

A G E N D A

600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232 2736
TEL 503 797 1542 | FAX 503 797 1793



METRO

Agenda

MEETING: METRO COUNCIL REGULAR MEETING
DATE: December 4, 2003
DAY: Thursday
TIME: 2:00 PM
PLACE: Metro Council Chamber

CALL TO ORDER AND ROLL CALL

1. INTRODUCTIONS

2. CITIZEN COMMUNICATIONS

3. CONSENT AGENDA

- 3.1 Consideration of Minutes for the November 20, 2003 Metro Council Regular Meeting.

4. ORDINANCES - SECOND READING

- 4.1 **Ordinance No. 03-1025**, For the purpose of approving the Transfer Station Franchise Renewal Application of Willamette Resources, Inc., authorizing the Chief Operating Officer to issue a renewed franchise, and declaring an emergency. Hosticka
- 4.2 **Ordinance No. 03-1026**, For the purpose of approving the Transfer Station Franchise Renewal Application of Pride Recycling Company, authorizing the Chief Operating Officer to issue a renewed franchise, and declaring an emergency. McLain
- 4.3 **Ordinance No. 03-1027**, For the purpose of approving the Transfer Station Franchise Renewal Application of Recycling America, authorizing the Chief Operating Officer to issue a renewed franchise, and declaring an emergency. Park

5. RESOLUTIONS

- 5.1 **Resolution No. 03-3390**, For the purpose of authorizing the Chief Operating Officer to issue a non-system license to Pride Recycling Company for delivery of putrescible solid waste to the Riverbend Landfill. Hosticka

- 5.2 **Resolution No. 03-3391**, For the purpose of authorizing the Chief Operating Officer to issue a non-system license to American Sanitary Service, Inc., for delivery of putrescible solid waste to the West Van Materials Recovery Center and the Central Transfer and Recovery Center. Burkholder
- 5.3 **Resolution No. 03-3392**, For the purpose of authorizing the Chief Operating Officer to issue a non-system license to Arrow Sanitary Service, Inc., for delivery of putrescible solid waste to the West Van Materials Recovery Center and the Central Transfer and Recovery Center. Burkholder
- 5.4 **Resolution No. 03-3393**, For the purpose of authorizing the Chief Operating Officer to issue a non-system license to Willamette Resources, Inc., for delivery of putrescible solid waste to the Coffin Butte Landfill. Hosticka
- 5.5 **Resolution No. 03-3394**, For the purpose of authorizing the Chief Operating Officer to issue a non-system license to Crown Point Refuse and Recycling Service Inc., for delivery of putrescible solid waste to the Wasco County Landfill. Park
- 5.6 **Resolution No. 03-3395**, For the purpose of authorizing the Chief Operating Officer to issue a non-system license to the Forest Grove Transfer Station for delivery of putrescible solid waste to the Riverbend Landfill. McLain

6. ORDINANCES AND RESOLUTIONS – PUBLIC HEARINGS ONLY, NO FINAL ACTION

- 6.1 **Ordinance No. 03-1021**, For the purpose of Amending Title 4 of the Urban Growth Management Functional Plan to improve its protection of industrial land and to make corrections. (*PUBLIC HEARING ONLY, NO FINAL ACTION*) McLain
- 6.2 **Ordinance No. 03-1022**, For the purpose of Amending the Employment and Industrial Areas Map to Add Regionally Significant Industrial Areas in Compliance with Subsection J of Section 3.07.420 of Title 4 (Industrial and other employment areas) of the Urban Growth Management Functional Plan. (*PUBLIC HEARING ONLY, NO FINAL ACTION*) Park
- 6.3 **Ordinance No. 03-1024**, For the Purpose of Adopting the 2004 Regional Transportation Plan as the Regional Transportation System Plan and the Regional Functional Plan for Transportation to Meet State Planning Requirements (*PUBLIC HEARING ONLY, NO FINAL ACTION*) Monroe
- 6.4 **Resolution No. 03-3380**, For the Purpose of Designation of the 2004 Regional Transportation Plan as the Federal Metropolitan Transportation Plan to meet Federal Planning Requirements. (*PUBLIC HEARING ONLY, NO FINAL ACTION*) Park
- 6.5 **Resolution No. 03-3381**, For the Purpose of Adopting the 2004-07 Metropolitan Transportation Improvement Program for the Portland Metropolitan Area. (*PUBLIC HEARING ONLY, NO FINAL ACTION*) Burkholder
- 6.6 **Resolution No. 03-3382**, For the Purpose of Adopting the Portland Area Air Quality Conformity Determination for the 2004 Regional Transportation Plan and 2004-07 Metropolitan Transportation Improvement Program. (*PUBLIC HEARING ONLY, NO FINAL ACTION*) Monroe

7. CHIEF OPERATING OFFICER COMMUNICATION

8. COUNCILOR COMMUNICATION

ADJOURN

Cable Rebroadcast Schedule for December 4, 2003 Meeting

	Sunday (12/7)	Monday (12/8)	Tuesday (12/9)	Wednesday (12/10)	Thursday (12/4)	Friday (12/5)	Saturday (12/6)
CHANNEL 11 Community Access Network Clackamas, Multnomah and Washington counties, Vancouver, Wash.					Live at 2 p.m.		
CHANNEL 30 TVTV Washington County, Lake Oswego	7 p.m.		6 a.m.	4 p.m.			7 p.m.
CHANNEL 30 CityNet 30 Portland	8:30 p.m.	2 p.m.					
CHANNEL 30 Willamette Falls Television West Linn	6 a.m.		9:30 a.m. 5 p.m.		9:30 a.m. 5 p.m.		6 a.m.
CHANNEL 28 Willamette Falls Television Oregon City, Gladstone	6 a.m.						6 a.m.
CHANNEL 23 Milwaukie Public Television Milwaukie							
CHANNEL 30 MCTV Gresham							

PLEASE NOTE: Show times are tentative and in some cases the entire meeting may not be rebroadcast due to length. Call or check your community access station web site to confirm program times.

Portland Cable Access

www.pcatv.org

(503) 288-1515

Milwaukie Public Television

www.wftvaccess.com

(503) 652-4408

Multnomah Community Television

www.mctv.org

(503) 491-7636

Tualatin Valley Television

www.yourtvvtv.org

(503) 629-8534

Willamette Falls Television

www.wftvaccess.com

(503) 650-0275

Agenda items may not be considered in the exact order. For questions about the agenda, call Clerk of the Council, Chris Billington, 797-1542. Public Hearings are held on all ordinances second read and on resolutions upon request of the public. Documents for the record must be submitted to the Clerk of the Council to be considered included in the decision record. Documents can be submitted by email, fax or mail or in person to the Clerk of the Council. For assistance per the American Disabilities Act (ADA), dial TDD 797-1804 or 797-1540 (Council Office).

Consideration of Minutes of the November 20, 2003 Regular Council meetings.

Metro Council Meeting
Thursday, December 4, 2003
Metro Council Chamber

MINUTES OF THE METRO COUNCIL MEETING

Thursday, November 20, 2003
Metro Council Chamber

Councilors Present: David Bragdon (Council President), Susan McLain, Brian Newman, Rod Monroe, Rex Burkholder, Rod Park

Councilors Absent: Carl Hosticka (excused)

Council President Bragdon convened the Regular Council Meeting at 2:03 p.m.

1. INTRODUCTIONS

Tony Vecchio, Oregon Zoo Director, thanked Councilor Monroe for representing the Council at the Condor Conservation Center opening. Four condors came in yesterday and the rest should be arriving today. He noted the partnership with Greenspaces for the condor site. Councilor Monroe said it was an exciting time. He was impressed with the design of the facility. He spoke to the Clear Creek openspace site where the condors would be housed. He looked forward to the arrival of the first egg. This facility would double the number of condors. Mr. Vecchio talked about the tribes support. They were excited about the Thunderbird returning to Oregon. He then presented condor pins and condor measuring tapes to the Council.

2. CITIZEN COMMUNICATIONS

There were none.

3. MT. HOOD CABLE BROADCAST GRANT RECOGNITION

Councilor McLain recognized Mount Hood Cable Regulatory Commission for the Mt. Hood Cable Broadcast Grant. The Metro Council meetings were now live because of the grant. She also thanked Portland Cable Access (PCA) and Tualatin Valley Television (TVTV) for their in kind participation in the grant. Council President Bragdon presented a plaque to Rick Goheen, Vice Chair of the Commission. Mr. Goheen said on behalf of the Mt hood Regulatory Commission he thanked the Council for their efforts. The Cable Commission had been involved in giving these types of grants over the past several years. Dan Cooper, Metro Attorney, said it was particularly fitting for Mr. Goheen to be here. He was the person who helped negotiate the Clear Creek openspace purchase where the condors would be housed.

4. FIRST QUARTER FINANCIAL REPORT

Casey Short, Financial Planning Director, presented the FY 2003-04 first quarter report financial report (a copy of which is included in the meeting record). He talked about the two areas of concern, MERC and the Oregon Zoo and detailed revenue issues.

5. METROPOLITAN EXPOSITION-RECREATION COMMISSION (MERC) PAY FOR PERFORMANCE AUDIT

Alexis Dow, Metro Auditor, introduced the power point presentation on the MERC Pay for Performance (PFP) program (a copy of which is found in the meeting record). She said the title of the three reports spoke to the areas they considered in their audit (the three reports are included as

attachments to the meeting record). They looked at this program to determine the potential for application to Metro. Joe Gibbons, Senior Auditor presented the specifics of each report. They applauded MERC for their efforts in attempting to implement this program but felt that MERC fell short. He detailed some of the specific needs for improvement. There was a need for stronger oversight by Metro. He talked about the MERC response and that they did not address most of the audit concerns. The Auditor was looking for a program with certain elements. They did believe MERC's PFP program as implemented was not a model for Metro. He explained further why it was not a model. They felt the Commission needed to play a stronger role in the PFP program. Council President Bragdon asked about the August 1, 2002 letter. Mr. Gibbons said the letter covered the Council's concerns. Council President Bragdon talked about responsibility but a lack of authority. Councilor McLain asked Mr. Gibbons about his comments that MERC was using the program to help raise certain employees salaries. Mr. Gibbons said they believed that PFP and the compensation study were intertwined. Ms. Dow explained the purpose of doing a compensation study.

Commission Chair Gary Conkling responded to the audit. He felt the tone of the presentation was someone adversarial. They respected constructive criticism but felt the program was an important one. He spoke to the history of the results based program. He spoke to the primary purpose of the program. He talked about the benefits of the program. Regular employee performance evaluations were helpful to MERC. He talked about what they were doing to improve the four-year program. They had done an employee satisfaction survey. The audit provided recommendations that were helpful and many recommendations had already been implemented. They found that PFP was fiscally responsible. Their program had cost less. He noted their formal response to the auditor. They had attempted to be constructive in their response. He spoke to where they disagreed with the audit. He felt that the Commission did know what was going on with this program. They appreciated the opportunity to respond to the audit. He respected the auditor taking this audit on.

Councilor Park asked Mr. Jordan about his response concerning management authority. Mr. Jordan said the audits that were done regarding MERC and the authority delegated to MERC was not issues that the Chief Operating Officer (COO) would normally comment on. The authority of the COO was limited. Councilor McLain clarified Mr. Jordan's response. Councilor Newman asked about the accountability processes needing to be strengthened. First, pay adjustments during probationary periods. Tanya Collier, Human Resource Director of MERC, talked about salary negotiation. Councilor Newman asked how broad was this circumstance? Mr. Gibbons said they did not review all of the employee's files but at the time the policy was specific that these actions was not allowable. When there were deviations from policy, they felt that they should report this to the policy makers. The MERC policy was that all MERC employees were under a specific vacation schedule. There were several employees that received Metro vacation benefits rather than MERC vacation benefits. Councilor Newman asked if this decision was inconsistent with policy. Mr. Williams said they believed that this decision was not inconsistent with policy. Commissioner Conkling concurred. Councilor Newman asked about reasons for salary increases that were not documented. Mr. Gibbons explained the lack of documentation. They looked for the documentation in the employee's file. Ms. Dow spoke to accountability and the policies set by the Commission. Mark Williams, MERC Manager, said they didn't feel individual adjustments were in violation of any policies.

Council President Bragdon said, as a concept, PFP was a sound management tool. The Council wanted the COO to explore PFP for Metro. This sounded like the issue was an implementation issue. Ms. Dow agreed. It was an implementation issue. Council President Bragdon said that measurement and oversight were the issues. He asked Ms. Dow about suggestions from better measurement. Ms. Dow talked about criteria and meeting those criteria. They had suggested an

outside consultant with a human resource background might have better ideas as to how to compensate employees in a down turned market. Commissioner Conkling said running a convention center was not necessarily a profit making business. He asked how you tied individual performance to facility performance. They had used a consultant to help build the system. Council President Bragdon said this was a complicated subject and performance of the organization doesn't necessarily translate to employee performance. He then spoke to the Commission being more vigilant. He was concerned about the fact that the Commission was a part-time volunteer Commission. Could they address the appropriate role in relationship to administering the program? Ms. Dow said oversight was a key focus in governance today. She noted Lewis and Clark College's situation. The focus was that boards had been more removed than they were expected to be today. She felt that if you have established policies it allowed for opportunity for a board to be more involved. It was expected that management should bring these issue to the commission. Councilor Newman said what he was trying to discern was if there were specific policies adopted by the Commission? Commissioner Conkling responded that boards today needed to be more vigilant and to exercise their fiduciary responsibilities. In this case they did take their duties very seriously. They viewed their role on the Commission very seriously. There was a clear separation between policy and management. In the case of the PFP, the General Manager had certain authority to run his program that the Commission had given him. They were interested in making this program work better. He acknowledged the need for improvements but was also satisfied with the progress of the PFP program. Council President Bragdon talked about oversight of Metro Council. They ultimately have a responsibility without authority. He reiterated that this was sound management tool. Hats off to MERC for giving the program a try. Mr. Gibbons said they were talking about management's reporting to the board. It should be based on established and defined goals and objectives. Secondly, the Commission needed to set reporting requirements. This Council had established good reporting practices in such areas as growth management.

Councilor Park spoke to outside factors that you couldn't control. He was curious about the number of inconsistencies. Mr. Gibbons said he did not know, they didn't do a compliance audit but rather a program audit. He was not questioning the integrity of the program. He felt, from a management perspective, there were inconsistencies that needed to be tightened up. Ms. Dow talked about policy and expressed concern about inconsistency. There was a reason that Commission set policy, management owed clarification when they went outside the parameters. Her concern was there should be a management system and accountability. Councilor Park asked how long the audit took. Mr. Gibbons said it took about 18 months. He suggested directing his question to MERC. Councilor McLain said she felt that there was a desire to do good work. She suggested that the audit allowed an opportunity for improvement. The auditor's suggestion about outside consultant was a good idea. She talked about accountability and oversight of the policy. Was the process there or was it not? The resources had to fit the program and the program had to fit the budget. She suggested adjustments in the program to fit changing circumstances. She reminded that MERC and Metro needed to be on the same team.

6. CONSENT AGENDA

6.1 Consideration of minutes of the November 13, 2003 Regular Council Meetings.

6.2 **Resolution No. 03-3385**, For the Purpose of Authorizing the Chief Operating Officer to Enter into and Execute an Intergovernmental Exchange Agreement and Related Easements with the Port of Portland For a non-cash Exchange of Property.

6.3 **Resolution No. 03-3387**, For the Purpose of Adopting the Oregon Savings Growth Plan.

Motion: Councilor Park moved to adopt the meeting minutes of the November 13, 2003, Regular Metro Council meeting and Resolution Nos. 03-3385 and 3387.

Vote: Councilors Burkholder, McLain, Monroe, Park, Newman and Council President Bragdon voted in support of the motion. The vote was 6 aye, the motion passed.

7. ORDINANCES – SECOND READING

7.1 **Ordinance No. 03-1028**, For the Purpose of Transferring \$67,959 from the Planning Fund Contingency to Personal Services to add .50 FTE Associate Public Affairs Specialist and Provide for Temporary Assistance in the Planning Fund; and Declaring an Emergency.

Motion:	Councilor McLain moved to adopt Ordinance No. 03-1028.
Seconded:	Councilor Newman seconded the motion

Councilor McLain explained the reason for this housekeeping ordinance, which would allow staff to be paid for their outreach efforts on Goal 5 out of the appropriate fund. She urged support.

Council President Bragdon opened a public hearing on Ordinance No. 03-1028. There were none. Council President Bragdon closed the public hearing.

Vote: Councilors Park, Burkholder, McLain, Monroe, Newman and Council President Bragdon voted in support of the motion. The vote was 6 aye, the motion passed.

8. RESOLUTIONS

8.1 **Resolution No. 03-3384**, For the Purpose of Appointing CitizenMembers to the Transportation Policy Alternatives Committee (TPAC) in November 2003.

Motion:	Councilor Park moved to adopt Resolution No. 03-3384.
Seconded:	Councilor Newman seconded the motion

Councilor Park introduced the resolution and asked Marilyn Matteson, Planning Department, to speak to the citizen appointments (a copy of these nominations and their resume are included in the staff report) Ms. Matteson talked about each of the nominees. Councilor Park said all of these members brought expertise in transportation and explained further that these nominees would strengthen our transportation efforts. Michael Webb, retired from Union Pacific Railroad, said over the years he had had an opportunity to be involved in railroad transportation efforts and issues. He spoke to the benefits of living in the Portland region. He felt he could contribute to TPAC. Greg DiLoreto said he had spent over 20 years working on transportation and utilities. He was pleased to contribute to TPAC.

Vote: Councilors Park, Burkholder, McLain, Monroe, Newman and Council President Bragdon voted in support of the motion. The vote was 6 aye, the motion passed.

8.2 **Resolution No. 03-3388**, For the Purpose of Endorsing the Bi-State Coordination Committee to Discuss and Make Recommendations about Land Use, Economic Development, Transportation and Environmental Justice Issues of Bi-State Significance.

Motion:	Councilor Burkholder moved to adopt Resolution No. 03-3388.
Seconded:	Councilor Monroe seconded the motion

Councilor Burkholder talked about the history of the Bi-State Committee and the next step, which was the Coordination Committee. Councilor Monroe had been integral in establishing the Bi-State Committee on Transportation. This Committee would be looking at land use and transportation with a particular focus on environmental justice and economic development. He spoke to the challenges of a bi-state committee. He talked about the composition of the committee and its charges. He asked the Council endorse this committee. Councilor Newman thoroughly supported the resolution. He spoke to our regionalism and the need to involve Clark County. He felt this committee was a great idea. Council President Bragdon spoke to Councilors Monroe's and Burkholder's efforts. Councilor Park said this committee would help with making better transportation and land use decisions.

Vote:

Councilors Park, Burkholder, McLain, Monroe, Newman and Council President Bragdon voted in support of the motion. The vote was 6 aye, the motion passed.

8.3 **Resolution No. 03-3389**, For the Purpose of Satisfying Budget Note Three (3) related to Regional System Fee Credits and Authorizing the Chief Operating Officer to Expend the additional \$300,000 of Appropriation that is subject to Budget Note Three (3).

Motion:	Councilor Monroe moved to adopt Resolution No. 03-3389.
Seconded:	Councilor McLain seconded the motion

Councilor Monroe talked about the reason for the budget note. A Task Force reviewed the Regional System Fee Credit program. They recommended that the regional system fee credit program be continued but had not shared at what level or recommended changes. Councilor McLain said the Task Force was still working on this issue and they would be providing additional information about suggested changes. She talked about the Contingency Task Force and their work. She spoke to the integration within the program. Councilor Park asked Mike Hogle, Solid Waste and Recycling Director, how long the money would last and was this revenue neutral to Metro. Mr. Hogle said the revenue came from the regional system fee. The Task Force would continue to look at the program over the next month and come back to Council with recommendations for funding for the rest of the year.

Councilor Newman said he would support the resolution but noted a reservation, he had hoped that Council would have a road map that would guide Council. The work was not yet done. They still had to come to conclusion about the future of the program. Council President Bragdon said he would also support this resolution with reservations. The budget note was technically satisfied but there was still work to be done. The Task Force had indicated some need for changes in the program, such as ramping the program down and measuring the effects of the program. Councilor Monroe closed by saying this was a short-term fix. He addressed to the audience what was the system fee credit program. This program had been going on for about six years. They would be determining the usability and future of this program. Council President Bragdon disclosed that he

had received contributions from participants in this program. Councilors Monroe also acknowledged his contributions.

Vote:

Councilors Park, Burkholder, McLain, Monroe, Newman and Council President Bragdon voted in support of the motion. The vote was 6 aye, the motion passed.

9. CHIEF OPERATING OFFICER COMMUNICATION

Michael Jordan, COO, said Metro had just completed their Charitable Contribution Campaign and met their goal of over \$50,000.

10. COUNCILOR COMMUNICATION

There were none.

11. ADJOURN

There being no further business to come before the Metro Council, Council President Bragdon adjourned the meeting at 4:23 p.m.

Prepared by

Chris Billington
Clerk of the Council

**ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF NOVEMBER
20, 2003**

Item	Topic	Doc Date	Document Description	Doc. Number
6.1	Minutes	11/13/02	Metro Council Regular Meeting Minutes of November 13, 2003	112003c-01
8.2	Staff Report	11/13/03	To: Metro Council From: Mark Turpel, Planning Department Re: Amended staff report for Resolution No. 03-3388	112003c-02
6.2	Exhibit A	11/20/03	To: Metro Council From: Alison Keene Campbell, Office of the Attorney Re: Exhibit A to Resolution No. 03-3385	112003c-03
4	Financial Report	July through September 2003	To: Metro Council From: Casey Short, Financial Planning Director Re: Quarterly Report First Quarter FY 2003-04	112003c-04
5	Pay for Performance Audits	October 2003	To: Metro Council From: Alexis Dow, Metro Auditor Re: MERC Pay for Performance Program Audits	112003c-05
5	Power Point Presentation	October 2003	To: Metro Council From: Alexis Dow, Metro Auditor Re: MERC Pay for Performance Power Point Presentation	112003c-06

Agenda Item Number 4.1

Ordinance No. 03-1025, For the Purpose of Approving the Transfer Station Franchise Renewal Application of Willamette Resources, Inc., authorizing the Chief Operating Officer to issue a renewed franchise, and Declaring an Emergency.

Second Reading

Metro Council Meeting
Thursday, December 4, 2003
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPROVING THE	)	ORDINANCE NO. 03-1025
TRANSFER STATION FRANCHISE RENEWAL)	
APPLICATION OF WILLAMETTE RESOURCES, INC.,	)	Introduced by Michael Jordan,
AUTHORIZING THE CHIEF OPERATING OFFICER	)	Chief Operating Officer, with the
TO ISSUE A RENEWED FRANCHISE, AND	)	concurrence of David Bragdon,
DECLARING AN EMERGENCY	)	Metro Council President

WHEREAS, Metro Code Section 5.01.045(b)(2) stipulates that a Metro Solid Waste Facility Franchise shall be required for the person owning or controlling a facility that operates a Transfer Station; and,

WHEREAS, Willamette Resources, Inc., currently holds a Metro Solid Waste Facility Franchise Number F-005-98, which will expire on December 31, 2003; and,

WHEREAS, Metro Code Section 5.01.087(b) stipulates that franchise renewals shall be approved or denied by the Metro Council, and that a franchisee seeking renewal of a franchise shall file a completed application for renewal accompanied by payment of an application fee of five hundred dollars not less than 120 days prior to the expiration of the Franchise term, together with a statement of proposed material changes from its initial application for the franchise and any other information required by the Chief Operating Officer or by the Council. In addition, the Chief Operating Officer shall formulate recommendations regarding whether the renewal meets the criteria in Section 5.01.070, and that the Council shall approve renewal of a Solid Waste Facility Franchise unless the Council determines that the proposed renewal is not in the public interest or does not meet the criteria contained in Section 5.01.070; and,

WHEREAS, Willamette Resources, Inc., filed an application for a renewed franchise pursuant to Metro Code Section 5.01.087(b); and,

WHEREAS, the Chief Operating Officer reviewed and investigated the application renewal for Willamette Resources, Inc. as required by Metro Code Sections 5.01.087(b), and formulated recommendations on the criteria listed in Metro Code Section 5.01.070; and,

WHEREAS, the Chief Operating Officer recommends that the franchise be renewed together with specific conditions as provided in Exhibit A to this Ordinance entitled, "Solid Waste Facility Franchise," which includes a recommendation that the renewed franchise be issued for a term of four (4) years; and,

WHEREAS, the Chief Operating Officer forwards his recommendation and recommended conditions to the Council as required by Metro Code Section 5.01.087(b); and,

WHEREAS, the Council finds that the franchise renewal application meets the criteria contained in Metro Code Section 5.01.070; and,

WHEREAS, the Council finds that granting the applicant a renewed franchise is in the public interest; and,

WHEREAS, the Council finds that the terms, conditions, and limitations contained in Exhibit A to this Ordinance are appropriate, including the provision and that the renewed franchise shall be issued for a term of four (4) years; and,

WHEREAS, Council finds that this ordinance must take effect immediately upon adoption, so that the renewed franchise may be issued and effective upon expiration of the applicant's current franchise (No. F-005-98) on December 31, 2003; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. The transfer station renewal franchise application of Willamette Resources, Inc. is approved, subject to the terms, conditions, and limitations contained in Exhibit A to this Ordinance entitled, "Solid Waste Facility Franchise."
2. The Chief Operating Officer is authorized to issue to Willamette Resources, Inc., a renewed Solid Waste Facility Franchise substantially similar to the one attached as Exhibit A.
3. This ordinance is immediately necessary for the health, safety and welfare of the Metro region in order to ensure the efficient operation of the region's solid waste management system. An emergency is therefore declared to exist. This Ordinance shall take effect immediately, pursuant to Metro Charter Section 39(1).

ADOPTED by the Metro Council this _____ day of _____, 2003.

David Bragdon, Council President

Attest:

Approved as to Form:

Chris Billington, Recording Secretary

Daniel B. Cooper, Metro Attorney

BM\bjlmca
M:\rem\od\projects\Legislation\Franchiserenew2003\WRIOrd1025.DOC

SOLID WASTE FACILITY FRANCHISE

Number F-005-03

Issued by

Metro

600 NE Grand Avenue

Portland, OR 97232

Telephone: (503) 797-1650

Issued in accordance with the provisions of Metro Code Chapter 5.01

FRANCHISEE: Willamette Resources, Inc. 10295 SW Ridder Road Wilsonville, Oregon 97070 (503) 570-0626 FAX (503) 570-0523 Contact: Mike Huycke, General Manager	FACILITY NAME AND LOCATION: Willamette Resources, Inc. 10295 SW Ridder Road Wilsonville, Oregon 97070 Contact: Mike Huycke, General Manager
OPERATOR: Willamette Resources, Inc. 10295 SW Ridder Road Wilsonville, Oregon 97070 (503) 570-0626 FAX (503) 570-0523 Contact: Mike Huycke, General Manager	PROPERTY OWNER: Willamette Resources, Inc. 10295 SW Ridder Road Wilsonville, Oregon 97070 Contact: Mike Huycke, General Manager

This franchise is granted to the Franchisee named above and is not transferable. Subject to the conditions stated in this franchise document, the Franchisee is authorized to operate and maintain a solid waste facility, and to accept the solid wastes and perform the activities authorized herein.

Franchise begins: December 31, 2003

Expiration: December 31, 2007

Metro:

Acceptance & Acknowledgement of Receipt:

Signature

Signature of Franchisee

Michael Jordan, Chief Operating Officer
Print name and title

Print name and title

Date

Date



TABLE OF CONTENTS

SECTION	TITLE	PAGE
1.1	Issuance	3
2.0	Conditions and Disclaimers	3
3.0	Authorizations	5
4.0	Limitations and Prohibitions	6
5.0	Operating Conditions	7
6.0	Operating Plan	10
7.0	Fees and Rate Setting	11
8.0	Record Keeping and Reporting	12
9.0	Insurance Requirements	14
10.0	Enforcement	15
11.0	Modifications	16
12.0	General Obligations	16

**1.0 ISSUANCE**

- | | | |
|------------|--|---|
| 1.1 | Franchisee | Willamette Resources, Inc.
10295 SW Ridder Road
Wilsonville, OR 97070
(503) 570-0626 |
| 1.2 | Contact | Mike Huycke, General Manager (email: mike.huycke@awin.com) |
| 1.3 | Franchise Number | When referring to this franchise, please cite:
Metro Solid Waste Facility Franchise Number F-005-03 |
| 1.4 | Term | Inception date: December 31, 2003

Expiration date: December 31, 2007 |
| 1.5 | Facility name and mailing address | Willamette Resources, Inc.
10295 SW Ridder Road
Wilsonville, OR 97070
(503) 570-0626 |
| 1.6 | Operator | Willamette Resources, Inc.
10295 SW Ridder Road
Wilsonville, OR 97070
(503) 570-0626 |
| 1.7 | Facility legal description | Parcel 1, Partition Plat Number 1995-101, Section 2, Township 3S, Range 1W, Willamette Meridian
Washington County, State of Oregon |
| 1.8 | Facility owner | Willamette Resources, Inc.
10295 SW Ridder Road
Wilsonville, OR 97070
(503) 570-0626 |
| 1.9 | Permission to operate | Franchisee warrants that it has obtained the property owner's consent to operate the facility as specified in this franchise. |

2.0 CONDITIONS AND DISCLAIMERS

- | | | |
|------------|-------------------|--|
| 2.1 | Guarantees | The granting of this franchise shall not vest any right or privilege in the Franchisee to receive specific quantities of solid waste at the direction of Metro during the term of the franchise. |
|------------|-------------------|--|



- | | | |
|------|--------------------------------|---|
| 2.2 | Non-exclusive franchise | The granting of this franchise shall not in any way limit Metro from granting other solid waste franchises within Metro's boundaries. |
| 2.3 | Property rights | The granting of this franchise does not convey any property rights in either real or personal property, nor does it authorize any injury to private property or invasion of property rights. |
| 2.4 | No recourse | The Franchisee shall have no recourse whatsoever against Metro or its officials, agents or employees for any loss, costs, expense or damage arising out of any provision or requirement of this franchise or because of the enforcement of the franchise or in the event the franchise or any part thereof is determined to be invalid. |
| 2.5 | Release of liability | Metro, its elected officials, employees, or agents do not sustain any liability on account of the granting of this franchise or on account of the construction, maintenance, or operation of the facility pursuant to this franchise. |
| 2.6 | Binding nature | The conditions of this franchise are binding on the Franchisee. The Franchisee is liable for all acts and omissions of the Franchisee's contractors and agents. |
| 2.7 | Waivers | To be effective, a waiver of any terms or conditions of this Franchise must be in writing and signed by the Metro Chief Operating Officer. |
| 2.8 | Effect of waiver | Waiver of a term or condition of this Franchise shall not waive nor prejudice Metro's right otherwise to require subsequent performance of the same term or condition or any other term or condition. |
| 2.9 | Choice of law | The Franchise shall be construed, applied and enforced in accordance with the laws of the State of Oregon. |
| 2.10 | Enforceability | If any provision of this Franchise is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, the validity of the remaining provisions contained in this Franchise shall not be affected. |
| 2.11 | Franchise not a waiver | Nothing in this franchise shall be construed as relieving any owner, operator, or Franchisee from the obligation of obtaining all required permits, licenses, or other clearances and complying with all orders, laws, regulations, reports or other requirements of other regulatory agencies. |
| 2.12 | Franchise not | Nothing in this franchise is intended to limit the power of a federal, |



limiting state, or local agency to enforce any provision of law relating to the solid waste facility that it is authorized or required to enforce or administer.

2.13 Definitions Unless otherwise specified, all other terms are as defined in Metro Code Chapter 5.01. In the event that the Metro Code is amended, the latest amended version shall apply to this franchise.

3.0 AUTHORIZATIONS

3.1 Purpose This section of the franchise describes the wastes that the Franchisee is authorized to accept at the facility, and the waste-related activities the Franchisee is authorized to perform at the facility.

3.2 General conditions on solid wastes The Franchisee is authorized to accept at the facility only the solid wastes described in this section. The Franchisee is prohibited from knowingly receiving any solid waste not authorized in this section.

3.3 General conditions on activities The Franchisee is authorized to perform at the facility only those activities that are described in this section.

3.4 Putrescible waste The Franchisee is authorized to accept putrescible waste for the purpose of delivery or transfer of said putrescible waste to a disposal site authorized by a Metro designated facility agreement or a Metro non-system license; in accordance with Metro Code Chapter 5.05.

3.5 Non-putrescible waste The Franchisee is authorized to accept for the purpose of material recovery non-putrescible solid wastes such as waste generated by non-residential generators and waste generated at construction and demolition sites.

3.6 Source-separated recyclables The Franchisee is authorized to accept source-separated recyclable materials for purposes of sorting, classifying, consolidating, baling, temporary storage, transfer and other similar functions related to preparing these materials for marketing.

3.7 Inert materials The Franchisee is authorized to accept inert materials for purposes of classifying, consolidating, transfer, and other similar functions related to preparing these materials for useful purposes.

3.8 Source- The Franchisee is authorized to accept source-separated yard debris



- separated yard debris** for transfer to a Metro licensed yard debris facility, a DEQ-permitted composting facility or other DEQ-permitted processing facility.
- 3.9 **Incidental recovery** The Franchisee is authorized to perform "low-level" material recovery on putrescible waste, provided that these material recovery efforts are incidental to the activity of transferring the putrescible waste, and are limited to the gleaning of easily-extractable recyclable or reusable materials from the waste.
- 4.0 LIMITATIONS AND PROHIBITIONS**
-
- 4.1 **Purpose** This section of the franchise describes limitations and prohibitions on the wastes handled at the facility and activities performed at the facility.
- 4.2 **Limit on waste accepted** The Franchisee shall accept no more than 65,000 tons of putrescible waste within each Metro fiscal year irrespective of whether the waste originated inside or outside the Metro region.
- 4.3 **Prohibited waste** The Franchisee shall not knowingly accept or retain any material amounts of the following types of wastes: materials contaminated with or containing friable asbestos; lead acid batteries; liquid waste for disposal; vehicles; infectious, biological or pathological waste; radioactive waste; hazardous waste; or any waste prohibited by the Franchisee's DEQ Disposal Site Permit.
- 4.4 **Material recovery required** The Franchisee shall perform material recovery on non-putrescible waste accepted at the facility at the rate stipulated in Metro Code Chapter 5.01, or deliver said non-putrescible wastes to a Metro authorized solid waste facility whose primary purpose is to recover useful materials from solid waste.
- 4.5 **Prohibition on mixing** The Franchisee shall not mix any source-separated recyclable materials or yard debris brought to the facility with any other solid wastes. Recyclable materials recovered at the facility may be combined with source-separated recyclable materials for transfer to markets, processors, or another solid waste facility that prepares such materials for reuse or recycling.



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|-----|--|---|
| 4.6 | No disposal of recyclable materials | Source-separated recyclable materials may not be disposed of by landfilling or incineration. |
| 4.7 | Origin of putrescible waste | The Franchisee shall accept putrescible waste that originates within the Metro boundary only from persons who are franchised or permitted by a local government unit to collect and haul putrescible waste. |
| 4.8 | Limits not exclusive | Nothing in this section of the franchise shall be construed to limit, restrict, curtail, or abrogate any limitation or prohibition contained elsewhere in this franchise document, in Metro Code, or in any federal, state, regional or local government law, rule, regulation, ordinance, order or permit. |

5.0 OPERATING CONDITIONS

- | | | |
|-----|---------------------------------------|--|
| 5.1 | Purpose | This section of the franchise describes criteria and standards for the operation of the facility. |
| 5.2 | Qualified Operator | The Franchisee shall provide an operating staff qualified to carry out the functions required by this franchise and to otherwise ensure compliance with Metro Code Chapter 5.01. Facility personnel shall be familiar with the provisions of this franchise and the procedures contained within the facility's operating plan (see Section 6.0). |
| 5.3 | Fire prevention | The operator shall provide fire prevention, protection, and control measures, including but not limited to, adequate water supply for fire suppression, and the isolation of potential heat sources and/or flammables from the processing area. |
| 5.4 | Adequate vehicle accommodation | Vehicles delivering solid waste to the facility shall not park or queue on public streets or roads except under emergency conditions. Adequate off-street parking and queuing for vehicles shall be provided. |
| 5.5 | Enclosed operations | All handling, processing, compaction or other forms of managing putrescible wastes shall occur inside facility buildings. |



- 5.6 Managing prohibited wastes** Upon discovery, all prohibited or unauthorized wastes shall be removed or managed in accordance with procedures established in the Operating Plan.
- 5.7 Managing authorized wastes** All authorized solid wastes received at the facility must, within 24-hours from receipt, be either (a) processed, (b) appropriately stored, or (c) properly disposed of.
- 5.8 Storage** Stored materials and solid wastes shall be suitably contained and removed at sufficient frequency to avoid creating nuisance conditions or safety hazards. Storage areas must be maintained in an orderly manner and kept free of litter.
- 5.9 Litter and airborne debris** The Franchisee shall operate the facility in a manner that is not conducive to the generation of litter and airborne debris. The Franchisee shall:
- Take reasonable steps to notify and remind persons delivering solid waste to the facility that all loads must be suitably secured to prevent any material from blowing off the load during transit.
 - Construct, maintain, and operate all vehicles and devices transferring or transporting solid waste from the facility to prevent leaking, spilling or blowing of solid waste on-site or while in transit.
 - Keep all areas within the site and all vehicle access roads within $\frac{1}{4}$ mile of the site free of litter and debris.
- 5.10 Odor** The Franchisee shall operate the facility in a manner that is not conducive to the generation of odors. The Franchisee shall:
- Clean the areas and equipment that come into contact with solid waste on a regular basis.
 - Establish and follow procedures in the operating plan for minimizing odor at the facility.
- 5.11 Vectors** The Franchisee shall operate the facility in a manner that is not conducive to infestation of rodents, insects, or other animals capable of transmitting, directly or indirectly, infectious diseases to humans or from one person or animal to another.
- 5.12 Noise** The Franchisee shall operate the facility in a manner that controls the creation of excessive noise to the extent necessary to meet applicable regulatory standards and land-use regulations.



- 5.13 Water quality** The Franchisee shall:
- Operate and maintain the facility to prevent contact of solid wastes with stormwater runoff and precipitation.
 - Dispose of contaminated water and sanitary sewage generated onsite in a manner complying with local, state, and federal laws and regulations.
- 5.14 Public Access** Public access to the facility shall be controlled as necessary to prevent unauthorized entry and dumping.
- 5.15 Signage** The Franchisee shall post signs at all public entrances to the facility, and in conformity with local government signage regulations. These signs shall be easily and readily visible, legible, and shall contain at least the following information:
- Name of the facility
 - Address of the facility;
 - Emergency telephone number for the facility;
 - Operating hours during which the facility is open for the receipt of authorized waste;
 - Fees and charges;
 - Metro's name and telephone number (503) 797-1650; and
 - A list of authorized and prohibited wastes.
- 5.16 Complaints** The Franchisee shall respond to all written complaints on nuisances (including, but not limited to, blowing debris, fugitive dust or odors, noise, traffic, and vectors). If Franchisee receives a complaint, Franchisee shall:
- Attempt to respond to that complaint within one business day, or sooner as circumstances may require, and retain documentation of its attempts (whether successful or unsuccessful); and
 - Log all such complaints as provided in Section 8.8 of this franchise. Each log entry shall be retained for one year and shall be available for inspection by Metro.
- 5.17 Access to franchise document** The Franchisee shall maintain a copy of this Metro Solid Waste Facility Franchise on the facility's premises, and in a location where facility personnel and Metro representatives have ready access to it.



- 5.18 Access for ODOT inspectors** The Franchisee shall allow Oregon Department of Transportation (ODOT) inspectors periodic access to the facility for the purpose of conducting truck weight compliance checks.

6.0 OPERATING PLAN

- 6.1 Purpose** This section lists the procedures that must be included in the required facility operating plan. The operating plan must be updated and submitted to Metro within 60 days of the issuance of this franchise and may be further amended from time to time. The operating plan is subject to approval by the Director of the Metro Solid Waste & Recycling Department.
- 6.2 Access to operating plan** The Franchisee shall maintain a copy of the operating plan on the facility premises and in a location where facility personnel and Metro representatives have ready access to it.
- 6.3 Procedures for inspecting loads** The operating plan shall establish:
- a. Procedures for inspecting incoming loads for the presence of prohibited or unauthorized wastes;
 - b. A set of objective criteria for accepting and rejecting loads; and
 - c. An asbestos testing protocol for all material that appears as if it may contain asbestos.
- 6.4 Procedures for processing and storage of loads** The operating plan shall establish procedures for:
- a. Processing authorized solid wastes,
 - b. Storing authorized solid wastes; and
 - c. Minimizing storage times and avoiding delay in processing of authorized solid wastes.



- 6.5 Procedures for managing prohibited wastes** The operating plan shall establish procedures for managing and transporting to appropriate facilities or disposal sites each of the prohibited or unauthorized wastes if they are discovered at the facility. In addition, the operating plan shall establish procedures and methods for notifying generators not to place hazardous wastes or other prohibited wastes in drop boxes or other collection containers destined for the facility.
- 6.6 Procedures for odor prevention** The operating plan shall establish procedures for preventing all odors. The plan must include:
- a. A management plan that will be used to monitor and manage all odors of any derivation including malodorous loads delivered to the facility; and
 - b. Procedures for receiving and recording odor complaints, immediately investigating any odor complaints to determine the cause of odor emissions, and remedying promptly any odor problem at the facility.
- 6.7 Procedures for emergencies** The operating plan shall establish procedures to be followed in case of fire or other emergency.

7.0 FEES AND RATE SETTING

- 7.1 Purpose** This section of the franchise specifies fees payable by the Franchisee, and describes rate regulation by Metro.
- 7.2 Annual fee** The Franchisee shall pay an annual franchise fee, as established in Metro Code Chapter 5.01. Metro reserves the right to change the franchise fee at any time by action of the Metro Council.
- 7.3 Fines** Each violation of a franchise condition shall be punishable by fines as established in Metro Code Chapter 5.01. Each day a violation continues constitutes a separate violation. Metro reserves the right to change fines at any time by action of the Metro Council.
- 7.4 Rates not regulated** The tipping fees and other rates charged at the facility are exempt from rate regulation by Metro.



- 7.5 Metro fee imposed on disposal** The Franchisee is liable for payment of the Metro Regional System Fee on any solid wastes delivered to a disposal site, unless these solid wastes are exempted by Metro Code Chapter 5.01.

8.0 RECORD KEEPING AND REPORTING

- 8.1 Purpose** This section of the franchise describes record keeping and reporting requirements. The Franchisee shall effectively monitor facility operation and maintain accurate records of the information described in this section.
- 8.2 Reporting requirements** For all solid waste and materials the Franchisee is authorized to receive under Section 3.0 of this franchise, including all non-putrescible waste, source-separated recyclables, inert materials, and yard debris and landscape waste, the Franchisee shall keep and maintain accurate records of the amount of such materials the Franchisee receives, recovers, recycles, and disposes. The Franchisee shall keep and maintain complete and accurate records of the following for all transactions:
- a. Ticket Number (should be the same as the ticket number on the weight slips);
 - b. Account Number: Incoming Hauler and Outgoing Destination;
 - c. Material type: Code designating the following types of material (more detail, such as differentiating yard debris, is acceptable): (1) incoming source-separated Recyclable Materials by type; (2) incoming mixed waste; (3) outgoing Recyclable Materials; (4) outgoing mixed waste;
 - d. Origin: Code designating the following origin of material: (1) public from inside Metro boundaries; (2) public from within Multnomah, Clackamas and Washington Counties but outside Metro boundaries; (3) commercial from inside Metro boundaries; (4) commercial from Multnomah, Clackamas and Washington Counties but outside Metro boundaries; and (5) commercial from out-of-state;
 - i. Any load containing any amount of waste from within the Metro region shall be reported as if the entire load



was generated from inside the Metro region.

- ii. If the Franchisee elects to report all loads delivered to the facility as being generated from inside the Metro region, then the Franchisee is not required to designate the origin of loads in Section 8.2(d)(2) and (4) above.
- e. Date the load was received at or transmitted from the Facility;
- f. Time the load was received at or transmitted from the Facility;
- g. Indicate whether Franchisee accepted or rejected the load;
- h. Net weight of the load;
- i. The fee charged to the generator of the load.

8.3	Record transmittals	Records required under Section 8.0 shall be transmitted to Metro no later than fifteen (15) days following the end of each month in electronic format prescribed by Metro.
8.4	Semi-annual computer listing	On a semi-annual basis, Franchisee shall provide Metro with a computer listing that cross references the Incoming Hauler Account Number with the hauling company's name and address.
8.5	DEQ submittals	Franchisee shall provide Metro with copies of all correspondence, exhibits, or documents submitted to the DEQ relating to the terms or conditions of the DEQ solid waste permit or this Franchise within two business days of providing such information to DEQ.
8.6	Copies of enforcement actions provided to Metro	Franchisee shall send to Metro, upon receipt, copies of any notice of violation or non-compliance, citation, or any other similar enforcement actions issued to the Franchisee by any federal, state, or local government other than Metro, and related to the operation of the facility.
8.7	Unusual occurrences	The Franchisee shall keep and maintain accurate records of any unusual occurrences (such as fires or any other significant disruption) encountered during operation, and methods used to resolve problems arising from these events, including details of all incidents that required implementing emergency procedures. The Franchisee shall report any facility fires, accidents, emergencies, and other significant incidents to Metro at (503) 797-1650 within 12



hours of the discovery of their occurrence.

- 8.8 Nuisance complaints** For every nuisance complaint (e.g. odor, dust, vibrations, litter) received, the Franchisee shall record:
- a. The nature of the complaint;
 - b. The date the complaint was received;
 - c. The name, address and telephone number of the person or persons making the complaint; and
 - d. Any actions taken by the operator in response to the complaint (whether successful or unsuccessful).

Records of such information shall be made available to Metro and local governments upon request. The Franchisee shall retain each complaint record for a period of not less than two years.

- 8.9 Changes in ownership** The Franchisee must, in accordance with Metro Code Section 5.01.090, submit a new franchise application to Metro if the Franchisee proposes to transfer ownership or control of (1) the franchise, (2) the facility property, or (3) the name and address of the operator.

9.0 INSURANCE REQUIREMENTS

- 9.1 Purpose** The section describes the types of insurance that the Franchisee shall purchase and maintain at the Franchisee's expense, covering the Franchisee, its employees, and agents.
- 9.2 General liability** The Franchisee shall carry broad form comprehensive general liability insurance covering bodily injury and property damage, with automatic coverage for premises, operations, and product liability. The policy shall be endorsed with contractual liability coverage.
- 9.3 Automobile** The Franchisee shall carry automobile bodily injury and property damage liability insurance.
- 9.4 Coverage** Insurance coverage shall be a minimum of \$500,000 per occurrence. If coverage is written with an annual aggregate limit, the aggregate limit shall not be less than \$1,000,000.
- 9.5 Additional** Metro, its elected officials, departments, employees, and agents



- insureds** shall be named as ADDITIONAL INSUREDS.
- 9.6 **Worker's Compensation Insurance** The Franchisee, its subcontractors, if any, and all employers working under this franchise, are subject employers under the Oregon Workers' Compensation Law shall comply with ORS 656.017, which requires them to provide Workers' Compensation coverage for all their subject workers. Franchisee shall provide Metro with certification of Workers' Compensation insurance including employer's liability. If Franchisee has no employees and will perform the work without the assistance of others, a certificate to that effect may be attached in lieu of the certificate showing current Workers' Compensation.
- 9.7 **Notification** The Franchisee shall give at least 30 days written notice to the Chief Operating Officer of any lapse or proposed cancellation of insurance coverage.

10.0 ENFORCEMENT

- 10.1 **Generally** Enforcement of this franchise shall be as specified in Metro Code.
- 10.2 **Authority vested in Metro** The power and right to regulate, in the public interest, the exercise of the privileges granted by this franchise shall at all times be vested in Metro. Metro reserves the right to establish or amend rules, regulations or standards regarding matters within Metro's authority, and to enforce all such requirements against Franchisee.
- 10.3 **No Enforcement Limitations** Nothing in this franchise shall be construed to limit, restrict, curtail, or abrogate any enforcement provision contained in Metro Code or administrative procedures adopted pursuant to Metro Code Chapter 5.01, nor shall this franchise be construed or interpreted so as to limit or preclude Metro from adopting ordinances that regulate the health, safety, or welfare of any person or persons within the District, notwithstanding any incidental impact that such ordinances may have upon the terms of this franchise or the Franchisee's operation of the facility.



11.0 MODIFICATIONS

- 11.1 Modification** At any time during the term of the franchise, either the Chief Operating Officer or the Franchisee may propose amendments or modifications to this franchise. Except as provided in Section 11.2, no modification shall be effective unless approved by the Metro Council.
- 11.2 Modification, suspension or revocation by Metro** The Chief Operating Officer may, at any time before the expiration date, modify, suspend, or revoke this franchise in whole or in part, in accordance with Metro Code Chapter 5.01, for reasons including but not limited to:
- a. Violation of the terms or conditions of this franchise, Metro Code, or any applicable statute, rule, or standard;
 - b. Changes in local, regional, state, or federal laws or regulations that should be specifically incorporated into this franchise;
 - c. Failure to disclose fully all relevant facts;
 - d. A significant release into the environment from the facility;
 - e. Significant change in the character of solid waste received or in the operation of the facility;
 - f. Any change in ownership or control, excluding transfers among subsidiaries of the Franchisee or Franchisee's parent corporation;
 - g. A request from the local government stemming from impacts resulting from facility operations.
 - h. Compliance history of the Franchisee.

12.0 GENERAL OBLIGATIONS

- 12.1 Compliance with law** Franchisee shall fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders and permits pertaining in any manner to this franchise, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.01 whether or not those provisions have been specifically mentioned or cited herein. All conditions imposed on the operation of the facility by federal, state, regional or local governments or agencies having jurisdiction over the facility shall be deemed part of this franchise as if specifically set forth



herein. Such conditions and permits include those cited within or attached as exhibits to the franchise document, as well as any existing at the time of the issuance of the franchise but not cited or attached, and permits or conditions issued or modified during the term of the franchise.

