional economy. ~~economy, economic climate~~. To improve the economy, region's economic climate, Title 4 seeks to provide and protect a supply of sites for employment by limiting the types and scale of non-industrial uses in Regionally Significant Industrial Areas (RSIAs), Industrial and Employment Areas. Title 4 also seeks to provide the benefits of "clustering" to those industries that operate more productively and efficiently in proximity to one another than in dispersed locations. Title 4 further seeks to protect the capacity and efficiency of the region's transportation system for the movement of goods and services and to encourage the location of other types of employment in Centers, ~~Employment Areas~~, Corridors, Main Streets and Station Communities. The Metro Council will evaluate the effectiveness of Title 4 in achieving these purposes as part of its periodic analysis of the capacity of the urban growth boundary.

~~(Ordinance No. 07-715B, Sec. 1, Amended by Ordinance 02-060B, Sec. 5; Ordinance No. 04-1040B, Sec. 2.)~~

3.07.420- Protection of Regionally Significant Industrial Areas

- A. Regionally Significant Industrial Areas (RSIAs) are those areas near the region's most significant transportation facilities for the movement of freight and other areas most suitable for movement and storage of goods. Each city and county with land use planning authority over RSIAs shown on the Employment and Industrial Areas Map shall derive specific plan designation and zoning district boundaries of RSIAs within its jurisdiction from the Map, taking into account the location of existing uses that would not conform to the limitations on non-industrial uses in this section and the need to achieve a mix of employment uses.
- B. Cities and counties shall review their land use regulations and revise them, if necessary, to include measures to limit

the size and location of new buildings for retail commercial uses - such as stores and restaurants - and retail and professional services that cater to daily customers - such as financial, insurance, real estate, legal, medical and dental offices - to ensure that they serve primarily the needs of workers in the area. One such measure shall be that new buildings for stores, branches, agencies or other outlets for these retail uses and services shall not occupy more than 3,000 square feet of sales or service area in a single outlet, or multiple outlets that occupy more than 20,000 square feet of sales or service area in a single building or in multiple buildings that are part of the same development project, with the following exceptions:

1. Within the boundaries of a public use airport subject to a facilities master plan, customary airport uses, uses that are accessory to the travel-related and freight movement activities of airports, hospitality uses, and retail uses appropriate to serve the needs of the traveling public; and
2. Training facilities whose primary purpose is to provide training to meet industrial needs.

C. Cities and counties shall review their land use regulations and revise them, if necessary, to include measures to limit the siting and location of new buildings for the uses described in subsection B and for non-industrial uses that do not cater to daily customers-such as banks or insurance processing centers-to ensure that such uses do not reduce off-peak performance on Main Roadway Routes and Roadway Connectors shown on the RegionalMetro's Freight Network Map, November, 2003, below standards set in the 2004 Regional Transportation Plan or require added road capacity to prevent falling below the standards.

D. Cities and counties shall review their land use regulations and revise them, if necessary, to prohibit the siting of schools, places of assembly larger than 20,000 square feet or parks intended to serve people other than those working or residing in the RSIA.

E.
~~D.~~ No city or county shall amend its land use regulations that apply to lands shown as RSIA on the Employment and

Industrial Areas Map to authorize uses described in subsection B that were not authorized prior to July 1, 2004.

| ~~F.6.~~ Cities and counties may allow division of lots or parcels into smaller lots or parcels as follows:

- | — 1. Lots or parcels smaller than 50 acres may be divided into any number of smaller lots or parcels.
- | — 2. Lots or parcels ~~larger than~~ 50 acres or larger may be divided into smaller lots and parcels pursuant to a master plan approved by the city or county so long as the resulting division yields at least one lot or parcel of at least 50 acres in size.
- | — 3. Lots or parcels 50 acres or larger, including those created pursuant to paragraph 2 of this subsection, may be divided into any number of smaller lots or parcels pursuant to a master plan approved by the city or county so long as at least 40 percent of the area of the lot or parcel has been developed with industrial uses or uses accessory to industrial use, and no portion has been developed, or is proposed to be developed, with uses described in subsection B of this section.
- | — 4. Notwithstanding paragraphs 2 and 3 of this subsection, any lot or parcel may be divided into smaller lots or parcels or made subject to rights-of-way for the following purposes:
 - a. To provide public facilities and services;
 - b. To separate a portion of a lot or parcel in order to protect a natural resource, to provide a public amenity, or to implement a remediation plan for a site identified by the Oregon Department of Environmental Quality pursuant to ORS 465.225;
 - c. To separate a portion of a lot or parcel containing a nonconforming use from the remainder of the lot or parcel in order to render the remainder more practical for a permitted use; or

- d. To allow the creation of a lot solely for financing purposes when the created lot is part of a master planned development.

~~G.F.~~ Notwithstanding subsection B of this section, a city or county may allow the lawful use of any building, structure or land at the time of enactment of an ordinance adopted pursuant to this section to continue and to expand to add up to 20 percent more floor area and 10 percent more land area. Notwithstanding subsection E of this section, a city or county may allow division of lots or parcels pursuant to a master plan approved by the city or county prior to July 1, 2004.

~~(Ordinance No. 07-715B, Sec. 1. Amended by Ordinance No. 02-050B, Sec. 3, Ordinance No. 01-1040B, Sec. 2.)~~

3.07.430- Protection of Industrial Areas

- A. Cities and counties shall review their land use regulations and revise them, if necessary, to include measures to limit new buildings for retail commercial uses—such as stores and restaurants—and retail and professional services that cater to daily customers—such as financial, insurance, real estate, legal, medical and dental offices—in order to ensure that they serve primarily the needs of workers in the area. One such measure shall be that new buildings for stores, branches, agencies or other outlets for these retail uses and services shall not occupy more than 5,000 square feet of sales or service area in a single outlet, or multiple outlets that occupy more than 20,000 square feet of sales or service area in a single building or in multiple buildings that are part of the same development project, with the following exceptions:

1. Within the boundaries of a public use airport subject to a facilities master plan, customary airport uses, uses that are accessory to the travel-related and freight movement activities of airports, hospitality uses, and retail uses appropriate to serve the needs of the traveling public; and
2. Training facilities whose primary purpose is to provide training to meet industrial needs.

- B. Cities and counties shall review their land use regulations and revise them, if necessary, to include measures to limit

new buildings for the uses described in subsection A to ensure that they do not interfere with the efficient movement of freight along Main Roadway Routes and Roadway Connectors shown on the Regional Metro's Freight Network Map in the Regional Transportation Plan, November, 2003. Such measures may include, but are not limited to, restrictions on access to freight routes and connectors, siting limitations and traffic thresholds. This subsection does not require cities and counties to include such measures to limit new other buildings or uses.

- C. No city or county shall amend its land use regulations that apply to lands shown as Industrial Area on the Employment and Industrial Areas Map to authorize uses described in subsection A of this section that were not authorized prior to July 1, 2004.
- D. Cities and counties may allow division of lots or parcels into smaller lots or parcels as follows:
 - 1. Lots or parcels smaller than 50 acres may be divided into any number of smaller lots or parcels.
 - 2. Lots or parcels ~~larger than~~ 50 acres or larger may be divided into smaller lots and parcels pursuant to a master plan approved by the city or county so long as the resulting division yields at least one lot or parcel of at least 50 acres in size.
 - 3. Lots or parcels 50 acres or larger, including those created pursuant to paragraph (2) of this subsection, may be divided into any number of smaller lots or parcels pursuant to a master plan approved by the city or county so long as at least 40 percent of the area of the lot or parcel has been developed with industrial uses or uses accessory to industrial use, and no portion has been developed, or is proposed to be developed with uses described in subsection A of this section.
 - 4. Notwithstanding paragraphs 2 and 3 of this subsection, any lot or parcel may be divided into smaller lots or parcels or made subject to rights-of-way for the following purposes:
 - ~~a.~~ To provide public facilities and services;

- ~~b.~~ To separate a portion of a lot or parcel in order to protect a natural resource, to provide a public amenity, or to implement a remediation plan for a site identified by the Oregon Department of Environmental Quality pursuant to ORS 465.225;
 - ~~c.~~ To separate a portion of a lot or parcel containing a nonconforming use from the remainder of the lot or parcel in order to render the remainder more practical for a permitted use; or
 - ~~d.~~ To allow the creation of a lot solely for financing purposes when the created lot is part of a master planned development.
- E. Notwithstanding subsection B of this section, a city or county may allow the lawful use of any building, structure or land at the time of enactment of an ordinance adopted pursuant to this section to continue and to expand to add up to 20 percent more floorspace and 10 percent more land area.

~~(Ordinance No. 27-715B, Sec. 1. Amended by Ordinance No. 02-060B, Sec. 5; Ordinance No. 04-1040B, Sec. 2.)~~

3.07.440 Protection of Employment Areas

- A. Except as provided in subsections C, D and E, in Employment Areas mapped pursuant to Metro Code ~~section~~Section 3.07.130, cities and counties shall limit new and expanded commercial retail uses to those appropriate in type and size to serve the needs of businesses, employees and residents of the Employment Areas.
- B. Except as provided in subsections C, D and E, a city or county shall not approve a commercial retail use in an Employment Area with more than 60,000 square feet of gross leasable area in a single building, or commercial retail uses with a total of more than 60,000 square feet of retail sales area on a single lot or parcel, or on contiguous lots or parcels, including those separated only by transportation right-of-way.
- C. A city or county whose zoning ordinance applies to an Employment Area and is listed on Table 3.07-4 may continue to authorize commercial retail uses with more than 60,000

square feet of gross leasable area in that zone if the ordinance authorized those uses on January 1, 2003.

- D. A city or county whose zoning ordinance applies to an Employment Area and is not listed on Table 3.07-4 may continue to authorize commercial retail uses with more than 60,000 square feet of gross leasable area in that zone if:

1. The ordinance authorized those uses on January 1, 2003;
2. Transportation facilities adequate to serve the commercial retail uses will be in place at the time the uses begin operation; and
3. The comprehensive plan provides for transportation facilities adequate to serve other uses planned for the Employment Area over the planning period.

- E. A city or county may authorize new commercial retail uses with more than 60,000 square feet of gross leasable area in Employment Areas if the uses:

1. Generate no more than a 25 percent increase in site-generated vehicle trips above permitted non-industrial uses; and
2. Meet the Maximum Permitted Parking - Zone A requirements set forth in Table ~~3.08-33.07-2~~ of Title ~~42~~ of the ~~Regional Transportation~~ Urban Growth Management Functional Plan.

~~(Ordinances No. 07-715B, Sec. 1, Amended by Ordinance No. 02-969B, Sec. 5, Ordinance No. 04-1040B, Sec. 2.)~~

3.07.450 Employment and Industrial Areas Map

- A. The Employment and Industrial Areas Map is the official depiction of the boundaries of Regionally Significant Industrial Areas, Industrial Areas and Employment Areas.
- B. If the Metro Council adds territory to the UGB and designates all or part of the territory Regionally Significant Industrial Area, Industrial Area or Employment Area, after completion of Title 11 planning by the responsible city or county, the Chief Operating Officer

(COO) shall issue an order to conform the map to the boundaries established by the responsible city or county. The order shall also make necessary amendments to the Habitat Conservation Areas Map, described in ~~section~~Section 3.07.1320 of Title 13 of this chapter, to ensure implementation of Title 13.

C. A city or county may amend its comprehensive plan or zoning regulations to change its designation of land on the Employment and Industrial Areas Map in order to allow uses not allowed by ~~this title~~Title 4 upon a demonstration that:

- ~~1.~~ The property is not surrounded by land designated on the map as Industrial Area, Regionally Significant Industrial Area or a combination of the two;
- ~~2.~~ The amendment will not reduce the ~~employment jobs~~ capacity of the city or county; ~~below the number shown on Table 3.07.1 of Title 1 of the Urban Growth Management Functional Plan, or the amount of the reduction is replaced by separate and concurrent action by the city or county;~~
- ~~3.~~ If the map designates the property as Regionally Significant Industrial Area, the subject property does not have access to specialized services, such as redundant electrical power or industrial gases, and is not proximate to freight loading and unloading facilities, such as trans-shipment facilities;
- ~~4.~~ The amendment would not allow uses that would reduce off-peak performance on ~~Main~~Major Roadway Routes and Roadway Connectors shown on ~~the Metro's 2004~~ Regional Freight ~~Network~~System Map ~~below standards~~ in the Regional Transportation Plan ~~below ("RTP")~~, or exceed volume-to-capacity ~~standards in the plan, ratios on Table 7 of the 1999 Oregon Highway Plan for state highways,~~ unless mitigating action is taken that will restore performance to RTP ~~and OHP~~ standards within two years after approval of uses;
- ~~5.~~ The amendment would not diminish the intended function of the Central City or Regional or Town Centers as the principal locations of retail, cultural and civic services in their market areas; and

~~C.~~ If the map designates the property as Regionally Significant Industrial Area, the property subject to the amendment is ten acres or less; if designated Industrial Area, the property subject to the amendment is 20 acres or less; if designated Employment Area, the property subject to the amendment is 40 acres or less.

D. A city or county may also amend its comprehensive plan or zoning regulations to change its designation of land on the Employment and Industrial Areas Map in order to allow uses not allowed by ~~this title~~ Title 4 upon a demonstration that:

~~1.~~ The entire property is not buildable due to environmental constraints; or

~~2.~~ The property borders land that is not designated on the map as Industrial Area or Regionally Significant Industrial Area; and

~~3.~~ The assessed value of a building or buildings on the property, built prior to March 5, 2004, and historically occupied by uses not allowed by ~~this title, Title 4,~~ exceeds the assessed value of the land by a ratio of 1.5 to 1.

E. The ~~COO~~ Chief Operating Officer shall revise the Employment and Industrial Areas Map by order to conform to an amendment made by a city or county pursuant to subsection C ~~or D~~ of this section within 30 days after notification by the city or county that no appeal of the amendment was filed pursuant to ORS 197.825 or, if an appeal was filed, that the amendment was upheld in the final appeal process.

F. After consultation with ~~MPAC, Metropolitan Policy Advisory Committee,~~ the Council may issue an order suspending operation of subsection C in any calendar year in which the cumulative amount of land for which the Employment and Industrial Areas Map is changed during that year from Regionally Significant Industrial Area or Industrial Area to Employment Area or other 2040 Growth Concept design type designation exceeds the industrial land surplus. The industrial land surplus is the amount by which the current supply of vacant land designated Regionally Significant Industrial Area and Industrial Area exceeds the 20-year need for industrial land, as determined by the most recent "Urban Growth Report: An Employment Land Need Analysis",

reduced by an equal annual increment for the number of years since the report.

G. The Metro Council may amend the Employment and Industrial Areas Map by ordinance at any time to make corrections in order to better achieve the policies of the Regional Framework Plan.

H. Upon request from a city or a county, the Metro Council may amend the Employment and Industrial Areas Map by ordinance to consider proposed amendments that exceed the size standards of paragraph 6 of subsection C of the section. To approve an amendment, the Council must conclude that the amendment:

- ~~1.~~ Would not reduce the employment jobs capacity of the city or county; ~~below the number shown on Table 3.07-1 of Title 1 of the Urban Growth Management Functional Plan;~~
- ~~2.~~ Would not allow uses that would reduce off-peak performance on MainMajor Roadway Routes and Roadway Connectors shown on the Metro's 2004 Regional Freight NetworkSystem Map ~~below standards in the Regional Transportation Plan below ("RTP"), or exceed volume-to-capacity standards in the plan, ratios on Table 7 of the 1999 Oregon Highway Plan ("OHP") for state highways,~~ unless mitigating action is taken that will restore performance to RTP ~~and OHP~~ standards within two years after approval of uses;
- ~~3.~~ Would not diminish the intended function of the Central City or Regional or Town Centers as the principal locations of retail, cultural and civic services in their market areas;
- ~~4.~~ Would not reduce the integrity or viability of a traded sector cluster of industries;
- ~~5.~~ Would not create or worsen a significant imbalance between jobs and housing in a regional market area; and
- ~~6.~~ If the subject property is designated Regionally Significant Industrial Area, would not remove from that designation land that is especially suitable for industrial use due to the availability of specialized

services, such as redundant electrical power or industrial gases, or due to proximity to freight transport facilities, such as trans-shipment facilities.

- I. Amendments to the Employment and Industrial Areas Map made in compliance with the process and criteria in this section shall be deemed to comply with the Regional Framework Plan.
- J. The Council may establish conditions upon approval of an amendment to the Employment and Industrial Areas Map under subsection F to ensure that the amendment complies with the Regional Framework Plan and state land use planning laws.
- K. By January 31 of each year, the ~~COO~~~~Chief Operating Officer~~ (COO) shall submit a written report to the Council and ~~MPAC~~~~the Metropolitan Policy Advisory Committee~~ on the cumulative effects on employment land in the region of the amendments to the Employment and Industrial Areas Map made pursuant to this section during the preceding year. The report shall include any recommendations the COO deems appropriate on measures the Council might take to address the effects.

~~(Ordinance No. 07-1127A, Sec. 2.1)~~

~~Table 3.07-4~~
~~(Section 3.07.420(B))~~

~~Clackamas County unincorporated~~
~~Commercial~~
~~Commercial Industrial~~

~~Lake Oswego~~
~~General Commercial~~
~~Highway Commercial~~

~~Troutdale~~
~~General Commercial~~

~~Hillsboro~~
~~General Commercial~~

Sherwood

~~General Commercial~~

Tigard

~~General Commercial~~

~~Commercial Professional~~

Tualatin

~~Commercial General~~

Wilsonville

~~Planned Development Commercial~~

~~(Ordinance No. 97-715B, Sec. 1. Amended by Ordinance No. 02-969B, Sec. 5.)~~

~~(Title 5 Neighbor Cities - Sections 3.07.510-540 Ordinance No. 97-715B,
Sec. 1. Repealed Ord. 10-1238A, Sec. 4.)~~

Exhibit P to Ordinance No. 10-1244B

Findings of Fact and Conclusions of Law

I. General Findings for Capacity Decision

A. Need for Capacity

Metro began its analysis of the capacity of the UGB with a population and employment forecast. The Council adopted a resolution on December 10, 2009, that accepted the forecast as the basis for its analysis of UGB capacity pursuant to ORS 197.299 and 197.296. Rec. 3861. The forecast was "vetted" by an independent panel of economic and demographic experts from across the U.S., as well as by local economists and demographers. Rec. 98; 4034; 3861; 3867-3868. The forecast predicts population in the Portland Metropolitan Statistical Area (PMSA) (seven counties around the metropolitan area) will grow to approximately 2.9 to 3.2 million people by 2030, the end of the 20-year planning period. *20 and 60 Year Regional Population and Employment Range Forecasts*, September, 2009, p. 5. Rec. 4633; 4035. The forecast predicts that employment in the PMSA will grow to approximately 1.3 to 1.7 million jobs by 2030. Rec. 4633; 8158.

1. Need for Residential Capacity

From the forecast, Metro estimated that the total number of households in the PMSA in 2030 will range from 1,181,300 to 1,301,800. Rec. 3861; 8158. By subtracting existing households from this total, Metro determined that the PMSA would need to accommodate from 728,200 to 1,024,400 households. Rec. 4034; 3861. Relying upon historical settlement patterns since 2000, Metro assumed 61.8 percent of these dwelling units will be built inside the regional UGB. Rec. 4305. Metro applied a vacancy rate of four percent to account for relocating households. Rec. 4304. This calculation led to a determination that the UGB would have to accommodate between 224,000 and 301,500 new dwelling units through 2030. Rec. 4633; 4304-4308; 8160.

Metro's 2009 Urban Growth Report (UGR) found ample zoned capacity within the current UGB to accommodate these new dwelling units. Rec. 4124-4161; 6896. Maximum residential zoned capacity is calculated from local zoning and comprehensive plan designations. Rec. 4150-4154. The capacity comes not only from vacant land. It comes also from infill and re-development on land that is considered "developed" under the region's inventory methodology (Regional Land Information System, RLIS). Rec. 4144. However, Metro's econometric and economic analyses of this maximum zoned capacity (MetroScope) indicates that much of it will not be absorbed in the next 20 years because infrastructure and land values will not support residential development. Rec. 4155; 7911; 7933; 8160. Relying upon the zoned capacity of vacant, buildable land and historic infill and re-development ("refill") rates, Metro determined that the region has capacity for 196,600 new dwelling units without taking actions to use more of the maximum zoned capacity by "leading" the market. Rec. 4157-4158. This determination leaves a need to accommodate between 27,400 and 79,300 new dwellings units. Rec. 8160. Metro's assumptions

that underlie this determination are more fully discussed in UGR, Appendix 6, pp. 6-2 to 6-17 and the Staff Report of November 19, 2010. Rec. 4304-4319; 8160-8162.

2. Need for Employment Capacity

The *20 and 60 Year Regional Population and Employment Range Forecasts*, September, 2009, predicts employment in the PMSA will grow to approximately 1.3 to 1.7 million jobs by 2030. Rec. 4058. Aggregating projected industry sector "capture rates" (percentage of PMSA jobs likely to land in the UGB) indicates that the region can expect to capture between 73 and 75 percent of the seven-county PMSA jobs over the next 20 years; from 1.0 to 1.3 million jobs. Rec. 4063-4065; 8163. Metro used the various building types that accommodate jobs to convert the number of jobs into need for land. Rec. 4071-4078. This analysis (after accounting for demand addressed through refill) yielded a demand for 274 to 4,930 acres of industrial land and 1,944 to 3,832 acres of non-industrial land. Rec. 4079-4086. The methodology for the employment demand analysis, used consistently for all employment sectors, is described in the UGR. Rec. 4071.

Metro undertook a parallel analysis of demand for large industrial sites (25 acres and above) (historic preferences and use of large sites by building type) using the same general methodology. The analysis began with the employment forecast (tied to the population forecast through Metro's macroeconomic modeling). Metro sorted the region's industrial sectors into six general building types. Metro estimated the average number of employees associated with each building type. Metro assumed the current distribution of employees by firm size and building type would continue through the planning period. From this Metro derived its employees/acre assumptions. Rec. 4090-4091. Metro inventoried large employers in the region and those large employers that use large parcels. From this Metro derived employees/acre for large parcel users. Rec. 4271-4275. Metro also estimated high growth rates and low growth rates for the sectors in which these firms fall in the NAICS codes. Rec. 4276-4278. The sectors are sorted by building type and firm size. Rec. 4276-4279. Finally, the analysis determined the number of new firms expected through 2030 by firm size and building type. Rec. 4280. The full analysis yielded a demand for 33 to 48 large sites. Rec. 4089-4093; 4270-4292; 8164-8165.

The region is using its supply of employment land more efficiently over time. Development density for non-industrial buildings has increased substantially since 2000. Rec. 4100. Analysis of market readiness and infrastructure adequacy, and assumptions of rates of infill and re-development, yields a range of available capacity from 6,469 to 11,493 acres of industrial land and from 5,575 and 7,872 acres of non-industrial employment land. Rec. 4101-4110. Current vacancy rates indicate that there is considerable existing capacity to be absorbed before there is a need for vacant land. Rec. 6933. From this analysis, Metro concluded that the UGB has sufficient capacity to accommodate industrial and non-industrial jobs through the 2030 planning period except at the high end of the middle third of the range forecast (at that point on the range, 30 acres of non-industrial employment capacity are needed). Rec. 4114-4116; 8163.

Testimony at public hearings expressed concern that industrial areas within the UGB have been and are being converted to non-industrial use, thereby reducing capacity for industrial use. An

examples offered was possible designation of 500 acres of the 826 acres on West Hayden Island, identified in the Portland comprehensive plan for future marine terminal development and other industrial use, for habitat protection. The UGR, however, included only 400 of the 826 acres in the inventory of industrial land. Rec. 7923. At the time of adoption of Ordinance No. 10-1244B, the city had taken no action to limit industrial use on the area. A second example was the Colwood Golf Course, recently proposed by the owner for rezoning to industrial. The Portland City Council denied the zone change. The UGR did not include this tract in the inventory of industrial land due to its current open space zoning. Rec. 4114-4116; 7923.

Unmet demand remains for large industrial sites. The UGB has an inventory (38) of large industrial parcels, but the inventory falls short of demand. Rec. 4118. The region has a surplus of parcels between 25 and 50 acres, but a deficit of parcels over 50 acres. Rec. 4117; 8164-8165.

Testimony at public hearings identified other possible large parcels within the UGB: in the Beavercreek Concept Plan area southeast of Oregon City; in Damascus; Freeway Lands near I-205 in Lents. Metro did not include the Beavercreek property in the inventory because it is not zoned for industrial use; the Damascus property is still zoned for rural use until the city adopts its comprehensive plan; the Freeway Lands property is developed. Rec. 7943. Testimony also proposed that the inventory include parcels smaller than 50 acres if they are adjacent to other parcels in the same ownership that, if combined, would create parcels larger than 50 acres. Metro did not include these parcels in the inventory because Metro does not regulate the sales of private property and cannot know about and cannot prevent the sale of one of the contiguous parcels. Rec. 7943. As noted in B(2), below, neither Metro nor any city or county has yet developed an assembly program, largely due to lack of funds to acquire smaller parcels. Rec. 7121.

B. Providing Capacity

1. Residential Capacity

First Recourse: Increase Residential Capacity within the UGB

As noted in section IA1, communities within the UGB have sufficient zoned capacity to accommodate the dwelling units needed through the planning period. Analysis (MetroScope and experience) shows, however, that the market will not absorb all of the maximum zoned residential capacity because development is not market feasible, infrastructure is not available and is not expected to be available during the planning period, or both. Rec. 8160. But the same analysis also indicates that certain actions and combinations of actions can increase the feasibility and likelihood of residential development in places that would remain undeveloped or under-developed in 2030 without such actions. The Metro Council's strategy is to take the actions described below to "lead" the market to use more of the zoned capacity of the region in order to use those lands more efficiently and to minimize expansion of the UGB.

By this ordinance, the Metro Council adopted new policies in the Regional Framework Plan (RFP) to focus investments in those places in the region intended to accommodate higher residential densities: the Central City, seven Regional Centers, 30 Town Centers, light rail

Station Communities, and hundreds of miles of designated Corridors and Main Streets.¹ The Council also adopted a new approach to housing affordability: transportation investments in transit and other modes in order to make transportation more affordable. These investments will focus on parts of the region where households spend more than 50 percent of monthly income on housing and transportation. Rec. 5241; 5826; Ord Rec.12 (Exhibit A²).

This ordinance revised Title 1 (Housing Capacity) of the Urban Growth Management Functional Plan (UGMFP) to ensure "no net loss" of new residential capacity provided as the result of investments and other actions that generate the capacity. Rec. 8168; Ord Rec. 14-15 (Exhibit B). The ordinance also revised Title 6 (Centers, Corridors, Station Communities and Main Streets) of the UGMFP to use investments and other incentives to induce cities and counties to revise their comprehensive plans and land use regulations to eliminate barriers to the types and densities of residential development and commercial and civic services that make higher-density residential development market-feasible. Rec. 8180; Ord Rec. 25-29 (Exhibit E). The community "assessment", "plan of actions" and "investments" requirements of Title 6 were derived from the recommendations of a group of developers, development consultants, real estate economists, bankers and community development planners in a report prepared for Metro to facilitate development in centers and corridors. Rec. 3867.

ORS 197.296(9) lists a range of actions Metro and local governments can take to use land inside the UGB more efficiently. Ordinance No. 10-1244B implements actions from that list. These findings will explain how these actions demonstrably increase the likelihood that the region will absorb more of its maximum zoned residential capacity than the market would absorb without these actions. Through these actions the region will be able to provide at least one-half of the unmet need for residential capacity recognized in the 2009 UGR, without expanding the UGB.

a. Actions to Use More Zoned Residential Capacity Investments:

Investing to encourage the housing market to use more of the region's maximum zoned capacity is a major component of the region's strategy to use land inside the UGB more efficiently and effectively. A summary of the investment strategy is set forth in the "Community Investment Strategy: Building a Sustainable, Prosperous and Equitable Region", August 10, 2010. Rec. 6865-6877.

Investment in a multi-modal transportation system is the most significant investment, by dollar value and effect on development patterns. Transportation investments can stimulate private investment in housing and employment in places that are the focus of such investment. The recently-adopted 2035 Regional Transportation Plan contains a program of investments that are

¹ Ordinance No. 10-1244B adds one Regional Center (Tanasbourne/AmberGlen) and one Town Center (Cornelius); there are now eight Regional Centers and 31 Town Centers.

² RFP Chapter 1 (Land Use) Policies 1.1 (Compact Urban Form); 1.2 (Centers, Corridors, Station Communities and Main Streets); 1.3 (Housing Choices and Opportunities); Chapter 2 (Transportation) Goal 1.

“new”, meaning the investments were not assumed as part of the capacity analysis in the 2009 UGR. Rec. 6915-6916.

Metro has characterized two kinds of transportation investments: “mobility” projects and “community-building” projects. Mobility projects connect locations in the region to allow greater choice where to live and work. Projects include new high-capacity transit lines in the Highway 99 corridor to Sherwood and on-street bus rapid transit on SE Division Street and SE Powell Boulevard. Rec. 6902-6903. Community-building projects foster compact, mixed-use, pedestrian-friendly and transit-support development patterns. Projects include transit-oriented developments (“TODs”) new streetcar lines, streetscaping and pedestrian and bicycle improvements. Rec. 6876-6877; 273; 6316; 7884.

The region’s investment strategy includes local investments to complement and enhance the effects of state and regional transportation investments on development patterns. These local investments derive from the aspirations of cities and counties of the region to improve their communities. Rec. 962. A full discussion of local actions aimed to achieve community aspirations is set forth in Appendix 3 to “Community Investment Strategy: Building a Sustainable, Prosperous and Equitable Region”, August 10, 2010. Rec. 7048-7077. These actions are “new” - not assumed as part of the capacity analysis in the 2009 UGR. Illustrations of the types of local actions - parts of coordinated local investment strategies - are provided for Gresham, Wood Village, Hillsboro Downtown and AmberGlen, Tigard, Oregon City and Lake Oswego. Rec. 7054-7064. A more comprehensive list shows investments in community and regional trails, pedestrian facilities, civic centers and parks, street treatments, bicycle facilities and parking structures. Rec. 7065-7077.

Incentives:

Metro’s scenario testing shows that incentives can “lead” the housing market to build at higher densities. Experience in the region confirms the MetroScope scenario results. For example, use of tax-increment financing, a New Multiple-Unit Housing tax exemption program and transit-oriented development has had dramatic effects in centers and corridors in the city of Portland. In the past five years the city has accounted for 42 percent of the region’s new housing units (compared with three to five percent of new dwellings in the 1960-1980 period). (See section *b*, below.) Rec. 6738. Combined with transportation and other investments described above, incentives can exert significant influence on the market. Metro’s strategy to increase residential capacity includes a broad program of state, regional and local incentives to use more of the region’s zoned capacity.

Tax-increment financing in association with urban renewal plans is one of the most effective incentives to create compact, mixed-use development. The 2009 UGR assumed the continuation of existing urban renewal programs in the region. Metro relies upon new programs (Hillsboro; Beaverton; Milwaukie; Wood Village; Tigard) not in effect at the time of the UGR to stimulate the housing market to use more zoned capacity than would occur without the new programs. (Beaverton has set a vote on an urban renewal plan in 2011.) Rec. 6904; 7055; 7057; 4912-4915. For example, the Downtown Hillsboro Urban Renewal Plan calls for investment through

tax-increment financing of \$101,400,000 in a 1100-acre area, 35 percent of which lies within Station Communities along the Westside MAX line. The city estimates that the urban renewal investments will add \$1 billion dollars of assessed value by year 2046 more than would occur without the investments. Rec. 7057-7058; 4761).

Tax credit and abatement programs have also proven effective to increase density. Portland has had great success with its transit-oriented development tax abatement program. Rec. 6904. The program assisted 25 projects between 1999 and 2009, providing a total of 2,596 units. Rec. 6738. Wood Village received approval from the Oregon Department of Housing and Community Services in late 2009 for a Vertical Housing Tax Credit Program in a portion of its Town Center. Rec. 7055; 4912-4915; 7884.

Several cities in the region have adopted variable systems development charges (SDCs) to align their SDCs with the types of developments in central locations. These variable SDC programs reduce the cost of housing development. Rec. 7061; 4912-4915; 7884.

Metro has provided cities and counties with a series of "community investment tools", such as development-friendly designs and development codes. These tools represent investments that will increase the likelihood that developers will use more of the maximum zoned density in centers and corridors. Rec. 102; 181; 589.

Increases in density:

Since adoption of the 2009 UGR, two cities have revised their comprehensive plans and land use regulations to increase the residential capacities of centers. Hillsboro adopted a new plan for Tanasbourne/AmberGlen. The plan designates areas of high density residential and mixed-use, pedestrian-friendly, transit-supportive development that will add capacity for 5,000 new dwelling units not recognized in the 2009 UGR. Rec. 7056. Ordinance No. 10-1244B designated Tanasbourne/AmberGlen a Regional Center, making it a focus area for investment under new policies in Metro's Regional Framework Plan. Rec. 6951; 7109-7112; 4954; 4912-4915; 7884; Ord Rec. 88 (Exhibit O).

Tigard adopted a new plan and new zoning for its downtown (a designated Town Center), matched by an investment strategy to support the plan. The strategy includes the existing urban renewal plan and an Affordable Housing Tax Abatement Program. The new plan expands the Town Center to include the "Tigard Triangle" (bounded by I-5 and Highways 217 and 99). The Highway 99 Corridor is identified in the 2035 Regional Transportation Plan as the region's next priority for expansion of the high-capacity transit system. The plan and zoning amendments authorized 1,900 additional dwelling units not recognized in the 2009 UGR. Rec. 7059-7061.

Wood Village recently authorized "cottage housing" in its Town Center. Cottage housing is a new, higher-density housing type that will add capacity to the area. Rec. 4912-4915; 7884.

These local and regional actions will increase residential capacity by 6,900 dwelling units. Rec. 6912.

Minimum densities:

Ordinance No. 10-1244B revised Title 1 (Housing Capacity) of the Urban Growth Management Functional Plan. Rec. 8171; Ord Rec. 14-15 (Exhibit B). The revisions establish a "no net loss of capacity" rule that has the effect of ensuring minimum zoned residential capacity gains from "upzoning" since the last revision of Title 1 in 2002 are not lost to future "downzonings." The minimum zoned capacities of zones throughout the region become the floor of residential capacity determined pursuant to ORS 197.296(3) through MetroScope modeling (minimum zoned capacities are also the floor of market feasibility in the model).

Re-designation of Non-Residential Land

The 2009 UGR found that the region has excess capacity for general industrial and non-industrial employment for the 20-year planning period (at the high end of the middle third of the range forecast there is need for 30 acres of non-industrial employment capacity). Rec. 6897-6898; 4114-4116; 8163. Metro's Ordinance No. 10-1244B, and a series of amendments to plans and zoning ordinances by local governments, increased the residential capacity of the UGB by allowing housing in zones previously limited to employment. Exhibit D depicts the amendments by the Metro Council to the Employment and Industrial Areas Map in Title 4 (Industrial and Other Employment Areas) of the Urban Growth Management Functional Plan, pursuant to section 3.07.450. Ord Rec. 24. Some of the local amendments were made prior to adoption of the 2009 UGR (the Brickworks area in Gresham and the Conway site in Portland, for example). The UGR counted the increased residential capacity from these amendments.

Some of the amendments were adopted after preparation of the UGR and are counted here to reduce the need for capacity determined by the UGR. The Metro Council expanded the UGB to add land to Oregon City in the Beavercreek area in 2002 and 2004. Upon completion of planning under Title 11 of the Urban Growth Management Functional Plan, the city reduced the amount of land designated for industrial use with Metro's agreement and designated more land to mixed-use and residential use (adding 34 units of new capacity). Ordinance 10-1244B revised the Title 4 Employment and Industrial Areas Map to conform to the city's Title 11 plan, in part to reflect the determination of the 2009 UGR that the region had more employment capacity than it needed for the next 20 years. Rec. 8202-8210.

At the request of the city of Tigard, Ordinance 10-1244B revised the Title 4 Employment and Industrial Areas Map to re-designate 39 acres south of the Washington Square Regional Center from Industrial Area to Employment Area to conform the map to the city's mixed-use commercial and mixed-use employment zoning. The change to the Title 4 map removed Title 4 limitations on nonindustrial uses and allows residential use. Rec. 8185-8202.

At the request of the city of Portland, Metro Ordinance No. 10-1246 revised the Title 4 Employment and Industrial Areas Map to re-designate from Industrial Area two tracts comprising 53.4 acres in the Northwest District, 16.9 acres to Employment Area and 36.5 acres to Inner Neighborhood. Both tracts are developed, but the map changes will allow infill and redevelopment for residential use. Rec. 7935.

The Council made these map amendments because they better achieve the policies of the Regional Framework Plan (RFP). The Council designated substantial portions of both areas (Tigard and Portland amendments) for industrial use to provide employment capacity to meet needs identified in the 2002 Urban Growth Report and to help meet policies in the RFP calling for jobs and economic opportunity.³ The Council finds that the changes better achieve the policies of the RFP because the resulting plan and zone designations provide a better mix of residential, employment and other uses (Corridor and Main Street designations, e.g.).⁴ The Council also finds that the resulting shift in employment and residential capacity – the increase in residential capacity – accords with the more recent determinations of housing and employment needs identified in the 2009 UGR.

Ordinance No. 10-1244B re-located the Happy Valley Town Center several miles east, from King Road, where there are civic services but no commercial zoning, to SE Sunnyside Road and SE 72nd Avenue, an emerging commercial and multi-family development area near the new city hall. The city has received a grant to upzone parts of the area. Rec. 7102-7106; 6766; 4954; 7880. The ordinance re-designated the Cornelius Main Street to a Town Center. One effect is to broaden the area at the center of the city that is eligible for investments under new RFP policies and revisions to Title 6 of the UGMFP that will focus public investments. Rec. 7106-7109; 7880. The ordinance also re-designated the Tanasbourne Town Center in Hillsboro to a Regional Center, making it the region's eighth. The new Regional Center includes the AmberGlen area, one of the region's largest re-development sites. Hillsboro estimates the Regional Center will house over 30,000 people and employ 23,000 people. Rec. 7109-7112; 4954; (Metro Council Work Session Worksheet, November 4, 2010). These changes to the locations and designation of centers will add significant residential capacity to the region.

b. Actions Increase Likelihood that Market Will Absorb More Zoned Residential Capacity

The actions described in section *a*, above, are intended to stimulate the housing market to develop more of the residential capacity allowed by maximum zoned capacities available in zones through the region. These actions will generate higher levels of infill and redevelopment in already-developed areas and higher levels of new development on vacant lands. Section *b* demonstrates that these actions will increase the likelihood that the region will experience a higher level of use of maximum zoned residential capacity than assumed in the 2009 UGR.

"Refill" Land

Actions to encourage the housing market to build on already-developed properties in the region are a major component of the region's investment strategy. In the Metro approach, "infill"

³ Policies 1.2.1c; 1.4; and 1.5.1

⁴ Chapter 1 (Land Use) Policies 1.2.1c; 1.4.1; 1.4.2; and 1.5.4 and Chapter 2 (Transportation) Objectives 6.2; 6.4; and 6.5.

occurs when more units are built on an already-developed site. "Redevelopment" occurs when a structure is removed and another built in its place. For ease of reference, Metro uses the term "refill" to cover both types of building on developed land. Rec. 4249; 6968.

Metro has measured the percentage of all new residential development that takes place on developed land for many years, expressed as a "refill rate." The rate shows us how much development is occurring on developed land. It also measures the effectiveness of actions aimed to encourage such development. Rec. 6906. The 2009 UGR assumed that 33 percent of new dwellings over the 20-year planning period would develop through refill. Metro based this assumption upon measured past experience under existing policies (through RLIS) and a MetroScope run, based upon current policies. Rec. 4136-4137; 6901; 4399-4421.

Metro subsequently used MetroScope to test the effects of four different "new policy" scenarios, each compared to the "reference" case (and to each other): tight UGB; infrastructure funding delays; corridor amenity investments; and center amenity investments. Each scenario yielded a different distribution of housing units and jobs, housing and transportation costs, commute distances, infrastructure costs, greenhouse gas emissions and acres developed in UGB expansion areas. The scenarios showed that investments in centers and corridors make centers and corridors more desirable locations for housing and employment. Rec. 882. The scenarios informed the development of the set of actions adopted by Ordinance No. 10-1244B and described in section *a*. A MetroScope run with these new actions and new requirements in the UGMFP indicates that the region will achieve an overall refill rate of 41 percent rate during the 2010-2030 planning period. Experience, however, caused Metro to assume a more conservative rate of 38 percent. Rec. 6906-6908; 6918; 4316; 4318. These local and regional actions will increase residential capacity of refill land by 11,300 dwelling units. Rec. 8160-8162. See *LCDC Partial Approval and Remand Order 03-WKTASK-001524*, pp. 20-23.

Vacant Land

The actions described in section *a* will also yield higher densities on vacant land. The 2009 UGR assumed that, by year 2030, only half of the maximum zoned capacity of vacant land zoned to allow multi-family dwellings would be absorbed due to lagging market demand and lack of public investment in some centers and corridors. Rec. 4315-4316; 6901. A MetroScope run with the new actions described in section *a*, and new requirements in the UGMFP, indicates the region will use 60 percent of this vacant land capacity during the 2010-2030 planning period. Rec. 6908-6909; 6918; 4316; 4318. These local and regional actions will increase residential capacity by 3,700 dwelling units. Rec. 6909; 8160-8162.

The UGR also assumed that only 50 percent of residential capacity in areas added to the UGB from 1998 to 2005 would be market-feasible during the planning period, for the same reasons. Rec. 4315-4316; 6901. A MetroScope run with the new actions described in section *a* and the new UGMFP requirements indicates that the region will use considerably more of this vacant

land capacity during the 2010-2030 planning period. Rec. 6908-6909; 4316; 4318. These local and regional actions will increase residential capacity by 8,350 dwelling units. Rec. 6917; 8160-8162.

The sum of capacity gains on vacant and developed lands is 30,300. Rec. 8160-8162.

Metro does not rely solely on runs of the econometric MetroScope model to demonstrate the likelihood of these capacity gains. The region has years of experience with the types of actions described in section *a*, which provides real-world confirmation of model results. E.D. Hovee & Company estimated that more than \$6 billion of development has occurred at light rail stations along TriMet's MAX system since the first line opened in 1986. Focusing on the Blue Line from Gresham to Hillsboro (33 miles long; 51 stations), Hovee found average development density (floor-to-area ratio) was 0.65 more than the average experienced for development outside the station areas. Low and moderate-value properties near the stations redeveloped at twice the rate reported for similar properties along the corridor but away from the stations. Hovee estimated that development near the eleven stations along the planned and authorized 7.5-mile light rail line to Milwaukie would generate \$930 million more in development value over 20 years following completion than the \$2.93 billion otherwise anticipated. Rec. 789.

The city of Portland also offers compelling evidence of the effect of investments and incentives on development intensities. In the 1960s, 1970s and 1980s, the city accounted for three to five percent of new dwelling units in the region annually. With sustained investment using urban renewal, tax-increment financing, local improvement districts, business improvement districts, tax abatements and other techniques, the city now captures 30 to 50 percent of the region's new dwelling units annually. For the past 15 years, the city has accounted for 36 percent of the region's new units. Rec. 6738; 1203; 1672; 534; 346. Approximately 80 percent of this development is occurring through redevelopment, not only in the central city, but also along corridors, light rail station communities and main streets east of the Willamette River. Rec. 7919.

The region also relied upon an innovative methodology developed by Johnson Reid LLC and Fregonese Associates to assess the effects of public investments on property value and development. Hedonic regression analysis using the "walkscore" algorithm shows that "walkability" translates directly into increases in property values. Investment in public amenities, such as those public investments listed in section *a*, above, can influence the private housing market, as illustrated in the "pro forma" analysis undertaken for Metro by Fregonese Associates. Small shifts in the market can greatly increase density. Rec. 7933. Houses with above-average levels of walkability command a premium of \$4,000 to \$34,000 over houses with average walkability in typical metropolitan areas. Rec. 6994. Multi-family development achieves a 20-25% price premium within walking distance or convenient transit ride to work, recreation and commercial services. Rec. 6359. An independent analysis, also using a hedonic regression analysis using the walkscore algorithm, in fifteen metropolitan markets in the U.S. and nearly 100,000 home sales, found a statistically significant, positive relationship between walkability and home values in 13 of the 15 markets. Rec. 1642.

Changing demographics reinforce the relationship between public investments and other actions and higher-density residential development. Over the 20-year planning period, the market will see many more households that prefer active urban settings with non-auto travel options. Rec. 3917; 6320; 6924; 7578; 7591. These demographic trends increase the likelihood that the actions described in section *a* will yield the results predicted by Metro.

One further factor will contribute to the success of Metro's strategy to use more of the region's maximum zoned residential capacity: adoption by Metro and Clackamas, Multnomah and Washington counties of urban and rural reserves. The 2009 UGR, completed prior to the adoption of reserves, assumed that Metro would expand the UGB to meet its population and employment land needs every five years, as required by ORS 197.299 and 197.296(3), for the next 20 years. Rec. 4251. The UGR assumed that Metro would follow the statutory priorities for adding needed land to the UGB [ORS 197.298(1)]. Given the higher priority given to exception lands, which are generally on steeper slopes and divided into smaller parcels than agricultural land, land added to the UGB under the priority statute would yield lower densities than adding flat land with larger parcels. Adoption of urban reserves by Ordinance No. 10-1238A in June, 2010, will make relatively flat land in larger parcels available for inclusion in the UGB, if needed over the next 20 years. As a result, Metro assumed that housing would achieve 15 units/net developable acre in urban reserves, higher than averages achieved in the recent past. Rec. 6905-6906.

Second Recourse: Add Residential Capacity to the UGB

Pursuant to ORS 197.299(2), the Metro Council has decided to provide at least one-half (30,300 dwelling units) of the need for residential capacity - up to the high end of the middle third of the range forecast - by the actions adopted by this Ordinance No. 10-1244B. Rec. 8160-8162. The Council will take action to meet the remainder of the need, if any, in 2011.

2. Employment Capacity

First Recourse: Increase Employment Capacity within the UGB

As noted in section A2, above, Metro's 2009 UGR determined that the UGB has sufficient capacity to accommodate industrial and non-industrial jobs through the 2030 planning period, but for the demand for large industrial sites. Rec. 4114-4116. The UGB has an inventory of large industrial parcels (38), but the inventory falls short of demand. Rec. 4113. The region has a surplus of parcels between 25 and 50 acres, but a deficit of parcels over 50 acres. Rec. 8164-8165.

Metro and the local governments of the region have looked to two mechanisms to provide more large parcels within the existing UGB: reclamation of brownfield sites and assembly of smaller parcels. Neither Metro nor any city or county has yet developed an assembly program, largely due to lack of funds to acquire smaller parcels. Several local governments have funds from the U.S. Environmental Protection Agency to study brownfields for reclamation potential. But none has the funding to reclaim brownfield sites. Rec. 7121; 8163-8164; 5123-5129. Nonetheless, Ordinance No. 10-1244B revised two titles of the UGMFP to conserve the existing supply of

large parcels and to require exhaustion of reasonable consolidation and reclamation opportunities prior to expanding the UGB to add large sites for industrial use. To improve implementation of RFP Policy 1.4.4⁵, the Metro Council revised Title 4 to prohibit schools, parks and places of assembly above a certain size from areas designated Regionally Significant Industrial Area on the Title 4 map. Rec. 8172-8173; Ord Rec. 17 (Exhibit C, Title 4); 24 (Exhibit D, Employment and Industrial Areas Map). The Council revised its code provisions on expansion of the UGB to require applicants for expansion for industrial uses to demonstrate that "a large site or sites cannot reasonably be created by land assembly or reclamation of a brownfield site." Ord Rec. 72-73 (Exhibit L, Title 14). These actions, however, will not ensure the availability of enough large industrial sites to meet the demand identified in the UGR.

Second Recourse: Add Employment Capacity to the UGB

As noted above, pursuant to ORS 197.299(2), the Metro Council has decided to fulfill at least one-half of the need for residential capacity to accommodate the forecast population in the middle third of the range forecast by the actions adopted by this Ordinance No. 10-1244B. The Council will take action to meet the remainder of the need in 2011. At the same time, the Council will add land to the UGB to meet the unmet demand for large sites for industrial use.

II. Compliance with the Regional Framework Plan

Several policies in chapters 1 and 2 of the Regional Framework Plan (RFP) call for a compact urban form.⁶ Others focus growth in centers, corridors, station communities and main streets and emphasize infill and redevelopment.⁷ The actions described in section IB(1)(a) aim to accomplish these policies. Section IB(1)(b) demonstrates that the actions will increase the likelihood that these policies will be achieved. Based on the analysis in section IB(1), the Council concludes that the actions taken or adopted in Ordinance No. 10-1244B comply with these policies.

Ordinance No. 10-1244B adopted new policies and revises others in the RFP. Ord Rec. 9-10 (Exhibit A). These new policies increase the emphasis on infill and redevelopment of centers, corridors, station communities and main streets.⁸ The actions described in section IB(1)(a) aim

⁵ "Require, through the Urban Growth Management Functional Plan, that local governments exercise their comprehensive planning and zoning authorities to protect Regionally Significant Industrial Areas from incompatible uses."

⁶ Chapter 1: Policy 1.1, Urban Form; Policy 1.6, Growth Management; Policy 1.9, Urban Growth Boundary; Policy 1.15, Centers; Chapter 2: Goal 1, Objective 1.1, Compact Urban Form and Design.

⁷ Chapter 1: Policy 1.1, Urban Form; Policy 1.3, Housing Choice; Policy 1.5, Economic Vitality; Policy 1.8, Developed Urban Land; Policy 1.15, Centers; Chapter 2: Goal 1, Objective 1.1, Compact Urban Form and Design.

⁸ Chapter 1: Policy 1.1, Compact Urban Form; Policy 1.2, Centers, Corridors, Station Communities and Main Streets.

to accomplish these policies. Section IB(1)(b) demonstrates that the actions increase the likelihood that these policies will be achieved. Based on the analysis in section IB(1), the Council concludes that the actions taken or adopted in Ordinance No. 10-1244B comply with these policies.

Policy 1.3.8 calls upon Metro to integrate its efforts to expand housing choices and make housing more affordable with its transportation planning and its land use planning authorities. Ordinance No. 10-1244B adopted new Policy 1.3.3⁹ to use its transportation planning authority to reduce combined housing and transportation cost burdens on the region's households. Ord Rec. 10-12. The actions described in section IB(1)(a) aim to accomplish these policies. Section IB(1)(b) demonstrates that the actions will increase the likelihood that these policies will be achieved. Based on the analysis in section IB(1), the Council concludes that the actions taken or adopted in Ordinance No. 10-1244B comply with these policies.

III. Compliance with the Statewide Planning Goals

Goal 1 - Citizen Involvement

Over three years' worth of effort went into the development of the actions taken or adopted by Ordinance No. 10-1244B. Metro involved citizens in this effort at every stage: development of the population and employment forecasts; the determination of the capacity of the UGB; review of the recommendations of the Chief Operating Officer; and review of the elements of Ordinance No. 10-1244B. Ord Rec. 4-7; Rec. 3872-3892; 4194-4206; 4212-4218; 4225-4241; 8157. As the recommendations culminated into final proposals, the Metro Council held four public hearings around the region. Ord Rec. 4-7. The Council concludes that these efforts to involve citizens in the planning process leading to adoption of Ordinance No. 10-1244B comply with Goal 1.

Goal 2 - Land Use Planning

There are two principal requirements in Goal 2: (1) provide an adequate factual base for planning decisions, and (2) ensure coordination with those affected by the planning decisions. The record accumulated through this effort and the materials from that record submitted to LCDC contain an enormous body of information. The information in the record cited in sections IB(1)(a) and (b) of these findings provides an ample factual basis for the growth management decisions in Ordinance No. 10-1244B. The Council concludes that its record provides an adequate factual basis for its decisions.

Metro coordinated its planning efforts with all affected general and limited purpose governments and districts and many profit and non-profit organizations in the region. As a result, Metro received a large number of comments from these governments and organizations. Metro responded in writing to these comments at several stages in the two and one-half year effort,

⁹ "Reduce the percentage of the region's households that are cost-burdened, meaning those households paying more than 50 percent of their incomes on housing and transportation."

which responses are contained in the record submitted to LCDC. Responses indicate efforts made to accommodate the requests and proposals. Rec. 3872; 4194; 4212; 4224-4225.

Metro also worked closely with local governments and agencies through its advisory committees. These committees – Metro Policy Advisory Committee, Metro Technical Advisory Committee, Joint Policy Advisory Committee on Transportation and Technical Advisory Committee on Transportation - worked tirelessly for several years to review information, policies and functional plan requirements under consideration by the Metro Council. The Council made many modifications to the exhibits to Ordinance No. 10-1244B recommended by these committees.

The Council concludes that these efforts to notify, receive comment, accommodate and respond to comment fulfill Metro's responsibility under Goal 2.

Goal 3 - Agricultural Lands

The actions taken or adopted by Ordinance No. 10-1244B affect agricultural lands indirectly because they require more efficient use of land inside the UGB. However, the actions do not change or affect comprehensive plan designations or land regulations for lands subject to Goal 3. The Council concludes that, although the actions are consistent with Goal 3, the goal itself does not apply to the actions, all of which will happen within the UGB.

Goal 4 - Forest Lands

The actions taken or adopted by Ordinance No. 10-1244B affect forest lands indirectly because they require more efficient use of land inside the UGB. However, the actions do not change or affect comprehensive plan designations or land regulations for lands subject to Goal 4. The Council concludes that, although the actions are consistent with Goal 4, the goal itself does not apply to the actions, all of which will happen within the UGB.

Goal 5 - Natural Resources, Scenic and Historic Areas and Open Spaces

All of the actions taken or adopted by Ordinance No. 10-1244B to use land inside the UGB more efficiently will be subject to Titles 3 and 13 of Metro's Urban Growth Management Functional Plan (UGMFP) and to the Goal 5 programs of cities and counties in the region. These titles and local land use regulations are "acknowledged" under the statewide planning program, including Goal 5. The Council concludes that the actions taken or adopted by Ordinance No. 10-1244B comply with Goal 5.

Goal 6 - Air, Water and Land Resources Quality

All of the actions taken or adopted by Ordinance No. 10-1244B to use land inside the UGB more efficiently will be subject to Metro's UGMFP, the Regional Transportation Functional Plan and to the plans and land use regulations of cities and counties in the region. The UGMFP and local plans and land use regulations are "acknowledged" under the statewide planning program, including Goal 6. More efficient use of land will reduce air pollutants, vehicle miles traveled and greenhouse gas emissions. Rec. 3517; 5157. The Council concludes that the actions taken or adopted by Ordinance No. 10-1244B comply with Goal 6.

Goal 7 - Areas Subject to Natural Hazards

The analysis of regional capacity accounts for areas subject to natural hazards by discounting known hazards. Rec. 4247; 4304; 4306; 4317. All of the actions taken or adopted by Ordinance No. 10-1244B to use land inside the UGB more efficiently will be subject to Metro's UGMFP and to the plans and land use regulations of cities and counties in the region. The UGMFP and local plans and land use regulations are "acknowledged" under the statewide planning program, including Goal 7. The Council concludes that the actions taken or adopted by Ordinance No. 10-1244B comply with Goal 7.

Goal 8 - Recreational Needs

Metro's analysis of regional capacity accounts for the recreational needs of the region. The UGR derives its estimate of needs (1,300 acres) from estimated local systems development charges for parks and greenspaces over the 20-year planning period. The existing UGB has sufficient capacity to provide for these needs. Rec. 4304; 4313-4314. The Council concludes that the actions taken or adopted by Ordinance No. 10-1244B comply with Goal 8.

Goal 9 - Economic Development

Goal 9 applies to cities and counties in the region, but not to Metro. Metro facilitates local efforts to meet Goal 9 and provide employment opportunities by providing land needed for employment over the next 20 years. Nonetheless, Metro consulted with cities and counties about their economic development plans and priorities. The "cluster" forecast and the analysis of demand for large sites for industrial use in the 2009 UGR were responses to local Goal 9 plans and consultation with local governments. Rec. 4257; 4270. Sections 1A(2) and 1B(2) of these findings refer to the information that supports the Council's conclusion that the existing UGB has capacity for employment needs, with the exception of the demand of traded-sector industries for sites 50 acres and larger.

Goal 10 - Housing

Metro's 2009 UGR determines that the region lacks sufficient capacity to accommodate the need for housing through 2030. Rec. 4159-4160; 8160-8163. Sections 1B(1) and 1B(2) of these findings describe the actions taken or adopted by Ordinance No. 10-1244B and demonstrate that the actions increase the likelihood that the UGB will provide at least 50 percent of housing needs over the next 20 years by using zoned residential capacity more efficiently.

The UGR shows that, without changes to regional and local policy, an increasing number and percentage of the region's households will spend more of their monthly incomes on housing over the next 20 years. Rec. 4318; 4372; 6896; 6976-6984. This finding led the Council to develop a new strategy to reduce combined housing and transportation costs by integrating the planning for transit investments with land use planning and with other types of investment. Rec. 5157; 8168.

The Council developed three other strategies to address the housing issues identified in the UGR. First, the Council revised Title 6 (Centers, Corridors, Station Communities and Main Streets) to condition city and county access to regional investments and other incentives upon amendments

to their land use regulations to allow higher-density residential development and a mix of uses that will allow residents to choose lower-cost travel options. Ord Rec. 25-29 (Exhibit E, Title 6). Second, the Council revised Title 1 (Housing Capacity) of the UGMFP to adopt a “no-net-loss” approach. Ord Rec. 14-15 (Exhibit B). Title 1 ensures the region will not lose gains in zoned residential capacity that follow implementation of Title 6 and local aspirations. Third, the Council revised Title 11 (New Urban Areas) to require planning and strategies to address housing needs of households with incomes at or below 80, 50 and 30 percent of median family incomes for the region. Ord Rec. 46-50 (Exhibit J).

The Council concludes that these actions will reduce the percentage of households in the region that are “cost-burdened”¹⁰ and comply with Goal 10. See *LCDC Partial Approval and Remand Order 03-WKTASK-001524*, pp. 11-12, 48.

Metro completed a housing needs analysis to inform the UGR and housing affordability policy. Rec. 4372. It sets out the region’s recent performance and the performance forecast for the next 20 years for housing mix, density, cost and affordability. Figures and tables in the analysis show the total number of dwelling units within the UGB and projections to 2030, by rent and price range, type and tenure. Rec. 4395-4399. The projections show a significant shift from single-family to multi-family demand, reflecting changing demographics through 2030. The historic ratio – 60 percent single-family, 40 percent multi-family – will reverse: 60 percent multi-family, 40 percent single-family. The absolute increase in multi-family demand will outpace the increase in demand for single-family dwelling units. Rec. 4396-4397. The housing needs analysis is an assessment of performance, not a capacity assessment (contained in the UGR). The analysis complies with the “needed housing” statute (ORS 197.296) and the applicable provisions of the Metropolitan Housing Rule (OAR 660-007).

Goal 11 - Public Facilities and Services

Metro does not provide the urban services for which planning is required by Goal 11. Metro is responsible, however, under ORS chapter 195 for coordination of public facility plans in the region, and under Goal 14 for providing capacity for urban services within the UGB. Metro consulted cities and counties to determine the capacities and adequacies of their public facilities and services as part of the overall capacity assessment. That assessment was a fundamental determinant of the market feasibility of maximum zoned capacities around the region. Rec. 4144-4156. Metro’s analysis of regional capacity accounts for urban service land needs of the region. The UGR derives its estimate of the needs (4,900 acres) from local public facilities plans. The existing UGB has sufficient capacity to provide for these needs. Rec. 4304; 4307; 4313. Council concludes that these actions comply with Goal 11.

Goal 12 - Transportation

Metro also does not provide transportation services. But Metro is responsible under Goal 12 and ORS chapter 195 for coordination of transportation plans in the region, and under Goal 14 for

¹⁰ Households that spend more than 50 percent of their monthly incomes on housing and transportation.

providing capacity for streets, roads and other transportation facilities within the UGB. The Metro Council adopted the 2035 Regional Transportation Plan in June, 2010. The Department of Land Conservation and Development acknowledged the plan on November 24, 2010. Rec. 7917. As with other urban services, Metro consulted cities and counties to determine the capacities and adequacies of their transportation facilities as part of the overall capacity assessment. That assessment was a fundamental determinant of the market feasibility of maximum zoned capacities around the region. Rec. 4144-4156. Metro's analysis of regional capacity accounts for transportation needs of the region. The UGR derives its estimate of the needs from local plans. The existing UGB has sufficient capacity to provide for these needs. Rec. 4304; 4307; 4313. Metro's emphasis on infill and redevelopment and mixed-use, pedestrian-friendly and transit-supportive development will also reduce vehicle miles traveled. Rec. 5157. The Council concludes that these actions comply with Goal 12.

Goal 13 - Energy Conservation

The actions taken or adopted by Ordinance No. 10-1244B to use land inside the UGB more efficiently will have the effect of conserving energy. Rec. 3517; 5157. The Council concludes that the actions taken or adopted by Ordinance No. 10-1244B comply with Goal 13.

Goal 14 – Urbanization

To address the unmet need for residential and employment capacity identified in the 2009 UGR, Goal 14 requires Metro to turn first to actions that would use land inside the UGB more efficiently. Sections IB(1) and IB(2) of these findings describe the actions taken or adopted by Ordinance No. 10-1244B and demonstrate that the actions increase the likelihood that the existing UGB will provide at least 50 percent of housing needs by using land more efficiently. Additional investments, beyond those identified in section IB(1)(a), would likely use more of the region's zoned capacity. But the governments of the region do not have the resources to commit to additional investments. In the absence of additional resources, extensive "upzoning" would yield no significant additional capacity, due to infrastructure constraints and market infeasibility. The Council concludes that the actions taken or adopted by Ordinance No. 10-1244B comply with Goal 14. See *LCDC Partial Approval and Remand Order 03-WKTASK-001524*, pp. 20-23.

Goal 15 - Willamette River Greenway

All of the actions taken or adopted by Ordinance No. 10-1244A to use land inside the UGB more efficiently will be subject to Titles 3 and 13 of Metro's Urban Growth Management Functional Plan (UGMFP) and to the Goal 15 programs of cities and counties in the region. These titles and local land use regulations are "acknowledged" under the statewide planning program, including Goal 15. The Council concludes that the actions taken or adopted by Ordinance No. 10-1244A comply with Goal 15.

2. Title 1 (Housing) of the UGMFP is hereby amended, as indicated in Exhibit B, attached and incorporated into this ordinance, to help ensure sufficient capacity to meet housing needs to year 2030.
3. Title 4 (Industrial and Other Employment Areas) of the UGMFP is hereby amended, as indicated in Exhibit C, attached and incorporated into this ordinance, to help ensure sufficient capacity to meet employment needs to year 2030.
4. The Title 4 Industrial and Other Employment Areas Map is hereby amended, as indicated in Exhibit D, attached and incorporated into this ordinance, to show changes to design-type designations to conform to new comprehensive plan designations by cities and counties pursuant to Title 11 of the UGMFP, to respond to needs identified in the 2009 Urban Growth Report, and to make corrections requested by local governments to reflect development on the ground.
5. Title 6 (Centers, Corridors, Station Communities and Main Streets) of the UGMFP is hereby amended, as indicated in Exhibit E, attached and incorporated into this ordinance, to implement new policies and investment strategies in those places.
6. The Title 6 Centers, Corridors, Station Communities and Main Streets Map is hereby adopted, as shown on Exhibit F, attached and incorporated into this ordinance, to implement Title 6 and other functional plan requirements.
7. Title 8 (Compliance Procedures) of the UGMFP is hereby amended, as indicated in Exhibit G, attached and incorporated into this ordinance, to reduce procedural burdens on local governments and Metro.
8. Title 9 (Performance Measures) is hereby repealed, as indicated in Exhibit H, to be consistent with new policies on performance measurement.
9. Title 10 (Functional Plan Definitions) of the UGMFP is hereby amended, as indicated in Exhibit I, attached and incorporated into this ordinance, to conform to the definitions to the use of terms in the amended UGMFP.
10. Title 11 (Planning for New Urban Areas) of the UGMFP is hereby amended, as indicated in Exhibit J, attached and incorporated into this ordinance, to provide more specific guidance on planning for affordable housing in new urban areas.
11. Metro Code Chapter 3.01 (Urban Growth Boundary and Urban Reserves Procedures) is hereby repealed, as indicated in Exhibit K, to be replaced by new Title 14 adopted by section 11 of this ordinance.
12. Title 14 (Urban Growth Boundary) is hereby adopted and added to the UGMFP, as indicated in Exhibit L, attached and incorporated into this ordinance, with amendments from Metro Code Chapter 3.01 to provide a faster process to add large sites to the UGB for industrial use.
13. The urban growth boundary (UGB), as shown on the attached Exhibit M, is hereby adopted by this ordinance as the official depiction of the UGB and part of Title 14 of the Urban Growth Management Functional Plan (UGMFP). The Council intends to amend the UGB in 2011 to add approximately 310 acres of land suitable for industrial

development in order to accommodate the demand identified in the 2009 UGR for large sites.

14. Metro Code Chapter 3.09 (Local Government Boundary Changes) is hereby amended, as indicated in Exhibit N, attached and incorporated into this ordinance, to conform to revisions to ORS 268.390 and adoption of urban and rural reserves pursuant to ORS 195.141, and to ensure newly incorporated cities have the capability to become great communities.
15. The 2040 Growth Concept Map, the non-regulatory illustration of the 2040 Growth Concept in the RFP, is hereby amended, as shown on Exhibit O, attached and incorporated into this ordinance, to show new configurations of 2040 Growth Concept design-type designations and transportation improvements.
16. *The Urban Growth Report 2009-2030* and the *20 and 50 Year Regional Population and Employment Range Forecasts*, approved by the Metro Council by Resolution No. 09-4094 on December 17, 2009, are adopted to support the decisions made by this ordinance. The Council determines that, for the reasons set forth in the 2010 Growth Management Assessment, August, 2010, it will direct its capacity decisions to a point between the low end and the high end of the middle third of the forecast range.
17. The Findings of Fact and Conclusions of Law in Exhibit P, attached and incorporated into this ordinance, explain how the actions taken by the Council in this ordinance provide capacity to accommodate at least 50 percent of the housing and employment forecast to the year 2030 and how they comply with state law and the Regional Framework Plan.
18. This ordinance is necessary for the immediate preservation of public health, safety and welfare because it repeals and re-adopts provisions of the Metro Code that govern changes to local government boundaries that may be under consideration during the ordinary 90-day period prior to effectiveness. An emergency is therefore declared to exist, and this ordinance shall take effect immediately, pursuant to Metro Charter section 39(1).

ADOPTED by the Metro Council this 16th day of December, 2010.

Carlotta Collette, Council President

Attest:

Approved as to form:

Tony Andersen, Clerk of the Council

Daniel B. Cooper, Metro Attorney

- 1.3.14 For purposes of these policies, “affordable housing” means housing that families earning less than 50 percent of the median household income for the region can reasonably afford to rent and earn as much as or less than 100 percent of the median household income for the region can reasonably afford to buy.

E. Amend Chapter 1 (Land Use) Policy 1.4 as follows:

1.4 ~~Economic~~Employment Choices and Opportunity

It is the policy of the Metro Council to:

- 1.4.1 Locate expansions of the UGB for industrial or commercial purposes in locations consistent with this plan and where, consistent with state statutes and statewide goals, an assessment of the type, mix and wages of existing and anticipated jobs within subregions justifies such expansion.
- 1.4.2 Balance the number and wage level of jobs within each subregion with housing cost and availability within that subregion. Strategies are to be coordinated with the planning and implementation activities of this element with Policy 1.3, Housing ~~and Affordable~~ Housing, Choices and Opportunities and Policy 1.8, Developed Urban Land.
- 1.4.3 Designate, with the aid of leaders in the business and development community and local governments in the region, as Regionally Significant Industrial Areas those areas with site characteristics that make them especially suitable for the particular requirements of industries that offer the best opportunities for family-wage jobs.
- 1.4.4 Require, through the Urban Growth Management Functional Plan, that local governments exercise their comprehensive planning and zoning authorities to protect Regionally Significant Industrial Areas from incompatible uses.
- 1.4.5 Facilitate investment in those areas of employment with characteristics that make them especially suitable and valuable for traded-sector goods and services including brownfield sites and sites that are redevelopable.
- 1.4.6 Consistent with policies promoting a compact urban form ensure that the region maintains a sufficient supply of tracts 50 acres and larger to meet demand by traded-sector industries for large sites and protect those sites from conversion to non-industrial uses.

F. Repeal Chapter 1 (Land Use) Policy 1.6

~~1.6 — Growth Management~~

~~It is the policy of the Metro Council to:~~

- ~~1.6.1 — Manage the urban land supply in a manner consistent with state law by:~~

Exhibit C to Ordinance No. 10-1244

TITLE 4: INDUSTRIAL AND OTHER EMPLOYMENT AREAS

3.07.410 -Purpose and Intent

The Regional Framework Plan calls for a strong regional economy, economic climate. To improve the economy, region's economic climate, Title 4 seeks to provide and protect a supply of sites for employment by limiting the types and scale of non-industrial uses in Regionally Significant Industrial Areas (RSIAs), Industrial and Employment Areas. Title 4 also seeks to provide the benefits of "clustering" to those industries that operate more productively and efficiently in proximity to one another than in dispersed locations. Title 4 further seeks to protect the capacity and efficiency of the region's transportation system for the movement of goods and services and to encourage the location of other types of employment in Centers, Employment Areas, Corridors, Main Streets and Station Communities. The Metro Council will evaluate the effectiveness of Title 4 in achieving these purposes as part of its periodic analysis of the capacity of the urban growth boundary.

~~(Ordinance No. 97-715B, Sec. 1. Amended by Ordinance 02-069B, Sec. 5, Ordinance No. 04-1040B, Sec. 2.)~~

3.07.420- Protection of Regionally Significant Industrial Areas

- A. Regionally Significant Industrial Areas (RSIAs) are those areas near the region's most significant transportation facilities for the movement of freight and other areas most suitable for movement and storage of goods. Each city and county with land use planning authority over RSIAs shown on the Employment and Industrial Areas Map shall derive specific plan designation and zoning district boundaries of RSIAs within its jurisdiction from the Map, taking into account the location of existing uses that would not conform to the limitations on non-industrial uses in this section and the need to achieve a mix of employment uses.
- B. Cities and counties shall review their land use regulations and revise them, if necessary, to include measures to limit

the size and location of new buildings for retail commercial uses - such as stores and restaurants - and retail and professional services that cater to daily customers - such as financial, insurance, real estate, legal, medical and dental offices - to ensure that they serve primarily the needs of workers in the area. One such measure shall be that new buildings for stores, branches, agencies or other outlets for these retail uses and services shall not occupy more than 3,000 square feet of sales or service area in a single outlet, or multiple outlets that occupy more than 20,000 square feet of sales or service area in a single building or in multiple buildings that are part of the same development project, with the following exceptions:

1. Within the boundaries of a public use airport subject to a facilities master plan, customary airport uses, uses that are accessory to the travel-related and freight movement activities of airports, hospitality uses, and retail uses appropriate to serve the needs of the traveling public; and
 2. Training facilities whose primary purpose is to provide training to meet industrial needs.
- C. Cities and counties shall review their land use regulations and revise them, if necessary, to include measures to limit the siting and location of new buildings for the uses described in subsection B and for non-industrial uses that do not cater to daily customers—such as banks or insurance processing centers—to ensure that such uses do not reduce off-peak performance on Main Roadway Routes and Roadway Connectors shown on The Regional Metro's Freight Network Map, November, 2003, below standards set in the 2004 Regional Transportation Plan or require added road capacity to prevent falling below the standards.

D. Cities and counties shall review their land use regulations and revise them, if necessary, to prohibit the siting of schools, places of assembly larger than 20,000 square feet or parks intended to serve people other than those working or residing in the RSIA.

E.
~~D.~~ No city or county shall amend its land use regulations that apply to lands shown as RSIA on the Employment and

Industrial Areas Map to authorize uses described in subsection B that were not authorized prior to July 1, 2004.

| ~~P.E.~~ Cities and counties may allow division of lots or parcels into smaller lots or parcels as follows:

- | — 1. Lots or parcels smaller than 50 acres may be divided into any number of smaller lots or parcels.
- | — 2. Lots or parcels ~~larger than~~ 50 acres or larger may be divided into smaller lots and parcels pursuant to a master plan approved by the city or county so long as the resulting division yields at least one lot or parcel of at least 50 acres in size.
- | — 3. Lots or parcels 50 acres or larger, including those created pursuant to paragraph 2 of this subsection, may be divided into any number of smaller lots or parcels pursuant to a master plan approved by the city or county so long as at least 40 percent of the area of the lot or parcel has been developed with industrial uses or uses accessory to industrial use, and no portion has been developed, or is proposed to be developed, with uses described in subsection B of this section.
- | — 4. Notwithstanding paragraphs 2 and 3 of this subsection, any lot or parcel may be divided into smaller lots or parcels or made subject to rights-of-way for the following purposes:
 - a. To provide public facilities and services;
 - b. To separate a portion of a lot or parcel in order to protect a natural resource, to provide a public amenity, or to implement a remediation plan for a site identified by the Oregon Department of Environmental Quality pursuant to ORS 465.225;
 - c. To separate a portion of a lot or parcel containing a nonconforming use from the remainder of the lot or parcel in order to render the remainder more practical for a permitted use; or

- d. To allow the creation of a lot solely for financing purposes when the created lot is part of a master planned development.

~~G.4.~~ Notwithstanding subsection B of this section, a city or county may allow the lawful use of any building, structure or land at the time of enactment of an ordinance adopted pursuant to this section to continue and to expand to add up to 20 percent more floor area and 10 percent more land area. Notwithstanding subsection E of this section, a city or county may allow division of lots or parcels pursuant to a master plan approved by the city or county prior to July 1, 2004.

~~(Ordinance No. 02-745B, Sec. 1, Amended by Ordinance No. 02-969B, Sec. 2, Ordinance No. 03-1040B, Sec. 2.)~~

3.07.430- Protection of Industrial Areas

- A. Cities and counties shall review their land use regulations and revise them, if necessary, to include measures to limit new buildings for retail commercial uses—such as stores and restaurants—and retail and professional services that cater to daily customers—such as financial, insurance, real estate, legal, medical and dental offices—in order to ensure that they serve primarily the needs of workers in the area. One such measure shall be that new buildings for stores, branches, agencies or other outlets for these retail uses and services shall not occupy more than 5,000 square feet of sales or service area in a single outlet, or multiple outlets that occupy more than 20,000 square feet of sales or service area in a single building or in multiple buildings that are part of the same development project, with the following exceptions:
 - 1. Within the boundaries of a public use airport subject to a facilities master plan, customary airport uses, uses that are accessory to the travel-related and freight movement activities of airports, hospitality uses, and retail uses appropriate to serve the needs of the traveling public; and
 - 2. Training facilities whose primary purpose is to provide training to meet industrial needs.
- B. Cities and counties shall review their land use regulations and revise them, if necessary, to include measures to limit

new buildings for the uses described in subsection A to ensure that they do not interfere with the efficient movement of freight along Main Roadway Routes and Roadway Connectors shown on the RegionalMetre's Freight Network Map in the Regional Transportation Plan, November, 2003. Such measures may include, but are not limited to, restrictions on access to freight routes and connectors, siting limitations and traffic thresholds. This subsection does not require cities and counties to include such measures to limit new other buildings or uses.

- C. No city or county shall amend its land use regulations that apply to lands shown as Industrial Area on the Employment and Industrial Areas Map to authorize uses described in subsection A of this section that were not authorized prior to July 1, 2004.
- D. Cities and counties may allow division of lots or parcels into smaller lots or parcels as follows:
 - 1. Lots or parcels smaller than 50 acres may be divided into any number of smaller lots or parcels.
 - 2. Lots or parcels ~~larger than~~ 50 acres or larger may be divided into smaller lots and parcels pursuant to a master plan approved by the city or county so long as the resulting division yields at least one lot or parcel of at least 50 acres in size.
 - 3. Lots or parcels 50 acres or larger, including those created pursuant to paragraph (2) of this subsection, may be divided into any number of smaller lots or parcels pursuant to a master plan approved by the city or county so long as at least 40 percent of the area of the lot or parcel has been developed with industrial uses or uses accessory to industrial use, and no portion has been developed, or is proposed to be developed with uses described in subsection A of this section.
 - 4. Notwithstanding paragraphs 2 and 3 of this subsection, any lot or parcel may be divided into smaller lots or parcels or made subject to rights-of-way for the following purposes:
 - ~~a.~~ To provide public facilities and services;

- ~~13.~~ To separate a portion of a lot or parcel in order to protect a natural resource, to provide a public amenity, or to implement a remediation plan for a site identified by the Oregon Department of Environmental Quality pursuant to ORS 465.225;
 - ~~14.~~ To separate a portion of a lot or parcel containing a nonconforming use from the remainder of the lot or parcel in order to render the remainder more practical for a permitted use; or
 - ~~15.~~ To allow the creation of a lot solely for financing purposes when the created lot is part of a master planned development.
- E. Notwithstanding subsection B of this section, a city or county may allow the lawful use of any building, structure or land at the time of enactment of an ordinance adopted pursuant to this section to continue and to expand to add up to 20 percent more floorspace and 10 percent more land area.

~~(Ordinance No. 97-71CB, Sec. 1. Amended by Ordinance No. 02-060B, Sec. 5, Ordinance No. 04-1040B, Sec. 2.)~~

3.07.440 Protection of Employment Areas

- A. Except as provided in subsections C, D and E, in Employment Areas mapped pursuant to Metro Code ~~section~~Section 3.07.130, cities and counties shall limit new and expanded commercial retail uses to those appropriate in type and size to serve the needs of businesses, employees and residents of the Employment Areas.
- B. Except as provided in subsections C, D and E, a city or county shall not approve a commercial retail use in an Employment Area with more than 60,000 square feet of gross leasable area in a single building, or commercial retail uses with a total of more than 60,000 square feet of retail sales area on a single lot or parcel, or on contiguous lots or parcels, including those separated only by transportation right-of-way.
- C. A city or county whose zoning ordinance applies to an Employment Area and is listed on Table 3.07-4 may continue to authorize commercial retail uses with more than 60,000

square feet of gross leasable area in that zone if the ordinance authorized those uses on January 1, 2003.

D. A city or county whose zoning ordinance applies to an Employment Area and is not listed on Table 3.07-4 may continue to authorize commercial retail uses with more than 60,000 square feet of gross leasable area in that zone if:

1. The ordinance authorized those uses on January 1, 2003;
2. Transportation facilities adequate to serve the commercial retail uses will be in place at the time the uses begin operation; and
3. The comprehensive plan provides for transportation facilities adequate to serve other uses planned for the Employment Area over the planning period.

E. A city or county may authorize new commercial retail uses with more than 60,000 square feet of gross leasable area in Employment Areas if the uses:

1. Generate no more than a 25 percent increase in site-generated vehicle trips above permitted non-industrial uses; and
2. Meet the Maximum Permitted Parking - Zone A requirements set forth in Table ~~3.08-33.07-2~~ of Title ~~42~~ of the ~~Regional Transportation~~ ~~Urban Growth Management~~ Functional Plan.

~~(Ordinance No. 97-715B, Sec. 1, amended by Ordinance No. 02-060B, Sec. 5; Ordinance No. 04-1040B, Sec. 2.)~~

3.07.450 Employment and Industrial Areas Map

A. The Employment and Industrial Areas Map is the official depiction of the boundaries of Regionally Significant Industrial Areas, Industrial Areas and Employment Areas.

B. If the Metro Council adds territory to the UGB and designates all or part of the territory Regionally Significant Industrial Area, Industrial Area or Employment Area, after completion of Title 11 planning by the responsible city or county, the Chief Operating Officer

(COO) shall issue an order to conform the map to the boundaries established by the responsible city or county. The order shall also make necessary amendments to the Habitat Conservation Areas Map, described in ~~section~~Section 3.07.1320 of Title 13 of this chapter, to ensure implementation of Title 13.

C. A city or county may amend its comprehensive plan or zoning regulations to change its designation of land on the Employment and Industrial Areas Map in order to allow uses not allowed by ~~this title~~Title 4 upon a demonstration that:

- ~~1.~~ The property is not surrounded by land designated on the map as Industrial Area, Regionally Significant Industrial Area or a combination of the two;
- ~~2.~~ The amendment will not reduce the ~~employment~~jobs capacity of the city or county; ~~below the number shown on Table 3.07-1 of Title 1 of the Urban Growth Management Functional Plan, or the amount of the reduction is replaced by separate and concurrent action by the city or county;~~
- ~~3.~~ If the map designates the property as Regionally Significant Industrial Area, the subject property does not have access to specialized services, such as redundant electrical power or industrial gases, and is not proximate to freight loading and unloading facilities, such as trans-shipment facilities;
- ~~4.~~ The amendment would not allow uses that would reduce off-peak performance on ~~Main~~Major Roadway Routes and Roadway Connectors shown on ~~the Metro's 2004~~Regional Freight ~~Network~~System Map ~~below standards in the~~Regional Transportation Plan ~~below ("RTP"), or exceed~~volume-to-capacity ~~standards in the plan, ratios on Table 7 of the 1999 Oregon Highway Plan for state highways,~~ unless mitigating action is taken that will restore performance to RTP ~~and OHP~~ standards within two years after approval of uses;
- ~~5.~~ The amendment would not diminish the intended function of the Central City or Regional or Town Centers as the principal locations of retail, cultural and civic services in their market areas; and

~~6.~~ If the map designates the property as Regionally Significant Industrial Area, the property subject to the amendment is ten acres or less; if designated Industrial Area, the property subject to the amendment is 20 acres or less; if designated Employment Area, the property subject to the amendment is 40 acres or less.

D. A city or county may also amend its comprehensive plan or zoning regulations to change its designation of land on the Employment and Industrial Areas Map in order to allow uses not allowed by ~~this title~~ ~~Title 4~~ upon a demonstration that:

~~1.~~ The entire property is not buildable due to environmental constraints; or

~~2.~~ The property borders land that is not designated on the map as Industrial Area or Regionally Significant Industrial Area; and

~~3.~~ The assessed value of a building or buildings on the property, built prior to March 5, 2004, and historically occupied by uses not allowed by ~~this title, Title 4,~~ exceeds the assessed value of the land by a ratio of 1.5 to 1.

E. The ~~COO~~ ~~Chief Operating Officer~~ shall revise the Employment and Industrial Areas Map by order to conform to an amendment made by a city or county pursuant to subsection C ~~or D~~ of this section within 30 days after notification by the city or county that no appeal of the amendment was filed pursuant to ORS 197.825 or, if an appeal was filed, that the amendment was upheld in the final appeal process.

F. After consultation with ~~MPAC, Metropolitan Policy Advisory Committee,~~ the Council may issue an order suspending operation of subsection C in any calendar year in which the cumulative amount of land for which the Employment and Industrial Areas Map is changed during that year from Regionally Significant Industrial Area or Industrial Area to Employment Area or other 2040 Growth Concept design type designation exceeds the industrial land surplus. The industrial land surplus is the amount by which the current supply of vacant land designated Regionally Significant Industrial Area and Industrial Area exceeds the 20-year need for industrial land, as determined by the most recent "Urban Growth Report: An Employment Land Need Analysis",

reduced by an equal annual increment for the number of years since the report.

- G. The Metro Council may amend the Employment and Industrial Areas Map by ordinance at any time to make corrections in order to better achieve the policies of the Regional Framework Plan.
- H. Upon request from a city or a county, the Metro Council may amend the Employment and Industrial Areas Map by ordinance to consider proposed amendments that exceed the size standards of paragraph 6 of subsection C of the section. To approve an amendment, the Council must conclude that the amendment:
 - ~~1. Would not reduce the employmentjobs capacity of the city or county; below the number shown on Table 3.07-1 of Title 1 of the Urban Growth Management Functional Plan;~~
 - ~~2. Would not allow uses that would reduce off-peak performance on MainMajor Roadway Routes and Roadway Connectors shown on the Metro's 2004 Regional Freight NetworkSystem Map below standards in the Regional Transportation Plan below ("RTP"), or exceed volume-to-capacity standards in the plan, ratios on Table 7 of the 1999 Oregon Highway Plan ("OHP") for state highways, unless mitigating action is taken that will restore performance to RTP and OHP standards within two years after approval of uses;~~
 - ~~3. Would not diminish the intended function of the Central City or Regional or Town Centers as the principal locations of retail, cultural and civic services in their market areas;~~
 - ~~4. Would not reduce the integrity or viability of a traded sector cluster of industries;~~
 - ~~5. Would not create or worsen a significant imbalance between jobs and housing in a regional market area; and~~
 - ~~6. If the subject property is designated Regionally Significant Industrial Area, would not remove from that designation land that is especially suitable for industrial use due to the availability of specialized~~

services, such as redundant electrical power or industrial gases, or due to proximity to freight transport facilities, such as trans-shipment facilities.

- I. Amendments to the Employment and Industrial Areas Map made in compliance with the process and criteria in this section shall be deemed to comply with the Regional Framework Plan.
- J. The Council may establish conditions upon approval of an amendment to the Employment and Industrial Areas Map under subsection F to ensure that the amendment complies with the Regional Framework Plan and state land use planning laws.
- K. By January 31 of each year, the ~~COO~~Chief Operating Officer (COO) shall submit a written report to the Council and ~~MPAC~~the Metropolitan Policy Advisory Committee on the cumulative effects on employment land in the region of the amendments to the Employment and Industrial Areas Map made pursuant to this section during the preceding year. The report shall include any recommendations the COO deems appropriate on measures the Council might take to address the effects.

~~{Ordinance No. 97-1137A, Sec. 2.}~~

~~Table 3.07-4~~
~~{Section 3.07.420(B)}~~

~~Clackamas County unincorporated~~

~~—— Commercial~~

~~—— Commercial Industrial~~

~~Lake Oswego~~

~~—— General Commercial~~

~~—— Highway Commercial~~

~~Trousdale~~

~~—— General Commercial~~

~~Hillsboro~~

~~—— General Commercial~~

Sherwood

~~General Commercial~~

Tigard

~~General Commercial~~

~~Commercial Professional~~

Tualatin

~~Commercial General~~

Wilsonville

~~Planned Development Commercial~~

~~{Ordinance No. 97-715B, Sec. 1. Amended by Ordinance No. 02-069B, Sec. 5.}~~

~~{Title 5 Neighbor Cities - Sections 3.07.510-540 Ordinance No. 97-715B,
Sec. 1. Repealed Ord. 10-1238A, Sec. 4.}~~



Exhibit G to Ordinance No. 10-1244

TITLE 8: COMPLIANCE PROCEDURES

3.07.810 Compliance ~~with~~With the Functional Plan

- A. The purposes of this ~~chapter are~~section is to establish a process for ~~ensuring~~determining whether city or county ~~compliance~~comprehensive plans and land use regulations ~~comply~~ with requirements of the Urban Growth Management Functional Plan ~~and for evaluating.~~ ~~The Council intends the process to be efficient and informing the region about cost-effective and to provide an opportunity for the effectiveness of those~~Metro Council to interpret the requirements. ~~of its functional plan.~~ Where the terms "compliance" and "comply" appear in this title, the terms shall have the meaning given to "substantial compliance" in ~~section~~Section 3.07.1010.
- B. Cities and counties shall amend their comprehensive plans and land use regulations to comply with the functional plan, or an amendment to the functional plan, within two years after ~~its~~acknowledgment of the functional plan or amendment, by the Land Conservation and Development Commission, or after ~~any later~~such other date specified ~~by the Metro Council~~ in the ordinance adopting or amending the functional plan. The Chief Operating Officer (COO) shall notify cities and counties of the acknowledgment date and compliance dates described in subsections C and D.~~date.~~
- C. ~~Notwithstanding subsection B of this section, cities and counties shall amend their comprehensive plans and land use regulations to comply with Sections 3.07.310 to 3.07.340 of Title 3 of the Urban Growth Management Functional Plan by January 31, 2000, and with the requirements in Sections 3.07.710 to 3.07.760 of Title 7 of the Urban Growth Management Functional Plan by January 18, 2003.~~
- D. ~~Cities and counties that amend their comprehensive plans or land use regulations after the effective date of the functional plan shall make the amendments in compliance with the functional plan. After one year following acknowledgment of a functional plan requirement, adopted or amended by the Metro Council after January 1, 2005, cities and counties that amend their comprehensive plans and land~~

use regulations shall make such amendments in compliance with the new functional plan requirement. ~~The Chief Operating Officer shall notify cities and counties of the effective date.~~

D. Cities ~~E. If a functional plan requirement was adopted or amended by the Metro Council after December 12, 1997, cities and counties whose comprehensive plans and land use regulations do not yet comply with the new functional plan requirement shall, after one year following acknowledgment of the requirement, make land use decisions consistent with the requirement. The COO~~that requirement. ~~Notwithstanding the previous sentence, however, cities and counties whose comprehensive plans and land use regulations do not yet comply with the requirements of Title 13 of this chapter, Metro Code Sections 3.07.1310 to 3.07.1370, shall make land use decisions consistent with those requirements after two years following their acknowledgment. The Chief Operating Officer~~ shall notify cities and counties of the date upon which functional plan requirements become applicable to land use decisions at least 120 days before that date. ~~The notice shall specify which functional plan requirements become applicable to land use decisions in each city and county.~~ For the purposes of this subsection, "land use decision" shall have the meaning of that term as defined in ORS 197.015(10).