- 12.2 Indemnification** The Franchisee shall indemnify and hold Metro, its employees, agents and elected officials harmless from any and all claims, damages, actions, losses and expenses including attorney's fees, or liability related to or arising out of or in any way connected with the Franchisee's performance or failure to perform under this franchise, including patent infringement and any claims or disputes involving subcontractors.
- 12.3 Deliver waste to appropriate destinations** The Franchisee shall ensure that solid waste transferred from the facility goes to the appropriate destinations under Metro Code chapters 5.01 and 5.05, and under applicable local, state and federal laws, rules, regulations, ordinances, orders and permits;
- 12.4 Right of inspection and audit** Authorized representatives of Metro may take photographs and perform such inspection or audit as the Chief Operating Officer deems appropriate, and shall be permitted access to the premises of the facility at all reasonable times during business hours with or without notice or at such other times upon giving reasonable advance notice (not less than 24 hours). Metro inspection reports, including site photographs, are public records subject to disclosure under Oregon Public Records Law. Subject to the confidentiality provisions in Section 12.5 of this franchise, Metro's right to inspect shall include the right to review all information from which all required reports are derived including all books, maps, plans, income tax returns, financial statements, contracts, and other similar written materials of Franchisee that are directly related to the operation of the Facility.
- 12.5 Confidential information** Franchisee may identify as confidential any reports, books, records, maps, plans, income tax returns, financial statements, contracts and other similar written materials of the Franchisee that are directly related to the operation of the facility and that are submitted to or reviewed by Metro. Franchisee shall prominently mark any information which it claims confidential with the mark "CONFIDENTIAL" prior to submittal to or review by Metro. Metro shall treat as confidential any information so marked and will make a good faith effort not to disclose such information unless Metro's refusal to disclose such information would be contrary to applicable Oregon law, including, without limitation, ORS Chapter 192. Within five (5) days of Metro's receipt, any request for



disclosure of information identified by licensee as confidential, Metro shall provide Franchisee written notice of the request. Franchisee shall have three (3) days within which time to respond in writing to the request before Metro determines, at its sole discretion, whether to disclose any requested information. Franchisee shall pay any costs incurred by Metro as a result of Metro's efforts to remove or redact any such confidential information from documents that Metro produces in response to a public records request. Nothing in this Section 12 shall limit the use of any information submitted to or reviewed by Metro for regulatory purposes or in any enforcement proceeding. In addition, Metro may share any confidential information with representatives of other governmental agencies provided that, consistent with Oregon law, such representatives agree to continue to treat such information as confidential and make good faith efforts not to disclose such information

**12.6 Compliance
by agents**

The Franchisee shall be responsible for ensuring that its agents and contractors operate in compliance with this franchise.

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STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 03-1025 FOR THE PURPOSE OF APPROVING THE TRANSFER STATION FRANCHISE RENEWAL APPLICATION OF WILLAMETTE RESOURCES, INC., AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A RENEWED FRANCHISE, AND DECLARING AN EMERGENCY

October 22, 2003

Prepared by: Bill Metzler

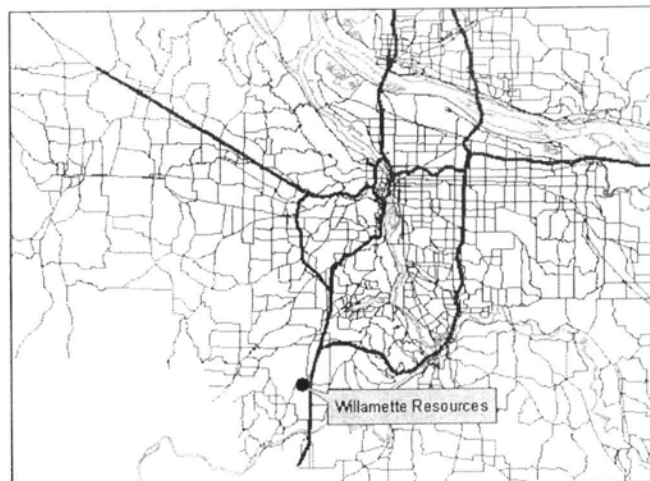
BACKGROUND

A. Reason for the Ordinance

Ordinance No. 03-1025 is a response to an application for a franchise renewal duly filed by Willamette Resources, Inc. pursuant to Metro Code chapter 5.01.087(b). Metro Code Section 5.01.087(b) requires that the Chief Operating Officer formulate recommendations regarding whether a renewal meets the criteria in Section 5.01.070. The Metro Code specifies that the Council shall approve a renewal of a Solid Waste Facility Franchise unless the Council determines that the proposed renewal is not in the public interest or does not meet the criteria contained in Section 5.01.070. The Council may attach conditions or limitations to the renewed franchise.

B. The Applicant and the Applicant's Request

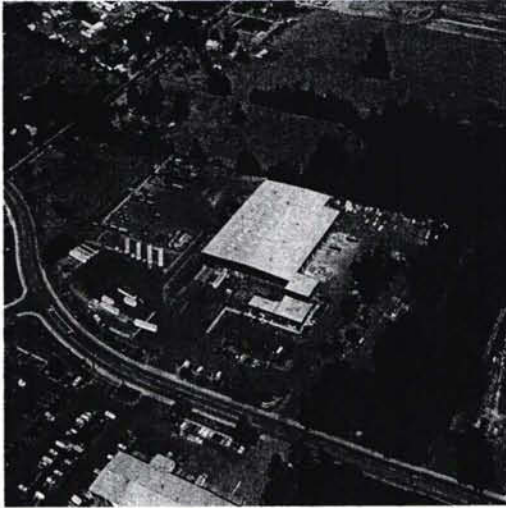
Willamette Resources, Inc., a wholly owned subsidiary of Allied Waste Industries, is the operator of an existing solid waste facility that is currently franchised by Metro as a transfer station to receive putrescible waste, perform material recovery on non-putrescible waste, and accept source-separated recyclable material. The applicant has requested a renewal of its solid waste facility franchise. The applicant is located at 10295 SW Ridder Road, in Wilsonville (Metro Council District 3).



Site Location Map

The applicant has requested no new authorizations, tonnage increase, or changes to its current franchise provisions. Under separate authority of three Metro Non-System Licenses (NSLs) the franchisee is authorized to deliver putrescible waste directly to Riverbend Landfill in Yamhill County, Oregon (NSL#

N-005-02); Coffin Butte Landfill in Benton County, Oregon (NSL# N005-01(2)); and the Covanta Waste-To-Energy Facility in Marion County, Oregon (NSL# N-005-03(2)).



Aerial photo of facility

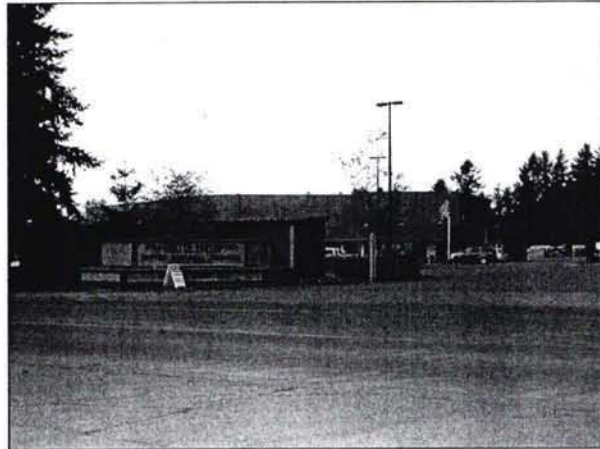


Photo of facility entrance

C. Issuance of a Renewed Franchise

Metro Code Section 5.01.087(b) governs the application and renewal of franchises. That section requires the franchisee to submit an application and a renewal fee, requires the Chief Operating Officer to formulate recommendations regarding whether the renewal meets the criteria in Section 5.01.070, provides that the Council shall renew an application unless it finds that renewal is not in the public interest or does not meet the criteria in Section 5.01.070, and gives the Council discretion to impose conditions or limitations on the franchise.

1. Renewal Application

Metro Code Section 5.01.087(b) requires the applicant to file a completed application for renewal accompanied by payment of an application fee of \$500 not less than 120 days prior to the expiration of the franchise term.

The applicant filed its application for renewal and application fee of \$500 on September 24, 2003. The current franchise term expires on December 31, 2003. On September 10, 2003, Metro sent written notice to the applicant with a reminder that its franchise is scheduled to expire, and requested that the applicant submit a renewal application no later than September 30, 2003. Although the applicant filed its renewal application less than 120 days prior to the expiration of its franchise term, staff had sufficient time to evaluate the renewal application.

2. Compliance With The Criteria in Metro Code Section 5.01.070

Metro Code Section 5.01.070 governs the evaluation and issuance of franchises, and only subsections (c) and (f) of that section establish criteria for the approval of franchise applications.

(a) Metro Code section 5.01.070(c) requires that the Chief Operating Officer formulate recommendations regarding:

i. *Applicant Qualifications.*

The applicant is well known to Metro as an operator of a Metro franchised solid waste facility and as a long-standing solid waste management company in the Portland Metro area. The applicant has operated its facility for over eight years and has extensive experience in recycling, solid waste hauling, and disposal. Staff concludes that the applicant is fully qualified to operate and manage the facility competently and efficiently.

ii. *Compliance with the Regional Solid Waste Management Plan (RSWMP).*

The solid waste management activities to be renewed under this franchise are entirely consistent with the Regional Solid Waste Management Plan's section on *Solid Waste Facilities and Services: Transfer and Disposal System*.

Recommended Practice # 1: Allow additions to the existing system of three transfer stations as necessary to maintain solid waste transfer and disposal service levels that provide reasonable access for residents, businesses and haulers. New transfer stations may be authorized where they provide a net benefit to the regional solid waste system. New transfer stations shall perform material recovery subject to facility recovery rate standards.

Recommended Practice # 3: Maintain options for haulers to choose among disposal alternatives.

The rationale for transfer stations under the Plan is that they assist in maintaining service levels by reducing drive time for haulers, reducing congestion at existing facilities and adding opportunity to recover materials. An efficient disposal system depends on both capacity and accessibility. As an outright recommended practice, staff concludes that the applicant's request for renewal of its franchise complies with the Regional Solid Waste Management Plan.

iii. *Meeting the Requirements of Metro Code Section 5.01.060.*

Metro Code section 5.01.060(a) requires applications for renewal of an existing franchise to be filed on forms or in the format provided by the Chief Operating Officer. The applicant seeks a franchise renewal and, in accordance with Metro Code provisions, has filed a completed application for renewal accompanied by payment of the application fee of \$500. Accordingly, staff finds that the application was properly filed.

Metro Code section 5.01.060(b) requires all applications to include a description of the activities proposed to be conducted and a description of wastes to be accepted. This information was included in the franchise renewal application form and accordingly, staff finds that the application was properly filed.

Metro Code sections 5.01.060(c) requires that an application for a franchise include the following: 1) proof of insurance; 2) duplicate copies of all DEQ required applications and permits; 3) a duplicate copy of any DEQ required closure plan or if not required by the DEQ then a closure document describing closure protocol; 4) copies of DEQ required financial assurance documents or if not required by the DEQ proof of financial assurance for the cost of closure of the facility; 5) signed consent by the property owner to the proposed use of the property; 6) proof that the applicant has received proper land use approval; and, 7) copies of any other permits required from other governmental agencies. This information is included in the existing franchise file of the applicant; accordingly staff finds that the required information has been submitted.

Metro Code Section 5.01.060 (d) is a new provision for proposed facilities that was adopted by the Metro Council on October 9, 2003 (Ordinance No. 03-1018A). Since this provision pertains to a proposed facility making an initial application for a new franchise, not a renewal, they are not applicable in this case.

iv. *Compliance with Regulatory Requirements.*

The applicant has land use authorization from the City of Wilsonville, Oregon, a DEQ Solid Waste Disposal Permit, and for the past five years has been operating under authority of a Metro Solid Waste Facility Franchise. In that time, the facility has not received, to Metro's knowledge, any notices of violation or non-compliance from either the City of Wilsonville or the Oregon DEQ. However, the facility has received three Notices of Non-Compliance (NON) from Metro since 2000; two of which were for exceeding its tonnage authorization in its franchise agreement, the other for exceeding its tonnage authorization in a non-system license. The first NON was issued in April 2000, and has been successfully resolved through a contested case proceeding in which the Franchisee paid a civil penalty. The second franchise NON was issued in August 2003, and the civil penalty was paid. The third NON was also issued in August 2003, for violating the tonnage authorization of NSL# N-005-01(3) which has subsequently been renewed as NSL# N-005-03(2). There was no fine associated with the NSL enforcement action. No other violations, citations or letters of complaint of record have been issued to the applicant by Metro or any other regulatory agency or government in regard to the operation of the facility. Metro has conducted nine site inspections since January 2003, and staff has found a well-run operation with no observable reason to suspect impending problems or issues other than some concern about the Franchisee's compliance record regarding its violations of Metro tonnage authorizations.

Thus, the facility has operated for over eight years while incurring only two franchise violations. Staff therefore concludes that the applicant has sufficiently complied – and is likely to continue to comply – with all applicable regulatory requirements.

- (b) *Metro Code section 5.01.070(f) lists five criteria for consideration by the Council (but notes that the Council is not limited to these criteria in making its decision):*

i. *Consistency with the Regional Solid Waste Management Plan.*

In examining this issue in Section (2)(a)(ii) above, staff found in the affirmative.

- ii. *The effect that granting a franchise to the applicant will have on the cost of solid waste disposal and recycling services for the citizens of the region.*

Willamette Resources, Inc. is an existing facility and has been in operation for over eight years. In addition, Willamette Resources has not requested any change in tonnage authorizations, or activities at the facility. The effect of granting a renewed franchise would be to maintain the status quo with regard to the cost of solid waste recycling and disposal services for the citizens of the region

- iii. *Granting the franchise would be unlikely to adversely affect health, safety and welfare of Metro's residents.*

Metro staff is not aware of any facility incidents or operating procedures that have adversely affected the health, safety and welfare of Metro's residents in the eight years that the facility has been operating. Likewise, the Oregon DEQ has not cited the facility for any violations. The operator's experience and track record, together with the regulatory environment in which Willamette Resources, Inc., operates, leads staff to conclude that it is unlikely Willamette Resources, Inc., will adversely affect the public health, safety and welfare.

- iv. *Granting the franchise would be unlikely to unreasonably adversely affect nearby residents, property owners or the existing character or expected future development of the surrounding neighborhood.*

Metro staff is not aware of any complaints or excessive impacts on the surrounding neighborhood in the eight years that the facility has been operating. The operator's experience and track record leads staff to conclude that it is unlikely Willamette Resources, Inc. would unreasonably adversely impact the surrounding neighborhood.

- v. *The applicant is likely to comply with regulations and standards.*

As discussed in Section (2)(a)(iv), above, staff finds that, notwithstanding two franchise violations and one NSL violation, which have all been successfully resolved, the applicant is likely to comply with regulations and standards if the franchise is renewed.

3. Chief Operating Officer's Recommendation and Recommended Franchise Conditions

Based on the information presented in Section (C)(1) and (2) above, the Chief Operating Officer believes that the franchise renewal application meets the criteria in Metro Code Section 5.01.070. The Chief Operating Officer also believes that the proposed franchise renewal is in the public interest. The Chief Operating Officer therefore recommends that the Metro Council approve a franchise renewal to Willamette Resources, Inc. subject to the requirements listed in Metro Code Chapter 5.01; and further subject to the following specific conditions, which are incorporated into the draft franchise attached as Exhibit A to Ordinance No. 03-1025:

Conditions:

- That the franchise be granted for four years, to expire on December 31, 2007. This condition will ensure that the term of the renewed franchise will coincide with future solid waste planning and policy decisions by the Metro Council.
- That the franchise include more specific record keeping and reporting requirements for the purpose of ensuring that Metro receive accurate transaction data for necessary accounting controls if the franchisee intends to not pay regional system fees on waste from outside Metro's boundaries. The franchisee shall accept no more than 65,000 tons of putrescible waste within each Metro fiscal year as established by Metro Council in October 2001 (Ordinance No. 01-916C). As drafted and currently enforced, this limitation is applicable to all putrescible waste accepted at the facility, irrespective of whether the waste originated within the Metro region.
- That the franchisee shall perform material recovery on non-putrescible waste at the rate stipulated in Metro Code Chapter 5.01. Currently, the required recovery rate is at least 25% by weight of non-putrescible waste accepted at the facility and waste delivered by public customers. This is an existing franchise condition. Willamette Resources has performed recovery at an average rate of 33.6% over the last twelve months (as calculated for the Metro Regional System Fee and Excise Tax Credit Program).
- That the franchisee allows the Oregon Department of Transportation (ODOT) inspectors periodic access to the facility to check truck weights for compliance with state and federal weight limitations and reporting requirements imposed upon trucks traveling on public highways. This is a new franchise condition requested by ODOT that will ensure that ODOT

has access to all transfer stations for the purpose of checking vehicle weights to enhance the safety of our roads and reduce road maintenance costs. This new condition will assure a level playing field among private and public transfer stations.

- That the franchisee's authority to direct haul waste to the Columbia Ridge Landfill not be renewed, and that the performance standards for direct hauling in the renewed franchise be removed. These provisions are no longer necessary, because under separate authority of three Metro Non-System Licenses, the franchisee is now authorized to deliver putrescible waste to Riverbend Landfill, Coffin Butte Landfill, and the Covanta Waste-To-Energy Facility. Now that putrescible waste NSLs are subject to Council approval, any impact to the solid waste system can be considered when the NSLs are renewed.

ANALYSIS / INFORMATION

1. Known Opposition

There is no known opposition.

2. Legal Antecedents

Current provisions of Metro Code Chapter 5.01, "Solid Waste Facility Regulation".

3. Anticipated Effects

Adoption of Ordinance No. 03-1025 would grant a renewed Solid Waste Facility Franchise for Willamette Resources, Inc., to continue to operate "status quo" as a local transfer station and perform material recovery for four years. Ordinance No. 03-1025 requires an emergency clause as Willamette Resources, Inc., is an existing facility providing necessary solid waste services to citizens of the region and ensuring that its franchise is renewed effective January 1, 2004, upon expiration of its current franchise on December 31, 2003, is necessary for the immediate preservation of public health, safety and welfare. Pursuant to Metro Charter section 39(1), an emergency is declared to exist, and this ordinance shall take effect immediately upon adoption.

4. Budget Impacts

Ordinance No. 03-1025 authorizes the renewal of an existing solid waste facility franchise without any significant changes in authorizations other than the deletion of the franchisee's direct haul authority. The facility will continue to process waste of the same type and in the same quantity as presently authorized by its existing franchise. Thus, it is anticipated that approval of Ordinance No. 03-1025 will have no budget impact beyond the impact already absorbed after the facility first began its operations as a transfer station and has been factored into Metro's future projections.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Ordinance No. 03-1025.

Agenda Item Number 4.2

Ordinance No. 03-1026, For the Purpose of Approving the Transfer Station Franchise Renewal Application of Pride Recycling Company, authorizing the Chief Operating Officer to issue a renewed franchise, and Declaring an Emergency.

Second Reading

Metro Council Meeting
Thursday, December 4, 2003
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPROVING THE	)	ORDINANCE NO. 03-1026
TRANSFER STATION FRANCHISE RENEWAL)	
APPLICATION OF PRIDE RECYCLING COMPANY,	)	Introduced by Michael Jordan,
AUTHORIZING THE CHIEF OPERATING OFFICER	)	Chief Operating Officer, with the
TO ISSUE A RENEWED FRANCHISE, AND	)	concurrence of David Bragdon,
DECLARING AN EMERGENCY	)	Metro Council President

WHEREAS, Metro Code Section 5.01.045(b)(2) stipulates that a Metro Solid Waste Facility Franchise shall be required for the person owning or controlling a facility that operates a Transfer Station; and,

WHEREAS, Pride Recycling Company currently holds Metro Solid Waste Facility Franchise Number F-002-98, which will expire on December 31, 2003; and,

WHEREAS, Metro Code Section 5.01.087(b) stipulates that franchise renewals shall be approved or denied by the Metro Council, and that a franchisee seeking renewal of a franchise shall file a completed application for renewal accompanied by payment of an application fee of five hundred dollars not less than 120 days prior to the expiration of the Franchise term, together with a statement of proposed material changes from its initial application for the franchise and any other information required by the Chief Operating Officer or by the Council. In addition, the Chief Operating Officer shall formulate recommendations regarding whether the renewal meets the criteria in Section 5.01.070, and that the Council shall approve renewal of a Solid Waste Facility Franchise unless the Council determines that the proposed renewal is not in the public interest or does not meet the criteria contained in Section 5.01.070; and,

WHEREAS, Pride Recycling Company filed an application for a renewed franchise pursuant to Metro Code Section 5.01.087(b); and,

WHEREAS, the Chief Operating Officer reviewed and investigated the application renewal for Pride Recycling Company as required by Metro Code Sections 5.01.087(b), and formulated recommendations on the criteria listed in Metro Code Section 5.01.070; and,

WHEREAS, the Chief Operating Officer recommends that the franchise be renewed together with specific conditions as provided in Exhibit A to this Ordinance entitled, "Solid Waste Facility Franchise," which includes a recommendation that the renewed franchise be issued for a term of four (4) years; and,

WHEREAS, the Chief Operating Officer forwards his recommendation and recommended conditions to the Council as required by Metro Code Section 5.01.087(b); and,

WHEREAS, the Council finds that the franchise renewal application meets the criteria contained in Metro Code Section 5.01.070; and,

WHEREAS, the Council finds that granting the applicant a renewed franchise is in the public interest; and,

WHEREAS, the Council finds that the terms, conditions, and limitations contained in Exhibit A to this Ordinance are appropriate, including the provision and that the renewed franchise shall be issued for a term of four (4) years; and,

WHEREAS, Council finds that this ordinance must take effect immediately upon adoption, so that the renewed franchise may be issued and effective upon expiration of the applicant's current franchise (No. F-002-98) on December 31, 2003; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. The transfer station renewal franchise application of Pride Recycling Company is approved, subject to the terms, conditions, and limitations contained in Exhibit A to this Ordinance entitled, "Solid Waste Facility Franchise."
2. The Chief Operating Officer is authorized to issue to Pride Recycling Company a renewed Solid Waste Facility Franchise substantially similar to the one attached as Exhibit A.
3. This ordinance is immediately necessary for the health, safety and welfare of the Metro region in order to ensure the efficient operation of the region's solid waste management system. An emergency is therefore declared to exist. This Ordinance shall take effect immediately, pursuant to Metro Charter Section 39(1).

ADOPTED by the Metro Council this _____ day of _____, 2003.

David Bragdon, Council President

Attest:

Approved as to Form:

Chris Billington, Recording Secretary

Daniel B. Cooper, Metro Attorney

BMbjlmca
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SOLID WASTE FACILITY FRANCHISE

Number F-002-03

Issued by

Metro

600 NE Grand Avenue

Portland, OR 97232

Telephone: (503) 797-1650

Issued in accordance with the provisions of Metro Code Chapter 5.01

FRANCHISEE: Pride Recycling Company P.O. Box 820 Sherwood, Oregon 97140 (503) 625-6177 FAX (503) 625-6179 Contact: Michael L. Leichner, President	FACILITY NAME AND LOCATION: Pride Recycling Company 13980 SW Tualatin-Sherwood Road Sherwood, Oregon 97140 Contact: Michael L. Leichner, President
OPERATOR: Pride Recycling Company 13980 SW Tualatin-Sherwood Road Sherwood, Oregon 97140 (503) 625-6177 FAX (503) 625-6179 Contact: Michael L. Leichner, President	PROPERTY OWNER: Lorry Leichner P.O. Box 820 Sherwood, Oregon 97140 (503) 625-6177 Contact: Michael L. Leichner, President

This franchise is granted to the Franchisee named above and is not transferable. Subject to the conditions stated in this franchise document, the Franchisee is authorized to operate and maintain a solid waste facility, and to accept the solid wastes and perform the activities authorized herein.

Franchise begins: December 31, 2003

Expiration: December 31, 2007

Metro:

Acceptance & Acknowledgement of Receipt:

Signature

Signature of Franchisee

Michael Jordan, Chief Operating Officer

Print name and title

Print name and title

Date

Date



TABLE OF CONTENTS

SECTION	TITLE	PAGE
1.1	Issuance	3
2.0	Conditions and Disclaimers	3
3.0	Authorizations	5
4.0	Limitations and Prohibitions	6
5.0	Operating Conditions	7
6.0	Operating Plan	10
7.0	Fees and Rate Setting	11
8.0	Record Keeping and Reporting	12
9.0	Insurance Requirements	14
10.0	Enforcement	15
11.0	Modifications	16
12.0	General Obligations	16



1.0 ISSUANCE

- | | | |
|------------|---|---|
| 1.1 | Franchisee | Pride Recycling Company.
P.O. Box 820
Sherwood, OR 97140
(503) 625-6177 |
| 1.2 | Contact | Michael L. Leichner, President (email: mike@pridedisposal.com) |
| 1.3 | Franchise Number | When referring to this franchise, please cite:
Metro Solid Waste Facility Franchise Number F-002-03 |
| 1.4 | Term | Inception date: December 31, 2003
Expiration date: December 31, 2007 |
| 1.5 | Facility name and street address | Pride Recycling Company.
13980 SW Tualatin-Sherwood Road
Sherwood, OR 97140
(503) 625-6177 |
| 1.6 | Operator | Pride Recycling Company
P.O. Box 820
Sherwood, OR 97140
(503) 625-6177 |
| 1.7 | Facility legal description | Tax Lots 101 and 103, Section 28, Township 2S, Range 1W,
Willamette Meridian
Washington County, State of Oregon |
| 1.8 | Facility owner | Lorry Leichner
P.O. Box 820
Sherwood, OR 97140
(503) 625-6177 |
| 1.9 | Permission to operate | Franchisee warrants that it has obtained the property owner's consent to operate the facility as specified in this franchise. |

2.0 CONDITIONS AND DISCLAIMERS

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| 2.1 | Guarantees | The granting of this franchise shall not vest any right or privilege in the Franchisee to receive specific quantities of solid waste at the direction of Metro during the term of the franchise. |
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| 2.2 | Non-exclusive franchise | The granting of this franchise shall not in any way limit Metro from granting other solid waste franchises within the District. |
| 2.3 | Property rights | The granting of this franchise does not convey any property rights in either real or personal property, nor does it authorize any injury to private property or invasion of property rights. |
| 2.4 | No recourse | The Franchisee shall have no recourse whatsoever against Metro or its officials, agents or employees for any loss, costs, expense or damage arising out of any provision or requirement of this franchise or because of the enforcement of the franchise or in the event the franchise or any part thereof is determined to be invalid. |
| 2.5 | Release of liability | Metro, its elected officials, employees, or agents do not sustain any liability on account of the granting of this franchise or on account of the construction, maintenance, or operation of the facility pursuant to this franchise. |
| 2.6 | Binding nature | The conditions of this franchise are binding on the Franchisee. The Franchisee is liable for all acts and omissions of the Franchisee's contractors and agents. |
| 2.7 | Waivers | To be effective, a waiver of any terms or conditions of this Franchise must be in writing and signed by the Metro Chief Operating Officer. |
| 2.8 | Effect of waiver | Waiver of a term or condition of this Franchise shall not waive nor prejudice Metro's right otherwise to require subsequent performance of the same term or condition or require the performance of any other term or condition. |
| 2.9 | Choice of law | The Franchise shall be construed, applied and enforced in accordance with the laws of the State of Oregon. |
| 2.10 | Enforceability | If any provision of this Franchise is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, the validity of the remaining provisions contained in this Franchise shall not be affected. |
| 2.11 | Franchise not a waiver | Nothing in this franchise shall be construed as relieving any owner, operator, or Franchisee from the obligation of obtaining all required permits, licenses, or other clearances and complying with all orders, laws, regulations, reports or other requirements of other regulatory agencies. |



- 2.12 Franchise not limiting** Nothing in this franchise is intended to limit the power of a federal, state, or local agency to enforce any provision of law relating to the solid waste facility that it is authorized or required to enforce or administer.
- 2.13 Definitions** Unless otherwise specified, all other terms are as defined in Metro Code Chapter 5.01. In the event that the Metro Code is amended, the latest amended version shall apply to this franchise.

3.0 AUTHORIZATIONS

- 3.1 Purpose** This section of the franchise describes the wastes that the Franchisee is authorized to accept at the facility, and the waste - related activities the Franchisee is authorized to perform at the facility.
- 3.2 General conditions on solid wastes** The Franchisee is authorized to accept at the facility only the solid wastes described in this section. The Franchisee is prohibited from knowingly receiving any solid waste not authorized in this section.
- 3.3 General conditions on activities** The Franchisee is authorized to perform at the facility only those activities that are described in this section.
- 3.4 Putrescible waste** The Franchisee is authorized to accept putrescible waste for the purpose of delivery, or transfer of said putrescible waste to a disposal site authorized by a Metro designated facility agreement or a Metro non-system license in accordance with Metro Code Chapter 5.05.
- 3.5 Non-putrescible waste** The Franchisee is authorized to accept for the purpose of material recovery non-putrescible solid wastes such as waste generated by non-residential generators and waste generated at construction and demolition sites.
- 3.6 Source-separated recyclables** The Franchisee is authorized to accept source-separated recyclable materials for purposes of sorting, classifying, consolidating, baling, temporary storage, transfer and other similar functions related to preparing these materials for marketing.
- 3.7 Inert materials** The Franchisee is authorized to accept inert materials for purposes of classifying, consolidating, transfer, and other similar functions



related to preparing these materials for useful purposes.

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| 3.8 | Source-separated yard debris | The Franchisee is authorized to accept source-separated yard debris for transfer to a Metro licensed yard debris facility, a DEQ-permitted composting facility or other DEQ-permitted processing facility. |
| 3.9 | Incidental recovery | The Franchisee is authorized to perform "low-level" material recovery on putrescible waste, provided that these material recovery efforts are incidental to the activity of transferring the putrescible waste, and are limited to the gleaning of easily extractable recyclable or reusable materials from the waste. |

4.0 LIMITATIONS AND PROHIBITIONS

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| 4.1 | Purpose | This section of the franchise describes limitations and prohibitions on the wastes handled at the facility and waste-related activities performed at the facility. |
| 4.2 | Limit on waste accepted | The Franchisee shall accept no more than 65,000 tons of putrescible waste within each Metro fiscal year irrespective of whether the waste originated inside or outside the Metro region. |
| 4.3 | Prohibited waste | The Franchisee shall not knowingly accept or retain any material amounts of the following types of wastes: materials contaminated with or containing friable asbestos; lead acid batteries; liquid waste for disposal; vehicles; infectious, biological or pathological waste; radioactive waste; hazardous waste; or any waste prohibited by the Franchisee's DEQ Disposal Site Permit. |
| 4.4 | Material recovery required | The Franchisee shall perform material recovery on non-putrescible waste accepted at the facility at the rate stipulated in Metro Code Chapter 5.01 , or deliver said non-putrescible wastes to a Metro authorized solid waste facility whose primary purpose is to recover useful materials from solid waste. |
| 4.5 | Prohibition on mixing | The Franchisee shall not mix any source-separated recyclable materials or yard debris brought to the facility with any other solid wastes. Recyclable materials recovered at the facility may be combined with source-separated recyclable materials for transfer to markets, processors, or another solid waste facility that prepares such materials for reuse or recycling. |



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| 4.6 | No disposal of recyclable materials | Source-separated recyclable materials may not be disposed of by landfilling or incineration. |
| 4.7 | Origin of putrescible waste | The Franchisee shall accept putrescible waste that originates within the Metro boundary only from persons who are franchised or permitted by a local government unit to collect and haul putrescible waste. |
| 4.8 | Limits not exclusive | Nothing in this section of the franchise shall be construed to limit, restrict, curtail, or abrogate any limitation or prohibition contained elsewhere in this franchise document, in Metro Code, or in any federal, state, regional or local government law, rule, regulation, ordinance, order or permit. |

5.0 OPERATING CONDITIONS

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| 5.1 | Purpose | This section of the franchise describes criteria and standards for the operation of the facility. |
| 5.2 | Qualified Operator | The Franchisee shall provide an operating staff qualified to carry out the functions required by this franchise and to otherwise ensure compliance with Metro Code Chapter 5.01. Facility personnel shall be familiar with the provisions of this franchise and the procedures contained within the facility's operating plan (see Section 6.0). |
| 5.3 | Fire prevention | The operator shall provide fire prevention, protection, and control measures, including but not limited to, adequate water supply for fire suppression, and the isolation of potential heat sources and/or flammables from the processing area. |
| 5.4 | Adequate vehicle accommodation | Vehicles delivering solid waste to the facility shall not park or queue on public streets or roads except under emergency conditions. Adequate off-street parking and queuing for vehicles shall be provided. |
| 5.5 | Enclosed operations | All handling, processing, compaction or other forms of managing putrescible wastes shall occur inside facility buildings. |



- 5.6 Managing prohibited wastes** Upon discovery, all prohibited or unauthorized wastes shall be removed or managed in accordance with procedures established in the Operating Plan.
- 5.7 Managing authorized wastes** All authorized solid wastes received at the facility must, within 24-hours from receipt, be either (a) processed, (b) appropriately stored, or (c) properly disposed of.
- 5.8 Storage** Stored materials and solid wastes shall be suitably contained and removed at sufficient frequency to avoid creating nuisance conditions or safety hazards. Storage areas must be maintained in an orderly manner and kept free of litter.
- 5.9 Litter and airborne debris** The Franchisee shall operate the facility in a manner that is not conducive to the generation of litter and airborne debris. The Franchisee shall:
- Take reasonable steps to notify and remind persons delivering solid waste to the facility that all loads must be suitably secured to prevent any material from blowing off the load during transit.
 - Construct, maintain, and operate all vehicles and devices transferring or transporting solid waste from the facility to prevent leaking, spilling or blowing of solid waste on-site or while in transit.
 - Keep all areas within the site and all vehicle access roads within $\frac{1}{4}$ mile of the site free of litter and debris.
- 5.10 Odor** The Franchisee shall operate the facility in a manner that is not conducive to the generation of odors. The Franchisee shall:
- Clean the areas and equipment that come into contact with solid waste on a regular basis.
 - Establish and follow procedures in the operating plan for minimizing odor at the facility. Such procedures must be in writing and in a location where facility personnel and Metro inspectors can readily reference them.
- 5.11 Vectors** The Franchisee shall operate the facility in a manner that is not conducive to infestation of rodents, insects, or other animals capable of transmitting, directly or indirectly, infectious diseases to humans or from one person or animal to another.
- 5.12 Noise** The Franchisee shall operate the facility in a manner that controls the creation of excessive noise to the extent necessary to meet applicable regulatory standards and land-use regulations.



- 5.13 Water quality** The Franchisee shall:
- Operate and maintain the facility to prevent contact of solid wastes with stormwater runoff and precipitation.
 - Dispose of contaminated water and sanitary sewage generated onsite in a manner complying with local, state, and federal laws and regulations.
- 5.14 Public Access** Public access to the facility shall be controlled as necessary to prevent unauthorized entry and dumping.
- 5.15 Signage** The Franchisee shall post signs at all public entrances to the facility, and in conformity with local government signage regulations. These signs shall be easily and readily visible, legible, and shall contain at least the following information:
- Name of the facility
 - Address of the facility;
 - Emergency telephone number for the facility;
 - Operating hours during which the facility is open for the receipt of authorized waste;
 - Fees and charges;
 - Metro's name and telephone number (503) 797-1650; and
 - A list of authorized and prohibited wastes.
- 5.16 Complaints** The Franchisee shall respond to all written complaints on nuisances (including, but not limited to, blowing debris, fugitive dust or odors, noise, traffic, and vectors). If Franchisee receives a complaint, Franchisee shall:
- Attempt to respond to that complaint within one business day, or sooner as circumstances may require, and retain documentation of its attempts (whether successful or unsuccessful); and
 - Log all such complaints as provided in Section 8.8 of this franchise. Each log entry shall be retained for one year and shall be available for inspection by Metro.
- 5.17 Access to franchise document** The Franchisee shall maintain a copy of this Metro Solid Waste Facility Franchise on the facility's premises, and in a location where facility personnel and Metro representatives have ready access to it.



- 5.17 Access for ODOT inspectors** The Franchisee shall allow Oregon Department of Transportation inspectors periodic access to the facility for the purpose of conducting truck weight compliance checks.

6.0 OPERATING PLAN

- 6.1 Purpose** This section lists the procedures that must be included in the required facility operating plan. The operating plan must be updated and submitted to Metro within 60 days of the issuance of this franchise and may be further amended from time to time. The operating plan is subject to approval by the Director of the Metro Solid Waste & Recycling Department.
- 6.2 Access to operating plan** The Franchisee shall maintain a copy of the operating plan on the facility premises and in a location where facility personnel and Metro representatives have ready access to it.
- 6.3 Procedures for inspecting loads** The operating plan shall establish:
- a) Procedures for inspecting incoming loads for the presence of prohibited or unauthorized wastes;
 - b) A set of objective criteria for accepting and rejecting loads; and
 - c) An asbestos testing protocol for all material that appears as if it may contain asbestos.
- 6.4 Procedures for processing and storage of loads** The operating plan shall establish procedures for:
- a) Processing authorized solid wastes,
 - b) Storing authorized solid wastes; and
 - c) Minimizing storage times and avoiding delay in processing of authorized solid wastes.



- 6.5 Procedures for managing prohibited wastes** The operating plan shall establish procedures for managing and transporting to appropriate facilities or disposal sites each of the prohibited or unauthorized wastes if they are discovered at the facility. In addition, the operating plan shall establish procedures and methods for notifying generators not to place hazardous wastes or other prohibited wastes in drop boxes or other collection containers destined for the facility.
- 6.6 Procedures for odor prevention** The operating plan shall establish procedures for preventing all odors. The plan must include:
- a. A management plan that will be used to monitor and manage all odors of any derivation including malodorous loads delivered to the facility; and
 - b. Procedures for receiving and recording odor complaints, immediately investigating any odor complaints to determine the cause of odor emissions, and remedying promptly any odor problem at the facility.
- 6.7 Procedures for emergencies** The operating plan shall establish procedures to be followed in case of fire or other emergency.

7.0 FEES AND RATE SETTING

- 7.1 Purpose** This section of the franchise specifies fees payable by the Franchisee, and describes rate regulation by Metro.
- 7.2 Annual fee** The Franchisee shall pay an annual franchise fee, as established in Metro Code Chapter 5.01. Metro reserves the right to change the franchise fee at any time by action of the Metro Council.
- 7.3 Fines** Each violation of a franchise condition shall be punishable by fines as established in Metro Code Chapter 5.01. Each day a violation continues constitutes a separate violation. Metro reserves the right to change fines at any time by action of the Metro Council.
- 7.4 Rates not regulated** The tipping fees and other rates charged at the facility are exempt from rate regulation by Metro.



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| 7.5 | Metro fee imposed on disposal | The Franchisee is liable for payment of the Metro Regional System Fee on any solid wastes delivered to a disposal site, unless these solid wastes are exempted by Metro Code Chapter 5.01. |
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8.0 RECORD KEEPING AND REPORTING

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| 8.1 | Purpose | This section of the franchise describes record keeping and reporting requirements. The Franchisee shall effectively monitor facility operation and maintain accurate records of the information described in this section. |
| 8.2 | Reporting requirements | <p>For all solid waste and materials the Franchisee is authorized to receive under Section 3.0 of this franchise, including all non-putrescible waste, source-separated recyclables, inert materials, and yard debris and landscape waste, the Franchisee shall keep and maintain accurate records of the amount of such materials the Franchisee receives, recovers, recycles, and disposes. The Franchisee shall keep and maintain complete and accurate records of the following for all transactions:</p> <ul style="list-style-type: none">a. Ticket Number (should be the same as the ticket number on the weight slips);b. Account Number: Incoming Hauler and Outgoing Destination;c. Material type: Code designating the following types of material (more detail, such as differentiating yard debris, is acceptable): (1) incoming source-separated Recyclable Materials by type; (2) incoming mixed waste; (3) outgoing Recyclable Materials; (4) outgoing mixed waste;d. Origin: Code designating the following origin of material: (1) public from inside Metro boundaries; (2) public from within Multnomah, Clackamas and Washington Counties but outside Metro boundaries; (3) commercial from inside Metro boundaries; (4) commercial from Multnomah, Clackamas and Washington Counties but outside Metro boundaries; and (5) commercial from out-of-state; <ul style="list-style-type: none">i. Any load containing any amount of waste from within |



the Metro region shall be reported as if the entire load was generated from inside the Metro region.

- ii. If the Franchisee elects to report all loads delivered to the facility as being generated from inside the Metro region, then the Franchisee is not required to designate the origin of loads in Section 8.2(d)(2) and (4) above.
- e. Date the load was received at or transmitted from the Facility;
- f. Time the load was received at or transmitted from the Facility;
- g. Indicate whether Franchisee accepted or rejected the load;
- h. Net weight of the load;
- i. The fee charged to the generator of the load.

8.3	Record transmittals	Records required under Section 8.0 shall be transmitted to Metro no later than fifteen (15) days following the end of each month in electronic format prescribed by Metro.
8.4	Semi-annual computer listing	On a semi-annual basis, Franchisee shall provide Metro with a computer listing that cross references the Incoming Hauler Account Number with the hauling company's name and address.
8.5	DEQ submittals	Franchisee shall provide Metro with copies of all correspondence, exhibits, or documents submitted to the DEQ relating to the terms or conditions of the DEQ solid waste permit or this Franchise within two business days of providing such information to DEQ.
8.6	Copies of enforcement actions provided to Metro	Franchisee shall send to Metro, upon receipt, copies of any notice of violation or non-compliance, citation, or any other similar enforcement actions issued to the Franchisee by any federal, state, or local government other than Metro, and related to the operation of the facility.
8.7	Unusual occurrences	The Franchisee shall keep and maintain accurate records of any unusual occurrences (such as fires or any other significant disruption) encountered during operation, and methods used to resolve problems arising from these events, including details of all incidents that required implementing emergency procedures. The



Franchisee shall report any facility fires, accidents, emergencies, and other significant incidents to Metro at (503) 797-1650 within 12 hours of the discovery of their occurrence.

8.8 Nuisance complaints

For every nuisance complaint (e.g. odor, dust, vibrations, litter) received, the Franchisee shall record:

- a. The nature of the complaint;
- b. The date the complaint was received;
- c. The name, address and telephone number of the person or persons making the complaint; and
- d. Any actions taken by the operator in response to the complaint (whether successful or unsuccessful).

Records of such information shall be made available to Metro and local governments upon request. The Franchisee shall retain each complaint record for a period of not less than two years.

8.9 Changes in ownership

The Franchisee must, in accordance with Metro Code Section 5.01.090, submit a new franchise application to Metro if the Franchisee proposes to transfer ownership or control of (1) the franchise, (2) the facility property, or (3) the name and address of the operator.

9.0 INSURANCE REQUIREMENTS

9.1 Purpose

The section describes the types of insurance that the Franchisee shall purchase and maintain at the Franchisee's expense, covering the Franchisee, its employees, and agents.

9.2 General liability

The Franchisee shall carry broad form comprehensive general liability insurance covering bodily injury and property damage, with automatic coverage for premises, operations, and product liability. The policy shall be endorsed with contractual liability coverage.

9.3 Automobile

The Franchisee shall carry automobile bodily injury and property damage liability insurance.

9.4 Coverage

Insurance coverage shall be a minimum of \$500,000 per occurrence. If coverage is written with an annual aggregate limit,



the aggregate limit shall not be less than \$1,000,000.

- | | | |
|-----|--|---|
| 9.5 | Additional insured | Metro, its elected officials, departments, employees, and agents shall be named as ADDITIONAL INSURED. |
| 9.6 | Worker's Compensation Insurance | The Franchisee, its subcontractors, if any, and all employers working under this franchise, are subject employers under the Oregon Workers' Compensation Law shall comply with ORS 656.017, which requires them to provide Workers' Compensation coverage for all their subject workers. Franchisee shall provide Metro with certification of Workers' Compensation insurance including employer's liability. If Franchisee has no employees and will perform the work without the assistance of others, a certificate to that effect may be attached in lieu of the certificate showing current Workers' Compensation. |
| 9.7 | Notification | The Franchisee shall give at least 30 days written notice to the Chief Operating Officer of any lapse or proposed cancellation of insurance coverage. |

10.0 ENFORCEMENT

- | | | |
|------|-----------------------------------|---|
| 10.1 | Generally | Enforcement of this franchise shall be as specified in Metro Code. |
| 10.2 | Authority vested in Metro | The power and right to regulate, in the public interest, the exercise of the privileges granted by this franchise shall at all times be vested in Metro. Metro reserves the right to establish or amend rules, regulations or standards regarding matters within Metro's authority, and to enforce all such requirements against Franchisee. |
| 10.3 | No Enforcement Limitations | Nothing in this franchise shall be construed to limit, restrict, curtail, or abrogate any enforcement provision contained in Metro Code or administrative procedures adopted pursuant to Metro Code Chapter 5.01, nor shall this franchise be construed or interpreted so as to limit or preclude Metro from adopting ordinances that regulate the health, safety, or welfare of any person or persons within the District, notwithstanding any incidental impact that such ordinances may have upon the terms of this franchise or the Franchisee's operation of the facility. |



11.0 MODIFICATIONS

- 11.1 Modification** At any time during the term of the franchise, either the Chief Operating Officer or the Franchisee may propose amendments or modifications to this franchise. Except as provided in Section 11.2, no modification shall be effective unless approved by the Metro Council.
- 11.2 Modification, suspension or revocation by Metro** The Chief Operating Officer may, at any time before the expiration date, modify, suspend, or revoke this franchise in whole or in part, in accordance with Metro Code Chapter 5.01, for reasons including but not limited to:
- a. Violation of the terms or conditions of this franchise, Metro Code, or any applicable statute, rule, or standard;
 - b. Changes in local, regional, state, or federal laws or regulations that should be specifically incorporated into this franchise;
 - c. Failure to disclose fully all relevant facts;
 - d. A significant release into the environment from the facility;
 - e. Significant change in the character of solid waste received or in the operation of the facility;
 - f. Any change in ownership or control, excluding transfers among subsidiaries of the Franchisee or Franchisee's parent corporation;
 - g. A request from the local government stemming from impacts resulting from facility operations.
 - h. Compliance history of the Franchisee.

12.0 GENERAL OBLIGATIONS

- 12.1 Compliance with law** Franchisee shall fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders and permits pertaining in any manner to this franchise, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.01 whether or not those provisions have been specifically mentioned or cited herein. All conditions imposed on the operation of the facility by federal, state, regional or local governments or agencies having jurisdiction over the facility shall be deemed part of this franchise as if specifically set forth



herein. Such conditions and permits include those cited within or attached as exhibits to the franchise document, as well as any existing at the time of the issuance of the franchise but not cited or attached, and permits or conditions issued or modified during the term of the franchise.

- 12.2 Indemnification** The Franchisee shall indemnify and hold Metro, its employees, agents and elected officials harmless from any and all claims, damages, actions, losses and expenses including attorney's fees, or liability related to or arising out of or in any way connected with the Franchisee's performance or failure to perform under this franchise, including patent infringement and any claims or disputes involving subcontractors.
- 12.3 Right of inspection and audit** Authorized representatives of Metro may take photographs and perform such inspection or audit as the Chief Operating Officer deems appropriate, and shall be permitted access to the premises of the facility at all reasonable times during business hours with or without notice or at such other times upon giving reasonable advance notice (not less than 24 hours). Metro inspection reports, including site photographs, are public records subject to disclosure under Oregon Public Records Law. Subject to the confidentiality provisions in Section 12 of this franchise, Metro's right to inspect shall include the right to review all information from which all required reports are derived including all books, maps, plans, income tax returns, financial statements, contracts, and other similar written materials of Franchisee that are directly related to the operation of the Facility.
- 12.3 Deliver waste to appropriate destinations** The Franchisee shall ensure that solid waste transferred from the facility goes to the appropriate destinations under Metro Code chapters 5.01 and 5.05, and under applicable local, state and federal laws, rules, regulations, ordinances, orders and permits;
- 12.4 Confidential information** Franchisee may identify as confidential any reports, books, records, maps, plans, income tax returns, financial statements, contracts and other similar written materials of the Franchisee that are directly related to the operation of the facility and that are submitted to or reviewed by Metro. Franchisee shall prominently mark any information which it claims confidential with the mark "CONFIDENTIAL" prior to submittal to or review by Metro. Metro shall treat as confidential any information so marked and will make a good faith effort not to disclose such information unless Metro's refusal to disclose such information would be contrary to applicable Oregon law, including, without limitation, ORS Chapter



192. Within five (5) days of Metro's receipt, any request for disclosure of information identified by licensee as confidential, Metro shall provide Franchisee written notice of the request. Franchisee shall have three (3) days within which time to respond in writing to the request before Metro determines, at its sole discretion, whether to disclose any requested information. Franchisee shall pay any costs incurred by Metro as a result of Metro's efforts to remove or redact any such confidential information from documents that Metro produces in response to a public records request. Nothing in this Section 12 shall limit the use of any information submitted to or reviewed by Metro for regulatory purposes or in any enforcement proceeding. In addition, Metro may share any confidential information with representatives of other governmental agencies provided that, consistent with Oregon law, such representatives agree to continue to treat such information as confidential and make good faith efforts not to disclose such information.

**12.5 Compliance
by agents**

The Franchisee shall be responsible for ensuring that its agents and contractors operate in compliance with this franchise.

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 03-1026 FOR THE PURPOSE OF APPROVING THE TRANSFER STATION FRANCHISE RENEWAL APPLICATION OF PRIDE RECYCLING COMPANY, AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A RENEWED FRANCHISE, AND DECLARING AN EMERGENCY.

October 22, 2003

Prepared by: Bill Metzler

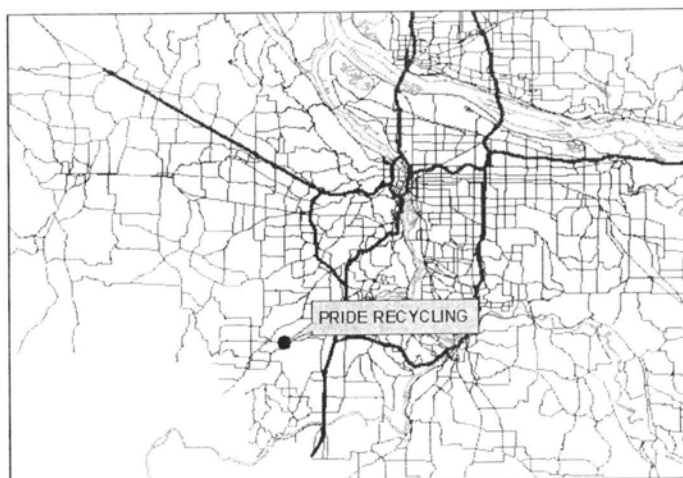
BACKGROUND

A. Reason for the Ordinance

Ordinance No. 03-1026 is a response to an application for a franchise renewal duly filed by Pride Recycling Company pursuant to Metro Code Chapter 5.01.087(b). Metro Code Section 5.01.087(b) requires that the Chief Operating Officer formulate recommendations regarding whether a renewal meets the criteria in Section 5.01.070. The Metro Code specifies that the Council shall approve a renewal of a Solid Waste Facility Franchise unless the Council determines that the proposed renewal is not in the public interest or does not meet the criteria contained in Section 5.01.070. The Council may attach conditions or limitations to the renewed franchise.

B. The Applicant and the Applicant's Request

Pride Recycling Company is the operator of an existing solid waste facility that is currently franchised by Metro as a transfer station to receive putrescible waste, perform material recovery on non-putrescible waste, and accept source-separated recyclable material. The applicant has requested a renewal of its solid waste facility franchise. The applicant is located at 13980 SW Tualatin-Sherwood Road in Sherwood (Metro Council District 3).



Site Location Map

The applicant has requested no new authorizations, tonnage increase, or changes to its current franchise provisions. Under separate authority of a Metro Non-System License (NSL# N-002-02(2)) the franchisee is authorized to deliver putrescible waste directly to Riverbend Landfill in Yamhill County, Oregon.



Aerial photo of facility



Entrance to facility

C. Issuance of a Renewed Franchise

Metro Code Section 5.01.087(b) governs the application and renewal of franchises. That section requires the franchisee to submit an application and a renewal fee, requires the Chief Operating Officer to formulate recommendations regarding whether the renewal meets the criteria in Section 5.01.070, provides that the Council shall renew an application unless it finds that renewal is not in the public interest or does not meet the criteria in Section 5.01.070, and gives the Council discretion to impose conditions or limitations on the franchise.

1. Renewal Application

Metro Code Section 5.01.087(b) requires the applicant to file a completed application for renewal accompanied by payment of an application fee of \$500 not less than 120 days prior to the expiration of the franchise term.

The applicant filed its application for renewal and application fee of \$500 on August 22, 2003. The current franchise term expires on December 31, 2003. The applicant filed its renewal application within 120 days prior to the expiration of its franchise term. Accordingly, staff finds that the application was properly filed.

2. Compliance With The Criteria in Metro Code Section 5.01.070

Metro Code Section 5.01.070 governs the evaluation and issuance of franchises, and only subsections (c) and (f) of that section establish criteria for the approval of franchise applications.

- (a) *Metro Code section 5.01.070(c) requires that the Chief Operating Officer formulate recommendations regarding:*

i. *Applicant Qualifications.*

The applicant is well known to Metro as an operator of a Metro franchised solid waste facility and as a long-standing solid waste management company in the Portland Metro area. The applicant has operated its facility for over thirteen years and has extensive experience in recycling, solid waste hauling, and disposal. Staff concludes that the applicant is fully qualified to operate and manage the facility competently and efficiently.

ii. *Compliance with the Regional Solid Waste Management Plan (RSWMP).*

The solid waste management activities to be renewed under this franchise are entirely consistent with the Regional Solid Waste Management Plan's section on *Solid Waste Facilities and Services: Transfer and Disposal System*.

Recommended Practice # 1: Allow additions to the existing system of three transfer stations as necessary to maintain solid waste transfer and disposal service levels that provide reasonable access for residents, businesses and haulers. New transfer stations may be authorized where they provide a net benefit to the regional solid waste system. New transfer stations shall perform material recovery subject to facility recovery rate standards.

Recommended Practice # 3: Maintain options for haulers to choose among disposal alternatives.

The rationale for transfer stations under the Plan is that they assist in maintaining service levels by reducing drive time for haulers, reducing congestion at existing facilities and adding opportunity to recover materials. An efficient disposal system depends on both capacity and accessibility. As an outright recommended practice, staff concludes that the applicant's request for renewal of its franchise complies with the Regional Solid Waste Management Plan.

iii. *Meeting the Requirements of Metro Code Section 5.01.060.*

Metro Code section 5.01.060(a) requires applications for renewal of an existing franchise to be filed on forms or in the format provided by the Chief Operating Officer. The applicant seeks a franchise renewal and, in accordance with Metro Code provisions, has filed a completed application for renewal accompanied by payment of the application fee of \$500. Accordingly, staff finds that the application was properly filed.

Metro Code section 5.01.060(b) requires all applications to include a description of the activities proposed to be conducted and a description of wastes to be accepted. This information was included in the franchise renewal application form and accordingly, staff finds that the application was properly filed.

Metro Code sections 5.01.060(c) requires that an application for a franchise include the following: 1) proof of insurance; 2) duplicate copies of all DEQ required applications and permits; 3) a duplicate copy of any DEQ required closure plan or if not required by the DEQ then a closure document describing closure protocol; 4) copies of DEQ required financial assurance documents or if not required by the DEQ proof of financial assurance for the cost of closure of the facility; 5) signed consent by the property owner to the proposed use of the property; 6) proof that the applicant has received proper land use approval; and, 7) copies of any other permits required from other governmental agencies. This information is included in the existing franchise file of the applicant; accordingly staff finds that the required information has been submitted.

Metro Code Section 5.01.060 (d) is a new provision for proposed facilities that was adopted by the Metro Council on October 9, 2003 (Ordinance No. 03-1018A). Since this provision pertains to a proposed

facility making an initial application for a new franchise, not a renewal, they are not applicable in this case.

iv. Compliance with Regulatory Requirements.

The applicant has land use authorization from the City of Sherwood, Oregon, a DEQ Solid Waste Disposal Permit, and for the past five-years has been operating under authority of a Metro Solid Waste Facility Franchise. In that time, the facility has not received, to Metro's knowledge, any notices of violation or non-compliance from either the City of Sherwood or the Oregon DEQ. However, the facility has received one Notice of Non-Compliance (NON) from Metro in August 2002, which was for exceeding its tonnage authorization in its franchise agreement. The NON has been successfully resolved through a contested case proceeding in which the Franchisee paid a civil penalty. No other violations, citations or letters of complaint of record have been issued to the applicant by Metro or any other regulatory agency or government in regard to the operation of the facility. Metro has conducted eight site inspections since January 2003, and staff has found a well-run operation with no observable reason to suspect impending problems or issues. Thus, the facility has operated for over thirteen years while incurring only one franchise violation. Staff therefore concludes that the applicant has sufficiently complied – and is likely to continue to comply – with all applicable regulatory requirements.

(b) *Metro Code section 5.01.070(f) lists five criteria for consideration by the Council (but notes that the Council is not limited to these criteria in making its decision):*

i. Consistency with the Regional Solid Waste Management Plan.

In examining this issue in Section (2)(a)(ii) above, staff found in the affirmative.

ii. The effect that granting a franchise to the applicant will have on the cost of solid waste disposal and recycling services for the citizens of the region.

Pride Recycling Company is an existing facility and has been in operation for over thirteen years. In addition, Pride Recycling Company has not requested any change in tonnage authorizations, or activities at the facility. The effect of granting a renewed franchise would be to maintain the status quo with regard to the cost of solid waste recycling and disposal services for the citizens of the region

iii. Granting the franchise would be unlikely to adversely affect health, safety and welfare of Metro's residents.

Metro staff is not aware of any facility incidents or operating procedures that have adversely affected the health, safety and welfare of Metro's residents in the eight years that the facility has been operating. Likewise, the Oregon DEQ has not cited the facility for any violations. The operator's experience and track record, together with the regulatory environment in which Pride Recycling Company operates, leads staff to conclude that it is unlikely Pride Recycling Company will adversely affect the public health, safety and welfare.

iv. Granting the franchise would be unlikely to unreasonably adversely affect nearby residents, property owners or the existing character or expected future development of the surrounding neighborhood.

Metro staff is not aware of any complaints or excessive impacts on the surrounding neighborhood in the thirteen years that the facility has been operating. The operator's experience and track record leads staff to conclude that it is unlikely Pride Recycling Company would unreasonably adversely impact the surrounding neighborhood.

- v. *The applicant is likely to comply with regulations and standards.*

As discussed in Section 2(a)(iv), above, staff finds that, notwithstanding one franchise violation, which has been successfully resolved, the applicant is likely to comply with regulations and standards if the franchise is renewed.

3. Chief Operating Officer's Recommendation and Recommended Franchise Conditions

Based on the information presented in Section (C)(1) and (2) above, the Chief Operating Officer believes that the franchise renewal application meets the criteria in Metro Code Section 5.01.070. The Chief Operating Officer also believes that the proposed franchise renewal is in the public interest. The Chief Operating Officer therefore recommends that the Metro Council approve a franchise renewal to Pride Recycling Company subject to the requirements listed in Metro Code Chapter 5.01; and further subject to the following specific conditions, which are incorporated into the draft franchise attached as Exhibit A to Ordinance No. 03-1026:

Conditions:

- That the franchise be granted for four years, to expire on December 31, 2007. This condition will ensure that the term of the renewed franchise will coincide with future solid waste planning and policy decisions by the Metro Council.
- That the franchise include more specific record keeping and reporting requirements for the purpose of ensuring that Metro receive accurate transaction data for necessary accounting controls if the franchisee intends to not pay regional system fees on waste from outside Metro's boundaries. The franchisee shall accept no more than 65,000 tons of putrescible waste within each Metro fiscal year as established by Metro Council in October 2001 (Ordinance No. 01-916C). As drafted and currently enforced, this limitation is applicable to all putrescible waste accepted at the facility, irrespective of whether the waste originated within the Metro region.
- That the franchisee shall perform material recovery on non-putrescible waste at the rate stipulated in Metro Code Chapter 5.01. Currently, the required recovery rate is at least 25% by weight of non-putrescible waste accepted at the facility and waste delivered by public customers. This is an existing franchise condition. Pride Recycling Company has performed recovery at an average rate of 30.2% over the last twelve months (as calculated for the Metro Regional System Fee and Excise Tax Credit Program).
- That the franchisee allows the Oregon Department of Transportation (ODOT) inspectors periodic access to the facility to check truck weights for compliance with state and federal weight limitations and reporting requirements imposed upon trucks traveling on public highways. This is a new franchise condition requested by ODOT that will ensure that ODOT has access to all transfer stations for the purpose of checking vehicle weights to enhance the safety of our roads and reduce road maintenance costs. This new condition will assure a level playing field among private and public transfer stations.
- That the franchisee's authority to direct haul waste to the Columbia Ridge Landfill not be renewed, and that the performance standards for direct hauling in the renewed franchise be removed. These provisions are no longer necessary, because under separate authority of a Metro Non-System License, the franchisee is now authorized to deliver putrescible waste to

Riverbend Landfill. Now that putrescible waste NSLs are subject to Council approval, any impact to the solid waste system can be considered when the NSLs are renewed.

ANALYSIS / INFORMATION

1. Known Opposition

There is no known opposition.

2. Legal Antecedents

Current provisions of Metro Code Chapter 5.01, "Solid Waste Facility Regulation".

3. Anticipated Effects

Adoption of Ordinance No. 03-1026 would grant a renewed Solid Waste Facility Franchise for Pride Recycling Company to continue to operate "status quo" as a local transfer station and perform material recovery for four years. Ordinance No. 03-1026 requires an emergency clause as Pride Recycling Company is an existing facility providing necessary solid waste services to citizens of the region and ensuring that its franchise is renewed effective January 1, 2004, upon expiration of its current franchise on December 31, 2003, is necessary for the immediate preservation of public health, safety and welfare. Pursuant to Metro Charter section 39(1), an emergency is declared to exist, and this ordinance shall take effect immediately upon adoption.

4. Budget Impacts

Ordinance No. 03-1026 authorizes the renewal of an existing solid waste facility franchise without any significant changes in authorizations other than the deletion of the franchisee's direct haul authority. The facility will continue to process waste of the same type and in the same quantity as presently authorized by its existing franchise. Thus, it is anticipated that approval of Ordinance No. 03-1026 will have no budget impact beyond the impact already absorbed after the facility first began its operations as a transfer station and has been factored into Metro's future projections.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Ordinance No. 03-1026.

BM:bjl:mca
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Ordinance No. 03-1027, For the Purpose of Approving the Transfer Station Franchise Renewal Application of Recycling America, authorizing the Chief Operating Officer to Issue a Renewal Franchise; and Declaring an Emergency

Second Reading

Metro Council Meeting
Thursday, December 4, 2003
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPROVING THE	)	ORDINANCE NO. 03-1027
TRANSFER STATION FRANCHISE RENEWAL)	
APPLICATION OF RECYCLE AMERICA,	)	Introduced by Michael Jordan, Chief
AUTHORIZING THE CHIEF OPERATING OFFICER	)	Operating Officer, with the
TO ISSUE A RENEWED FRANCHISE, AND	)	concurrence of David Bragdon, Metro
DECLARING AN EMERGENCY	)	Council President

WHEREAS, Metro Code Section 5.01.045(b)(2) stipulates that a Metro Solid Waste Facility Franchise shall be required for the person owning or controlling a facility that operates a Transfer Station; and,

WHEREAS, Recycle America currently holds a Metro Solid Waste Facility Franchise Number F-001-99, which will expire on December 31, 2003; and,

WHEREAS, Metro Code Section 5.01.087(b) stipulates that franchise renewals shall be approved or denied by the Metro Council, and that a franchisee seeking renewal of a franchise shall file a completed application for renewal accompanied by payment of an application fee of five hundred dollars not less than 120 days prior to the expiration of the Franchise term, together with a statement of proposed material changes from its initial application for the franchise and any other information required by the Chief Operating Officer or by the Council. In addition, the Chief Operating Officer shall formulate recommendations regarding whether the renewal meets the criteria in Section 5.01.070, and that the Council shall approve renewal of a Solid Waste Facility Franchise unless the Council determines that the proposed renewal is not in the public interest or does not meet the criteria contained in Section 5.01.070; and,

WHEREAS, Recycle America filed an application for a renewed franchise pursuant to Metro Code Section 5.01.087(b); and,

WHEREAS, the Chief Operating Officer reviewed and investigated the application renewal for Recycle America as required by Metro Code Sections 5.01.087(b), and formulated recommendations on the criteria listed in Metro Code Section 5.01.070; and,

WHEREAS, the Chief Operating Officer recommends that the franchise be renewed together with specific conditions as provided in Exhibit A to this Ordinance entitled, "Solid Waste Facility Franchise," which includes a recommendation that the renewed franchise be issued for a term of four (4) years; and,

WHEREAS, the Chief Operating Officer forwards his recommendation and recommended conditions to the Council as required by Metro Code Section 5.01.087(b); and,

WHEREAS, the Council finds that the franchise renewal application meets the criteria contained in Metro Code Section 5.01.070; and,

WHEREAS, the Council finds that granting the applicant a renewed franchise is in the public interest; and,

WHEREAS, the Council finds that the terms, conditions, and limitations contained in Exhibit A to this Ordinance are appropriate, including the provision and that the renewed franchise shall be issued for a term of four (4) years; and,

WHEREAS, Council finds that this ordinance must take effect immediately upon adoption, so that the renewed franchise may be issued and effective upon expiration of the applicant's current franchise (No. F-001-99) on December 31, 2003; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. The transfer station renewal franchise application of Recycle America is approved, subject to the terms, conditions, and limitations contained in Exhibit A to this Ordinance entitled, "Solid Waste Facility Franchise."
2. The Chief Operating Officer is authorized to issue to Recycle America a renewed Solid Waste Facility Franchise substantially similar to the one attached as Exhibit A.
3. This ordinance is immediately necessary for the health, safety and welfare of the Metro region in order to ensure the efficient operation of the region's solid waste management system. An emergency is therefore declared to exist. This Ordinance shall take effect immediately, pursuant to Metro Charter Section 39(1).

ADOPTED by the Metro Council this _____ day of _____, 2003.

David Bragdon, Council President

Attest:

Approved as to Form:

Chris Billington, Recording Secretary

Daniel B. Cooper, Metro Attorney

BMbjlmca
S:\REM\metzlerb\R. A. Franchise Renewal 2003\Ordinace\RA_Ord_Rev.DOC

SOLID WASTE FACILITY FRANCHISE

Number F-001-03

Issued by

Metro

600 NE Grand Avenue

Portland, OR 97232

Telephone: (503) 797-1650

Issued in accordance with the provisions of Metro Code Chapter 5.01

FRANCHISEE: Waste Management of Oregon, Inc. 7227 NE 55 th Avenue Portland, Oregon 97218 503-640-9427 FAX 503-648-3942 Contact: Dan Wilson, District Manager	FACILITY NAME AND LOCATION: Recycle America 869 NW Eastwind Drive Troutdale, Oregon 97060 Contact: Dan Wilson, District Manager
OPERATOR: Waste Management of Oregon, Inc. 7227 NE 55 th Avenue Portland, Oregon 97218 503-640-9427 FAX 503-648-3942 Contact: Dan Wilson, District Manager	PROPERTY OWNER: TDK Corp. P.O. Box 566 Troutdale, Oregon 97060 (503) 666-2896

This franchise is granted to the Franchisee named above and is not transferable. Subject to the conditions stated in this franchise document, the Franchisee is authorized to operate and maintain a solid waste facility, and to accept the solid wastes and perform the activities authorized herein.

Franchise begins: December 31, 2003

Expiration: December 31, 2007

Metro:

Acceptance & Acknowledgement of Receipt:

Signature

Signature of Franchisee

Michael Jordan, Chief Operating Officer

Print name and title

Print name and title

Date

Date



TABLE OF CONTENTS

SECTION	TITLE	PAGE
1.1	Issuance	3
2.0	Conditions and Disclaimers	3
3.0	Authorizations	5
4.0	Limitations and Prohibitions	7
5.0	Operating Conditions	8
6.0	Operating Plan	10
7.0	Fees and Rate Setting	12
8.0	Record Keeping and Reporting	12
9.0	Insurance Requirements	15
10.0	Enforcement	16
11.0	Modifications	16
12.0	General Obligations	17



1.0 ISSUANCE

- | | | |
|-----|--|--|
| 1.1 | Franchisee | Waste Management of Oregon, Inc.
869 NW Eastwind Drive
Troutdale, OR 97060
(503) 640-9427 |
| 1.2 | Contact | Dan Wilson, District Manager (email: danwilson@wm.com) |
| 1.3 | Franchise Number | When referring to this franchise, please cite:
Metro Solid Waste Facility Franchise Number F-001-03 |
| 1.4 | Term | Inception date: December 31, 2003

Expiration date: December 31, 2007 |
| 1.5 | Facility name and mailing address | Recycle America
869 NW Eastwind Drive
Troutdale, OR 97060
(503) 667-5264 |
| 1.6 | Operator | Waste Management of Oregon, Inc.
7227 NE 55 th Avenue
Portland, OR 97218
(503) 640-9427 |
| 1.7 | Facility legal description | Charles Fezett Donation Land Claim lying within Section 27,
Township 1N, Range 3E, Willamette Meridian
Multnomah County, State of Oregon |
| 1.8 | Facility owner | TDK Corp.
P.O. Box 566
Troutdale, OR 97060
(503) 666-2896 |
| 1.9 | Permission to operate | Franchisee warrants that it has obtained the property owner's consent to operate the facility as specified in this franchise. |

2.0 CONDITIONS AND DISCLAIMERS

- | | | |
|-----|-------------------|--|
| 2.1 | Guarantees | The granting of this franchise shall not vest any right or privilege in the Franchisee to receive specific quantities of solid waste at the direction of Metro during the term of the franchise. |
|-----|-------------------|--|



- | | | |
|------|--------------------------------|---|
| 2.2 | Non-exclusive franchise | The granting of this franchise shall not in any way limit Metro from granting other solid waste franchises within Metro boundaries. |
| 2.3 | Property rights | The granting of this franchise does not convey any property rights in either real or personal property, nor does it authorize any injury to private property or invasion of property rights. |
| 2.4 | No recourse | The Franchisee shall have no recourse whatsoever against Metro or its officials, agents or employees for any loss, costs, expense or damage arising out of any provision or requirement of this franchise or because of the enforcement of the franchise or in the event the franchise or any part thereof is determined to be invalid. |
| 2.5 | Release of liability | Metro, its elected officials, employees, or agents do not sustain any liability on account of the granting of this franchise or on account of the construction, maintenance, or operation of the facility pursuant to this franchise. |
| 2.6 | Binding nature | The conditions of this franchise are binding on the Franchisee. The Franchisee is liable for all acts and omissions of the Franchisee's contractors and agents. |
| 2.7 | Waivers | To be effective, a waiver of any terms or conditions of this Franchise must be in writing and signed by the Metro Chief Operating Officer. |
| 2.8 | Effect of waiver | Waiver of a term or condition of this Franchise shall not waive nor prejudice Metro's right otherwise to require subsequent performance of the same term or condition or any other term or condition. |
| 2.9 | Choice of law | The Franchise shall be construed, applied and enforced in accordance with the laws of the State of Oregon. |
| 2.10 | Enforceability | If any provision of this Franchise is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, the validity of the remaining provisions contained in this Franchise shall not be affected. |
| 2.11 | Franchise not a waiver | Nothing in this franchise shall be construed as relieving any owner, operator, or Franchisee from the obligation of obtaining all required permits, licenses, or other clearances and complying with all orders, laws, regulations, reports or other requirements of other regulatory agencies. |
| 2.12 | Franchise not | Nothing in this franchise is intended to limit the power of a federal, |



limiting state, or local agency to enforce any provision of law relating to the solid waste facility that it is authorized or required to enforce or administer.

2.13 Definitions Unless otherwise specified, all other terms are as defined in Metro Code Chapter 5.01. In the event that the Metro Code is amended, the latest amended version shall apply to this franchise.

3.0 AUTHORIZATIONS

- 3.1 Purpose** This section of the franchise describes the wastes that the Franchisee is authorized to accept at the facility, and the waste-related activities the Franchisee is authorized to perform at the facility.
- 3.2 General conditions on solid wastes** The Franchisee is authorized to accept at the facility only the solid wastes described in this section. The Franchisee is prohibited from knowingly receiving any solid waste not authorized in this section.
- 3.3 General conditions on activities** The Franchisee is authorized to perform at the facility only those activities that are described in this section.
- 3.4 Putrescible waste** The Franchisee is authorized to accept putrescible waste for the purpose of delivery or transfer of said putrescible waste to a disposal site authorized by a Metro designated facility agreement or a Metro non-system license in accordance with Metro Code Chapter 5.05.
- 3.5 Non-putrescible waste** The Franchisee is authorized to accept for the purpose of material recovery non-putrescible solid wastes such as waste generated by non-residential generators and waste generated at construction and demolition sites.
- 3.6 Source-separated recyclables** The Franchisee is authorized to accept source-separated recyclable materials for purposes of sorting, classifying, consolidating, baling, temporary storage, transfer and other similar functions related to preparing these materials for marketing.



- 3.7 Inert materials** The Franchisee is authorized to accept inert materials for purposes of classifying, consolidating, transfer, and other similar functions related to preparing these materials for useful purposes.
- 3.8 Source-separated yard debris** The Franchisee is authorized to accept source-separated yard debris for transfer to a Metro licensed yard debris facility, a DEQ-permitted composting facility or other DEQ-permitted processing facility. The Franchisee shall keep source-separated yard debris separate from other solid waste at the facility and shall provide records showing that source-separated yard debris is delivered to a composting or processing facility, and not disposed of.
- 3.9 Source-separated organic materials** In accordance with Metro Code Chapter 5.05, the Franchisee is authorized to accept organic materials for the purpose of transfer to a DEQ-permitted composting facility or other DEQ-permitted processing facility. Organic materials may be accepted only if they (a) have been separated from other solid waste by the generator prior to delivery to the facility, and (b) are suitable for controlled biological decomposition such as for making compost. The Franchisee shall keep source-separated organic material separate from other solid waste at the facility and shall provide records showing that the source-separated organic materials are delivered to a composting or processing facility, and not disposed of.
- 3.10 Contaminated soils** The Franchisee is authorized to accept contaminated soil for transfer to a DEQ permitted disposal site that is authorized to accept contaminated soil.
- 3.11 Special wastes and other wastes** The Franchisee is authorized to accept various special wastes for transfer as authorized by DEQ Disposal Site Permit Number 459 including but not limited to filter cake, zircon sand and other sandblasting media, dewatered industrial sludge residue, waste from pollution control devices, charcoal air/water filters, ceramic castings, metal shavings, and refractory brick and other wastes with similar characteristics; and other wastes such as street sweepings, catch basin residue, and similar clean-up wastes.
- 3.12 Incidental recovery** The Franchisee is authorized to perform "low-level" material recovery on putrescible waste, provided that these material recovery efforts are incidental to the activity of transferring the putrescible waste, and are limited to the gleaning of easily-extractable recyclable or reusable materials from the waste.



4.0 LIMITATIONS AND PROHIBITIONS

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| 4.1 Purpose | This section of the franchise describes limitations and prohibitions on the wastes handled at the facility and activities performed at the facility. |
| 4.2 Limit on waste accepted | The Franchisee shall accept no more than 65,000 tons of putrescible waste within each Metro fiscal year irrespective of whether the waste originated inside or outside the Metro region. |
| 4.3 Prohibited waste | The Franchisee shall not knowingly accept or retain any material amounts of the following types of wastes: materials contaminated with or containing friable asbestos; lead acid batteries; liquid waste for disposal; vehicles; infectious, biological or pathological waste; radioactive waste; hazardous waste; or any waste prohibited by the Franchisee's DEQ Disposal Site Permit. |
| 4.4 Material recovery required | The Franchisee shall perform material recovery on nonputrescible waste accepted at the facility at the rate stipulated in Metro Code Chapter 5.01, or deliver said non-putrescible wastes to a Metro authorized solid waste facility whose primary purpose is to recover useful materials from solid waste. |
| 4.5 Prohibition on mixing | The Franchisee shall not mix any source-separated recyclable materials, yard debris or organic materials brought to the facility with any other solid wastes. Recyclable materials recovered at the facility may be combined with source-separated recyclable materials for transfer to markets, processors, or another solid waste facility that prepares such materials for reuse or recycling. |
| 4.6 No disposal of recyclable materials | Source-separated recyclable materials, yard debris or organic materials accepted at the facility may not be disposed of by landfilling or incineration. |
| 4.7 Origin of putrescible waste | The Franchisee shall accept putrescible waste that originates within the Metro boundary only from persons who are franchised or permitted by a local government unit to collect and haul putrescible waste. |



- 4.8 Limits not exclusive** Nothing in this section of the franchise shall be construed to limit, restrict, curtail, or abrogate any limitation or prohibition contained elsewhere in this franchise document, in Metro Code, or in any federal, state, regional or local government law, rule, regulation, ordinance, order or permit.

5.0 OPERATING CONDITIONS

- 5.1 Purpose** This section of the franchise describes criteria and standards for the operation of the facility.
- 5.2 Qualified Operator** The Franchisee shall provide an operating staff qualified to carry out the functions required by this franchise and to otherwise ensure compliance with Metro Code Chapter 5.01. Facility personnel shall be familiar with the provisions of this franchise and the procedures contained within the facility's operating plan.
- 5.3 Fire prevention** The operator shall provide fire prevention, protection, and control measures, including but not limited to, adequate water supply for fire suppression, and the isolation of potential heat sources and/or flammables from the processing area.
- 5.4 Adequate vehicle accommodation** Vehicles delivering solid waste to the facility shall not park or queue on public streets or roads except under emergency conditions. Adequate off-street parking and queuing for vehicles shall be provided.
- 5.5 Enclosed operations** All handling, processing, compaction or other forms of managing putrescible wastes shall occur inside facility buildings.
- 5.6 Managing prohibited wastes** Upon discovery, all prohibited or unauthorized wastes shall be removed or managed in accordance with procedures established in the Operating Plan.
- 5.7 Managing authorized wastes** All authorized solid wastes received at the facility must, within 24-hours from receipt, be either (a) processed, (b) appropriately stored, or (c) properly disposed of.
- 5.8 Storage** Stored materials and solid wastes shall be suitably contained and removed at sufficient frequency to avoid creating nuisance conditions or safety hazards. Storage areas must be maintained in an orderly manner and kept free of litter.



**5.9 Litter and
airborne debris**

The Franchisee shall operate the facility in a manner that is not conducive to the generation of litter and airborne debris. The Franchisee shall:

- a. Take reasonable steps to notify and remind persons delivering solid waste to the facility that all loads must be suitably secured to prevent any material from blowing off the load during transit.
- b. Construct, maintain, and operate all vehicles and devices transferring or transporting solid waste from the facility to prevent leaking, spilling or blowing of solid waste on-site or while in transit.
- c. Keep all areas within the site and all vehicle access roads within $\frac{1}{4}$ mile of the site free of litter and debris.

5.10 Odor

The Franchisee shall operate the facility in a manner that is not conducive to the generation of odors. The Franchisee shall:

- a. Clean the areas and equipment that come into contact with solid waste on a regular basis.
- b. Establish and follow procedures in the operating plan for minimizing odor at the facility. Such procedures must be in writing and in a location where facility personnel and Metro inspectors can readily reference them.

5.11 Vectors

The Franchisee shall operate the facility in a manner that is not conducive to infestation of rodents, insects, or other animals capable of transmitting, directly or indirectly, infectious diseases to humans or from one person or animal to another.

5.12 Noise

The Franchisee shall operate the facility in a manner that controls the creation of excessive noise to the extent necessary to meet applicable regulatory standards and land-use regulations.

5.13 Water quality

The Franchisee shall:

- a. Operate and maintain the facility to prevent contact of solid wastes with stormwater runoff and precipitation.
- b. Dispose of contaminated water and sanitary sewage generated onsite in a manner complying with local, state, and federal laws and regulations.

5.14 Public Access

Public access to the facility shall be controlled as necessary to prevent unauthorized entry and dumping.

5.15 Signage

The Franchisee shall post signs at all public entrances to the facility, and in conformity with local government signage regulations. These signs shall be easily and readily visible, legible, and shall



contain at least the following information:

- a. Name of the facility
- b. Address of the facility;
- c. Emergency telephone number for the facility;
- d. Operating hours during which the facility is open for the receipt of authorized waste;
- e. Fees and charges;
- f. Metro's name and telephone number (503) 797-1650; and
- g. A list of authorized and prohibited wastes.

5.16 Complaints

The Franchisee shall respond to all written complaints on nuisances (including, but not limited to, blowing debris, fugitive dust or odors, noise, traffic, and vectors). If Franchisee receives a complaint, Franchisee shall:

- a. Attempt to respond to that complaint within one business day, or sooner as circumstances may require, and retain documentation of its attempts (whether successful or unsuccessful); and
- b. Log all such complaints as provided in Section 9.8 of this franchise. Each log entry shall be retained for one year and shall be available for inspection by Metro.

5.17 Access to franchise document

The Franchisee shall maintain a copy of this Metro Solid Waste Facility Franchise on the facility's premises, and in a location where facility personnel and Metro representatives have ready access to it.

5.18 Access for ODOT inspectors

The Franchisee shall allow Oregon Department of Transportation (ODOT) inspectors periodic access to the facility for the purpose of conducting truck weight compliance checks.

6.0 OPERATING PLAN

6.1 Purpose

This section lists the procedures that must be included in the required facility operating plan. The operating plan must be updated and submitted to Metro within 60 days of the issuance of this franchise and may be further amended from time to time. The operating plan is subject to approval by the Director of the Metro Solid Waste & Recycling Department.

6.2 Access to operating plan

The Franchisee shall maintain a copy of the operating plan on the facility premises and in a location where facility personnel and



Metro representatives have ready access to it.

6.3 Procedures for inspecting loads

The operating plan shall establish:

- a. Procedures for inspecting incoming loads for the presence of prohibited or unauthorized wastes;
- b. A set of objective criteria for accepting and rejecting loads; and
- c. An asbestos testing protocol for all material that appears as if it may contain asbestos.

6.4 Procedures for processing and storage of loads

The operating plan shall establish procedures for:

- a. Processing authorized solid wastes,
- b. Storing authorized solid wastes; and
- c. Minimizing storage times and avoiding delay in processing of authorized solid wastes.

6.5 Procedures for managing prohibited wastes

The operating plan shall establish procedures for managing and transporting to appropriate facilities or disposal sites each of the prohibited or unauthorized wastes if they are discovered at the facility. In addition, the operating plan shall establish procedures and methods for notifying generators not to place hazardous wastes or other prohibited wastes in drop boxes or other collection containers destined for the facility.

6.6 Procedures for odor prevention

The operating plan shall establish procedures for preventing all odors. The plan must include:

- a. A management plan that will be used to monitor and manage all odors of any derivation including malodorous loads delivered to the facility; and
- b. Procedures for receiving and recording odor complaints, immediately investigating any odor complaints to determine the cause of odor emissions, and remedying promptly any odor problem at the facility.

6.7 Procedures for emergencies

The operating plan shall establish procedures to be followed in case of fire or other emergency.



7.0 FEES AND RATE SETTING

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| 7.1 Purpose | This section of the franchise specifies fees payable by the Franchisee, and describes rate regulation by Metro. |
| 7.2 Annual fee | The Franchisee shall pay an annual franchise fee, as established in Metro Code Chapter 5.01. Metro reserves the right to change the franchise fee at any time by action of the Metro Council. |
| 7.3 Fines | Each violation of a franchise condition shall be punishable by fines as established in Metro Code Chapter 5.01. Each day a violation continues constitutes a separate violation. Metro reserves the right to change fines at any time by action of the Metro Council. |
| 7.4 Rates not regulated | The tipping fees and other rates charged at the facility are exempt from rate regulation by Metro. |
| 7.5 Metro fee imposed on disposal | The Franchisee is liable for payment of the Metro Regional System Fee on any solid wastes delivered to a disposal site, unless these solid wastes are exempted by Metro Code Chapter 5.01. |

8.0 RECORD KEEPING AND REPORTING

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| 8.1 Purpose | This section of the franchise describes record keeping and reporting requirements. The Franchisee shall effectively monitor facility operation and maintain accurate records of the information described in this section. |
| 8.2 Reporting requirements | <p>For all solid waste and materials the Franchisee is authorized to receive under Section 3.0 of this franchise, including all non-putrescible waste, source-separated recyclables, inert materials, and yard debris and landscape waste, the Franchisee shall keep and maintain accurate records of the amount of such materials the Franchisee receives, recovers, recycles, and disposes. The Franchisee shall keep and maintain complete and accurate records of the following for all transactions:</p> <ul style="list-style-type: none">a. Ticket Number (should be the same as the ticket number on the weight slips);b. Account Number: Incoming Hauler and Outgoing Destination; |



- c. Material type: Code designating the following types of material (more detail, such as differentiating yard debris, is acceptable): (1) incoming source-separated Recyclable Materials by type; (2) incoming mixed waste; (3) outgoing Recyclable Materials; (4) outgoing mixed waste;
- d. Origin: Code designating the following origin of material: (1) public from inside Metro boundaries; (2) public from within Multnomah, Clackamas and Washington Counties but outside Metro boundaries; (3) commercial from inside Metro boundaries; (4) commercial from Multnomah, Clackamas and Washington Counties but outside Metro boundaries; and (5) commercial from out-of-state;
 - i. Any load containing any amount of waste from within the Metro region shall be reported as if the entire load was generated from inside the Metro region.
 - ii. If the Franchisee elects to report all loads delivered to the facility as being generated from inside the Metro region, then the Franchisee is not required to designate the origin of loads in Section 8.2(d)(2) and (4) above.
- e. Date the load was received at or transmitted from the Facility;
- f. Time the load was received at or transmitted from the Facility;
- g. Indicate whether Franchisee accepted or rejected the load;
- h. Net weight of the load;
- i. The fee charged to the generator of the load.

8.3 Record transmittals

Records required under Section 8.0 shall be transmitted to Metro no later than fifteen (15) days following the end of each month in electronic format prescribed by Metro.



- 8.4 **Semi-annual computer listing** On a semi-annual basis, Franchisee shall provide Metro with a computer listing that cross references the Incoming Hauler Account Number with the hauling company's name and address.
- 8.5 **DEQ submittals** Franchisee shall provide Metro with copies of all correspondence, exhibits, or documents submitted to the DEQ relating to the terms or conditions of the DEQ solid waste permit or this franchise within two business days of providing such information to DEQ.
- 8.6 **Copies of enforcement actions provided to Metro** Franchisee shall send to Metro, upon receipt, copies of any notice of violation or non-compliance, citation, or any other similar enforcement actions issued to the Franchisee by any federal, state, or local government other than Metro, and related to the operation of the facility.
- 8.7 **Unusual occurrences** The Franchisee shall keep and maintain accurate records of any unusual occurrences (such as fires or any other significant disruption) encountered during operation, and methods used to resolve problems arising from these events, including details of all incidents that required implementing emergency procedures. The Franchisee shall report any facility fires, accidents, emergencies, and other significant incidents to Metro at (503) 797-1650 within 12 hours of the discovery of their occurrence.
- 8.8 **Nuisance complaints** For every nuisance complaint (e.g. odor, dust, vibrations, litter) received, the Franchisee shall record:
- a. The nature of the complaint;
 - b. The date the complaint was received;
 - c. The name, address and telephone number of the person or persons making the complaint; and
 - d. Any actions taken by the operator in response to the complaint (whether successful or unsuccessful).

Records of such information shall be made available to Metro and local governments upon request. The Franchisee shall retain each complaint record for a period of not less than two years.



- 8.9 Changes in ownership** The Franchisee must, in accordance with Metro Code Section 5.01.090, submit a new franchise application to Metro if the Franchisee proposes to transfer ownership or control of (1) the franchise, (2) the facility property, or (3) the name and address of the operator.

9.0 INSURANCE REQUIREMENTS

- 9.1 Purpose** The section describes the types of insurance that the Franchisee shall purchase and maintain at the Franchisee's expense, covering the Franchisee, its employees, and agents.
- 9.2 General liability** The Franchisee shall carry broad form comprehensive general liability insurance covering bodily injury and property damage, with automatic coverage for premises, operations, and product liability. The policy shall be endorsed with contractual liability coverage.
- 9.3 Automobile** The Franchisee shall carry automobile bodily injury and property damage liability insurance.
- 9.4 Coverage** Insurance coverage shall be a minimum of \$500,000 per occurrence. If coverage is written with an annual aggregate limit, the aggregate limit shall not be less than \$1,000,000.
- 9.5 Additional insureds** Metro, its elected officials, departments, employees, and agents shall be named as ADDITIONAL INSURED.
- 9.6 Worker's Compensation Insurance** The Franchisee, its subcontractors, if any, and all employers working under this franchise, are subject employers under the Oregon Workers' Compensation Law shall comply with ORS 656.017, which requires them to provide Workers' Compensation coverage for all their subject workers. Franchisee shall provide Metro with certification of Workers' Compensation insurance including employer's liability. If Franchisee has no employees and will perform the work without the assistance of others, a certificate to that effect may be attached in lieu of the certificate showing current Workers' Compensation.
- 9.7 Notification** The Franchisee shall give at least 30 days written notice to the Chief Operating Officer of any lapse or proposed cancellation of insurance coverage.



10.0 ENFORCEMENT

- 10.1 Generally** Enforcement of this franchise shall be as specified in Metro Code.
- 10.2 Authority vested in Metro** The power and right to regulate, in the public interest, the exercise of the privileges granted by this franchise shall at all times be vested in Metro. Metro reserves the right to establish or amend rules, regulations or standards regarding matters within Metro's authority, and to enforce all such requirements against Franchisee.
- 10.3 No Enforcement Limitations** Nothing in this franchise shall be construed to limit, restrict, curtail, or abrogate any enforcement provision contained in Metro Code or administrative procedures adopted pursuant to Metro Code Chapter 5.01, nor shall this franchise be construed or interpreted so as to limit or preclude Metro from adopting ordinances that regulate the health, safety, or welfare of any person or persons within the District, notwithstanding any incidental impact that such ordinances may have upon the terms of this franchise or the Franchisee's operation of the facility.

11.0 MODIFICATIONS

- 11.1 Modification** At any time during the term of the franchise, either the Chief Operating Officer or the Franchisee may propose amendments or modifications to this franchise. Except as provided in Section 11.2, no modification shall be effective unless approved by the Metro Council.
- 11.2 Modification, suspension or revocation by Metro** The Chief Operating Officer may, at any time before the expiration date, modify, suspend, or revoke this franchise in whole or in part, in accordance with Metro Code Chapter 5.01, for reasons including but not limited to:
- Violation of the terms or conditions of this franchise, Metro Code, or any applicable statute, rule, or standard;
 - Changes in local, regional, state, or federal laws or regulations that should be specifically incorporated into this franchise;
 - Failure to disclose fully all relevant facts;
 - A significant release into the environment from the facility;
 - Significant change in the character of solid waste received or in



- the operation of the facility;
- f. Any change in ownership or control, excluding transfers among subsidiaries of the Franchisee or Franchisee's parent corporation;
 - g. A request from the local government stemming from impacts resulting from facility operations.
 - h. Compliance history of the Franchisee.

12.0 GENERAL OBLIGATIONS

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| 12.1 | Compliance with law | Franchisee shall fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders and permits pertaining in any manner to this franchise, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.01 whether or not those provisions have been specifically mentioned or cited herein. All conditions imposed on the operation of the facility by federal, state, regional or local governments or agencies having jurisdiction over the facility shall be deemed part of this franchise as if specifically set forth herein. Such conditions and permits include those cited within or attached as exhibits to the franchise document, as well as any existing at the time of the issuance of the franchise but not cited or attached, and permits or conditions issued or modified during the term of the franchise. |
| 12.2 | Indemnification | The Franchisee shall indemnify and hold Metro, its employees, agents and elected officials harmless from any and all claims, damages, actions, losses and expenses including attorney's fees, or liability related to or arising out of or in any way connected with the Franchisee's performance or failure to perform under this franchise, including patent infringement and any claims or disputes involving subcontractors. |
| 12.3 | Deliver waste to appropriate destinations | The Franchisee shall ensure that solid waste transferred from the facility goes to the appropriate destinations under Metro Code chapters 5.01 and 5.05, and under applicable local, state and federal laws, rules, regulations, ordinances, orders and permits; |
| 12.4 | Right of inspection and audit | Authorized representatives of Metro may take photographs and perform such inspection or audit as the Chief Operating Officer deems appropriate, and shall be permitted access to the premises of the facility at all reasonable times during business hours with or |



without notice or at such other times upon giving reasonable advance notice (not less than 24 hours). Metro inspection reports, including site photographs, are public records subject to disclosure under Oregon Public Records Law. Subject to the confidentiality provisions in Section 12.5 of this franchise, Metro's right to inspect shall include the right to review all information from which all required reports are derived including all books, maps, plans, income tax returns, financial statements, contracts, and other similar written materials of Franchisee that are directly related to the operation of the Facility.

12.5 Confidential information

Franchisee may identify as confidential any reports, books, records, maps, plans, income tax returns, financial statements, contracts and other similar written materials of the Franchisee that are directly related to the operation of the facility and that are submitted to or reviewed by Metro. Franchisee shall prominently mark any information which it claims confidential with the mark "CONFIDENTIAL" prior to submittal to or review by Metro. Metro shall treat as confidential any information so marked and will make a good faith effort not to disclose such information unless Metro's refusal to disclose such information would be contrary to applicable Oregon law, including, without limitation, ORS Chapter 192. Within five (5) days of Metro's receipt, any request for disclosure of information identified by licensee as confidential, Metro shall provide Franchisee written notice of the request. Franchisee shall have three (3) days within which time to respond in writing to the request before Metro determines, at its sole discretion, whether to disclose any requested information. Franchisee shall pay any costs incurred by Metro as a result of Metro's efforts to remove or redact any such confidential information from documents that Metro produces in response to a public records request. Nothing in this Section 12 shall limit the use of any information submitted to or reviewed by Metro for regulatory purposes or in any enforcement proceeding. In addition, Metro may share any confidential information with representatives of other governmental agencies provided that, consistent with Oregon law, such representatives agree to continue to treat such information as confidential and make good faith efforts not to disclose such information.

12.6 Compliance by agents

The Franchisee shall be responsible for ensuring that its agents and contractors operate in compliance with this franchise.

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 03-1027 FOR THE PURPOSE OF APPROVING THE TRANSFER STATION FRANCHISE RENEWAL APPLICATION OF RECYCLE AMERICA, AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A RENEWED FRANCHISE, AND DECLARING AN EMERGENCY

October 22, 2003

Prepared by: Bill Metzler

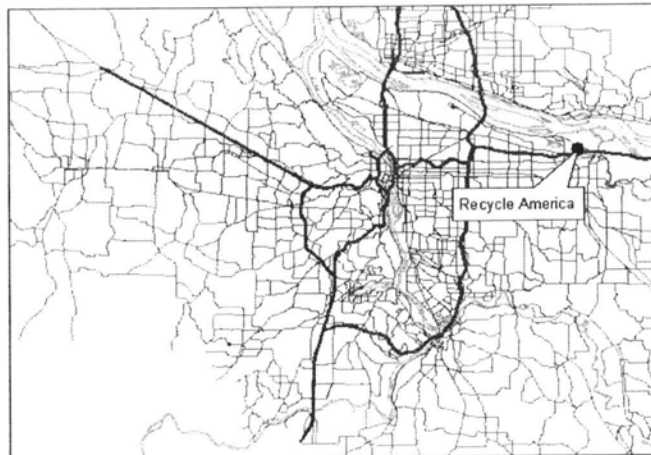
BACKGROUND

A. Reason for the Ordinance

Ordinance No. 03-1027 is a response to an application for a franchise renewal duly filed by Waste Management of Oregon, Inc., dba Recycle America pursuant to Metro Code chapter 5.01.087(b). Metro Code Section 5.01.087(b) requires that the Chief Operating Officer formulate recommendations regarding whether a renewal meets the criteria in Section 5.01.070. The Metro Code specifies that the Council shall approve a renewal of a Solid Waste Facility Franchise unless the Council determines that the proposed renewal is not in the public interest or does not meet the criteria contained in Section 5.01.070. The Council may attach conditions or limitations to the renewed franchise.

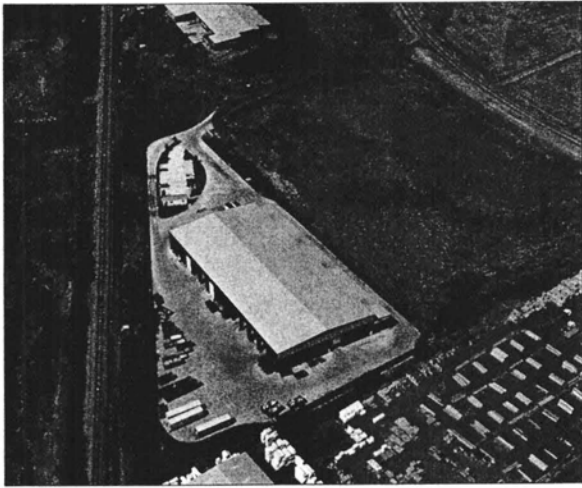
B. The Applicant and the Applicant's Request

Waste Management of Oregon, Inc., is the operator of Recycle America, an existing solid waste facility that is currently franchised by Metro as a transfer station to receive putrescible waste, perform material recovery on non-putrescible waste, and accept source-separated recyclable material. The applicant has requested a renewal of its solid waste facility franchise. The facility is located at 869 NW Eastwind Drive, in Troutdale (Metro Council District 1).



Site Location Map

The applicant has requested no new authorizations, tonnage increase, or changes to its current franchise provisions. Under separate authority of a Metro Non-System License, the franchisee is authorized to deliver putrescible waste directly to Columbia Ridge Landfill in Gilliam County, Oregon; and in the case of an emergency, to the Riverbend Landfill located in Yamhill County, Oregon (NSL# N-001-03).



Aerial photograph of the facility



Facility entrance

C. Issuance of a Renewed Franchise

Metro Code Section 5.01.087(b) governs the application and renewal of franchises. That section requires the franchisee to submit an application and a renewal fee, requires the Chief Operating Officer to formulate recommendations regarding whether the renewal meets the criteria in Section 5.01.070, provides that the Council shall renew an application unless it finds that renewal is not in the public interest or does not meet the criteria in Section 5.01.070, and gives the Council discretion to impose conditions or limitations on the franchise.

1. Renewal Application

Metro Code Section 5.01.087(b) requires the applicant to file a completed application for renewal accompanied by payment of an application fee of \$500 not less than 120 days prior to the expiration of the franchise term.

The applicant filed its application for renewal and application fee of \$500 on June 27, 2003. The current franchise term expires on December 31, 2003. The applicant filed a renewal application within 120 days prior to the expiration of its franchise term. Accordingly, staff finds that the application was properly filed.

2. Compliance With The Criteria in Metro Code Section 5.01.070

Metro Code Section 5.01.070 governs the evaluation and issuance of franchises, and only subsections (c) and (f) of that section establish criteria for the approval of franchise applications.

(a) *Metro Code section 5.01.070(c) requires that the Chief Operating Officer formulate recommendations regarding:*

i. *Applicant Qualifications.*

The applicant is well known to Metro as an operator of a Metro franchised solid waste facility and as a long-standing solid waste management company in the Portland Metro area. The applicant has operated its facility for over five years and has extensive experience in recycling, solid waste hauling, and disposal.

Staff concludes that the applicant is fully qualified to operate and manage the facility competently and efficiently.

ii. *Compliance with the Regional Solid Waste Management Plan (RSWMP).*

The solid waste management activities to be renewed under this franchise are entirely consistent with the Regional Solid Waste Management Plan's section on *Solid Waste Facilities and Services: Transfer and Disposal System*.

Recommended Practice # 1: Allow additions to the existing system of three transfer stations as necessary to maintain solid waste transfer and disposal service levels that provide reasonable access for residents, businesses and haulers. New transfer stations may be authorized where they provide a net benefit to the regional solid waste system. New transfer stations shall perform material recovery subject to facility recovery rate standards.

Recommended Practice # 3: Maintain options for haulers to choose among disposal alternatives.

The rationale for transfer stations under the Plan is that they assist in maintaining service levels by reducing drive time for haulers, reducing congestion at existing facilities and adding opportunity to recover materials. An efficient disposal system depends on both capacity and accessibility. As an outright recommended practice, staff concludes that the applicant's request for renewal of its franchise complies with the Regional Solid Waste Management Plan.

iii. *Meeting the Requirements of Metro Code Section 5.01.060.*

Metro Code section 5.01.060(a) requires applications for renewal of an existing franchise to be filed on forms or in the format provided by the Chief Operating Officer. The applicant seeks a franchise renewal and, in accordance with Metro Code provisions, has filed a completed application for renewal accompanied by payment of the application fee of \$500. Accordingly, staff finds that the application was properly filed.

Metro Code section 5.01.060(b) requires all applications to include a description of the activities proposed to be conducted and a description of wastes to be accepted. This information was included in the franchise renewal application form and accordingly, staff finds that the application was properly filed.

Metro Code sections 5.01.060(c) requires that an application for a franchise include the following: 1) proof of insurance; 2) duplicate copies of all DEQ required applications and permits; 3) a duplicate copy of any DEQ required closure plan or if not required by the DEQ then a closure document describing closure protocol; 4) copies of DEQ required financial assurance documents or if not required by the DEQ proof of financial assurance for the cost of closure of the facility; 5) signed consent by the property owner to the proposed use of the property; 6) proof that the applicant has received proper land use approval; and, 7) copies of any other permits required from other governmental agencies. This information is included in the existing franchise file of the applicant; accordingly staff finds that the required information has been submitted.

Metro Code Section 5.01.060 (d) is a new provision for proposed facilities that was adopted by the Metro Council on October 9, 2003 (Ordinance No. 03-1018A). Since this provision pertains to a proposed facility making an initial application for a new franchise, not a renewal, the new provision is not applicable in this case.

iv. *Compliance with Regulatory Requirements.*

The applicant has land use authorization from the City of Troutdale, Oregon, a DEQ Solid Waste Disposal Permit, and for the past five-years has been operating under authority of a Metro Solid Waste Facility Franchise. In that time, the facility has not received, to Metro's knowledge, any notices of violation or non-compliance from either the City of Troutdale or the Oregon DEQ. No other violations, citations or letters of complaint of record have been issued to the applicant by Metro or any other regulatory agency or government in regard to the operation of Recycle America. Metro has conducted nine site inspections since January 2003, and staff has found a well-run operation with no observable reason to suspect impending problems or issues. The franchisee has never violated its franchise tonnage authorization. Staff therefore concludes that the applicant has sufficiently complied – and is likely to continue to comply – with all applicable regulatory requirements.