E.F. An amendment to a city or county comprehensive plan or land use regulation shall be deemed to comply with the functional plan upon if no appeal to the expiration ~~Land Use Board of Appeals is made within the appropriate appeal 21-day period specified set forth in ORS 197.830(9), or 197.650 if the amendment is acknowledged in periodic review pursuant to ORS 197.633 or, if 197.644.~~ If an appeal is made, upon the ~~and the amendment is affirmed, the amendment shall be deemed to comply with the functional plan upon the final decision on appeal. Once the amendment is deemed to comply, with the functional plan requirement, the functional plan shall no longer apply to land use decisions made in conformance with the amendment.~~

F.G. An amendment to a city or county comprehensive plan or land use regulation shall be deemed to comply with the functional plan as provided in subsection EF only if the city or county provided notice to the ~~COO~~ Chief Operating Officer as required by subsection Section 3.07.820(A of section 3.07.820.)

~~(Ordinance No. 97-715B, Sec. 1; Amended by Ordinance No. 98-730C, Sec. 4; Readopted and amended by Ordinance No. 00-839, Sec. 1; Amended by Ordinance No. 00-882C, Sec. 2; Ordinance No. 01-925E, Sec. 1; Ordinance No. 02-972A, Sec. 1; Ordinance No. 05-1077C, Sec. 6.)~~

3.07.820 Compliance Review by the Chief Operating Officer

A. ~~A city or county proposing at least 45 days prior to the first evidentiary hearing on an amendment to a comprehensive plan or land use regulation which a city or county must submit to the Department of Land Conservation and Development pursuant to ORS 197.610(1) or OAR 660-025-0130(1), the city or county shall submit the proposed amendment to the COO at least 45 days prior to the first evidentiary hearing on the Chief Operating Officer. The Chief Operating Officer shall review the proposed amendment. The COO for compliance with the functional plan. The Chief Operating Officer may request, and if so the city or county shall submit, an analysis of compliance of the amendment with the functional plan. If the COO Chief Operating Officer submits comments on the proposed amendment to the city or county, the comment shall include analysis and conclusions on compliance and a recommendation with specific revisions to the proposed amendment, if any, that would bring it into compliance with the functional plan requirements. The COO Chief Operating Officer shall send a copy of comments its analysis and recommendation to those persons who have requested a copy.~~

B. If the ~~COO Chief Operating Officer~~ concludes that the proposed amendment does not comply with the functional plan, the ~~COO Chief Operating Officer~~ shall advise the city or county that it may:

1. ~~Revise (1) revise~~ the proposed amendment as recommended in the ~~COO's Chief Operating Officer's~~ analysis;

2. ~~Seek (2) seek~~ an extension of time, pursuant to ~~section 3.07.830, Section 3.07.850,~~ to bring the proposed amendment into compliance with the functional plan; or

~~Seek an exception (3) seek review of the noncompliance by MPAC and the Metro Council, pursuant to section Sections 3.07.830 and 3.07.840.~~

~~3.07.830 (Ordinance No. 97-715B, Sec. 1. Amended by Ordinance No. 98-730C, Sees. 5, 6, 7; Ordinance No. 98-727C, Sec. 1. Readopted by Ordinance No. 99-839, Sec. 1. Amended by Ordinance No. 99-882C, Sec. 2; Ordinance No. 01-925E, Sec. 1; Ordinance No. 02-972A, Sec. 1.)~~

~~3.07.830 Review of Compliance by Metropolitan Policy Advisory Committee~~

- ~~A. A city or county may seek review of the Chief Operating Officer's conclusion of noncompliance under Section 3.07.820B by MPAC and the Metro Council. The city or county shall file an application for MPAC review on a form provided for that purpose by the Chief Operating Officer. Upon receipt of a completed application, the Chief Operating Officer shall set the matter on the MPAC agenda and notify those persons who request notification of MPAC reviews.~~
- ~~B. The Chief Operating Officer may seek review of city or county compliance with a functional plan requirement by MPAC and the Metro Council after the deadline for compliance with that requirement. The Chief Operating Officer shall file an application for MPAC review on the form described in subsection A and shall set the matter on the MPAC agenda. The Council President shall notify the city or county and those persons who request notification of MPAC reviews.~~
- ~~C. MPAC may hold a public hearing on the issue of compliance. If MPAC holds a hearing, any person may testify. MPAC shall attempt to resolve any apparent or potential inconsistency between the proposed amendment and the functional plan. MPAC shall prepare a report to the Metro Council that sets forth reasons for the inconsistency. The Chief Operating Officer shall send a copy of the report to the city or county and those persons who request a copy.~~

~~(Ordinance No. 97-715B, Sec. 1. Amended by Ordinance No. 98-727C, Sec. 2; Ordinance No. 01-925E, Sec. 1; Ordinance No. 02-972A, Sec. 1.)~~

~~3.07.840 Review by Metro Council~~

- ~~A. Upon receipt of a report from MPAC under Section 3.07.830, the Chief Operating Officer shall set the matter for a public hearing before the Metro Council and notify the city or county and those persons who request notification of Council reviews.~~

- ~~B. A person who requested a copy under Section 3.07.820A may seek review by the Metro Council of a Chief Operating Officer conclusion of compliance of a proposed amendment with the functional plan. The person shall file an application for Council review on a form provided for that purpose by the Chief Operating Officer. The Council President shall set the matter for a public hearing before the Council and notify the city or county, the Department of Land Conservation and Development and those persons who request notification of Council reviews.~~
- ~~C. The Council shall hold a public hearing on the matter within 90 days after receipt of a report from MPAC under subsection A or within 90 days after the filing of a complete application under subsection B. Any person may testify at the hearing. The Council shall issue an order of compliance or noncompliance with its analysis and conclusion and send a copy to the city or county, MPAC, the Department of Land Conservation and Development and those persons who participated in the proceeding.~~
- ~~D. If the Council finds that the proposed amendment does not comply with the functional plan, the Council shall advise the city or county that it may (1) revise and adopt the proposed amendment as recommended in the Council order; (2) seek an extension of time, pursuant to Section 3.07.850, to bring the proposed amendment into compliance with the functional plan; or (3) seek an exception from the functional plan, pursuant to Section 3.07.860. If the Council determines that an amendment of the functional plan is necessary to resolve the noncompliance, the Council shall include that determination in its order.~~
- ~~E. The city or county or a person who participated in the proceeding may seek review of the Council's order as a land use decision described in ORS 197.015(10)(a)(A).~~

~~(Ordinance No. 97-715B, Sec. 1. Amended by Ordinance No. 01-925E, Sec. 1; Ordinance No. 02-972A, Sec. 1.)~~

~~3.07.850~~ Extension of Compliance Deadline

- A. A city or county may seek an extension of time for compliance with at the functional plan requirement. The city or county shall file an application for an extension on a form provided ~~for that purpose~~ by the COO. ~~Chief Operating~~

~~Officer.~~ Upon receipt of an application, the ~~COO~~Council President shall ~~set the matter for a public hearing before the Metro Council and shall~~ notify the city or county, ~~MPAC, the Department of Land Conservation and Development~~ and those persons who request notification of applications for extensions.

~~B. The Metro Council shall hold a public hearing to consider the extension. Any person may file a written comment in support of or opposition to the extension.~~

~~B. The COO~~testify at the hearing. The Council may grant an extension if ~~it finds that: (1) the city or county is making progress toward accomplishment of its compliance or work program; or (2) there is good cause for failure to meet the deadline for compliance. Within 30 days after the filing of a complete application for an extension, the COO shall issue an order granting or denying the extension. The COO shall not grant more than two extensions of time to a city or count and shall grant no extension of more than one year. The COO shall send the order to the city or county and any person who filed a written comment.~~

~~C. The COO~~Metro Council may establish terms and conditions for the extension in order to ensure that compliance is achieved in a timely and orderly fashion and that land use decisions made by the city or county during the extension do not undermine the ability of the city or county to achieve the purposes of the functional plan requirement. ~~or of the region to achieve the 2040 Growth Concept. A term or condition must relate to the requirement of the functional plan to which the COO has granted~~Council grants the extension. ~~The Council shall incorporate the terms and conditions into its order on the extension. The Council shall not grant more than two extensions of time to a city or a county. The Council shall not grant an extension of time for more than one year.~~

~~D. The city or county applicant or any person who filed written comment on the extension may appeal the COO's order to the Metro Council within 15 days after receipt of the order. If an appeal is filed, the Council shall hold a hearing to consider the appeal. After the hearing, the Council shall issue an order granting or denying the extension and shall send copies to the applicant and any person who participated in the hearing. The city or county or a person who participated in the proceeding~~

may seek review of the Council's order as a land use decision described in ORS 197.015(10)(a)(A).

3.07.840

~~D. The Metro Council shall issue an order with its conclusion and analysis and send a copy to the city or county, MPAC, the Department of Land Conservation and Development and those persons who participated in the proceeding. The city or county or a person who participated in the proceeding may seek review of the Council's order as a land use decision described in ORS 197.015(10)(a)(A).~~

~~(Ordinance No. 97-715B, Sec. 1. Amended by Ordinance No. 01-925E, Sec. 1; Ordinance No. 02-972A, Sec. 1.)~~

3.07.860 Exception from Compliance

A. A city or county may seek an exception from compliance with a functional plan requirement by filing an application on a form provided ~~for that purpose by the COO.~~Chief Operating Officer. ~~An application for an exception to the requirement in subsection 3.07.150D to increase dwelling unit and job capacity to the targets set forth in Table 3.07-1 must be filed between March 1 and March 31 of each calendar year in order to allow the Metro Council to consider the application concurrently with other such applications.~~ Upon receipt of an application, the ~~COO~~Council President shall set the matter for a public hearing before the Metro Council and shall notify the city or county~~MPAC, the Department of Land Conservation and Development~~ and those persons who request notification of requests for exceptions. Any person may file a written comment in support of or opposition to the exception.

B. ~~The Metro Council shall hold a public hearing to determine whether the exception meets the following criteria:~~

~~1. Except as provided in paragraph (2) of this subsection C, the COO~~Council may grant an exception if: ~~it finds~~

ita. ~~It~~ is not possible to achieve the requirement due to topographic or other physical constraints or an existing development pattern;

~~this b. This~~ exception and likely similar exceptions will not render the objective of the requirement unachievable region-wide;

~~the e. The~~ exception will not reduce the ability of another city or county to comply with the requirement; and

~~the d. The~~ city or county has adopted other measures more appropriate for the city or county to achieve the intended result of the requirement.

C. 2. The ~~COO Council~~ may grant an exception to the ~~housing requirement in subsection 3.07.140A to increase dwelling unit and job capacity requirements in section 3.07.120 to the targets set forth in Table 3.07-1 if:~~
~~it finds:~~

~~the a. The~~ city or county has completed the analysis of capacity for dwelling units ~~and jobs~~ required by section 3.07.120; subsections 3.07.120A, B and C;

~~it b. It is not possible to comply with/achieve the requirements/targets~~ due to topographic or other physical constraints, an existing development pattern, ~~that precludes achievement of the 2040 Growth Concept,~~ or protection of natural resources pursuant to Titles 3 or 13 of this chapter; environmentally sensitive land; and

~~this e. This~~ exception and other similar exceptions ~~to the targets~~ will not render the targets unachievable region-wide. ~~region-wide.~~

D. C. The ~~COO Council~~ may establish terms and conditions for the exception in order to ensure that it does not undermine the ability of the region to achieve the purposes of the requirement. 2040 Growth Concept. A term or condition must relate to the requirement of the functional plan to which the ~~COO Council~~ grants the exception. The ~~COO Council~~ shall incorporate the terms and conditions into ~~the its~~ order on the exception.

E. The city or county applicant or a person who filed a written comment on the exception may appeal the COO's order to the Metro Council within 15 days after receipt of the

order. If an appeal is filed, the Council shall hold a hearing to consider the appeal. After the hearing, the Council shall issue an order granting or denying the exception and send copies to the applicant and any person who participated in the hearing. The city or county or a person who participated in the proceeding may seek review of the Council's order as a land use decision described in ORS 197.015(10)(a)(A).

- ~~D. 3.07.850 The Council shall issue an order with its conclusion and analysis and send a copy to the city or county, MPAC, the Department of Land Conservation and those persons who have requested a copy of the order. The city or county or a person who participated in the proceeding may seek review of the Council's order as a land use decision described in ORS 197.015(10)(a)(A).~~

~~(Ordinance No. 97-715B, Sec. 1, Amended by Ordinance No. 01-925E, Sec. 1, Ordinance No. 02-972A, Sec. 1.)~~

3.07.870 Enforcement of Functional Plan

- A. The Metro Council may initiate enforcement ~~proceedings under this section~~ if a city or county has failed to meet a deadline for compliance with a functional plan requirement or if the Council in an extension granted pursuant to Section 3.07.850 or if it has good cause to believe that a city or county is engaged~~engaging~~ in a pattern or a practice of decision-making that is inconsistent with the functional plan, ~~or local~~ ordinances adopted by the city or county to implement the plan, or ~~with~~ the terms or conditions in an extension or an exception granted pursuant to section 3.07.830 or 3.07.840, respectively. The Council may consider whether to initiate enforcement proceedings upon the request of the ~~COO~~Chief Operating Officer or a Councilor. The Council shall consult with the city or county before it determines there is good cause to proceed to a hearing under subsection B. ~~of this section.~~
- B. If the ~~Metro~~ Council ~~decides~~concludes that there is good cause, ~~pursuant to subsection A of this section,~~ the Council President shall set the matter for a public hearing before the Council within 90 days of its decision.~~conclusion.~~ The ~~COO~~Chief Operating Officer shall publish notice of the hearing in a newspaper of general circulation in the city or county and send notice to the city or county, MPAC, ~~the Department of Land Conservation~~

~~and Development~~ and any person who requests a copy of such notices.

- C. The ~~COO~~Chief Operating Officer shall prepare a report and recommendation on the pattern or practice, with a proposed order, for consideration by the ~~Metro~~ Council. The ~~COO~~Chief Operating Officer shall publish the report at least 14 days prior to the public hearing and send a copy to the city or county and any person who requests a copy.

D. At the conclusion of the hearing, the Council shall adopt an order that dismisses the matter if it decides the city or county complies with the requirement. -If the ~~Metro~~ Council decides ~~concludes~~ that the city or county has failed to meet a deadline for compliance with a functional plan requirement or has engaged in ~~not engaged in~~ a pattern or a practice of decision-making that ~~that~~ is inconsistent with the functional plan, ~~or local~~ ordinances adopted by the city or county to implement the plan, or with terms or conditions of an extension or an exception granted pursuant to ~~section~~Section 3.07.830 or 3.07.840, respectively, 3.07.850, the Council shall enter an order dismissing the matter. If the Council may adopt an order that:

1. Direct~~se~~concludes that the city or county has engaged in such a pattern or practice of decision-making, the Council shall issue an order that sets forth the noncompliance and directs changes in the city or county ordinances necessary to remedy the pattern or practice; or
2. Includes a remedy authorized in ORS 268.390(7).

E. ~~practice.~~ The Council shall issue its order, ~~with analysis and conclusions,~~ not later than 30 days following the public hearing ~~and on the matter.~~ The Chief Operating Officer shall send ~~copies~~ a copy of the order to the city or county, MPAC ~~and any person who requests a copy.~~

3.07.860 Citizen Involvement in Compliance Review

A. Any person may contact Metro staff or the COO or appear before the Metro Council to raise issues regarding local functional plan compliance, to request Metro participation in the local process, or to request the COO to appeal a local enactment for which notice is required pursuant to subsection A of section 3.07.820. Such contact may be oral or in writing and may be made at any time.

B. In addition to considering requests as described in A above, the Council shall at every regularly scheduled meeting provide an opportunity for people to address the Council on any matter related to this functional plan. The COO shall maintain a list of persons who request notice in writing of COO reviews, reports and orders and proposed actions under this chapter and shall send requested documents as provided in this chapter.

C. Cities, counties and the Council shall comply with their own adopted and acknowledged Citizen Involvement Requirements (Citizen Involvement) in all decisions, determinations and actions taken to implement and comply with this functional plan. The COO shall publish a citizen involvement fact sheet, after consultation with the Metro Committee for Citizen Involvement, that describes opportunities for citizen involvement in Metro's growth management procedures as well as the implementation and enforcement of this functional plan.

3.07.870 Compliance Report

A. The COO shall submit a report to the Metro Council by March 1 of each calendar year on the status of compliance by cities and counties with the requirements of the Urban Growth Management Function Plan. The COO shall send a copy of the report to MPAC, JPACT, MCCI and each city and county within Metro.

B. A city, county or person who disagrees with a determination in the compliance report may seek review of the determination by the Council by written request to the COO. The Council shall notify the requestor, all cities and counties, MPAC, JPACT, MCCI, the Department of Land Conservation and Development and any person who requests notification of the review. The notification shall state that the Council does not have jurisdiction to:~~a copy.~~

1. Determine whether previous amendments of comprehensive plans or land use regulations made by a city or county comply with functional plan requirements if those amendments already comply pursuant to subsections E and F of section 3.07.810; or

2. Reconsider a determination in a prior order issued under this section that a city or county complies with a requirement of the functional plan.

C. Following its review at a public hearing, the Council shall adopt an order that determines whether the city or county complies with the functional plan requirement raised in the request. The order shall be based upon the COO's report and testimony received at the public hearing. The COO shall send a copy of the order to cities and counties and any person who testifies, orally or in writing, at the public hearing.

D. A city or county or a person who participated, orally or in writing, at the public hearing, may seek review of the Council's order as a land use decision described in ORS 197.015(10)(a)(A).

~~{Ordinance No. 01-925E, Sec. 2. Amended by Ordinance No. 02-972A, Sec. 1.}~~

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 10-1244, FOR THE PURPOSE OF MAKING A GREAT PLACE AND PROVIDING CAPACITY FOR HOUSING AND EMPLOYMENT TO THE YEAR 2030; AMENDING THE REGIONAL FRAMEWORK PLAN AND THE METRO CODE; AND DECLARING AN EMERGENCY

Date: November 19, 2010

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Introduction

Purposes of the proposed legislation

Proposed Ordinance No. 10-1244 and its exhibits are intended to fulfill five primary purposes that are described in more detail in this report (section numbers refer to sections of this report, not the ordinance).

Section 1: Recommendations for residential capacity (to narrow the household forecast range and identify the actions that will address at least half the capacity gap identified in the 2009 UGR);

Section 2: Recommendations for employment capacity (to narrow the employment forecast range and to state an intent to add large-lot industrial capacity in 2011);

Section 3: Recommended amendments to the Regional Framework Plan, which articulates Metro Council policies;

Section 4: Recommended amendments to the Metro Code, which is intended to implement the regional vision, and;

Section 5: Recommended amendments to maps, including the 2040 Growth Concept map, the Title 4 map (Industrial and Other Employment Areas), the Title 6 map (Centers, Corridors, Station Communities and Main Streets), and the Title 14 map (Urban Growth Boundary).

Refinement of August 2010 Chief Operating Officer recommendation

In August 2010, Metro's Chief Operating Officer (COO) made a preliminary recommendation to the Metro Council on the contents of Ordinance No. 10-1244. Additional technical details on the topics summarized in this memo can be found in the August 2010 Growth Management Assessment. Since that recommendation was released, there have been a number of discussions at MPAC, MTAC, the Metro Council, amongst stakeholders, and with the general public. The version of Ordinance 10-1244 that is included in this legislative packet reflects staff's synthesis of input received to date. Its main components and staff's reasoning are described in this staff report.

MPAC recommendation

On November 17, 2010, MPAC unanimously recommended that the Council adopt Ordinance 10-1244. MPAC comments on specific portions of the proposed ordinance are noted throughout this staff report.

Public comment period and public hearings

On Aug. 10, 2010, Metro's COO released a set of recommendations in a report entitled, "Community Investment Strategy: Building a sustainable, prosperous and equitable region." A public comment period ran until Oct. 1, 2010.¹

A wide range of views were submitted from across the region in response to the COO recommendations. During the comment period, Metro staff engaged in a coordinated outreach and engagement strategy that included more than 30 stakeholder meetings, website and e-mail information distribution, media releases, newsfeeds and Twitter feeds, seven open houses, a non-scientific online survey, and compilation of letter and e-mail correspondence relating to the Community Investment Strategy and urban growth boundary expansion options. In all, Metro received more than 600 survey entries, 55 e-mails, 16 letters and 10 other public comments.

In advance of the Metro Council's December 16, 2010 decision on Ordinance No. 10-1244, the Council will hold four public hearings:

November 29: Oregon City
December 2: Hillsboro
December 9: Metro Regional Center
December 16: Metro Regional Center

¹ A report on public comments received is available on Metro's website at:
http://library.oregonmetro.gov/files/11173_cis-ugb_comment_report_final.pdf

Background on the regional capacity assessment

Statutory requirements

Oregon land use law requires that, every five years, Metro assess the region's capacity to accommodate the numbers of people anticipated to live or work inside the Metro urban growth boundary (UGB) over the next 20 years. To make this determination, Metro forecasts population and employment growth over a 20-year timeframe; conducts an inventory of vacant, buildable land inside the UGB; assesses the capacity of the current UGB to accommodate population and employment growth either on vacant land or through redevelopment and infill; determines whether additional capacity is needed; and documents the results of these analyses in an urban growth report (UGR). The UGR is the basis for subsequent consideration of the actions to be taken to close any identified capacity gap.

Metro Council intent to take an outcomes-based approach

In addition to addressing statutory obligations, on the advice of the Metro Policy Advisory Committee (MPAC), the Metro Council has indicated its desire to take an outcomes-based approach when it makes decisions. It is intended that the proposed legislation will help to foster the creation of a region where:

1. People live and work in vibrant communities where they can choose to walk for pleasure and to meet their everyday needs.²
2. Current and future residents benefit from the region's sustained economic competitiveness and prosperity.
3. People have safe and reliable transportation choices that enhance their quality of life.
4. The region is a leader in minimizing contributions to global warming.
5. Current and future generations enjoy clean air, clean water and healthy ecosystems.
6. The benefits and burdens of growth and change are distributed equitably.

2009 forecast and urban growth report

In 2009, Metro completed range forecasts of population, household and employment growth through the year 2030.³ The use of a range forecast acknowledges uncertainty and allows for growth management decisions to focus on desired outcomes rather than a specific number. These range forecasts are incorporated into the UGR's analysis. The forecasts are for the seven-county primary metropolitan statistical area, which includes Clackamas, Multnomah, Washington, Yamhill, Columbia, Clark, and Skamania counties. These forecasts and the macroeconomic model that produces them have been peer reviewed by economists and demographers.

The 20-year forecast indicates that, by the year 2030, there will be a total of 1,181,300 to 1,301,800 households and a total of 1,252,200 to 1,695,300 jobs in the larger seven-county area. There is a 90 percent probability that growth will occur in the ranges identified in the forecast.

In addition to the 20-year range forecasts, the UGR determines how much of the 7-county growth may occur inside the Metro UGB and includes an analysis of the share of the UGB's zoned capacity that is likely to be developed by the year 2030. The UGR's analysis assumed a continuation of policies and investment trends in place at the time of the analysis. No changes to existing zoning were assumed, although it is likely that up-zoning will take place in the future as communities develop and implement their aspirations. The UGR's assessment of the likelihood of development was based on historic data,

² Note: these are the desired outcomes as adopted by the Metro Council in 2008. One effect of proposed Ordinance No. 10-1244 is to incorporate these desired outcomes into the Regional Framework Plan. MPAC has recommended that this desired outcome be modified to be more inclusive. Staff has proposed alternative language to satisfy MPAC concerns. Please see Exhibit A, section A for the proposed language.

³ A range forecast was also completed for the year 2060 in order to inform the urban and rural reserves process.

scenario modeling, and the professional expertise of Metro staff, local city and county staff, economic consultants, and business representatives. UGR results are portrayed for four different categories: residential, general industrial employment, general non-industrial employment, and large-lot employment.

Timeline for addressing regional capacity needs

On December 10, 2009, the Metro council, on the advice of MPAC, adopted Resolution No. 09-4094, which accepted the 2009 UGR and 20-year forecast as a basis for making growth management decisions.⁴ According to state law, the Metro Council must, by the end of 2010, address at least half of the residential capacity needs identified in the UGR. If any capacity needs are to be accommodated through efficiency measures⁵ inside the existing UGB, they must be accounted for by the end of 2010. If, after accounting for efficiency measures, there are any remaining capacity needs, the Council must address them with UGB expansions by the end of 2011.

On October 29, 2010, the state Land Conservation and Development Commission (LCDC) reached an oral decision on urban and rural reserves. LCDC remanded two of the urban reserves and all of the rural reserves in Washington County. As a consequence, the Council has directed that any needed UGB expansions will be made in 2011, which would allow time to finalize urban and rural reserves.

The 2009 UGR assessed regional capacity needs using a range demand forecast. Oregon Department of Land Conservation and Development (DLCD) staff has indicated that the Metro Council may carry a range through the decision that it makes in December 2010, but that the forecast range needs to be narrowed in order to demonstrate that at least half of the residential gap has been addressed. In order to finalize its growth management decision, the Council must, by the end of 2011, choose the point in the range forecast for which it wishes to plan. Depending on the point chosen, UGB expansions may be needed.

Under state statute, Metro can wait until 2011 to address all employment capacity needs identified in the UGR. For employment capacity, there is no requirement that at least half of the need be addressed by the end of 2010.

⁴ As indicated in the text of Ordinance No. 10-1244, the Council would, by adopting the ordinance, formally adopt the forecast and UGR as the basis for its growth management decisions.

⁵ Oregon Revised Statute 197.296 instructs Metro to expand the UGB and/or amend plans in ways that increase the likelihood of higher density development inside the existing UGB. "Efficiency measures" refer to the latter option.

Section 1: recommendations for residential capacity

Residential capacity gap identified in 2009 UGR

The 2009 UGR indicates that there will be demand for between 224,000 to 301,500 new dwelling units inside the Metro UGB from 2007 to 2030. While there is ample zoned capacity within the current UGB to accommodate the next 20 years of residential growth, the UGR's analysis indicates that, without additional infrastructure investments or other policy changes, a portion of the zoned capacity will not be market feasible. As a result, there is unmet demand for 27,400 to 79,300 dwelling units.⁶

Residential efficiency measures

Because a residential capacity gap is identified in the 2009 UGR, Oregon Revised Statute 197.296 instructs Metro to expand the UGB and/or amend plans in ways that increase the likelihood of higher density development inside the existing UGB. These latter actions are referred to as "efficiency measures." Reasonable efforts to implement efficiency measures must be undertaken before expanding the UGB. The statute states that efficiency measures may include, but are not limited to:

- Increases in the permitted density on existing residential land
- Financial incentives for higher density housing
- Provisions permitting additional density beyond that generally allowed in the zoning district in exchange for amenities and features provided by the developer
- Removal or easing of approval standards or procedures
- Minimum density ranges
- Redevelopment and infill strategies
- Authorization of housing types not previously allowed by the plan or regulations
- Adoption of an average residential density standard
- Rezoning or re-designation of nonresidential land

The August 2010 Growth Management Assessment⁷ includes staff's preliminary assessment of a variety of efficiency measures that have been adopted since the completion of the 2009 UGR. Staff's preliminary analysis indicates that efficiency measures contribute an additional 30,300 dwelling units of capacity beyond what was counted in the 2009 UGR⁸.

⁶ Refill is a share of total growth. The high end of the gap (79,300 units) reported here is different than what was identified in the 2009 UGR (104,900), which, for illustrative purposes, held constant the dwelling unit capacity generated through refill (rather than expressing it as a share of the high demand forecast). When the Council makes its growth management decision, they will identify the point in the forecast for which they are planning. Refill capacity will be calculated as a share of that number. As discussed more thoroughly in the August 2010 Growth Management Assessment, a 38 percent refill rate is a reasonable assumption with the policies and investments that have been adopted since the 2009 UGR.

⁷ Available at Metro's website:

http://library.oregonmetro.gov/files/2010_growth_management_assessment.pdf

⁸ The August 2010 Growth Management Assessment attributed 32,050 dwelling units of capacity to efficiency measures with 38% refill capacity tied to an assumption of medium growth (demand). Because capacity from redevelopment and infill (refill) is expressed as a share of total growth, staff cannot determine a final capacity number until the Council chooses the point in the forecast range for which to plan. The 30,300 units cited here is an

Recommendations for narrowing the residential forecast range

Background

Oregon statutes require that the Council, by the end of 2010, determine that it has addressed at least half of the residential capacity gap identified in the 2009 UGR. However, the Metro Council has indicated that it would like to maintain a range through its December 2010 decision. To accommodate the Council's request and to meet statutory obligations, staff proposes that the Council determine that the efficiency measures described in the August 2010 Growth Management Assessment have addressed at least half of the residential capacity gap identified in the 2009 UGR. To make that determination, the Council will need to narrow the forecast range for which it intends to plan.

In August 2010, Metro's Chief Operating Officer (COO) recommended planning for a point in the middle third of the forecast range. Since that recommendation was issued, the Council, MPAC, and others have had the opportunity to discuss the risks and opportunities of planning for different points in the range. Some of the topics considered include:

- Statistical likelihood of growth occurring at different points in the range
- Need for consistency between the urban and rural reserves decision and this growth management decision
- Need for consistency in expectations for residential and employment growth
- Implications for meeting carbon reduction goals
- Implications of changing demographics and housing preferences
- Adaptability if we aim too high or too low

MPAC recommendation

On October 27, 2010, MPAC discussed the question of where the Council should plan in the residential range forecast.⁹ MPAC recommends (13 in favor, 4 opposed) that the Council plan for at least the low end of the middle third of the forecast range. To provide more guidance to the Council, MPAC also discussed, through an informal show of hands, several portions of the range, with the following results:

- 3 committee members showed support, through a show of hands, for recommending that the Metro Council target the upper part of the middle third of the range.
- 6 committee members showed support, through a show of hands, for recommending that the Metro Council target below the middle third of the range.
- 4 committee members showed support, through a show of hands, for recommending that the Metro Council target the middle part of the middle third of the range.

Staff recommendation

With MPAC's recommendation, statutory requirements, and Council preferences in mind, staff proposes that the Council cap the range that it is considering at the high end of the middle third of the forecast range. This would entail planning for a marginal increase of 224,000 to 271,400 dwelling units inside the Metro UGB from the year 2007 through the year 2030. This proposed range can be in section 16 of Ordinance 10-1244.

adjusted figure that assumes 38% refill tied to low demand. See Table 1 for more details on how supply may change with different demand assumptions.

⁹ Minutes from the October 27, 2010 MPAC meeting are available on Metro's website.

Capacity for 196,600 dwelling units was accounted for in the 2009 UGR. As noted, an additional 30,300 dwelling units of capacity attributable to efficiency measures have been identified. Table 1 summarizes the potential capacity gaps (or surpluses) at different points in the forecast range after having accounted for efficiency measures identified in the August 2010 Growth Management Assessment.¹⁰ Additional detail on these gap calculations is available in Attachment 1 to this staff report. Under the scenarios depicted in Table 1, UGB expansions made in 2011 would need to provide from zero to 26,600 dwelling units of additional capacity, depending on the point in the demand forecast that is chosen. In all cases, the remaining potential gap is less than the 30,300 dwelling units of capacity already attributed to efficiency measures. Consequently, as required by statute, less than half the capacity gap identified in the UGR would remain for the Council to address in 2011.

Table 1: Dwelling unit gap or surplus at different points in the range forecast after accounting for efficiency measures (Metro UGB 2007 - 2030)

Point in demand forecast range	Remaining gap or surplus (dwelling units)
Low	2,900
Low end of middle 1/3 rd	(15,400)
Middle	(21,000)
High end of middle 1/3 rd	(26,600)

¹⁰ Because refill is a share of demand, using different points in the demand forecast will produce different capacity numbers. For this reason, determining the remaining gap at a particular point in the forecast range is not as straight forward as simply adding 30,300 dwelling units to the capacity identified in the 2009 UGR and deducting a demand number. Additional detail on these calculations is available in Attachment 1.

Section 2: recommendations for employment capacity

Employment range forecast

Background

The 2009 UGR indicates that there will be a total of 1.0 to 1.3 million total jobs inside the metro region UGB by the year 2030.

MPAC recommendation

On November 17, 2010, MPAC discussed the contents of Ordinance No. 10-1244. Metro staff proposed that the point chosen in the employment forecast range should be consistent with the point chosen in the residential range forecast.¹¹ MPAC had no comments on the employment range forecast.

Staff recommendation

Though there is no statutory obligation compelling the Council to do so, staff recommends that the Metro Council narrow this range to provide consistency with the recommendation on the residential range. As with the residential range, staff proposes capping the employment forecast range at the high end of the middle third of the forecast range. This would entail planning for between 1,083,200 and 1,211,600 total jobs inside the UGB by the year 2030.¹² When the Council ultimately picks a point in the residential and employment range forecasts, staff strongly recommends that the two points be consistent with one another.

Potential implications for non-industrial employment capacity

A portion of the UGR assesses the current UGB's capacity to accommodate non-industrial (e.g. office, retail, institutional) job growth on vacant land or through refill. The UGR finds that at the low end of the forecast range there is no need for additional non-industrial employment capacity inside the UGB. At the high end of the forecast range there is a need for 1,168 acres of additional capacity. At the high end of the middle third of the range, there is a need for 30 acres of additional capacity for non-industrial employment.¹³

Implications for general industrial employment capacity

A section of the UGR assesses the current UGB's capacity to accommodate industrial job growth on vacant land or through redevelopment and infill (refill). The assessment of demand for large, vacant lots is handled separately and recommendations can be found below. The UGR finds that, at or below the high end of the employment range forecast, there is adequate capacity inside the current UGB to accommodate the next 20 years of general industrial job growth. Consequently, within the narrowed employment forecast range proposed by staff, there is also no need for additional capacity for general industrial employment.

¹¹ As noted in this report, on October 27, 2010, MPAC voted in favor of recommending that the Council plan for at the least the low end of the middle third of the residential range forecast.

¹² Section 16 of Ordinance No. 10-1244 refers to this proposed range.

¹³ Many of the residential efficiency measures identified in the August 2010 Growth Management Assessment are also likely to increase non-industrial employment capacity inside the existing UGB. This is because many non-industrial jobs are in population-serving fields such as education, health care, and retail and these employers need to be close to population centers. Consequently, actions that encourage more residential growth in centers and corridors will likely have the same effect on non-industrial employment. Staff has not, however, performed a quantitative assessment of those effects.

Large lot industrial employment capacity

Background

The “large lot” portion of the UGR’s analysis was completed in recognition of the fact that some firms in traded-sector industries require large, vacant lots.¹⁴ The UGR defines a large lot as a single tax lot with at least 25 vacant, buildable acres. The UGR’s forecast-based assessment determined that, over the 20-year period, there is demand for 200 to 800 acres of additional capacity for large-lot employment uses. This range depends on the amount of employment growth realized as well as whether assembly of adjacent lots of 25 acres or more was assumed.

MPAC recommendation

For several reasons listed below, at its November 18, 2009 meeting, the Metro Policy Advisory Committee (MPAC) recommended that the UGR identify a wider range of potential large lot demand:

- Large traded-sector firms are crucial to the region’s economy since they sell goods and services outside the region, thereby bringing wealth to the region.
- Large traded-sector firms create spinoff employment.
- Large lot demand will be the result of the decisions of individual firms, so it is inherently difficult to forecast.
- The use of an employment forecast may be an inadequate means of estimating large lot demand for freight, rail, and marine terminal uses, which are space-intensive uses with relatively few employees, which play a crucial economic role.

The final 2009 UGR reflects MPAC’s recommendation that the Metro Council consider demand for 200 to 1,500 acres of additional capacity for large-lot industrial uses.

Since the completion of the 2009 UGR, no cities or counties in the region have adopted strategies that will make additional large-lot capacity available. In August 2010, Metro’s COO recommended that the Council address this need by expanding the UGB by 310 acres north of Hillsboro. MPAC endorsed this recommendation on October 13, 2010 with a vote of 9 in favor and 8 opposed. Committee discussion included:

- Reasons why the Metro COO has recommended incorporating 310 acres when the need for 200-1500 has been identified;
- The fact that Metro will have to demonstrate a need for more large-lot parcels in the region when justifying UGB expansion to the State;
- Whether it is more prudent to be conservative in expanding the UGB for large-lot industrial land, due to the continuing recession and other factors;
- Whether incorporating more land than the recommended 310 acres makes the region more economically competitive;
- Whether parcels can be consolidated to create large-lot sites within the UGB;
- The importance of thinking regionally when making this policy decision and not only considering individual jurisdictions;
- How we can learn from past experiences with UGB expansion and subsequent use of large-lot sites; and

¹⁴ Existing sites with significant acres of vacant land may give the initial impression that large-lot need is overestimated. However, firms seeking large sites often construct their facilities in phases. Recent examples of this phased approach can be found in the Metro region, including facility expansions completed or planned by large industrial firms such as Genentech, SolarWorld and Intel. This legitimate business practice factors into the UGR’s calculations of need for large lots.

- The decision of how many acres to incorporate into the UGB for large-lot industrial purposes is intertwined with the concept of a replenishment mechanism for parcels that get used up.

At the October 27, 2010 MPAC meeting, Mayor Lou Ogden of Tualatin requested that the Council also consider a UGB expansion, which would add 177 acres outside of Tualatin for large-lot industrial uses. MPAC did not make a recommendation on this request, but will discuss it in 2011.

Staff recommendation

Because urban and rural reserves in Washington County have been remanded by LCDC, the Council has directed that UGB expansions will be postponed until 2011. Staff recommends that, in 2011, the Council address regional needs for large lots for industrial uses by expanding the UGB to include at least the 310-acre area north of Hillsboro (assuming that urban and rural reserves are adopted and acknowledged).

Section 3: recommended amendments to the regional framework plan

Background

The Regional Framework Plan, originally adopted in 1997, is a statement of the Metro Council's policies concerning land use, transportation, and other planning matters that relate to implementing the 2040 Growth Concept. While the Regional Framework Plan has helped guide efforts to implement the 2040 Growth Concept, it has become clear that these implementing plans need to be updated to better support community and regional goals. Based on Council and advisory committee discussion and experience during the past few years, staff proposes a number of updates to the policies in the Land Use chapter of the Framework Plan to more clearly articulate Metro Council policy positions. The changes are summarized below.

MPAC recommendation

MPAC discussed the Regional Framework Plan on September 8 and 22, 2010, including several proposed amendments. MPAC indicated preliminary support for staff's proposed changes to the Regional Framework Plan. The Council discussed MPAC's comments on the Regional Framework Plan at a work session in October and provided staff with direction. MPAC had a final discussion of proposed changes to the Regional Framework Plan on November 17, 2010. MPAC's recommendations are summarized below for each topic.

Staff recommendation

The proposed Regional Framework Plan is included as Exhibit A to the ordinance. Following is a summary of the proposed language, organized by topic.

Use the defined six desired outcomes for a successful region to guide growth management decisions (Exhibit A, section A)

Background

In June 2008, the Metro Council, with the endorsement of MPAC, adopted Resolution No. 08-3940 which defined six desired outcomes for a successful region. The six desired outcomes are intended to guide decisions.

MPAC recommendation

MPAC recommended that the first desired outcome be changed to be more inclusive of those unable to walk and to reflect other non-motorized forms of transportation. MPAC also discussed adding "equitably" to the second outcome but did not make a recommendation.

Staff recommendation

Staff proposes incorporating the six desired outcomes into the Framework Plan to give them more official status as Metro Council policy. These would replace the fundamentals currently in the Framework Plan. Staff also proposes amending the wording of the first desired outcome in order to address concerns expressed by MPAC. The proposed six desired outcomes are:

- People live, work and play in vibrant communities where their everyday needs are easily accessible.
- Current and future residents benefit from the region's sustained economic competitiveness and prosperity.
- People have safe and reliable transportation choices that enhance their quality of life.
- The region is a leader in minimizing contributions to global warming.

- Current and future generations enjoy clean air, clean water and healthy ecosystems.
- The benefits and burdens of growth and change are distributed equitably.

Measure performance to guide growth management decisions (Exhibit A, policy 1.2.5)

Background

The Metro Council has expressed its desire to take an outcomes-based approach to growth management. Reporting the region's historic and forecasted performance is an important element of implementing that type of decision-making model.

MPAC recommendation

MPAC did not comment on this recommendation.

Staff recommendation

Staff proposes that the Framework Plan should express the intent to provide performance information to help guide growth management decisions.

Prioritize public investments in Centers, Corridors, Station Communities, Main Streets, Employment and Industrial Areas (Exhibit A, policy 1.2)

Background

The region intends to focus population and employment growth in centers, corridors, station communities, main streets and employment areas, but has not yet expressly stated its intent to strategically invest scarce public dollars in these specific 2040 design types.

MPAC recommendation

MPAC discussed an amendment to Policy section 1.2.2 through 1.2.5 that would add "developing residential areas" and "other industrial areas" as priorities for investments as part of the investment strategy for Centers, Corridors, Station Communities, and Main Streets. MPAC did not support this amendment because it would dilute the effectiveness of investing in those four design types.

Staff recommendation

Staff proposes that the Council should make explicit its policy intent to prioritize investments in centers, corridors, station communities, main streets, and employment areas.

Encourage elimination of barriers to compact, mixed-use, pedestrian-friendly and transit supportive development in centers, corridors, station communities, and main streets (Exhibit A, policy 1.1)

Background

Since the adoption of the 2040 Growth Concept, some of the barriers to compact development have become more apparent (such as some parking requirements).

MPAC recommendation

MPAC did not comment on this recommendation.

Staff recommendation

Staff proposes that the Framework Plan should be amended to expressly state that it is the policy of the Metro Council to encourage the elimination of such barriers in targeted 2040 design types. Staff also proposes that the Framework Plan should underline the importance of creating the conditions for infill and redevelopment to occur in targeted 2040 design types.

Address housing affordability through a combination of actions, including investments in transportation facilities and transit services that make transportation more affordable, which in turn makes more household income available for housing and other needs (Exhibit A, policy 1.3)

Background

Second to housing costs, many households spend a substantial portion of their income on transportation expenses.

MPAC Recommendation

MPAC discussed changes to this policy, including adding an investment in affordable housing as a strategy to reduce household transportation costs leaving more household income for other expenses. MPAC did not come to a consensus on a policy change.

MPAC also discussed Policy 1.3.1 (provide housing choices). Although staff had previously not recommended any changes to this policy, MPAC recommended that this policy be changed to focus on households with incomes at or below 80 percent of median family income. The language MPAC recommended is as follows:

"1.3.1 That housing choices in the region include single family, multi-family, ownership and rental housing; and housing offered by the private, public and nonprofit sectors for households with incomes at or below 80, 50, and 30 percent of median family income."

Staff recommendation

Metro staff proposes that it be the policy of the Metro Council to take a holistic approach to ensuring an affordable cost-of-living that acknowledges both housing and transportation costs. This would be an addition to existing housing affordability policies. In response to MPAC suggestions and a discussion with the Metro Council, staff is recommending a slightly modified version of policy 1.3.1:

"1.3.1 Provide housing choices in the region, including single family, multi-family, ownership and rental housing, and housing offered by the private, public and nonprofit sectors, paying special attention to those households with fewest housing choices."

Provide affordable housing in UGB expansion areas (Exhibit A, policy 1.3.10)

Background

Planning for new urban areas offers a unique opportunity to ensure that development forwards community and regional goals. A commonly-held goal is that households of a variety of incomes have choices of where to live.

MPAC recommendation

MPAC did not comment on this recommendation.

Staff recommendation

Metro staff proposes that it should be the policy of the Metro Council to ensure that affordable housing is addressed in planning for new urban areas.

Provide urban areas with access to parks, trails and natural areas (Exhibit A, policy 1.1.6)

Background

Currently, the Land Use chapter of the Framework Plan addresses access to parks, trails and natural areas in several sections. Staff believes that the Framework Plan should take a stronger position on an integrated system.

MPAC recommendation

MPAC did not comment on this recommendation.

Staff recommendation

Staff proposes that an integrated system of parks, trails and natural areas is essential for fostering vibrant communities and that it should be a clearly stated Metro Council policy to provide urban areas with access to these amenities. The proposed change would add a section to the Land Use chapter that would specifically address this policy.

Strengthen employment in the region's traded-sector industries (Exhibit A, policies 1.4.3 to 1.4.7)

Background

Attracting and retaining traded-sector industrial firms is important to the region's economic prosperity. Traded-sector industrial firms sell products to consumers elsewhere in the country and world, bringing wealth into the Metro region.