(b) *Metro Code section 5.01.070(f) lists five criteria for consideration by the Council (but notes that the Council is not limited to these criteria in making its decision):*

i. *Consistency with the Regional Solid Waste Management Plan.*

In examining this issue in Section (2)(a)(ii) above, staff found in the affirmative.

ii. *The effect that granting a franchise to the applicant will have on the cost of solid waste disposal and recycling services for the citizens of the region.*

Recycle America is an existing facility and has been in operation for over five years. In addition, Recycle America has not requested any change in tonnage authorizations, or activities at the facility. The effect of granting a renewed franchise would be to maintain the status quo with regard to the cost of solid waste recycling and disposal services for the citizens of the region

iii. *Granting the franchise would be unlikely to adversely affect health, safety and welfare of Metro's residents.*

Metro staff is not aware of any facility incidents or operating procedures that have adversely affected the health, safety and welfare of Metro's residents in the five years that the facility has been operating. Likewise, the Oregon DEQ has not cited the facility for any violations. The operator's experience and track record, together with the regulatory environment in which Recycle America operates, leads staff to conclude that it is unlikely Recycle America will adversely affect the public health, safety and welfare.

iv. *Granting the franchise would be unlikely to unreasonably adversely affect nearby residents, property owners or the existing character or expected future development of the surrounding neighborhood.*

Metro staff is not aware of any complaints or excessive impacts on the surrounding neighborhood in the five years that the facility has been operating. The operator's experience and track record leads staff to conclude that it is unlikely Recycle America would unreasonably adversely impact the surrounding neighborhood.

v. *The applicant is likely to comply with regulations and standards.*

As discussed in Section 2(a)(iv), above, staff finds that the franchisee has never violated its franchise tonnage authorization, and is likely to comply with regulations and standards if the franchise is renewed.

3. Chief Operating Officer's Recommendation and Recommended Franchise Conditions

Based on the information presented in Section (C)(1) and (2) above, the Chief Operating Officer believes that the franchise renewal application meets the criteria in Metro Code Section 5.01.070. The Chief Operating Officer also believes that the proposed franchise renewal is in the public interest. The Chief Operating Officer therefore recommends that the Metro Council approve a franchise renewal to Recycle America subject to the requirements listed in Metro Code Chapter 5.01; and further subject to the following specific conditions, which are incorporated into the draft franchise attached as Exhibit A to Ordinance No. 03-1027:

Conditions:

- That the franchise be granted for four years, to expire on December 31, 2007. This condition will ensure that the term of the renewed franchise will coincide with future solid waste planning and policy decisions by the Metro Council.
- That the franchise include more specific record keeping and reporting requirements for the purpose of ensuring that Metro receive accurate transaction data for necessary accounting controls if the franchisee intends to not pay regional system fees on waste from outside Metro's boundaries. The franchisee shall accept no more than 65,000 tons of putrescible waste within each Metro fiscal year as established by Metro Council in October 2001 (Ordinance No. 01-916C). As drafted and currently enforced, this limitation is applicable to all putrescible waste accepted at the facility, irrespective of whether the waste originated within the Metro region.
- That the franchisee shall perform material recovery on non-putrescible waste at the rate stipulated in Metro Code Chapter 5.01. Currently, the required recovery rate is at least 25% by weight of non-putrescible waste accepted at the facility and waste delivered by public customers. This is an existing franchise condition. Recycle America has performed recovery at an average rate of 32.2% over the last 12 months (as calculated for the Metro Regional System Fee and Excise Tax Credit Program).
- That the franchisee allows the Oregon Department of Transportation (ODOT) inspectors periodic access to the facility to check truck weights for compliance with state and federal weight limitations and reporting requirements imposed upon trucks traveling on public highways. This is a new franchise condition requested by ODOT that will ensure that ODOT has access to all transfer stations for the purpose of checking vehicle weights to enhance the safety of our roads and reduce road maintenance costs. This new condition will assure a level playing field among private and public transfer stations.
- That the franchisee's authority to direct haul waste to the Columbia Ridge Landfill not be renewed, and that the performance standards for direct hauling in the renewed franchise be removed. These provisions are no longer necessary, because under separate authority of a Metro Non-System License, the franchisee is now authorized to deliver putrescible waste to Columbia Ridge Landfill, and in an emergency to Riverbend Landfill. Now that putrescible waste NSLs are subject to Council approval, any impact to the solid waste system can be considered when the NSLs are renewed.

ANALYSIS / INFORMATION

1. Known Opposition

There is no known opposition.

2. Legal Antecedents

Current provisions of Metro Code Chapter 5.01, "Solid Waste Facility Regulation".

3. Anticipated Effects

Adoption of Ordinance No. 03-1027 would grant a renewed Solid Waste Facility Franchise for Recycle America to continue to operate "status quo" as a local transfer station and perform material recovery for four years. Ordinance No. 03-1027 requires an emergency clause as Recycle America is an existing facility providing necessary solid waste services to citizens of the region and ensuring that its franchise is renewed effective January 1, 2004, upon expiration of its current franchise on December 31, 2003, is necessary for the immediate preservation of public health, safety and welfare. Pursuant to Metro Charter section 39(1), an emergency is declared to exist, and this ordinance shall take effect immediately upon adoption.

4. Budget Impacts

Ordinance No. 03-1027 authorizes the renewal of an existing solid waste facility franchise without any significant changes in authorizations other than the deletion of the franchisee's direct haul authority. The facility will continue to process waste of the same type and in the same quantity as presently authorized by its existing franchise. Thus, it is anticipated that approval of Ordinance No. 03-1027 will have no budget impact beyond the impact already absorbed after the facility first began its operations as a transfer station and has been factored into Metro's future projections.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Ordinance No. 03-1027.

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Resolution No. 03-3390, For the purpose of Authorizing the Chief Operating Officer to renew a non-system license issued to Pride Recycling Company for delivery of putrescible solid waste to the Riverbend Landfill.

Metro Council Meeting
Thursday, December 4, 2003
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE	)	RESOLUTION NO. 03-3390
CHIEF OPERATING OFFICER TO ISSUE A NON-)	
SYSTEM LICENSE TO PRIDE RECYCLING	)	Introduced by: Michael Jordan,
COMPANY FOR DELIVERY OF PUTRESCIBLE	)	Chief Operating Officer, with the
SOLID WASTE TO THE RIVERBEND LANDFILL	)	concurrence of David Bragdon,
	)	Council President

WHEREAS, the Metro Code requires a non-system license of any person that delivers solid waste generated from within the Metro boundary to a non-system disposal facility; and,

WHEREAS, Pride Recycling Company currently has a non-system license to deliver mixed solid waste, including putrescible waste, to the Riverbend Landfill, a non-system facility, which license will expire on December 31, 2003; and,

WHEREAS, Pride Recycling Company has applied for a new non-system license under the provisions of Metro Code Chapter 5.05; and,

WHEREAS, the application is in conformance with the requirements of Chapter 5.05 of the Code; and,

WHEREAS, the Chief Operating Officer has analyzed the application and recommended approval of the applicant's request for a non-system license; and,

WHEREAS, the resolution was submitted to the Chief Operating Officer for consideration and was forwarded to the Council for approval; now therefore,

THE METRO COUNCIL RESOLVES AS FOLLOWS:

The Chief Operating Officer is authorized to issue a non-system license to Pride Recycling Company in a form substantially similar to the license attached as Exhibit A.

ADOPTED by the Metro Council this ____ day of _____, 2003.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney



METRO

LICENSE NO. N-002-04

SOLID WASTE NON-SYSTEM LICENSE

Issued pursuant to Metro Code § 5.05.035.

1. Licensee:

LICENSEE: Pride Recycling Company P.O. Box 820 13980 Tualatin-Sherwood Rd. Sherwood, Oregon 97140 Contact person: Mike Leichner Phone: (503) 625-6177 Fax: (503) 625-6179 E-mail: mike@pridedisposal.com	FACILITY NAME AND LOCATION: Pride Recycling Company 13980 Tualatin-Sherwood Rd. Sherwood, Oregon 97140 Contact person: Mike Leichner Phone: (503) 625-6177 Fax: (503) 625-6179 E-mail: mike@pridedisposal.com
COMPANY OWNER Pride Recycling Company P.O. Box 820 13980 Tualatin-Sherwood Rd. Sherwood, Oregon 97140 Contact person: Mike Leichner Phone: (503) 625-6177 Fax: (503) 625-6179 E-mail: mike@pridedisposal.com	PROPERTY OWNER Lorry Leichner P.O. Box 820 13980 Tualatin-Sherwood Rd. Sherwood, Oregon 97140 (503) 625-6177

2. Nature Of Waste Covered By License:

- (a) Residual solid waste remaining following resource recovery from putrescible and non-putrescible solid waste.
- (b) Consolidated loads of solid waste, including putrescible solid waste not suitable for sorting and recovery.

3. Calendar Year Tonnage Limitation:

This license grants the licensee the authority to dispose of up to 65,000 tons per calendar year of the waste described in section 2 of this license.

4. Non-System Facility:

The licensee hereunder may deliver the solid waste specified in this non-system license only to:

Riverbend Landfill
13469 S.W. Highway 18
McMinnville, OR 97128.

5. Term of License:

The term of this license will commence on January 1, 2004 and expire on December 31, 2006.

6. Reporting of Accidents and Citations:

Licensee shall report to Metro any significant incidents (such as fires), accidents, and citations involving vehicles of its transportation carrier during the loading and transporting of solid waste on behalf of the licensee.

7. Additional License Conditions:

This non-system license shall be subject to the following conditions:

- (a) The permissive transfer of solid waste to the Riverbend Landfill authorized by this license will be subordinate to any subsequent decision by Metro to direct the solid waste described in this license to another facility.
- (b) This license shall be subject to amendment, modification or termination by Metro's Chief Operating Officer in the event that the Chief Operating Officer determines, at his or her sole discretion, that:
 - (i) there has been sufficient change in any circumstances under which Metro issued this license, or in the event that Metro amends or modifies its Regional Solid Waste Management Plan in a manner that justifies modification or termination of this license,
 - (ii) the provisions of this license are actually or potentially in conflict with any of Metro's contractual obligations under the terms of a contract that became effective before the effective date of this license, or
 - (iii) Metro's solid waste system or the public will benefit from, and will be better served by, an order directing that the waste described in section 2 of this license be transferred to, and disposed of at, a facility other than the facility described in section 4, above.

- (c) This license shall, in addition to subsections (i) through (iii), above, be subject to amendment, modification, termination, or suspension pursuant to the Metro Code.
- (d) No later than the fifteenth (15th) day of each month, beginning with the next month following the signature date below, Licensee shall:
 - (i) submit to Metro's Solid Waste & Recycling Department a Regional System Fee and Excise Tax Report, that covers the preceding month, and
 - (ii) remit to Metro the requisite Regional System Fees and Excise Taxes in accordance with the Metro Code provisions applicable to the collection, payment, and accounting of such fees and taxes.
- (e) Licensees shall not transfer or assign any right or interest in this license without prior written notification to, and approval of, Metro.
- (f) This license shall terminate upon the execution of a designated facility agreement between Metro and the Riverbend Landfill.

8. Compliance with Law:

Licensee shall fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders, and permits pertaining in any manner to this license, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.05 whether or not those provisions have been specifically mentioned or cited herein. All conditions imposed on the collection and hauling of the licensee's solid waste by federal, state, regional or local governments or agencies having jurisdiction over solid waste generated by the licensee shall be deemed part of this license as if specifically set forth herein.

9. Indemnification:

Licensee shall defend, indemnify and hold harmless Metro, its elected officials, officers, employees, agents and representatives from any and all claims, demands, damages, causes of action, or losses and expenses, or including all attorneys' fees, whether incurred before any litigation is commenced, during any litigation or on appeal, arising out of or related in any way to the issuance or administration of this non-system license or the transport and disposal of the solid waste covered by this license.

Signed:

Acknowledgement & Acceptance of the
Terms and Conditions of this License:

Signature

Michael Jordan, Chief Operating Officer

Print name and title

Date

Signature of Licensee

Print name and title

Date

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 03-3390 FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A NON-SYSTEM LICENSE TO PRIDE RECYCLING COMPANY FOR DELIVERY OF PUTRESCIBLE SOLID WASTE TO THE RIVERBEND LANDFILL

December 4, 2003

Prepared by: Steve Kraten

BACKGROUND

Description of the Resolution

Approval of Resolution No. 03-3390 will authorize the Chief Operating Officer to issue a non-system license (NSL) to Pride Recycling Company to deliver up to a maximum of 65,000 tons annually of mixed residential and commercial solid waste, including putrescible waste, to the Riverbend Landfill located in McMinnville, Oregon. The existing license will expire on December 31, 2003.

ANALYSIS/INFORMATION

1. Known Opposition

There is no known opposition to the proposed license renewal.

2. Legal Antecedents

Changes to Code Chapter 5.05 approved by the Council with an emergency clause on October 9, 2003, made the issuance of NSLs for putrescible waste subject to approval by the Council rather than subject to approval by the Chief Operating Officer as was previously the case. Section 5.05.035(c) of the Metro Code provides that, when determining whether or not to approve an NSL application, the Council shall consider the following factors to the extent relevant to such determination.

- (1) *The degree to which prior users of the non-system facility and waste types accepted at the non-system facility are known and the degree to which such wastes pose a future risk of environmental contamination;*

The Riverbend Landfill first came into use during the mid-eighties. When the Riverbend Landfill became a Subtitle D landfill in 1993, the original unlined cells were capped. Since 1993, the landfill has been filling only lined cells and operating with the required environmental controls required by the Oregon Department of Environmental Quality (DEQ). The landfill has no known history of landfilling wastes that pose a future risk of environmental contamination.

- (2) *The record of regulatory compliance of the non-system facility's owner and operator with federal, state and local requirements including but not limited to public health, safety and environmental rules and regulations;*

The Riverbend Landfill is permitted by the DEQ. The facility was issued a Notice of Noncompliance by DEQ in 1997 when an out-of-tune gas flare caused vibrations that were heard in a residential area nearby. The problem was considered to be a relatively minor violation and was promptly remedied. The DEQ

The problem was considered to be relatively minor violation and was promptly remedied. The DEQ considers the landfill to be a well-run facility that is in compliance with federal, state and local requirements. The facility has a good compliance record with public health, safety and environmental rules and regulations.

- (3) *The adequacy of operational practices and management controls at the non-system facility;*

The Riverbend Landfill uses operational practices and management controls that are typical of Subtitle D landfills and considered by the DEQ to be adequate for the protection of health, safety, and the environment.

- (4) *The expected impact on the region's recycling and waste reduction efforts;*

Pride Recycling Company performs materials recovery, even from waste streams that have a substantial putrescible component. The waste that would be subject to the proposed license is putrescible waste that has no further recovery potential. Therefore, granting the requested license will not impact the region's recycling and waste reduction efforts.

- (5) *The consistency of the designation with Metro's existing contractual arrangements;*

Riverbend Landfill is a Waste Management facility. Thus, under a disposal agreement that has been in force since 1999, waste delivered under the proposed license is included as waste delivered to Metro's contract operator for purposes of Metro's disposal contract. The requested license does not appear to conflict with Metro's disposal contract or any other of its existing contractual arrangements.

- (6) *The record of the applicant regarding compliance with Metro ordinances and agreements or assistance to Metro in Metro ordinance enforcement and with federal, state and local requirements including but not limited to public health, safety and environmental rules and regulations; and*

During fiscal year 2001-02, Pride Recycling Company exceeded the 68,250-ton cap stipulated in its Metro Solid Waste Facility Franchise by 4,343 tons and was issued a Notice of Violation and a \$20,000 fine by Metro. Pride contested enforcement action, which was upheld upon appeal. There have been no other incidents of non-compliance.

- (7) *Such other factors as the Chief Operating Officer deems appropriate for purposes of making such determination.*

Solid waste delivered to the Riverbend Landfill counts toward the declining block fee schedule stipulated in Metro's disposal contract with Waste Management. Pride Recycling Company has been disposing of solid waste at the Riverbend Landfill under the authority of a Metro-issued NSL since October 1999.

Conclusion

The Chief Operating Officer finds that the proposed license satisfies the requirements of Metro Code Section 5.03.035 for the requested Solid Waste Facility License.

3. Anticipated Effects

The effect of Resolution No. 03-3390 will be to issue an NSL for delivery of up to 65,000 tons per calendar year of solid waste, including putrescible waste, to the Riverbend Landfill.

4. Budget Impacts

Issuance of an NSL to Pride Recycling Company will continue the status quo with no additional budget impact. The regional system fee will continue to be collected by the applicant on all solid waste received from within the Metro boundary. The excise tax is collected on all waste regardless of where it is generated.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Resolution No. 03-3390.

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Resolution No. 03-3391, For the purpose of Authorizing the Chief Operating Officer to issue a non-system license to American Sanitary Services, Inc. for delivery of putrescible solid waste to the West Van Materials Recovery Center and the Central Transfer and Recycling Center.

Metro Council Meeting
Thursday, December 4, 2003
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE CHIEF	)	RESOLUTION NO. 03-3391
OPERATING OFFICER TO ISSUE A NON-SYSTEM)	
LICENSE TO AMERICAN SANITARY SERVICE, INC.,)	
FOR DELIVERY OF PUTRESCIBLE SOLID WASTE	)	Introduced by Michael Jordan,
TO THE WEST VAN MATERIALS RECOVERY	)	Chief Operating Officer, with the
CENTER AND THE CENTRAL TRANSFER AND	)	concurrence of David Bragdon,
RECYCLING CENTER	)	Council President

WHEREAS, the Metro Code requires a non-system license of any person that delivers solid waste generated from within the Metro boundary to a non-system disposal facility; and,

WHEREAS, American Sanitary Service, Inc., currently has a non-system license to deliver mixed solid waste, including putrescible waste, to the West Van Materials Recovery Center and the Central Transfer and Recycling Center, both non-system facilities, which license will expire on December 31, 2003; and,

WHEREAS, American Sanitary Service, Inc., has applied for a new non-system license under the provisions of Metro Code Chapter 5.05 but at a reduced tonnage level; and,

WHEREAS, the application is in conformance with the requirements of Chapter 5.05 of the Code; and,

WHEREAS, the Chief Operating Officer has analyzed the application and recommended approval of the applicant's request for a non-system license with the conditions and in the form attached to this resolution as Exhibit A; and,

WHEREAS, the resolution was submitted to the Chief Operating Officer for consideration and was forwarded to the Council for approval; now therefore,

THE METRO COUNCIL RESOLVES AS FOLLOWS:

The Chief Operating Officer is authorized to issue a non-system license to American Sanitary Service, Inc., in a form substantially similar to the license attached as Exhibit A.

ADOPTED by the Metro Council this ____ day of _____, 2003.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney



METRO

LICENSE NO. N-020-04

SOLID WASTE NON-SYSTEM LICENSE

Issued pursuant to Metro Code § 5.05.035.

1. Licensee:

LICENSEE: American Sanitary Service, Inc. 12820 NE Marx Street PO Box 61726 Vancouver, WA 978666 Contact person: Dean Large/Ryan Wurgler Phone: (360) 695-4858 Fax: (360) 695-5091	FACILITY NAME AND LOCATION: American Sanitary Service, Inc. 12820 NE Marx Street Vancouver, WA 98666 Contact person: Dean Large Phone: (360) 695-4858 Fax: (360) 695-5091
PARENT COMPANY Waste Connections of Oregon, Inc. 35 Iron Point Circle Folsom, CA 95630 Phone: (916) 608-8200 Fax: (916) 352-0240	PROPERTY OWNER: N/A

2. Nature of Waste Covered by License:

Solid waste, including putrescible waste generated within the boundaries of Metro and collected by the Licensee.

3. Calendar Year Tonnage Limitation:

This license grants the licensee the authority to dispose of up to 5,450 tons per calendar year of the waste described in section 2 of this license.

4. Non-System Facility:

Solid waste transported by Licensee to non-system facilities shall only be delivered to one of the following non-system facilities:

West Van Materials Recovery Center (WVMRC) 6601 N.W. Old Lower River Road Vancouver, WA 98660	Central Transfer and Recycling Center (CTRC) 11034 N.E. 117 th Ave. Vancouver, WA 98661
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5. Term of License:

The term of this license will commence on January 1, 2004 and expire on December 31, 2006.

6. Reporting of Accidents and Citations:

Licensee shall report to Metro any significant incidents (such as fires), accidents, and citations involving vehicles of its transportation carrier during the loading and transporting of solid waste on behalf of the licensee.

7. Additional License Conditions:

This non-system license shall be subject to the following conditions:

- (a) The permissive transfer of solid waste to the West Van Materials Recovery Center and the Central Transfer and Recycling Center authorized by this license will be subordinate to any subsequent decision by Metro to direct the solid waste described in this license to another facility.
- (b) Reporting of tonnage delivered under the authority of this license at frequency intervals to be determined by Metro. Such reporting may be required on a weekly or daily basis should the licensee approach the tonnage limit stipulated in section 3 of this license or the combined tonnage of all NSLs issued by Metro approach the tonnage not obligated under Metro's disposal contract. Likewise, Metro reserves the right to direct the licensee's waste flow to system facilities with a minimum of 24 hours notice.
- (c) This license shall be subject to amendment, modification or termination by Metro's Chief Operating Officer in the event that the Chief Operating Officer determines, at his or her sole discretion, that:
 - (i) there has been sufficient change in any circumstances under which Metro issued this license, or in the event that Metro amends or

- modifies its Regional Solid Waste Management Plan in a manner that justifies modification or termination of this license,
- (ii) the provisions of this license are actually or potentially in conflict with any of Metro's contractual obligations under the terms of a contract that became effective before the effective date of this license, or
 - (iii) Metro's solid waste system or the public will benefit from, and will be better served by, an order directing that the waste described in section 2 of this license be transferred to, and disposed of at, a facility other than the facility described in section 4, above.
- (d) This license shall, in addition to subsections (i) through (iii), above, be subject to amendment, modification, termination, or suspension pursuant to the Metro Code.
- (e) No later than the fifteenth (15th) day of each month, beginning with the next month following the signature date below, Licensee shall:
- (i) submit to Metro's Solid Waste & Recycling Department a Regional System Fee and Excise Tax Report, that covers the preceding month, and
 - (ii) remit to Metro the requisite Regional System Fees and Excise Taxes in accordance with the Metro Code provisions applicable to the collection, payment, and accounting of such fees and taxes.
- (f) Licensees shall not transfer or assign any right or interest in this license without prior written notification to, and approval of, Metro.

8. Compliance with Law:

Licensee shall fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders, and permits pertaining in any manner to this license, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.05 whether or not those provisions have been specifically mentioned or cited herein. All conditions imposed on the collection and hauling of the licensee's solid waste by federal, state, regional or local governments or agencies having jurisdiction over solid waste generated by the licensee shall be deemed part of this license as if specifically set forth herein.

9. Indemnification:

Licensee shall defend, indemnify and hold harmless Metro, its elected officials, officers, employees, agents and representatives from any and all claims, demands, damages, causes of action, or losses and expenses, or including all attorneys' fees,

whether incurred before any litigation is commenced, during any litigation or on appeal, arising out of or related in any way to the issuance or administration of this non-system license or the transport and disposal of the solid waste covered by this license.

Signed:

Acknowledgement & Acceptance of the
Terms and Conditions of this License:

Signature

Signature of Licensee

Michael Jordan, Chief Operating Officer

Print name and title

Print name and title

Date

Date

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STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 03-3391 FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A NON-SYSTEM LICENSE TO AMERICAN SANITARY SERVICE, INC., FOR DELIVERY OF PUTRESCIBLE SOLID WASTE TO THE WEST VAN MATERIALS RECOVERY CENTER AND THE CENTRAL TRANSFER AND RECYCLING CENTER

December 4, 2003

Prepared by: Steve Kraten

BACKGROUND

Description of the Resolution

Approval of Resolution No. 03-3391 will authorize the Chief Operating Officer to issue a non-system license (NSL) to American Sanitary Service, Inc., to deliver putrescible waste from its garbage collection routes located within the Metro boundary to the West Van Materials Recovery Center (WVMRC) and the Central Transfer and Recycling Center (CTRC), both of which are located in Clark County, Washington. American Sanitary Service, Inc., WVMRC, and CTRC are all affiliated with Waste Connections, Inc. American Sanitary Service, Inc.'s, hauling franchise is located in Metro Districts 6 and 1. The applicant has requested an annual authorization of 5,450 tons. This is a reduction from its present 7,000-ton NSL authorization and is based on a projection of actual usage.

ANALYSIS/INFORMATION

1. Known Opposition

There is no known opposition to the proposed license.

2. Legal Antecedents

WVMRC and CTRC are non-system disposal facilities (transfer stations) to which the applicant wishes to deliver putrescible solid waste generated from within Metro. Code section 5.05.025 prohibits any person from utilizing such non-system facilities without an appropriate license from Metro. Code section 5.05.035 stipulates that a person may utilize a non-system facility only by obtaining a non-system license from Metro. On that basis, the applicant must have a Metro non-system license in order to utilize these facilities.

Section 5.05.035(c) of the Metro Code requires the Chief Operating Officer to make recommendations as to whether any application for a non-system license for putrescible waste should be approved. Such recommendation is based on the following factors:

- (1) *The degree to which prior users of the non-system facility and waste types accepted at the non-system facility are known and the degree to which such wastes pose a future risk of environmental contamination;*

The proposed disposal sites are transfer stations that do not pose any known potential for environmental risk from wastes delivered from prior users. After processing at the transfer stations, the waste is

transported via barge to the Finley Buttes Landfill for disposal. (The Finley Buttes Landfill is a Metro designated facility authorized to receive non-putrescible solid waste without the need for haulers to obtain non-system licenses.)

- (2) *The record of regulatory compliance of the non-system facility's owner and operator with federal, state and local requirements including but not limited to public health, safety and environmental rules and regulations;*

Waste Connections has a good record of compliance with local and state agencies responsible for health, safety, and environmental regulations. Waste Connections also has a good record of cooperation with Metro staff.

- (3) *The adequacy of operational practices and management controls at the non-system facility;*

WVMRC and CTRC use operational practices and management controls that are typical of transfer stations and that we consider adequate for the protection of health, safety, and the environment.

- (4) *The expected impact on the region's recycling and waste reduction efforts;*

The majority of the waste to be covered by the proposed license is putrescible waste without significant potential for recovery. WVMRC and CTR perform recovery on non-putrescible commercial and industrial waste but at a recovery rate less than many Metro system facilities. Approval of the license is not expected to significantly impact the region's recycling and waste reduction efforts.

- (5) *The consistency of the designation with Metro's existing contractual arrangements;*

Metro has committed to deliver 90 percent of the total tons of "acceptable waste" that Metro delivers to general purpose landfills to landfills operated by Metro's waste disposal contract operator, Waste Management. American Sanitary seeks authority to transfer waste that meets the definition of "acceptable waste" as used in Metro's waste disposal contract. This license is one of several that are coming before the Council at the same time. If all of the proposed licenses are approved, then the total amount of "acceptable waste" authorized under NSLs for delivery to non-Waste Management landfills will amount to an estimated 9.9 percent of Metro waste delivered to general purpose landfills based on a very conservative projection of the total amount of "acceptable waste" that will be delivered to general purpose landfills next year.* The NSLs contain provisions that can be used to increase the frequency of tonnage reports and amend tonnage authorizations should projections indicate a likelihood of a conflict or potential conflict with Metro's waste disposal contract.

These applications, in total, will place Metro very close to the ten percent of waste not obligated under the disposal contract. Staff tracks the tonnage "trajectory" of each licensee on an ongoing basis and believes there are sufficient "triggers" to enable Metro to adjust NSL tonnage allocations, if necessary, toward the end of each calendar year should there be a potential for exceeding the ten percent contractual limitation.

* The 9.9 percent is calculated by taking the sum of the tonnages in the NSL applications and dividing by amount of waste that is subject to the 90 percent flow guarantee. The latter amount is based on Metro's FY 2004-05 tonnage forecast (prepared October 2003).

- (6) *The record of the applicant regarding compliance with Metro ordinances and agreements or assistance to Metro in Metro ordinance enforcement and with federal, state and local requirements including but not limited to public health, safety and environmental rules and regulations; and*

The applicant is a solid waste hauling company that operates under local requirements within the City of Portland and Gresham and has a good record of compliance with public health, safety and environmental rules and regulations.

- (7) *Such other factors as the Chief Operating Officer deems appropriate for purposes of making such determination.*

Based on the tonnage delivered by the applicant over the term of its existing NSL, the tonnage being requested is the minimum amount needed to accommodate the waste collected from its in-Metro routes.

3. Anticipated Effects

The effect of Resolution No. 03-3391 will be to issue an NSL for delivery of solid waste, including putrescible, to the applicant's two affiliated transfer stations located in Clark County, but at a reduced tonnage authorization from the authorization in the applicant's current NSL, based on the applicant's history of actual utilization.

4. Budget Impacts

The regional system fee and excise tax will continue to be collected on waste delivered under authority of the proposed NSL. Approval of all the NSLs presented to the Council will result in a total tonnage authorization nearly identical to the current authorization and is expected to maintain the status quo.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Resolution No. 03-3391, and issuance of an NSL substantially similar to the NSL attached to the resolution as Exhibit A.

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Agenda Item Number 5.3

Resolution No. 03-3392, For the purpose of Authorizing the Chief Operating Officer to issue a non-system license to Arrow Sanitary Service, Inc., for delivery of putrescible solid waste to the West Van Materials Recovery Center and the Central Transfer Station and Recycling Center.

Metro Council Meeting
Thursday, December 4, 2003
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE CHIEF	)	RESOLUTION NO. 03-3392
OPERATING OFFICER TO ISSUE A NON-SYSTEM)	
LICENSE TO ARROW SANITARY SERVICE, INC.	)	Introduced by Michael Jordan,
FOR DELIVERY OF PUTRESCIBLE SOLID WASTE	)	Chief Operating Officer, with the
TO THE WEST VAN MATERIALS RECOVERY	)	concurrence of David Bragdon,
CENTER AND THE CENTRAL TRANSFER AND	)	Council President
RECYCLING CENTER)	

WHEREAS, the Metro Code requires a non-system license of any person that delivers solid waste generated from within the Metro boundary to a non-system disposal facility; and,

WHEREAS, Arrow Sanitary Service, Inc., currently has a non-system license to deliver mixed solid waste, including putrescible waste, to the West Van Materials Recovery Center and the Central Transfer and Recycling Center, both non-system facilities, which license will expire on December 31, 2003; and,

WHEREAS, Arrow Sanitary Service, Inc., has applied for a new non-system license under the provisions of Metro Code Chapter 5.05; and,

WHEREAS, the application is in conformance with the requirements of Chapter 5.05 of the Code; and,

WHEREAS, the Chief Operating Officer has analyzed the application and recommended approval of the applicant's request for a non-system license with the conditions and in the form attached to this resolution as Exhibit A; and,

WHEREAS, the resolution was submitted to the Chief Operating Officer for consideration and was forwarded to the Council for approval; now therefore,

THE METRO COUNCIL RESOLVES AS FOLLOWS:

The Chief Operating Officer is authorized to issue a non-system license to Arrow Sanitary Service, Inc., in a form substantially similar to the license attached as Exhibit A.

ADOPTED by the Metro Council this ____ day of _____, 2003.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney



METRO

LICENSE NO. N-024-04

SOLID WASTE NON-SYSTEM LICENSE

Issued pursuant to Metro Code § 5.05.035.

1. Licensee:

LICENSEE: Arrow Sanitary Service, Inc. 12820 NE Marx PO Box 61726 Vancouver, WA 978666 Contact person: Dean Large/Ryan Wurgler Phone: (360) 695-4858 Fax: (360) 695-5091	FACILITY NAME AND LOCATION: Arrow Sanitary Service, Inc. 12820 NE Marx Vancouver, WA 98666 Contact person: Dean Large Phone: (360) 695-4858 Fax: (360) 695-5091
PARENT COMPANY Waste Connections of Oregon, Inc. 35 Iron Point Circle Folsom, CA 95630 Phone: (916) 608-8200 Fax: (916) 352-0240	PROPERTY OWNER: N/A

2. Nature of Waste Covered by License:

Solid waste, including putrescible waste, generated within the boundaries of Metro and collected by the Licensee.

3. Calendar Year Tonnage Limitation:

This license grants the licensee the authority to dispose of up to 31,500 tons per calendar year of the waste described in section 2 of this license.

4. Non-System Facility:

Solid waste transported by Licensee to non-system facilities shall only be delivered to one of the following non-system facilities:

West Van Materials Recovery Center (WVMRC) 6601 N.W. Old Lower River Road Vancouver, WA 98660	Central Transfer and Recycling Center (CTRC) 11034 N.E. 117 th Ave. Vancouver, WA 98661
--	---

5. Term of License:

The term of this license will commence on January 1, 2004 and expire on December 31, 2006.

6. Reporting of Accidents and Citations:

Licensee shall report to Metro any significant incidents (such as fires), accidents, and citations involving vehicles of its transportation carrier during the loading and transporting of solid waste on behalf of the licensee.

7. Additional License Conditions:

This non-system license shall be subject to the following conditions:

- (a) The permissive transfer of solid waste to the West Van Materials Recovery Center and the Central Transfer and Recycling Center authorized by this license will be subordinate to any subsequent decision by Metro to direct the solid waste described in this license to another facility.
- (b) Reporting of tonnage delivered under the authority of this license at frequency intervals to be determined by Metro. Such reporting may be required on a weekly or daily basis should the licensee approach the tonnage limit stipulated in section 3 of this license or the combined tonnage of all NSLs issued by Metro approach the tonnage not obligated under Metro's disposal contract. Likewise, Metro reserves the right to direct the licensee's waste flow to system facilities with a minimum of 24 hours notice.

- (c) This license shall be subject to amendment, modification or termination by Metro's Chief Operating Officer in the event that the Chief Operating Officer determines, at his or her sole discretion, that:
 - (i) there has been sufficient change in any circumstances under which Metro issued this license, or in the event that Metro amends or modifies its Regional Solid Waste Management Plan in a manner that justifies modification or termination of this license,
 - (ii) the provisions of this license are actually or potentially in conflict with any of Metro's contractual obligations under the terms of a contract that became effective before the effective date of this license, or
 - (iii) Metro's solid waste system or the public will benefit from, and will be better served by, an order directing that the waste described in section 2 of this license be transferred to, and disposed of at, a facility other than the facility described in section 4, above.
- (d) This license shall, in addition to subsections (i) through (iii), above, be subject to amendment, modification, termination, or suspension pursuant to the Metro Code.
- (e) No later than the fifteenth (15th) day of each month, beginning with the next month following the signature date below, Licensee shall:
 - (i) submit to Metro's Solid Waste & Recycling Department a Regional System Fee and Excise Tax Report, that covers the preceding month, and
 - (ii) remit to Metro the requisite Regional System Fees and Excise Taxes in accordance with the Metro Code provisions applicable to the collection, payment, and accounting of such fees and taxes.
- (f) Licensees shall not transfer or assign any right or interest in this license without prior written notification to, and approval of, Metro.

8. Compliance with Law:

Licensee shall fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders, and permits pertaining in any manner to this license, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.05 whether or not those provisions have been specifically mentioned or cited herein. All conditions imposed on the collection and hauling of the licensee's solid waste by federal, state, regional or local governments or agencies having jurisdiction over solid waste generated by the licensee shall be deemed part of this license as if specifically set forth herein.

9. Indemnification:

Licensee shall defend, indemnify and hold harmless Metro, its elected officials,

officers, employees, agents and representatives from any and all claims, demands, damages, causes of action, or losses and expenses, or including all attorneys' fees, whether incurred before any litigation is commenced, during any litigation or on appeal, arising out of or related in any way to the issuance or administration of this non-system license or the transport and disposal of the solid waste covered by this license.

Signed:

Acknowledgement & Acceptance of the
Terms and Conditions of this License:

Signature

Signature of Licensee

Michael Jordan, Chief Operating Officer

Print name and title

Print name and title

Date

Date

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STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 03-3392 FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A NON-SYSTEM LICENSE TO ARROW SANITARY SERVICE, INC., FOR DELIVERY OF PUTRESCIBLE SOLID WASTE TO THE WEST VAN MATERIALS RECOVERY CENTER AND THE CENTRAL TRANSFER AND RECYCLING CENTER

December 4, 2003

Prepared by: Steve Kraten

BACKGROUND

Description of the Resolution

Approval of Resolution No. 03-3392 will authorize the Chief Operating Officer to issue a non-system license (NSL) to Arrow Sanitary Service, Inc., to deliver putrescible waste from its garbage collection routes located within the Metro boundary to the West Van Materials Recovery Center (WVMRC) and the Central Transfer and Recycling Center (CTRC), both of which are located in Clark County, Washington. American Sanitary Service, Inc., WVMRC, and CTRC are all affiliated with Waste Connections, Inc. Arrow Sanitary Service, Inc.'s hauling franchise is located in Metro District 6. The applicant has requested an annual authorization of 31,500 tons. This amount is a 1,500-ton increase from its present NSL authorization. Based on a projection of actual usage, Arrow alone is only expected to deliver 25,152 tons. However, the company has just acquired Mountain View Disposal, which has increased the authorization required to accommodate all of the combined tonnage of the two companies.

ANALYSIS/INFORMATION

1. Known Opposition

There is no known opposition to the proposed license.

2. Legal Antecedents

WVMRC and CTRC are non-system disposal facilities (transfer stations) to which the applicant wishes to deliver putrescible solid waste generated from within Metro. Metro Code section 5.05.025 prohibits any person from utilizing such non-system facilities without an appropriate license from Metro. Code section 5.05.035 stipulates that a person may utilize a non-system facility only by obtaining a non-system license from Metro. On that basis, the applicant must have a Metro non-system license in order to utilize these facilities.

Section 5.05.035(c) of the Metro Code requires the Chief Operating Officer to make recommendations as to whether any application for a non-system license for putrescible waste should be approved. Such recommendation is based on the following factors:

- (1) *The degree to which prior users of the non-system facility and waste types accepted at the non-system facility are known and the degree to which such wastes pose a future risk of environmental contamination;*

The proposed disposal sites are transfer stations that do not pose any known potential for environmental risk from wastes delivered from prior users. After processing at the transfer stations, the waste is transported via barge to the Finley Buttes Landfill for disposal. (The Finley Buttes Landfill is a Metro designated facility authorized to receive non-putrescible waste without the need for haulers to obtain non-system licenses.)

- (2) *The record of regulatory compliance of the non-system facility's owner and operator with federal, state and local requirements including but not limited to public health, safety and environmental rules and regulations;*

Waste Connections has a good record of compliance with local and state agencies responsible for health, safety, and environmental regulations. Waste Connections also has a good record of cooperation with Metro staff.

- (3) *The adequacy of operational practices and management controls at the non-system facility;*

WVMRC and CTR use operational practices and management controls that are typical of transfer stations and that we consider adequate for the protection of health, safety, and the environment.

- (4) *The expected impact on the region's recycling and waste reduction efforts;*

The majority of the waste to be covered by the proposed license is putrescible waste without significant potential for recovery. WVMRC and CTR perform recovery on non-putrescible commercial and industrial waste but at a recovery rate less than many Metro system facilities. Approval of the license is not expected to significantly impact the region's recycling and waste reduction efforts.

- (5) *The consistency of the designation with Metro's existing contractual arrangements;*

Metro has committed to deliver 90 percent of the total tons of "acceptable waste" that Metro delivers to general purpose landfills to landfills operated by Metro's waste disposal contract operator, Waste Management. Arrow Sanitary Service, Inc., seeks authority to transfer waste that meets the definition of "acceptable waste" as used in Metro's waste disposal contract. This license is one of several that are coming before the Council at the same time. If all of the proposed licenses are approved, then the total amount of "acceptable waste" authorized under NSLs for delivery to non-Waste Management landfills will amount to an estimated 9.9 percent of Metro waste delivered to general purpose landfills based on a very conservative projection of the total amount of "acceptable waste" that will be delivered to general purpose landfills next year.* The NSLs contain provisions that can be used to increase the frequency of tonnage reports and amend tonnage authorizations should projections indicate a likelihood of a conflict or potential conflict with Metro's waste disposal contract.

These applications, in total, will place Metro very close to the ten percent of waste not obligated under the disposal contract. Staff tracks the tonnage "trajectory" of each licensee on an ongoing basis and believes there are sufficient "triggers" to enable Metro to adjust NSL tonnage allocations, if necessary, toward the end of each calendar year should there be a potential for exceeding the ten percent contractual limitation.

* The 9.9 percent is calculated by taking the sum of the tonnages in the NSL applications and dividing by amount of waste that is subject to the 90 percent flow guarantee. The latter amount is based on Metro's FY 2004-05 tonnage forecast (prepared October 2003).

- (6) *The record of the applicant regarding compliance with Metro ordinances and agreements or assistance to Metro in Metro ordinance enforcement and with federal, state and local requirements including but not limited to public health, safety and environmental rules and regulations; and*

The applicant is a solid waste hauling company that operates under local requirements within the City of Portland and has a good record of compliance with public health, safety and environmental rules and regulations.

- (7) *Such other factors as the Chief Operating Officer deems appropriate for purposes of making such determination.*

Based on the tonnage delivered by the applicant over the term of its existing NSL, the tonnage being requested is the minimum amount needed to accommodate the waste collected from its in-Metro routes.

3. Anticipated Effects

The effect of Resolution No. 03-3392 will be to issue an NSL for delivery of solid waste, including putrescible, to the applicant's two affiliated transfer stations located in Clark County, at a tonnage authorization based on the applicant's history of actual utilization.

4. Budget Impacts

The regional system fee and excise tax will continue to be collected on waste delivered under authority of the proposed NSL. Approval of all the NSLs presented to the Council will result in a total tonnage authorization nearly identical to the current authorization and is expected to maintain the status quo.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Resolution No. 03-3392, and issuance of an NSL substantially similar to the NSL attached to the resolution as Exhibit A.

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Resolution No. 03-3393, For the purpose of Authorizing the Chief Operating Officer to issue a non-system license to Willamette Resources Inc., for delivery of putrescible solid waste to the Coffin Butte Landfill.

Metro Council Meeting
Thursday, December 4, 2003
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE CHIEF	)	RESOLUTION NO. 03-3393
OPERATING OFFICER TO ISSUE A NON-SYSTEM)	
LICENSE TO WILLAMETTE RESOURCES, INC., FOR	)	Introduced by Michael Jordan,
DELIVERY OF PUTRESCIBLE SOLID WASTE TO	)	Chief Operating Officer, with the
THE COFFIN BUTTE LANDFILL	)	concurrence of David Bragdon,
	)	Council President

WHEREAS, the Metro Code requires a non-system license of any person that delivers solid waste generated from within the Metro boundary to a non-system disposal facility; and,

WHEREAS, Willamette Resources, Inc., (WRI) currently has a non-system license to deliver mixed solid waste, including putrescible waste, to the Coffin Butte Landfill, which license will expire on December 31, 2003; and,

WHEREAS, WRI has applied for a new non-system license under the provisions of Metro Code Chapter 5.05; and,

WHEREAS, the application is in conformance with the requirements of Chapter 5.05 of the Code; and,

WHEREAS, the Chief Operating Officer has analyzed the application and recommended approval of the applicant's request for a non-system license with the conditions and in the form attached to this resolution as Exhibit A; and,

WHEREAS, this resolution was submitted to the Chief Operating Officer for consideration and was forwarded to the Council for approval; now therefore,

THE METRO COUNCIL RESOLVES AS FOLLOWS:

The Chief Operating Officer is authorized to issue a non-system license to WRI in a form substantially similar to the license attached as Exhibit A.

ADOPTED by the Metro Council this ____ day of _____, 2003.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney



METRO

LICENSE NO. N-005-04(3)

SOLID WASTE NON-SYSTEM LICENSE

Issued pursuant to Metro Code § 5.05.035.

1. Licensee:

LICENSEE: Willamette Resources, Inc. 10295 S.W. Ridder Rd. Wilsonville, OR 97070 Contact person: Mike Huycke Phone: (503) 570-0626 Fax: (503) 570-0523 E-Mail: mike.huycke@awin.com	FACILITY NAME AND LOCATION: Willamette Resources, Inc. 10295 S.W. Ridder Rd. Wilsonville, OR 97070 Contact person: Mike Huycke Phone: (503) 570-0626 Fax: (503) 570-0523 E-Mail: mike.huycke@awin.com
PARENT COMPANY: Allied Waste Industries, Inc. 15880 N. Greenway-Hayden Loop Scottsdale, AZ 85260 Phone: (602) 423-2946 Fax: (602) 423-9424	PROPERTY OWNER: Willamette Resources, Inc. 10295 S.W. Ridder Rd. Wilsonville, OR 97070 Contact person: Mike Huycke Phone: (503) 570-0626 Fax: (503) 570-0523 E-Mail: mike.huycke@awin.com

2. Nature Of Waste Covered By License:

Solid waste, including putrescible waste, generated within the boundaries of Metro.

3. Calendar Year Tonnage Limitation:

This license grants the Licensee the authority to dispose of up to 45,000 tons per calendar year of the waste described in section 2 of this license.

4. Non-System Facility:

The licensee hereunder may deliver the solid waste specified in this non-system license only to:

Coffin Butte Landfill
28972 Coffin Butte Road
Corvallis, OR 97330

5. Term of License:

The term of this license will commence on January 1, 2004 and expire on December 31, 2006.

6. Reporting of Accidents and Citations:

Licensee shall report to Metro any significant incidents (such as fires), accidents, and citations involving vehicles of its transportation carrier during the loading and transporting of solid waste on behalf of the licensee.

7. Additional License Conditions:

This non-system license shall be subject to the following conditions:

- (a) The permissive transfer of solid waste to the Coffin Butte Landfill authorized by this license will be subordinate to any subsequent decision by Metro to direct the solid waste described in this license to another facility.
- (b) This license shall be subject to amendment, modification or termination by Metro's Chief Operating Officer in the event that the Chief Operating Officer determines that:
 - (i) there has been sufficient change in any circumstances under which Metro issued this license, or in the event that Metro amends or modifies its Regional Solid Waste Management Plan in a manner that justifies modification or termination of this license,
 - (ii) the provisions of this license are actually or potentially in conflict with any of Metro's contractual obligations under the terms of a contract that became effective before the effective date of this license, or
 - (iii) Metro's solid waste system or the public will benefit from, and will be better served by, an order directing that the waste described in section 2 be transferred to, and disposed of at, a facility other than the facility described in section 4, above.
- (c) This license shall, in addition to subsections (i) through (iii), above, be subject to amendment, modification, termination, or suspension pursuant to the Metro Code.
- (d) No later than the fifteenth (15th) day of each month, beginning with the next month following the signature date below, Licensee shall:

- (i) submit to Metro's Solid Waste & Recycling Department a Regional System Fee and Excise Tax Report, that covers the preceding month, and
 - (ii) remit to Metro the requisite Regional System Fees and Excise Taxes in accordance with the Metro Code provisions applicable to the collection, payment, and accounting of such fees and taxes.
- (e) Licensees shall not transfer or assign any right or interest in this license without prior written notification to, and approval of, Metro.
- (f) This license shall terminate upon the execution of a designated facility agreement between Metro and the Riverbend Landfill.

8. Compliance with Law:

Licensee shall fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders, and permits pertaining in any manner to this license, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.05 whether or not those provisions have been specifically mentioned or cited herein. All conditions imposed on the collection and hauling of the licensee's solid waste by federal, state, regional or local governments or agencies having jurisdiction over solid waste generated by the licensee shall be deemed part of this license as if specifically set forth herein.

9. Indemnification:

Licensee shall defend, indemnify and hold harmless Metro, its elected officials, officers, employees, agents and representatives from any and all claims, demands, damages, causes of action, or losses and expenses, or including all attorneys' fees, whether incurred before any litigation is commenced, during any litigation or on appeal, arising out of or related in any way to the issuance or administration of this non-system license or the transport and disposal of the solid waste covered by this license.

Signed:

Acknowledgement & Acceptance of the
Terms and Conditions of this License:

Signature

Signature of Licensee

Michael Jordan, Chief Operating Officer

Print name and title

Print name and title

Date

Date

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STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 03-3393 FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A NON-SYSTEM LICENSE TO WILLAMETTE RESOURCES, INC., FOR DELIVERY OF PUTRESCIBLE SOLID WASTE TO THE COFFIN BUTTE LANDFILL

December 4, 2003

Prepared by: Steve Kraten

BACKGROUND

Description of the Resolution

Approval of Resolution No. 03-3393 will authorize the Chief Operating Officer to issue a non-system license (NSL) to Willamette Resources, Inc., (WRI) to annually deliver up to a maximum of 45,000 tons of mixed solid waste, including putrescible waste, to the Coffin Butte Landfill located in Corvallis, Oregon. The WRI facility is located in Wilsonville, Oregon (Metro District 3). The existing license will expire on December 31, 2003.

ANALYSIS/INFORMATION

1. Known Opposition

There is no known opposition to the proposed license renewal.

2. Legal Antecedents

Changes to Code Chapter 5.05 approved by the Council with an emergency clause on October 9, 2003, made the issuance of NSLs for putrescible waste subject to approval by the Council rather than subject to approval by the Chief Operating Officer as was previously the case. Section 5.05.035(c) of the Metro Code provides that, when determining whether or not to approve an NSL application, the Council shall consider the following factors to the extent relevant to such determination.

- (1) *The degree to which prior users of the non-system facility and waste types accepted at the non-system facility are known and the degree to which such wastes pose a future risk of environmental contamination;*

The Coffin Butte Landfill (CBLF) first came into use during the 1940s or 50s when it served as the landfill for the nearby Adair Village Military base. Later, the landfill accepted industrial wastes from the Wah Chang facility located in Albany, Oregon. When the CBLF became a Subtitle D landfill in 1992, the original unlined cells were capped. However, there remains a problem of leachate contamination of groundwater that is presently being monitored by the DEQ. Since 1992, the landfill has been filling only lined cells and operating with the required environmental controls required by the Oregon Department of Environmental Quality (DEQ). (The Coffin Butte Landfill is a Metro designated facility authorized to receive non-putrescible solid waste without the need for haulers to obtain non-system licenses.)

- (2) *The record of regulatory compliance of the non-system facility's owner and operator with federal, state and local requirements including but not limited to public health, safety and environmental rules and regulations;*

The Coffin Butte Landfill is permitted by the DEQ to take unlimited amounts of authorized wastes (putrescible, non-putrescible, special and cleanup wastes). The facility was issued a Notice of Noncompliance (NON) by DEQ in 1998 for failure to immediately report a landfill fire. Another NON was issued in July 2001 when too high a level of non-methane gasses was detected in the landfill gas power generation system. The problem was promptly remedied. These are considered to be relatively minor violations; both DEQ and Benton County considers the landfill to be a well-run facility that is in compliance with federal, state and local requirements. Benton County and the landfill executed an agreement in December 2000 establishing the parameters to be monitored by the Benton County Environmental Health Division, and authorizing the landfill to accept quantities of waste consistent with the DEQ permit. The facility has a good compliance record with public health, safety and environmental rules and regulations.

- (3) *The adequacy of operational practices and management controls at the non-system facility;*

The Coffin Butte Landfill uses operational practices and management controls that are typical of Subtitle D landfills and considered by the DEQ to be adequate for the protection of health, safety, and the environment.