MPAC recommendation

MPAC and its 2010 employment subcommittee proposed that the Metro Council adopt a policy to maintain a supply of large sites for traded-sector industrial uses inside the UGB. MPAC discussed two amendments to Policy 1.4.6 (maintain supply of large industrial sites). MPAC suggested amending the proposed language for Policy 1.4.6 to read:

"1.4.6 Consistent with policies promoting a compact urban form, ensure that the region maintains a sufficient and geographically diverse supply of tracts 50 acres and larger to meet marketplace demand of traded sector industry clusters and that the region protects those sites from conversion to non-industrial uses and conversion into smaller lot sizes."

MPAC also discussed adding to policy 1.4.6 the following clause:
"transit availability shall be a critical factor in determining which sites are included"

MPAC ultimately opposed including this clause because transit is unlikely to serve the area when a site is undeveloped and demand for transit does not yet exist.

Staff recommendation

The Council discussed MPAC's suggestions at a work session. Based on Council direction, staff proposes several policy statements that seek to strengthen employment in traded-sector industries. These proposals include establishing programs to clean up brownfields and consolidate smaller parcels, creating an

inventory of large tracts of land that may be suitable for traded-sector industrial uses, and protecting large sites from conversion to non-industrial uses.

Section 4: recommended amendments to the Metro Code

Background

The Urban Growth Management Functional Plan (UGMFP) is part of Metro Code (Chapter 3.07) and implements the policies contained in the Regional Framework Plan. City and county comprehensive plans and implementing ordinances must be consistent with the Functional Plan and have two years from any amendments to the Code to conform. MPAC reviewed proposed changes in October and November 2010. Changes to the Functional Plan included in Ordinance No. 10-1244 are summarized below.

Each of the titles of the UGMFP that is proposed for amendment is included as a separate exhibit to the ordinance. The contents of the proposed titles and MPAC's recommendations are summarized below.

Title 1: Housing Capacity (Exhibit B)

Background

Currently, Title 1 specifies minimum zoned capacity for jobs and housing for each city and unincorporated area within the UGB. Metro staff has heard a number of concerns from local government staff about the existing Title 1 Requirements for Housing and Employment Accommodation – that it was time-consuming and staff intensive to produce an annual report on changes to housing and employment capacity as well as a biennial report on actual density of new residential density per net developed acre, that it was impossible to calculate an accurate employment number, that there was no consistency in how each local government calculated their zoned capacity, and that Table 1 was out-of-date because it did not include additions to the urban growth boundary or zone changes.

MPAC recommendation

On November 10, MPAC recommended approval of the revised Title 1 to the Metro Council, with several recommended changes:

- MPAC recommends clarifying that small property-specific zoning changes are not subject to the “no-net-loss” provision to reduce the regulatory burden of this requirement. Staff has added subsection 3.07.120(E) to address this recommendation.
- MPAC recommends clarifying that the “no-net-loss” policy focuses on changes to minimum zoned density rather than other actions such as revisions to design standards. Staff has revised the wording of section 3.07.120(C) in response.
- MPAC recommends re-instating the provision allowing transfers of capacity between jurisdictions, which is in the existing Title 1 but was proposed for deletion by staff due to lack of use. Staff has re-instated this language as section 3.07.120(F).
- MPAC recommends giving credit to jurisdictions for their recent actions to increase zoned capacity, allowing for future downzonings in those jurisdictions based on that work. MPAC noted that establishing a new minimum zoned capacity could be seen as “penalizing” jurisdictions that had recently upzoned and were considering downzones. Staff has not proposed any changes to Title 1 on this topic because of uncertainty about how to pick a point in time, whether the backdating would only include upzonings (some jurisdictions have recently completed downzonings), and related implementation concerns.
- MPAC recommends allowing more flexibility in both the timing and sequencing of allowing downzones in exchange for upzones. In the proposed Title 1, upzoning must occur before downzoning and jurisdictions have two years to downzone following upzones. MPAC recommends allowing more than two years and allowing downzones to occur first, to give more flexibility to local jurisdictions. Staff understands MPAC's desire for flexibility and agrees that

the vast majority of local government actions will not cause concern under this section. However, staff believes that two years is an adequate period and is concerned that allowing downzoning first could occasionally create difficult enforcement situations. It's also not clear what Metro's recourse would be if a jurisdiction reduces zoning, builds at that reduced density and then takes no action to replace that lost capacity.

Staff recommendation

Staff proposes that the Council revise Title 1 while continuing to implement the Regional Framework Plan policies of a compact urban form, efficient use of land, and a "fair-share" approach to meeting regional housing needs. The proposed Title 1 Housing Capacity moves to a "no-net-loss" approach for housing based on a project amendment basis, eliminates Table 1 and the need to calculate capacity city-wide, and eliminates the requirements for calculating and tracking job capacity.

Title 4: Industrial and Other Employment Areas (Exhibit C)

Background

Title 4 seeks to protect a regional supply of sites for industrial uses. In recent years, several industrial-designated sites have been developed for non-industrial uses.

MPAC recommendation

On October 13, 2010 MPAC recommended that the Council amend Title 4 to prohibit new schools, places of assembly, recreational facilities and parks (with exceptions for habitat protection) in Regionally Significant Industrial Areas.

During fall, 2010, MPAC requested that Metro staff develop a proposal for a system that would maintain an inventory of large sites for industrial uses. MPAC also indicated that the site inventory should be organized in tiers to identify any obstacles to development readiness of sites inside the UGB. Metro staff has convened a small group of MTAC members to sort out the details of the proposal. Having met twice, it appears that, while there is considerable interest in the concept, additional time and expertise are needed to refine the proposal. The Metro Council also recently discussed the concept and indicated a desire to spend the time to get it right. Consequently, staff does not propose changes to Title 4 that would implement this concept at this time. Instead, staff proposes changes to the Framework Plan that would state the Council's policies on the topic (see above discussion of Framework Plan). Staff also proposes additional work on the concept and its details in 2011.

Several MPAC members indicated that they regarded industrial land protections, the proposed UGB expansion, and the inventory maintenance concept as a package. Dedicating additional time to refining the concept would allow for integration of the concept with the more comprehensive overhaul of the Title 4 map that was proposed by the MPAC employment subcommittee (following the recommendations of the Greater Metropolitan Employment Lands Study). It would also allow the Metro Council to consider those proposals concurrently with a UGB expansion for large-lot industrial capacity, which is now delayed in light of LCDC's decision on urban and rural reserves.

Staff recommendation

Staff proposes that Title 4 be amended to prohibit new schools, places of assembly, recreational facilities and parks (with exceptions for habitat protection) in Regionally Significant Industrial Areas. As described under MPAC's recommendations, staff does not, at this time, recommend that the Council adopt the previously-contemplated system for maintaining a supply of large sites for industrial uses. A summary of proposed changes to the Title 4 map (Industrial and Other Employment Areas) is included later in this report. In response to MPAC recommendations, staff also proposes a new Title 14 (see Exhibit L), which includes an expedited process for adding large industrial sites to the UGB.

Title 6: Centers, Corridors, Station Communities and Main Streets (Exhibit E)

Background

The existing version of Title 6 requires local governments to develop a strategy to enhance all centers by December 2007 and to submit progress reports to Metro every two years. Only one local government developed a strategy for one of its centers. This approach has not been effective in encouraging center development and development in centers has not achieved the results originally anticipated.

An MTAC subcommittee spent considerable time earlier this year discussing possible revisions to Title 6. The subcommittee included staff from local governments, Department of Land Conservation and Development, Oregon Department of Transportation (ODOT) and TriMet. Metro staff worked extensively with ODOT to find mutually acceptable language concerning the 30% trip reduction credit and new auto dependent uses in centers, corridors, station communities, and main streets (3.07.630(B)(2)).

MPAC recommendation

MPAC discussed the amount of work that a local government might have to undertake to be eligible for the incentives listed in Title 6 and agreed that the incentive approach was appropriate. Some members of MPAC also expressed some concern that limiting the definition of regional investment to new High Capacity Transit lines may be too narrow. MPAC recommended that the Metro Council adopt the proposed Title 6.

Staff recommendation

Staff recommends changing Title 6 to an incentive approach to encourage cities and counties to develop centers and recommends expanding Title 6 to include corridors and main streets. The changes to Title 6 are intended to:

- Add corridors to Title 6 because of their potential for redevelopment and infill. Title 6 would link strategies for centers and corridors to a community investment strategy.
- Align local and regional investments to support local aspirations in centers, corridors, station communities, and main streets and make progress toward achieving the region's six desired outcomes
- Reflect a desire to focus development in all centers (central city, regional and town centers, and station communities) as well as along corridors and main streets
- Better link land use and transportation to support mixed-use, pedestrian-friendly, and transit-supportive development
- Provide incentives to local governments that adopt a plan of actions and investments to enhance their center, corridor, station community, or main street. These incentives include:

- Eligibility for a regional investment,¹⁵
 - Ability to use a higher volume-to-capacity standard under the Oregon Highway Plan when considering amendments to comprehensive plans or land use regulations, and
 - Eligibility for an automatic 30 percent trip reduction credit under the Transportation Planning Rule when analyzing traffic impacts of new development in plan amendments for a center, corridor, station community, or main street
- Address the problems that transportation impacts have on achieving mixed-use, pedestrian-friendly, and transit-supportive development

Title 8: Compliance Procedures (Exhibit G)

Background

Title 8 sets up a process for determining whether a city or county complies with requirements of the Urban Growth Management Functional Plan. Experience has demonstrated that the compliance process and annual compliance reporting place burdens on local governments who have limited staff resources and Metro. The Metro Council has indicated its desire to emphasize a more collaborative, outcomes-based approach to implementing the 2040 Growth Concept.

MPAC recommendation

MPAC suggested that “citizen” should be changed to “person” in section 3.07.860 and that JPACT and MPAC receive the annual compliance report. MPAC generally supported the changes to Title 8 but expressed concern about how citizen involvement in the compliance process would be affected by the recommended changes.

Staff recommendation

Staff proposes two primary changes for Title 8 to streamline the process. First, the current version of Title 8 requires the Metro Council to hold a public hearing to consider requests from local governments for extensions of compliance deadlines or exceptions from compliance. The Council may grant an extension or exception based on certain criteria (3.07.850 and 3.07.860). This process can be time-consuming for the Council and the local government involved. To streamline the process, proposed changes to Title 8 make these functions administrative but still allow an appeal to the Metro Council. The criteria for determining whether an extension or exception is granted would remain the same.

Second, Title 8 currently allows a local government to seek review by MPAC of noncompliance (3.07.830). This section is proposed to be removed. The Metro Council would be the final authority for determining noncompliance and it can seek MPAC advice without this provision. The Metro Council could request MPAC advice when an action raises policy issues.

Title 9: Performance Measures (Exhibit H)

Background

The Urban Growth Management Functional Plan contains requirements that are binding on cities and counties. Title 9 does not fit that category and is more appropriate as a regional policy statement.

¹⁵ Regional investments are currently limited to new high-capacity transit lines. In the future, the Council, in consultation with MPAC and JPACT, could add other major investments to this definition.

MPAC recommendation

MPAC did not comment on this title.

Staff recommendation

Staff proposes that the Council repeal Title 9 and include a performance measurement in the Regional Framework Plan (see Exhibit A, policy 1.2.5).

Title 10: Functional Plan Definitions (Exhibit I)

Background

Title 10 defines terms found in the Urban Growth Management Functional Plan.

MPAC recommendation

MPAC did not comment on this title.

Staff recommendation

Staff recommends that the Council update existing definitions to conform to the UGMFP revisions contemplated in Ordinance No. 10-1244.

Title 11: Planning for New Urban Areas (Exhibit J)

Background

An MPAC subcommittee chaired by Metro Councilor Liberty has met on several occasions to propose changes to Title 11. The committee was charged with making recommendations to MPAC and the Metro Council about adding specificity to the housing planning requirements for both concept planning of urban reserves and comprehensive planning for UGB expansion areas. Revisions discussed by the committee would emphasize affordable housing in the planning for urban reserve areas both before and they are added to the UGB. The revisions would also provide greater detail for planning by requiring attention to affordable types of housing and to strategies and incentive programs to facilitate the development of affordable housing once urban reserves are added to the UGB.

MPAC recommendation

MPAC discussed this topic in detail on November 17. All but one MPAC member supported three guiding principles proposed by the committee:

1. Plans should describe the variety of different housing types that are intended for the area;
2. Plans should describe how they would address housing needs in the prospective UGB expansion area, in the prospective governing city, and the region; and
3. Plans should identify the types of housing that are likely to be built in the 20-year planning period and describe additional strategies to encourage the development of needed housing types that would otherwise not be built.

Similarly, all but one MPAC member supported the general proposition that the planning process should require local governments to consider and describe which income groups would be expected to live in the areas when added to the UGB and describe strategies that would be used to make those housing opportunities possible.

MPAC and the subcommittee did not come to consensus on how best to implement these principles, and did not recommend language to the Council.

Staff recommendation

Councilor Liberty has proposed working with staff and subcommittee members in coming days to develop alternate language, hopefully in time for Council public hearings and decision-making. The current version of the capacity ordinance includes the proposed language for reference, but should not be interpreted as an MPAC recommendation, MPAC subcommittee recommendation, or staff recommendation.

Metro Code Chapter 3.01: Urban Growth Boundary and Urban Reserves Procedures (Exhibit K)
Background

Metro Code chapter 3.01 contains UGB and reserves procedures and criteria. Though part of the Metro Code, this chapter is not part of the Urban Growth Management Functional Plan.

MPAC recommendation

MPAC did not comment.

Staff recommendation

Metro staff proposes repealing Code Chapter 3.01 and moving the Urban Growth Boundary and reserves procedures and criteria Urban Growth Management Functional Plan (new Title 14) to join other growth management tools and strategies.

Title 14: Urban Growth Boundary (Exhibit L)

Background

Exhibit K would repeal Metro Code Chapter 3.01, but some portions of that Code chapter must be moved.

MPAC recommendation

MPAC did not comment on this title.

Staff recommendation

Staff proposes that the Council move the Urban Growth Boundary and reserves procedures and criteria currently found in Metro Code Chapter 3.01 to the Urban Growth Management Functional Plan (new Title 14) to join other growth management tools and strategies. In addition, Title 14 would include an expedited process for adding large industrial sites to the UGB.

Metro Code Chapter 3.09: Local Government Boundary Changes (Exhibit N)

Background

The Oregon Legislature recently made amendments to the law concerning local boundary changes. Those legislative changes necessitate amendments to the Metro Code for conformity.

MPAC recommendation

MPAC did not comment on this proposed change.

Staff recommendation

Staff proposes revisions to Metro Code Chapter 3.09 (Local Government Boundary Changes). The revisions conform Metro's criteria and procedures for city and service district boundary changes with changes to the law recently made by the Oregon Legislature. The revisions would also require petitioners to incorporate a new city to demonstrate that the city will have the fiscal capability to provide adequate urban services.

Section 5: recommended map amendments

Staff recommends that the Metro Council make several map amendments as part of Ordinance No. 10-1244. Summaries of the proposed changes follow. The maps that would be affected by the proposed legislation include:

- 2040 Growth Concept map
- Title 4 Industrial and Other Employment Areas map
- Title 6 Central City, Regional Centers, Town Centers, and Station Communities map
- Title 14 Urban Growth Boundary map (new Functional Plan Title and map)

2040 growth concept map (Exhibit O)

Background

Initially adopted in 1995, the 2040 Growth Concept presents a vision that guides development in the region. The 2040 Growth Concept Map illustrates this regional vision through the designation of centers, corridors, employment and industrial areas and other regional transportation, parks, trails and natural area features. Though local jurisdictions determine the boundaries of their centers and corridors, changes to the location or type of Center on the map require Metro Council action. In making their determination, Council must consider consistency between the changes and adopted center and corridor policies. The August 2010 Growth Management Assessment describes how the proposed changes are consistent with existing policies.

MPAC recommendation

MPAC discussed the COO recommendation to change these centers designations at their meeting on October 13, 2010 and voted to support the changes. During the discussion, MPAC members supported a motion to have a deeper policy discussion next year about the 2040 Growth Concept that would address questions such as:

- How many centers are too many?
- Does an area that is predominately shopping/retail function as a center
- How are we doing in achieving our vision for centers?

During MPAC's final discussion of Ordinance No. 10-1244, Tri-Met's representative requested two changes to staff's proposed map:

- Retain the distinction between inner and outer neighborhoods
- Depict fixed high-capacity transit along the southwest corridor

Staff recommendation

Metro staff recommends that the Metro Council approve the center designation changes illustrated in a revised 2040 Growth Concept Map (Exhibit O to the Capacity Ordinance). These requests are to:

- Relocate the existing Town Center in Happy Valley from King Road to Sunnyside and SE 172nd Avenue, about two miles to the east.
- Change the Main Street designation in downtown Cornelius to a Town Center designation.
- Expand the existing Tanasbourne Town Center to include the adjacent AmberGlen area and change the designation from a Town Center to Regional Center.

Staff suggests that the region should have high expectations for all centers, not just those that are proposed for new designations as part of Ordinance No. 10-1244.

The revised 2040 Growth Concept Map in Exhibit O also includes some changes to the depiction of the major highways and arterials, high capacity transit lines, parks, trails, and open space in order to reflect the new Regional Transportation Plan investments, changes to Vancouver and Clark County Plans and other updates. In addition to identifying the urban growth boundary location, the 2040 Map will depict urban and rural reserves once they are adopted and acknowledged by LCDRC. These changes also follow the direction given by the Council at their November 4, 2010 work session, in which the Council expressed its desire for the map to depict center boundaries more realistically.

Recommended Title 4 map amendments (Exhibit D)

Background

The Regional Framework Plan calls for a strong regional economy. To improve the regional economy, Title 4 of the Urban Growth Management Functional Plan ("Industrial and Other Employment Areas") seeks to provide and protect a supply of sites for employment by limiting the types and scale of non-industrial uses in Regionally Significant Industrial Areas (RSIAs), Industrial and Employment Areas. These areas are depicted on the Industrial and Other Employment Areas Map. Title 4 also seeks to provide the benefits of "clustering" to those industries that operate more productively and efficiently in proximity to one another than in dispersed locations. Title 4 further seeks to protect the capacity and efficiency of the region's transportation system for the movement of goods and services and to encourage the location of other types of employment in Centers, Employment Areas, Corridors, Main Streets and Station Communities. Title 4 is implemented through city and county comprehensive plans and zoning.

MPAC recommendation

In keeping with past practice regarding Title 4 map amendment requests, MPAC was not consulted on the proposed Title 4 map amendments that are found in Ordinance No. 10-1244.

Staff recommendation

Staff proposes changes to Title 4 map designations in two locations – Washington Square Regional Center and the Beavercreek concept plan area – described below:

Washington Square Regional Center

The City of Tigard has submitted a request for an amendment to the Title 4 map. Metro staff recommends that the Council amend the Title 4 map as requested by the City of Tigard. The petition is assessed in detail in Attachment 2 following the criteria found in the Metro Code. The petitioner requests that the Council amend the Employment and Industrial Areas Map to authorize changing portion of the Washington Square Regional Center from "Industrial Area" to "Employment Area" so that the Title 4 Map will be consistent with the mixed use zoning that has been in place on the properties since 2002.

The proposed amendment would apply to 39-acre site consisting of 15 properties roughly bounded by Highway 217, North Dakota Street, and the Portland & Western Railroad/WES Commuter Rail tracks. Most of the site is zoned Mixed Use Commercial (MUC) with a 5.77 acre area zoned Mixed Use Employment-2 (MUE-2.) This mixed-use zoning was adopted to implement the Washington Square Regional Center Plan in 2002. The site is almost completely developed with retail and office park uses.

Beavercreek concept plan area

Metro staff proposes that the Council amend the Employment and Industrial Areas Map to authorize a mix of uses in the city of Oregon City's Beavercreek concept Plan area. Staff reasoning for the proposal is described in detail in Attachment 3. The proposed amendment would apply to the 308 gross acres of land

(245 acres in 2002 and 63 acres in 2004) that the urban growth boundary (UGB) was expanded into (Ordinance No. 02-969B and Ordinance No. 04-1040B) and an additional 151 gross acres already in the UGB before these expansions. The expansion and additional areas are part of the Beavercreek Concept Plan area completed and adopted by the City of Oregon City Council on September 17, 2008.

The applicable criteria for this proposed amendment to the Employment and Industrial Areas Map are contained in Metro Urban Growth Management Functional Plan, section 3.07.450 G, which states that: *"The Metro Council may amend the Employment and Industrial Areas Map by ordinance at any time to make corrections in order to better achieve the policies of the Regional Framework Plan."* Metro staff proposes that the basis of the proposed change is two-fold: a) the community's proposal for how the area should be developed in order to achieve the local and regional goals; and b) the findings of the 2009 Urban Growth Report, which determined that the UGB has a surplus of general industrial capacity and a deficit of residential capacity.

Recommended Title 6 map (Exhibit F)

Background

In order for the incentive-based approach described in Title 6 to work properly, center, corridor, station community, and main street boundaries would need to be identified. Currently, several cities and counties have not officially adopted boundaries for these areas.

MPAC recommendation:

MPAC did not comment on this proposal.

Staff recommendation

To identify investment priorities and to provide local jurisdictions with a means to address Transportation Planning Rule requirements, staff proposes that the Metro Council adopt a Title 6 map, which would depict center boundaries and indicate instances where a city had officially adopted center boundaries. The proposed map also depicts centers without adopted boundaries as "conceptual centers." Proposed revisions to Title 6 would make eligible for regional investments those cities that have adopted official boundaries for their centers, corridors, station communities and main streets. Regional investments include high capacity transit lines and could in the future include other major investments designated as such in the future by the Metro Council. Designation of other investments in the future would be subject to further discussion and recommendation by MPAC (and approval by JPACT, if a transportation investment). Adopted boundaries would also help to determine eligibility for alternative mobility standards and the 30 percent trip reduction credit described in proposed Title 6.

Recommendations on Title 14 map (Exhibit M)

Background

Currently, urban growth boundary and urban reserves procedures are located in Metro Code Chapter 3.01. Staff proposes repealing Chapter 3.01 and moving its contents to a new Title 14 (Exhibit L) of the Urban Growth Management Functional Plan. This change will make it easier for local government staff and the public to find the requirements associated with the UGB and reserves. The proposed Title 14 refers to a Title 14 map, which depicts the current urban growth boundary. If the Council chooses to adopt the new Title 14, it is also necessary to adopt the map. The map would be amended in 2001 if the Council chooses to expand the UGB.

MPAC recommendation

MPAC did not comment on this proposal. MPAC will be consulted further in 2011 if UGB expansions are contemplated.

Staff recommendation

Staff proposes that the Council adopt a new Title 14 map to depict the UGB.

ATTACHMENTS

- Attachment 1: Summary of residential supply and demand scenarios within the proposed narrowed forecast range
- Attachment 2: Staff report on a proposed Title 4 map amendment in the Washington Square Regional Center
- Attachment 3: Staff report on a proposed Title 4 map amendment in the Beavercreek concept plan area

ANALYSIS/INFORMATION

1. Known Opposition

This ordinance covers a variety of topics, including Framework Plan, Functional Plan, map amendments, and growth management determinations. As such, it cannot be expected to inspire universal support. Several components of the proposed legislation have strong advocates and critics with valid concerns. Staff believes that the proposed legislation strikes a good balance that is in keeping with the region's agreed-upon vision.

2. Legal Antecedents

- Statewide Planning Goals 2 (Land Use Planning), 9 (Economic Development), 10 (Housing) and 14 (Urbanization)
- Oregon Revised Statutes 197.296, 197.299, and 197.303 (Needed Housing in Urban Growth Areas)
- Oregon Administrative Rules, Division 24 (Urban Growth Boundaries)
- Metro Regional Framework Plan, Chapter 1 (Land Use)
- Metro Urban Growth Management Functional Plan

3. Anticipated Effects

Adoption of the proposed legislation would:

- Satisfy Metro's statutory requirements related to growth management;
- Narrow the forecast range that the Council will consider as it completes its growth management decisions in 2011;
- Amend the Regional Framework Plan;
- Amend Titles 1, 4, 6, 8, 10, and 11 of the Urban Growth Management Functional Plan;
- Repeal Title 9 of the Urban Growth Management Functional Plan;
- Repeal Metro Code section 3.01;
- Add Title 14 to the Urban Growth Management Functional Plan;
- Add a Title 14 map;
- Amend Metro Code section 3.09;
- Amend the Titles 4 and 6 maps;
- Amend the 2040 Growth Concept Map, and;
- Make a great place.

4. Budget Impacts

If the UGB is ultimately expanded in 2011, Metro would incur expenses associated with staff time working on concept planning for new urban areas. The level of expense would depend on which, if any, UGB expansion areas are chosen by the Council. The level of expense would also depend on whether any concept planning has already been completed for an area as well as any complications that may arise in the course of concept planning.

Metro would also incur expenses associated with the implementation of proposed changes to the Urban Growth Management Functional Plan. These expenses are expected to be primarily associated with staff time. In some cases, these expenses are not expected to be substantially different from the costs of implementing the current version of the Functional Plan. However, in other cases, the proposed changes would require additional staff time.

RECOMMENDED ACTION

Staff recommends that the Council adopt Ordinance No. 10-1244.

Attachment 1:
Summary of residential supply and demand scenarios within the proposed narrowed forecast range

Staff analysis indicates that that policies and investment plans currently in place (including efficiency measures) will result in a 38% refill (redevelopment and infill) rate. Since refill is expressed as a share of total demand, higher points in the demand forecast range will result in additional capacity. The table below summarizes the potential gap that the Metro Council would need to address if it chooses to plan for different points in the range forecast.

Dwelling unit supply and demand scenarios at different points in the range forecast after accounting for efficiency measures (Metro UGB 2007 - 2030)

		Supply			
		MID 1/3 rd HIGH	MEDIUM	MID 1/3 rd LOW	LOW
		244,800	241,400	238,000	226,900
Demand (marginal increase)					
MID 1/3 rd HIGH	271,400	(26,600)			
MEDIUM	262,400		(21,000)		
MID 1/3 rd LOW	253,400			(15,400)	
LOW	224,000				2,900

ATTACHMENT 2

Staff Report for the Washington Square Regional Center Title 4 Map Change

Prepared by Gerry Uba (503) 797-1737

BACKGROUND INFORMATION

Petitioner: City of Tigard

Proposal: The petitioner requests that Metro amend the Employment and Industrial Areas Map to authorize changing portion of the Washington Square Regional Center from "Industrial Area" to "Employment Area" so that the Title 4 Map will be consistent with the mixed use zoning that has been in place on the properties since 2002. The proposed change is depicted in Attachment 2a.

The proposed amendment would apply to 39-acre site consisting of 15 properties roughly bounded by Highway 217, North Dakota Street, and the Portland & Western Railroad/WES Commuter Rail tracks. Most of the site is zoned Mixed Use Commercial (MUC) with a 5.77 acre area zoned Mixed Use Employment-2 (MUE-2.) This mixed use zoning was adopted to implement the Washington Square Regional Center Plan in 2002. The site is almost completely developed with retail and office park uses.

Location: The 39 acre site consists of 15 properties roughly bounded by Highway 217, North Dakota Street, and the Portland & Western Railroad/WES Commuter Rail tracks.

Application Review Criteria: Metro Code section 3.07.450.H

The petitioner's application for the proposed Title 4 Map amendment is included as Attachment 2b of this staff report.

APPLICATION REVIEW CRITERIA

The criteria for amendments to the Employment and Industrial Areas Map are contained in Metro Urban Growth Management Functional Plan, section 3.07.450 H. It states that the Metro Council may amend the Employment and Industrial Areas Map by ordinance if the Council concludes the proposed amendment meets certain criteria. Below are the criteria (**in bold**), petitioner responses to the criteria (*in italics*), and staff analysis.

ATTACHMENT 2

Criterion 1: Would not reduce the jobs capacity of the city or county below the number shown on Table 3.07-1 of Title 1 of the Urban Growth Management Functional Plan;

Petitioner Response

The proposed amendment to the Title 4 Employment and Industrial Areas Map is unlikely to reduce Tigard's jobs capacity below the number (17,801) shown on Table 3.07-1 of Title 1 of the Urban Growth Management Functional Plan. The Washington Square Regional Center Plan was intended to ensure a mix of housing, retail, and employment. The Plan estimated that new development would provide 7,443 new jobs for the portion of the Regional Center within Tigard and the unincorporated Metzger area.

Specifically, the Plan's Development and Redevelopment Opportunities Report allocated 1455 jobs to an area that roughly corresponds to Area 1. A mix of office, retail, and lodging jobs were specified. Industrial jobs were not included, likely because of their lower job per acre density.

Comprehensive Plan and Development Code amendments were adopted in 2002 to implement the Washington Square Regional Center Plan. The area in question was rezoned from Industrial Park (I-P) to Mixed Use Commercial (MUC) and Mixed Use Employment 2 (MUE-2). These zones, specifically created for the Center, allow a mix of denser employment and housing, as well as retail (subject to some restrictions.)

The job projections of the Washington Square Regional Plan were developed to help meet Tigard's target growth allocations and the job capacity of Table 3.07-1 of the Urban Growth Management Functional Plan. The City believes that the proposed amendment would not reduce job capacity, but would bring the Title 4 Map into accord with zoning that has already been implemented.

Metro Staff Analysis

The 39-acre site is part of the Washington Square Regional Center that is envisioned to increase capacity for more jobs in the City of Tigard. Metro staff concurs with the petitioner's assessment that keeping the Title 4 Industrial Area designation for the area, with the required restrictions on retail and professional services could hamper development and job creation in the Regional Center as envisioned. The proposed change to the Title 4 map would not reduce the jobs capacity for the city below the number shown on Table 3.07-1 of Title 1 of the Urban Growth Management Functional Plan.

In conclusion, Metro staff believes that the proposed change to the Title 4 map would not have the effect of reducing the jobs capacity of the City of Tigard below the number shown on Table 3.07-1 of Title 1 of the Urban Growth Management Functional Plan. This criterion is met.

ATTACHMENT 2

Criterion 2: Would not allow uses that would reduce off-peak performance on Major Roadway Routes and Roadway Connectors shown on Metro's 2004 Regional Freight System Map below standards in the Regional Transportation Plan ("RTP"), or exceed volume-to capacity ratios on Table 7 of the 1999 Oregon Highway Plan ("OHP") for state highways, unless mitigating action is taken that will restore performance to RTP and OHP standards within two years after approval of uses;

Tigard Staff Response

The Metro 2004 Regional Freight System Map facilities that are located within or border Area 1 include Highway 217 (Main Roadway Route), Scholls Ferry Road (Roadway Connector), and the Portland & Western Railway (Branch Railroad Line and Spur Track.)

The 2004 Regional Transportation Plan presumably reflected the land uses and zoning of the Washington Square Regional Center that were in place as of 2002. The Washington Square Regional Center Plan included suggested transportation upgrades, some of which appear on the on the RTP's Financially Constrained System. The Plan also called for multi-modal transportation improvements, including the recently started Westside Express Service peak-hour commuter rail.

The proposed map amendment is necessary to resolve an inconsistency between the local zone adopted through the implementation of the Washington Square Regional Center Plan and the Title 4 map. This proposed map amendment will not change the uses that are allowed on the site, thus adoption of this map amendment will not allow new uses that would reduce off-peak performance on Major Roadway Routes and Roadway Connectors shown on Metro's 2004 Regional Freight System Map below standards in the Regional Transportation Plan ("RTP"), or exceed volume-to capacity ratios on Table 7 of the 1999 Oregon Highway Plan ("OHP") for state highways.

Metro Staff Analysis

The petitioner explained that the land uses and zoning (Mixed Use Commercial and Mixed Use Employment) that was in place in 2002 when the Washington Square Regional Center Plan was adopted has not changed and that the city do not have any intention of changing the zoning as the current zoning is adequate for implementing the Washington Square Regional Center Plan. Metro staff concurs with the petitioner that since the proposed change in Title 4 designation will not allow new uses on the site, the approval of the change of the Industrial Area designation to Employment Area will not reduce off-peak performance on Major Roadway Routes and Roadway Connectors shown on Metro's 2004 Regional Freight System Map below standards in the Regional Transportation Plan, or exceed volume-to-capacity ratios on Table 7 of the 1999 State Highway Plan for state highways.

In conclusion, Metro staff believes that this criterion is met.

Criterion 3: Would not diminish the intended function of the Central City or Regional or Town Centers as the principal locations of retail, cultural and civic services in their market areas;

Tigard Staff Response

The area in question is within the boundaries of the Washington Square Regional Center, one of three designated regional centers in Washington County and one of eight in the region in Metro's 2040 Growth Concept.

ATTACHMENT 2

After completing the Washington Square Regional Center Plan, in 2002 the City rezoned the area from industrial zoning to Mixed Use Commercial (MUC) and Mixed Use Employment-2 (MUE-2). This zoning permits a wide range of uses and was designed to reinforce and encourage the Washington Square Regional Center's development of concentrated retail, cultural, and civic services to serve its market area. Keeping the Title 4 Industrial Area designation for the area, with its restrictions on retail and professional service uses, could diminish the intended function of the Regional Center. For this reason the City believes that the Title 4 Map should be amended to change the area's designation to Employment Area, which is more compatible with a Regional Center.

Metro Staff Analysis

Washington Square Regional Center has a clear boundary and development in the area will be guided by the plan adopted in 2002, recently adopted economic development policy in the updated city's Comprehensive Plan, and new development strategies the city and region may consider for the area in the future. The proposed change in the Title 4 designation for the area will assist the city to capture and retain the regional vision intended for the area, and encourage more retail, civic activities and services, and cultural services in the market area.

In conclusion, Metro staff believes that the proposed change to the Title 4 map would not have the effect of diminishing the intended function of the Washington Square Regional Center as the principal location of retail, cultural and civic services in this market area.

Criterion 4: Would not reduce the integrity or viability of a traded sector cluster of industries;

Tigard Staff Response

The 2006 Regional Business Plan identified seven traded sector clusters: (1) high-tech, (2) metals, machinery, and transportation equipment, (3) forest products, (4) food processing, (5) creative services, (6) nursery products, and (7) sporting goods and apparel.

A review of the Tigard Business License data for Area 1 revealed that traded sector clusters are minimally represented in this area. The chart below summarized the types of businesses located in Area 1.

Type of Business	# of businesses
Motor vehicle sales	2
Motor vehicle repair	1
Communications (cable provider)	1
Storage facility	1
Bakery (non retail)	1
Building Supplies	1
Other retail	3
Medical Technology Manufacturer	1
Electrical Goods Manufacturer	1
Church	1
State Government Offices	1

ATTACHMENT 2

While the seven traded sector clusters are currently minimally represented in the area, the Mixed Use Employment-2 (MUE-2) and Mixed Use Commercial (MUC) zoning classifications would permit many of these kinds of businesses, subject to some restrictions (See Appendix B for more information on zoning.)

The area south of North Dakota Street (Area 2 on Map A) is zoned Industrial Park (I-P). According to Tigard Business License data there appears to be at least one identified traded sector company located in Area 2. The City believes that the "Industrial Area" designation is appropriate for these properties, which are outside the Washington Square Regional Center boundaries.

Traded sector clusters appear to be minimally represented in the area in question. As stated previously the proposal is unlikely to affect the freight routes that serve traded sector clusters in the region. Staff believes the proposed amendment will not reduce the integrity or viability of a traded sector cluster of industries.

Metro Staff Analysis

Traded-sector industries are those in which member firms sell their goods or services into markets for which national or international competition exists. Firms in these sectors are important to the regional economy since they bring wealth into the region by exporting goods or services. The petitioner indicated that the traded sector cluster of industries is minimally represented in this area. The petitioner also indicated that its research shows that they appear to be at least one identified traded sector company in the area. Metro staff agrees with the petitioner that the current zoning presents an opportunity for increasing traded sector clusters in the area.

In conclusion, Metro staff believes that the proposed change in Title 4 area in the Washington Square Regional Center would not reduce the integrity or viability of a traded sector cluster of industries.

Criterion 5: Would not create or worsen a significant imbalance between jobs and housing in a regional market area.

Tigard Staff Response

The City of Tigard as a whole has a job/household ratio of 2.03 (about 2 jobs for every household) compared to a ratio of 1.22 for Washington County as a whole (2004 data.)

While this is a healthy jobs/household ratio, the City recognizes that many employees must commute into Tigard and many residents must commute to jobs outside of the City.

One intention of the Washington Square Regional Center Plan was to improve the balance between jobs and housing in the South Washington County market. The Plan estimated 7,443 new jobs and 1,871 residential units for the portion of the Regional Center within Tigard (and a section of the unincorporated Metzger area.) The mixed use zoning allows high density housing in proximity to the major regional retail center of Washington Square Mall, and office complexes at Lincoln Center and the Nimbus area. The MUC zone has a minimum density of 50 units/acre and no maximum density, and MUE-2 has a minimum density of 25 units/acre and a maximum of 50 units/acre. While only a limited number of housing units have been built to date in the Regional Center, the capacity for

ATTACHMENT 2

housing exists. The zoning provides the Center the potential to develop into a place where people can "live, work, and play."

Metro Staff Analysis

The general location of the site in the Washington Square Regional Center and the current city zoning makes it one of the most suitable places in the region to transform suburban type of development into a vibrant community with jobs, housing, and urban amenities such as shopping, entertainment and services. Staff believes that the promising job-housing balance of the city will get better as the right partnerships and policies are created to improve the area's transportation infrastructure, build mixed use development that includes housing, and create more jobs.

In conclusion, Metro staff believes that the proposed change to the Title 4 map would not create or worsen a significant imbalance between jobs and housing in the City of Tigard area sub-regional market.

Criterion 6: If the subject property is designated Regionally Significant Industrial Area, would not remove from that designation land that is especially suitable for industrial use due to the availability of specialized services, such as redundant electrical power or industrial gases, or due to proximity to freight transport facilities, such as trans-shipment facilities.

Tigard Staff Response

This is not applicable; the subject properties are designated Industrial Area, not Regionally Significant Industrial Area.

Metro Staff Analysis

No portion of the 39-acre site is designated as Regionally Significant Industrial Area.

In conclusion, this criterion does not apply to the proposed Title 4 Map amendment.

ANALYSIS/INFORMATION

Known Opposition [identify known opposition to the proposed legislation]

There is no known opposition.

Legal Antecedents [identify legislation related to the proposed legislation, including federal, state, or local law and Metro Code, using appropriate resolution or ordinance numbers, ballot measure numbers, etc.]

Statewide Planning Goals 2 (Land Use Planning) and 9 (Economic Development); Metro Code section 3.07.450 (Employment and Industrial Areas Map).

ATTACHMENT 2

Anticipated Effects [identify what is expected to occur if the legislation is adopted]

Proposed changes to the City of Tigard zoning map and comprehensive plan map would become effective, allowing additional commercial uses in the Washington Square Regional Center.

Budget Impacts [identify the cost to implement the legislation]

There is no significant budget impact. Implementation would consist of updating the Employment and Industrial Areas Map.

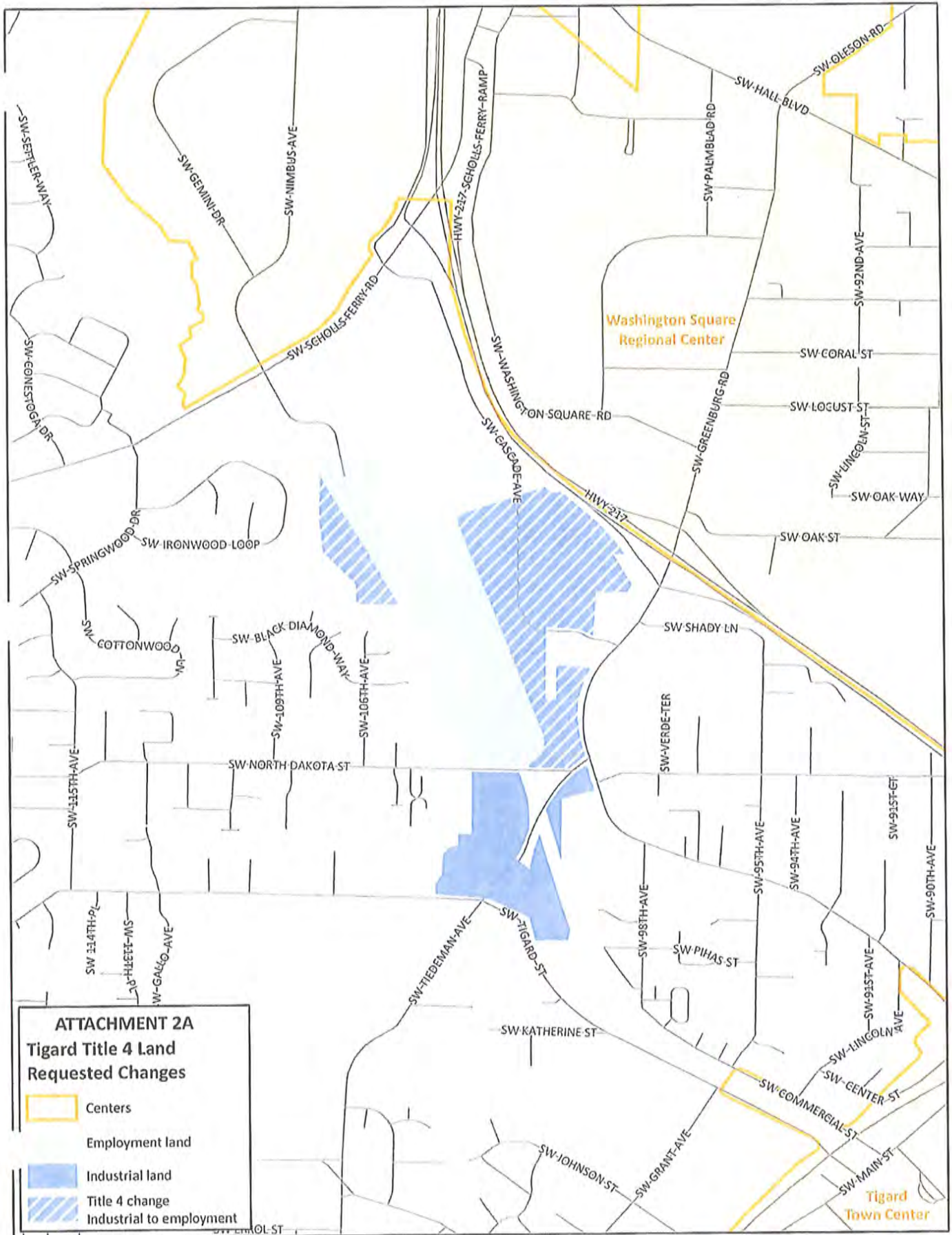
RECOMMENDED ACTION

The petitioner requests the amendment of the Title 4 Employment and Industrial Areas Map. Metro Staff believes that the petitioner has provided sufficient evidence to demonstrate that the criteria are satisfied.

Staff recommends, therefore, that the Metro Council approve this ordinance.

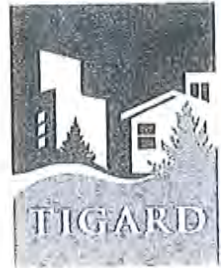
ATTACHMENTS

Attachment 2a	(map of the proposed Title 4 map amendment)
Attachment 2b	(city's application)



Attachment 2b

City of Tigard, Oregon • 13125 SW Hall Blvd. • Tigard, OR 97223



February 20, 2009

Christina Deffebach, Manager, Long Range Planning
Metro
600 NE Grand Avenue
Portland, OR 97232

Dear Ms. Deffebach,

This letter is in regard to the City of Tigard's compliance with Title 4 (Industrial and Other Employment Areas) of Metro's Urban Growth Management Functional Plan. The City has taken a number of steps to comply with Title 4, including adopting two Economic Development policies in its updated Comprehensive Plan stating its intention to implement the Title 4 map designations. However, there is an outstanding issue that the City would like resolved prior to incorporating the Title 4 map and associated restrictions into its Development Code.

We are requesting an Amendment to the Title 4 Employment and Industrial Areas Map under Metro Urban Growth Management Functional Plan section 3.07.450 H. The City is requesting that the designation for a 39-acre area of the Washington Square Regional Center ("Area 1" on Map A) be changed from "Industrial Area" to "Employment Area." City staff believes that this proposed amendment will remove an existing inconsistency that will make the Title 4 Map more accurate. Applying the Industrial Area restrictions to this area would not be in accordance with the envisioned character detailed in the Washington Square Regional Center Plan and implemented in the zoning which has been in place for the past six years.

Please see the attached memo, dated February 18, 2009, for the City's detailed response to the criteria of 3.07.450 H.

Thank you for your attention to this matter. If you have any other questions please call me at 503-718-2443.