- (4) *The expected impact on the region's recycling and waste reduction efforts;*

The waste to be covered by the proposed license is putrescible waste and post-recovery residual. WRI already performs recovery on non-putrescible commercial and industrial waste at an average recovery rate of 33 percent. Approval of the license is not expected to impact the region's recycling and waste reduction efforts.

- (5) *The consistency of the designation with Metro's existing contractual arrangements;*

Metro has committed to deliver 90 percent of the total tons of "acceptable waste" that Metro delivers to general purpose landfills to landfills operated by Metro's waste disposal contract operator, Waste Management. WRI seeks authority to transfer waste that meets the definition of "acceptable waste" as used in Metro's waste disposal contract. This license is one of several that are coming before the Council at the same time. If all of the proposed licenses are approved, then the total amount of "acceptable waste" authorized under NSLs for delivery to non-Waste Management landfills will amount to an estimated 9.9 percent of Metro waste delivered to general purpose landfills based on a very conservative projection of the total amount of "acceptable waste" that will be delivered to general purpose landfills next year.* The NSLs contain provisions that can be used to increase the frequency of tonnage reports and amend tonnage authorizations should projections indicate a likelihood of a conflict or potential conflict with Metro's waste disposal contract.

These applications, in total, will place Metro very close to the ten percent of waste not obligated under the disposal contract. Staff tracks the tonnage "trajectory" of each licensee on an ongoing basis and believes there are sufficient "triggers" to enable Metro to adjust NSL tonnage allocations, if necessary, toward the end of each calendar year should there be a potential for exceeding the ten percent contractual limitation.

* The 9.9 percent is calculated by taking the sum of the tonnages in the NSL applications and dividing by amount of waste that is subject to the 90 percent flow guarantee. The latter amount is based on Metro's FY 2004-05 tonnage forecast (prepared October 2003).

- (6) *The record of the applicant regarding compliance with Metro ordinances and agreements or assistance to Metro in Metro ordinance enforcement and with federal, state and local requirements including but not limited to public health, safety and environmental rules and regulations; and*

WRI and United Disposal Service have a joint NSL authorizing delivery of a maximum of 5,500 tons of waste to the Covanta waste-to-energy facility located in Marion County, Oregon. In FY 2002-03 the tonnage cap on this NSL was exceeded by 3,531 tons. Metro did not issue a formal Notice of Violation. In FY 2003-04 the cap on this NSL was exceeded again, this time by 243 tons. For the second incident WRI was issued a formal notice of violation but no fine was imposed.

In addition, WRI has twice violated its solid waste facility franchise tonnage cap. The first time was in calendar year 1999 when WRI exceeded its 50,000-ton cap by 2,219 tons. For this violation, WRI was issued a formal notice of violation and fined \$2,219. WRI contested the penalty, which was upheld by a hearings officer and the Metro Council, and WRI paid the fine. The second time occurred in fiscal year 2002-03 after the tonnage cap had been increased to 65,000 tons and changed from a calendar year to a fiscal year basis. In this incident WRI exceeded its cap by 1,246 tons. Metro responded by issuing a formal notice of violation and imposing a fine of \$6,000. WRI paid the second penalty without contesting Metro's decision.

- (7) *Such other factors as the Chief Operating Officer deems appropriate for purposes of making such determination.*

WRI also has another NSL to deliver this same waste stream to the Riverbend Landfill. In 2002, WRI shifted its waste flow to the Riverbend Landfill toward the end of the year after reaching the cap on its Coffin Butte Landfill NSL. It intends to do so again this year.

Conclusion

The Chief Operating Officer finds that the proposed license satisfies the requirements of Metro Code Section 5.05.035 for the requested Solid Waste Facility License.

3. Anticipated Effects

The effect of Resolution No. 03-3393 will be to issue an NSL for delivery of up to 45,000 tons per calendar year of solid waste, including putrescible waste, to the Coffin Butte Landfill.

4. Budget Impacts

The regional system fee and excise tax will continue to be collected on waste delivered under authority of the proposed NSL. Approval of all the NSLs presented to the Council will result in a total tonnage authorization nearly identical to the current authorization and is expected to maintain the status quo.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Resolution No. 03-3393, and issuance of an NSL substantially similar to the NSL attached to the resolution as Exhibit A.

Agenda Item Number 5.5

Resolution No. 03-3394, For the purpose of Authorizing the Chief Operating Officer to renew a non-system license issued to Crown Point Refuse and Recycling Service Inc., for delivery of putrescible solid waste to the Wasco County Landfill

Metro Council Meeting
Thursday, December 4, 2003
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE CHIEF	)	RESOLUTION NO. 03-3394
OPERATING OFFICER TO ISSUE A NON-SYSTEM)	
LICENSE TO CROWN POINT REFUSE &	)	Introduced by Michael Jordan,
RECYCLING SERVICE, INC., FOR DELIVERY OF	)	Chief Operating Officer, with the
PUTRESCIBLE SOLID WASTE TO THE WASCO	)	concurrence of David Bragdon,
COUNTY LANDFILL	)	Council President

WHEREAS, the Metro Code requires a non-system license of any person that delivers solid waste generated from within the Metro boundary to a non-system disposal facility; and,

WHEREAS, Crown Point Refuse & Recycling Service, Inc., has applied for a non-system license under the provisions of Metro Code Chapter 5.05; and,

WHEREAS, the application is in conformance with the requirements of Chapter 5.05 of the Code; and,

WHEREAS, the Chief Operating Officer has analyzed the application and recommended approval of the applicant's request for a non-system license with the conditions and in the form attached to this resolution as Exhibit A; and,

WHEREAS, the resolution was submitted to the Chief Operating Officer for consideration and was forwarded to the Council for approval; now therefore,

THE METRO COUNCIL RESOLVES AS FOLLOWS:

The Chief Operating Officer is authorized to issue a non-system license to Crown Point Refuse & Recycling Service, Inc., in a form substantially similar to the license attached as Exhibit A.

ADOPTED by the Metro Council this ____ day of _____, 2003.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney



METRO

LICENSE NO. N-108-04

SOLID WASTE NON-SYSTEM LICENSE

Issued pursuant to Metro Code § 5.05.035.

1. Licensee:

LICENSEE: Crown Point Refuse & Recycling, Inc. PO Box 360 Corbett, OR 97019 Contact person: Randall S. Burbach Phone: (503) 695-3239 Fax: (503) 661-7216 E-Mail: crownpoint@teleport.com	FACILITY NAME AND LOCATION: Crown Point Refuse & Recycling, Inc. 1525 NE Crestview Lane Corbett, OR 97019 Contact person: Randall S. Burbach Phone: (503) 695-3239 Fax: (503) 661-7216 E-Mail: crownpoint@teleport.com
PARENT COMPANY Crown Point Refuse & Recycling, Inc. PO Box 360 Corbett, OR 97019 Contact person: Randall S. Burbach Phone: (503) 695-3239 Fax: (503) 661-7216 E-Mail: crownpoint@teleport.com	PROPERTY OWNER: N/A

2. Nature of Waste Covered by License:

Solid waste, including putrescible waste, generated within the boundaries of Metro and collected by the licensee.

3. Calendar Year Tonnage Limitation:

This license grants the Licensee the authority to dispose of up to 324 tons per calendar year of the waste described in section 2 of this license.

4. Non-System Facility:

The licensee hereunder may deliver the solid waste specified in this non-system license only to:

Wasco County Landfill
2550 Steele Road
The Dalles, OR 97058.

5. Term of License:

The term of this license will commence on January 1, 2004 and expire on December 31, 2006.

6. Reporting of Accidents and Citations:

Licensee shall report to Metro any significant incidents (such as fires), accidents, and citations involving vehicles of its transportation carrier during the loading and transporting of solid waste on behalf of the licensee.

7. Additional License Conditions:

This non-system license shall be subject to the following conditions:

- (a) The permissive transfer of solid waste to the North Wasco County Landfill authorized by this license will be subordinate to any subsequent decision by Metro to direct the solid waste described in this license to another facility.
- (b) Reporting of tonnage delivered under the authority of this license at frequency intervals to be determined by Metro. Such reporting may be required on a weekly or daily basis should the licensee approach the tonnage limit stipulated in section 3 of this license or the combined tonnage of all NSLs issued by Metro approach the tonnage not obligated under Metro's disposal contract. Likewise, Metro reserves the right to direct the licensee's waste flow to system facilities with a minimum of 24 hours notice.
- (c) This license shall be subject to amendment, modification or termination by Metro's Chief Operating Officer in the event that the Chief Operating Officer determines, at his or her sole discretion, that:
 - (i) there has been sufficient change in any circumstances under which Metro issued this license, or in the event that Metro amends or modifies its Regional Solid Waste Management Plan in a manner that justifies modification or termination of this license,

- (ii) the provisions of this license are actually or potentially in conflict with any of Metro's contractual obligations under the terms of a contract that became effective before the effective date of this license, or
 - (iii) Metro's solid waste system or the public will benefit from, and will be better served by, an order directing that the waste described in section 2 of this license be transferred to, and disposed of at, a facility other than the facility described in section 4, above.
- (d) This license shall, in addition to subsections (i) through (iii), above, be subject to amendment, modification, termination, or suspension pursuant to the Metro Code.
- (d) No later than the fifteenth (15th) day of each month, beginning with the next month following the signature date below, Licensee shall:
- (i) submit to Metro's Solid Waste & Recycling Department a Regional System Fee and Excise Tax Report, that covers the preceding month, and
 - (ii) remit to Metro the requisite Regional System Fees and Excise Taxes in accordance with the Metro Code provisions applicable to the collection, payment, and accounting of such fees and taxes.
- (f) Licensees shall not transfer or assign any right or interest in this license without prior written notification to, and approval of, Metro.

8. Compliance with Law:

Licensee shall fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders, and permits pertaining in any manner to this license, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.05 whether or not those provisions have been specifically mentioned or cited herein. All conditions imposed on the collection and hauling of the licensee's solid waste by federal, state, regional or local governments or agencies having jurisdiction over solid waste generated by the licensee shall be deemed part of this license as if specifically set forth herein.

9. Indemnification:

Licensee shall defend, indemnify and hold harmless Metro, its elected officials, officers, employees, agents and representatives from any and all claims, demands, damages, causes of action, or losses and expenses, or including all attorneys' fees, whether incurred before any litigation is commenced, during any litigation or on

appeal, arising out of or related in any way to the issuance or administration of this non-system license or the transport and disposal of the solid waste covered by this license.

Signed:

Acknowledgement & Acceptance of the
Terms and Conditions of this License:

Signature

Signature of Licensee

Michael Jordan, Chief Operating Officer
Print name and title

Print name and title

Date

Date

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STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 03-3394 FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A NON-SYSTEM LICENSE TO CROWN POINT REFUSE & RECYCLING SERVICE FOR DELIVERY OF PUTRESCIBLE SOLID WASTE TO THE WASCO COUNTY LANDFILL

December 4, 2003

Prepared by: Steve Kraten

BACKGROUND

Description of the Resolution

Approval of Resolution No. 03-3394 will authorize the Chief Operating Officer issue a new non-system license (NSL) to Crown Point Refuse & Recycling Service to deliver solid waste, including putrescible waste, from its garbage collection routes located within the Metro boundary for delivery to the Wasco County Landfill located in The Dalles, Oregon. Crown Point Refuse & Recycling Service's hauling franchise is located in Metro District 1. The applicant has requested an annual authorization of 324 tons.

ANALYSIS/INFORMATION

1. Known Opposition

There is no known opposition to the proposed license renewal.

2. Legal Antecedents

The Council recently voted to list the Wasco County Landfill (WCLF) in Code section 5.05.030 as a facility designated to accept non-putrescible waste generated from within the Metro boundary. However, for purposes of putrescible waste disposal, WCLF remains a non-system facility. Code section 5.05.025 prohibits any person from utilizing such non-system facilities without an appropriate license from Metro. Code section 5.05.035 stipulates that a person may utilize a non-system facility only by obtaining a non-system license from Metro. On that basis, the applicant must have a Metro non-system license in order to utilize these facilities.

Section 5.05.035(c) of the Metro Code requires the Chief Operating Officer to make recommendations as to whether any application for a non-system license for putrescible waste should be approved. Such recommendation is based on the following factors:

- (1) *The degree to which prior users of the non-system facility and waste types accepted at the non-system facility are known and the degree to which such wastes pose a future risk of environmental contamination;*

The Wasco County Landfill first came into use during the 1940s by area farmers. A tepee burner was added in the 1950s with the ash going into a canyon that was closed and capped in the early 1970s. The Oregon Department of Environmental Quality (DEQ) first permitted and began regulating the site in 1972. Presently, 213 acres are permitted of which 78 acres are dedicated to closed or active cells. The landfill is sited in a low rainfall area and has the environmental controls required by the DEQ for a RCRA

Subtitle D landfill.¹ DEQ and Metro staff are not aware of any waste types accepted at the landfill that would pose an unusual risk of future environmental contamination. (The Wasco County Landfill is a Metro designated facility authorized to receive non-putrescible solid waste without the need for haulers to obtain non-system licenses.)

- (2) *The record of regulatory compliance of the non-system facility's owner and operator with federal, state and local requirements including but not limited to public health, safety and environmental rules and regulations;*

The Wasco County Landfill has been owned and operated by Waste Connections, Inc. since 1999. The company also operates the Finley Buttes Landfill, two transfer stations located in Clark County, Washington, and several franchised hauling companies within the Metro region. The Wasco County Landfill received a Notice of Noncompliance (NON) from the DEQ in September 2000, for failure to notify the DEQ within the required time period of the results of a monitoring well sampled that showed exceedance of parameters on total dissolved solids, iron, and manganese. The operator challenged the appropriateness of the NON as the test results pertained only to background levels of these contaminants. Since then, the Wasco County Landfill has operated in compliance with the DEQ and has no other known compliance issues regarding public health, safety and environmental rules and regulations.

- (3) *The adequacy of operational practices and management controls at the non-system facility;*

The Wasco County Landfill uses operational practices and management controls that are typical of Subtitle D landfills and considered by the DEQ to be adequate for the protection of the health, safety, and the environment. The landfill's DEQ permit, along with the details of its waste screening, operations, closure, and special waste handling procedures have been reviewed and are on file with Metro.

- (4) *The expected impact on the region's recycling and waste reduction efforts;*

The majority of the waste to be covered by the proposed license is putrescible waste without significant potential for recovery. Thus, approval of the license is not expected to significantly impact the region's recycling and waste reduction efforts.

- (5) *The consistency of the designation with Metro's existing contractual arrangements;*

Metro has committed to deliver 90 percent of the total tons of "acceptable waste" that Metro delivers to general purpose landfills to landfills operated by Metro's waste disposal contract operator, Waste Management. Crown Point Refuse & Recycling Service seeks authority to transfer waste that meets the definition of "acceptable waste" as used in Metro's waste disposal contract. This license is one of several that are coming before the Council at the same time. If all of the proposed licenses are approved, then the total amount of "acceptable waste" authorized under NSLs for delivery to non-Waste Management landfills will amount to an estimated 9.9 percent of Metro waste delivered to general purpose landfills based on a very conservative projection of the total amount of "acceptable waste" that will be delivered to general purpose landfills next year.² The NSLs contain provisions that can be used to

¹ RCRA (Resource Conservation and Recovery Act) is the federal law that regulates hazardous and solid waste in the U.S.

² The 9.9 percent is calculated by taking the sum of the tonnages in the NSL applications and dividing by amount of waste that is subject to the 90 percent flow guarantee. The latter amount is based on Metro's FY 2004-05 tonnage forecast (prepared October 2003).

increase the frequency of tonnage reports and amend tonnage authorizations should projections indicate a likelihood of a conflict or potential conflict with Metro's waste disposal contract.

These applications, in total, will place Metro very close to the ten percent of waste not obligated under the disposal contract. Staff tracks the tonnage "trajectory" of each licensee on an ongoing basis and believes there are sufficient "triggers" to enable Metro to adjust NSL tonnage allocations, if necessary, toward the end of each calendar year should there be a potential for exceeding the ten percent contractual limitation.

- (6) *The record of the applicant regarding compliance with Metro ordinances and agreements or assistance to Metro in Metro ordinance enforcement and with federal, state and local requirements including but not limited to public health, safety and environmental rules and regulations; and*

The applicant is a solid waste hauling company that operates under local requirements within eastern Multnomah County and has a good record of compliance with public health, safety and environmental rules and regulations. In early 2003, it was discovered by Metro investigators that the applicant was delivering waste from inside the Metro boundary to the Wasco County Landfill without having acquired the necessary license and without paying regional system fees and excise taxes. The applicant asserted that the violation was inadvertent and had resulted from mistaking the urban growth boundary for the Metro jurisdictional boundary. The applicant freely cooperated with the investigation and is making restitution to Metro through a negotiated settlement.

- (7) *Such other factors as the Chief Operating Officer deems appropriate for purposes of making such determination.*

The applicant's hauling franchise straddles the eastern edge of the Metro boundary. The tonnage being requested is a very small amount and will enable the applicant to consolidate its in-Metro waste with its larger volume of waste collected from outside the boundary.

3. Anticipated Effects

The effect of Resolution No. 03-3394 will be the issuance of a new NSL for delivery of up to 324 tons annually of solid waste, including putrescible, to the North Wasco County Landfill.

4. Budget Impacts

The regional system fee and excise tax will be collected on waste delivered under authority of the proposed NSL. Approval of all the NSLs presented to the Council will result in a total tonnage authorization nearly identical to the current authorization and is expected to maintain the status quo.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Resolution No. 03-3394, and issuance of an NSL substantially similar to the NSL attached to the resolution as Exhibit A.

Agenda Item Number 5.6

Resolution No. 03-3395, For the purpose of Authorizing the Chief Operating Officer to renew a non-system license issued to Forest Grove Transfer Station for delivery of putrescible solid waste to the Riverbend Landfill

Metro Council Meeting
Thursday, December 4, 2003
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE	)	RESOLUTION NO. 03-3395
CHIEF OPERATING OFFICER TO ISSUE A NON-)	
SYSTEM LICENSE TO THE FOREST GROVE	)	Introduced by Michael Jordan,
TRANSFER STATION FOR DELIVERY OF	)	Chief Operating Officer, with the
PUTRESCIBLE SOLID WASTE TO THE	)	concurrence of David Bragdon,
RIVERBEND LANDFILL	)	Council President

WHEREAS, the Metro Code, requires a non-system license of any person that delivers solid waste generated from within the Metro boundary to a non-system disposal facility; and,

WHEREAS, the Forest Grove Transfer Station's existing non-system license to deliver mixed solid waste, including putrescible waste, to the Riverbend Landfill, a non-system facility, will expire on December 31, 2003; and,

WHEREAS, the Forest Grove Transfer Station has applied for a non-system license under the provisions of Metro Code Chapter 5.05; and,

WHEREAS, the application is in conformance with the requirements of Chapter 5.05 of the Code; and,

WHEREAS, the Chief Operating Officer has analyzed the application and recommended approval of the applicant's request a license; and,

WHEREAS, the resolution was submitted to the Chief Operating Officer for consideration and was forwarded to the Council for approval; now therefore,

THE METRO COUNCIL RESOLVES AS FOLLOWS:

The Chief Operating Officer is authorized to issue a non-system license to the Forest Grove Transfer Station that shall be substantially similar to the license attached as Exhibit A.

ADOPTED by the Metro Council this ____ day of _____, 2003.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney



METRO

LICENSE NO. N-010-04

SOLID WASTE NON-SYSTEM LICENSE

Issued pursuant to Metro Code § 5.05.035.

1. Licensee:

LICENSEE: Forest Grove Transfer Station 1525 "B" St. Forest Grove, OR 97116 Contact: Dean Kampfer Phone: (503) 672-4040 Fax: (503) 357-4822 E-mail: dkampfer@wm.com	FACILITY NAME AND LOCATION: Forest Grove Transfer Station 1525 "B" St. Forest Grove, OR 97116 Contact: Dean Kampfer Phone: (503) 672-4040 Fax: (503) 357-4822 E-mail: dkampfer@wm.com
COMPANY OWNER Waste Management of Oregon, Inc. 7227 NE 55 th Ave. Portland, OR 97218 Phone: (503) 331-2221 Fax: (503) 528-0673	PROPERTY OWNER Forest Grove Transfer Station 1525 "B" St. Forest Grove, OR 97116 Contact: Dean Kampfer Phone: (503) 672-4040 Fax: (503) 357-4822 E-mail: dkampfer@wm.com

2. Nature Of Waste Covered By License:

Mixed solid waste, including putrescible waste, received at the Forest Grove Transfer Station from commercial refuse haulers and public customers.

3. Tonnage Not Limited:

The quantity of solid waste delivered to the non-system facility listed under section 4 of this license shall not be limited except to the extent that it may be limited under section 7 of this license or by any applicable local, regional, state and federal laws, rules, regulations, ordinances, orders and permits pertaining in any manner to this license.

4. Non-System Facility:

The licensee hereunder may deliver the solid waste specified in this non-system license only to:

Riverbend Landfill
13469 S.W. Highway 18
McMinnville, OR 97128

5. Term of License:

The term of this license will commence on January 1, 2004 and expire on December 31, 2006.

6. Reporting of Accidents and Citations:

Licensee shall report to Metro any significant incidents (such as fires), accidents, and citations involving vehicles of its transportation carrier during the loading and transporting of solid waste on behalf of the licensee.

7. Additional License Conditions:

This non-system license shall be subject to the following conditions:

- (a) The permissive transfer of solid waste to the Riverbend Landfill authorized by this license will be subordinate to any subsequent decision by Metro to direct the solid waste described in this license to another facility.
- (b) This license shall be subject to amendment, modification or termination by Metro's Chief Operating Officer in the event that the Chief Operating Officer determines, at his or her sole discretion, that:
 - (i) there has been sufficient change in any circumstances under which Metro issued this license, or in the event that Metro amends or modifies its Regional Solid Waste Management Plan in a manner that justifies modification or termination of this license,
 - (ii) the provisions of this license are actually or potentially in conflict with any of Metro's contractual obligations under the terms of a contract that became effective before the effective date of this license, or
 - (iii) Metro's solid waste system or the public will benefit from, and will be better served by, an order directing that the waste described in section 2 be transferred to, and disposed of at, a facility other than the facility described in section 4, above.
- (c) This license shall, in addition to subsections (i) through (iii), above, be subject to amendment, modification, termination, or suspension pursuant to the Metro Code.

- (d) No later than the fifteenth (15th) day of each month, beginning with the next month following the signature date below, Licensee shall:
 - (i) submit to Metro's Solid Waste & Recycling Department a Regional System Fee and Excise Tax Report, that covers the preceding month, and
 - (ii) remit to Metro the requisite Regional System Fees and Excise Taxes in accordance with the Metro Code provisions applicable to the collection, payment, and accounting of such fees and taxes.
- (e) Licensees shall not transfer or assign any right or interest in this license without prior written notification to, and approval of, Metro.
- (f) This license shall terminate upon the execution of a designated facility agreement between Metro and the Riverbend Landfill.

8. Compliance with Law:

Licensee shall fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders, and permits pertaining in any manner to this license, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.05 whether or not those provisions have been specifically mentioned or cited herein. All conditions imposed on the collection and hauling of the licensee's solid waste by federal, state, regional or local governments or agencies having jurisdiction over solid waste generated by the licensee shall be deemed part of this license as if specifically set forth herein.

9. Indemnification:

Licensee shall defend, indemnify and hold harmless Metro, its elected officials, officers, employees, agents and representatives from any and all claims, demands, damages, causes of action, or losses and expenses, or including all attorneys' fees, whether incurred before any litigation is commenced, during any litigation or on appeal, arising out of or related in any way to the issuance or administration of this non-system license or the transport and disposal of the solid waste covered by this license.

Signed:

Acknowledgement & Acceptance of the
Terms and Conditions of this License:

Signature

Signature of Licensee

Michael Jordan, Chief Operating Officer

Print name and title

Print name and title

Date

Date

SK:bjl

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STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 03-3395 FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A NON-SYSTEM LICENSE TO THE FOREST GROVE TRANSFER STATION FOR DELIVERY OF PUTRESCIBLE SOLID WASTE TO THE RIVERBEND LANDFILL

December 4, 2003

Prepared by: Steve Kraten

BACKGROUND

Description of the Resolution

Approval of Resolution No. 03-3395 will authorize the Chief Operating Officer to issue a non-system license (NSL) to the Forest Grove Transfer Station to deliver an unrestricted quantity of mixed solid waste, including putrescible waste, to the Riverbend Landfill located in McMinnville, Oregon. The Forest Grove Transfer Station is located in Metro District 4. An NSL has been in place since 1990. The existing license will expire on December 31, 2003. The Forest Grove Transfer Station and the Riverbend Landfill are both subsidiaries of Waste Management of Oregon.

ANALYSIS/INFORMATION

1. Known Opposition

There is no known opposition to the proposed license renewal.

2. Legal Antecedents

Changes to Code Chapter 5.05 approved by the Council with an emergency clause on October 9, 2003, made the issuance of NSLs for putrescible waste subject to approval by the Council rather than subject to approval by the Chief Operating Officer as was previously the case. Section 5.05.035(c) of the Metro Code provides that, when determining whether or not to approve an NSL application, the Council shall consider the following factors to the extent relevant to such determination.

- (1) *The degree to which prior users of the non-system facility and waste types accepted at the non-system facility are known and the degree to which such wastes pose a future risk of environmental contamination;*

The Riverbend Landfill first came into use during the mid-eighties. When the Riverbend became a Subtitle D landfill in 1993, the original unlined cells were capped. Since 1993, the landfill has been filling only lined cells and operating with the required environmental controls required by the Oregon Department of Environmental Quality (DEQ). The landfill has no known history of landfilling wastes that pose a future risk of environmental contamination.

- (2) *The record of regulatory compliance of the non-system facility's owner and operator with federal, state and local requirements including but not limited to public health, safety and environmental rules and regulations;*

The Riverbend Landfill is permitted by the DEQ. The facility was issued an notice of non-compliance (NON) by DEQ in 1997 when an out-of-tune gas flare caused vibrations that were heard in a residential area nearby. The problem was considered to be relatively minor violation and was promptly remedied. The DEQ considers the landfill to be a well-run facility that is in compliance with federal, state and local requirements. The facility has a good compliance record with public health, safety and environmental rules and regulations.

- (3) *The adequacy of operational practices and management controls at the non-system facility;*

The Riverbend Landfill uses operational practices and management controls that are typical of Subtitle D landfills and considered by the DEQ to be adequate for the protection of health, safety, and the environment.

- (4) *The expected impact on the region's recycling and waste reduction efforts;*

The Forest Grove Transfer Station topleads mixed solid waste, including putrescible waste, directly into transfer trailers for delivery to a general purpose landfill. The facility does not perform materials recovery. Granting the requested license will not impact the region's recycling and waste reduction efforts.

- (5) *The consistency of the designation with Metro's existing contractual arrangements;*

Riverbend Landfill is a Waste Management facility. Thus, under a disposal agreement that has been in force since 1999, waste delivered under the proposed license is included as waste delivered to Metro's contract operator for purposes of Metro's disposal contract. The requested license does not appear to conflict with Metro's disposal contract or any other of its existing contractual arrangements. Nevertheless, in the event that Waste Management were to sell the Riverbend Landfill, staff recommends that the NSL include a condition providing that the Metro Chief Operating Officer may amend, modify, or terminate the license if the Chief Operating Officer determines, at his or her discretion, that its provisions are, at any point in time, actually or potentially in conflict with any of Metro's contractual arrangements.

- (6) *The record of the applicant regarding compliance with Metro ordinances and agreements or assistance to Metro in Metro ordinance enforcement and with federal, state and local requirements including but not limited to public health, safety and environmental rules and regulations; and*

In 1999, Waste Management of Oregon (at that time called USA Waste of Oregon, Inc.) acquired the Forest Grove Transfer Station. Since that time there have been no incidents of non-compliance with its NSLs or its facility franchise. The applicant is also in compliance with its Department of Environmental Quality solid waste facility permit and local land use authority.

- (7) *Such other factors as the Chief Operating Officer deems appropriate for purposes of making such determination.*

Solid waste delivered to the Riverbend Landfill counts toward the declining block fee schedule stipulated in Metro's disposal contract with Waste Management. FGTS has been disposing of solid waste at the Riverbend Landfill under the authority of a Metro-issued NSL since 1990.

Conclusion

The Chief Operating Officer finds that the proposed license satisfies the requirements of Metro Code Section 5.03.035 for the requested Solid Waste Facility License.

3. Anticipated Effects

The effect of Resolution No. 03-3395 will be to authorize the Chief Operating Officer to issue a NSL to the Forest Grove Transfer Station's NSL to deliver putrescible waste to the Riverbend Landfill.

4. Budget Impacts

The Forest Grove Transfer Station's NSL will continue the status quo with no additional budget impact. The regional system fee will continue to be collected by the transfer station on all solid waste received from within the Metro boundary. The excise tax is collected on all waste regardless of where it is generated.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Resolution No. 03-3395.

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Agenda Item Number 6.1

Ordinance No. 03-1021, For the Purpose of Amending Title 4 of the Urban Growth Management Plan to Improve its protection of Industrial Lands and to make corrections.

Second Reading – Public Hearing – No Final Action

Metro Council Meeting
Thursday, December 4, 2003
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING TITLE 4) Ordinance No. 03-1021
OF THE URBAN GROWTH MANAGEMENT)
FUNCTIONAL PLAN TO IMPROVE ITS) Introduced by Michael J. Jordan, Chief Operating
PROTECTION OF INDUSTRIAL LAND AND) Officer with the concurrence of David Bragdon,
TO MAKE CORRECTIONS) Council President

WHEREAS, by Ordinance No. 02-969B on December 5, 2002, the Metro Council amended Title 4 (Industrial and Other Employment Areas) of the Urban Growth Management Functional Plan (UGMFP) in order to increase the capacity of Industrial Areas for industrial uses and to encourage non-industrial uses to locate in Centers and other 2040 Growth Concept design types; and

WHEREAS, the purpose section of Title 4 declared the Council's intention to consider amendments to the title as part of Metro's current periodic review; and

WHEREAS, local governments and others have asked for clarification of some of the provisions of Title 4 to aid in its implementation and to correct certain provisions in the title; now, therefore

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. Title 4 (Industrial and Other Employment Areas) of the UGMFP, is hereby amended as indicated in Exhibit A, attached and incorporated into this ordinance, to improve the implementation of Title 4 by cities and counties of the region.
2. The Findings of Fact and Conclusions of Law in Exhibit B, attached and incorporated into this ordinance, explain how these amendments comply with the Regional Framework Plan and state planning laws.
3. The Chief Operating Officer shall submit this ordinance and its exhibits to the Land Conservation and Development Commission no later than June 30, 2004, as part of Metro's completion of Task 2 of periodic review pursuant to LCDC's Partial Approval and Remand Order 03-WKTASK-001524 dated July 7, 2003.

ADOPTED by the Metro Council this ____ day of _____ 2003.

David Bragdon, Council President

ATTEST:

Approved as to Form:

Recording Secretary

Daniel B. Cooper, Metro Attorney

Exhibit A to Ordinance No. 03-1021

TITLE 4: INDUSTRIAL AND OTHER EMPLOYMENT AREAS

3.07.410 Purpose and Intent

The Regional Framework Plan calls for a strong economic climate. To improve the region's economic climate, the plan seeks to protect the supply of sites for employment by ~~limiting incompatible uses within the types and scale of non-industrial uses in~~ Industrial and Employment Areas. To protect the capacity and efficiency of the region's transportation system for movement of goods and services and to promote the creation of jobs in centers, the plan encourages efficient patterns and mixes of uses within designated Centers and discourages certain kinds of commercial retail development outside Centers. It is the purpose of Title 4 to achieve these policies. Given the need for flexibility in planning for future industrial and commercial development, Metro will consider amendments to this title in order to make the title consistent with new policies on economic development adopted evaluate this title, using performance measures and indicators established pursuant to Title 9, as part of its periodic review analysis of the urban growth boundary pursuant to ORS 197.299.

3.07.420 Protection of Regionally Significant Industrial Areas

- A. Regionally Significant Industrial Areas are those areas that offer the best opportunities for family-wage industrial jobs. Each city and county with land use planning authority over areas shown on the ~~Generalized Map of Regionally Significant Industrial Areas adopted in~~ Employment and Industrial Areas Map, amended by Ordinance No. 02-969 03-1022 shall derive specific plan designation and zoning district boundaries of the areas from the Map, taking into account the location of existing uses that would not conform to the limitations on non-industrial uses in subsections C, D and E of this section and the need of individual cities and counties to achieve a mix of types of employment uses.
- B. Each city and county with land use planning authority over an area designated by Metro on the 2040 Growth Concept Map, as amended by Ordinance No. 02-969B, as a Regionally Significant Industrial Area shall, as part of compliance with Section 3.07.1120 of the Urban Growth Management Functional Plan, derive plan designation and zoning district boundaries of the areas from the Growth Concept Map.
- C. After determining boundaries of Regionally Significant Industrial Areas pursuant to subsections A and B, the city or county shall adopt implementing ordinances that limit development in the areas to industrial uses, uses accessory to industrial uses, offices for industrial research and development and large corporate headquarters in compliance with subsection E of this section, utilities, and those non-industrial uses necessary to serve the needs of businesses and employees of the areas. Ordinances shall not may allow financial, insurance, real estate or other professional office uses in a building authorized by final land use approval prior to July 7, 2004, but not in a building or an expansion authorized after that date unless they are accessory to an industrial or other permitted use. Within the boundaries of a public use airport subject to a master plan, ordinances may also allow 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.

D. Notwithstanding subsection C, a city or county shall not approve:

1. A commercial retail use with more than 20,000 square feet of retail sales area in a single building or in multiple buildings that are part of the same development project; or
2. Commercial retail uses that would occupy more than five percent of the net developable ~~portion of all contiguous land within that portion of any Regionally Significant Industrial Areas~~ subject to its land use planning jurisdiction. Retail sales of products of industrial uses or uses accessory to industrial uses need not be counted as part of the five percent so long as the sales take place in a building whose principal occupant is a use authorized by subsection C.

E. As provided in subsection C of this section, a city or county may approve an office for industrial research and development or a large corporate headquarters if:

1. The office is in the same Regionally Significant Industrial Area as industrial uses operated by the company that would be the principal occupant of the office; or
- ~~2.~~ The office is served by public or private transit; and
- ~~23.~~ If the office is for a corporate headquarters, it will accommodate for the initial occupant at least 1,000 employees.

F. A city or county may allow division of lots or parcels into smaller lots or parcels as follows:

1. Lots or parcels less 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 so long as the resulting division yields the maximum number of lots or parcels of at least 50 acres;
3. Notwithstanding paragraphs ~~2, 3 and~~ 1 and 2 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;
 - d. To reconfigure the pattern of lots and parcels pursuant to subsection G of this section; or
 - e. To allow the creation of a lot for financing purposes when the created lot is part of a master planned development.

- G. A city or county may allow reconfiguration of lots or parcels less than 50 acres in area if the reconfiguration would be more conducive to a permitted use and would result in no net increase in the total number of lots and parcels. Lots or parcels larger than 50 acres or greater in area may also be reconfigured so long as the resulting area of any such lot or parcel would not be less than 50 acres.
- H. Notwithstanding subsections C and D 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 F 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 December 31, 2003.
- I. By December 31, 2003, Metro shall, following consultation with cities and counties, adopt a map of Regionally Significant Industrial Areas with specific boundaries derived from the Generalized Map of Regionally Significant Industrial Areas adopted in Ordinance No. 02-969, taking into account the location of existing uses that would not conform to the limitations of non-industrial uses in subsections C, D and E of this section and the need of individual cities and counties to achieve a mix of types of employment uses. Each city and county with land use planning authority over the area a Regionally Significant Industrial Area shown on the Employment and Industrial Areas Map amended by Ordinance No. 03-1022 shall use the map in the application of the provisions of this section until the city or county adopts plan designations and zoning district boundaries of the area as provided by subsection A of this section. If the city or county adopts a map that depicts boundaries of a Regionally Significant Industrial Area that are different from those on the Employment and Industrial Areas map as provided by subsection A of this section, the city or county shall use its map in the application of the provisions of this section.

3.07.430 Protection of Industrial Areas

- A. In Industrial Areas mapped pursuant to Metro Code section 3.07.130 that are not Regionally Significant Industrial Areas, cities and counties shall limit new and expanded retail commercial uses to those appropriate in type and size to serve the needs of businesses, employees and residents of the Industrial Areas.
- B. In an Industrial Area, a city or county shall not approve:
1. A commercial retail use with more than 20,000 square feet of retail sales area in a single building or in multiple buildings that are part of the same development project; or
 2. Commercial retail uses that would occupy more than ten percent of the net developable portion of the area or any adjacent Industrial Area. Retail sales of products of industrial uses or uses accessory to industrial uses need not be counted as part of the ten percent so long as the sales take place in a building whose principal occupant is a use authorized by subsection C of Section 3.07.420.
- C. 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 floor area 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 3.07-2 of Title 2 of the Urban Growth Management Functional Plan.

STAFF REPORT

*FOR THE PURPOSE OF AMENDING TITLE
4 OF THE URBAN GROWTH MANAGEMENT
FUNCTIONAL PLAN TO IMPROVE ITS
PROTECTION OF INDUSTRIAL
LAND AND TO MAKE CORRECTIONS*

ORDINANCE NO. 03-1021

*FOR THE PURPOSE OF AMENDING THE
EMPLOYMENT AND INDUSTRIAL AREAS MAP
TO ADD REGIONALLY SIGNIFICANT
INDUSTRIAL AREAS IN COMPLIANCE WITH
SUBSECTION J OF SECTION 3.07.420 OF TITLE
4 (INDUSTRIAL AND OTHER EMPLOYMENT AREAS)
OF THE URBAN GROWTH MANAGEMENT
FUNCTIONAL PLAN*

ORDINANCE NO. 03-1022

Introduced by Michael Jordon, Chief Operating
Officer with the concurrence of David Bragdon,
Council President

Date: October 22, 2003

Prepared by: Mary Weber

BACKGROUND

The Metro Council adopted new measures to protect and maintain the supply of industrial land for future industrial uses. Ordinance 02-969B, adopted on December 5, 2002, amended the Title 4 Industrial and Other Employment Areas regulations in order to increase the capacity of industrial areas for industrial uses and to encourage non-industrial uses to locate in Centers and other 2040 design type areas. Also in this ordinance the Metro Council created a new 2040 design type entitled Regionally Significant Industrial Areas (RSIA). The Metro Council adopted a generalized map of RSIA's depicting certain industrial areas that lay within the urban growth boundary (UGB). The new Title 4 language requires that the Metro Council delineate specific boundaries for the RSIA's derived from the generalized map by December 31, 2003. Together these two ordinances, Title 4 regulations, Ordinance 03-1021 and mapping of the RSIA's, Ordinance 03-1022, address the State requirements to show how the region is using its industrial lands efficiently.

The new Title 4 regulations specifically limit the amount and square footage of retail and office uses that might otherwise find industrial locations suitable for business. The 2002-2022 Urban Growth Report: An Employment Land Need Analysis (UGR) estimates that approximately 2,800 acres of the supply/need vacant industrial land is developed for non-industrial uses. The UGR assumes a potential savings of 1,400 acres of industrial land from implementing the new measures.

As reported in the UGR, the total vacant industrial land need is 9,366 net acres. The industrial land need estimate assumes that 2,800 acres of the industrial land is consumed by non-industrial uses.

	Net Vacant Acres
Demand	9,366
Supply	3,681
Deficit (Net need)	5,685
RSIA Policy Savings	1,400
Adjusted Deficit	4,285
2002 Decision	2,317
Deficit	1,968

Staff has been working with local governments to identify Title 4 Industrial lands as RSIs for the pre-2002 UGB area. As part of this process, local governments identified several implementation issues that they asked Metro to address. Several local governments were reluctant to work with Metro on mapping the RSIs until the code issues were addressed. Primarily, the issues had to do with clarification of the code. The issues are:

- clarification of what are accessory uses and whether they are counted as part of the 5% commercial
- retail cap;
- clarification of how to treat airport facilities
- how to calculate the retail sales cap for RSIs that cross multiple jurisdictions
- locating corporate headquarters of industrial uses in a location different than the main manufacturing facility
- reuse of office buildings in industrial zones and three implementation issues, (1) creating non-conforming uses, (2) financing and (3) enforcement, and;
- do large parcels (50 acres) stay large parcels forever, or can they be subdivided over time with conditions

Staff also took this opportunity to do some housekeeping changes to Title 4 code. The recommended code changes are contained in proposed Ordinance 03-1021.

Metro staff, after consultation with cities, counties and other interests, developed a set of factors to consider in the identification of RSIs. These factors reflect the locational and siting characteristics from Metro Council Resolution No. 03-3341A. As directed by Title 4, Metro staff worked with cities and counties in the region to apply the factors to designated Industrial Areas within their jurisdictions. Several local governments, Portland, Gresham, Wilsonville and Clackamas County, submitted recommended Industrial Areas for consideration as RSIs. Striving for region-wide consistency, Metro staff also applied the factors to areas in cities and counties that chose not to submit candidate areas. The factors are:

- Distribution - Area serves as support industrial land for major regional transportation facilities such as marine terminals, airports and rail yards.
- Services - Availability and access to specialized utilities such as specialty gases, triple redundant power, abundant water, dedicated fire and emergency response services
- Access - Within 3 miles of I-5, I-205, I-84 (within the UGB), State Route 224 (within the UGB)
- Proximity - Located within close proximity of existing like uses
- Use - Predominantly industrial uses

Ordinance 03-1021 – Code Changes

Staff has worked with local governments to resolve most of the implementation issues. The recommended changes to the Title 4 code represents this work. Two issues remain unresolved to the satisfaction of some local governments and that is the issue of subdivision of 50+ acre parcels overtime and reuse of new industrial office buildings. The Metro Council stated that these two issues are policy issues not clarification issues and that at the next periodic review cycle the Metro Council would evaluate Title 4. Included in this staff report as attachment 1 are written comments from local government regarding the code language.

Ordinance 03-1022 – Mapping RSIA's

Staff conducted a general assessment of the areas on the *Potentially Regionally Significant Industrial Area* map (included as attachment 2) and found that the following areas meet the factors and are also lands that meet the general site and location criteria for industrial uses.

- Areas 1 – Hillsboro industrial area, south of Highway 26
- Areas 2, 3-4, 5 and 6 – Northwest Industrial Area, Rivergate, Swan Island and Columbia Corridor
- Area 12 - Clackamas distribution area around Hwy 212/224
- Area 14 - Brooklyn Yards

As part of the analysis staff also presented to the Metro Council areas to be considered in the future for designation as RSIA's:

- Area 9, Wilsonville industrial area
- Area 10, Tualatin industrial area
- Area 7, Troutdale industrial area

These areas, as they exist today, are local industrial districts. In the case of Wilsonville and Tualatin, if additional lands were added to the UGB for industrial uses and the I-5/99W connector improved truck access to I-5 then these areas would be appropriate for designation as RSIA's. In regard to Troutdale, the uses are local in nature and there is no opportunity to expand the industrial area or connect it to the Columbia South Shore industrial area. However, if the Reynolds Metals site were to redevelopment as an intermodal facility, much of the area would redevelop into uses supporting an intermodal facility. If this were the case then the Troutdale industrial area would also be appropriate for designation as a RSIA.

The Metro Council at their worksession on October 21 directed staff to include the local government recommendations, Metro staff recommendations and also add to the map accompanying the Ordinance 03-1022, Area 7 in Troutdale, Area 10 in Tualatin and Area 9 in Wilsonville and a portion of Area 15, the "Brickyards site" in Gresham from the *Potentially Regionally Significant Industrial Area* map. The Metro Council draft Title 4 map that includes the recommended RSIA's is attachment 3.

To better estimate the savings gained in efficiency from the Title 4 regulations, Metro staff recommends taking additional time to calculate the savings. This analysis will be completed prior to the Metro Council's UGB decision in June, 2004.

Known Opposition

A number of local jurisdictions have concerns regarding the perceived loss of flexibility from the adopted RSIA regulations. Staff was able to work with local staff to resolve several of the implementation issues. However, there are two outstanding issues that were not resolved. The issues are:

- Reuse of new industrial office building by non-industrial uses
- Subdivision over time of parcels that are 50 acres or larger

Legal Antecedents

Title 4 is part of the adopted and acknowledged Growth Management Functional Plan. Authority to amend the 2040 Growth Concept map comes from ORS 268.380 and ORS 268.390(5). The authority to amend the Employment and Industrial Areas Map comes from Ordinance No. 02-969B.

Anticipated Effects

Adoption of Ordinance 03-1022 will result in fulfilling the requirements in Metro code section 3.07.420I, which requires Metro to adopt a map of Regionally Significant Industrial Areas with specific boundaries that is derived from the Generalized Map of Regionally Significant Industrial Areas adopted in Ordinance No. 02-969B.

Adoption of Ordinance 03-1021 resolves several implementation issues and gives local governments clearer instructions as to the Metro Council's intent.

The effective date of the new Title 4 regulations is March 5, 2004. Local governments have one year to adopt a local map and make changes to their codes. Local government compliance is anticipated for March 5, 2005.

Budget Impacts

The new regulations go into effect in March of 2004. Metro Council regularly budgets for planning staff to work with local government on compliance issues. Additional excise tax will be needed for Data Resource Center research services to establish the amount of commercial retail development that exists in the Title 4 RSIs and Industrial areas. This analysis is needed so that Metro can give guidance to local governments about the amount of commercial retail development that may be allowed on the vacant industrial lands in these areas. Sections 3.07.420D(2) and 3.07.430B(2) of the Metro code limits commercial retail uses to five or ten percent of the net developable portion of all contiguous RSIs and Industrial areas. It will be necessary to establish a "base line" from which to evaluate proposals

RECOMMENDED ACTION

Adopt Ordinances 03-1021 and 03-1022.

Attachments

- Attachment 1 - Local government comments on the Title 4 code
- Attachment 2 - Potentially Regionally Significant Industrial Areas map (02-969B)
- Attachment 3 - Draft Title 4 map
- Attachment 4 - October 21, 2003 memorandum titled An Assessment of Potential Regional Significant Industrial Areas
- Attachment 5 - June 30, 2003 memorandum to MTAC regarding factors for identifying RSIs
- Attachment 6 - July 29, 2003 memorandum summarizing the results of the meetings held with local jurisdictions



Community & Economic Development Department

Community Planning Comprehensive Planning • Transportation Planning Community Revitalization

TO: Marci La Berge, Associate Regional Planner, Metro

FROM: John Pettis, Associate Planner, City of Gresham

RE: Title 4 RSIA Standards

DATE: July 7, 2003

The purpose of this memo is to express a number of concerns that the City of Gresham has about the Metro Title 4 standards for Regionally Significant Industrial Areas. We believe the current standards could hamper the City in its efforts to bring family wage jobs and high value economic development to the region.

With the adoption of Ordinance 02-969B last December, Metro Council adopted standards to protect Regionally Significant Industrial Areas (RSIA) and other employment lands from incompatible land uses and land divisions. It is our understanding that by December 2003, Metro will be adopting a map that will show the RSIA's to which the standards would apply. In addition, Metro staff indicated at the June 13 Title 4 Workshop that they are open to suggestions that would "fine tune" the RSIA standards. The City appreciates the opportunity to provide input.

While we do support the effort to prevent industrial zoned lands from certain uses (e.g., "big box" stores) that would degrade the potential for the highest forms of economic development, the RSIA standards do seem to be overly prescriptive and restrictive. They do not offer jurisdictions enough flexibility to meet the individual economic development objectives within a framework of regional goals. Moreover, we have not been provided information on any research that was done concerning current industrial development trends. For example, the traditional distinctions between offices, research and development, manufacturing and certain forms of commercial development are becoming increasingly blurred. Regional standards need to reflect these trends if they are to be effective and if our region is to be economically competitive with other regions.

In particular, our concerns/questions are the following:

1. Section 3.07.420 D of Ordinance No. 02-969B states: *"Notwithstanding subsection C, a city or county shall not approve: 1. A commercial retail use with more than 20,000 square feet of retail sales area in a single building or in multiple buildings that are*

part of the same development project, or 2. Commercial retail uses that would occupy more than five percent of the net developable portion of all contiguous Regionally Significant Industrial Areas."

Does "retail sales area" refer to only the sales floor area of a store and not the area devoted to storage, offices, etc.? Also, we need clarification about the meaning of the "same development project." For example, does this standard apply to each parcel? A development under a single building permit? All development within a geographic area under the same ownership? How will this standard work over time if a vacant industrial parcel that is originally part of an industrial subdivision with 20,000 sq. ft. of commercial development and is then divided, sold and developed independently, does it then qualify for the maximum 20,000 sq. ft. of commercial development? Finally, upon what research were these specific commercial limitations based on? Why was the overall commercial development cap in RSIA's set at 5%? The City wholeheartedly recognizes and supports the need to prevent retail/commercial encroachment upon productive industrial lands. However, we would like the flexibility to carry out the overall goal in a way that works best for our jurisdiction.

2. Section 3.07.420 E states: *"As provided in subsection C of this section, a city or county may approve an office for industrial research and development or a large corporate headquarters if: 1. The office is served by public or private transit; and 2. If the office is for a corporate headquarters, it will accommodate, for the initial occupant, at least 1,000 employees."*

We do not understand why research and development (R&D) uses are being treated differently from manufacturing uses. In today's "knowledge based" economy they are becoming inseparable and are found to coexist in a synergistic relationship (such as in the biotech sector) in many of the successful industrial areas of the country. Often R&D and manufacturing are part of the same business, either in the same building or in separate buildings. Also, we question the validity of the 1,000 employee threshold. Again we ask, where is the research that justifies this particular number? Why should we reject a corporate headquarters in our industrial areas with 800 or 500 employees?

Also, the transit requirement puts suburban communities such as Gresham at a disadvantage for attracting R&D. Gresham's future industrial expansion area, Springwater, will not have the potential ridership levels to justify the extension of public transit lines for many years. This provision will prevent R&D firms and manufacturers with R&D office buildings from locating in Springwater.

Finally, we feel that Title 4 needs to broaden its scope of the kinds of offices allowed in the RSIA's, beyond just R&D and corporate office headquarters. For example, one of Gresham's largest employers is the U.S. Bancorp loan processing center which is located at N.E. 181st Ave. and Sandy Blvd. It employs 1,600 people and is located near some of our major manufacturers such as Boeing of Portland and Boyd's Coffee. Designating this area as RSIA would make it a non-conforming use and place severe

restrictions on any expansion and could prevent rebuilding the facility in the event of a fire, etc. Such offices cannot locate in our mixed-use centers because of a lack of adequately sized sites. Creating a disincentive (non-conforming use status) for the loan center to continue business in Gresham could result in a significant negative impact on the City's property tax base/revenues and a loss of many jobs.