Sincerely,

A handwritten signature in cursive script that reads "Ron Bunch".

Ron Bunch
Community Development Director

Attachment 2b



MEMORANDUM

TO: Ron Bunch, Community Development Director

FROM: Sean Farrelly, Associate Planner

RE: Proposed Amendment to the Title 4 Employment and Industrial Areas Map

DATE: February 18, 2009

Background:

The City of Tigard is requesting an amendment to the Employment and Industrial Areas Map in Title 4 ("Industrial and Other Employment Areas") of Metro's Urban Growth Management Functional Plan. The City is requesting that the designation for a 39-acre area of the Washington Square Regional Center ("Area 1" on Map A) be changed from "Industrial Area" to "Employment Area." Making this change would make the Title 4 Map consistent with the mixed use zoning that has been in place on the properties since 2002.

The 39-acre area in question consists of 15 properties roughly bounded by Highway 217, North Dakota Street, and the Portland & Western Railroad/WES Commuter Rail tracks. The area is almost completely developed with retail and office park uses. One 1.34 acre property and another small portion of a developed property are on the Tigard Buildable Lands Inventory. The 5.77 acre property that lies to the west of the other properties is vacant, however it does not appear on the Tigard Buildable Lands Inventory, because of its wetland status.

Most of the area is zoned Mixed Use Commercial (MUC) with a 5.77 acre area zoned Mixed Use Employment-2 (MUE-2.) This mixed use zoning was adopted to implement the Washington Square Regional Center Plan in 2002.

The zone description of the Mixed Use Commercial (MUC) District in the Tigard Development Code is:

The MUC zoning district includes land around the Washington Square Mall and land immediately west of Highway 217. Primary uses permitted include office buildings, retail, and service uses. Also permitted are mixed-use developments and housing at densities of 50 units per

Attachment 2b

acre. Larger buildings are encouraged in this area with parking under, behind or to the sides of buildings.

The MUC zone, permits some General Retail uses. Sales Oriented and Personal Services are permitted outright, other retail uses are limited to under 60,000 gross leasable area per building.

The zone description of the Mixed Employment Districts in Tigard Development Code is:

The MUE-1 and 2 zoning district is designed to apply to areas where employment uses such as office, research and development and light manufacturing are concentrated. Commercial and retail support uses are allowed but are limited, and residential uses are permitted which are compatible with employment character of the area. Lincoln Center is an example of an area designated MUE-1, the high density mixed use employment district. The Nimbus area is an example of an area designated MUE-2 requiring more moderate densities.

The MUE-2 zone restricts retail uses to under 60,000 gross leasable area per building. Light Industrial, Research and Development, Warehouse/Freight Movement, and Wholesale Sales are permitted as long as all activities associated with these uses, except employee and customer parking, are contained within buildings.

Proposed Title 4 Map Amendment

Section 3.07.430.A of the Urban Growth Management Functional Plan states that for properties designated as Industrial Areas, jurisdictions take measures-

"to limit new buildings for retail commercial uses—such as stores and restaurants—and retail and professional services that cater to daily customers—such as financial, insurance, real estate, legal, medical and dental offices—in order to ensure that they serve primarily the needs of workers in the area. One such measure shall be that new buildings for stores, branches, agencies or other outlets for these retail uses and services shall not occupy more than 5,000 square feet of sales or service area in a single outlet, or multiple outlets that occupy more than 20,000 square feet of sales or service area in a single building or in multiple buildings that are part of the same development project..."

The City believes that applying such restrictions to this section of the Washington Square Regional Center would not be in accordance with the area's envisioned character, which is detailed in the Washington Square Regional Center Plan (Attachment A) and not in keeping with the present zoning (adopted in 2002.) "Employment Area" is a more appropriate designation.

Once the Map is amended by designating the properties "Employment Area", the City will be able to make the Comprehensive Plan and Development Code amendments necessary to adopt the Employment and Industrial Areas Map and its requirements. Tigard's recently updated Comprehensive Plan contains an Economic Development Policy which signals its intent to do this. Economic Development Policy 9.1.7 states "The City shall limit the development of retail and service land

Attachment 2b

uses in Metro-designated industrial areas to preserve the potential of these lands for industrial jobs.”

Amendment Review Criteria:

The criteria for an amendment to the Employment and Industrial Areas Map are found in Metro Urban Growth Management Functional Plan section 3.07.450 H. It states that the Metro Council may amend the Employment and Industrial Areas Map by ordinance if the Council concludes the proposed amendment meets certain criteria.

The following is the criteria (in *italics*) from Metro Code 3.07.450.H followed by Tigard staff response.

1. Would not reduce the jobs capacity of the city or county below the number shown on Table 3.07-1 of Title 1 of the Urban Growth Management Functional Plan;

Tigard Staff Response

The proposed amendment to the Title 4 Employment and Industrial Areas Map is unlikely to reduce Tigard’s jobs capacity below the number (17,801) shown on Table 3.07-1 of Title 1 of the Urban Growth Management Functional Plan. The Washington Square Regional Center Plan was intended to ensure a mix of housing, retail, and employment. The Plan estimated that new development would provide 7,443 new jobs for the portion of the Regional Center within Tigard and the unincorporated Metzger area.

Specifically, the Plan’s Development and Redevelopment Opportunities Report allocated 1455 jobs to an area that roughly corresponds to Area 1. A mix of office, retail, and lodging jobs were specified. Industrial jobs were not included, likely because of their lower job per acre density.

Comprehensive Plan and Development Code amendments were adopted in 2002 to implement the Washington Square Regional Center Plan. The area in question was rezoned from Industrial Park (I-P) to Mixed Use Commercial (MUC) and Mixed Use Employment 2 (MUE-2). These zones, specifically created for the Center, allow a mix of denser employment and housing, as well as retail (subject to some restrictions.)

The job projections of the Washington Square Regional Plan were developed to help meet Tigard’s target growth allocations and the job capacity of Table 3.07-1 of the Urban Growth Management Functional Plan. The City believes that the proposed amendment would not reduce job capacity, but would bring the Title 4 Map into accord with zoning that has already been implemented.

Attachment 2b

2. Would not allow uses that would reduce off-peak performance on Major Roadway Routes and Roadway Connectors shown on Metro's 2004 Regional Freight System Map below standards in the Regional Transportation Plan ("RTP"), or exceed volume-to capacity ratios on Table 7 of the 1999 Oregon Highway Plan ("OHP") for state highways, unless mitigating action is taken that will restore performance to RTP and OHP standards within two years after approval of uses;

Tigard Staff Response

The Metro 2004 Regional Freight System Map facilities that are located within or border Area 1 include Highway 217 (Main Roadway Route), Scholls Ferry Road (Roadway Connector), and the Portland & Western Railway (Branch Railroad Line and Spur Track.)

The 2004 Regional Transportation Plan presumably reflected the land uses and zoning of the Washington Square Regional Center that were in place as of 2002. The Washington Square Regional Center Plan included suggested transportation upgrades, some of which appear on the on the RTP's Financially Constrained System. The Plan also called for multi-modal transportation improvements, including the recently started Westside Express Service peak-hour commuter rail.

The proposed map amendment is necessary to resolve an inconsistency between the local zone adopted through the implementation of the Washington Square Regional Center Plan and the Title 4 map. This proposed map amendment will not change the uses that are allowed on the site, thus adoption of this map amendment will not allow new uses that would reduce off-peak performance on Major Roadway Routes and Roadway Connectors shown on Metro's 2004 Regional Freight System Map below standards in the Regional Transportation Plan ("RTP"), or exceed volume-to capacity ratios on Table 7 of the 1999 Oregon Highway Plan ("OHP") for state highways.

3. Would not diminish the intended function of the Central City or Regional or Town Centers as the principal locations of retail, cultural and civic services in their market areas;

Tigard Staff Response

The area in question is within the boundaries of the Washington Square Regional Center, one of three designated regional centers in Washington County and one of eight in the region in Metro's 2040 Growth Concept.

After completing the Washington Square Regional Center Plan, in 2002 the City rezoned the area from industrial zoning to Mixed Use Commercial (MUC) and Mixed Use Employment-2 (MUE-2). This zoning permits a wide range of uses and was designed to reinforce and encourage the Washington Square Regional Center's development of concentrated retail, cultural, and civic services to serve its market area. Keeping the Title 4 Industrial Area designation for the area, with its restrictions on retail and professional service uses, could diminish the intended function of the

Attachment 2b

Regional Center. For this reason the City believes that the Title 4 Map should be amended to change the area's designation to Employment Area, which is more compatible with a Regional Center.

4. Would not reduce the integrity or viability of a traded sector cluster of industries;

Tigard Staff Response

The 2006 Regional Business Plan identified seven traded sector clusters: (1) high-tech, (2) metals, machinery, and transportation equipment, (3) forest products, (4) food processing, (5) creative services, (6) nursery products, and (7) sporting goods and apparel.

A review of the Tigard Business License data for Area 1 revealed that traded sector clusters are minimally represented in this area. The chart below summarized the types of businesses located in Area 1.

Type of Business	# of businesses
Motor vehicle sales	2
Motor vehicle repair	1
Communications (cable provider)	1
Storage facility	1
Bakery (non retail)	1
Building Supplies	1
Other retail	3
Medical Technology Manufacturer	1
Electrical Goods Manufacturer	1
Church	1
State Government Offices	1

While the seven traded sector clusters are currently minimally represented in the area, the Mixed Use Employment-2 (MUE-2) and Mixed Use Commercial (MUC) zoning classifications would permit many of these kinds of businesses, subject to some restrictions (See Appendix B for more information on zoning.)

The area south of North Dakota Street (Area 2 on Map A) is zoned Industrial Park (I-P). According to Tigard Business License data there appears to be at least one identified traded sector company located in Area 2. The City believes that the "Industrial Area" designation is appropriate for these properties, which are outside the Washington Square Regional Center boundaries.

Traded sector clusters appear to be minimally represented in the area in question. As stated previously the proposal is unlikely to affect the freight routes that serve traded

Attachment 2b

sector clusters in the region. Staff believes the proposed amendment will not reduce the integrity or viability of a traded sector cluster of industries.

5. Would not create or worsen a significant imbalance between jobs and housing in a regional market area.

Tigard Staff Response

The City of Tigard as a whole has a job/household ratio of 2.03 (about 2 jobs for every household) compared to a ratio of 1.22 for Washington County as a whole (2004 data.)

While this is a healthy jobs/household ratio, the City recognizes that many employees must commute into Tigard and many residents must commute to jobs outside of the City.

One intention of the Washington Square Regional Center Plan was to improve the balance between jobs and housing in the South Washington County market. The Plan estimated 7,443 new jobs and 1,871 residential units for the portion of the Regional Center within Tigard (and a section of the unincorporated Metzger area.) The mixed use zoning allows high density housing in proximity to the major regional retail center of Washington Square Mall, and office complexes at Lincoln Center and the Nimbus area. The MUC zone has a minimum density of 50 units/acre and no maximum density, and MUE-2 has a minimum density of 25 units/acre and a maximum of 50 units/acre. While only a limited number of housing units have been built to date in the Regional Center, the capacity for housing exists. The zoning provides the Center the potential to develop into a place where people can "live, work, and play."

6. If the subject property is designated Regionally Significant Industrial Area, would not remove from that designation land that is especially suitable for industrial use due to the availability of specialized services, such as redundant electrical power or industrial gases, or due to proximity to freight transport facilities, such as trans-shipment facilities.

Tigard Staff Response

This is not applicable; the subject properties are designated Industrial Area, not Regionally Significant Industrial Area.

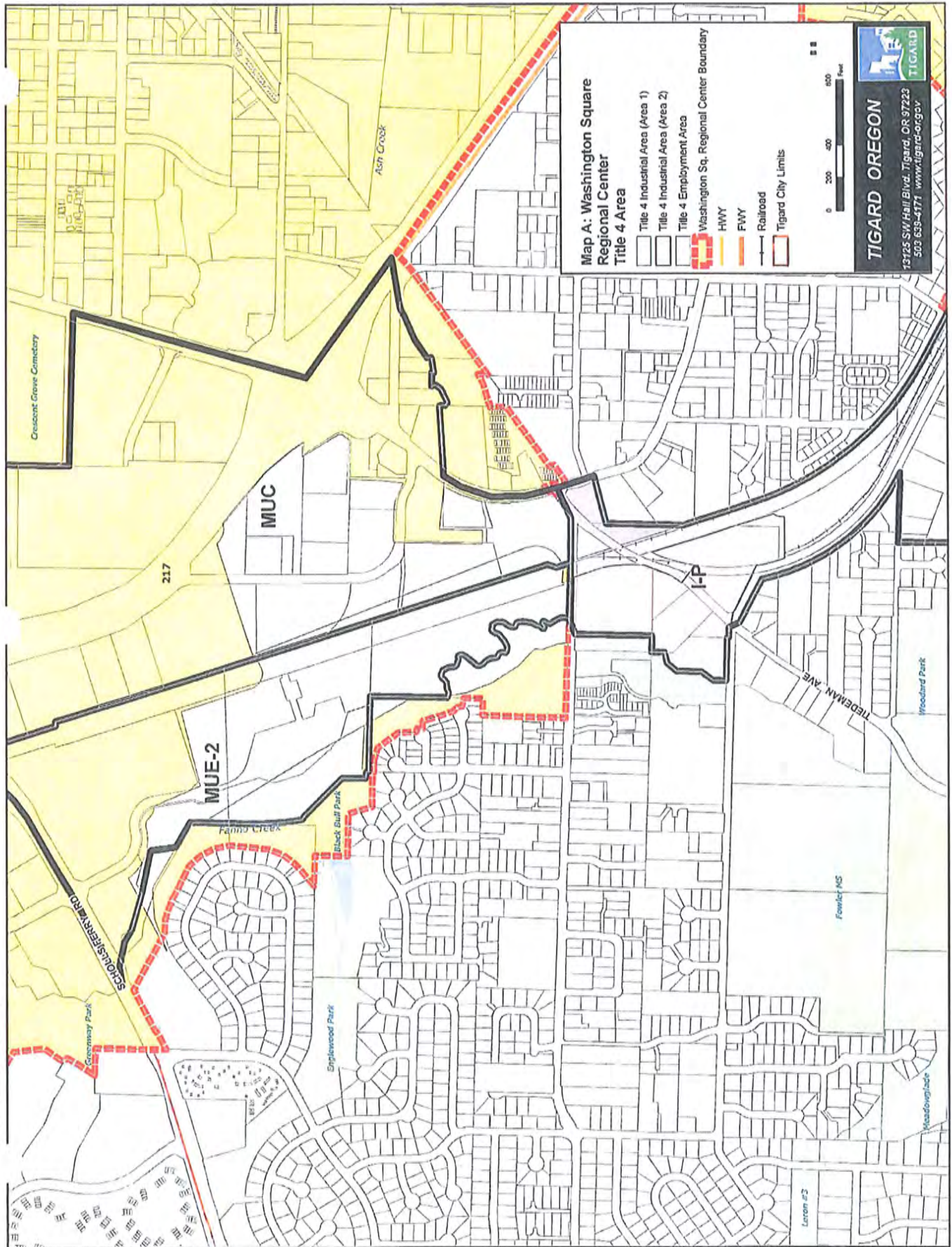
Conclusion:

City staff believes that this proposed amendment will remove an existing inconsistency that will make the Title 4 Map more accurate. Applying the Industrial Area restrictions to this area would not be in accordance with the envisioned character detailed in the Washington Square Regional Center Plan and implemented in the zoning which has been in place for the past six years.

Attachment 2b

Employment Area is a more appropriate designation for the 39-acre area in question (Area 1). The area directly borders a 21.4 acre designated Employment Area (Area 3 on Map A.) The designation as part of a Regional Center, its current zoning, and the existing development in Area 1 is more in line with an Employment Area than an Industrial Area.

Attachment 2b



Attachment 3

Staff Report for the Beavercreek concept plan area Title 4 Map change

Prepared by: Gerry Uba (503) 797-1737

BACKGROUND INFORMATION

Petitioner: Metro

Proposal: Metro intends to amend the Employment and Industrial Areas Map to authorize a mix of uses in the city of Oregon City's Beavercreek concept Plan area.

The proposed amendment would apply to the 308 gross acres of land (245 acres in 2002 and 63 acres in 2004) that the urban growth boundary (UGB) was expanded into (Ordinance No. 02-969B and Ordinance No. 04-1040B) and an additional 151 gross acres already in the UGB before these expansions. The expansion and additional areas are part of the Beavercreek Concept Plan area completed and adopted by the City of Oregon City Council on September 17, 2008.

Location: The 459 gross acres site consists of 57 tax lots or properties (based on Metro's 2010 Regional Land Information System).

Application Review Criteria

The criteria for amendments to the Employment and Industrial Areas Map is contained in Metro Urban Growth Management Functional Plan, section 3.07.450 G. It states that:

"The Metro Council may amend the Employment and Industrial Areas Map by ordinance at any time to make corrections in order to better achieve the policies of the Regional Framework Plan."

Metro Staff Analysis

As a background, Metro's 2002-2022 Urban Growth Report: Employment Land Need Analysis identified a demand for 4,285 net acres of industrial land, and Metro Council's December 2002 regional capacity decision included roughly half of the industrial land need (818 net acres of industrial land and 1,499 net acres of Regionally Significant Industrial Land). Thus, within the 2002 UGB expansion there was 1,968 net acres of industrial land need. In 2004, adjustments were made on the commercial refill rate, Cities of Wilsonville and Oregon City industrial zones, and City of Gresham's Springwater industrial land, and the result was the reduction of industrial land need to 1,180 net acres. The Metro Council expanded the UGB in 2004 by adding 1,047 gross acres of land to satisfy the need for industrial land over the next 20 years. The Council completed the fulfillment of employment capacity by adding 876 gross acres of industrial land by Ordinance No. 05-1070A in 2005.

Metro's broad expectation for urbanization of these areas was set in Title 11 of the Urban Growth Management Functional Plan. The purpose of this title is to ensure that areas brought into the UGB are urbanized efficiently and become or contribute to mixed-use, walkable, transit-friendly communities, and to provide interim protection of the new areas until the city and county likely to provide governance or urban service for the area amends their land use regulations to allow urbanization become applicable to the areas. Title 11 requires city and county, in conjunction with Metro and appropriate service districts,

Attachment 3

to develop and adopt a concept plan for the area. The concept planning process created an opportunity for the city to provide governance or urban service for the area and comply with the requirements of Metro's Title 11.

Beavercreek Concept Plan

Oregon City initiated the Beavercreek Concept Plan process in spring of 2006 to ensure that the 308 gross acres brought into the UGB (245 acres in 2002 and 63 acres in 2004) provide needed employment capacity, are urbanized efficiently in a way that reasonably provides public facilities and services, offers transportation and housing choices, supports economic development and protects natural resources. The total land area included in the concept plan area was 459 gross acres. Attachment 3a shows the Title 4 map of the area before the Beavercreek Concept Plan process was started.

The Concept Plan was developed by a Citizen Advisory Committee and Technical Advisory Committee that met between June 2006 and July 2007. Metro participated in the concept planning process, including membership on the Technical Advisory Committee. In addition, the city conducted study area tours, market focus group, sustainability focus group, public open houses, and community design workshop.

The concept plan provided explanation of the existing condition of the area, including the detailed natural resources, infrastructure, transportation system, buildable land, demographics, market, employment and industrial land analysis that formed the factual basis for determining trends in the area and developing future land use policies and strategies for the area. In addition, the concept plan provided land for the need identified with the various rigorous analyses conducted for the area, including the need to provide for mix of uses that will contribute to family-wage jobs and general economic welfare of the city and improve the region's economic conditions. The city's planning commission report stated that the final product "is a reflection of the needs, desires, attitudes and conditions of the community and represents the vision, direction and improvements that are necessary to accommodate the changing demographics and economics of the community."

Metro staff reviewed the proposed Beavercreek Concept Plan comprehensive plan amendment and Metro compliance findings, and sent comment to Mayor Alice Norris on March 19, 2008 (Attachment 3b), after concluding that the proposal, if adopted by the city council, would comply with the requirements of Title 11 of the Urban Growth Management Functional Plan. On September 17, 2008, the Oregon City Council adopted the Beavercreek Concept Plan as an ancillary document to the city's Comprehensive Plan with the provision that the ancillary document would become effective until February 1, 2009 or upon adoption of zoning regulations implementing the plan amendments, whichever comes first. Attachment 3c shows the Title 4 map of the area after the Beavercreek Concept Plan was adopted.

Changes to Employment and Industrial land inside the Beavercreek Concept Plan Area

Proposed changes to the employment and industrial area inside the Beavercreek Concept Plan area is regulated by Title 4 of the Urban Growth Management Functional Plan, under section 3.07.450 G, which states that the Council may amend the Employment and Industrial Areas Map "...at any time to make corrections in order to better achieve the policies of the Regional Framework Plan."

The basis of the proposed change is two-fold: a) the community's proposal for how the area should be developed in order to achieve the local and regional goals; and b) the findings of the 2009 Urban Growth Report (Employment).

Attachment 3

During the Beavercreek concept planning process, the city addressed economic opportunities and activities vital for the city and the region, and worked with consultant EcoNorthwest to inventory and analyze local and regional market conditions within and adjacent to the area. The inventory included profile of industrial, commercial and office land supply and local employment, and the potential for industrial and commercial development within the area. The consultant analysis concluded "that under the right conditions it is not unreasonable to expect 150 net acres of industrial and business park development to build out on the site over a 20-year period. Thus, the Beavercreek Concept Plan provided 53% (156 net acres) of total net acreage of the area (292 net acres) for employment and industrial land. Attachment 3d shows the proposed changes to the Title 4 map, indicating that 151 gross acres of industrial land is still available in the concept plan area. The 151 gross acres will supply approximately 121 net acres which was Metro's expectation, as stated in a letter that Metro Council President sent to the Board of Directors for the Hamlet of Beavercreek and the City on May 14, 2007 (Attachment 3e).

Reflecting changes in employment needs and demands between the 2002 UGR (Employment) and the 2009 UGR (Employment, Metro's 2009 assessment found there is adequate capacity inside the current UGB to accommodate the next 20 years of general employment and general industrial job growth even at the high end of the employment forecast range. This proposed change to the Title 4 Employment and Industrial Areas map will conform the map to the updated information about employment needs in the 2009 UGR (Employment). The change will also respond to the identification of a need for residential capacity in the 2009 UGR (Residential) by increasing the residential capacity of the Beavercreek planning area by 36 dwelling units above the level expected at the time the Metro Council added the areas to the UGB.

ANALYSIS/INFORMATION

Known Opposition

There is no known opposition. However, it is important to state here that a city resident, Elizabeth Grazer-Lindsey, challenged the consistency of the Beavercreek Concept Plan with Metro's regional planning goals for the area that the Metro Council included in the UGB in 2002 and 2004, and appealed to the Oregon Land Use Board of Appeals.

Legal Antecedents

Statewide Planning Goal 2 (Land Use Planning); Metro Code section 3.07.450 (Employment and Industrial Areas Map).

Anticipated Effects

Proposed changes to the Title 4 map area in the City of Oregon City will make it possible for the area to be urbanized efficiently and contribute the livability in the city, county and the region, consistent with local

Attachment 3

aspirations. The change will also increase residential capacity by shifting some unneeded employment capacity to needed residential capacity, as determined by the 2009 UGR.

Budget Impacts

There is no significant budget impact. Implementation would consist of updating the Employment and Industrial Areas Map.

RECOMMENDED ACTION

Metro Staff believes that the changes to the Title 4 map area will not have any impact on the supply of industrial land. Staff recommends, therefore, that the Metro Council approve this ordinance.

ATTACHMENTS

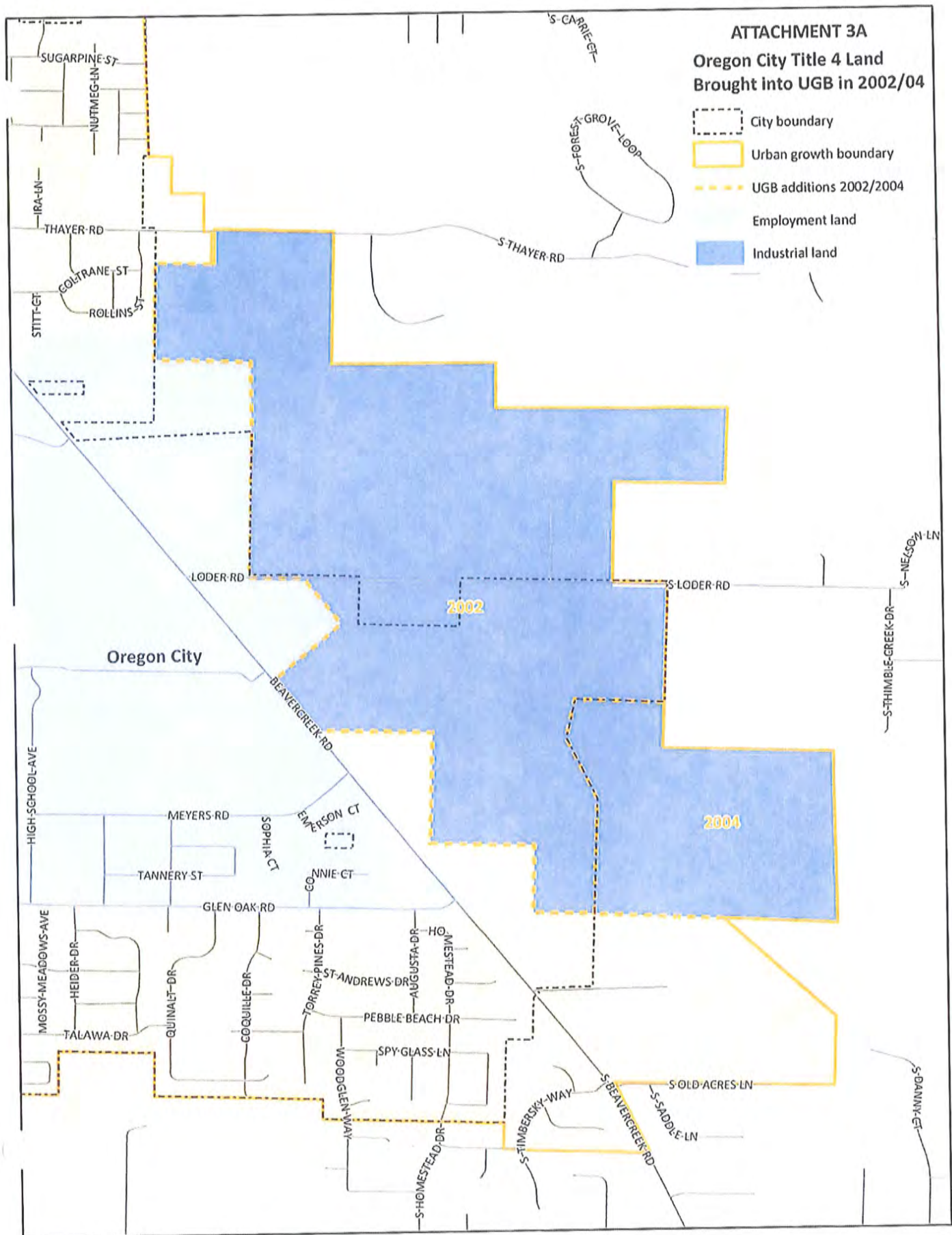
Attachment 3a (map of the area before the Beaver Creek Concept Plan was started)

Attachment 3b (Metro staff (Ray Valone) letter to Mayor Alice Norris and City Commissioners)

Attachment 3c (map of the Beaver Creek Concept Plan area)

Attachment 3d (map of the area after the Beaver Creek Concept Plan was completed)

Attachment 3e (Metro Council President (David Bragdon) letter to the Board of Directors for the Hamlet of Beaver Creek and the City)



600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736
TEL 503 797 1700 | FAX 503 797 1797

ATTACHMENT 3B



METRO

March 19, 2008

Mayor Alice Norris and City Commissioners
City of Oregon City
320 Warner-Milne Road
Oregon City, OR 97045

RE: File L 07-02, Beavercreek Road Concept Plan

Dear Mayor Norris and Commissioners:

Thank you for the opportunity to review and comment on the proposed Beavercreek Road Concept Plan comprehensive plan amendment that will begin the process leading to urbanization of the expansion area brought into the UGB in 2002 and 2004. Please enter this letter into the hearing record.

After review of the final recommended concept plan and Metro compliance findings, as detailed by Tony Konkol in his March 8, 2008, memo to the Commission, Metro staff concludes that the proposal, if adopted, would comply with the intent of Metro Ordinance No. 02-969B, Ordinance No. 04-1040B and the Urban Growth Management Functional Plan. As you know, the two Metro ordinances brought the Beavercreek Road site into the UGB in December 2002 and June 2004, respectively. Title 11 of the Functional Plan requires the City to consider and adopt certain provisions to guide urbanization of new urban areas.

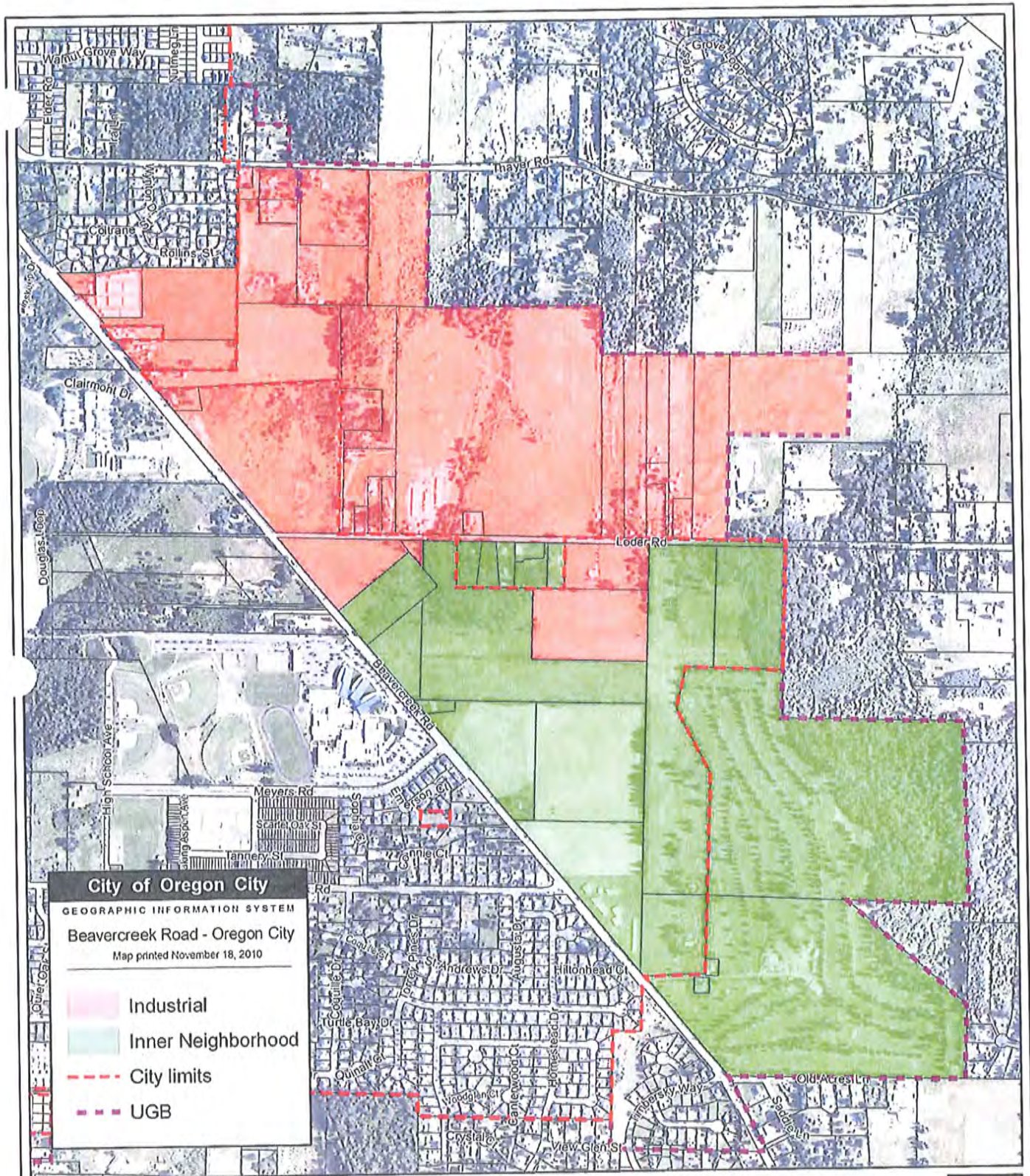
The adoption of the recommended concept plan by the City at this time sets the context for urbanizing the Beavercreek Road site. The plan and accompanying language seem consistent with Metro policies and regulations. Metro reserves the right, however, to review the future implementation measures, as they come before the Commission, before determining compliance with the two ordinances and Title 11.

As a participant on the Beavercreek Road Technical Advisory Committee and attendee of the public open houses during the development of the concept plan, I commend City staff and the consultant team for conducting a thorough process in working with the Citizen Advisory Committee and other stakeholders. While the 2002 and 2004 UGB area was originally designated for job use to support the City's needs, Metro realizes that modifications during local government planning are part of the refinement process. We also appreciate the flexibility shown by all parties in achieving a compromise plan that includes housing and retail services along with a substantial job base.

Sincerely,

Ray Valone
Principal Planner

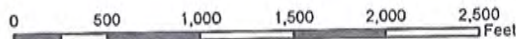
cc: Dan Drentlaw
Tony Konkol
Darren Nichols, DLCD
David Bragdon, Metro Council President
Carlotta Collette, Metro Council District #2
Michael Jordan, Metro COO



City of Oregon City
GEOGRAPHIC INFORMATION SYSTEM
Beavercreek Road - Oregon City
Map printed November 18, 2010

- Industrial
- Inner Neighborhood
- City limits
- UGB

The City of Oregon City makes no representations, express or implied, as to the accuracy, completeness and timeliness of the information displayed on this map. This map is not suitable for legal, engineering, or surveying purposes. Notification of any errors is appreciated.



ATTACHMENT 3C

City of Oregon City
P.O. Box 3040
625 Center St
Oregon City, OR 97045
503-657-0891 phone
503-657-6629 fax
www.orecity.org









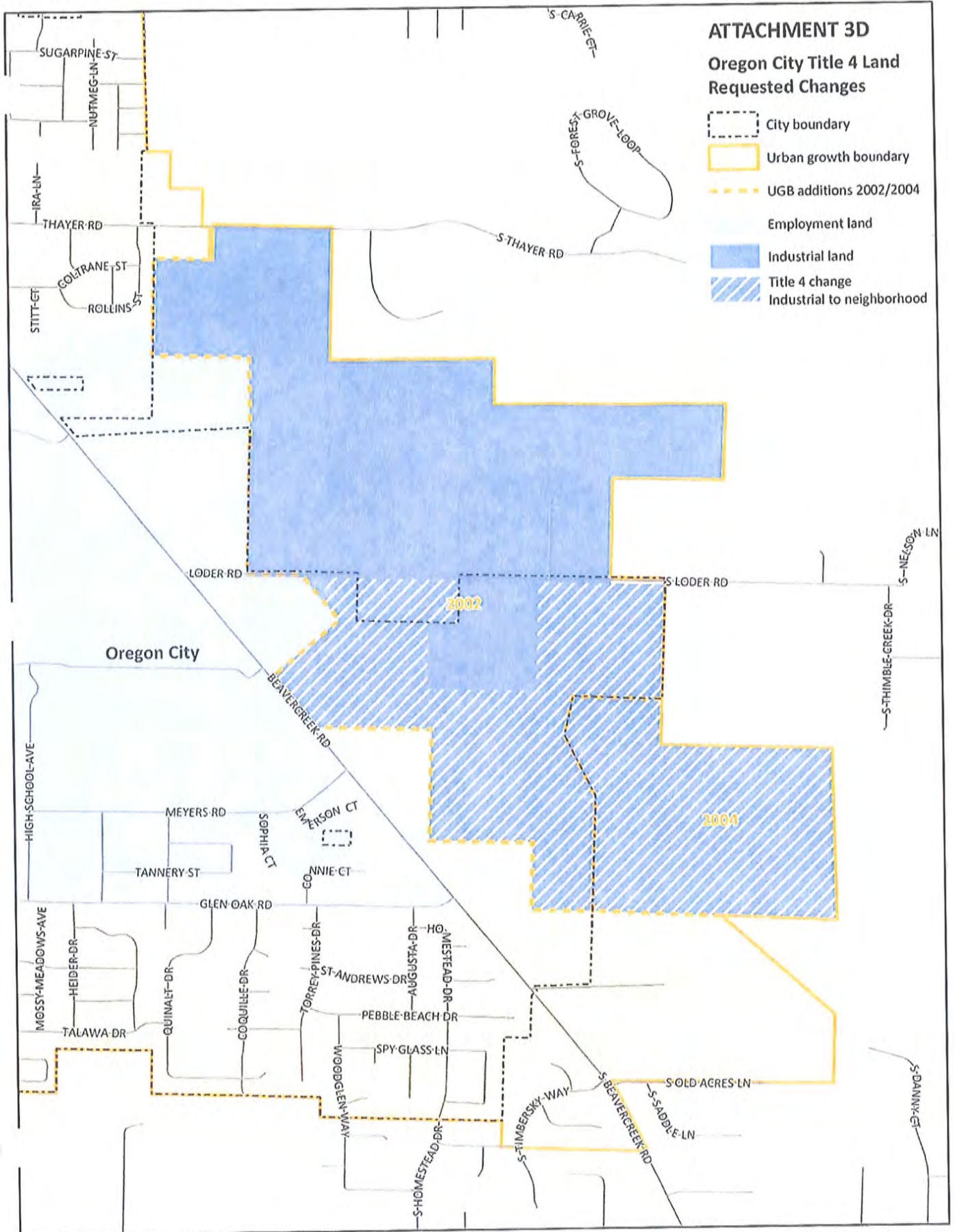
Please recycle with colored office grade paper.

Plot date: November 18, 2010
Plot name: Proposed 2010 Growth Concept Map - Scenario 1 - 8_5x11PJ - 20101118.pdf
Map name: Proposed 2010 Growth Concept Map - Scenario 1 - 8_5x11PJ.mxd

ATTACHMENT 3D

Oregon City Title 4 Land Requested Changes

-  City boundary
-  Urban growth boundary
-  UGB additions 2002/2004
-  Employment land
-  Industrial land
-  Title 4 change
Industrial to neighborhood



ATTACHMENT 3E



METRO

600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736
TEL 503 797 1889 | FAX 503 797 1793

COUNCIL PRESIDENT DAVID BRAGDON

May 14, 2007

Bill Merchant
Chair, Board of Directors for the Hamlet of Beavercreek

Elizabeth Graser-Lindsey
Speaker and Corresponding Secretary, Board of Directors for the Hamlet of Beavercreek
The Hamlet of Beavercreek
PO BOX 587
Beavercreek, OR 97004

Dear Mr. Merchant and Ms. Graser-Linsey:

Thank you for your recent letter outlining your concerns about the planning and future development of the 300 acres of property along Beavercreek Road that were included in the 2002 and 2004 urban growth boundary expansions. The Metro Council had targeted 120 net acres of industrial job land for the 300 acres. It is my understanding that the latest proposed plan meets this requirement.

I have forwarded a courtesy copy of your letter to the City of Oregon City, and it is my understanding that Dan Drentlaw, Director of Community Development has also responded to your letter.

Metro staff Ray Valone serves as Metro's representative on the technical advisory committee for this project and can be reached at 503-797-1808 or valoner@metro.dst.or.us if you have further questions regarding the Metro Council's industrial land targets and the concept and comprehensive planning process.

Sincerely,

David L. Bragdon
Metro Council President

Cc: Mayor Alice Norris, City of Oregon City
Dan Drentlaw, Director of Community Development, City of Oregon City
Michael Jordan, Chief Operating Officer, Metro
Ray Valone, Principal Planner, Metro

Exhibit G to Ordinance No. 10-1244

TITLE 8: COMPLIANCE PROCEDURES

3.07.810 Compliance ~~with~~With the Functional Plan

- A. The purposes of this ~~chapter are~~section is to establish a process for ~~ensuring~~determining whether city or county ~~compliance~~comprehensive plans and land use regulations ~~comply~~ with requirements of the Urban Growth Management Functional Plan and for evaluating. ~~The Council intends the process to be efficient and informing the region about cost-effective and to provide an opportunity for the effectiveness of those~~Metro Council to interpret the requirements. ~~of its functional plan.~~ Where the terms "compliance" and "comply" appear in this title, the terms shall have the meaning given to "substantial compliance" in ~~section~~Section 3.07.1010.
- B. Cities and counties shall amend their comprehensive plans and land use regulations to comply with the functional plan, or an amendment to the functional plan, within two years after ~~its~~acknowledgment of the functional plan or amendment, by the Land Conservation and Development Commission, or after any later~~such other~~ date specified by the Metro Council in the ordinance adopting or amending the functional plan. The Chief Operating Officer (COO) shall notify cities and counties of the acknowledgment date and compliance dates described in subsections C and D.~~date.~~
- C. ~~Notwithstanding subsection B of this section, cities and counties shall amend their comprehensive plans and land use regulations to comply with Sections 3.07.310 to 3.07.340 of Title 3 of the Urban Growth Management Functional Plan by January 31, 2000, and with the requirements in Sections 3.07.710 to 3.07.760 of Title 7 of the Urban Growth Management Functional Plan by January 18, 2003.~~
- D. ~~Cities and counties that amend their comprehensive plans or land use regulations after the effective date of the functional plan shall make the amendments in compliance with the functional plan. After one year following acknowledgment of a functional plan requirement, adopted or amended by the Metro Council after January 1, 2005, cities and counties that amend their comprehensive plans and land~~

use regulations shall make such amendments in compliance with the new functional plan requirement. ~~The Chief Operating Officer shall notify cities and counties of the effective date.~~

~~D. Cities~~
~~E. If a functional plan requirement was adopted or amended by the Metro Council after December 12, 1997, cities and counties whose comprehensive plans and land use regulations do not yet comply with the new functional plan requirement shall, after one year following acknowledgment of the requirement, make land use decisions consistent with the requirement. The COO~~~~that requirement. Notwithstanding the previous sentence, however, cities and counties whose comprehensive plans and land use regulations do not yet comply with the requirements of Title 13 of this chapter, Metro Code Sections 3.07.1310 to 3.07.1370, shall make land use decisions consistent with those requirements after two years following their acknowledgment. The Chief Operating Officer shall notify cities and counties of the date upon which functional plan requirements become applicable to land use decisions at least 120 days before that date. The notice shall specify which functional plan requirements become applicable to land use decisions in each city and county.~~ For the purposes of this subsection, "land use decision" shall have the meaning of that term as defined in ORS 197.015(10).

~~E.F.~~ An amendment to a city or county comprehensive plan or land use regulation shall be deemed to comply with the functional plan ~~upon if no appeal to the expiration~~~~Land Use Board of Appeals is made within the appropriate appeal 21-day period specified set forth in ORS 197.830(9), or 197.650 if the amendment is acknowledged in periodic review pursuant to ORS 197.633 or, if 197.644.~~ If an appeal is made, ~~upon the~~ ~~and the amendment is affirmed, the amendment shall be deemed to comply with the functional plan upon the final decision on appeal. Once the amendment is deemed to comply, with the functional plan requirement, the functional plan shall no longer apply to land use decisions made in conformance with the amendment.~~

~~F.G.~~ An amendment to a city or county comprehensive plan or land use regulation shall be deemed to comply with the functional plan as provided in subsection ~~EF~~ only if the city or county provided notice to the ~~COO~~~~Chief Operating Officer~~ as required by ~~subsection Section 3.07.820(A of section 3.07.820.)~~.

~~{Ordinance No. 97-715B, Sec. 1. Amended by Ordinance No. 98-730C, Sec. 4. Readopted and amended by Ordinance No. 00-82D, Sec. 1. Amended by Ordinance No. 00-882C, Sec. 2; Ordinance No. 01-925E, Sec. 1; Ordinance No. 02-972A, Sec. 1; Ordinance No. 05-1077C, Sec. 5.}~~

3.07.820 Compliance Review by the Chief Operating Officer

A. ~~A city or county proposing t~~ least 45 days prior to the first evidentiary hearing on an amendment to a comprehensive plan or land use regulation ~~which a city or county must submit to the Department of Land Conservation and Development pursuant to ORS 197.610(1) or OAR 660-025-0130(1), the city or county shall submit the proposed amendment to the COO at least 45 days prior to the first evidentiary hearing on the~~ Chief Operating Officer. ~~The Chief Operating Officer shall review the proposed amendment. The COO for compliance with the functional plan. The Chief Operating Officer may request, and if so the city or county shall submit, an analysis of compliance of the amendment with the functional plan. If the COO~~ Chief Operating Officer submits comments on the proposed amendment to the city or county, the comment shall include analysis and conclusions on compliance and a recommendation with specific revisions to the proposed amendment, if any, that would bring it into compliance with the functional plan. ~~requirements. The COO~~ Chief Operating Officer shall send a copy of comment ~~its analysis and recommendation~~ to those persons who have requested a copy.

B. If the ~~COO~~ Chief Operating Officer concludes that the proposed amendment does not comply with the functional plan, the ~~COO~~ Chief Operating Officer shall advise the city or county that it may:

1. Revise ~~(1) revise~~ the proposed amendment as recommended in the ~~COO's~~ Chief Operating Officer's analysis;

2. Seek ~~(2) seek~~ an extension of time, pursuant to section 3.07.830, Section 3.07.850, to bring the proposed amendment into compliance with the functional plan; or

Seek an exception ~~(3) seek review of the noncompliance by MPAC and the Metro Council, pursuant to section~~ Sections 3.07.830 and 3.07.840.

~~3.07.830 (Ordinance No. 97-715B, Sec. 1. Amended by Ordinance No. 98-730C, Secs. 5, 6, 7; Ordinance No. 98-727C, Sec. 1. Readopted by Ordinance No. 00-839, Sec. 1. Amended by Ordinance No. 00-882C, Sec. 2; Ordinance No. 01-925E, Sec. 1; Ordinance No. 02-972A, Sec. 1.)~~

~~3.07.830 Review of Compliance by Metropolitan Policy Advisory Committee~~

- ~~A. A city or county may seek review of the Chief Operating Officer's conclusion of noncompliance under Section 3.07.820B by MPAC and the Metro Council. The city or county shall file an application for MPAC review on a form provided for that purpose by the Chief Operating Officer. Upon receipt of a completed application, the Chief Operating Officer shall set the matter on the MPAC agenda and notify those persons who request notification of MPAC reviews.~~
- ~~B. The Chief Operating Officer may seek review of city or county compliance with a functional plan requirement by MPAC and the Metro Council after the deadline for compliance with that requirement. The Chief Operating Officer shall file an application for MPAC review on the form described in subsection A and shall set the matter on the MPAC agenda. The Council President shall notify the city or county and those persons who request notification of MPAC reviews.~~
- ~~C. MPAC may hold a public hearing on the issue of compliance. If MPAC holds a hearing, any person may testify. MPAC shall attempt to resolve any apparent or potential inconsistency between the proposed amendment and the functional plan. MPAC shall prepare a report to the Metro Council that sets forth reasons for the inconsistency. The Chief Operating Officer shall send a copy of the report to the city or county and those persons who request a copy.~~

~~(Ordinance No. 97-715B, Sec. 1. Amended by Ordinance No. 98-727C, Sec. 2; Ordinance No. 01-925E, Sec. 1; Ordinance No. 02-972A, Sec. 1.)~~

~~3.07.840 Review by Metro Council~~

- ~~A. Upon receipt of a report from MPAC under Section 3.07.830, the Chief Operating Officer shall set the matter for a public hearing before the Metro Council and notify the city or county and those persons who request notification of Council reviews.~~

~~B. A person who requested a copy under Section 3.07.820A may seek review by the Metro Council of a Chief Operating Officer conclusion of compliance of a proposed amendment with the functional plan. The person shall file an application for Council review on a form provided for that purpose by the Chief Operating Officer. The Council President shall set the matter for a public hearing before the Council and notify the city or county, the Department of Land Conservation and Development and those persons who request notification of Council reviews.~~

~~C. The Council shall hold a public hearing on the matter within 90 days after receipt of a report from MPAC under subsection A or within 90 days after the filing of a complete application under subsection B. Any person may testify at the hearing. The Council shall issue an order of compliance or noncompliance with its analysis and conclusion and send a copy to the city or county, MPAC, the Department of Land Conservation and Development and those persons who participated in the proceeding.~~

~~D. If the Council finds that the proposed amendment does not comply with the functional plan, the Council shall advise the city or county that it may (1) revise and adopt the proposed amendment as recommended in the Council order; (2) seek an extension of time, pursuant to Section 3.07.850, to bring the proposed amendment into compliance with the functional plan; or (3) seek an exception from the functional plan, pursuant to Section 3.07.860. If the Council determines that an amendment of the functional plan is necessary to resolve the noncompliance, the Council shall include that determination in its order.~~

~~E. The city or county or a person who participated in the proceeding may seek review of the Council's order as a land use decision described in ORS 197.015(10)(a)(A).~~

~~(Ordinance No. 97-715B, Sec. 1. Amended by Ordinance No. 01-925E, Sec. 1; Ordinance No. 02-972A, Sec. 1.)~~

3.07.850 Extension of Compliance Deadline

A. A city or county may seek an extension of time for compliance with at the functional plan requirement. The city or county shall file an application for an extension on a form provided for that purpose by the COO, Chief Operating

~~Officer.~~ Upon receipt of an application, the ~~COO~~Council President shall ~~set the matter for a public hearing before the Metro Council and shall~~ notify the city or county, ~~MPAC, the Department of Land Conservation and Development~~ and those persons who request notification of applications for extensions.

~~B. The Metro Council shall hold a public hearing to consider the extension. Any person may file a written comment in support of or opposition to the extension.~~

~~B. The COO~~testify at the hearing. ~~The Council~~ may grant an extension if ~~it finds that: (1) the city or county is making progress toward accomplishment of its compliance or work program; or (2) there is good cause for failure to meet the deadline for compliance.~~ Within 30 days after the filing of a complete application for an extension, the COO shall issue an order granting or denying the extension. The COO shall not grant more than two extensions of time to a city or count and shall grant no extension of more than one year. The COO shall send the order to the city or county and any person who filed a written comment.

C. The ~~COO~~Metro Council may establish terms and conditions for the extension in order to ensure that compliance is achieved in a timely and orderly fashion and that land use decisions made by the city or county during the extension do not undermine the ability of the city or county to achieve the purposes of the functional plan requirement. ~~or of the region to achieve the 2040 Growth Concept.~~ A term or condition must relate to the requirement of the functional plan to which the ~~COO has granted~~Council grants the extension. ~~The Council shall incorporate the terms and conditions into its order on the extension. The Council shall not grant more than two extensions of time to a city or a county. The Council shall not grant an extension of time for more than one year.~~

D. The city or county applicant or any person who filed written comment on the extension may appeal the COO's order to the Metro Council within 15 days after receipt of the order. If an appeal is filed, the Council shall hold a hearing to consider the appeal. After the hearing, the Council shall issue an order granting or denying the extension and shall send copies to the applicant and any person who participated in the hearing. The city or county or a person who participated in the proceeding

may seek review of the Council's order as a land use decision described in ORS 197.015(10)(a)(A).

3.07.840

~~D. The Metro Council shall issue an order with its conclusion and analysis and send a copy to the city or county, MPAC, the Department of Land Conservation and Development and those persons who participated in the proceeding. The city or county or a person who participated in the proceeding may seek review of the Council's order as a land use decision described in ORS 197.015(10)(a)(A).~~

~~(Ordinance No. 97-715B, Sec. 1. Amended by Ordinance No. 01-928E, Sec. 1; Ordinance No. 02-972A, Sec. 1.)~~

~~3.07.860~~ Exception from Compliance

A. A city or county may seek an exception from compliance with a functional plan requirement by filing an application on a form provided ~~for that purpose by the COO Chief Operating Officer.~~ ~~An application for an exception to the requirement in subsection 3.07.150D to increase dwelling unit and job capacity to the targets set forth in Table 3.07-1 must be filed between March 1 and March 31 of each calendar year in order to allow the Metro Council to consider the application concurrently with other such applications.~~ Upon receipt of an application, the ~~COO Council President~~ shall set the matter for a public hearing ~~before the Metro Council and shall notify the city or county MPAC, the Department of Land Conservation and Development and those persons who request notification of requests for exceptions.~~ Any person may file a written comment in support of or opposition to the exception.

B. ~~The Metro Council shall hold a public hearing to determine whether the exception meets the following criteria:~~

- ~~1. Except as provided in paragraph (2) of this subsection C, the COO Council may grant an exception if: it finds:~~

ita. ~~It~~ is not possible to achieve the requirement due to topographic or other physical constraints or an existing development pattern;

~~this b.~~ ~~This~~ exception and likely similar exceptions will not render the objective of the requirement unachievable region-wide;

~~the e.~~ ~~The~~ exception will not reduce the ability of another city or county to comply with the requirement; and

~~the d.~~ ~~The~~ city or county has adopted other measures more appropriate for the city or county to achieve the intended result of the requirement.

C. 2. The ~~COO Council~~ may grant an exception to the ~~housing requirement in subsection 3.07.140A to increase dwelling unit and job capacity requirements in section 3.07.120 to the targets set forth in Table 3.07-1 if:~~
~~it finds:~~

~~thea.~~ ~~The~~ city or county has completed the analysis of capacity for dwelling units ~~and jobs~~ required by section 3.07.120; subsections 3.07.120A, B and C;

~~it b.~~ ~~It~~ is not possible to comply with ~~achieve~~ the ~~requirement targets~~ due to topographic or other physical constraints, an existing development pattern, ~~that precludes achievement of the 2040 Growth Concept,~~ or protection of natural resources pursuant to Titles 3 or 13 of this chapter; environmentally sensitive land; and

~~thise.~~ ~~This~~ exception and other similar exceptions ~~to the targets~~ will not render the targets unachievable region-wide. ~~region-wide.~~

D. 6. The ~~COO Council~~ may establish terms and conditions for the exception in order to ensure that it does not undermine the ability of the region to achieve the purposes of the requirement. 2040 Growth Concept. A term or condition must relate to the requirement of the functional plan to which the ~~COO Council~~ grants the exception. The ~~COO Council~~ shall incorporate the terms and conditions into ~~the its~~ order on the exception.

E. The city or county applicant or a person who filed a written comment on the exception may appeal the COO's order to the Metro Council within 15 days after receipt of the

order. If an appeal is filed, the Council shall hold a hearing to consider the appeal. After the hearing, the Council shall issue an order granting or denying the exception and send copies to the applicant and any person who participated in the hearing. The city or county or a person who participated in the proceeding may seek review of the Council's order as a land use decision described in ORS 197.015(10)(a)(A).

- ~~D. 3.07.850 The Council shall issue an order with its conclusion and analysis and send a copy to the city or county, MPAC, the Department of Land Conservation and those persons who have requested a copy of the order. The city or county or a person who participated in the proceeding may seek review of the Council's order as a land use decision described in ORS 197.015(10)(a)(A).~~

~~(Ordinance No. 97-715B, Sec. 1. Amended by Ordinance No. 01-925E, Sec. 1; Ordinance No. 02-972A, Sec. 1.)~~

3.07.870 Enforcement of Functional Plan

- A. The Metro Council may initiate enforcement ~~proceedings under this section~~ if a city or county has failed to meet a deadline for compliance with a functional plan requirement or if the Council ~~in an extension granted pursuant to Section 3.07.850 or if it~~ has good cause to believe that a city or county is ~~engaged~~ engaging in a pattern or a practice of decision-making that is inconsistent with the functional plan, ~~or local~~ ordinances adopted by the city or county to implement the plan, or ~~with~~ the terms or conditions in an extension or an exception granted pursuant to section 3.07.830 or 3.07.840, respectively. The Council may consider whether to initiate enforcement proceedings upon the request of the ~~COO~~ Chief Operating Officer or a Councilor. The Council shall consult with the city or county before it determines there is good cause to proceed to a hearing under subsection B. ~~of this section.~~
- B. If the ~~Metro~~ Council ~~decides~~ concludes that there is good cause, ~~pursuant to subsection A of this section,~~ the Council President shall set the matter for a public hearing before the Council within 90 days of its ~~decision.~~ conclusion. The ~~COO~~ Chief Operating Officer shall publish notice of the hearing in a newspaper of general circulation in the city or county and send notice to the city or county, MPAC, ~~the Department of Land Conservation~~

~~and Development~~ and any person who requests a copy of such notices.

- C. The ~~COO~~~~Chief Operating Officer~~ shall prepare a report and recommendation on the pattern or practice, with a proposed order, for consideration by the ~~Metro~~ Council. The ~~COO~~~~Chief Operating Officer~~ shall publish the report at least 14 days prior to the public hearing and send a copy to the city or county and any person who requests a copy.

D. At the conclusion of the hearing, the Council shall adopt an order that dismisses the matter if it decides the city or county complies with the requirement. -If the Metro Council decides concludes that the city or county has failed to meet a deadline for compliance with a functional plan requirement or has engaged in not engaged in a pattern or a practice of decision-making that that is inconsistent with the functional plan, or local ordinances adopted by the city or county to implement the plan, or with terms or conditions of an extension or an exception granted pursuant to sectionSection 3.07.830 or 3.07.840, respectively, 3.07.850, the Council shall enter an order dismissing the matter. If the Council may adopt an order that:

1. Directseconcludes that the city or county has engaged in such a pattern or practice of decision making, the Council shall issue an order that sets forth the noncompliance and directs changes in the city or county ordinances necessary to remedy the pattern or practice; or
2. Includes a remedy authorized in ORS 268.390(7).

E. practice. The Council shall issue its order, with analysis and conclusions, not later than 30 days following the public hearing and on the matter. The Chief Operating Officer shall send copies a copy of the order to the city or county, MPAC and any person who requests a copy.

3.07.860 Citizen Involvement in Compliance Review

A. Any person may contact Metro staff or the COO or appear before the Metro Council to raise issues regarding local functional plan compliance, to request Metro participation in the local process, or to request the COO to appeal a local enactment for which notice is required pursuant to subsection A of section 3.07.820. Such contact may be oral or in writing and may be made at any time.

B. In addition to considering requests as described in A above, the Council shall at every regularly scheduled meeting provide an opportunity for people to address the Council on any matter related to this functional plan. The COO shall maintain a list of persons who request notice in writing of COO reviews, reports and orders and proposed actions under this chapter and shall send requested documents as provided in this chapter.

C. Cities, counties and the Council shall comply with their own adopted and acknowledged Citizen Involvement Requirements (Citizen Involvement) in all decisions, determinations and actions taken to implement and comply with this functional plan. The COO shall publish a citizen involvement fact sheet, after consultation with the Metro Committee for Citizen Involvement, that describes opportunities for citizen involvement in Metro's growth management procedures as well as the implementation and enforcement of this functional plan.

3.07.870 Compliance Report

A. The COO shall submit a report to the Metro Council by March 1 of each calendar year on the status of compliance by cities and counties with the requirements of the Urban Growth Management Function Plan. The COO shall send a copy of the report to MPAC, JPACT, MCCI and each city and county within Metro.

B. A city, county or person who disagrees with a determination in the compliance report may seek review of the determination by the Council by written request to the COO. The Council shall notify the requestor, all cities and counties, MPAC, JPACT, MCCI, the Department of Land Conservation and Development and any person who requests notification of the review. The notification shall state that the Council does not have jurisdiction to:~~a copy.~~

1. Determine whether previous amendments of comprehensive plans or land use regulations made by a city or county comply with functional plan requirements if those amendments already comply pursuant to subsections E and F of section 3.07.810; or
2. Reconsider a determination in a prior order issued under this section that a city or county complies with a requirement of the functional plan.

C. Following its review at a public hearing, the Council shall adopt an order that determines whether the city or county complies with the functional plan requirement raised in the request. The order shall be based upon the COO's report and testimony received at the public hearing. The COO shall send a copy of the order to cities and counties and any person who testifies, orally or in writing, at the public hearing.

D. A city or county or a person who participated, orally or in writing, at the public hearing, may seek review of the Council's order as a land use decision described in ORS 197.015(10)(a)(A).

~~(Ordinance No. 01-925E, Sec. 2. Amended by Ordinance No. 02-972A, Sec. 1.)~~

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 10-1244, FOR THE PURPOSE OF MAKING A GREAT PLACE AND PROVIDING CAPACITY FOR HOUSING AND EMPLOYMENT TO THE YEAR 2030; AMENDING THE REGIONAL FRAMEWORK PLAN AND THE METRO CODE; AND DECLARING AN EMERGENCY

Date: November 19, 2010

Prepared by: John Williams (503) 797-1635
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Introduction

Purposes of the proposed legislation

Proposed Ordinance No. 10-1244 and its exhibits are intended to fulfill five primary purposes that are described in more detail in this report (section numbers refer to sections of this report, not the ordinance).

Section 1: Recommendations for residential capacity (to narrow the household forecast range and identify the actions that will address at least half the capacity gap identified in the 2009 UGR);

Section 2: Recommendations for employment capacity (to narrow the employment forecast range and to state an intent to add large-lot industrial capacity in 2011);

Section 3: Recommended amendments to the Regional Framework Plan, which articulates Metro Council policies;

Section 4: Recommended amendments to the Metro Code, which is intended to implement the regional vision, and;

Section 5: Recommended amendments to maps, including the 2040 Growth Concept map, the Title 4 map (Industrial and Other Employment Areas), the Title 6 map (Centers, Corridors, Station Communities and Main Streets), and the Title 14 map (Urban Growth Boundary).

Refinement of August 2010 Chief Operating Officer recommendation

In August 2010, Metro's Chief Operating Officer (COO) made a preliminary recommendation to the Metro Council on the contents of Ordinance No. 10-1244. Additional technical details on the topics summarized in this memo can be found in the August 2010 Growth Management Assessment. Since that recommendation was released, there have been a number of discussions at MPAC, MTAC, the Metro Council, amongst stakeholders, and with the general public. The version of Ordinance 10-1244 that is included in this legislative packet reflects staff's synthesis of input received to date. Its main components and staff's reasoning are described in this staff report.

MPAC recommendation

On November 17, 2010, MPAC unanimously recommended that the Council adopt Ordinance 10-1244. MPAC comments on specific portions of the proposed ordinance are noted throughout this staff report.

Public comment period and public hearings

On Aug. 10, 2010, Metro's COO released a set of recommendations in a report entitled, "Community Investment Strategy: Building a sustainable, prosperous and equitable region." A public comment period ran until Oct. 1, 2010.¹

A wide range of views were submitted from across the region in response to the COO recommendations. During the comment period, Metro staff engaged in a coordinated outreach and engagement strategy that included more than 30 stakeholder meetings, website and e-mail information distribution, media releases, newsfeeds and Twitter feeds, seven open houses, a non-scientific online survey, and compilation of letter and e-mail correspondence relating to the Community Investment Strategy and urban growth boundary expansion options. In all, Metro received more than 600 survey entries, 55 e-mails, 16 letters and 10 other public comments.

In advance of the Metro Council's December 16, 2010 decision on Ordinance No. 10-1244, the Council will hold four public hearings:

November 29: Oregon City
December 2: Hillsboro
December 9: Metro Regional Center
December 16: Metro Regional Center

¹ A report on public comments received is available on Metro's website at:
http://library.oregonmetro.gov/files/11173_cis-ugh_comment_report_final.pdf

Background on the regional capacity assessment

Statutory requirements

Oregon land use law requires that, every five years, Metro assess the region's capacity to accommodate the numbers of people anticipated to live or work inside the Metro urban growth boundary (UGB) over the next 20 years. To make this determination, Metro forecasts population and employment growth over a 20-year timeframe; conducts an inventory of vacant, buildable land inside the UGB; assesses the capacity of the current UGB to accommodate population and employment growth either on vacant land or through redevelopment and infill; determines whether additional capacity is needed; and documents the results of these analyses in an urban growth report (UGR). The UGR is the basis for subsequent consideration of the actions to be taken to close any identified capacity gap.

Metro Council intent to take an outcomes-based approach

In addition to addressing statutory obligations, on the advice of the Metro Policy Advisory Committee (MPAC), the Metro Council has indicated its desire to take an outcomes-based approach when it makes decisions. It is intended that the proposed legislation will help to foster the creation of a region where:

1. People live and work in vibrant communities where they can choose to walk for pleasure and to meet their everyday needs.²
2. Current and future residents benefit from the region's sustained economic competitiveness and prosperity.
3. People have safe and reliable transportation choices that enhance their quality of life.
4. The region is a leader in minimizing contributions to global warming.
5. Current and future generations enjoy clean air, clean water and healthy ecosystems.
6. The benefits and burdens of growth and change are distributed equitably.

2009 forecast and urban growth report

In 2009, Metro completed range forecasts of population, household and employment growth through the year 2030.³ The use of a range forecast acknowledges uncertainty and allows for growth management decisions to focus on desired outcomes rather than a specific number. These range forecasts are incorporated into the UGR's analysis. The forecasts are for the seven-county primary metropolitan statistical area, which includes Clackamas, Multnomah, Washington, Yamhill, Columbia, Clark, and Skamania counties. These forecasts and the macroeconomic model that produces them have been peer reviewed by economists and demographers.

The 20-year forecast indicates that, by the year 2030, there will be a total of 1,181,300 to 1,301,800 households and a total of 1,252,200 to 1,695,300 jobs in the larger seven-county area. There is a 90 percent probability that growth will occur in the ranges identified in the forecast.

In addition to the 20-year range forecasts, the UGR determines how much of the 7-county growth may occur inside the Metro UGB and includes an analysis of the share of the UGB's zoned capacity that is likely to be developed by the year 2030. The UGR's analysis assumed a continuation of policies and investment trends in place at the time of the analysis. No changes to existing zoning were assumed, although it is likely that up-zoning will take place in the future as communities develop and implement their aspirations. The UGR's assessment of the likelihood of development was based on historic data,

² Note: these are the desired outcomes as adopted by the Metro Council in 2008. One effect of proposed Ordinance No. 10-1244 is to incorporate these desired outcomes into the Regional Framework Plan. MPAC has recommended that this desired outcome be modified to be more inclusive. Staff has proposed alternative language to satisfy MPAC concerns. Please see Exhibit A, section A for the proposed language.

³ A range forecast was also completed for the year 2060 in order to inform the urban and rural reserves process.

scenario modeling, and the professional expertise of Metro staff, local city and county staff, economic consultants, and business representatives. UGR results are portrayed for four different categories: residential, general industrial employment, general non-industrial employment, and large-lot employment.

Timeline for addressing regional capacity needs

On December 10, 2009, the Metro council, on the advice of MPAC, adopted Resolution No. 09-4094, which accepted the 2009 UGR and 20-year forecast as a basis for making growth management decisions.⁴ According to state law, the Metro Council must, by the end of 2010, address at least half of the residential capacity needs identified in the UGR. If any capacity needs are to be accommodated through efficiency measures⁵ inside the existing UGB, they must be accounted for by the end of 2010. If, after accounting for efficiency measures, there are any remaining capacity needs, the Council must address them with UGB expansions by the end of 2011.

On October 29, 2010, the state Land Conservation and Development Commission (LCDC) reached an oral decision on urban and rural reserves. LCDC remanded two of the urban reserves and all of the rural reserves in Washington County. As a consequence, the Council has directed that any needed UGB expansions will be made in 2011, which would allow time to finalize urban and rural reserves.

The 2009 UGR assessed regional capacity needs using a range demand forecast. Oregon Department of Land Conservation and Development (DLCD) staff has indicated that the Metro Council may carry a range through the decision that it makes in December 2010, but that the forecast range needs to be narrowed in order to demonstrate that at least half of the residential gap has been addressed. In order to finalize its growth management decision, the Council must, by the end of 2011, choose the point in the range forecast for which it wishes to plan. Depending on the point chosen, UGB expansions may be needed.

Under state statute, Metro can wait until 2011 to address all employment capacity needs identified in the UGR. For employment capacity, there is no requirement that at least half of the need be addressed by the end of 2010.

⁴ As indicated in the text of Ordinance No. 10-1244, the Council would, by adopting the ordinance, formally adopt the forecast and UGR as the basis for its growth management decisions.

⁵ Oregon Revised Statute 197.296 instructs Metro to expand the UGB and/or amend plans in ways that increase the likelihood of higher density development inside the existing UGB. "Efficiency measures" refer to the latter option.

Section 1: recommendations for residential capacity

Residential capacity gap identified in 2009 UGR

The 2009 UGR indicates that there will be demand for between 224,000 to 301,500 new dwelling units inside the Metro UGB from 2007 to 2030. While there is ample zoned capacity within the current UGB to accommodate the next 20 years of residential growth, the UGR's analysis indicates that, without additional infrastructure investments or other policy changes, a portion of the zoned capacity will not be market feasible. As a result, there is unmet demand for 27,400 to 79,300 dwelling units.⁶

Residential efficiency measures

Because a residential capacity gap is identified in the 2009 UGR, Oregon Revised Statute 197.296 instructs Metro to expand the UGB and/or amend plans in ways that increase the likelihood of higher density development inside the existing UGB. These latter actions are referred to as "efficiency measures." Reasonable efforts to implement efficiency measures must be undertaken before expanding the UGB. The statute states that efficiency measures may include, but are not limited to:

- Increases in the permitted density on existing residential land
- Financial incentives for higher density housing
- Provisions permitting additional density beyond that generally allowed in the zoning district in exchange for amenities and features provided by the developer
- Removal or easing of approval standards or procedures
- Minimum density ranges
- Redevelopment and infill strategies
- Authorization of housing types not previously allowed by the plan or regulations
- Adoption of an average residential density standard
- Rezoning or re-designation of nonresidential land

The August 2010 Growth Management Assessment⁷ includes staff's preliminary assessment of a variety of efficiency measures that have been adopted since the completion of the 2009 UGR. Staff's preliminary analysis indicates that efficiency measures contribute an additional 30,300 dwelling units of capacity beyond what was counted in the 2009 UGR⁸.

⁶ Refill is a share of total growth. The high end of the gap (79,300 units) reported here is different than what was identified in the 2009 UGR (104,900), which, for illustrative purposes, held constant the dwelling unit capacity generated through refill (rather than expressing it as a share of the high demand forecast). When the Council makes its growth management decision, they will identify the point in the forecast for which they are planning. Refill capacity will be calculated as a share of that number. As discussed more thoroughly in the August 2010 Growth Management Assessment, a 38 percent refill rate is a reasonable assumption with the policies and investments that have been adopted since the 2009 UGR.

⁷ Available at Metro's website:

http://library.oregonmetro.gov/files/2010_growth_management_assessment.pdf

⁸ The August 2010 Growth Management Assessment attributed 32,050 dwelling units of capacity to efficiency measures with 38% refill capacity tied to an assumption of medium growth (demand). Because capacity from redevelopment and infill (refill) is expressed as a share of total growth, staff cannot determine a final capacity number until the Council chooses the point in the forecast range for which to plan. The 30,300 units cited here is an

Recommendations for narrowing the residential forecast range

Background

Oregon statutes require that the Council, by the end of 2010, determine that it has addressed at least half of the residential capacity gap identified in the 2009 UGR. However, the Metro Council has indicated that it would like to maintain a range through its December 2010 decision. To accommodate the Council's request and to meet statutory obligations, staff proposes that the Council determine that the efficiency measures described in the August 2010 Growth Management Assessment have addressed at least half of the residential capacity gap identified in the 2009 UGR. To make that determination, the Council will need to narrow the forecast range for which it intends to plan.

In August 2010, Metro's Chief Operating Officer (COO) recommended planning for a point in the middle third of the forecast range. Since that recommendation was issued, the Council, MPAC, and others have had the opportunity to discuss the risks and opportunities of planning for different points in the range. Some of the topics considered include:

- Statistical likelihood of growth occurring at different points in the range
- Need for consistency between the urban and rural reserves decision and this growth management decision
- Need for consistency in expectations for residential and employment growth
- Implications for meeting carbon reduction goals
- Implications of changing demographics and housing preferences
- Adaptability if we aim too high or too low

MPAC recommendation

On October 27, 2010, MPAC discussed the question of where the Council should plan in the residential range forecast.⁹ MPAC recommends (13 in favor, 4 opposed) that the Council plan for at least the low end of the middle third of the forecast range. To provide more guidance to the Council, MPAC also discussed, through an informal show of hands, several portions of the range, with the following results:

- 3 committee members showed support, through a show of hands, for recommending that the Metro Council target the upper part of the middle third of the range.
- 6 committee members showed support, through a show of hands, for recommending that the Metro Council target below the middle third of the range.
- 4 committee members showed support, through a show of hands, for recommending that the Metro Council target the middle part of the middle third of the range.

Staff recommendation

With MPAC's recommendation, statutory requirements, and Council preferences in mind, staff proposes that the Council cap the range that it is considering at the high end of the middle third of the forecast range. This would entail planning for a marginal increase of 224,000 to 271,400 dwelling units inside the Metro UGB from the year 2007 through the year 2030. This proposed range can be in section 16 of Ordinance 10-1244.

adjusted figure that assumes 38% refill tied to low demand. See Table 1 for more details on how supply may change with different demand assumptions.

⁹ Minutes from the October 27, 2010 MPAC meeting are available on Metro's website.

Capacity for 196,600 dwelling units was accounted for in the 2009 UGR. As noted, an additional 30,300 dwelling units of capacity attributable to efficiency measures have been identified. Table 1 summarizes the potential capacity gaps (or surpluses) at different points in the forecast range after having accounted for efficiency measures identified in the August 2010 Growth Management Assessment.¹⁰ Additional detail on these gap calculations is available in Attachment 1 to this staff report. Under the scenarios depicted in Table 1, UGB expansions made in 2011 would need to provide from zero to 26,600 dwelling units of additional capacity, depending on the point in the demand forecast that is chosen. In all cases, the remaining potential gap is less than the 30,300 dwelling units of capacity already attributed to efficiency measures. Consequently, as required by statute, less than half the capacity gap identified in the UGR would remain for the Council to address in 2011.

Table 1: Dwelling unit gap or surplus at different points in the range forecast after accounting for efficiency measures (Metro UGB 2007 - 2030)

Point in demand forecast range	Remaining gap or surplus (dwelling units)
Low	2,900
Low end of middle 1/3 rd	(15,400)
Middle	(21,000)
High end of middle 1/3 rd	(26,600)

¹⁰ Because refill is a share of demand, using different points in the demand forecast will produce different capacity numbers. For this reason, determining the remaining gap at a particular point in the forecast range is not as straight forward as simply adding 30,300 dwelling units to the capacity identified in the 2009 UGR and deducting a demand number. Additional detail on these calculations is available in Attachment 1.

Section 2: recommendations for employment capacity

Employment range forecast

Background

The 2009 UGR indicates that there will be a total of 1.0 to 1.3 million total jobs inside the metro region UGB by the year 2030.

MPAC recommendation

On November 17, 2010, MPAC discussed the contents of Ordinance No. 10-1244. Metro staff proposed that the point chosen in the employment forecast range should be consistent with the point chosen in the residential range forecast.¹¹ MPAC had no comments on the employment range forecast.

Staff recommendation

Though there is no statutory obligation compelling the Council to do so, staff recommends that the Metro Council narrow this range to provide consistency with the recommendation on the residential range. As with the residential range, staff proposes capping the employment forecast range at the high end of the middle third of the forecast range. This would entail planning for between 1,083,200 and 1,211,600 total jobs inside the UGB by the year 2030.¹² When the Council ultimately picks a point in the residential and employment range forecasts, staff strongly recommends that the two points be consistent with one another.

Potential implications for non-industrial employment capacity

A portion of the UGR assesses the current UGB's capacity to accommodate non-industrial (e.g. office, retail, institutional) job growth on vacant land or through refill. The UGR finds that at the low end of the forecast range there is no need for additional non-industrial employment capacity inside the UGB. At the high end of the forecast range there is a need for 1,168 acres of additional capacity. At the high end of the middle third of the range, there is a need for 30 acres of additional capacity for non-industrial employment.¹³

Implications for general industrial employment capacity

A section of the UGR assesses the current UGB's capacity to accommodate industrial job growth on vacant land or through redevelopment and infill (refill). The assessment of demand for large, vacant lots is handled separately and recommendations can be found below. The UGR finds that, at or below the high end of the employment range forecast, there is adequate capacity inside the current UGB to accommodate the next 20 years of general industrial job growth. Consequently, within the narrowed employment forecast range proposed by staff, there is also no need for additional capacity for general industrial employment.

¹¹ As noted in this report, on October 27, 2010, MPAC voted in favor of recommending that the Council plan for at the least the low end of the middle third of the residential range forecast.

¹² Section 16 of Ordinance No. 10-1244 refers to this proposed range.

¹³ Many of the residential efficiency measures identified in the August 2010 Growth Management Assessment are also likely to increase non-industrial employment capacity inside the existing UGB. This is because many non-industrial jobs are in population-serving fields such as education, health care, and retail and these employers need to be close to population centers. Consequently, actions that encourage more residential growth in centers and corridors will likely have the same effect on non-industrial employment. Staff has not, however, performed a quantitative assessment of those effects.

Large lot industrial employment capacity

Background

The "large lot" portion of the UGR's analysis was completed in recognition of the fact that some firms in traded-sector industries require large, vacant lots.¹⁴ The UGR defines a large lot as a single tax lot with at least 25 vacant, buildable acres. The UGR's forecast-based assessment determined that, over the 20-year period, there is demand for 200 to 800 acres of additional capacity for large-lot employment uses. This range depends on the amount of employment growth realized as well as whether assembly of adjacent lots of 25 acres or more was assumed.

MPAC recommendation

For several reasons listed below, at its November 18, 2009 meeting, the Metro Policy Advisory Committee (MPAC) recommended that the UGR identify a wider range of potential large lot demand:

- Large traded-sector firms are crucial to the region's economy since they sell goods and services outside the region, thereby bringing wealth to the region.
- Large traded-sector firms create spinoff employment.
- Large lot demand will be the result of the decisions of individual firms, so it is inherently difficult to forecast.
- The use of an employment forecast may be an inadequate means of estimating large lot demand for freight, rail, and marine terminal uses, which are space-intensive uses with relatively few employees, which play a crucial economic role.

The final 2009 UGR reflects MPAC's recommendation that the Metro Council consider demand for 200 to 1,500 acres of additional capacity for large-lot industrial uses.

Since the completion of the 2009 UGR, no cities or counties in the region have adopted strategies that will make additional large-lot capacity available. In August 2010, Metro's COO recommended that the Council address this need by expanding the UGB by 310 acres north of Hillsboro. MPAC endorsed this recommendation on October 13, 2010 with a vote of 9 in favor and 8 opposed. Committee discussion included:

- Reasons why the Metro COO has recommended incorporating 310 acres when the need for 200-1500 has been identified;
- The fact that Metro will have to demonstrate a need for more large-lot parcels in the region when justifying UGB expansion to the State;
- Whether it is more prudent to be conservative in expanding the UGB for large-lot industrial land, due to the continuing recession and other factors;
- Whether incorporating more land than the recommended 310 acres makes the region more economically competitive;
- Whether parcels can be consolidated to create large-lot sites within the UGB;
- The importance of thinking regionally when making this policy decision and not only considering individual jurisdictions;
- How we can learn from past experiences with UGB expansion and subsequent use of large-lot sites; and

¹⁴ Existing sites with significant acres of vacant land may give the initial impression that large-lot need is overestimated. However, firms seeking large sites often construct their facilities in phases. Recent examples of this phased approach can be found in the Metro region, including facility expansions completed or planned by large industrial firms such as Genentech, SolarWorld and Intel. This legitimate business practice factors into the UGR's calculations of need for large lots.

- The decision of how many acres to incorporate into the UGB for large-lot industrial purposes is intertwined with the concept of a replenishment mechanism for parcels that get used up.

At the October 27, 2010 MPAC meeting, Mayor Lou Ogden of Tualatin requested that the Council also consider a UGB expansion, which would add 177 acres outside of Tualatin for large-lot industrial uses. MPAC did not make a recommendation on this request, but will discuss it in 2011.

Staff recommendation

Because urban and rural reserves in Washington County have been remanded by LCDC, the Council has directed that UGB expansions will be postponed until 2011. Staff recommends that, in 2011, the Council address regional needs for large lots for industrial uses by expanding the UGB to include at least the 310-acre area north of Hillsboro (assuming that urban and rural reserves are adopted and acknowledged).

Section 3: recommended amendments to the regional framework plan

Background

The Regional Framework Plan, originally adopted in 1997, is a statement of the Metro Council's policies concerning land use, transportation, and other planning matters that relate to implementing the 2040 Growth Concept. While the Regional Framework Plan has helped guide efforts to implement the 2040 Growth Concept, it has become clear that these implementing plans need to be updated to better support community and regional goals. Based on Council and advisory committee discussion and experience during the past few years, staff proposes a number of updates to the policies in the Land Use chapter of the Framework Plan to more clearly articulate Metro Council policy positions. The changes are summarized below.

MPAC recommendation

MPAC discussed the Regional Framework Plan on September 8 and 22, 2010, including several proposed amendments. MPAC indicated preliminary support for staff's proposed changes to the Regional Framework Plan. The Council discussed MPAC's comments on the Regional Framework Plan at a work session in October and provided staff with direction. MPAC had a final discussion of proposed changes to the Regional Framework Plan on November 17, 2010. MPAC's recommendations are summarized below for each topic.

Staff recommendation

The proposed Regional Framework Plan is included as Exhibit A to the ordinance. Following is a summary of the proposed language, organized by topic.

Use the defined six desired outcomes for a successful region to guide growth management decisions (Exhibit A, section A)

Background

In June 2008, the Metro Council, with the endorsement of MPAC, adopted Resolution No. 08-3940 which defined six desired outcomes for a successful region. The six desired outcomes are intended to guide decisions.

MPAC recommendation

MPAC recommended that the first desired outcome be changed to be more inclusive of those unable to walk and to reflect other non-motorized forms of transportation. MPAC also discussed adding "equitably" to the second outcome but did not make a recommendation.

Staff recommendation

Staff proposes incorporating the six desired outcomes into the Framework Plan to give them more official status as Metro Council policy. These would replace the fundamentals currently in the Framework Plan. Staff also proposes amending the wording of the first desired outcome in order to address concerns expressed by MPAC. The proposed six desired outcomes are:

- People live, work and play in vibrant communities where their everyday needs are easily accessible.
- Current and future residents benefit from the region's sustained economic competitiveness and prosperity.
- People have safe and reliable transportation choices that enhance their quality of life.
- The region is a leader in minimizing contributions to global warming.

- Current and future generations enjoy clean air, clean water and healthy ecosystems.
- The benefits and burdens of growth and change are distributed equitably.

Measure performance to guide growth management decisions (Exhibit A, policy 1.2.5)

Background

The Metro Council has expressed its desire to take an outcomes-based approach to growth management. Reporting the region's historic and forecasted performance is an important element of implementing that type of decision-making model.

MPAC recommendation

MPAC did not comment on this recommendation.

Staff recommendation

Staff proposes that the Framework Plan should express the intent to provide performance information to help guide growth management decisions.

Prioritize public investments in Centers, Corridors, Station Communities, Main Streets, Employment and Industrial Areas (Exhibit A, policy 1.2)

Background

The region intends to focus population and employment growth in centers, corridors, station communities, main streets and employment areas, but has not yet expressly stated its intent to strategically invest scarce public dollars in these specific 2040 design types.

MPAC recommendation

MPAC discussed an amendment to Policy section 1.2.2 through 1.2.5 that would add "developing residential areas" and "other industrial areas" as priorities for investments as part of the investment strategy for Centers, Corridors, Station Communities, and Main Streets. MPAC did not support this amendment because it would dilute the effectiveness of investing in those four design types.

Staff recommendation

Staff proposes that the Council should make explicit its policy intent to prioritize investments in centers, corridors, station communities, main streets, and employment areas.

Encourage elimination of barriers to compact, mixed-use, pedestrian-friendly and transit supportive development in centers, corridors, station communities, and main streets (Exhibit A, policy 1.1)

Background

Since the adoption of the 2040 Growth Concept, some of the barriers to compact development have become more apparent (such as some parking requirements).

MPAC recommendation

MPAC did not comment on this recommendation.

Staff recommendation

Staff proposes that the Framework Plan should be amended to expressly state that it is the policy of the Metro Council to encourage the elimination of such barriers in targeted 2040 design types. Staff also proposes that the Framework Plan should underline the importance of creating the conditions for infill and redevelopment to occur in targeted 2040 design types.

Address housing affordability through a combination of actions, including investments in transportation facilities and transit services that make transportation more affordable, which in turn makes more household income available for housing and other needs (Exhibit A, policy 1.3)

Background

Second to housing costs, many households spend a substantial portion of their income on transportation expenses.

MPAC Recommendation

MPAC discussed changes to this policy, including adding an investment in affordable housing as a strategy to reduce household transportation costs leaving more household income for other expenses. MPAC did not come to a consensus on a policy change.

MPAC also discussed Policy 1.3.1 (provide housing choices). Although staff had previously not recommended any changes to this policy, MPAC recommended that this policy be changed to focus on households with incomes at or below 80 percent of median family income. The language MPAC recommended is as follows:

"1.3.1 That housing choices in the region include single family, multi-family, ownership and rental housing; and housing offered by the private, public and nonprofit sectors for households with incomes at or below 80, 50, and 30 percent of median family income."

Staff recommendation

Metro staff proposes that it be the policy of the Metro Council to take a holistic approach to ensuring an affordable cost-of-living that acknowledges both housing and transportation costs. This would be an addition to existing housing affordability policies. In response to MPAC suggestions and a discussion with the Metro Council, staff is recommending a slightly modified version of policy 1.3.1:

"1.3.1 Provide housing choices in the region, including single family, multi-family, ownership and rental housing, and housing offered by the private, public and nonprofit sectors, paying special attention to those households with fewest housing choices."

Provide affordable housing in UGB expansion areas (Exhibit A, policy 1.3.10)

Background

Planning for new urban areas offers a unique opportunity to ensure that development forwards community and regional goals. A commonly-held goal is that households of a variety of incomes have choices of where to live.

MPAC recommendation

MPAC did not comment on this recommendation.

Staff recommendation

Metro staff proposes that it should be the policy of the Metro Council to ensure that affordable housing is addressed in planning for new urban areas.

Provide urban areas with access to parks, trails and natural areas (Exhibit A, policy 1.1.6)

Background

Currently, the Land Use chapter of the Framework Plan addresses access to parks, trails and natural areas in several sections. Staff believes that the Framework Plan should take a stronger position on an integrated system.

MPAC recommendation

MPAC did not comment on this recommendation.

Staff recommendation

Staff proposes that an integrated system of parks, trails and natural areas is essential for fostering vibrant communities and that it should be a clearly stated Metro Council policy to provide urban areas with access to these amenities. The proposed change would add a section to the Land Use chapter that would specifically address this policy.

Strengthen employment in the region's traded-sector industries (Exhibit A, policies 1.4.3 to 1.4.7)

Background

Attracting and retaining traded-sector industrial firms is important to the region's economic prosperity. Traded-sector industrial firms sell products to consumers elsewhere in the country and world, bringing wealth into the Metro region.

MPAC recommendation

MPAC and its 2010 employment subcommittee proposed that the Metro Council adopt a policy to maintain a supply of large sites for traded-sector industrial uses inside the UGB. MPAC discussed two amendments to Policy 1.4.6 (maintain supply of large industrial sites). MPAC suggested amending the proposed language for Policy 1.4.6 to read:

"1.4.6 Consistent with policies promoting a compact urban form, ensure that the region maintains a sufficient and geographically diverse supply of tracts 50 acres and larger to meet marketplace demand of traded sector industry clusters and that the region protects those sites from conversion to non-industrial uses and conversion into smaller lot sizes."

MPAC also discussed adding to policy 1.4.6 the following clause:
"transit availability shall be a critical factor in determining which sites are included"

MPAC ultimately opposed including this clause because transit is unlikely to serve the area when a site is undeveloped and demand for transit does not yet exist.

Staff recommendation

The Council discussed MPAC's suggestions at a work session. Based on Council direction, staff proposes several policy statements that seek to strengthen employment in traded-sector industries. These proposals include establishing programs to clean up brownfields and consolidate smaller parcels, creating an

inventory of large tracts of land that may be suitable for traded-sector industrial uses, and protecting large sites from conversion to non-industrial uses.

Section 4: recommended amendments to the Metro Code

Background

The Urban Growth Management Functional Plan (UGMFP) is part of Metro Code (Chapter 3.07) and implements the policies contained in the Regional Framework Plan. City and county comprehensive plans and implementing ordinances must be consistent with the Functional Plan and have two years from any amendments to the Code to conform. MPAC reviewed proposed changes in October and November 2010. Changes to the Functional Plan included in Ordinance No. 10-1244 are summarized below.

Each of the titles of the UGMFP that is proposed for amendment is included as a separate exhibit to the ordinance. The contents of the proposed titles and MPAC's recommendations are summarized below.

Title 1: Housing Capacity (Exhibit B)

Background

Currently, Title 1 specifies minimum zoned capacity for jobs and housing for each city and unincorporated area within the UGB. Metro staff has heard a number of concerns from local government staff about the existing Title 1 Requirements for Housing and Employment Accommodation – that it was time-consuming and staff intensive to produce an annual report on changes to housing and employment capacity as well as a biennial report on actual density of new residential density per net developed acre, that it was impossible to calculate an accurate employment number, that there was no consistency in how each local government calculated their zoned capacity, and that Table 1 was out-of-date because it did not include additions to the urban growth boundary or zone changes.