3. Section 3.07.420 F states: *"A city or county may allow division of lots or parcels into smaller lots or parcels as follows: 1. Lots or parcels less 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 or parcels so long as the resulting division yields the maximum number of lots or parcels of at least 50 acres."* Following the above subsections, subsection #3 offers some exceptions for subdividing 50 acre+ parcels into smaller lots. These relate to providing public facilities, protecting environmental areas, separating a non-conforming use from permitted uses, reconfiguring lots, and creating a lot for financing purposes ("mortgage lot") for master planned developments.

We realize that there is a lack of 50 acre and larger vacant industrial zoned parcels in the region and that the above requirements are meant to preserve such parcels for large scale industrial uses. However, again we are concerned about the lack of flexibility that may prevent jurisdictions from accommodating changes in trends and the next wave of industrial development.

An example of the need for flexibility, is the Southshore Corporate Center which was recently developed in Gresham and Portland along the I-84/Columbia River south shore industrial corridor. It is a master planned industrial business park with a variety of manufacturing and distribution uses. There are 21 lots with lot areas varying between 5 and 17 acres. Had the area been designated RSIA, this development would not have happened because the original property was larger than 50 acres and would not have been dividable into more than two or three lots. The small and midsize industrial companies that are in this park may represent the future of industrial development in Oregon, especially if the growth of "home grown" companies replace the trend of larger companies relocating from other states. We would like to see the Title 4 standards allow for master planned developments such as Southshore that have separately owned lots down to five acres in size.

RECENT SOUTHSORE CORPORATE PARK RECRUITMENTS SINCE 2000:

Danner Profile: Distribution and customer service center

- 70 employees, 55,000 sq ft facility

Staples Profile: Filling center for Office Supply orders

- 200 employees, 200,000 sq ft facility

Fuji Film Profile: Film processing center

- 100 employees, 30,000 sq ft facility

Synetics Profile: Specializes in airflow products for the semiconductor industry and Robotics

- 200 employees, 133,000 sq ft facility

Kinco International Profile: Distributor of industrial and safety work gloves

- 35 employees, 60,000 sq ft facility

NIR Inc. Profile: Specializes in manufacturing point of purchase display units

- 25 employees, 96,000 sq ft facility

Innovion Profile: Provides the most extensive and highest quality foundry ion implant services to the world's leading semiconductor manufacturers

- 63 employees, 55,000 sq ft facility

4. Finally, we have a question regarding the benefits local jurisdictions might receive from having an RSIA designation. The 6/30/03 memo from Mary Weber to MTAC seems to leave open the possibility of transportation projects proposed within RSIA's of receiving priority over projects in other industrial/employment areas during the MTIP process. The memo also states that industrial areas outside of RSIA's would qualify for priority MTIP allocations. We are concerned that as currently adopted, Metro Title 4 will provide disadvantages to industrial development in the City of Gresham and Springwater (to be annexed into Gresham). We would appreciate additional information on the advantages that will be provided to the regional through implementation of Title 4.

We encourage Metro, in concert with the region's jurisdictions and representatives from the industrial development community, to redraft the Title 4 provisions in a way that offers more flexibility to respond to changing economic conditions. As a starting point, there should be a thorough economic trends study and analysis of how industrial development has changed in recent years in the nation, state and region. Just as such an economic trends analysis is required of local jurisdictions by Statewide Planning Goal 9 (Economic Development) as a basis for their economic development policies and standards, it should also be the foundation of the Metro Title 4 standards. Only by doing this kind of preliminary research can one be sure that the standards will be responding to reality rather than misconceptions.

We also would like to see the standards be a less prescriptive "one size fits all" approach to one that is more performance oriented and tied to the Purposes and Intent section of Title 4. The latter approach would offer a range of options to comply. Jurisdictions would then be able to choose those options that are compatible with their particular economic development program and context within the region.

We look forward to working with Metro on this issue. We feel that until the above trends analysis is done and Title 4 is reworked to offer more flexibility, etc., it would be premature to designate RSIA's. Thank you for this opportunity to state our position.

TO: MPAC

FROM: Wink Brooks, Planning Director
City of Hillsboro

DATE: July 23, 2003

RE: Title 4/Mapping of Regionally Significant Industrial Areas (RSIAs) and
associated restrictions

City of Hillsboro staff has had several discussions about the new Title 4 language adopted by the Metro Council last December as part of the overall UGB expansion package. At first blush, we thought it would not be too difficult to identify potential RSIAs and started delineating properties in the City's northern industrial area. However, as we studied an aerial photograph of this area more closely, it became apparent that there was already significant parcelization in this vicinity, which is largely developed. In addition, where industrially zoned lands appear to be vacant, the vacant portions are being held, or have already been planned, for future expansion of existing industries on those sites. These circumstances led us to examine the new Title 4 restrictions more closely, and we became concerned that the additional standards and requirements could have a negative impact on the future of the City's well-established and thriving industrial base.

1. For example, Section 3.07.420 (F) states that:

"A city or county may allow division of lots or parcels into smaller lots or parcels as follows: 1. Lots or parcels less 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 or parcels so long as the resulting division yields the maximum number of lots or parcels of at least 50 acres."

Our concern is that this standard may be overly prescriptive and have the result of turning away economic development that might otherwise be attracted to these areas. There are other ways to ensure a supply of large industrial lots, and yet still maintain needed flexibility, that have not been fully considered by Metro and warrant a closer look. A "real world" example of Hillsboro's method of retaining large industrial lots over time, while at the same time allowing development of small and medium industrial uses, is described on the following page.

Hillsboro Special Industrial District Zoning

The overlay zone applied to the City's industrial sanctuary, M-P (SID) (Special Industrial District) has provided for both the preservation of large lots and the flexibility to accommodate small and medium size uses all in proximity to one another. This overlay district includes a 30-acre minimum lot size, but makes provision for staged development creating lots smaller than 30 acres (down to a minimum of one-acre) when certain conditions have been met, while retaining at least one 30 acre site for a single major industrial user. The 30 acre minimum lot size was a condition imposed by Metro in 1986 as part of UGB amendments approved at that time.

In our experience, this overlay district has been very effective in facilitating the development of the integrated mix of large primary industries and smaller support industries, as shown on the attached map. The application of the staged development requirements over time allowed the City to retain at least one 30-acre lot, which is located in the Westmark industrial park north of Hwy 26. There are no special use restrictions in the SID overlay, other than the requirement that all development be consistent with the provisions of the M-P Industrial Park zone, which allows traditional light industrial uses, offices, and an array of complementary commercial support services that are limited in scale to serve the needs of the employees of the surrounding industrial uses.

An analysis of approximately 1600 acres in Hillsboro's northern industrial area (see attached map) reveals an average lot size of 10.24 acres. The larger primary high tech industrial businesses in this area are surrounded by dozens of smaller supportive and related uses that provide the critical mass and synergy required to maintain and foster continued growth in the westside high tech cluster. It is likely that the successful growth and evolution of one of the most vibrant high tech centers in the country could not have occurred had restrictions, such as those imposed by the new Title 4 language, been in place over the last 20 years.

2. The City also has concerns about the language in Section 3.07.420 (E):

"As provided in subsection C of this section, a city or county may approve an office for industrial research and development or a large corporate headquarters if: 1. The office is served by public or private transit; and 2. If the office is for a corporate headquarters, it will accommodate, for the initial occupant, at least 1,000 employees."

The provision of public transit in the region's outlying industrial areas is substandard, and no plans/funding to extend transit to these areas are in place. The requirement to provide private transit might not be too onerous to some businesses, but others might be inclined to look at sites elsewhere without this restriction. We also share the City of Gresham's concerns, as stated in a memo to MTAC, dated July 7, 2003, about the validity of limiting corporate headquarters to those with a minimum of 1,000 employees. What research or reasoning supports that number? We assert that it is erroneous to assume that a company shopping for a new corporate

headquarters site to house 800 employees will automatically look for higher priced land in a center when informed they cannot locate in our industrial areas.

We cannot force businesses to locate in centers in the Metro region by precluding them from our industrial areas. Hillsboro is home to a regional center and two town centers, and fully supports development of centers throughout the region, but we are by no means convinced that there is a cause and effect relationship between stimulating development in centers by imposing the overly strict Title 4 restrictions on industrial lands. Incentives may be necessary to encourage location of businesses in centers that may otherwise locate in industrial areas. Regulating businesses out of industrial areas does not assure that these businesses would automatically locate in centers. Options throughout the nation and world abound.

We further concur with Gresham that Title 4 overly restricts the types of offices that can locate in RSIA's and could have a dampening effect on expansion of existing businesses. We also agree with Gresham's argument regarding the trend toward an increasing blurring of traditional distinctions between offices, research and development, manufacturing and certain forms of commercial development. For example, Intel has an approved master plan for a 90-acre site in the Westmark industrial park north of Hwy 26 (in the special industrial district overlay) that includes a research and development campus that would employ approximately 7,000 to 8,000 people at much higher than traditional manufacturing wages. The site also includes three buildings for general office uses. The scale of these buildings would not be compatible in our centers. Other types of office uses may also not be appropriate for centers, and would not locate in those anyway due to higher land costs. Do we really want to turn away all of these types of economic development opportunities when our unemployment rates are consistently among the highest in the nation?

There are many other concerns that the City has with the Title 4 language that have come to light as we tried to identify areas on the map that we wanted to designate as RSIA's. We are willing to work with Metro and our jurisdictional partners to revise Title 4 to provide the flexibility we believe is needed to prevent the potential stagnation and further decline of the region's economy. We urge Metro to delay adopting a map of RSIA's until thorough research on the impacts of the new Title 4 restrictions has been conducted and local jurisdictions have opportunity to reconsider the language.

Thank you for the opportunity to comment on this important process that is critical to the economic well being of our community and the region as a whole.



City of Tualatin

18880 SW Martinazzi Avenue
Tualatin, Oregon 97062-7092
Main 503.692.2000
TDD 503.692.0574

August 11, 2003

Metro Council President David Bragdon
Metro
600 NE Grand Avenue
Portland, Oregon 97232

RE: Regionally Significant Industrial Areas

Dear Council President Bragdon:

Thank you for the opportunity to comment on the new Title 4, Regionally Significant Industrial Areas design type concept map and standards. I appreciate the opportunity to explore the effects of the new standards on Tualatin and garner input from the industrial property owners of the City.

After review, discussion with staff and input from property owners, the City of Tualatin questions why any of the land in Tualatin should bear the Regionally Significant Industrial Area design type. Our reasons are as follows:

1. Over the past year and a half, the City of Tualatin has been working with industrial property owners to retain industrial land for industrial uses based on local circumstances. The first Plan Text Amendment (PTA) addressing this is PTA-02-07. City Council approved this PTA on November 25, 2002. This PTA requires a greater separation between service and cardlock fueling stations; requires these stations to be set back from SW 124th and SW Pacific Highway; and eliminates certain commercial uses from industrial lands.

Additionally, Tualatin Council passed PTA-02-10 on March 24, 2003. This PTA restricts or eliminates certain commercial uses in industrial areas, creates a special commercial setback on two arterial streets and creates two commercial service overlay districts where auto-oriented commercial uses already exist and may continue to exist without being considered a non-conforming use.

Last, PTA-03-03, currently under development, would limit commercial uses as defined by Tualatin in the "Quarry Sector" of Tualatin. This is located in the northwest corner of the city, near Pacific Highway and SW 124th Avenue. The City Council will review this PTA on October 13, 2003.

With all three of these PTAs, citizen involvement was critical to the formation and adoption of the code language. This input has helped to shape the new code language in a way that meets the City's and industrial property owners' needs. Only through this collaborative process has the City of Tualatin been able to implement more protective standards on industrial lands.

2. On July 17, 2003, City staff held an open house with industrial property owners to discuss the RSIA design type. Of the 250 industrial property owners notified of the open house, thirteen people attended; an additional six people who could not attend called staff to discuss this issue. None wanted the RSIA designation on their property.

First, the property owners felt that the time frame in which to provide comments back to Metro regarding the first round of applying this designation was too short to understand all the ramifications of the design type. The attendees agreed that more outreach was necessary to the 250 industrial property owners in Tualatin. Second, the attendees felt the RSIA standards did not allow enough flexibility to recognize what jurisdictions are already doing to protect industrial lands. Third, the RSIA language could ultimately prevent an industrial operation from having a little retail show room if the five percent limit of commercial areas were to be met. The attendees identified this small retail area as a key component of their businesses and did not want to see it threatened. Additionally, the attendees voiced concern that there is no agreed upon definition of 'Industrial'. The nature of industrial development has changed markedly over the past decade and many jobs that appear as a typical office job are really industrial in nature. Last, the attendees felt that the language did not acknowledge the current market forces and the demand for land.

3. The City Council discussed RSIA at its July 14, 2003 and August 4, 2003 work sessions. While the Tualatin City Council recognizes the potential problem associated with the loss of industrial lands to non-industrial uses, the Council remains skeptical that the new Title 4 regulations will protect industrial lands in a way that works at the local level for job creation. The Council continues to wonder what the benefit of RSIA designation is for the City of Tualatin. Additionally, the Council asserts that the degree of public involvement Tualatin put into its efforts on industrial land issues is lacking in the Metro process.

Tualatin staff presented maps to the City Council showing the extent of Tualatin's industrial lands, areas where the designation should not apply for various reasons (i.e. industrial business parks, urban renewal blocks, commercial service overlays, etc.) and the overlay of wetlands and greenways over the industrial area. The wetlands and greenways divide many industrial lots into smaller pieces, making larger scale development harder to accomplish. This fracturing of industrial lands by wetlands and greenways does not appear to lend the area to being a RSIA.

4. Tualatin staff presented the RSIA language to the Tualatin Planning Advisory Committee (TPAC) on July 10, 2003 for its consideration. TPAC raised several questions: What impact do wetlands have on designation? How much commercial use is there now? What benefits does Tualatin get from this designation? Can the Metro Council apply more conditions to these lands in the future above what is currently in Title 4? Ultimately, TPAC did not see the local benefit of RSIA.
5. Last, City of Tualatin staff has concerns about the proposed language, many of which were voiced by other interested parties. Staff is concerned about the lack of flexibility in the Metro language and disregard of local efforts to protect industrial lands. The management of the commercial inventory in RSIA's will be extremely difficult as RSIA's cross jurisdictional boundaries. Staff believes that there has been insufficient time for adequate public outreach and to explain the new design type to those who could be affected by it. More public outreach is needed to educate the industrial property owners in Tualatin on the new standards and to learn of their position on this new design type. The 1,000-employee cut-off point for headquarters also seems arbitrarily selected. Last, staff desires a clear definition of what is meant by "Industrial" prior to considering the RSIA designation for any lands in the region.

Staff also has concerns about the development of the standards themselves. In 2002, MTAC crafted the new Title 4 standards as a kind of placeholder, knowing that the language must be revisited and refined prior to adopting a map identifying specific areas as RSIA. This has not yet been done.

While the City of Tualatin understands the need to establish regulations to protect industrial lands, the City has already developed standards that address industrial lands. The additional Metro requirements do not adequately address the local situation and establishes limitations that do not work with the local or regional market. Thank you for the opportunity to comment on the RSIA design type and its application to the City of Tualatin.

Regards,



Mayor Lou Ogden

c: City of Tualatin Council
Steve Wheeler, City Manager
Doug Rux, Community Development Director
Stacy Hopkins, Associate Planner
Mary Weber, Metro



City of Tualatin

18880 SW Martinazzi Avenue
Tualatin, Oregon 97062-7092
Main 503.692.2000
TDD 503.692.0574

August 20, 2003

Ms. Mary Weber
Metro
600 NE Grand Avenue
Portland, OR 97232

RE: August 14, 2003 RSIA meeting with Tualatin

Dear Ms. Weber:

Thank you for coming to Tualatin last week to discuss the Regionally Significant Industrial Areas (RSIA) design type and language with the City of Tualatin. I found the discussion beneficial as it clarified some vague points of the Title 4 RSIA language. I hope you and Dick Benner found the discussion enlightening on Tualatin's model for addressing industrial land development. I look forward to reviewing the Title 4 language again once it is edited based on discussions with jurisdictions in the Metro area.

As indicated at the meeting, Tualatin has a few questions it would like to have Metro respond to in writing. First, the City wants to know exactly what the benefit of designating lands as RSIA is for the City. After much thought and conversation on RSIA, City staff and City Council are still uncertain of the benefits to the City of designating lands as RSIA given our existing land use regulations. Second, the City wants to know if the Metro Council can or could designate lands as RSIA without a local jurisdiction's consent.

Last, during our conversation last Thursday, the subject of substantial compliance arose. As I described at the meeting, Tualatin's Code is already quite strict on the uses allowed on industrial lands. The City has taken great efforts to develop an industrial lands program that is appropriate for the City, our industrial landowners and companies and Tualatin's unique circumstances. The City of Tualatin would like to see Metro evaluate and possibly adopt a substantial compliance clause in the Title 4 language.

Thank you again for the opportunity to discuss RSIA with you. I look forward to continuing this conversation in the upcoming months.

Regards,

Doug Rux, AICP
Community Development Director

Cc: Dick Benner, Metro
Steve Wheeler, City Manager
Stacy Hopkins, Associate Planner



PORT OF PORTLAND

MEMORANDUM

TO: ANDY COTUGNO, LYDIA NEILL, MARY WEBER AND DICK BENNER
FROM: BRIAN CAMPBELL, SUSIE LAHSENE, PORT OF PORTLAND PLANNING STAFF
SUBJECT: TITLE 4 IDENTIFIED ISSUES AND POTENTIAL SOLUTIONS
DATE: 8/29/2003

Following is a list of issues we see as problematic with the existing Title 4 language, and some potential ideas for solutions. Most of these issues are the result of a rather quick adoption process last fall, and upon reflection and further review of how they would actually work, it is evident that the language does need some adjustment. That being said, it is important for Metro staff and Councilors to understand that Port staff is 100% behind the concepts imbedded in Title 4. It is extremely critical that the region protect its valuable supply of industrial land.

Overarching recommendation - Metro staff has been talking to a number of jurisdictions around the region about ideas for fixes to Title 4. In addition to this process, we believe it will be absolutely critical to the workability of Title 4 for Metro staff to also take the lead in negotiating solutions among key players in the debates over language. That cannot be done at MTAC, or especially MPAC. It must be done in a small group setting, with an exchange of information on revision ideas and how they will actually work. Our suggestion is that Metro organizes a set of meetings in September to ensure timely resolution of this issue.

Issues & Recommendations

3.07.420 Section C.

Definition of Industrial Use. Until GMELS can put a more definitive answer to this perennial question, should Metro attempt to supply its own answer for the decision in December? Since all jurisdictions have latitude in Title 4 to answer it within their own code, we're not sure that it's a problem for the RSIA exercise, or that Metro needs to answer it at this point. Perhaps Metro could, at a minimum, put together a compendium of what is and isn't allowed in each jurisdiction's code to help inform the discussion.

Airports are not generally an industrial use, although they are presumed to be an important component of RSIA's. This issue needs to be addressed by acknowledging airports, and the array of accessory uses that normally go with them, as a specifically allowed use within RSIA's. We will suggest specific language on how best to do this.

Section E.

1000 employee corporate office requirement. From our discussions with real estate professionals and others it is clear that there is a great deal of misunderstanding about how this provision would actually work. Metro should clarify exactly which kind of corporate offices this applies to in order to ensure that the debate is focused on any real issues, rather than on perceptions.

Section F.

Application of the 50 acre minimum provision to both vacant and developed land. The original stated need for the changes to Title 4 had to do with preserving large blocks of land for development. Some version of this certainly needs to apply to vacant or low value improvement land. However, areas that already have industrial development are very difficult to re-develop with industrial uses under the best of circumstances, usually needing large subsidies to remain industrial. They have already been platted for the existing use, so most areas would not be subject to this provision in any case, but adding this provision to any existing industrially developed property seems like another large impediment to continuing the property in industrial use. We recommend eliminating this provision for existing industrially developed parcels.

After the remnant parcels less than 50 acres are sold, there is no provision for allowing additional property to be subdivided below 50 acres. We see this as a practical problem that needs to be discussed among jurisdictions that have some history with industrial land divisions. We think it is not unreasonable, for instance, to allow an ownership to further divide one of the remaining 50 acre parcels after the other remnants are sold in order to allow a number of smaller industrial support firms to co-locate with larger firms. Existing city or county ordinances need to be looked at closely to see whether any can serve as a model, or whether a different approach is warranted.

Section G.

The first sentence appears to be unnecessary, since the ordinance already allows the division of lots less than 50 acres in size. The second sentence may present practical problems to a jurisdiction trying to accommodate a number of smaller industrial users, or trying to create appropriately sized lots for the industries that are developing. It may be better to have an "escape" provision that allows a jurisdiction to require a developer to master plan a large piece of property and preserve an appropriate number of larger parcels, depending on the overall size and configuration of the property in question. This might be the same solution as the one for Section F.

MEMORANDUM

TO: Andy Cotugno, Metro

FROM: Rich Faith, City of Troutdale

DATE: October 22, 2002

TOPIC: Comments and Suggestions Regarding Proposed Title 4 Amendments - Regionally Significant Industrial Lands

The following redline version of the proposed Title 4 amendments reflects my suggested changes to the proposal. My rationale for these changes is given in italics.

Title 4 – Industrial and Other Employment Areas DRAFT

3.07.420 Protection of Regionally Significant Industrial Areas

- A. Regionally Significant Industrial Areas are areas with site characteristics relatively rare in the region that render them especially suitable for industrial use. Each city and county with land use planning authority over areas shown on the 2040 Growth Concept Map as Regionally Significant Industrial Areas shall derive plan designation and zoning district boundaries of the areas from the general locations on the 2040 Growth Concept Map.
- B. Each city and county with land use planning authority an area designated by Metro on the 2040 Growth Concept Map as Regional Significant Industrial Area shall as part of compliance with the concept planning requirements of section 3.07.1120 of the Urban Growth Management Functional Plan, derive plan designation and zoning district boundaries of the areas from the general locations on the 2040 Growth Concept Map.
- C. After determining boundaries of Regionally Significant Industrial Areas pursuant to subsection A and B, the city or county shall adopt implementing ordinances to limit development in the areas to industrial uses, uses accessory to industrial uses, and those non-industrial uses necessary to serve the needs of businesses and employees of the area, unless approved as a conditional use or through a public hearing process. For purposes of this Title, research and development companies, experimental and testing laboratories, and trade or commercial schools shall be regarded as industrial uses.

(It seems that exceptions to the rule are often necessary. It is impossible to anticipate uses that may come along that are a legitimate need in these areas but are not industrial in nature, nor accessory to industrial uses, nor necessary to serve the needs of businesses and employees of the area. Uses that fall into this category should only be allowed through a public hearing process such as a conditional use.

So that there is no doubt that research and development activities, etc. are permitted with regionally significant industrial areas, I propose adding language that specifically states this.)

- D. Notwithstanding subsection C of this section, a city or county shall not approve the following as an outright permitted use:

(If a larger scale commercial use is compatible with, or complementary to, a regionally significant industrial area, then local jurisdictions should have the opportunity to allow these by conditional use or similar public hearing process. The conditional use process alone acts as an obstacle to discourage many proposals that are not suitable or appropriate for the area in question.)

1. A commercial retail use with more than 20,000 square feet of gross leasable area in a single building or in multiple buildings ~~within close physical proximity~~ that are part of the same development project;

(I'm merely trying to give more specificity to what I think is meant by "within close physical proximity".)

2. Commercial retail uses with a total of more than 20,000 square feet of gross leasable area on a single lot or parcel, or on contiguous lots or parcels, including those separated only by transportation right-of-way; or
3. Commercial retail uses that would occupy more than five percent of the net developable portion of the area.

- E. Notwithstanding subsection C of this section, a city or county may approve as an outright permitted use a commercial office use that is not accessory to industrial uses in the area if:

1. ~~The office is for research and development and is served by public or private transit; or~~

(This becomes unnecessary in light of my suggested change to 3.07.420C.)

2. ~~The office is for an owner-occupied corporate headquarters on a lot or parcel of at least 25 acres, is subject to a master plan that sets forth plans for long-term use of the tract, and is served by public or private transit.~~

F. A city or county may allow division of lots or parcels into smaller lots or parcels as follows:

1. Lots or parcels 20 acres or smaller may be divided into smaller lots or parcels without limitation on the size of resulting lots or parcels.
2. Lots or parcels 50 acres or larger shall be subject to a 50-acre minimum lot size.
3. Lots or parcels larger than 20 acres, but smaller than 50 acres shall be subject to a ~~15~~10-acre minimum lot size.

(The way this was written it makes it impossible to divide lots between 20 and 30 acres in size. Lots less than 20 acres can be divided; lots 30 to 50 acres in size can be divided with a 15-acre minimum lot size; but those between 20 and 30 acres in size are stuck unless the 15-acre minimum is reduced to 10 acres. It's out of fairness to any 20-30 acre parcels that I suggest this change.)

4. Notwithstanding paragraphs 2 and 3 of this subsection, any lot or parcel may be divided into smaller lots or parcels for the following purposes:
 - a. To facilitate provision of public facilities and services to an industrial use;
 - b. To protect a natural resource;
 - 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 industrial use; or
 - d. To reconfigure the pattern of lots and parcels pursuant to subsection F of this section.

G. A city or county may allow reconfiguration of lots or parcels less than 50 acres in area if the reconfiguration is more conducive to industrial use and results in no net increase in the total number of lots and parcels over the number prior to reconfiguration. Lots or parcels 50 acres or greater in area may also be reconfigured so long as the resulting area of any such lot or parcel is not less than 50 acres.

H. Notwithstanding subsections C and D 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 10 percent more floorspace.

3.07.430 Protection of Industrial Areas

- A. In Industrial Areas mapped pursuant to Metro Code section 3.07.130 that are not Regionally Significant Industrial Areas, cities and counties shall limit new and expanded non-industrial uses to those appropriate in type and size to serve the needs of businesses and employees in the Industrial Areas.
- B. In an Industrial Area, a city or county shall not ~~approve~~ allow as an outright permitted use:

(My rationale is the same as that given under 3.07420D.)

- 1. A commercial retail use with more than 60,000 square feet of gross leasable area in a single building or in multiple buildings ~~within close physical proximity~~ that are part of the same development project;

(Same comment as given under 3.07.420D1.)

- 2. Commercial retail uses with a total of more than 60,000 square feet of gross leasable area on a single lot or parcel, or on contiguous lots or parcels, including those separated only by transportation right-of-way;

- 3. ~~Schools, churches or those institutional and community services uses intended to serve people who do not work or reside in the Area.~~

(There may be instances when institutional and community service uses have a legitimate need to be within industrial areas. I do not think they should be prohibited.)

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 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 as an outright permitted 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 gross leasable 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 individual 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.

~~E. A city or county may authorize new commercial retail uses 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 3.07-2 of Title 2 of the Urban Growth Management Functional Plan.~~

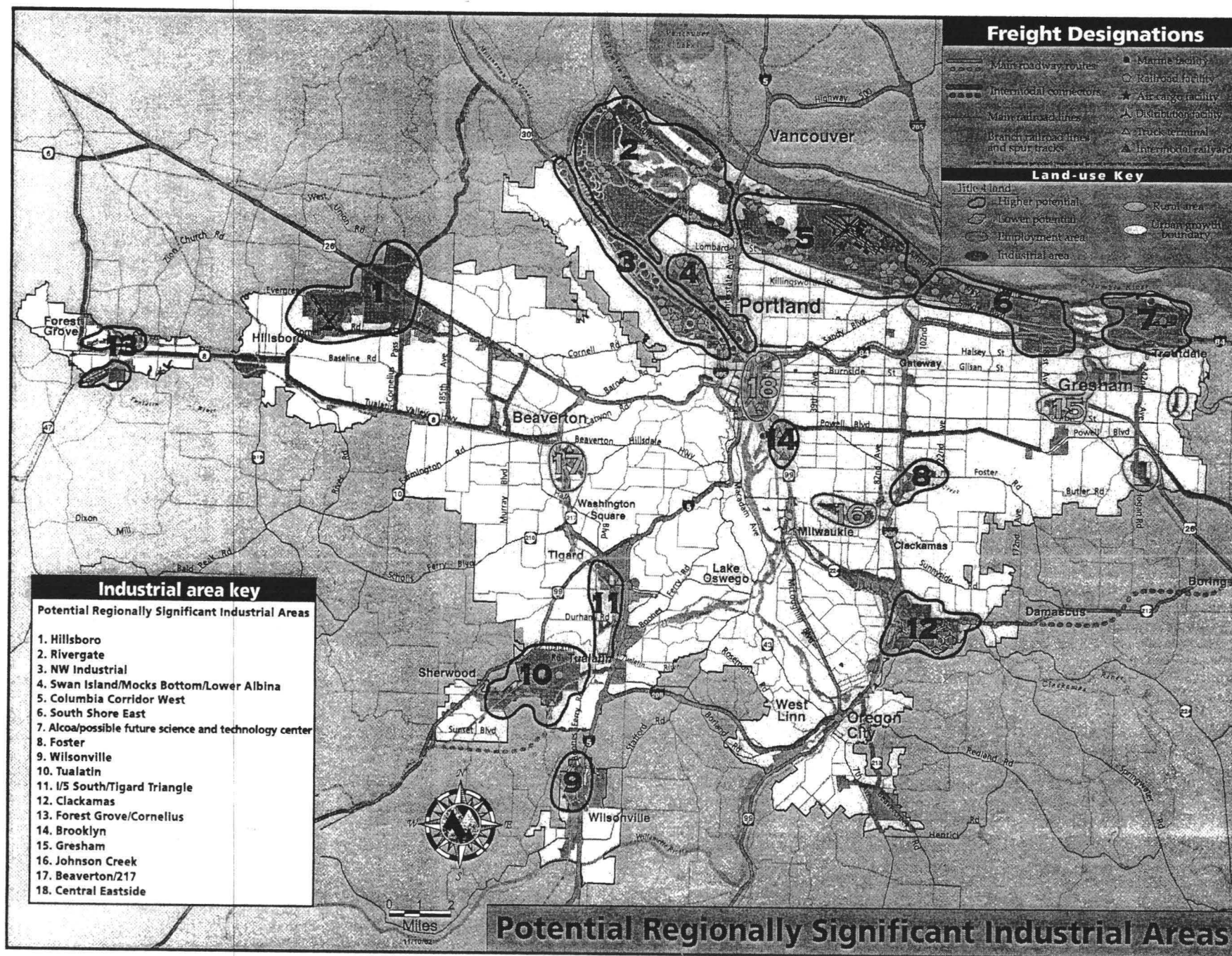
(This strikes me as an administrative nightmare to try to apply. I'd rather see it deleted.)

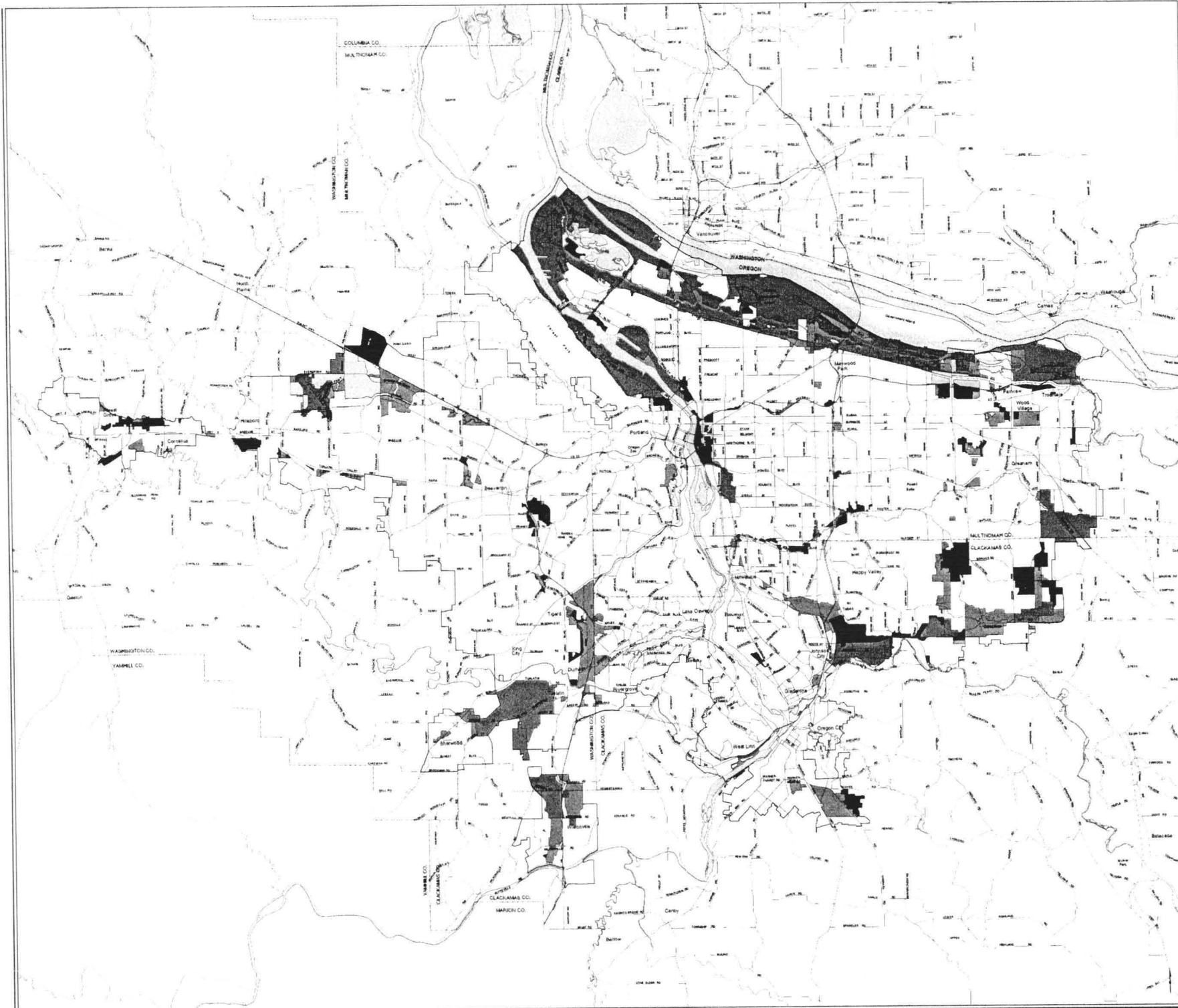
3.07.460 Government Offices

A. Cities and counties shall encourage the siting of government offices and other appropriate government facilities in Centers and Station Communities by taking action pursuant to section 3.07.620 to eliminate or reduce unnecessary physical and regulatory barriers to development and expansion of government offices in Centers and Station Communities.

~~B. Cities and counties shall discourage the siting of government offices outside Centers and Station Communities by requiring a demonstration by the applicant government agency that sites within Centers cannot reasonably accommodate the proposed office due to characteristics of the office other than parking for employees.~~







(There are many legitimate purposes for siting government offices outside centers and stations areas. I do not think it is reasonable or necessary to require this. Subsection A should be adequate to address this issue.)

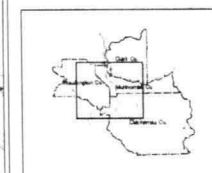


Regionally Significant
Industrial Areas

Ordinance #03-1022

DRAFT 10/21/2003

-  Title 4 Employment Land
-  Title 4 Industrial Land
-  Title 4 Regionally Significant Industrial Area 2002 Decision
-  Local Government Proposed RSIA
-  Other Sites Under Consideration by Metro Council
-  Staff Proposed RSIA

[illegible]

Location Map



METRO
METRO DATA RECOVERY CENTER
3800 NORTHEAST GAMMA AVENUE PORTLAND, OREGON 97227-2738
TEL (503) 787-1742 FAX (503) 787-1808
www.metrodata.com



METRO

Date: October 21, 2003

To: Richard Benner, Interim Regional Planning Director

From: Mary Weber, Community Development Manager

Re: ***An Assessment of Potential Regionally Significant Industrial Areas***

Background

The Metro Council amended Title 4 to afford a higher level of protection to Regionally Significant Industrial Areas (RSIAs) than to Industrial Areas in general. The Metro Council took this action based upon information the Metro Council received about industrial land during the periodic review analysis and hearings process – principally the Regional Industrial Lands Study (RILS) and Metro's own "Urban Growth Report: An Employment Land Need Analysis" (UGR-Jobs). The information showed that much industrial capacity had been absorbed by the economic expansion of the mid-1990s. It also showed that much of the remaining capacity was constrained: divided into parcels too small for the growth industries of the future; converted to non-industrial use; regulated to protect wetlands or floodplains and; inadequately served by water, sewer or transportation facilities.

The Metro Council aimed its amendments of Title 4 at conversion of industrial land to non-industrial uses. In the UGR-Jobs (page 31), the Council noted both positive and negative effects of this conversion. On the positive side, conversion (1) allows commercial uses to provide retail services to industrial employees and reduce trips; (2) provides opportunities for infill and redevelopment of aging industrial areas; and (3) allows flexibility of use that may provide the margin for industrial profitability. On the negative side, conversion (1) increases the cost of land for industrial use; (2) introduces uses that generate conflicts with industrial practices; and (3) may force relocation of industrial uses to less suitable sites. The Metro Council hopes to take advantage of the positive consequences of conversion in Industrial Areas and prevent the negative consequences in RSIAs.

Which lands should be designated RSIA?

There is guidance from the Regional Framework Plan, the Regional Transportation Plan, Title 4 of the Urban Growth Management Functional Plan, Periodic Review Ordinance No. 02-969B, Metro Council Resolution No. 03-3341A, the UGR-Jobs, MetroScope and the factors the Metro staff developed in consultation with cities and counties to help identify RSIAs.

1. Regional Framework Plan : Policies 1.4.1 and 1.4.2 of the Regional Framework Plan (RFP) speak of RSIAs as 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."*** The RFP leaves a more specific determination of RSIAs to implementation of Title 4 by the Metro Council and local governments.

2. Regional Transportation Plan: Policy 15.0 states as Objectives (a) ***“Provide high-quality access between freight transportation corridors and the region’s freight intermodal facilities and industrial sanctuaries...”***; and (b) ***“Coordinate public policies to reduce or eliminate conflicts between current and future land uses, transportation uses and freight mobility needs, including those relating to: Land use changes/encroachments on industrial lands; and Transportation and/or land use actions or policies that reduce accessibility to terminal facilities or reduce the efficiency of the freight system.”*** The policy recognizes the critical relationship between freight transportation and conflicting land uses. Although the Regional Transportation Plan (RTP) does not define “industrial sanctuary”, it seems clear that the policy contemplates industrial areas in which commercial or residential uses do not dominate the transportation system.
3. Title 4: Title 4 also draws attention to the relationship between industrial land and the transportation system. One purpose of Title 4 is: ***“To protect the capacity and efficiency of the region’s transportation system for movement of goods and services....”***
4. Ordinance No. 969B, UGR-Jobs, MetroScope: By adoption of the UGR-Jobs and the Generalized Map of RSIA’s, the Council made clear that ***RSIA’s are to be derived from those lands designated as Industrial Areas on the 2040 Growth Concept map***, and that not all Industrial Areas should be designated RSIA. The UGR-Jobs speaks of some industrial areas that are in the midst of transition to mixed-use areas (page 31). MetroScope modeling identified areas of industrial job loss during the planning period. In general the gains are the areas identified as having greater potential as RSIA’s. These areas are the large industrial areas comprised of the Columbia South Shore Industrial Area, the Portland Harbor, the Clackamas Industrial District, the Tualatin/Wilsonville Industrial District and the Hillsboro Industrial District. While conversely, industrial losses (identified as having lower potential) are likely to occur in the Central City, Eastside Industrial area, Highway 217 corridor and Vancouver CBD. Maps from the MetroScope analyses are attached.

The UGR-jobs offers further guidance. The UGR-Jobs translates the regional economic forecast into demand for industrial land for particular building types: tech/flex, warehouse/ distribution and general industrial. These building types and the industries that occupy them need sites with certain locational and siting characteristics. The UGR-Jobs finds that sites with these characteristics are in very short supply in the urban growth boundary (UGB).

If these are the industries likely to add family-wage industrial jobs in the future, and sites with the locational and siting characteristics they need are in short supply, then land in Industrial Areas with these characteristics are logical candidates for designation as RSIA. Moreover, if the region is looking for sites with these characteristics outside the UGB, state planning law may require Metro to designate areas inside the UGB with these characteristics as RSIA’s.

5. Resolution No. 03-3341A: The Metro Council, considering information from industry representatives, industrial land brokers and studies on clustering, directed the Metro

staff to study for possible inclusion in the UGB land that is **(1) close to freeway interchanges; (2) relatively flat; and (3) near existing industrial areas.**

This information indicated that the warehouse and distribution industry needed sites with the following characteristics:

- Freeway access within 3-5 miles of an interchange
- Large enough areas to accommodate of number of uses
- Slopes less 5 percent
- Highway routes are key: I-5, I-84 and I-205
- Highway 26 is not desirable due to congestion

General industrial site characteristics are:

- Freeway access within 3 miles of an interchange
- Net parcel sizes between 1-5 acres and 10-20 acres
- Location near other firms (labor pool)
- Stable soils and flat sites
- Manufacturing sites greater that 20 acres must have slopes less that 2 to 3 percent
- Manufacturing sites between 1-5 acres, slopes no more than 5 to 10 percent

For tech flex industrial uses the location and site characteristics are:

- Net parcel size greater than 10 acres
- Availability of specialized utilities
- Stable soils
- Proximity to existing high tech companies and suppliers
- Access to airport no more than 45 minutes mid-day (passengers)
- Some rolling topography but slope not more than 5 percent

6. Factors: The Metro staff, after consultation with cities, counties and other interests, developed a set of factors to consider in the identification of RSIA's. These factors reflect the locational and siting characteristics from Metro Council Resolution No. 03-3341A. As directed by Title 4, Metro staff worked with cities and counties in the region to apply the factors to designated Industrial Areas within their jurisdictions. Some cities and counties submitted candidate RSIA's to Metro based upon the factors. Striving for region-wide consistency, Metro staff also applied the factors to areas in cities and counties that chose not to submit candidate areas. The factors are:
 - Distribution - Area serves as support industrial land for major regional transportation facilities such as marine terminals, airports and rail yards.
 - Services - Availability and access to specialized utilities such as specialty gases, triple redundant power, abundant water, dedicated fire and emergency response services
 - Access - Within 3 miles of I-5, I-205, I-84 (within the UGB), State Route 224 (within the UGB)
 - Proximity - Located within close proximity of existing like uses
 - Use - Predominantly industrial uses

Reasons not to designate an industrial area as a RSIA

Not all industrial areas need additional restrictions that come with the RSIA designation. Here are a few examples of reasons why an industrial area should not be designated as a RSIA.

- The industrial site/area is bordered on several sides by residential uses. In this case it is unlikely that the area will expand or be maintained over time because of the conflicts with residential uses.
- Existing non-conforming uses make it unlikely that the conflict between uses will diminish and that over time the area might be better zoned for employment uses.
- Flexibility of employment uses on the site is important for redevelopment to occur.

What follows is an analysis by area of the industrial land and how the characteristics of the area fit the RSIA factors. A map of each area is attached to this memorandum. The specific land data was derived from the 2000 vacant land supply. This is the inventory used for the 2002-2022 periodic review of the urban growth boundary.

Areas appropriate for RSIA designation

A general assessment of the areas on the *Potentially Regionally Significant Industrial Area* map indicate that the following areas meet the factors and are also lands that meet the general site and location criteria for industrial uses.

- Areas 1 – Hillsboro industrial area, south of Highway 26
- Areas 2, 3-4, 5 and 6 – Northwest Industrial Area, Rivergate, Swan Island and Columbia Corridor
- Area 12 - Clackamas distribution area around Highway 212/224
- Area 14 - Brooklyn Yards

Areas to consider for RSIA designation in the future

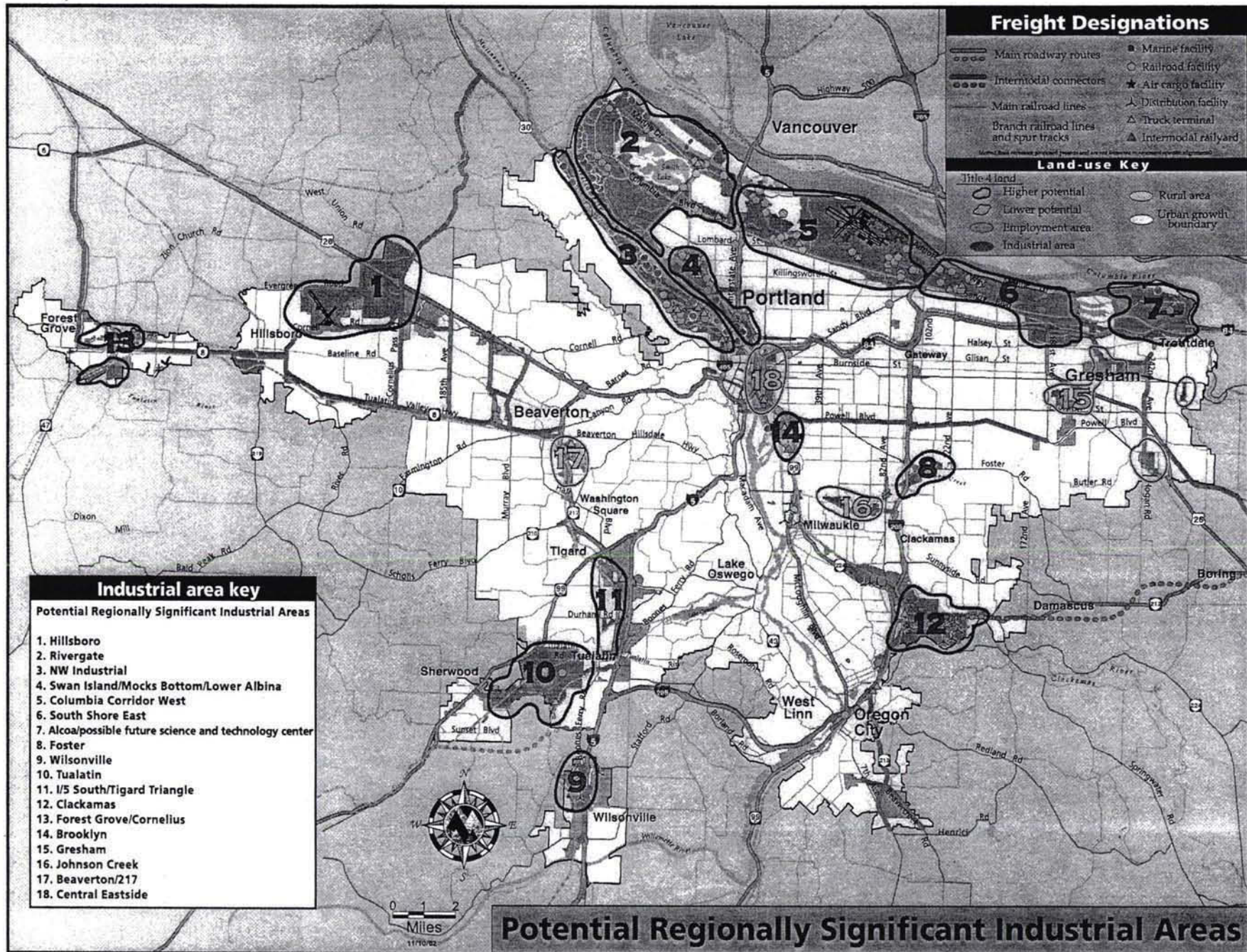
The areas may be appropriate for designation as RSIA's in the future:

- Area 9, Wilsonville industrial area
- Area 10, Tualatin industrial area
- Area 7, Troutdale industrial area

These areas as they exist today are local industrial districts. In the case of Wilsonville and Tualatin, if additional lands were added to the UGB for industrial uses and the I-5/99W connector improved truck access to I-5 then these areas would be appropriate for designation as RSIA's. In regard to Troutdale, the uses are local in nature and there is no opportunity to expand the industrial area or connect it to the Columbia South Shore industrial area. However, if the Reynolds Metals site were to redevelopment as an intermodal facility, much of the area would redevelop to uses supporting an intermodal facility. If this were the case then the Troutdale industrial area would also be appropriate for designation as a RSIA.

Area Assessments

The acreage information is from the 2000 vacant land inventory. The buildable acres is displayed with the 2000 inventory. Local government submittals and area maps are attached. Also attached are the Standardized Zoning map for the region and the Title 4 Industrial Land with Slopes and Floodplain map.



Standardized Regional Zoning

1/4 Mile Buffer of Title 4 Industrial Land

Commercial

Industrial

Multi Family

Mixed Use

Parks & Open Spaces

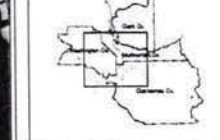
Rural

Single Family

WARNING: Users may receive information of varying accuracy, e.g. data about land use may be out of date. Users are advised that the data is not intended for use in any legal or financial transaction.

NO WARRANTY: The data is provided "as is" without any warranty, express or implied. The user assumes all liability for any use of the data.

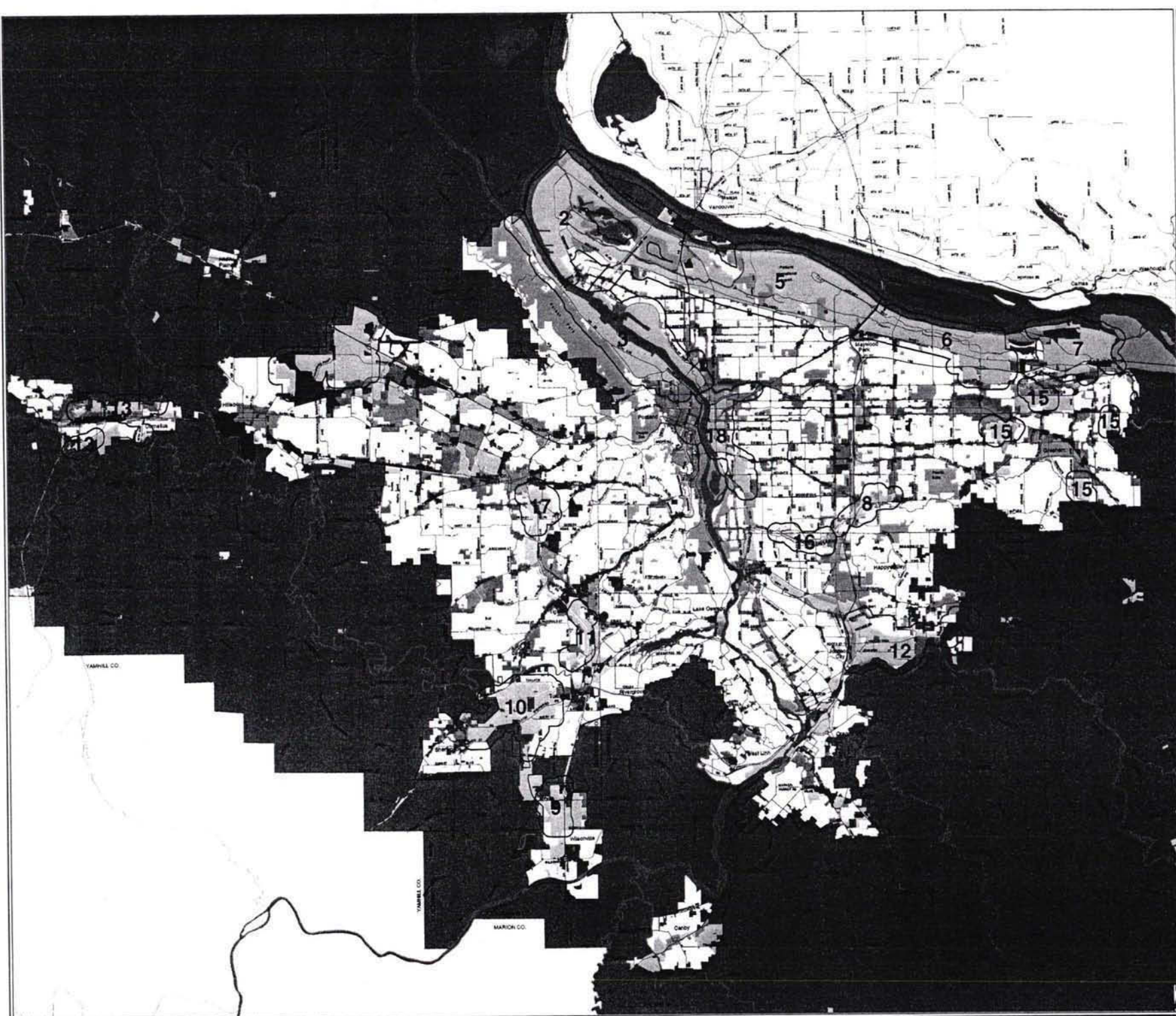
1 inch equals 1.25 miles



Location Map



Map prepared by the Marion County Planning Department, 1998. Data from the Marion County Planning Department, 1998. Data from the Marion County Planning Department, 1998.



Area 1- Hillsboro Industrial Area

General Description

Area 1 encompasses the City of Hillsboro's hi-tech industrial area. At the center of the area is the Hillsboro airport.

Factor Analysis

Distribution

- The area does not serve as a regional warehouse or distribution area. The industrial area is within 3 miles of a Highway interchange but Highway 26 suffers from congestion that increases travel time to I-5, I-84 and Portland International Airport. Rail service is not available.

Services

- The industrial portion to the south of Highway 26 has access to specialty gases and triple redundant power from the PGE Sunset Substation. It is unlikely that these specialized utilities will be available to land to the north of Highway 26 because of the expense of extending these services north.

Access

- Within 3 miles of Highway 26 and within minutes from the Hillsboro airport.

Proximity

- The industrial area is part of the Hi-Tech Sunset Corridor.

Use

- The uses are predominately industrial with the exception of the commercial services associated with the Hillsboro airport. The industrial area to the north of Highway 26 forms the northern edge of the UGB and to the east is residential development.

Summary

This industrial area consists of flat land with slopes less than 10 percent and no floodplain. Very little of the area has environment constraints. The area to south of Highway 26 has access to some of the most sophisticated utilities in the country that are required by hi-tech firms. Intel operates two large facilities, one at Ronler Acres and the other at Jones Farm.

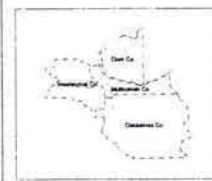
Staff recommends that the industrial lands to the south of Highway 26 be considered as Regionally Significant. If the Council were to add new industrial land adjacent to the industrial area to the north of Highway 26, then this area might also be considered as Regionally Significant Industrial Land.

Study Area 1



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Scale: 1 inch = 1 mile



UTAS
UNIVERSITY OF TEXAS AT AUSTIN
SCHOOL OF ARCHITECTURE
10000 N. MOPAC EXPRESSWAY, SUITE 1000
AUSTIN, TEXAS 78758-0001
PH: 512/495-6100 FAX: 512/495-6101
WWW.UTAS.UTEXAS.EDU



Draft RSIA Boundary Recommendation

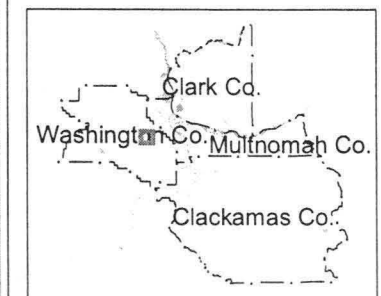
Study Area 1-Hillsboro

- Urban growth boundary
- Taxlots

WARNING: some maps combine data layers of differing map accuracies, e.g. flood plains can be laid on tax lots. When this occurs, the map is not reliable to correctly show data at the tax lot level.

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1 inch equals 0.46 miles



Location Map

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600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232-2736
TEL (503) 797-1742 FAX (503) 797-1909
drc@metro.dst.or.us www.metro-region.org

Areas 2 – Northwest industrial Area, 3 & 4- Rivergate and Swan Island, 5 and 6 - Columbia Corridor to Gresham, 14- Brooklyn Yards - Portland

General Description

The City of Portland prepared a matrix that categorized the recommended factors and provided specific parameters for how they would apply to RSIA's, other industrial and mixed employment areas. The analysis included, location, area size, location advantages, industry mix, site sizes, facility types, neighbor sensitivity and infrastructure. The areas proposed by the city consist primarily of the Portland Harbor and Columbia Corridor industrial districts and makes up 94 percent of the industrial land designated in Portland's *Comprehensive Plan*.

Factor Analysis

Distribution

- The areas are located at the main hub of Oregon's freight transportation system, where the shipping channels, main rail lines and yards, freeways, Olympic Pipeline, and Portland International Airport converge.

Services

- May serve special power, water, sewer, and Telco needs.

Access

- Most sites are within 1 mile of regional truck system.

Proximity

- The areas are predominantly surrounded by industrial uses. Areas have a very small percentage of residential uses nearby.

Use

- These areas make up the largest concentration of manufacturing and distribution facilities in the state.

Summary

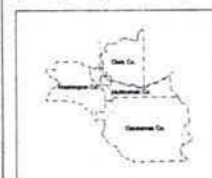
The City of Portland is recommending approximately 12,500 gross acres in these areas for designation as RSIA's. Detailed information on the City's analysis is attached.

Metro staff generally concurs with the City's recommendation. Staff recommends that the Metro Expo Center property in the Columbia Corridor RSIA not be designated as a RSIA. The RSIA designation creates another conflict with the industrial zoning that recognizes the Expo Center as a non-conforming use. As more research about job land is undertaken, Metro should reexamine these areas to determine if all of these lands should be designated as RSIA's. Staff also recommends extending the RSIA designation to connect to the Gresham portion of the RSIA.

Study Area 2



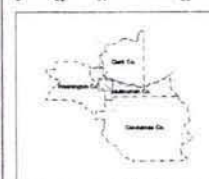
Disclaimer: This map was prepared for the purpose of providing information only. It is not intended to be used for any other purpose. The user assumes all responsibility for the use of this map.



Location Map

Prepared by: [Logo]
 Date: 10/15/2003
 Project: [Project Name]
 Map Scale: 1 inch = 0.5 miles
 Map Date: 10/15/2003
 Map Author: [Name]
 Map Reviewer: [Name]

1 inch equals 0.2 mm



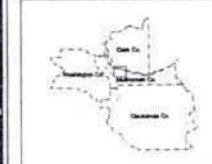
Location Map



METRO DATA PRODUCTS COMPANY
450 NORTHWEST 17TH AVENUE, FORT LAUDERDALE, FL 33311
TEL (305) 797-1742 FAX (305) 797-0808
info@metro-data.com www.metro-data.com



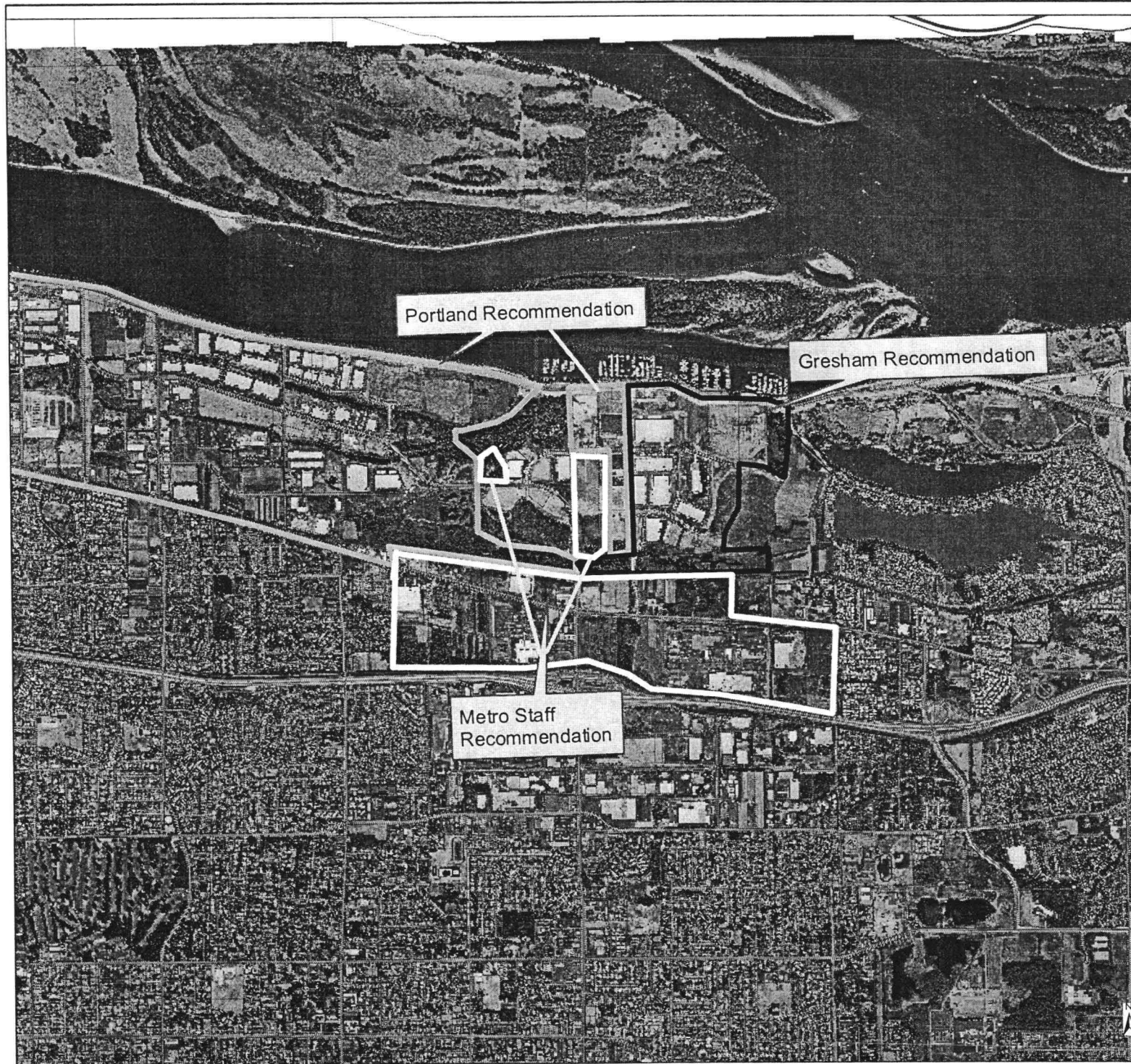
[I wish you the best](#) [I wish you the best](#)



Location 1



WESTING
WESTING CATHODIC PROTECTION SYSTEMS
200 NORTH-HEAST (GRAND) AVENUE PORTLAND, OREGON 97202
TEL: (503) 757-1242 FAX: (503) 757-1000



Draft RSIA Boundary Recommendation

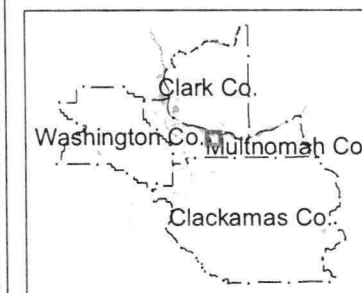
East Area 6

- Taxlots
- Urban growth boundary
- Streets

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1 inch equals 0.54 miles



Location Map

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Area 6 - Gresham Portion – Columbia Corridor

General Description

The area under consideration is in North Gresham between the railroad tracks and Marine Drive just east of 185th. Gresham shares a portion of this study area with the City of Portland.

Factor Analysis

Distribution

- Rail access to the area.

Services

- Basic services are available.

Access

- The area is within 3 miles of I-84.

Proximity

- The area is adjacent to industrial lands in Portland. To the east the area is bordered by residential uses and Fairview Lake and Blue Lake.

Use

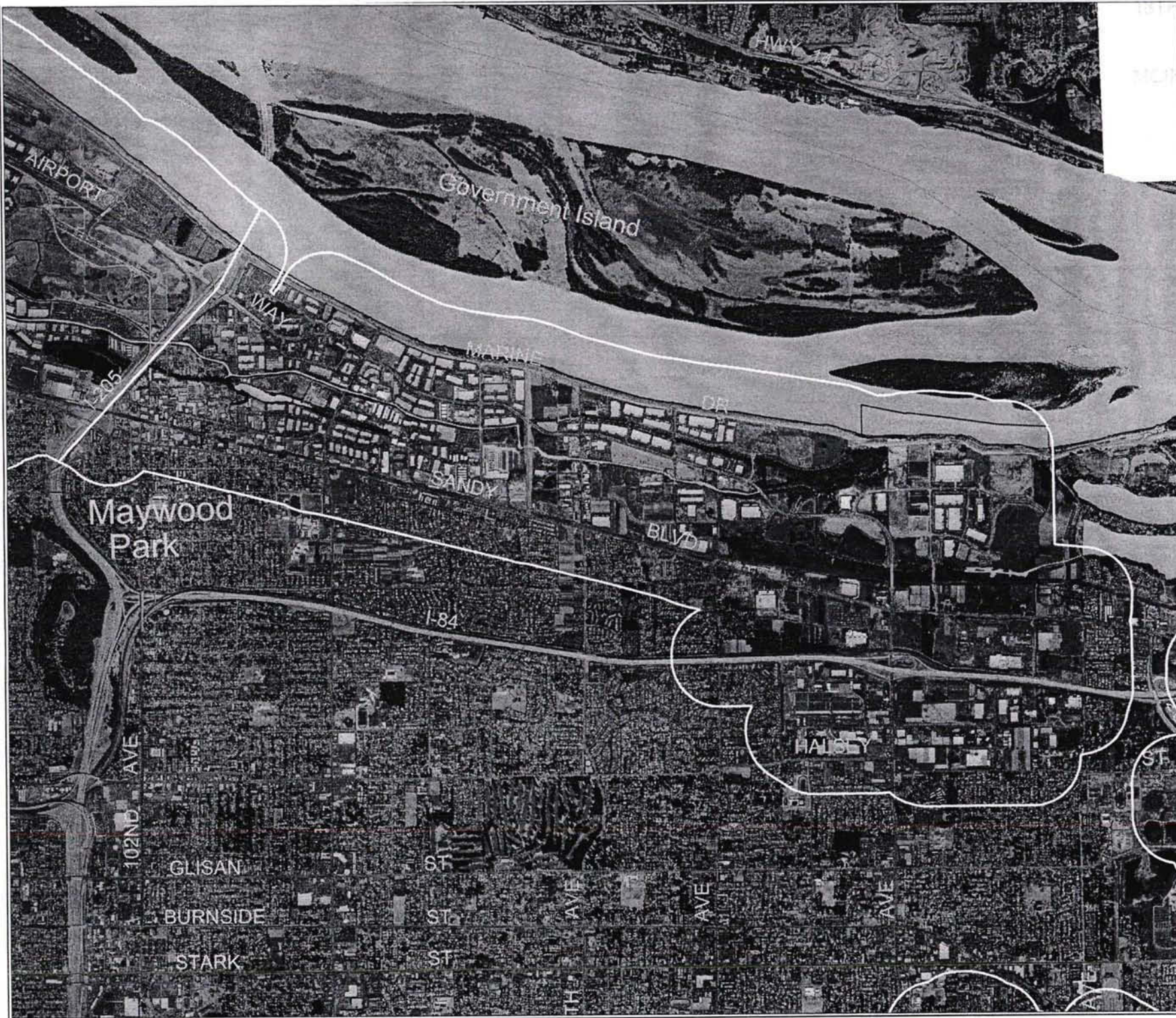
- The majority of the area is zoned heavy industrial with a small section of light industrial.

Summary

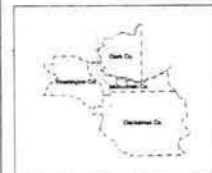
Gresham recommends that this area be considered for RSIA designation based on its industrial zoning and adjacent industrial uses. The land north of Marine Drive is not recommended because it is envisioned for future mixed-use commercial and recreational waterfront development.

Metro staff recommends accepting the City's recommendation but also including the area south of the railroad to I-84 and east of Airport Way to 201st. See attached map.

Study Area 6



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Location Map



2. This map is a reproduction of the original map prepared by the City of Portland, Oregon, and is not a legal document. It is provided for informational purposes only. The City of Portland is not responsible for any errors or omissions in this map.



MEMORANDUM

COMMUNITY PLANNING DIVISION
Long Range • Transportation • Development

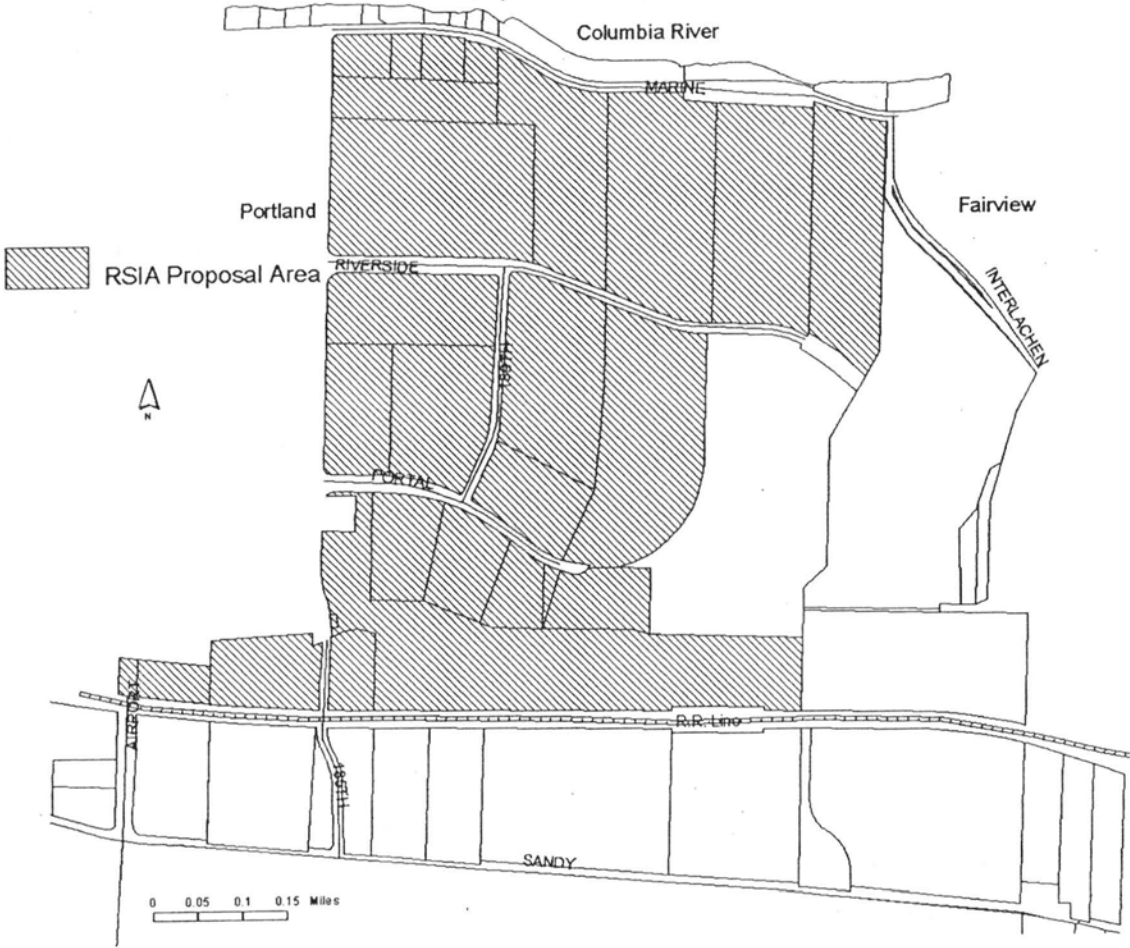
To: Mary Weber - Metro
From: Rebecca Ocken
Re: Proposed RSIA Site
Date: October 9, 2003
Cc: Ed Gallagher, John Pettis, Terry Vanderkooy – City of Gresham

As requested, attached is a map of the area the City of Gresham is proposing for RSIA designation. The area for your consideration is in north Gresham between the railroad tracks and Marine Drive just east of 185th. A majority of the land is currently zoned heavy industrial with a small section of light industrial. The South Shore Corporate Park is located here.

We have chosen to exclude from our RSIA proposal the land north of Marine Drive. This land is envisioned for future mixed use commercial and recreational waterfront development.

If you have any questions, please don't hesitate to contact John Pettis at (503) 618-2778.

Proposed RSIA: City of Gresham (October 2003)



Area 7 – Troutdale Industrial Area

General Description

The Troutdale industrial area is bordered on the south by I-84, the Sandy River to the east, the Willamette River to the north and residential uses and Blue Lake and Fairview Lake to the west. While the area seems quite large, the dominate land uses are the Reynolds Aluminum Plant, the Troutdale airport and a Morse Bros. aggregate based productions operation. There is also a Glacier Northwest Redi-mix concrete site and a Swift Transportation truck facility in the area. The remaining uses include machine sales and service, engine repair and sheet metal fabrication.

Factor Analysis

Distribution

- This area plays only a minor role for distribution. The Troutdale airport is a general aviation facility.

Services

- Significant electrical power associated with aluminum plant. Rail is available.

Access

- The area is within 3 miles of I-84.

Proximity

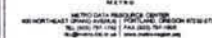
- This area is large in size but is isolated from the Columbia Corridor industrial area with natural areas and residential uses serving as a barrier to possible integration with other industrial districts.

Use

- The uses are predominantly industrial uses but most of the area is very old with open storage yards, unimproved streets and wooden structures.

Summary

This is an older industrial area that has significant potential for redevelopment. There are some uses that would likely not relocate; they are the Morse Bros. facility and a ship repair yard. If the Reynolds property were to redevelop as an intermodal facility, many of the smaller older uses surrounding the plant would likely be redeveloped to support uses for the new facility. The same is true if the area is redeveloped as mixed commercial. At this time, it is not appropriate to designate this area as a RSIA. If in the future the site were to redevelop into an intermodal facility, this industrial area would better fit the region's policies.



Area 8 – Lents/Foster Road

General Description

This older industrial area is anchored at the west end by the Lents Town Center and goes northeast along Foster Road.

Factor Analysis

Distribution

- The area does not support the major transportation facilities such as the marine terminals or airports.

Services

- No specialized services are available

Access

- The area is within 3 miles of I-84, but the access route is congested.

Proximity

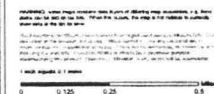
- The area is surrounded by residential uses.

Use

- A regional paper recycling facility is located in this area but there are no other regional facilities, only local industrial uses and pre-existing commercial uses.

Summary

This is a very old industrial area with everything from a Smurfit paper recycling facility, to an auto junkyard and small engine repair facilities. Interspersed with the industrial uses are commercial uses. The area is surrounded by residential uses and the land is within the Johnson Creek floodplain. This area is of local significance as a jobs center, but is not appropriate as a RSIA.



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www.metrodata.com

Area 9 - Wilsonville Area

General Description

The areas under consideration for potential designation as RSIA's consist of parcels flanking I-5 and are north of the Willamette River. Wilsonville's analysis involved the development of a two-tiered system for evaluating industrial land. According to their analysis, Tier 1 lands are undeveloped parcels, of a size to permit reasonable industrial use, served by public facilities (with the possible exception of transportation facilities) and adjacent to other industrial campuses. Tier 2 areas are comprised of enclaves of existing industrial developments within the City and has land use approval including positive findings for concurrency.

Factor Analysis

Distribution

- The industrial area is a distribution point for Rite Aid; Coca Cola, and a regional trucking operation. Wilsonville is a good distribution point but access is congested.

Services

- Basic services are available.

Access

- This area is within 3 miles of I-5. Interchange access is limited and congested.

Proximity

- The Tier 1 area recommended by the City is within close proximity to industrial uses and is adjacent to industrial campuses. The industrial area on the west side of I-5 is the edge of the UGB. Opportunities for this area to growth are limited to expansions of the UGB.

Use

- The Tier 1 land recommended by the City is adjacent to industrial uses. The industrial area on the west side includes distribution facilities, small local manufacturing firms, local services and is the headquarters for Hollywood Video.

Summary

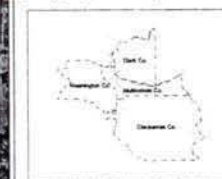
The City of Wilsonville recommends that Tier 1 lands be designated as RSIA's due to their status as large, undeveloped parcels that are served by public facilities as well as the presence of adjacent industrial uses. They do not recommend Tier 2 lands for RSIA designation as these parcels are already developed and have some existing commercial uses. Tier 2 lands primarily consist of Planned Unit Developments. The City's submittal is attached. Staff does not concur with the City's recommendation. These industrial areas are not appropriate for designation as RSIA's.

If the character and size of the west Wilsonville industrial area did not change, staff would agree that this area is appropriate for designation as a RSIA. The Council in 2002 added approximately 350 acres to the north end of Wilsonville for industrial purposes. There are more exception lands north and west of this industrial area. If the Council were to add more industrial land to the UGB in this area, it would very much change the status of this industrial district. Along with more land, better access to I-5 and a connection to the Tualatin industrial areas, this area would be appropriate for designation as a RSIA.

Study Areas 9



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Location Map



GEORGIA DEPARTMENT OF TRANSPORTATION
 2000 N. FULTON ST., SUITE 1000, ATLANTA, GA 30309
 TEL: 404.768.1000 FAX: 404.768.1000
 WWW.GDOT.GOV

WILSONVILLE'S REGIONALLY SIGNIFICANT INDUSTRIAL AREA ANALYSIS

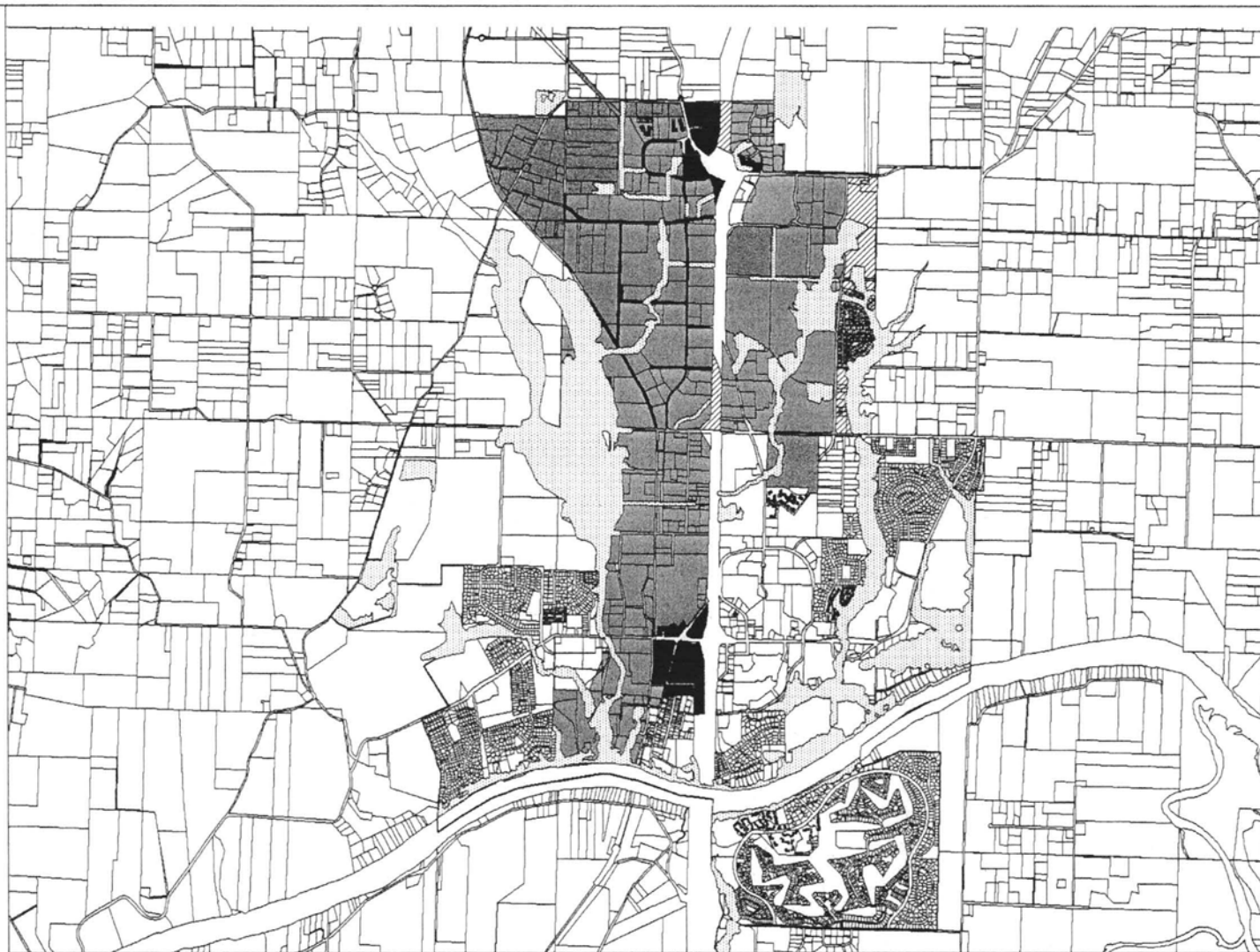
Per Exhibit F to Metro Ordinance No. 02-969B (Revisions to Title 4 of the Urban Growth Management Functional Plan), the City of Wilsonville has analyzed the requirements of Title 4 in regards to the City responsibility to identify lands that could be considered Regionally Significant Industrial Areas (RSIA). The City has developed a two-tier system for evaluating potential RSIA:

Tier 1 areas are undeveloped parcels, of a size to permit reasonable industrial use, served by public facilities (with the possible exception of transportation facilities), and adjacent to other industrial campuses. Required revisions to the City's Development Code would provide these properties with the protections required per section 3.07.420 of the UGMFP:

- Subject to specific plan designation and zoning district boundary
- Subject to limitations on uses other than industrial
- Subject to limitations on further subdivision of property

Tier 2 areas are comprised of enclaves of existing industrial developments within the City. The City is not proposing these properties be given the RSIA designation at this time. These properties have City land use approval, including positive findings for concurrency. In some cases, this approval has allowed commercial development within these industrial areas. These areas were also chosen for potential RSIA designation due to their job generation potential, their value-adding potential, and the diversity of industrial uses they represent. While industries currently operating on these lands may not provide family wage jobs desired by Title 4, it is the potential for these types of jobs that brought these areas into the consideration. Required revisions to the City's Development Code would provide these properties with the protections required per section 3.07.430 of the UGMFP, which include limitations on new and expanding retail commercial uses.

The City will need to develop Development Code language to enact the required Title 4 protections for RSIA.



Sroz.shp

- n
- y
- Tier 1
- Tier 2
- New Employment
- Remove Designation

Title4

- EMPLOYMENT
- INDUSTRIAL
- UGB



Wilsonville RSIA Analysis

Area 10 – Tualatin Industrial Area

General Description

The Tualatin industrial area begins west of 95th along Tualatin Sherwood Rd. north to Tualatin road and just south of Tualatin Sherwood Rd. to 120th. This is a very dense industrial area that is well served with internal road connections. The access points to Hwy 99W and I-5 are congested.

Factor Analysis

Distribution

- This area does not serve as a support facility for the regional transportation facilities.

Services

- Basic services are available. Unknown if specialty gases or redundant electric power is available.

Access

- The area is within 3 miles of I-5

Proximity

- The area is not connected to other industrial areas. This area is bordered on the north and southwest by residential development. Directly to the west is downtown Tualatin and to the south is the UGB.

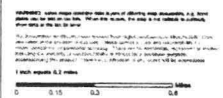
Use

- A range of local industrial uses is located in this area. The uses include a UPS facility, Air Liquide facility, Hansen Pipe, Lile Moving and Storage, Pacific Foods, Milgard Windows and machine parts fabrication.

Summary

The connection to I-5 is less than 3 miles but is congested. Because of the congestion at the access points to I-5 and 99W the area will not function as warehousing and distribution district. What exists now is general manufacturing. Hedges Creek, north of Tualatin Sherwood Rd. runs through the only vacant 50+-acre parcel in the area. At present this area is locally significant but not regionally significant.

The Council brought the Tigard Sand and Gravel site into the UGB in 2002. To south of the existing industrial area and adjacent to the quarry there are rural lands that would meet the criteria for industrial uses. Additional vacant land and the Highway 99W-I5 connector improving access to this area and north Wilsonville could result in connecting the two industrial areas and providing a Regional Significant Industrial Area that would anchor the south end of the region.



Area 11- Tigard-Durham Industrial Areas

General Description

Hunziker Road borders area 11 to the north, Boones Ferry Road to the south and east, and Hall Boulevard to the west. It is composed of three islands of Title 4 industrial land arranged in a loose column, with a small section on the top referred to as "A", a long narrow section in the middle "B" and a small section on the bottom of the grouping "C." Area A has a mixture of zoning around it including light industrial, residential and commercial. Area B has light and mixed-use industrial on the east and single and multifamily on the west. Area C is surrounded by a mixture of office commercial, light industrial and single and multifamily residential zoning.

Factor Analysis

Distribution

- This area does not serve as support industrial land for major regional transportation facilities.

Services

- Basic services are available.

Access

- This area is within 3 miles of I-5.

Proximity

- This area is not located within close proximity of like uses. The uses around it are varied-commercial, residential, light industrial-they are not solely industrial in nature.

Use

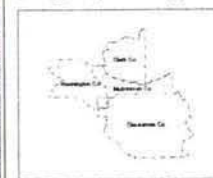
- This area has general industrial uses and office parks. The uses are predominantly industrial.

Summary

Area 11 is flanked by residential and commercial uses, and employment land on the east. It is a constrained linear area with office parks and other industrial uses. The three islands of Title 4 industrial land that comprise Area 11 are not in close proximity to each other, so it is unlikely the area will expand or be maintained over time due to the mosaic of zoning around it. The area does not serve to support industrial land for regional transportation facilities, it does not have specialized utilities and services, and it is not within close proximity to like uses due to the presence of residential and commercial zones. Area 11 in the City of Tigard primarily functions as a local industrial area and would not be appropriate as a RSIA. Comments from the City of Tigard and the City of Durham area attached.

Metro staff concurs with the City's recommendation not to designate this area as a RSIA.

As a consequence of this, the model may be regarded as a simple, but effective, means of representing the complex interactions between the various components of the system. The model is based on the assumption that the system is a complex, interacting system, and that the interactions between the components are non-linear and non-reversible. The model is based on the assumption that the system is a complex, interacting system, and that the interactions between the components are non-linear and non-reversible. The model is based on the assumption that the system is a complex, interacting system, and that the interactions between the components are non-linear and non-reversible.



Location Map



WE'VE GOT DATA. WE'VE GOT THE EXPERTISE.
WE'VE GOT THE IDEAS. WE'VE GOT THE SOLUTIONS.
WE'VE GOT THE TEAM. WE'VE GOT THE RESULTS.



City of Durham

17160 SW Upper Boones Ferry Rd.
P.O. Box 23483, Durham, Oregon 97281
Roel C. Lundquist - Administrator/Recorder

e-mail: durhamcity@aol.com
(503) 639-6851 Fax (503) 598-8595
Linda Smith, Administrative Assistant

September 9, 2003

Tim O'Brien, AICP
Associate Regional Planner
Metro Regional Planning Division
600 NE Grand Avenue
Portland, OR 97232

Re: Metro's Proposed Inclusion of Durham in Area 11 of Industrial Lands (Title 4)

Dear Tim:

I noticed that you were called upon to review the draft map on Identifying 2003 Industrial Land Alternatives Analysis Study Areas at the July 9th MPAC meeting. I was wondering if this relates to the *Potential Regionally Significant Industrial Areas* map that was adopted by Metro Ordinance NO. 02-969B. If so, you might be a resource person related to my concerns that the southern section of Area 11 on the map totally engulfs Durham. Of course, this is incorrect.

Based on the March 11th letter from Andy Cotugno, I realize that this *Generalized* map will be refined. My concern is that properties in Durham will not be incorrectly included on a more defined final inventory map.

Please advise if you are the proper contact person for this topic.

Sincerely,

Roel C. Lundquist
City Administrator

C: K.J. Won, City Planner

July 18, 2003

Marci LaBerge, AICP
Growth Management Services
Metro
600 NE Grand Ave.
Portland, OR 97232-2736



RE; RSIA's

To follow up on our meeting today, the factors need to be clearly stated and understandable. As written, they are left to interpretation. The list of "Reasons not to designate an industrial area as a RSIA" should also include: It does not meet one or more of the factors for designating an area as a RSIA.

With regard to the designated RSIA map, there were several points discussed. First of all, the entire area is built out with a few remaining vacant lots which are hindered by natural resources (Fanno Creek). The remaining vacant parcels of substantial size (2S1010000800 and 2S1010001100) include steep slopes making the property questionable for large industrial uses. For those reasons, we recommend removing this designation from the entire area.

The final point discussed addressed Title 4 and the employment area designation. As designated, the employment area centers on SW 72nd Avenue. The area is highly parcelized and developed. A majority of activities are relatively new and will not redevelop for several years at best. Current zoning for the area has been in effect prior to January 1, 2003. Otherwise, there would be numerous non-conforming uses. Also, Tigard is listed on Table 3.07-4 and is therefore exempted from Title 4 protection.

Thank you for meeting with us. Should you have any questions, please feel free to contact me.

Sincerely,


JAMES N.P. HENDRYX
Director of Community Development

Areas 12 and 16- Clackamas County Industrial

Area 12 – 212/224 distribution area

The sub-section of area 12 being considered by Clackamas County staff for RSIA designation is located along Highway 212/224, north of the Clackamas River, between I-205 and 135th Avenue. The area consists of light industrial and general industrial zoning.

Factor Analysis

Distribution

- The Southern Pacific Railroad serves land south of Highway 212/224. The area is within 20 minutes of Portland International Airport.

Services

- The area is provided with full urban services. The analysis does not indicate whether specialty services are available.

Access

- This area is approximately a quarter mile from I-205 and directly south of Highway 212/224.

Proximity

- The area is in close proximity to light and general Industrial lands.

Use

- This area is predominantly industrial.

Area 16- Harney Road/Johnson Creek Area

Area 16 is bordered by Harney/Clatsop on the north, Johnson Creek/Brookside/Firwood/Overland on the south, 78th on the east and 40th on the west. On the north, south and west sides of area 16 the majority of land is zoned residential, on the east the zoning is multifamily and mixed use.

Factor Analysis

Distribution

- This area does not serve as support industrial land for major regional transportation facilities such as marine terminals, airports and rail yards.

Services

- This area does not have availability and access to specialized utilities.

Access

- This area is within 3 miles of I-205.

Proximity

- This area is not located within close proximity to existing like uses; it is surrounded by residential uses.

Use

- This area has predominantly industrial uses.

Summary: Area 12 & 16

Clackamas County prepared an assessment of Areas 12 and 16. The County found that area 12, south of Highway 212/224 functioned as a distribution area, provided full urban services and most of the uses are associated with warehousing and distribution activities. It is recommended by staff that the areas south be designated as a RSIA. The area north of Highway 212/224 was a mix of commercial, residential and industrial uses. The area north would also be impacted by construction of the Sunrise Facility. It is not recommended for designation as a RSIA.

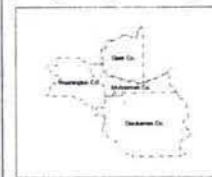
Area 16 in the Johnson Creek area is served by rail and within 20 minutes of the airport. All lands surrounding the boundaries of Area 16 are developed with residential land uses and the area is completely developed with a variety of small manufacturing uses. Area 16 is not appropriate to be designated as a RSIA.

Metro Staff concurs with the County's analysis. More detailed information from the County is attached to this memorandum.

Study Areas 8 and 16

WARNING: This map is a reproduction of a map prepared by the City of Happy Valley. It is not a legal document. It is not intended to be used as a legal document. It is not intended to be used as a legal document. It is not intended to be used as a legal document.

Scale: 1 inch = 1 mile



Location Map



North

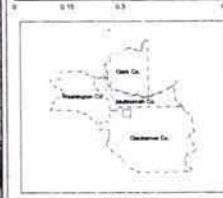
Metropolitan Planning Commission
1000 North 10th Street, Suite 100
Anchorage, Alaska 99503
Phone: 907-561-1111 Fax: 907-561-1112
www.mpc.ak.gov

Study Area 12



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Scale: 1 inch = 1 mile



CLACKAMAS COUNTY
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 Fax: 503-646-1001
 Website: www.clackamas.gov



DEPARTMENT OF
TRANSPORTATION AND DEVELOPMENT

Sunnybrook Service Center

October 9, 2003

TO: Mary Weber, Manager Community Development

FROM: Lorraine Gonzales, Planner; Doug McClain, Planning Director 

RE: Title 4 Regionally Significant Industrial Areas

This memorandum is Clackamas County staff's response to Metro's request to identify Regionally Significant Industrial Areas (RSIA) within Clackamas County. Metro identified three candidate areas within the "old" UGB. We understand that the RSIA in Damascus, recently added to the UGB, will be refined as part of the concept planning process. We believe the area south of Highway 212, generally known as the Clackamas Industrial Area, should be designated as a RSIA. Included with this memorandum is a map depicting our recommendation, and several aerial photographs that reveal the development pattern for the areas. The rationale for our recommendation follows.

Area Descriptions

Area 1/2 **Area 1 (Hwy 212/224):**

This area is located along Hwy 212/224 north of the Clackamas River, between Hwy I-205 and 135th Avenue. Area 1 has 865.67 acres of Light Industrial (I-2) and 492.39 acres of General Industrial (I-3) land.

Area 1/6 **Area 2 (Johnson Creek Industrial Area):**

This area is located along Johnson Creek Blvd. between the 55th Avenue and SE Luther Ave. This area has 129.71 acres of Light Industrial (I-2) land and 129.69 acres of General Industrial (I-3) land.

Area 3 (Lake Road Industrial Area):

This area is located north between Hwy. 224 and Lake Road and the railroad tracks, between I-205 and Harmony Road. This area has 22.00 acres of Light Industrial (I-2) land and 104.31 acres of General Industrial (I-3) land.

Evaluation

Our evaluation is based on Policies 1.4.1 and 1.4.2 of Title 4, and the "recommended

factors” provided by Metro staff in a June 30, 2003, memo to MTAC. Our evaluation follows the outline of recommended factors set forth in the Metro staff memo.

Distribution:

Area 1: Land south of Hwy 212/224 is served by the Southern Pacific Railroad. The area is within 20 minutes of Portland International Airport.

Area 2: The Southern Pacific Railroad intersects this area. This area also is within 20 minutes of Portland International Airport.

Area 3: This area is served by rail, located on the northern boundary of the industrially-zoned properties. It is within 20 minutes of the Portland International Airport.

Services:

All areas are provided with full urban services.

Access:

Areas 1: This area is approximately a quarter mile from I-205 and directly south of Hwy 212/224.

Area 2: Hwy 224 is directly south and abutting the area and I-205 is approximately ½ mile east of this area.

Area 3: I-205 is approximately one mile east. The area is located adjacent to SE Johnson Creek Blvd., a minor arterial.

Proximity and Use

Areas 1: Land uses north of this area include additional I-2 and I-3 industrial lands. However, the north side of Hwy 212 has a mixture of residential and industrial zoning. The industrially-zoned area north of the Highway includes several small parcels, with a mix of industrial and non-conforming commercial uses. This area north of the Hwy 21/224 also will be impacted by construction of the Sunrise Facility. Further north, separated by a residential area and large mobile home park, is Camp Withycombe. North of Camp Withycombe is an area zoned I-2, that is developed with smaller manufacturing businesses.

The recommended RSIA area is bounded on the south by a bluff overlooking the Clackamas River; this bluff serves as a natural boundary. Zoning south of this bluff is Exclusive Farm Use (EFU), Open Space (OSM) and Residential (R-20). The rail line provides a boundary west. The area between I-205 and the industrial area is developed with general commercial uses, consistent with the zoning. The area to the east at 135th Ave. is zoned Community Commercial, a designation providing for commercial uses supportive of the industrial area. Two mobile home parks also are located east of the

recommended RSIA.

Land uses in the area recommended for designation as RSIA are predominately industrial. Many are associated with warehouse and distribution activities, although there are other general manufacturing activities also located in this area. There are very few residential uses in the area. As the aerial photos show, most of the area is developed. There are two surface mining sites in this area which may eventually be redeveloped.

Area 2: Lands north of the site are designated as Open Space Management (OSM) and are in public ownership. Most of the area adjacent on the north is in the floodplain of Mt. Scott Creek. The City of Milwaukie is located to the east, across SE Harmony Rd. The area within the City has a mix of commercial, office and industrial uses. The City is not intending to recommend the RSIA designation for this adjacent area. Land uses east of the site include a mix of commercial and industrial uses, reflecting the zoning pattern for the area. Hwy 224 is the southern boundary of this area; the area south of Hwy 224 is generally residential. The property within this area is completely developed with industrial uses.

Area 3: All lands surrounding the boundaries of Area 3 are developed with residential land uses. The industrially-zoned area is almost completely developed with a variety of small manufacturing uses.

Reasons not to designate an industrial area as a RSIA.

The Metro memorandum dated June 30, 2003 gave the following four examples as reasons not to designate industrial land as a RSIA:

- The industrial site/area is surrounded on several sides by residential uses. In this case it is unlikely that the area will be expanded or maintained over time because of the conflicts with residential uses.
- Existing non-conforming uses located within the area make it unlikely that the conflict between uses will diminish and that over time the area might be better zoned for employment uses or mixed uses.
- Flexibility of employment uses on the site is important for redevelopment to occur.
- Is located in a high demand area for residential use and would be well served by transit if a transition was to occur.

The industrial lands north of Hwy 212/224 in Area 1 is not suitable for designation as a RSIA. These industrially-zoned properties are located within proximity to residential uses (the areas zoned R-7), and have an assortment of existing non-conforming uses on small parcels. These lands are not considered to be well-suited for large-scale industrial developments.

Area 2 should not be designated a RSIA. A majority of the lands within Area 2 are fully developed and do not allow flexibility for future regionally-scaled industrial development. This area also is small and isolated. If the area within the City of Milwaukie, on the west, was suitable for designation as a RSIA, it might make sense to include Area 2. Discussions with the City establish that this area is not suitable for such a designation.

Area 3 does not meet the standards for designation as a RSIA based on adjacent east, west, north and south residential developments. This area is small in size, characterized by small businesses located on small parcels, and is isolated by these surrounding residential uses.

Conclusion:

We recommend designating the industrially-zoned area south of Highway 212/224 as a RSIA. The appropriate area is shown on the attached map.

Area 13 – Forest Grove Industrial Areas

General Description

Area 13 is in the City of Forest Grove. The industrial land is roughly bordered by NW Verboort on the north, Tualatin Valley Highway on the south, NW Cornelius-Schefflin Road on the east, and NW Sunset Drive on the west. The majority of the industrial land is on the north side of Pacific Avenue that cuts through the center of Forest Grove. This area is adjacent to agricultural land to the north and residential uses to the south including mobile home parks. The smaller portion of industrial land to the south is also adjacent to agricultural land. The area consists primarily of light and heavy industrial zoning.

Factor Analysis

Distribution

- This area does not serve as support industrial land for major regional transportation facilities such as marine terminals or rail yards. The railroad runs through the area, but is not a major link. The Hillsboro airport is approximately 6 miles away.

Services

- Basic services are available.

Access

- This area is not within 3 miles of I-5, I-205 or I-84.

Proximity

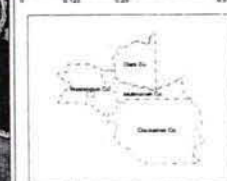
- This area is in close proximity to high-tech uses in Forest Grove's employment areas.

Use

- The area is predominantly industrial with the exception of the undeveloped area south of Highway 47, which has some residential and non-conforming uses.

Summary

Forest Grove does not recommend this area for RSIA designation because it does not serve as support industrial for major regional transportation facilities; it lacks specialized utilities and has poor access to major transportation infrastructure. Area 13 functions as a local industrial area, but would not be appropriate for RSIA designation. Metro staff does not recommend this area for designation as a RSIA.



Location Map



METRO-GA LA PUBLICAITE CENTER
 600 NORTH HAZARD STREET, SUITE 200
 TEL: (800) 757-1742 FAX: (800) 757-1888
 www.metro-ga.com

Area 15 - East County Industrial Areas

General Description

Area 15 is comprised of four "islands" of land that are physically separate and located in four jurisdictions: Fairview, Gresham, Troutdale and Wood Village. The islands share few characteristics in common so are described individually.

Island A is bordered by Burnside on the north, Division on the south, Wallula on the east and 182nd on the west. It is located in the city of Gresham. The zoning in the area consists of multifamily and heavy and mixed-use industrial on the north, single family residential with mixed-use, and industrial on the south and mostly single and multifamily residential on the west.

Island B is bordered by Halsey on the north, Stark on the south, 242nd/Hogan on the east, and 210/202 on the west. It is located in the cities of Fairview and Gresham. The zoning in this area consists of park and open space and mixed use on the north, mixed use industrial on the east, single family residential and commercial on the south, and mixed use industrial on the west.

Island C is bordered by Stark on the north, Cochran on the south, Troutdale on the east, and Kane on the west. It is located in Troutdale. The zoning consists of multifamily residential and commercial on the north, rural residential with agricultural uses on the south, single family residential and a small amount of commercial on the east, and Mount Hood Community College on the west. Island C is undeveloped land.

Island D is bordered by Roberts/Palmquist on the north, Telford on the south, Palmblad on the east and Hogan/Cedar on the west. It is located in Gresham. The zoning in the area consists of multifamily on the north, single family and rural residential on the south, single family on the east, and industrial and single family on the west.

Factor Analysis

Distribution

- This area (A-D) does not serve as support industrial land for major regional transportation facilities such as marine terminals, airports or rail yards.

Services

- Micro Chip Technology Inc. and/or LSI Logic Corp, may have specialized utilities on island B. No specialized utilities on island C. It is doubtful that islands A and D have specialized utilities.

Access

- This area is within 3 miles of I-84.

Proximity

- Islands A, C and D are not within close proximity to existing like uses; they are surrounded by residential and institutional uses. Island B contains Micro Chip Technology Inc. and LSI Logic Corp which hold large parcels of land. This factor would apply to island B.

Use

- Islands A, B and D have primarily industrial uses. Island C is undeveloped land with an extensive tree canopy. This factor would not apply to island C.