MPAC recommendation

On November 10, MPAC recommended approval of the revised Title 1 to the Metro Council, with several recommended changes:

- MPAC recommends clarifying that small property-specific zoning changes are not subject to the “no-net-loss” provision to reduce the regulatory burden of this requirement. Staff has added subsection 3.07.120(E) to address this recommendation.
- MPAC recommends clarifying that the “no-net-loss” policy focuses on changes to minimum zoned density rather than other actions such as revisions to design standards. Staff has revised the wording of section 3.07.120(C) in response.
- MPAC recommends re-instating the provision allowing transfers of capacity between jurisdictions, which is in the existing Title 1 but was proposed for deletion by staff due to lack of use. Staff has re-instated this language as section 3.07.120(F).
- MPAC recommends giving credit to jurisdictions for their recent actions to increase zoned capacity, allowing for future downzonings in those jurisdictions based on that work. MPAC noted that establishing a new minimum zoned capacity could be seen as “penalizing” jurisdictions that had recently upzoned and were considering downzones. Staff has not proposed any changes to Title 1 on this topic because of uncertainty about how to pick a point in time, whether the backdating would only include upzonings (some jurisdictions have recently completed downzonings), and related implementation concerns.
- MPAC recommends allowing more flexibility in both the timing and sequencing of allowing downzones in exchange for upzones. In the proposed Title 1, upzoning must occur before downzoning and jurisdictions have two years to downzone following upzones. MPAC recommends allowing more than two years and allowing downzones to occur first, to give more flexibility to local jurisdictions. Staff understands MPAC's desire for flexibility and agrees that

the vast majority of local government actions will not cause concern under this section. However, staff believes that two years is an adequate period and is concerned that allowing downzoning first could occasionally create difficult enforcement situations. It's also not clear what Metro's recourse would be if a jurisdiction reduces zoning, builds at that reduced density and then takes no action to replace that lost capacity.

Staff recommendation

Staff proposes that the Council revise Title 1 while continuing to implement the Regional Framework Plan policies of a compact urban form, efficient use of land, and a "fair-share" approach to meeting regional housing needs. The proposed Title 1 Housing Capacity moves to a "no-net-loss" approach for housing based on a project amendment basis, eliminates Table 1 and the need to calculate capacity city-wide, and eliminates the requirements for calculating and tracking job capacity.

Title 4: Industrial and Other Employment Areas (Exhibit C)

Background

Title 4 seeks to protect a regional supply of sites for industrial uses. In recent years, several industrial-designated sites have been developed for non-industrial uses.

MPAC recommendation

On October 13, 2010 MPAC recommended that the Council amend Title 4 to prohibit new schools, places of assembly, recreational facilities and parks (with exceptions for habitat protection) in Regionally Significant Industrial Areas.

During fall, 2010, MPAC requested that Metro staff develop a proposal for a system that would maintain an inventory of large sites for industrial uses. MPAC also indicated that the site inventory should be organized in tiers to identify any obstacles to development readiness of sites inside the UGB. Metro staff has convened a small group of MTAC members to sort out the details of the proposal. Having met twice, it appears that, while there is considerable interest in the concept, additional time and expertise are needed to refine the proposal. The Metro Council also recently discussed the concept and indicated a desire to spend the time to get it right. Consequently, staff does not propose changes to Title 4 that would implement this concept at this time. Instead, staff proposes changes to the Framework Plan that would state the Council's policies on the topic (see above discussion of Framework Plan). Staff also proposes additional work on the concept and its details in 2011.

Several MPAC members indicated that they regarded industrial land protections, the proposed UGB expansion, and the inventory maintenance concept as a package. Dedicating additional time to refining the concept would allow for integration of the concept with the more comprehensive overhaul of the Title 4 map that was proposed by the MPAC employment subcommittee (following the recommendations of the Greater Metropolitan Employment Lands Study). It would also allow the Metro Council to consider those proposals concurrently with a UGB expansion for large-lot industrial capacity, which is now delayed in light of LCDC's decision on urban and rural reserves.

Staff recommendation

Staff proposes that Title 4 be amended to prohibit new schools, places of assembly, recreational facilities and parks (with exceptions for habitat protection) in Regionally Significant Industrial Areas. As described under MPAC's recommendations, staff does not, at this time, recommend that the Council adopt the previously-contemplated system for maintaining a supply of large sites for industrial uses. A summary of proposed changes to the Title 4 map (Industrial and Other Employment Areas) is included later in this report. In response to MPAC recommendations, staff also proposes a new Title 14 (see Exhibit L), which includes an expedited process for adding large industrial sites to the UGB.

Title 6: Centers, Corridors, Station Communities and Main Streets (Exhibit E)

Background

The existing version of Title 6 requires local governments to develop a strategy to enhance all centers by December 2007 and to submit progress reports to Metro every two years. Only one local government developed a strategy for one of its centers. This approach has not been effective in encouraging center development and development in centers has not achieved the results originally anticipated.

An MTAC subcommittee spent considerable time earlier this year discussing possible revisions to Title 6. The subcommittee included staff from local governments, Department of Land Conservation and Development, Oregon Department of Transportation (ODOT) and TriMet. Metro staff worked extensively with ODOT to find mutually acceptable language concerning the 30% trip reduction credit and new auto dependent uses in centers, corridors, station communities, and main streets (3.07.630(B)(2)).

MPAC recommendation

MPAC discussed the amount of work that a local government might have to undertake to be eligible for the incentives listed in Title 6 and agreed that the incentive approach was appropriate. Some members of MPAC also expressed some concern that limiting the definition of regional investment to new High Capacity Transit lines may be too narrow. MPAC recommended that the Metro Council adopt the proposed Title 6.

Staff recommendation

Staff recommends changing Title 6 to an incentive approach to encourage cities and counties to develop centers and recommends expanding Title 6 to include corridors and main streets. The changes to Title 6 are intended to:

- Add corridors to Title 6 because of their potential for redevelopment and infill. Title 6 would link strategies for centers and corridors to a community investment strategy.
- Align local and regional investments to support local aspirations in centers, corridors, station communities, and main streets and make progress toward achieving the region's six desired outcomes
- Reflect a desire to focus development in all centers (central city, regional and town centers, and station communities) as well as along corridors and main streets
- Better link land use and transportation to support mixed-use, pedestrian-friendly, and transit-supportive development
- Provide incentives to local governments that adopt a plan of actions and investments to enhance their center, corridor, station community, or main street. These incentives include:

- Eligibility for a regional investment,¹⁵
- Ability to use a higher volume-to-capacity standard under the Oregon Highway Plan when considering amendments to comprehensive plans or land use regulations, and
- Eligibility for an automatic 30 percent trip reduction credit under the Transportation Planning Rule when analyzing traffic impacts of new development in plan amendments for a center, corridor, station community, or main street
- Address the problems that transportation impacts have on achieving mixed-use, pedestrian-friendly, and transit-supportive development

Title 8: Compliance Procedures (Exhibit G)

Background

Title 8 sets up a process for determining whether a city or county complies with requirements of the Urban Growth Management Functional Plan. Experience has demonstrated that the compliance process and annual compliance reporting place burdens on local governments who have limited staff resources and Metro. The Metro Council has indicated its desire to emphasize a more collaborative, outcomes-based approach to implementing the 2040 Growth Concept.

MPAC recommendation

MPAC suggested that “citizen” should be changed to “person” in section 3.07.860 and that JPACT and MPAC receive the annual compliance report. MPAC generally supported the changes to Title 8 but expressed concern about how citizen involvement in the compliance process would be affected by the recommended changes.

Staff recommendation

Staff proposes two primary changes for Title 8 to streamline the process. First, the current version of Title 8 requires the Metro Council to hold a public hearing to consider requests from local governments for extensions of compliance deadlines or exceptions from compliance. The Council may grant an extension or exception based on certain criteria (3.07.850 and 3.07.860). This process can be time-consuming for the Council and the local government involved. To streamline the process, proposed changes to Title 8 make these functions administrative but still allow an appeal to the Metro Council. The criteria for determining whether an extension or exception is granted would remain the same.

Second, Title 8 currently allows a local government to seek review by MPAC of noncompliance (3.07.830). This section is proposed to be removed. The Metro Council would be the final authority for determining noncompliance and it can seek MPAC advice without this provision. The Metro Council could request MPAC advice when an action raises policy issues.

Title 9: Performance Measures (Exhibit H)

Background

The Urban Growth Management Functional Plan contains requirements that are binding on cities and counties. Title 9 does not fit that category and is more appropriate as a regional policy statement.

¹⁵ Regional investments are currently limited to new high-capacity transit lines. In the future, the Council, in consultation with MPAC and JPACT, could add other major investments to this definition.

MPAC recommendation

MPAC did not comment on this title.

Staff recommendation

Staff proposes that the Council repeal Title 9 and include a performance measurement in the Regional Framework Plan (see Exhibit A, policy 1.2.5).

Title 10: Functional Plan Definitions (Exhibit I)

Background

Title 10 defines terms found in the Urban Growth Management Functional Plan.

MPAC recommendation

MPAC did not comment on this title.

Staff recommendation

Staff recommends that the Council update existing definitions to conform to the UGMFP revisions contemplated in Ordinance No. 10-1244.

Title 11: Planning for New Urban Areas (Exhibit J)

Background

An MPAC subcommittee chaired by Metro Councilor Liberty has met on several occasions to propose changes to Title 11. The committee was charged with making recommendations to MPAC and the Metro Council about adding specificity to the housing planning requirements for both concept planning of urban reserves and comprehensive planning for UGB expansion areas. Revisions discussed by the committee would emphasize affordable housing in the planning for urban reserve areas both before and they are added to the UGB. The revisions would also provide greater detail for planning by requiring attention to affordable types of housing and to strategies and incentive programs to facilitate the development of affordable housing once urban reserves are added to the UGB.

MPAC recommendation

MPAC discussed this topic in detail on November 17. All but one MPAC member supported three guiding principles proposed by the committee:

1. Plans should describe the variety of different housing types that are intended for the area;
2. Plans should describe how they would address housing needs in the prospective UGB expansion area, in the prospective governing city, and the region; and
3. Plans should identify the types of housing that are likely to be built in the 20-year planning period and describe additional strategies to encourage the development of needed housing types that would otherwise not be built.

Similarly, all but one MPAC member supported the general proposition that the planning process should require local governments to consider and describe which income groups would be expected to live in the areas when added to the UGB and describe strategies that would be used to make those housing opportunities possible.

MPAC and the subcommittee did not come to consensus on how best to implement these principles, and did not recommend language to the Council.

Staff recommendation

Councilor Liberty has proposed working with staff and subcommittee members in coming days to develop alternate language, hopefully in time for Council public hearings and decision-making. The current version of the capacity ordinance includes the proposed language for reference, but should not be interpreted as an MPAC recommendation, MPAC subcommittee recommendation, or staff recommendation.

Metro Code Chapter 3.01: Urban Growth Boundary and Urban Reserves Procedures (Exhibit K)

Background

Metro Code chapter 3.01 contains UGB and reserves procedures and criteria. Though part of the Metro Code, this chapter is not part of the Urban Growth Management Functional Plan.

MPAC recommendation

MPAC did not comment.

Staff recommendation

Metro staff proposes repealing Code Chapter 3.01 and moving the Urban Growth Boundary and reserves procedures and criteria Urban Growth Management Functional Plan (new Title 14) to join other growth management tools and strategies.

Title 14: Urban Growth Boundary (Exhibit L)

Background

Exhibit K would repeal Metro Code Chapter 3.01, but some portions of that Code chapter must be moved.

MPAC recommendation

MPAC did not comment on this title.

Staff recommendation

Staff proposes that the Council move the Urban Growth Boundary and reserves procedures and criteria currently found in Metro Code Chapter 3.01 to the Urban Growth Management Functional Plan (new Title 14) to join other growth management tools and strategies. In addition, Title 14 would include an expedited process for adding large industrial sites to the UGB.

Metro Code Chapter 3.09: Local Government Boundary Changes (Exhibit N)

Background

The Oregon Legislature recently made amendments to the law concerning local boundary changes. Those legislative changes necessitate amendments to the Metro Code for conformity.

MPAC recommendation

MPAC did not comment on this proposed change.

Staff recommendation

Staff proposes revisions to Metro Code Chapter 3.09 (Local Government Boundary Changes). The revisions conform Metro's criteria and procedures for city and service district boundary changes with changes to the law recently made by the Oregon Legislature. The revisions would also require petitioners to incorporate a new city to demonstrate that the city will have the fiscal capability to provide adequate urban services.

Section 5: recommended map amendments

Staff recommends that the Metro Council make several map amendments as part of Ordinance No. 10-1244. Summaries of the proposed changes follow. The maps that would be affected by the proposed legislation include:

- 2040 Growth Concept map
- Title 4 Industrial and Other Employment Areas map
- Title 6 Central City, Regional Centers, Town Centers, and Station Communities map
- Title 14 Urban Growth Boundary map (new Functional Plan Title and map)

2040 growth concept map (Exhibit O)

Background

Initially adopted in 1995, the 2040 Growth Concept presents a vision that guides development in the region. The 2040 Growth Concept Map illustrates this regional vision through the designation of centers, corridors, employment and industrial areas and other regional transportation, parks, trails and natural area features. Though local jurisdictions determine the boundaries of their centers and corridors, changes to the location or type of Center on the map require Metro Council action. In making their determination, Council must consider consistency between the changes and adopted center and corridor policies. The August 2010 Growth Management Assessment describes how the proposed changes are consistent with existing policies.

MPAC recommendation

MPAC discussed the COO recommendation to change these centers designations at their meeting on October 13, 2010 and voted to support the changes. During the discussion, MPAC members supported a motion to have a deeper policy discussion next year about the 2040 Growth Concept that would address questions such as:

- How many centers are too many?
- Does an area that is predominately shopping/retail function as a center
- How are we doing in achieving our vision for centers?

During MPAC's final discussion of Ordinance No. 10-1244, Tri-Met's representative requested two changes to staff's proposed map:

- Retain the distinction between inner and outer neighborhoods
- Depict fixed high-capacity transit along the southwest corridor

Staff recommendation

Metro staff recommends that the Metro Council approve the center designation changes illustrated in a revised 2040 Growth Concept Map (Exhibit O to the Capacity Ordinance). These requests are to:

- Relocate the existing Town Center in Happy Valley from King Road to Sunnyside and SE 172nd Avenue, about two miles to the east.
- Change the Main Street designation in downtown Cornelius to a Town Center designation.
- Expand the existing Tanasbourne Town Center to include the adjacent AmberGlen area and change the designation from a Town Center to Regional Center.

Staff suggests that the region should have high expectations for all centers, not just those that are proposed for new designations as part of Ordinance No. 10-1244.

The revised 2040 Growth Concept Map in Exhibit O also includes some changes to the depiction of the major highways and arterials, high capacity transit lines, parks, trails, and open space in order to reflect the new Regional Transportation Plan investments, changes to Vancouver and Clark County Plans and other updates. In addition to identifying the urban growth boundary location, the 2040 Map will depict urban and rural reserves once they are adopted and acknowledged by LCDC. These changes also follow the direction given by the Council at their November 4, 2010 work session, in which the Council expressed its desire for the map to depict center boundaries more realistically.

Recommended Title 4 map amendments (Exhibit D)

Background

The Regional Framework Plan calls for a strong regional economy. To improve the regional economy, Title 4 of the Urban Growth Management Functional Plan ("Industrial and Other Employment Areas") seeks to provide and protect a supply of sites for employment by limiting the types and scale of non-industrial uses in Regionally Significant Industrial Areas (RSIAs), Industrial and Employment Areas. These areas are depicted on the Industrial and Other Employment Areas Map. Title 4 also seeks to provide the benefits of "clustering" to those industries that operate more productively and efficiently in proximity to one another than in dispersed locations. Title 4 further seeks to protect the capacity and efficiency of the region's transportation system for the movement of goods and services and to encourage the location of other types of employment in Centers, Employment Areas, Corridors, Main Streets and Station Communities. Title 4 is implemented through city and county comprehensive plans and zoning.

MPAC recommendation

In keeping with past practice regarding Title 4 map amendment requests, MPAC was not consulted on the proposed Title 4 map amendments that are found in Ordinance No. 10-1244.

Staff recommendation

Staff proposes changes to Title 4 map designations in two locations – Washington Square Regional Center and the Beavercreek concept plan area – described below:

Washington Square Regional Center

The City of Tigard has submitted a request for an amendment to the Title 4 map. Metro staff recommends that the Council amend the Title 4 map as requested by the City of Tigard. The petition is assessed in detail in Attachment 2 following the criteria found in the Metro Code. The petitioner requests that the Council amend the Employment and Industrial Areas Map to authorize changing portion of the Washington Square Regional Center from "Industrial Area" to "Employment Area" so that the Title 4 Map will be consistent with the mixed use zoning that has been in place on the properties since 2002.

The proposed amendment would apply to 39-acre site consisting of 15 properties roughly bounded by Highway 217, North Dakota Street, and the Portland & Western Railroad/WES Commuter Rail tracks. Most of the site is zoned Mixed Use Commercial (MUC) with a 5.77 acre area zoned Mixed Use Employment-2 (MUE-2.) This mixed-use zoning was adopted to implement the Washington Square Regional Center Plan in 2002. The site is almost completely developed with retail and office park uses.

Beavercreek concept plan area

Metro staff proposes that the Council amend the Employment and Industrial Areas Map to authorize a mix of uses in the city of Oregon City's Beavercreek concept Plan area. Staff reasoning for the proposal is described in detail in Attachment 3. The proposed amendment would apply to the 308 gross acres of land

(245 acres in 2002 and 63 acres in 2004) that the urban growth boundary (UGB) was expanded into (Ordinance No. 02-969B and Ordinance No. 04-1040B) and an additional 151 gross acres already in the UGB before these expansions. The expansion and additional areas are part of the Beavercreek Concept Plan area completed and adopted by the City of Oregon City Council on September 17, 2008.

The applicable criteria for this proposed amendment to the Employment and Industrial Areas Map are contained in Metro Urban Growth Management Functional Plan, section 3.07.450 G, which states that: *"The Metro Council may amend the Employment and Industrial Areas Map by ordinance at any time to make corrections in order to better achieve the policies of the Regional Framework Plan."* Metro staff proposes that the basis of the proposed change is two-fold: a) the community's proposal for how the area should be developed in order to achieve the local and regional goals; and b) the findings of the 2009 Urban Growth Report, which determined that the UGB has a surplus of general industrial capacity and a deficit of residential capacity.

Recommended Title 6 map (Exhibit F)

Background

In order for the incentive-based approach described in Title 6 to work properly, center, corridor, station community, and main street boundaries would need to be identified. Currently, several cities and counties have not officially adopted boundaries for these areas.

MPAC recommendation:

MPAC did not comment on this proposal.

Staff recommendation

To identify investment priorities and to provide local jurisdictions with a means to address Transportation Planning Rule requirements, staff proposes that the Metro Council adopt a Title 6 map, which would depict center boundaries and indicate instances where a city had officially adopted center boundaries. The proposed map also depicts centers without adopted boundaries as "conceptual centers." Proposed revisions to Title 6 would make eligible for regional investments those cities that have adopted official boundaries for their centers, corridors, station communities and main streets. Regional investments include high capacity transit lines and could in the future include other major investments designated as such in the future by the Metro Council. Designation of other investments in the future would be subject to further discussion and recommendation by MPAC (and approval by JPACT, if a transportation investment). Adopted boundaries would also help to determine eligibility for alternative mobility standards and the 30 percent trip reduction credit described in proposed Title 6.

Recommendations on Title 14 map (Exhibit M)

Background

Currently, urban growth boundary and urban reserves procedures are located in Metro Code Chapter 3.01. Staff proposes repealing Chapter 3.01 and moving its contents to a new Title 14 (Exhibit L) of the Urban Growth Management Functional Plan. This change will make it easier for local government staff and the public to find the requirements associated with the UGB and reserves. The proposed Title 14 refers to a Title 14 map, which depicts the current urban growth boundary. If the Council chooses to adopt the new Title 14, it is also necessary to adopt the map. The map would be amended in 2001 if the Council chooses to expand the UGB.

MPAC recommendation

MPAC did not comment on this proposal. MPAC will be consulted further in 2011 if UGB expansions are contemplated.

Staff recommendation

Staff proposes that the Council adopt a new Title 14 map to depict the UGB.

ATTACHMENTS

- Attachment 1: Summary of residential supply and demand scenarios within the proposed narrowed forecast range
- Attachment 2: Staff report on a proposed Title 4 map amendment in the Washington Square Regional Center
- Attachment 3: Staff report on a proposed Title 4 map amendment in the Beavercreek concept plan area

ANALYSIS/INFORMATION

1. Known Opposition

This ordinance covers a variety of topics, including Framework Plan, Functional Plan, map amendments, and growth management determinations. As such, it cannot be expected to inspire universal support. Several components of the proposed legislation have strong advocates and critics with valid concerns. Staff believes that the proposed legislation strikes a good balance that is in keeping with the region's agreed-upon vision.

2. Legal Antecedents

- Statewide Planning Goals 2 (Land Use Planning), 9 (Economic Development), 10 (Housing) and 14 (Urbanization)
- Oregon Revised Statutes 197.296, 197.299, and 197.303 (Needed Housing in Urban Growth Areas)
- Oregon Administrative Rules, Division 24 (Urban Growth Boundaries)
- Metro Regional Framework Plan, Chapter 1 (Land Use)
- Metro Urban Growth Management Functional Plan

3. Anticipated Effects

Adoption of the proposed legislation would:

- Satisfy Metro's statutory requirements related to growth management;
- Narrow the forecast range that the Council will consider as it completes its growth management decisions in 2011;
- Amend the Regional Framework Plan;
- Amend Titles 1, 4, 6, 8, 10, and 11 of the Urban Growth Management Functional Plan;
- Repeal Title 9 of the Urban Growth Management Functional Plan;
- Repeal Metro Code section 3.01;
- Add Title 14 to the Urban Growth Management Functional Plan;
- Add a Title 14 map;
- Amend Metro Code section 3.09;
- Amend the Titles 4 and 6 maps;
- Amend the 2040 Growth Concept Map, and;
- Make a great place.

4. Budget Impacts

If the UGB is ultimately expanded in 2011, Metro would incur expenses associated with staff time working on concept planning for new urban areas. The level of expense would depend on which, if any, UGB expansion areas are chosen by the Council. The level of expense would also depend on whether any concept planning has already been completed for an area as well as any complications that may arise in the course of concept planning.

Metro would also incur expenses associated with the implementation of proposed changes to the Urban Growth Management Functional Plan. These expenses are expected to be primarily associated with staff time. In some cases, these expenses are not expected to be substantially different from the costs of implementing the current version of the Functional Plan. However, in other cases, the proposed changes would require additional staff time.

RECOMMENDED ACTION

Staff recommends that the Council adopt Ordinance No. 10-1244.

Attachment 1:
Summary of residential supply and demand scenarios within the proposed narrowed forecast range

Staff analysis indicates that that policies and investment plans currently in place (including efficiency measures) will result in a 38% refill (redevelopment and infill) rate. Since refill is expressed as a share of total demand, higher points in the demand forecast range will result in additional capacity. The table below summarizes the potential gap that the Metro Council would need to address if it chooses to plan for different points in the range forecast.

Dwelling unit supply and demand scenarios at different points in the range forecast after accounting for efficiency measures (Metro HGB 2007 - 2030)

		Supply			
		MID 1/3 rd HIGH	MEDIUM	MID 1/3 rd LOW	LOW
		244,800	241,400	238,000	226,900
Demand (marginal increase)					
MID 1/3 rd HIGH	271,400	(26,600)			
MEDIUM	262,400		(21,000)		
MID 1/3 rd LOW	253,400			(15,400)	
LOW	224,000				2,900

ATTACHMENT 2

Staff Report for the Washington Square Regional Center Title 4 Map Change

Prepared by Gerry Uba (503) 797-1737

BACKGROUND INFORMATION

Petitioner: City of Tigard

Proposal: The petitioner requests that Metro amend the Employment and Industrial Areas Map to authorize changing portion of the Washington Square Regional Center from "Industrial Area" to "Employment Area" so that the Title 4 Map will be consistent with the mixed use zoning that has been in place on the properties since 2002. The proposed change is depicted in Attachment 2a.

The proposed amendment would apply to 39-acre site consisting of 15 properties roughly bounded by Highway 217, North Dakota Street, and the Portland & Western Railroad/WES Commuter Rail tracks. Most of the site is zoned Mixed Use Commercial (MUC) with a 5.77 acre area zoned Mixed Use Employment-2 (MUE-2.) This mixed use zoning was adopted to implement the Washington Square Regional Center Plan in 2002. The site is almost completely developed with retail and office park uses.

Location: The 39 acre site consists of 15 properties roughly bounded by Highway 217, North Dakota Street, and the Portland & Western Railroad/WES Commuter Rail tracks.

Application Review Criteria: Metro Code section 3.07.450.H

The petitioner's application for the proposed Title 4 Map amendment is included as Attachment 2b of this staff report.

APPLICATION REVIEW CRITERIA

The criteria for amendments to the Employment and Industrial Areas Map are contained in Metro Urban Growth Management Functional Plan, section 3.07.450 H. It states that the Metro Council may amend the Employment and Industrial Areas Map by ordinance if the Council concludes the proposed amendment meets certain criteria. Below are the criteria (**in bold**), petitioner responses to the criteria (*in italics*), and staff analysis.

ATTACHMENT 2

Criterion 1: Would not reduce the jobs capacity of the city or county below the number shown on Table 3.07-1 of Title 1 of the Urban Growth Management Functional Plan;

Petitioner Response

The proposed amendment to the Title 4 Employment and Industrial Areas Map is unlikely to reduce Tigard's jobs capacity below the number (17,801) shown on Table 3.07-1 of Title 1 of the Urban Growth Management Functional Plan. The Washington Square Regional Center Plan was intended to ensure a mix of housing, retail, and employment. The Plan estimated that new development would provide 7,443 new jobs for the portion of the Regional Center within Tigard and the unincorporated Metzger area.

Specifically, the Plan's Development and Redevelopment Opportunities Report allocated 1455 jobs to an area that roughly corresponds to Area 1. A mix of office, retail, and lodging jobs were specified. Industrial jobs were not included, likely because of their lower job per acre density.

Comprehensive Plan and Development Code amendments were adopted in 2002 to implement the Washington Square Regional Center Plan. The area in question was rezoned from Industrial Park (I-P) to Mixed Use Commercial (MUC) and Mixed Use Employment 2 (MUE-2). These zones, specifically created for the Center, allow a mix of denser employment and housing, as well as retail (subject to some restrictions.)

The job projections of the Washington Square Regional Plan were developed to help meet Tigard's target growth allocations and the job capacity of Table 3.07-1 of the Urban Growth Management Functional Plan. The City believes that the proposed amendment would not reduce job capacity, but would bring the Title 4 Map into accord with zoning that has already been implemented.

Metro Staff Analysis

The 39-acre site is part of the Washington Square Regional Center that is envisioned to increase capacity for more jobs in the City of Tigard. Metro staff concurs with the petitioner's assessment that keeping the Title 4 Industrial Area designation for the area, with the required restrictions on retail and professional services could hamper development and job creation in the Regional Center as envisioned. The proposed change to the Title 4 map would not reduce the jobs capacity for the city below the number shown on Table 3.07-1 of Title 1 of the Urban Growth Management Functional Plan.

In conclusion, Metro staff believes that the proposed change to the Title 4 map would not have the effect of reducing the jobs capacity of the City of Tigard below the number shown on Table 3.07-1 of Title 1 of the Urban Growth Management Functional Plan. This criterion is met.

ATTACHMENT 2

Criterion 2: Would not allow uses that would reduce off-peak performance on Major Roadway Routes and Roadway Connectors shown on Metro's 2004 Regional Freight System Map below standards in the Regional Transportation Plan ("RTP"), or exceed volume-to capacity ratios on Table 7 of the 1999 Oregon Highway Plan ("OHP") for state highways, unless mitigating action is taken that will restore performance to RTP and OHP standards within two years after approval of uses;

Tigard Staff Response

The Metro 2004 Regional Freight System Map facilities that are located within or border Area 1 include Highway 217 (Main Roadway Route), Scholls Ferry Road (Roadway Connector), and the Portland & Western Railway (Branch Railroad Line and Spur Track.)

The 2004 Regional Transportation Plan presumably reflected the land uses and zoning of the Washington Square Regional Center that were in place as of 2002. The Washington Square Regional Center Plan included suggested transportation upgrades, some of which appear on the on the RTP's Financially Constrained System. The Plan also called for multi-modal transportation improvements, including the recently started Westside Express Service peak-hour commuter rail.

The proposed map amendment is necessary to resolve an inconsistency between the local zone adopted through the implementation of the Washington Square Regional Center Plan and the Title 4 map. This proposed map amendment will not change the uses that are allowed on the site, thus adoption of this map amendment will not allow new uses that would reduce off-peak performance on Major Roadway Routes and Roadway Connectors shown on Metro's 2004 Regional Freight System Map below standards in the Regional Transportation Plan ("RTP"), or exceed volume-to capacity ratios on Table 7 of the 1999 Oregon Highway Plan ("OHP") for state highways.

Metro Staff Analysis

The petitioner explained that the land uses and zoning (Mixed Use Commercial and Mixed Use Employment) that was in place in 2002 when the Washington Square Regional Center Plan was adopted has not changed and that the city do not have any intention of changing the zoning as the current zoning is adequate for implementing the Washington Square Regional Center Plan. Metro staff concurs with the petitioner that since the proposed change in Title 4 designation will not allow new uses on the site, the approval of the change of the Industrial Area designation to Employment Area will not reduce off-peak performance on Major Roadway Routes and Roadway Connectors shown on Metro's 2004 Regional Freight System Map below standards in the Regional Transportation Plan, or exceed volume-to-capacity ratios on Table 7 of the 1999 State Highway Plan for state highways.

In conclusion, Metro staff believes that this criterion is met.

Criterion 3: Would not diminish the intended function of the Central City or Regional or Town Centers as the principal locations of retail, cultural and civic services in their market areas;

Tigard Staff Response

The area in question is within the boundaries of the Washington Square Regional Center, one of three designated regional centers in Washington County and one of eight in the region in Metro's 2040 Growth Concept.

ATTACHMENT 2

After completing the Washington Square Regional Center Plan, in 2002 the City rezoned the area from industrial zoning to Mixed Use Commercial (MUC) and Mixed Use Employment-2 (MUE-2). This zoning permits a wide range of uses and was designed to reinforce and encourage the Washington Square Regional Center's development of concentrated retail, cultural, and civic services to serve its market area. Keeping the Title 4 Industrial Area designation for the area, with its restrictions on retail and professional service uses, could diminish the intended function of the Regional Center. For this reason the City believes that the Title 4 Map should be amended to change the area's designation to Employment Area, which is more compatible with a Regional Center.

Metro Staff Analysis

Washington Square Regional Center has a clear boundary and development in the area will be guided by the plan adopted in 2002, recently adopted economic development policy in the updated city's Comprehensive Plan, and new development strategies the city and region may consider for the area in the future. The proposed change in the Title 4 designation for the area will assist the city to capture and retain the regional vision intended for the area, and encourage more retail, civic activities and services, and cultural services in the market area.

In conclusion, Metro staff believes that the proposed change to the Title 4 map would not have the effect of diminishing the intended function of the Washington Square Regional Center as the principal location of retail, cultural and civic services in this market area.

Criterion 4: Would not reduce the integrity or viability of a traded sector cluster of industries;

Tigard Staff Response

The 2006 Regional Business Plan identified seven traded sector clusters: (1) high-tech, (2) metals, machinery, and transportation equipment, (3) forest products, (4) food processing, (5) creative services, (6) nursery products, and (7) sporting goods and apparel.

A review of the Tigard Business License data for Area 1 revealed that traded sector clusters are minimally represented in this area. The chart below summarized the types of businesses located in Area 1.

<i>Type of Business</i>	<i># of businesses</i>
<i>Motor vehicle sales</i>	<i>2</i>
<i>Motor vehicle repair</i>	<i>1</i>
<i>Communications (cable provider)</i>	<i>1</i>
<i>Storage facility</i>	<i>1</i>
<i>Bakery (non retail)</i>	<i>1</i>
<i>Building Supplies</i>	<i>1</i>
<i>Other retail</i>	<i>3</i>
<i>Medical Technology Manufacturer</i>	<i>1</i>
<i>Electrical Goods Manufacturer</i>	<i>1</i>
<i>Church</i>	<i>1</i>
<i>State Government Offices</i>	<i>1</i>

ATTACHMENT 2

While the seven traded sector clusters are currently minimally represented in the area, the Mixed Use Employment-2 (MUE-2) and Mixed Use Commercial (MUC) zoning classifications would permit many of these kinds of businesses, subject to some restrictions (See Appendix B for more information on zoning.)

The area south of North Dakota Street (Area 2 on Map A) is zoned Industrial Park (I-P). According to Tigard Business License data there appears to be at least one identified traded sector company located in Area 2. The City believes that the "Industrial Area" designation is appropriate for these properties, which are outside the Washington Square Regional Center boundaries.

Traded sector clusters appear to be minimally represented in the area in question. As stated previously the proposal is unlikely to affect the freight routes that serve traded sector clusters in the region. Staff believes the proposed amendment will not reduce the integrity or viability of a traded sector cluster of industries.

Metro Staff Analysis

Traded-sector industries are those in which member firms sell their goods or services into markets for which national or international competition exists. Firms in these sectors are important to the regional economy since they bring wealth into the region by exporting goods or services. The petitioner indicated that the traded sector cluster of industries is minimally represented in this area. The petitioner also indicated that its research shows that they appear to be at least one identified traded sector company in the area. Metro staff agrees with the petitioner that the current zoning presents an opportunity for increasing traded sector clusters in the area.

In conclusion, Metro staff believes that the proposed change in Title 4 area in the Washington Square Regional Center would not reduce the integrity or viability of a traded sector cluster of industries.

Criterion 5: Would not create or worsen a significant imbalance between jobs and housing in a regional market area.

Tigard Staff Response

The City of Tigard as a whole has a job/household ratio of 2.03 (about 2 jobs for every household) compared to a ratio of 1.22 for Washington County as a whole (2004 data.)

While this is a healthy jobs/household ratio, the City recognizes that many employees must commute into Tigard and many residents must commute to jobs outside of the City.

One intention of the Washington Square Regional Center Plan was to improve the balance between jobs and housing in the South Washington County market. The Plan estimated 7,443 new jobs and 1,871 residential units for the portion of the Regional Center within Tigard (and a section of the unincorporated Metzger area.) The mixed use zoning allows high density housing in proximity to the major regional retail center of Washington Square Mall, and office complexes at Lincoln Center and the Nimbus area. The MUC zone has a minimum density of 50 units/acre and no maximum density, and MUE-2 has a minimum density of 25 units/acre and a maximum of 50 units/acre. While only a limited number of housing units have been built to date in the Regional Center, the capacity for

ATTACHMENT 2

housing exists. The zoning provides the Center the potential to develop into a place where people can "live, work, and play."

Metro Staff Analysis

The general location of the site in the Washington Square Regional Center and the current city zoning makes it one of the most suitable places in the region to transform suburban type of development into a vibrant community with jobs, housing, and urban amenities such as shopping, entertainment and services. Staff believes that the promising job-housing balance of the city will get better as the right partnerships and policies are created to improve the area's transportation infrastructure, build mixed use development that includes housing, and create more jobs.

In conclusion, Metro staff believes that the proposed change to the Title 4 map would not create or worsen a significant imbalance between jobs and housing in the City of Tigard area sub-regional market.

Criterion 6: If the subject property is designated Regionally Significant Industrial Area, would not remove from that designation land that is especially suitable for industrial use due to the availability of specialized services, such as redundant electrical power or industrial gases, or due to proximity to freight transport facilities, such as trans-shipment facilities.

Tigard Staff Response

This is not applicable; the subject properties are designated Industrial Area, not Regionally Significant Industrial Area.

Metro Staff Analysis

No portion of the 39-acre site is designated as Regionally Significant Industrial Area.

In conclusion, this criterion does not apply to the proposed Title 4 Map amendment.

ANALYSIS/INFORMATION

Known Opposition [identify known opposition to the proposed legislation]

There is no known opposition.

Legal Antecedents [identify legislation related to the proposed legislation, including federal, state, or local law and Metro Code, using appropriate resolution or ordinance numbers, ballot measure numbers, etc.]

Statewide Planning Goals 2 (Land Use Planning) and 9 (Economic Development); Metro Code section 3.07.450 (Employment and Industrial Areas Map).

ATTACHMENT 2

Anticipated Effects [identify what is expected to occur if the legislation is adopted]

Proposed changes to the City of Tigard zoning map and comprehensive plan map would become effective, allowing additional commercial uses in the Washington Square Regional Center.

Budget Impacts [identify the cost to implement the legislation]

There is no significant budget impact. Implementation would consist of updating the Employment and Industrial Areas Map.

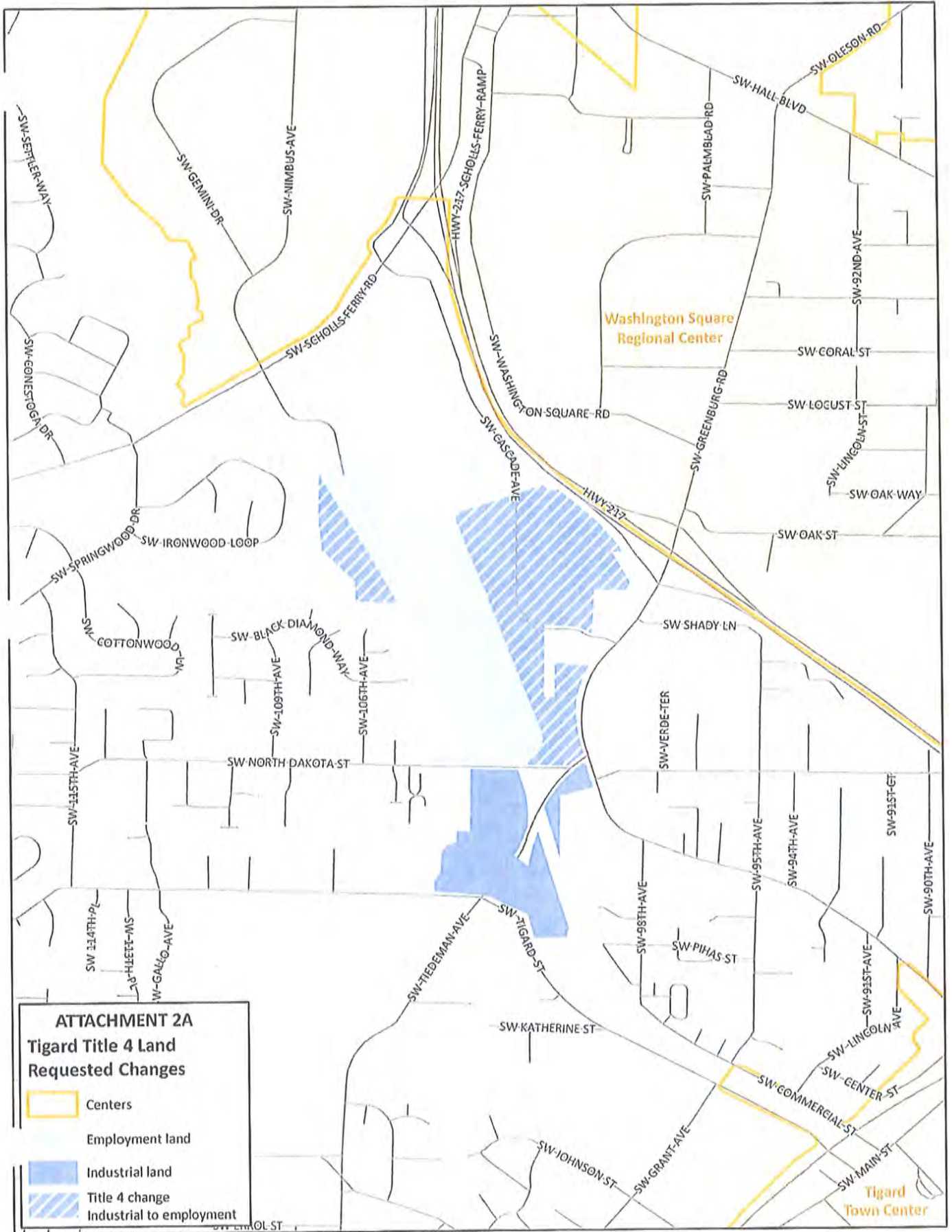
RECOMMENDED ACTION

The petitioner requests the amendment of the Title 4 Employment and Industrial Areas Map. Metro Staff believes that the petitioner has provided sufficient evidence to demonstrate that the criteria are satisfied.

Staff recommends, therefore, that the Metro Council approve this ordinance.

ATTACHMENTS

Attachment 2a	(map of the proposed Title 4 map amendment)
Attachment 2b	(city's application)



Attachment 2b

City of Tigard, Oregon • 13125 SW Hall Blvd. • Tigard, OR 97223



February 20, 2009

Christina Deffebach, Manager, Long Range Planning
Metro
600 NE Grand Avenue
Portland, OR 97232

Dear Ms. Deffebach,

This letter is in regard to the City of Tigard's compliance with Title 4 (Industrial and Other Employment Areas) of Metro's Urban Growth Management Functional Plan. The City has taken a number of steps to comply with Title 4, including adopting two Economic Development policies in its updated Comprehensive Plan stating its intention to implement the Title 4 map designations. However, there is an outstanding issue that the City would like resolved prior to incorporating the Title 4 map and associated restrictions into its Development Code.

We are requesting an Amendment to the Title 4 Employment and Industrial Areas Map under Metro Urban Growth Management Functional Plan section 3.07.450 H. The City is requesting that the designation for a 39-acre area of the Washington Square Regional Center ("Area 1" on Map A) be changed from "Industrial Area" to "Employment Area." City staff believes that this proposed amendment will remove an existing inconsistency that will make the Title 4 Map more accurate. Applying the Industrial Area restrictions to this area would not be in accordance with the envisioned character detailed in the Washington Square Regional Center Plan and implemented in the zoning which has been in place for the past six years.

Please see the attached memo, dated February 18, 2009, for the City's detailed response to the criteria of 3.07.450 H.

Thank you for your attention to this matter. If you have any other questions please call me at 503-718-2443.

Sincerely,

A handwritten signature in cursive script that reads "Ron Bunch".

Ron Bunch
Community Development Director

Attachment 2b



MEMORANDUM

TO: Ron Bunch, Community Development Director

FROM: Sean Farrelly, Associate Planner

RE: Proposed Amendment to the Title 4 Employment and Industrial Areas Map

DATE: February 18, 2009

Background:

The City of Tigard is requesting an amendment to the Employment and Industrial Areas Map in Title 4 ("Industrial and Other Employment Areas") of Metro's Urban Growth Management Functional Plan. The City is requesting that the designation for a 39-acre area of the Washington Square Regional Center ("Area 1" on Map A) be changed from "Industrial Area" to "Employment Area." Making this change would make the Title 4 Map consistent with the mixed use zoning that has been in place on the properties since 2002.

The 39-acre area in question consists of 15 properties roughly bounded by Highway 217, North Dakota Street, and the Portland & Western Railroad/WES Commuter Rail tracks. The area is almost completely developed with retail and office park uses. One 1.34 acre property and another small portion of a developed property are on the Tigard Buildable Lands Inventory. The 5.77 acre property that lies to the west of the other properties is vacant, however it does not appear on the Tigard Buildable Lands Inventory, because of its wetland status.

Most of the area is zoned Mixed Use Commercial (MUC) with a 5.77 acre area zoned Mixed Use Employment-2 (MUE-2.) This mixed use zoning was adopted to implement the Washington Square Regional Center Plan in 2002.

The zone description of the Mixed Use Commercial (MUC) District in the Tigard Development Code is:

The MUC zoning district includes land around the Washington Square Mall and land immediately west of Highway 217. Primary uses permitted include office buildings, retail, and service uses. Also permitted are mixed-use developments and housing at densities of 50 units per

Attachment 2b

acre. Larger buildings are encouraged in this area with parking under, behind or to the sides of buildings.

The MUC zone, permits some General Retail uses. Sales Oriented and Personal Services are permitted outright, other retail uses are limited to under 60,000 gross leasable area per building.

The zone description of the Mixed Employment Districts in Tigard Development Code is:

The MUE-1 and 2 zoning district is designed to apply to areas where employment uses such as office, research and development and light manufacturing are concentrated. Commercial and retail support uses are allowed but are limited, and residential uses are permitted which are compatible with employment character of the area. Lincoln Center is an example of an area designated MUE-1, the high density mixed use employment district. The Nimbus area is an example of an area designated MUE-2 requiring more moderate densities.

The MUE-2 zone restricts retail uses to under 60,000 gross leasable area per building. Light Industrial, Research and Development, Warehouse/Freight Movement, and Wholesale Sales are permitted as long as all activities associated with these uses, except employee and customer parking, are contained within buildings.

Proposed Title 4 Map Amendment

Section 3.07.430.A of the Urban Growth Management Functional Plan states that for properties designated as Industrial Areas, jurisdictions take measures-
"to limit new buildings for retail commercial uses—such as stores and restaurants—and retail and professional services that cater to daily customers—such as financial, insurance, real estate, legal, medical and dental offices—in order to ensure that they serve primarily the needs of workers in the area. One such measure shall be that new buildings for stores, branches, agencies or other outlets for these retail uses and services shall not occupy more than 5,000 square feet of sales or service area in a single outlet, or multiple outlets that occupy more than 20,000 square feet of sales or service area in a single building or in multiple buildings that are part of the same development project..."

The City believes that applying such restrictions to this section of the Washington Square Regional Center would not be in accordance with the area's envisioned character, which is detailed in the Washington Square Regional Center Plan (Attachment A) and not in keeping with the present zoning (adopted in 2002.) "Employment Area" is a more appropriate designation.

Once the Map is amended by designating the properties "Employment Area", the City will be able to make the Comprehensive Plan and Development Code amendments necessary to adopt the Employment and Industrial Areas Map and its requirements. Tigard's recently updated Comprehensive Plan contains an Economic Development Policy which signals its intent to do this. Economic Development Policy 9.1.7 states "The City shall limit the development of retail and service land

Attachment 2b

uses in Metro-designated industrial areas to preserve the potential of these lands for industrial jobs.”

Amendment Review Criteria:

The criteria for an amendment to the Employment and Industrial Areas Map are found in Metro Urban Growth Management Functional Plan section 3.07.450 H. It states that the Metro Council may amend the Employment and Industrial Areas Map by ordinance if the Council concludes the proposed amendment meets certain criteria.

The following is the criteria (in *italics*) from Metro Code 3.07.450.H followed by Tigard staff response.

1. Would not reduce the jobs capacity of the city or county below the number shown on Table 3.07-1 of Title 1 of the Urban Growth Management Functional Plan;

Tigard Staff Response

The proposed amendment to the Title 4 Employment and Industrial Areas Map is unlikely to reduce Tigard’s jobs capacity below the number (17,801) shown on Table 3.07-1 of Title 1 of the Urban Growth Management Functional Plan. The Washington Square Regional Center Plan was intended to ensure a mix of housing, retail, and employment. The Plan estimated that new development would provide 7,443 new jobs for the portion of the Regional Center within Tigard and the unincorporated Metzger area.

Specifically, the Plan’s Development and Redevelopment Opportunities Report allocated 1455 jobs to an area that roughly corresponds to Area 1. A mix of office, retail, and lodging jobs were specified. Industrial jobs were not included, likely because of their lower job per acre density.

Comprehensive Plan and Development Code amendments were adopted in 2002 to implement the Washington Square Regional Center Plan. The area in question was rezoned from Industrial Park (I-P) to Mixed Use Commercial (MUC) and Mixed Use Employment 2 (MUE-2). These zones, specifically created for the Center, allow a mix of denser employment and housing, as well as retail (subject to some restrictions.)

The job projections of the Washington Square Regional Plan were developed to help meet Tigard’s target growth allocations and the job capacity of Table 3.07-1 of the Urban Growth Management Functional Plan. The City believes that the proposed amendment would not reduce job capacity, but would bring the Title 4 Map into accord with zoning that has already been implemented.

Attachment 2b

2. Would not allow uses that would reduce off-peak performance on Major Roadway Routes and Roadway Connectors shown on Metro's 2004 Regional Freight System Map below standards in the Regional Transportation Plan ("RTP"), or exceed volume-to capacity ratios on Table 7 of the 1999 Oregon Highway Plan ("OHP") for state highways, unless mitigating action is taken that will restore performance to RTP and OHP standards within two years after approval of uses;

Tigard Staff Response

The Metro 2004 Regional Freight System Map facilities that are located within or border Area 1 include Highway 217 (Main Roadway Route), Scholls Ferry Road (Roadway Connector), and the Portland & Western Railway (Branch Railroad Line and Spur Track.)

The 2004 Regional Transportation Plan presumably reflected the land uses and zoning of the Washington Square Regional Center that were in place as of 2002. The Washington Square Regional Center Plan included suggested transportation upgrades, some of which appear on the on the RTP's Financially Constrained System. The Plan also called for multi-modal transportation improvements, including the recently started Westside Express Service peak-hour commuter rail.

The proposed map amendment is necessary to resolve an inconsistency between the local zone adopted through the implementation of the Washington Square Regional Center Plan and the Title 4 map. This proposed map amendment will not change the uses that are allowed on the site, thus adoption of this map amendment will not allow new uses that would reduce off-peak performance on Major Roadway Routes and Roadway Connectors shown on Metro's 2004 Regional Freight System Map below standards in the Regional Transportation Plan ("RTP"), or exceed volume-to capacity ratios on Table 7 of the 1999 Oregon Highway Plan ("OHP") for state highways.

3. Would not diminish the intended function of the Central City or Regional or Town Centers as the principal locations of retail, cultural and civic services in their market areas;

Tigard Staff Response

The area in question is within the boundaries of the Washington Square Regional Center, one of three designated regional centers in Washington County and one of eight in the region in Metro's 2040 Growth Concept.

After completing the Washington Square Regional Center Plan, in 2002 the City rezoned the area from industrial zoning to Mixed Use Commercial (MUC) and Mixed Use Employment-2 (MUE-2). This zoning permits a wide range of uses and was designed to reinforce and encourage the Washington Square Regional Center's development of concentrated retail, cultural, and civic services to serve its market area. Keeping the Title 4 Industrial Area designation for the area, with its restrictions on retail and professional service uses, could diminish the intended function of the

Attachment 2b

Regional Center. For this reason the City believes that the Title 4 Map should be amended to change the area's designation to Employment Area, which is more compatible with a Regional Center.

4. Would not reduce the integrity or viability of a traded sector cluster of industries;

Tigard Staff Response

The 2006 Regional Business Plan identified seven traded sector clusters: (1) high-tech, (2) metals, machinery, and transportation equipment, (3) forest products, (4) food processing, (5) creative services, (6) nursery products, and (7) sporting goods and apparel.

A review of the Tigard Business License data for Area 1 revealed that traded sector clusters are minimally represented in this area. The chart below summarized the types of businesses located in Area 1.

Type of Business	# of businesses
Motor vehicle sales	2
Motor vehicle repair	1
Communications (cable provider)	1
Storage facility	1
Bakery (non retail)	1
Building Supplies	1
Other retail	3
Medical Technology Manufacturer	1
Electrical Goods Manufacturer	1
Church	1
State Government Offices	1

While the seven traded sector clusters are currently minimally represented in the area, the Mixed Use Employment-2 (MUE-2) and Mixed Use Commercial (MUC) zoning classifications would permit many of these kinds of businesses, subject to some restrictions (See Appendix B for more information on zoning.)

The area south of North Dakota Street (Area 2 on Map A) is zoned Industrial Park (I-P). According to Tigard Business License data there appears to be at least one identified traded sector company located in Area 2. The City believes that the "Industrial Area" designation is appropriate for these properties, which are outside the Washington Square Regional Center boundaries.

Traded sector clusters appear to be minimally represented in the area in question. As stated previously the proposal is unlikely to affect the freight routes that serve traded

Attachment 2b

sector clusters in the region. Staff believes the proposed amendment will not reduce the integrity or viability of a traded sector cluster of industries.

5. Would not create or worsen a significant imbalance between jobs and housing in a regional market area.

Tigard Staff Response

The City of Tigard as a whole has a job/household ratio of 2.03 (about 2 jobs for every household) compared to a ratio of 1.22 for Washington County as a whole (2004 data.)

While this is a healthy jobs/household ratio, the City recognizes that many employees must commute into Tigard and many residents must commute to jobs outside of the City.

One intention of the Washington Square Regional Center Plan was to improve the balance between jobs and housing in the South Washington County market. The Plan estimated 7,443 new jobs and 1,871 residential units for the portion of the Regional Center within Tigard (and a section of the unincorporated Metzger area.) The mixed use zoning allows high density housing in proximity to the major regional retail center of Washington Square Mall, and office complexes at Lincoln Center and the Nimbus area. The MUC zone has a minimum density of 50 units/acre and no maximum density, and MUE-2 has a minimum density of 25 units/acre and a maximum of 50 units/acre. While only a limited number of housing units have been built to date in the Regional Center, the capacity for housing exists. The zoning provides the Center the potential to develop into a place where people can "live, work, and play."

6. If the subject property is designated Regionally Significant Industrial Area, would not remove from that designation land that is especially suitable for industrial use due to the availability of specialized services, such as redundant electrical power or industrial gases, or due to proximity to freight transport facilities, such as trans-shipment facilities.

Tigard Staff Response

This is not applicable; the subject properties are designated Industrial Area, not Regionally Significant Industrial Area.

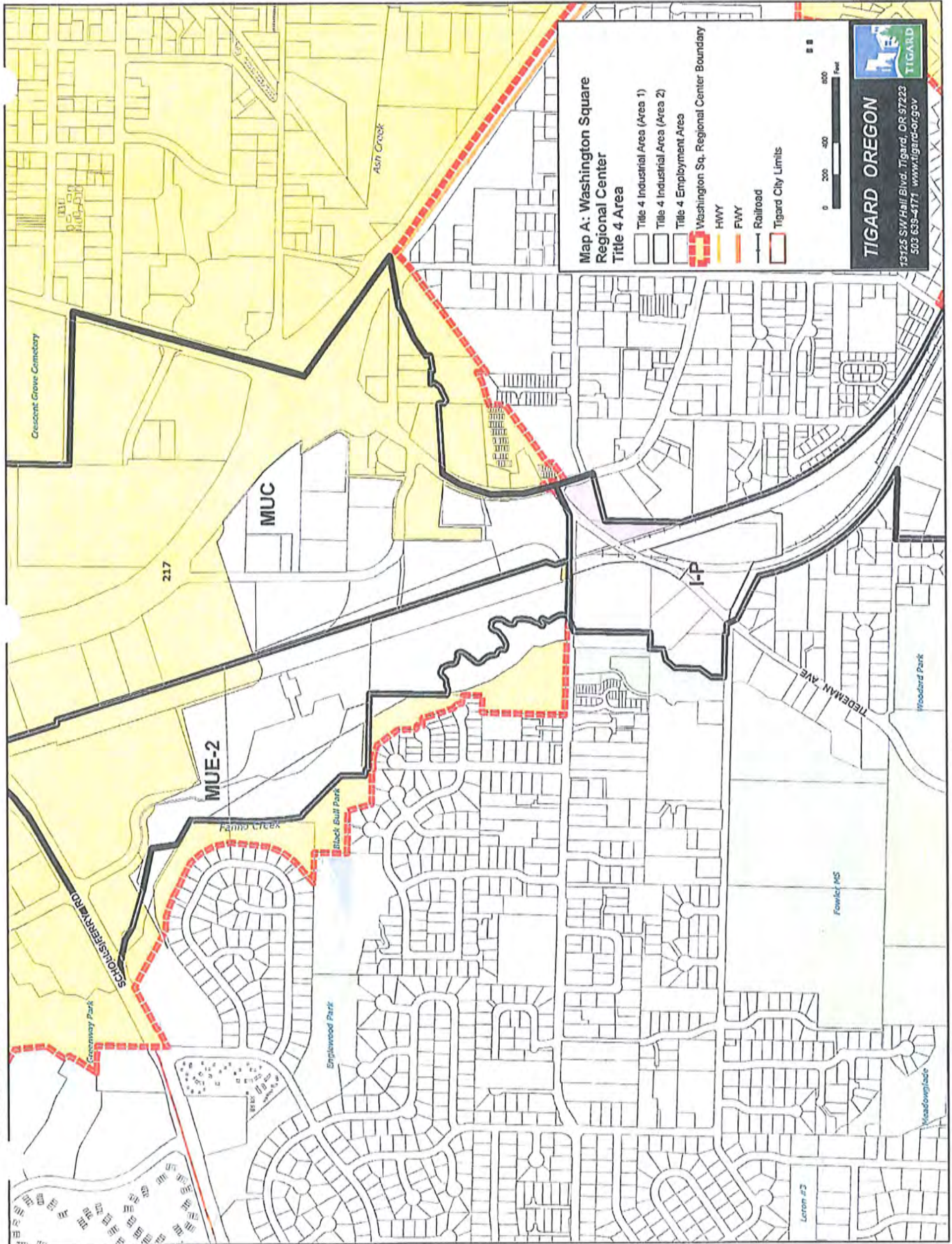
Conclusion:

City staff believes that this proposed amendment will remove an existing inconsistency that will make the Title 4 Map more accurate. Applying the Industrial Area restrictions to this area would not be in accordance with the envisioned character detailed in the Washington Square Regional Center Plan and implemented in the zoning which has been in place for the past six years.

Attachment 2b

Employment Area is a more appropriate designation for the 39-acre area in question (Area 1). The area directly borders a 21.4 acre designated Employment Area (Area 3 on Map A.) The designation as part of a Regional Center, its current zoning, and the existing development in Area 1 is more in line with an Employment Area than an Industrial Area.

Attachment 2b



Attachment 3

Staff Report for the Beavercreek concept plan area Title 4 Map change

Prepared by: Gerry Uba (503) 797-1737

BACKGROUND INFORMATION

Petitioner: Metro

Proposal: Metro intends to amend the Employment and Industrial Areas Map to authorize a mix of uses in the city of Oregon City's Beavercreek concept Plan area.

The proposed amendment would apply to the 308 gross acres of land (245 acres in 2002 and 63 acres in 2004) that the urban growth boundary (UGB) was expanded into (Ordinance No. 02-969B and Ordinance No. 04-1040B) and an additional 151 gross acres already in the UGB before these expansions. The expansion and additional areas are part of the Beavercreek Concept Plan area completed and adopted by the City of Oregon City Council on September 17, 2008.

Location: The 459 gross acres site consists of 57 tax lots or properties (based on Metro's 2010 Regional Land Information System).

Application Review Criteria

The criteria for amendments to the Employment and Industrial Areas Map is contained in Metro Urban Growth Management Functional Plan, section 3.07.450 G. It states that:

"The Metro Council may amend the Employment and Industrial Areas Map by ordinance at any time to make corrections in order to better achieve the policies of the Regional Framework Plan."

Metro Staff Analysis

As a background, Metro's 2002-2022 Urban Growth Report: Employment Land Need Analysis identified a demand for 4,285 net acres of industrial land, and Metro Council's December 2002 regional capacity decision included roughly half of the industrial land need (818 net acres of industrial land and 1,499 net acres of Regionally Significant Industrial Land). Thus, within the 2002 UGB expansion there was 1,968 net acres of industrial land need. In 2004, adjustments were made on the commercial refill rate, Cities of Wilsonville and Oregon City industrial zones, and City of Gresham's Springwater industrial land, and the result was the reduction of industrial land need to 1,180 net acres. The Metro Council expanded the UGB in 2004 by adding 1,047 gross acres of land to satisfy the need for industrial land over the next 20 years. The Council completed the fulfillment of employment capacity by adding 876 gross acres of industrial land by Ordinance No. 05-1070A in 2005.

Metro's broad expectation for urbanization of these areas was set in Title 11 of the Urban Growth Management Functional Plan. The purpose of this title is to ensure that areas brought into the UGB are urbanized efficiently and become or contribute to mixed-use, walkable, transit-friendly communities, and to provide interim protection of the new areas until the city and county likely to provide governance or urban service for the area amends their land use regulations to allow urbanization become applicable to the areas. Title 11 requires city and county, in conjunction with Metro and appropriate service districts,

Attachment 3

to develop and adopt a concept plan for the area. The concept planning process created an opportunity for the city to provide governance or urban service for the area and comply with the requirements of Metro's Title 11.

Beavercreek Concept Plan

Oregon City initiated the Beavercreek Concept Plan process in spring of 2006 to ensure that the 308 gross acres brought into the UGB (245 acres in 2002 and 63 acres in 2004) provide needed employment capacity, are urbanized efficiently in a way that reasonably provides public facilities and services, offers transportation and housing choices, supports economic development and protects natural resources. The total land area included in the concept plan area was 459 gross acres. Attachment 3a shows the Title 4 map of the area before the Beavercreek Concept Plan process was started.

The Concept Plan was developed by a Citizen Advisory Committee and Technical Advisory Committee that met between June 2006 and July 2007. Metro participated in the concept planning process, including membership on the Technical Advisory Committee. In addition, the city conducted study area tours, market focus group, sustainability focus group, public open houses, and community design workshop.

The concept plan provided explanation of the existing condition of the area, including the detailed natural resources, infrastructure, transportation system, buildable land, demographics, market, employment and industrial land analysis that formed the factual basis for determining trends in the area and developing future land use policies and strategies for the area. In addition, the concept plan provided land for the need identified with the various rigorous analyses conducted for the area, including the need to provide for mix of uses that will contribute to family-wage jobs and general economic welfare of the city and improve the region's economic conditions. The city's planning commission report stated that the final product "is a reflection of the needs, desires, attitudes and conditions of the community and represents the vision, direction and improvements that are necessary to accommodate the changing demographics and economics of the community."

Metro staff reviewed the proposed Beavercreek Concept Plan comprehensive plan amendment and Metro compliance findings, and sent comment to Mayor Alice Norris on March 19, 2008 (Attachment 3b), after concluding that the proposal, if adopted by the city council, would comply with the requirements of Title 11 of the Urban Growth Management Functional Plan. On September 17, 2008, the Oregon City Council adopted the Beavercreek Concept Plan as an ancillary document to the city's Comprehensive Plan with the provision that the ancillary document would become effective until February 1, 2009 or upon adoption of zoning regulations implementing the plan amendments, whichever comes first. Attachment 3c shows the Title 4 map of the area after the Beavercreek Concept Plan was adopted.

Changes to Employment and Industrial land inside the Beavercreek Concept Plan Area

Proposed changes to the employment and industrial area inside the Beavercreek Concept Plan area is regulated by Title 4 of the Urban Growth Management Functional Plan, under section 3.07.450 G, which states that the Council may amend the Employment and Industrial Areas Map "...at any time to make corrections in order to better achieve the policies of the Regional Framework Plan."

The basis of the proposed change is two-fold: a) the community's proposal for how the area should be developed in order to achieve the local and regional goals; and b) the findings of the 2009 Urban Growth Report (Employment).

Attachment 3

During the Beavercreek concept planning process, the city addressed economic opportunities and activities vital for the city and the region, and worked with consultant EcoNorthwest to inventory and analyze local and regional market conditions within and adjacent to the area. The inventory included profile of industrial, commercial and office land supply and local employment, and the potential for industrial and commercial development within the area. The consultant analysis concluded "that under the right conditions it is not unreasonable to expect 150 net acres of industrial and business park development to build out on the site over a 20-year period. Thus, the Beavercreek Concept Plan provided 53% (156 net acres) of total net acreage of the area (292 net acres) for employment and industrial land. Attachment 3d shows the proposed changes to the Title 4 map, indicating that 151 gross acres of industrial land is still available in the concept plan area. The 151 gross acres will supply approximately 121 net acres which was Metro's expectation, as stated in a letter that Metro Council President sent to the Board of Directors for the Hamlet of Beavercreek and the City on May 14, 2007 (Attachment 3e).

Reflecting changes in employment needs and demands between the 2002 UGR (Employment) and the 2009 UGR (Employment, Metro's 2009 assessment found there is adequate capacity inside the current UGB to accommodate the next 20 years of general employment and general industrial job growth even at the high end of the employment forecast range. This proposed change to the Title 4 Employment and Industrial Areas map will conform the map to the updated information about employment needs in the 2009 UGR (Employment). The change will also respond to the identification of a need for residential capacity in the 2009 UGR (Residential) by increasing the residential capacity of the Beavercreek planning area by 36 dwelling units above the level expected at the time the Metro Council added the areas to the UGB.

ANALYSIS/INFORMATION

Known Opposition

There is no known opposition. However, it is important to state here that a city resident, Elizabeth Grazer-Lindsey, challenged the consistency of the Beavercreek Concept Plan with Metro's regional planning goals for the area that the Metro Council included in the UGB in 2002 and 2004, and appealed to the Oregon Land Use Board of Appeals.

Legal Antecedents

Statewide Planning Goal 2 (Land Use Planning); Metro Code section 3.07.450 (Employment and Industrial Areas Map).

Anticipated Effects

Proposed changes to the Title 4 map area in the City of Oregon City will make it possible for the area to be urbanized efficiently and contribute the livability in the city, county and the region, consistent with local

Attachment 3

aspirations. The change will also increase residential capacity by shifting some unneeded employment capacity to needed residential capacity, as determined by the 2009 UGR.

Budget Impacts

There is no significant budget impact. Implementation would consist of updating the Employment and Industrial Areas Map.

RECOMMENDED ACTION

Metro Staff believes that the changes to the Title 4 map area will not have any impact on the supply of industrial land. Staff recommends, therefore, that the Metro Council approve this ordinance.

ATTACHMENTS

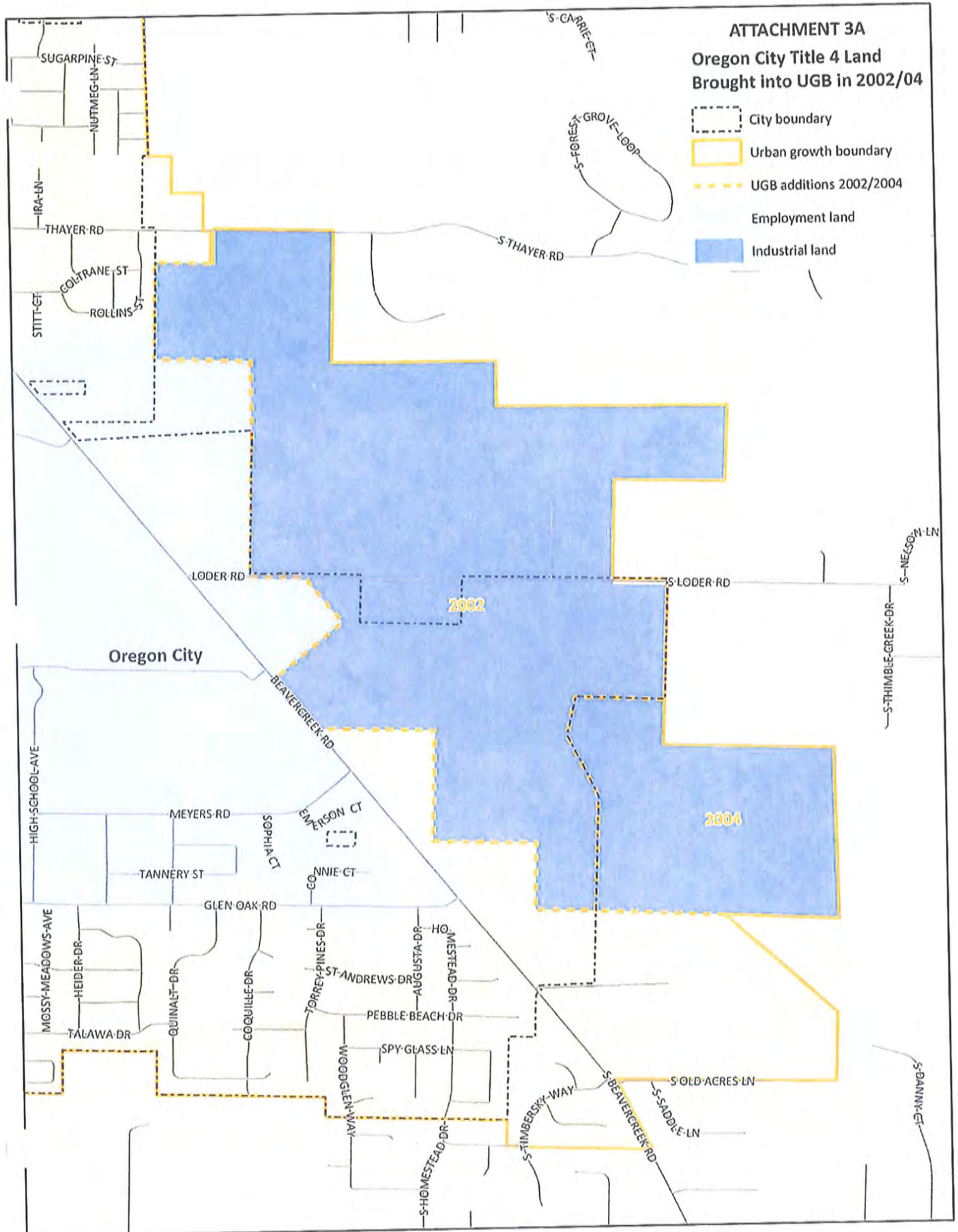
Attachment 3a (map of the area before the Beaver Creek Concept Plan was started)

Attachment 3b (Metro staff (Ray Valone) letter to Mayor Alice Norris and City Commissioners)

Attachment 3c (map of the Beaver Creek Concept Plan area)

Attachment 3d (map of the area after the Beaver Creek Concept Plan was completed)

Attachment 3e (Metro Council President (David Bragdon) letter to the Board of Directors for the Hamlet of Beaver Creek and the City)



600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736
TEL 503 797 1700 | FAX 503 797 1797

ATTACHMENT 3B



METRO

March 19, 2008

Mayor Alice Norris and City Commissioners
City of Oregon City
320 Warner-Milne Road
Oregon City, OR 97045

RE: File L 07-02, Beavercreek Road Concept Plan

Dear Mayor Norris and Commissioners:

Thank you for the opportunity to review and comment on the proposed Beavercreek Road Concept Plan comprehensive plan amendment that will begin the process leading to urbanization of the expansion area brought into the UGB in 2002 and 2004. Please enter this letter into the hearing record.

After review of the final recommended concept plan and Metro compliance findings, as detailed by Tony Konkol in his March 8, 2008, memo to the Commission, Metro staff concludes that the proposal, if adopted, would comply with the intent of Metro Ordinance No. 02-969B, Ordinance No. 04-1040B and the Urban Growth Management Functional Plan. As you know, the two Metro ordinances brought the Beavercreek Road site into the UGB in December 2002 and June 2004, respectively. Title 11 of the Functional Plan requires the City to consider and adopt certain provisions to guide urbanization of new urban areas.

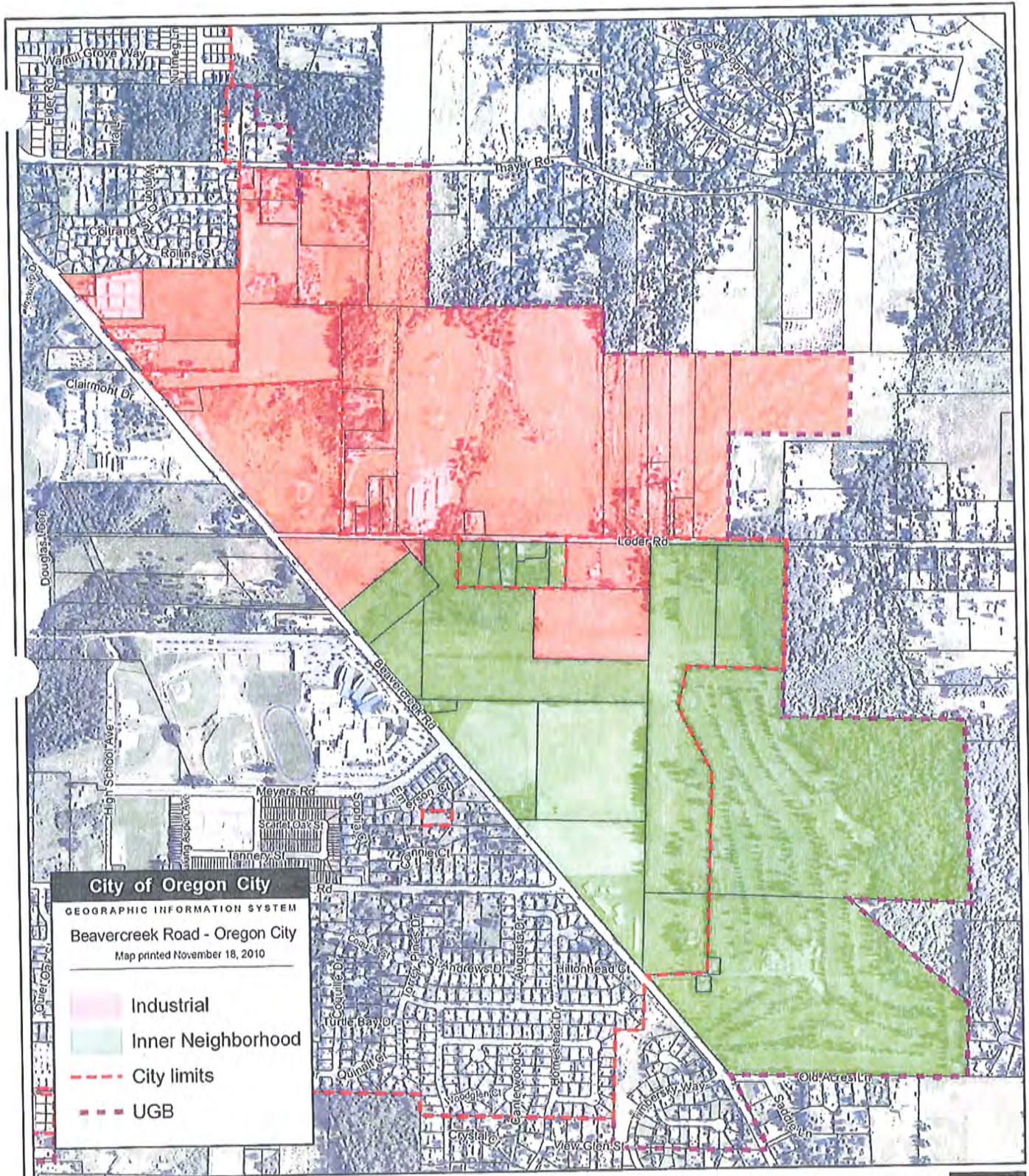
The adoption of the recommended concept plan by the City at this time sets the context for urbanizing the Beavercreek Road site. The plan and accompanying language seem consistent with Metro policies and regulations. Metro reserves the right, however, to review the future implementation measures, as they come before the Commission, before determining compliance with the two ordinances and Title 11.

As a participant on the Beavercreek Road Technical Advisory Committee and attendee of the public open houses during the development of the concept plan, I commend City staff and the consultant team for conducting a thorough process in working with the Citizen Advisory Committee and other stakeholders. While the 2002 and 2004 UGB area was originally designated for job use to support the City's needs, Metro realizes that modifications during local government planning are part of the refinement process. We also appreciate the flexibility shown by all parties in achieving a compromise plan that includes housing and retail services along with a substantial job base.

Sincerely,

Ray Valone
Principal Planner

cc: Dan Drentlaw
Tony Konkol
Darren Nichols, DLCD
David Bragdon, Metro Council President
Carlotta Collette, Metro Council District #2
Michael Jordan, Metro COO



The City of Oregon City makes no representations, express or implied, as to the accuracy, completeness and timeliness of the information displayed on this map is not suitable for legal, engineering, or surveying purposes. Notification of any errors is appreciated.



0 500 1,000 1,500 2,000 2,500 Feet

ATTACHMENT 3C

City of Oregon City
P.O. Box 3040
625 Center St
Oregon City, OR 97045
503-657-0891 phone
503-657-6629 fax
www.orcity.org









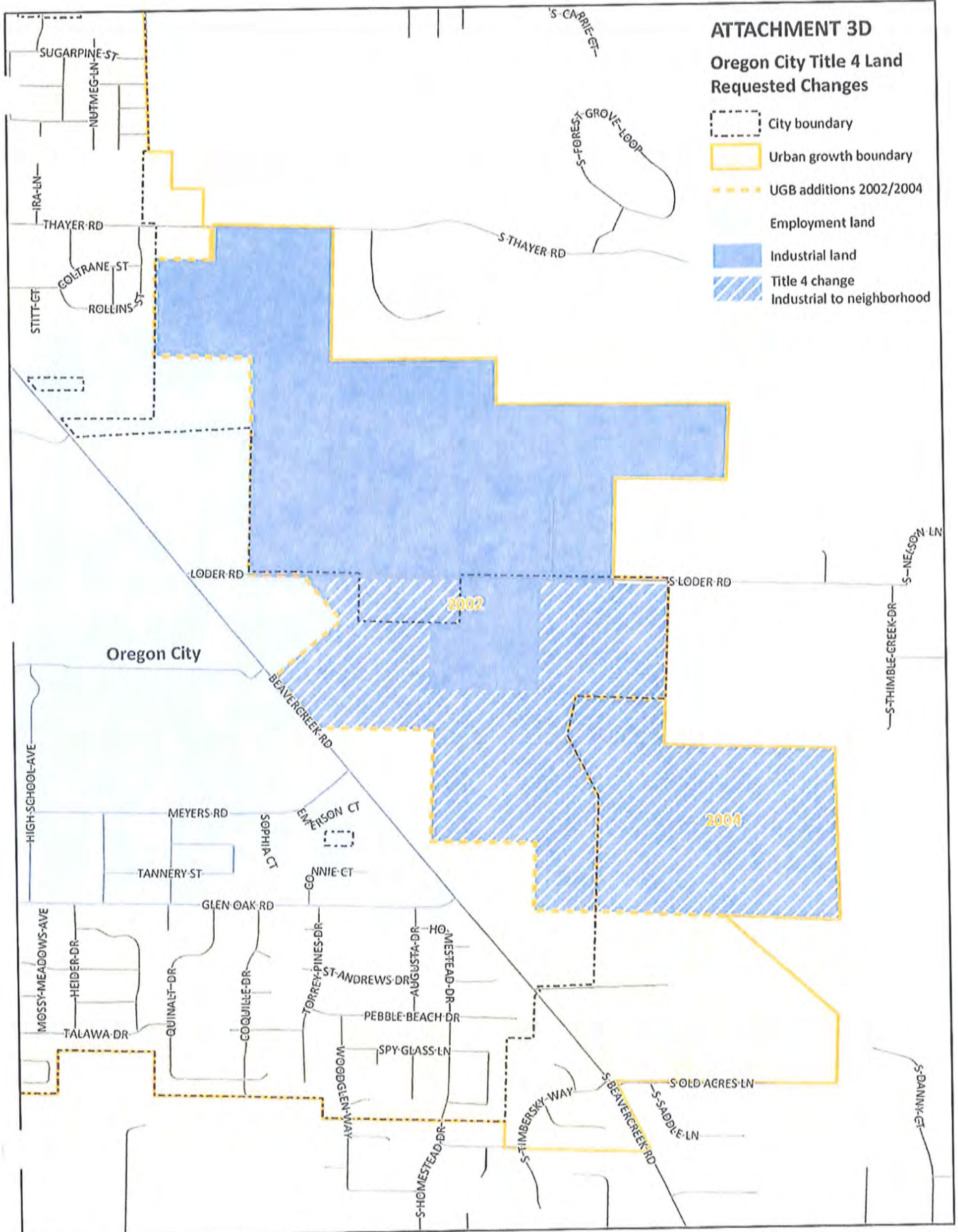
Please recycle with colored office grade paper.

Plot date: November 18, 2010
Plot name: Proposed 2040 Growth Concept Map - Scenario 1 - 6_5x11PJ - 20101118.pdf
Map name: Proposed 2040 Growth Concept Map - Scenario 1 - 6_5x11PJ.mxd

ATTACHMENT 3D

Oregon City Title 4 Land Requested Changes

-  City boundary
-  Urban growth boundary
-  UGB additions 2002/2004
-  Employment land
-  Industrial land
-  Title 4 change
Industrial to neighborhood



ATTACHMENT 3E



METRO

600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736
TEL 503 797 1889 | FAX 503 797 1793

COUNCIL PRESIDENT DAVID BRAGDON

May 14, 2007

Bill Merchant
Chair, Board of Directors for the Hamlet of Beavercreek

Elizabeth Graser-Lindsey
Speaker and Corresponding Secretary, Board of Directors for the Hamlet of Beavercreek
The Hamlet of Beavercreek
PO BOX 587
Beavercreek, OR 97004

Dear Mr. Merchant and Ms. Graser-Linsey:

Thank you for your recent letter outlining your concerns about the planning and future development of the 300 acres of property along Beavercreek Road that were included in the 2002 and 2004 urban growth boundary expansions. The Metro Council had targeted 120 net acres of industrial job land for the 300 acres. It is my understanding that the latest proposed plan meets this requirement.

I have forwarded a courtesy copy of your letter to the City of Oregon City, and it is my understanding that Dan Drentlaw, Director of Community Development has also responded to your letter.

Metro staff Ray Valone serves as Metro's representative on the technical advisory committee for this project and can be reached at 503-797-1808 or valoner@metro.dst.or.us if you have further questions regarding the Metro Council's industrial land targets and the concept and comprehensive planning process.

Sincerely,

David L. Bragdon
Metro Council President

Cc: Mayor Alice Norris, City of Oregon City
Dan Drentlaw, Director of Community Development, City of Oregon City
Michael Jordan, Chief Operating Officer, Metro
Ray Valone, Principal Planner, Metro



Metro | Memo

Date: January 28, 2011
To: Metro Council, MPAC
From: Michael Jordan, Chief Operating Officer
Subject: 2010 annual report on amendments to the Employment and Industrial Areas Map

Background

Title 4 (Industrial and Other Employment Areas) of the Urban Growth Management Functional Plan seeks to improve the region's economy by protecting a supply of sites for employment by limiting the types and scale of non-industrial uses in Regionally Significant Industrial Areas, Industrial Areas, and Employment Areas. Those areas are depicted on the Employment and Industrial Areas Map. Title 4 also sets forth several avenues for amending the map, either through a Metro Council ordinance or through an executive order, depending on the circumstances.

Title 4 also requires that, by January 31 of each year, Metro's Chief Operating Officer submit a written report to the Council and MPAC on the cumulative effects on employment land in the region of amendments to the Employment and Industrial Areas Map during the preceding year. This memo constitutes the report for 2010.

Summary of Title 4 map amendments in 2010

As summarized in Table 1, amendments to the Employment and Industrial Areas Map were made in four locations during 2010. Three of the four amendments were made by the Metro Council in the form of ordinances. One map amendment (Kruse Way) was made by executive order, according to the requirements of Title 4 (section 3.07.450 D).

Table 1: Amendments made to the Employment and Industrial Areas Map in 2010

Location	Acres	Original designation	New designation
Kruse Way (Lake Oswego) (Executive Order No 10-052)	26.0	Industrial	Employment
Conway / ESCO sites (NW Portland) (Ordinance No. 10-1246)	36.5	Industrial	Neighborhood
	16.9	Industrial	Employment
Beavercreek Rd. concept plan area (Oregon City) (Ordinance No. 10-1244B)	459.0	Industrial	Neighborhood
Washington Square Regional Center (Tigard) (Ordinance No. 10-1244B)	39.0	Industrial	Employment

Reasons for these map amendments included:

Kruse Way: pre-existing, high value office buildings did not conform to an Industrial designation

Conway / ESCO sites: long-term changes in economic conditions warranted new designations for these already-developed areas

Beavercreek Rd: the completed concept plan led to a more refined determination of uses that are appropriate and needed in the area

Washington Square: pre-existing zoning classifications did not correspond to Title 4 designations

Cumulative effects of Title 4 map amendments

Staff believes that the new Title 4 map designations reflect current or anticipated market conditions. Consequently, these map amendments do not represent an erosion of the region's supply of sites for employment uses.

- These map amendments do not compromise the region's ability to accommodate employment growth.¹
 - None of these areas were counted as large-lot industrial capacity in the 2009 urban growth report (a niche need for which a capacity gap was identified).
 - In most cases, the Title 4 map amendment will actually allow higher density employment uses to occur.
 - Three of the four map amendment areas were already developed.
- These map changes did not affect Regionally Significant Industrial Areas, those locations that are most crucial to the region's traded-sector economy.

Newly-adopted policies to improve performance of employment areas

In 2010, the Metro Council adopted two significant changes to the Urban Growth Management Functional Plan, which are expected to improve the performance of employment areas:

Title 11

Changes to Title 11 (Planning for New Urban Areas) will require completion of concept plans before areas are added to the Urban Growth Boundary. Having concept plans available will help to inform the Council as it assigns 2040 design type designations to any future urban growth boundary expansion areas. This is expected to reduce the need for future Title 4 map amendments in new urban areas (as was the case in the Beavercreek Rd. concept plan area).

Title 4

The Council amended Title 4 to further protect Regionally Significant Industrial Areas (RSIA) by prohibiting the siting of schools, places of assembly larger than 20,000 square feet or parks intended to serve people other than those working or residing in the RSIA.

Chief Operating Officer recommendations for 2011

No Title 4 policy changes are recommended at this time. Staff does, however, anticipate bringing additional Title 4 map amendments to the Council for consideration in 2011. Those to-be-proposed

¹ Please refer to the 2009 urban growth report and the 2010 Capacity Ordinance (Ordinance No. 10-1244B) for additional information about the region's capacity for accommodating forecast employment growth through the year 2030.

amendments are intended to correct mapping errors and to recognize pre-existing uses and zoning designations that do not conform to Title 4. In the interest of efficient use of the Council's time, proposed amendments will be bundled together in one ordinance. Staff anticipates bringing that ordinance to Council in the spring / early summer of 2011.

Any changes to the Employment and Industrial Areas Map will also necessitate amendments to the 2040 Growth Concept Map. In late 2011, staff intends to bring to Council a consolidated proposal for amending the 2040 Growth Concept Map. That consolidated 2040 Growth Concept Map amendment proposal would depict:

- Any amendments made by the Council or Chief Operating Officer to the Employment and Industrial Areas Map
- Any newly-adopted center boundaries (boundaries formally adopted by cities or counties)
- Acknowledged urban and rural reserves

Finally, it is useful to remember that Title 4 implementation is only one aspect of the region's efforts to stimulate economic activity and job creation. All of Metro's efforts at making a great place are ultimately aimed at fostering the conditions that will encourage private investment in centers, corridors, main streets, station areas, and employment areas.

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Making a Great Place:

2010 growth management assessment

August 2010



Metro | *People places. Open spaces.*

conditions. Meanwhile, there have been a number of recent instances of high-tech manufacturing firms choosing to locate in existing urban areas or existing buildings.²²

Key traded-sector uses will require cleanup of brownfield sites

The UGB did not include brownfields in its inventory of large lots. Some of these contaminated sites provide irreplaceable marine terminal access. Key traded-sector industries will require marine terminal access and cannot be accommodated through UGB expansions.²³ Clean-up will be essential in order to accommodate these priority sectors. New sources of funding are needed for clean-up. Federal and state legislative changes are needed to reduce future property owner liabilities. However, no new commitments to clean up brownfields have been adopted to support the development readiness of large sites in the region.



Figure 23: Arkema site, Portland (photo: Arkema Group)

Protection of industrial areas

Title 4 (Industrial and Other Employment Areas) of the Urban Growth Management Functional Plan seeks to provide and protect a supply of sites for employment by limiting the types and scale of non-industrial uses in Regionally Significant Industrial Areas (RSIA), Industrial and Employment Areas. In recent years, the Metro Council and others have expressed concern that Title 4 does not preclude certain non-industrial uses. Metro's Chief Operating Officer recommends that the Metro Council consider adopting changes to Title 4 that would prohibit schools, places of assembly, and parks in RSIA. These restrictions would apply to existing and future RSIA-designated lands, including any areas added to the UGB in 2010 and designated RSIA. These changes would help to protect the region's long-term supply of large industrial sites and would reduce the potential risk of planning towards the higher end of the 200-to-1,500-acre range.

Large-site replenishment mechanism

As described in the section of this document on proposed Framework and Functional Plan changes, Metro's Chief Operating Officer recommends the creation of a large-site replenishment system that ensures that the region maintains a competitive supply of large sites inside the UGB for traded-sector industrial uses. Having this type of system in place would reduce the risk of planning towards the lower end of the 200-to-1,500-acre range.

²² Recent examples include Solaicx in Portland, Sanyo in Salem, XsunX in Wood Village, Oregon Crystal Technologies and Solixant in Gresham, Uni-Chem in Eugene, and SolarWorld and Allvia in Hillsboro.

²³ The 2009 forecast did not determine what share of future employment would require marine terminal access. In some cases, marine terminal uses have relatively less-intensive employment, but play a critical role in the regional economy for freight movement.