Summary

Area 15 is too geographically dispersed to function as a cohesive industrial district. Area 15 does not serve as support industrial land for major regional transportation facilities, but is within 3 miles of I-84. Islands examined individually also show little potential for RSIA designation. Islands A and D are surrounded on several sides by residential uses and it is unlikely that these areas will expand or be maintained over time as industrial due to conflicts with residential uses. Island C is undeveloped and flanked by a college on one side and housing on the other. The land will most likely develop as an accessory use to the college. Island B, with very little Title 4 industrial land, is flanked on the east and west by Title 4 employment land held in large parcels by Micro Chip Technology Inc. and LSI Logic Corp.

Metro staff does not recommend this area for designation as a RSIA.





Area 17- Highway 217

General Description

This area is bordered by Beaverton-Hillsdale Highway on the north, Scholls Ferry on the east, Lombard on the west and Hall Boulevard on the south. The zoning in the area is characterized by single family residential on the east and west with multifamily along Allen Boulevard. There are commercial and mixed-use zones on the north, and industrial and single family residential on the south.

Factor Analysis

Distribution

- This area does not serve as support industrial land for major regional transportation facilities such as marine terminals, airports or rail yards.

Services

- Basic services are available.

Access

- This area is not within 3 miles of I-5, I-205 or I-84.

Proximity

- This area is near an industrial area on the south, but is surrounded by residential, mixed use, and commercial uses.

Use

- This industrial area is converting to other uses that are not purely industrial. Many parcels are vacant or underutilized. Although it is changing, currently it is a viable industrial area.

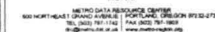
Summary

Area 17 is surrounded on several sides by residential uses. In this case it is unlikely that the industrial nature of this area will expand or be maintained over time because of conflicts with residential uses. It is not a good warehouse location due to poor truck access to major transportation facilities and lacks room for turning movement. It is not a purely industrial area and is going through a conversion to other uses, some of which are only temporary in nature. For example, there are vacant and underutilized lots, many of which are used to store cars by local automobile agencies. Area 17 works as a local industrial area and is not appropriate for designation as a RSIA.



Die Untersuchung der folgenden Punkte ist dem Verfasser unbekannt und ist deshalb nicht möglich. Die Untersuchung der folgenden Punkte ist dem Verfasser unbekannt und ist deshalb nicht möglich.

1 inch equals 0.1 meter



Area 18 – Central Eastside Industrial District

General Description

Area 18 is bordered by I-84 on the north, Powell on the south, 12th on the east and the Willamette River on the west. On the north side of Area 18 the land is zoned mixed use, on the south it is zoned commercial and residential, on the east the zoning is residential and on the west are the Willamette River and Portland's Central Business District.

Factor Analysis

Distribution

- This area does not serve as support industrial land for major regional transportation facilities such as marine terminals, airports and rail yards.

Services

- This area does not have availability and access to specialized utilities.

Access

- This area is within 3 miles of I-5 and I-84.

Proximity

- This area is not located within close proximity to existing like uses; it is surrounded by residential uses.

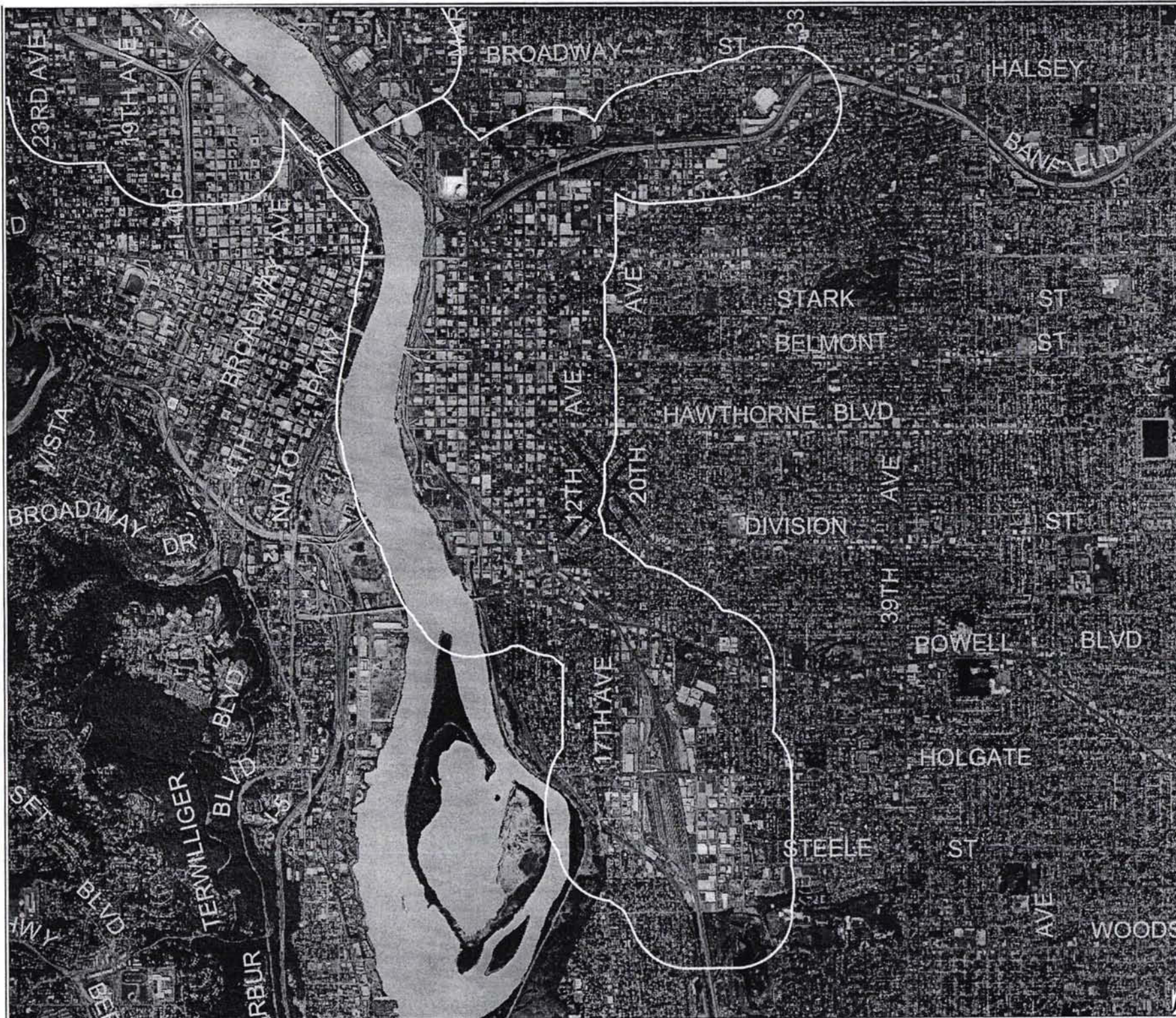
Use

- This area has a mixture of uses both commercial and industrial, but it is predominantly industrial in nature.

Summary

Area 18 is also known as the Central Eastside Industrial District. It is an old industrial area with short blocks that constrain truck-turning movement. Although it is located near freeway facilities access is limited by a one-way couplet. The Willamette River on the west and residential uses on the east border for the length of the area. It is unlikely that the area will expand or be maintained for industrial uses over time because of the conflicts with residential and commercial uses. The area is located in a high demand area for residential development. The City is currently exploring opportunities to adjust the industrial zoning code to facilitate growth of industrial service firms, (e.g. engineering) and industrial like service firms (e.g. creative services and software development) that would conflict with the professional office limitation in Title 4. Metro staff concurs with the City of Portland's recommendation that this area is not appropriate for designation as a RSIA.

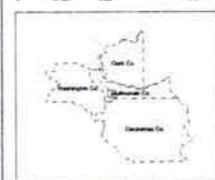
Study Area 18



Map data is derived from the U.S. Department of the Interior, Bureau of Land Management, and the U.S. Geological Survey. Map data is derived from the U.S. Department of the Interior, Bureau of Land Management, and the U.S. Geological Survey.

Map data is derived from the U.S. Department of the Interior, Bureau of Land Management, and the U.S. Geological Survey. Map data is derived from the U.S. Department of the Interior, Bureau of Land Management, and the U.S. Geological Survey.

Map data is derived from the U.S. Department of the Interior, Bureau of Land Management, and the U.S. Geological Survey. Map data is derived from the U.S. Department of the Interior, Bureau of Land Management, and the U.S. Geological Survey.



Location Map

Map data is derived from the U.S. Department of the Interior, Bureau of Land Management, and the U.S. Geological Survey. Map data is derived from the U.S. Department of the Interior, Bureau of Land Management, and the U.S. Geological Survey.

June 30, 2003

To: MTAC

From: Mary Weber, Manager
Community Development

Regarding: Recommended Factors for identifying RSIA's

Introduction

As part of Ordinance 02-969B, Title 4 was amended to include Regionally Significant Industrial Areas (RSIA),

As reported in the *Urban Growth Report: An Employment Land Need Analysis 2002-2022*, the supply of industrial land is often eroded by commercial absorption. Historical experience suggests 15% to 20% of industrial land is consumed by commercial enterprises operating in industrial zones¹. Under past practices and policies, Metro estimates about 2,800 net acres of industrial land would be converted commercial uses/development over the 20 year planning period. We estimate that about half (or 1,400 net acres) of the industrial land will be protected by the new regulations. As reported in the *Urban Growth Report: An Employment Land Need Analysis 2002-2022*, the industrial land shortfall is 5,684.9 net acres but with the additional RSIA protection limiting conversion by 1,400 net acres, the net shortfall of industrial land is 4,284.9 net acres².

In concept RSIA's are industrial areas with unique industrial attributes that cannot be duplicated elsewhere in the region especially by the mere expansion of the UGB. Such places might include areas adjacent to the Port of Portland terminal facilities, near rail yards, or adjacent to high tech locations need specialty gasses, electrical infrastructure and so on. A concept map depicting those industrial areas in the pre-expansion urban growth boundary was included in the ordinance. By December 31, 2003, Metro is required to adopt a map of RSIA land with specific boundaries derived from the generalized map adopted in Ordinance No. 02-969B.

As part of the discussion about these new regional regulations was the promise to re-look at the new restrictions and possibly refine the code language before the Metro is required to adopt the RSIA map in December. As Metro and the jurisdictions work to identify the specific boundaries, MTAC may also choose to re-examine the regulatory language. A copy of the adopted code language is attached.

Finally, questions have arisen as to what if any benefits will the local jurisdiction receive if an industrial area is designated as an RSIA. In the MTIP, transportation projects can be awarded a higher percentage of the total project cost (89.73 versus 70 percent) if the project "highly benefits" industrial areas. However the resolution establishing this advantage does not differentiate between RSIA land and other industrial areas.

¹ UGR page 31

² UGR Addendum page 46

Drafting the Concept Map of RSIA's

The RSIA concept map was developed by superimposing the Title 4 map, the RTP intermodal map, and the Industrial Employment Losses and Gains maps produced from the MetroScope base case model run covering the time period from 2000-2025. The results of this analysis are reflected in the concept map that shows the areas where these regulations might apply. In general the gains (circled on the map in red) are expected in the large industrial areas comprised of the Columbia Corridor, the Portland Harbor, the Clackamas Industrial District, the Tualatin/Wilsonville Industrial District and the Hillsboro Industrial District. While conversely, industrial losses (circled on the map in yellow) are likely to occur in the Central City, Eastside Industrial area, Highway 217 corridor, Highway 224 corridor and Vancouver CBD³.

Ordinance Intent

Code section 3.7.420 A states that:

Regionally Significant Industrial Areas are those areas that offer the best opportunities for family-wage industrial jobs. Each city and county with land use planning authority over areas shown on the Generalized Map of Regionally Significant Industrial Areas adopted in Ordinance No. 02-969 shall drive specific plan designation and zoning district boundaries of the areas from the Map, taking into account the location of existing uses that would not conform to the limitations on non-industrial uses in subsection C, D and E of the section and the need of individual cities and counties to achieve a mix of types of employment uses.

Recommended Factors

RSIA's are industrial areas with unique industrial attributes that cannot be duplicated elsewhere in the region especially by the expansion of the UGB. Industrial areas to consider for designation as Regionally Significant Industrial Areas conform to some or all of the following factors:

Distribution

- Areas serve as support industrial land for major regional transportation facilities such as marine terminals, airports and rail yards.

Services

- Availability and access to specialized utilities such as specialty gases, triple redundant power, abundant water, dedicated fire and emergency response services

Access

- Within three miles of I-5, I-205, I-84 (within the UGB), State Route 224 (within the UGB), the Columbia Corridor

Proximity

- Located within close proximity of existing like uses

Use

- Predominately industrial uses

³ Information is based on MetroScope modeling results

Reasons not to designate an industrial area as a RSIA

Not all industrial areas need additional restrictions that come with the RSIA designation. Here are a few examples of reasons why an industrial area should not be designated as a RSIA.

- The industrial site/area is surrounded on several sides by residential uses. In this case it is unlikely that the area will expanded or be maintained over time because of the conflicts with residential uses.
- Existing non-conforming uses make it unlikely that the conflict between uses will diminish and that over time the area might be better zoned for employment uses.
- Flexibility of employment uses on the site is important for redevelopment to occur.

DATE: July 29, 2003

TO: Mary Weber, Manger Community Development

FROM: Marci La Berge, Associate Regional Planner

RE: *SUMMARY OF MEETINGS HELD DURING JULY 2003 WITH JURISDICTIONS REGARDING DISCUSSION OF TITLE 4, RSIA EVALUATION FACTORS, AND THE RSIA CONCEPT MAP.*

Introduction

The following information summarizes the meetings held with jurisdictions and agencies with potential RSIA lands, as shown on the concept map adopted in Ordinance 02-969B, as part of the December 2002 periodic review decision. Discussion at the meetings focused on three items: Title 4, RSIA evaluation factors, and the concept map.

There was little concern voiced about the evaluation factors, and most jurisdictions indicated they could work with them. The few specific comments made were regarding

- high degree of service of some items listed under Services,
- words that would better express factors or highways to be added to Access, and
- questioned number of the factors to be met.

The Title 4 RSIA discussion ranged from comments that the language allows jurisdictions flexibility, to the language is too restrictive and will inhibit development. Themes that were heard from more than one jurisdiction included:

- Concern about implementation of 5% commercial cap in RSIA's.
- Concern that Metro is doing regional zoning.
- Title 4 is too restrictive economic development requires flexibility.
- The issue is land use planning versus market readiness.
- Jurisdictions currently have effective zoning that protects the industrial areas.
- What is the benefit of the RSIA designation, what is the incentive?
- Need incentives for businesses to locate in centers rather than desirable less expensive industrial areas.

During the discussion of refining the concept map, the following issues were expressed:

- The need to talk to industrial property owners to see if they would want a RSIA designation on their lands.
- The RSIA designation would prevent the jurisdiction from achieving future development goals that depart from an industrial use.
- Need incentives for jurisdictions to want to designate land as a RSIA.

Jurisdictions were not certain if they could meet with their councils, commissions, and industrial property owners by the December 2003 adoption schedule. Many were skeptical whether they could identify enough land with the right attributes for a RSIA. This was due to existing small

industrial parcels, mixed uses, environmental considerations, and incompatible uses. Where there are currently vacant or underutilized industrial properties jurisdiction staff indicated that the RSIA design type would restrict their development options.

Meeting Summaries

Beaverton

Study Map Area: # 17

Planning Staff: Hal Bergsma, Steve Sparks

Title 4 issues

- No problems with Title 4 language.
- Within the area of I-5, 217, near Western and Allen there are existing warehousing uses interspersed with other uses.
- The east side of Western is parcelized. It is a viable industrial area with conversion occurring. Due to poor truck access and constrained turning movements it is not a suitable warehouse location. Don't want to loose the industrial uses, but it is not appropriate for a RSIA designation. Considerable amount of industrial property is vacant or underutilized; for example, land is being used for vehicle storage by the many automobile businesses in Beaverton.
- To address the concerns about the workability of the 5% commercial cap in a RSIA (Title 4 section 3.07.420D.2), suggested Metro looks at Beaverton's Development Control Areas language (section 20.15.60). Adjacent jurisdictions could pre-agree to a quota; an intergovernmental agreement written into the code that describes how the 5% will be apportioned.

60

Clackamas County

Study Map Area: #12, 16

Planning Staff: Greg Jenks, Doug McClain

Title 4 issues

- Title 4 is too restrictive.
- The issue is land use planning versus market readiness.
- Large institutional uses such as hospitals with a research component should be an allowed use in a RSIA.
- Assembling of lots will probably not occur within the area of the potential RSIA.
- North side of highway 212 there are retail uses.
- South side of highway 212 are industrial uses, potential for RSIA designation.
- Federally owned Camp Withycome area would not be a RSIA.

Evaluation Factors

- Under Services, abundant water is a high threshold to meet. Otherwise OK.

Cornelius

Study Map Area: #13

Planning Staff: Richard Meyer

Title 4 issues

- Has no problems with Title 4 language
- Would very much like industrial land designated as RSIA
- Cornelius has warehousing and manufacturing activities that support other industries in the western sector of the region. Stewart Stiles refrigerated warehouses for high tech needs and canning operations that support agriculture of region. Supportive industries that are important to key clusters.
- Sees RSIA designation as a very positive thing for Cornelius.

Evaluation Factors

- Sees factors as too restrictive, would be difficult to meet them depending on how many had to be met.
- Area is six miles from US26, and US26 is not listed with other highways under the access factor.

Fairview, Troutdale, Wood Village

Study Map Area: # 6, 7

Planning Staff: John Andersen, Rich Faith, Sheila Ritz

Title 4 issues

- Language is not flexible, and may prevent jurisdictions from implementing plans for future development of industrial areas located in potential RSIA land.
- Concerned about the workability of the 5% cap on commercial uses in a RSIA. How would commercial uses be divided between two or three adjacent jurisdictions, and how would it be monitored over time?
- Much of their land has Goal 5 considerations due to its proximity to the Columbia River. Would like to see those areas develop with recreational uses instead of manufacturing.
- Large parcel west of the former aluminum plant may be possible RSIA candidate.

Forest Grove

Study Map Area: #13

Planning Staff: Jon Holan

Title 4 issues

- No issue with commercial limits
- Lot limitation not an issue
- What is the incentive for industrial lands to be defined as a RSIA?
- Have some nonconforming residential uses in the industrial areas.

Factors

- Thinks that triple redundancy power is unnecessary, double redundancy works fine for Forest Groves high tech firms.

Gresham

Study Map Area: # 6, 7, 15

Planning Staff: John Pettis, Ron Bunch, Terry Vanderkooy.

Title 4 issues

Gresham produced a memo stating its concerns about the Title 4 standards for Regionally Significant Industrial Areas. Wanted to postpone discussion of evaluation criteria or drawing lines on the refined concept map until Title 4 concerns were addressed.

- Concerned that the lack of flexibility may prevent jurisdictions from accommodating changes in trends and the next wave of industrial development.
- How to implement (section 3.07.420D) 20,000 square foot cap and the 5% cap on commercial retail use.
- Why is Research and Development treated differently from manufacturing uses?
- The transit requirement puts suburban communities such as Gresham at a disadvantage for attracting R&D.
- Title 4 needs to broaden its scope of the kinds of offices allowed in the RSIA beyond R&D and corporate office headquarters.
- Suggested creation of a model code for Title 4 with performance standards.

Evaluation Factors

- Would not comment at this time.

Hillsboro

Study Map Area: # 1

Planning Staff: Karla Antonini, Wink Brooks

Title 4 issues

- Can't put everything in Centers. Need incentives for businesses to locate there.
- Offer incentives to encourage uses to locate in Centers, without prohibiting them from locating in other areas.
- Uses such as call centers should be allowed in industrial areas, where rents are affordable.
- Commercial restrictions in Title 4 are not a problem for Hillsboro.
- Have problem with sections E, F and G of Title 4, as being too restrictive and would prevent Hillsboro from agreeing to a RSIA designation. Hillsboro has a myriad of plans for large development projects on the table. They have experience and success parcelizing large lots and also assembling small lots into large ones.

Milwaukie

Study Map Area: #16

Planning Staff: John Guessner

Title 4 issues

- Has no problem with Title 4 language.
- Would like to explore designating industrial land in two locations (perhaps as RSIA) on the Title 4 map. One north of the Milwaukie town center and another area (approximately 300 acres) on the north side of Highway 224.

Evaluation Factors

- Add fiber optics to Services factor.

Oregon City

Planning Staff: Dan Drentlaw, Commissioner Doug Neeley

Title 4 issues

- Would like to designate approximately 250 acres of new land that was annexed into the 2002 UGB expansion.
- They believe RSIA designation can be a marketing tool.
- Being adjacent to a college, industry could use the school as a training base.
- Highway 213 is in close proximity of the area.

Evaluation Factors

- Requested that Highway 213 be added to the Access factor.

Portland

Study Map Area: # 2, 3, 4, 5, 6, 8, 14, 18

Planning Staff: Bob Clay, Al Burns, Troy Doss, Elissa Gertler

Title 4 issues

- Supportive of Title 4 language.
- It is broad enough to allow flexibility to jurisdictions.
- Suggested leaving it flexible with no further use and lot size restrictions.
- The regional discussion comes down to market versus land use goals.

Evaluation factors

- Agreed that factors look good for now.

Concept Map

Not ready to provide suggestions on locations of RSIA's. Will need to bring suggestions through the chain of command. Will provide information by July 28.

Columbia Corridor Environmental and land use committee

Mary Gibson contact.

Title 4 issues

- There needs to be citizen participation.
- There should be a tax lot based mailing so that property owners can fully participate in a public process
- Need to know what it means to be in a RSIA and out of a RSIA
- There should be more flexibility after Metro adopts its map and when jurisdictions go through their public process and adopt a map. Metro needs to honor the changes that come about after the public hearings.

Port of Portland

Study Map Area: # 1, 2, 3, 4, 5, 7

Planning Staff: Brian Campbell, Mary Gibson, Peggy Krause, Tom Bouillion

Title 4 issues

- Strongly support the principles and concepts contained in Title 4. Need to look at finer points to get it right. Need to define terms.
- Perhaps there should be the designation of regionally significant transportation facilities for airports.
- PDX has retail
- How many 50 acres industrial lots are there in the region.

Evaluation factors

- Highway 26 should be added to the list of Access factors.
- Under Access factor add Boulevard so that it reads Columbia Boulevard Corridor.

Sherwood

Study Map Area: # 10

Planning Staff: Dave Wechner

Title 4 issues

- RSIA could work in Sherwood if connector is built between 99W and I-5. Tualatin Sherwood Road is a disincentive for business to locate in Sherwood.
- Railroad line is underutilized and trains are not very frequent. Needs a railroad siding.
- Sherwood has a large 90-acre plus parcel of land, but no one is coming in. There need to be incentives to attract industry.

Evaluation Factors

- Under Access factor, suggests that travel time presents a more realistic measure than using distance (within three miles of a particular highway).

Tigard

Study Map Area: # 11

Planning Staff: Jim Hendryx, Barbara Shields, Dick Bewersdorff

Title 4 issues

- Industrial area is already parcelized.
- Railroad goes through the area but is not a major link.
- General industrial uses, office incubator type spaces.
- Area on concept map is a linear constrained area with office parks and other industrial uses.
- Access close to freeway.
- Small industrial flex, office and services.
- Need definitions in Title 4 such as, what is a RSIA, industrial job, and office. difficult to know what Metro is talking about without clear definitions.
- Clarify language in Table 3.07-4. Tigard has five zones please list all zones or just say Tigard.
- RSIA not appropriate for this area.

Evaluation Factors

- Suggest that under Reasons Not to Designate, should add another bullet that says "doesn't have any of the above"
- Terms need to be defined in bullets.

Tualatin

Study Map Area: #10

Planning Staff: Doug Rux, Stacy Hopkins

Title 4 issues

- Conditions too constrained on commercial uses.
- RSIA is an unsophisticated answer to a complex problem that goes beyond land use issues.
- Need more thoughtful discussion regarding large lots and flexibility, not one size fits all.
- We don't know how the market works, its unpredictable.
- The limitation on locating corporate headquarters in RSIA's doesn't mean that they will choose to locate in Centers. Due to high cost and lack of adequate sized facilities to accommodate them, they will locate somewhere easier. Need financial carrots if Metro wants them to locate in Centers.
- There are no 50 plus acre sites in Tualatin.
- There are currently too many regulations on existing industrial land.
- Will the Metro Council place additional use restrictions or conditions, beyond those stated in Title 4, on industrial lands designated as RSIA's?

Tualatin will have an open house to meet with industrial property owners and discuss Title 4 and RSIA's with its city council.

Factors

- Factors are all right unless a certain number of them must be met.
- There should be consideration of level of service on roadways that feed freeways listed under the Access heading. For example, a large warehouse district on Tualatin Sherwood Road would create a traffic nightmare.

Wilsonville

Study Map Area: # 9

Planning Staff: Paul Cathcart, Maggie Collins

Title 4 issues

- Feel good about Title 4; think standards are good
- Industrial zoning allows up to 30% commercial use.
- If industrial areas don't play out for RSIA, perhaps employment land would qualify.
- There are many green areas throughout the industrial area, may be Title 3 conflicts.
- Industrial area has warehousing district, small industrial, office, and car dealerships.

Evaluation factors

- Evaluation factors are general, but ok.

Ordinance No. 03-1022, For the Purpose of Amending the Employment and Industrial Areas Map to Add Regionally Significant Industrial Areas in compliance with Subsection J of Section 3.07.420 of Title 4 (Industrial and Other Employment Areas) of the Urban Growth Management Functional Plan.

Second Reading – Public Hearing – No Final Action

Metro Council Meeting
Thursday, December 4, 2003
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING THE	) Ordinance No. 03-1022
EMPLOYMENT AND INDUSTRIAL AREAS MAP)
TO ADD REGIONALLY SIGNIFICANT)
INDUSTRIAL AREAS IN COMPLIANCE WITH)
SUBSECTION J OF SECTION 3.07.420 OF TITLE)
4 (INDUSTRIAL AND OTHER EMPLOYMENT	) Introduced by Michael J. Jordan, Chief
AREAS) OF THE URBAN GROWTH	) Operating Officer with the concurrence of
MANAGEMENT FUNCTIONAL PLAN	) David Bragdon, Council President

WHEREAS, the Metro Council adopted an Employment and Industrial Areas Map as part of Title 4 (Retail in Employment and Industrial Areas) in Ordinance No. 96-647C on November 21, 1996; and

WHEREAS, the Council amended the Regional Framework Plan ("RFP") by Exhibit D to Ordinance No. 02-969B, adopted on December 5, 2002, to establish a new 2040 Growth Concept design type entitled "Regionally Significant Industrial Area" ("RSIA") and to add Policies 1.4.1 and 1.4.2 to protect such areas by limiting conflicting uses; and

WHEREAS, by Exhibit F to Ordinance No. 02-969B the Council amended Title 4 (Industrial and Other Employment Areas) of the Urban Growth Management Functional Plan ("UGMFP") to implement Policies 1.4.1 and 1.4.2 of the RFP; and

WHEREAS, by Exhibit E of Ordinance No. 02-969B the Council adopted a "Generalized Map of Regionally Significant Industrial Areas" depicting certain Industrial Areas that lay within the UGB prior to its expansion as part of Task 2 of periodic review as RSIA's; and

WHEREAS, Title 4 calls upon the Council to delineate specific boundaries for RSIA's derived from the "Generalized Map of Regionally Significant Industrial Areas" after consultation with cities and counties by December 31, 2003; and

WHEREAS, Metro has consulted with cities and counties by asking each of them to make recommendations to Metro for the designation of RSIA's in appropriate Industrial Areas, and by seeking advice from the Metropolitan Policy Advisory Council; and

WHEREAS, the Council held public hearings to receive testimony on proposed designation of RSIA's on November 13 and December 4, 2003; now, therefore

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. The Employment and Industrial Areas Map adopted by the Council by Ordinance No. 96-647C is hereby amended, as shown on Exhibit A, attached and incorporated into this ordinance, to depict the boundaries of RSIA's pursuant to subsection J of Section 3.07.420 of Title 4 (Industrial and Other Employment Areas) of the UGMFP, in order to protect the areas for industrial use following Policies 1.4.1 and 1.4.2 of the RFP and Title 4.
2. The Findings of Fact and Conclusions of Law in Exhibit B, attached and incorporated into this ordinance, explain how the designation of these areas as RSIA's complies with the Regional Framework Plan, Title 4 (Industrial and Other Employment Areas) of the UGMFP and state planning laws.
3. The Chief Operating Officer shall submit this ordinance and its exhibits to the Land Conservation and Development Commission no later than June 30, 2004, as part of Metro's completion of Task 2 of periodic review pursuant to LCDC's Partial Approval and Remand Order 03-WKTASK-001524 dated July 7, 2003.

ADOPTED by the Metro Council this ____ day of _____ 2003.

David Bragdon, Council President

ATTEST:

Approved as to Form:







Recording Secretary

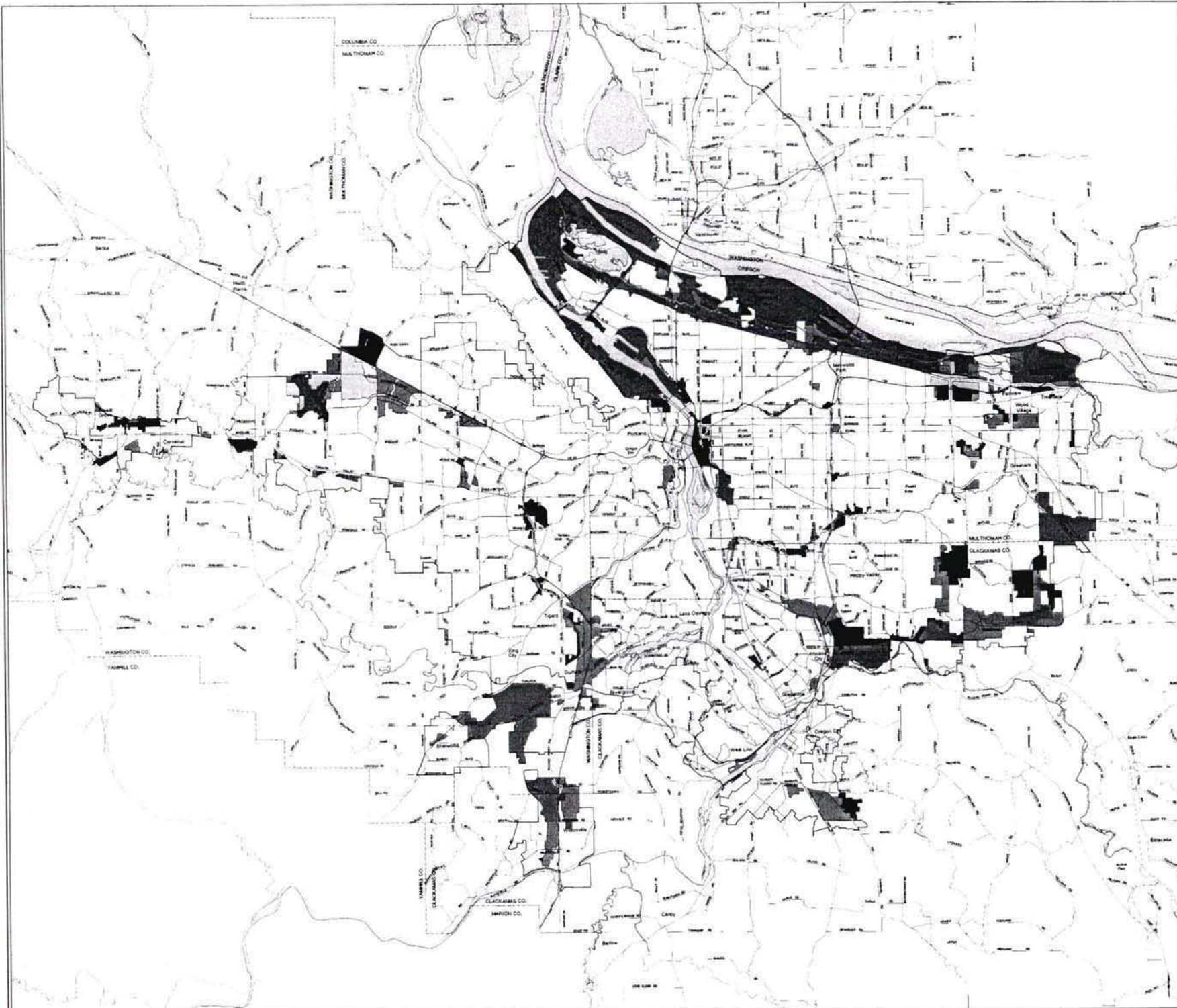
Daniel B. Cooper, Metro Attorney

Regionally Significant Industrial Areas

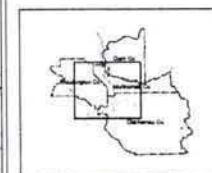
Ordinance #03-1022

DRAFT 10/21/2003

-  Title 4 Employment Land
-  Title 4 Industrial Land
-  Title 4 Regionally Significant Industrial Area 2002 Decision
-  Local Government Proposed RSIA
-  Other Sites Under Consideration by Metro Council
-  Staff Proposed RSIA



Disclaimer: This map is not intended to be used for any purpose other than the general information it provides. It is not a legal document and should not be used to make any legal decisions. The map is not a guarantee of any kind and should not be used to make any legal decisions. The map is not a guarantee of any kind and should not be used to make any legal decisions.



Location Map



Map prepared by Metro Council, Planning Department, 10/21/2003. Map scale: 1 inch = 10 miles. Map data: 10/21/2003. Map title: Regionally Significant Industrial Areas. Map version: 1.0. Map author: Metro Council. Map contact: Metro Council, Planning Department. Map phone: (206) 462-3000. Map fax: (206) 462-3000. Map email: metro@metro.net. Map website: www.metro.net. Map copyright: Metro Council. Map disclaimer: This map is not intended to be used for any purpose other than the general information it provides. It is not a legal document and should not be used to make any legal decisions. The map is not a guarantee of any kind and should not be used to make any legal decisions.

STAFF REPORT

*FOR THE PURPOSE OF AMENDING TITLE
4 OF THE URBAN GROWTH MANAGEMENT
FUNCTIONAL PLAN TO IMPROVE ITS
PROTECTION OF INDUSTRIAL
LAND AND TO MAKE CORRECTIONS*

ORDINANCE NO. 03-1021

*FOR THE PURPOSE OF AMENDING THE
EMPLOYMENT AND INDUSTRIAL AREAS MAP
TO ADD REGIONALLY SIGNIFICANT
INDUSTRIAL AREAS IN COMPLIANCE WITH
SUBSECTION J OF SECTION 3.07.420 OF TITLE
4 (INDUSTRIAL AND OTHER EMPLOYMENT AREAS)
OF THE URBAN GROWTH MANAGEMENT
FUNCTIONAL PLAN*

ORDINANCE NO. 03-1022

Introduced by Michael Jordon, Chief Operating
Officer with the concurrence of David Bragdon,
Council President

Date: October 22, 2003

Prepared by: Mary Weber

BACKGROUND

The Metro Council adopted new measures to protect and maintain the supply of industrial land for future industrial uses. Ordinance 02-969B, adopted on December 5, 2002, amended the Title 4 Industrial and Other Employment Areas regulations in order to increase the capacity of industrial areas for industrial uses and to encourage non-industrial uses to locate in Centers and other 2040 design type areas. Also in this ordinance the Metro Council created a new 2040 design type entitled Regionally Significant Industrial Areas (RSIA). The Metro Council adopted a generalized map of RSIA's depicting certain industrial areas that lay within the urban growth boundary (UGB). The new Title 4 language requires that the Metro Council delineate specific boundaries for the RSIA's derived from the generalized map by December 31, 2003. Together these two ordinances, Title 4 regulations, Ordinance 03-1021 and mapping of the RSIA's, Ordinance 03-1022, address the State requirements to show how the region is using its industrial lands efficiently.

The new Title 4 regulations specifically limit the amount and square footage of retail and office uses that might otherwise find industrial locations suitable for business. The 2002-2022 Urban Growth Report: An Employment Land Need Analysis (UGR) estimates that approximately 2,800 acres of the supply/need vacant industrial land is developed for non-industrial uses. The UGR assumes a potential savings of 1,400 acres of industrial land from implementing the new measures.

As reported in the UGR, the total vacant industrial land need is 9,366 net acres. The industrial land need estimate assumes that 2,800 acres of the industrial land is consumed by non-industrial uses.

	Net Vacant Acres
Demand	9,366
Supply	3,681
Deficit (Net need)	5,685
RSIA Policy Savings	1,400
Adjusted Deficit	4,285
2002 Decision	2,317
Deficit	1,968

Staff has been working with local governments to identify Title 4 Industrial lands as RSIA's for the pre-2002 UGB area. As part of this process, local governments identified several implementation issues that they asked Metro to address. Several local governments were reluctant to work with Metro on mapping the RSIA's until the code issues were addressed. Primarily, the issues had to do with clarification of the code. The issues are:

- clarification of what are accessory uses and whether they are counted as part of the 5% commercial
- retail cap;
- clarification of how to treat airport facilities
- how to calculate the retail sales cap for RSIA's that cross multiple jurisdictions
- locating corporate headquarters of industrial uses in a location different than the main manufacturing facility
- reuse of office buildings in industrial zones and three implementation issues, (1) creating non-conforming uses, (2) financing and (3) enforcement, and;
- do large parcels (50 acres) stay large parcels forever, or can they be subdivided over time with conditions

Staff also took this opportunity to do some housekeeping changes to Title 4 code. The recommended code changes are contained in proposed Ordinance 03-1021.

Metro staff, after consultation with cities, counties and other interests, developed a set of factors to consider in the identification of RSIA's. These factors reflect the locational and siting characteristics from Metro Council Resolution No. 03-3341A. As directed by Title 4, Metro staff worked with cities and counties in the region to apply the factors to designated Industrial Areas within their jurisdictions. Several local governments, Portland, Gresham, Wilsonville and Clackamas County, submitted recommended Industrial Areas for consideration as RSIA's. Striving for region-wide consistency, Metro staff also applied the factors to areas in cities and counties that chose not to submit candidate areas. The factors are:

- Distribution - Area serves as support industrial land for major regional transportation facilities such as marine terminals, airports and rail yards.
- Services - Availability and access to specialized utilities such as specialty gases, triple redundant power, abundant water, dedicated fire and emergency response services
- Access - Within 3 miles of I-5, I-205, I-84 (within the UGB), State Route 224 (within the UGB)
- Proximity - Located within close proximity of existing like uses
- Use - Predominantly industrial uses

Ordinance 03-1021 – Code Changes

Staff has worked with local governments to resolve most of the implementation issues. The recommended changes to the Title 4 code represents this work. Two issues remain unresolved to the satisfaction of some local governments and that is the issue of subdivision of 50+ acre parcels overtime and reuse of new industrial office buildings. The Metro Council stated that these two issues are policy issues not clarification issues and that at the next periodic review cycle the Metro Council would evaluate Title 4. Included in this staff report as attachment 1 are written comments from local government regarding the code language.

Ordinance 03-1022 – Mapping RSIA's

Staff conducted a general assessment of the areas on the *Potentially Regionally Significant Industrial Area* map (included as attachment 2) and found that the following areas meet the factors and are also lands that meet the general site and location criteria for industrial uses.

- Areas 1 – Hillsboro industrial area, south of Highway 26
- Areas 2, 3-4, 5 and 6 – Northwest Industrial Area, Rivergate, Swan Island and Columbia Corridor
- Area 12 - Clackamas distribution area around Hwy 212/224
- Area 14 - Brooklyn Yards

As part of the analysis staff also presented to the Metro Council areas to be considered in the future for designation as RSIA's:

- Area 9, Wilsonville industrial area
- Area 10, Tualatin industrial area
- Area 7, Troutdale industrial area

These areas, as they exist today, are local industrial districts. In the case of Wilsonville and Tualatin, if additional lands were added to the UGB for industrial uses and the I-5/99W connector improved truck access to I-5 then these areas would be appropriate for designation as RSIA's. In regard to Troutdale, the uses are local in nature and there is no opportunity to expand the industrial area or connect it to the Columbia South Shore industrial area. However, if the Reynolds Metals site were to redevelopment as an intermodal facility, much of the area would redevelop into uses supporting an intermodal facility. If this were the case then the Troutdale industrial area would also be appropriate for designation as a RSIA.

The Metro Council at their worksession on October 21 directed staff to include the local government recommendations, Metro staff recommendations and also add to the map accompanying the Ordinance 03-1022, Area 7 in Troutdale, Area 10 in Tualatin and Area 9 in Wilsonville and a portion of Area 15, the "Brickyards site" in Gresham from the *Potentially Regionally Significant Industrial Area* map. The Metro Council draft Title 4 map that includes the recommended RSIA's is attachment 3.

To better estimate the savings gained in efficiency from the Title 4 regulations, Metro staff recommends taking additional time to calculate the savings. This analysis will be completed prior to the Metro Council's UGB decision in June, 2004.

Known Opposition

A number of local jurisdictions have concerns regarding the perceived loss of flexibility from the adopted RSIA regulations. Staff was able to work with local staff to resolve several of the implementation issues. However, there are two outstanding issues that were not resolved. The issues are:

- Reuse of new industrial office building by non-industrial uses
- Subdivision over time of parcels that are 50 acres or larger

Legal Antecedents

Title 4 is part of the adopted and acknowledged Growth Management Functional Plan. Authority to amend the 2040 Growth Concept map comes from ORS 268.380 and ORS 268.390(5). The authority to amend the Employment and Industrial Areas Map comes from Ordinance No. 02-969B.

Anticipated Effects

Adoption of Ordinance 03-1022 will result in fulfilling the requirements in Metro code section 3.07.420I, which requires Metro to adopt a map of Regionally Significant Industrial Areas with specific boundaries that is derived from the Generalized Map of Regionally Significant Industrial Areas adopted in Ordinance No. 02-969B.

Adoption of Ordinance 03-1021 resolves several implementation issues and gives local governments clearer instructions as to the Metro Council's intent.

The effective date of the new Title 4 regulations is March 5, 2004. Local governments have one year to adopt a local map and make changes to their codes. Local government compliance is anticipated for March 5, 2005.

Budget Impacts

The new regulations go into effect in March of 2004. Metro Council regularly budgets for planning staff to work with local government on compliance issues. Additional excise tax will be needed for Data Resource Center research services to establish the amount of commercial retail development that exists in the Title 4 RSIs and Industrial areas. This analysis is needed so that Metro can give guidance to local governments about the amount of commercial retail development that may be allowed on the vacant industrial lands in these areas. Sections 3.07.420D(2) and 3.07.430B(2) of the Metro code limits commercial retail uses to five or ten percent of the net developable portion of all contiguous RSIs and Industrial areas. It will be necessary to establish a "base line" from which to evaluate proposals

RECOMMENDED ACTION

Adopt Ordinances 03-1021 and 03-1022.

Attachments

- Attachment 1 - Local government comments on the Title 4 code
- Attachment 2 - Potentially Regionally Significant Industrial Areas map (02-969B)
- Attachment 3 - Draft Title 4 map
- Attachment 4 - October 21, 2003 memorandum titled An Assessment of Potential Regional Significant Industrial Areas
- Attachment 5 - June 30, 2003 memorandum to MTAC regarding factors for identifying RSIs
- Attachment 6 - July 29, 2003 memorandum summarizing the results of the meetings held with local jurisdictions



Community & Economic Development Department

Community Planning Comprehensive Planning • Transportation Planning Community Revitalization

TO: Marci La Berge, Associate Regional Planner, Metro

FROM: John Pettis, Associate Planner, City of Gresham

RE: Title 4 RSIA Standards

DATE: July 7, 2003

The purpose of this memo is to express a number of concerns that the City of Gresham has about the Metro Title 4 standards for Regionally Significant Industrial Areas. We believe the current standards could hamper the City in its efforts to bring family wage jobs and high value economic development to the region.

With the adoption of Ordinance 02-969B last December, Metro Council adopted standards to protect Regionally Significant Industrial Areas (RSIA) and other employment lands from incompatible land uses and land divisions. It is our understanding that by December 2003, Metro will be adopting a map that will show the RSIA's to which the standards would apply. In addition, Metro staff indicated at the June 13 Title 4 Workshop that they are open to suggestions that would "fine tune" the RSIA standards. The City appreciates the opportunity to provide input.

While we do support the effort to prevent industrial zoned lands from certain uses (e.g., "big box" stores) that would degrade the potential for the highest forms of economic development, the RSIA standards do seem to be overly prescriptive and restrictive. They do not offer jurisdictions enough flexibility to meet the individual economic development objectives within a framework of regional goals. Moreover, we have not been provided information on any research that was done concerning current industrial development trends. For example, the traditional distinctions between offices, research and development, manufacturing and certain forms of commercial development are becoming increasingly blurred. Regional standards need to reflect these trends if they are to be effective and if our region is to be economically competitive with other regions.

In particular, our concerns/questions are the following:

1. Section 3.07.420 D of Ordinance No. 02-969B states: *"Notwithstanding subsection C, a city or county shall not approve: 1. A commercial retail use with more than 20,000 square feet of retail sales area in a single building or in multiple buildings that are*

part of the same development project, or 2. Commercial retail uses that would occupy more than five percent of the net developable portion of all contiguous Regionally Significant Industrial Areas."

Does "retail sales area" refer to only the sales floor area of a store and not the area devoted to storage, offices, etc.? Also, we need clarification about the meaning of the "same development project." For example, does this standard apply to each parcel? A development under a single building permit? All development within a geographic area under the same ownership? How will this standard work over time if a vacant industrial parcel that is originally part of an industrial subdivision with 20,000 sq. ft. of commercial development and is then divided, sold and developed independently, does it then qualify for the maximum 20,000 sq. ft. of commercial development? Finally, upon what research were these specific commercial limitations based on? Why was the overall commercial development cap in RSIA's set at 5%? The City wholeheartedly recognizes and supports the need to prevent retail/commercial encroachment upon productive industrial lands. However, we would like the flexibility to carry out the overall goal in a way that works best for our jurisdiction.

2. Section 3.07.420 E states: *"As provided in subsection C of this section, a city or county may approve an office for industrial research and development or a large corporate headquarters if: 1. The office is served by public or private transit; and 2. If the office is for a corporate headquarters, it will accommodate, for the initial occupant, at least 1,000 employees."*

We do not understand why research and development (R&D) uses are being treated differently from manufacturing uses. In today's "knowledge based" economy they are becoming inseparable and are found to coexist in a synergistic relationship (such as in the biotech sector) in many of the successful industrial areas of the country. Often R&D and manufacturing are part of the same business, either in the same building or in separate buildings. Also, we question the validity of the 1,000 employee threshold. Again we ask, where is the research that justifies this particular number? Why should we reject a corporate headquarters in our industrial areas with 800 or 500 employees?

Also, the transit requirement puts suburban communities such as Gresham at a disadvantage for attracting R&D. Gresham's future industrial expansion area, Springwater, will not have the potential ridership levels to justify the extension of public transit lines for many years. This provision will prevent R&D firms and manufacturers with R&D office buildings from locating in Springwater.

Finally, we feel that Title 4 needs to broaden its scope of the kinds of offices allowed in the RSIA's, beyond just R&D and corporate office headquarters. For example, one of Gresham's largest employers is the U.S. Bancorp loan processing center which is located at N.E. 181st Ave. and Sandy Blvd. It employs 1,600 people and is located near some of our major manufacturers such as Boeing of Portland and Boyd's Coffee. Designating this area as RSIA would make it a non-conforming use and place severe

restrictions on any expansion and could prevent rebuilding the facility in the event of a fire, etc. Such offices cannot locate in our mixed-use centers because of a lack of adequately sized sites. Creating a disincentive (non-conforming use status) for the loan center to continue business in Gresham could result in a significant negative impact on the City's property tax base/revenues and a loss of many jobs.

3. Section 3.07.420 F states: "*A city or county may allow division of lots or parcels into smaller lots or parcels as follows: 1. Lots or parcels less 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 or parcels so long as the resulting division yields the maximum number of lots or parcels of at least 50 acres.*" Following the above subsections, subsection #3 offers some exceptions for subdividing 50 acre+ parcels into smaller lots. These relate to providing public facilities, protecting environmental areas, separating a non-conforming use from permitted uses, reconfiguring lots, and creating a lot for financing purposes ("mortgage lot") for master planned developments.

We realize that there is a lack of 50 acre and larger vacant industrial zoned parcels in the region and that the above requirements are meant to preserve such parcels for large scale industrial uses. However, again we are concerned about the lack of flexibility that may prevent jurisdictions from accommodating changes in trends and the next wave of industrial development.

An example of the need for flexibility, is the Southshore Corporate Center which was recently developed in Gresham and Portland along the I-84/Columbia River south shore industrial corridor. It is a master planned industrial business park with a variety of manufacturing and distribution uses. There are 21 lots with lot areas varying between 5 and 17 acres. Had the area been designated RSIA, this development would not have happened because the original property was larger than 50 acres and would not have been dividable into more than two or three lots. The small and midsize industrial companies that are in this park may represent the future of industrial development in Oregon, especially if the growth of "home grown" companies replace the trend of larger companies relocating from other states. We would like to see the Title 4 standards allow for master planned developments such as Southshore that have separately owned lots down to five acres in size.

RECENT SOUTHSORE CORPORATE PARK RECRUITMENTS SINCE 2000:

Danner Profile: Distribution and customer service center

- 70 employees, 55,000 sq ft facility

Staples Profile: Filling center for Office Supply orders

- 200 employees, 200,000 sq ft facility

Fuji Film Profile: Film processing center

- 100 employees, 30,000 sq ft facility

Synetics Profile: Specializes in airflow products for the semiconductor industry and Robotics

- 200 employees, 133,000 sq ft facility

Kinco International Profile: Distributor of industrial and safety work gloves

- 35 employees, 60,000 sq ft facility

NIR Inc. Profile: Specializes in manufacturing point of purchase display units

- 25 employees, 96,000 sq ft facility

Innovion Profile: Provides the most extensive and highest quality foundry ion implant services to the world's leading semiconductor manufacturers

- 63 employees, 55,000 sq ft facility

4. Finally, we have a question regarding the benefits local jurisdictions might receive from having an RSIA designation. The 6/30/03 memo from Mary Weber to MTAC seems to leave open the possibility of transportation projects proposed within RSIA's of receiving priority over projects in other industrial/employment areas during the MTIP process. The memo also states that industrial areas outside of RSIA's would qualify for priority MTIP allocations. We are concerned that as currently adopted, Metro Title 4 will provide disadvantages to industrial development in the City of Gresham and Springwater (to be annexed into Gresham). We would appreciate additional information on the advantages that will be provided to the region through implementation of Title 4.

We encourage Metro, in concert with the region's jurisdictions and representatives from the industrial development community, to redraft the Title 4 provisions in a way that offers more flexibility to respond to changing economic conditions. As a starting point, there should be a thorough economic trends study and analysis of how industrial development has changed in recent years in the nation, state and region. Just as such an economic trends analysis is required of local jurisdictions by Statewide Planning Goal 9 (Economic Development) as a basis for their economic development policies and standards, it should also be the foundation of the Metro Title 4 standards. Only by doing this kind of preliminary research can one be sure that the standards will be responding to reality rather than misconceptions.

We also would like to see the standards be a less prescriptive "one size fits all" approach to one that is more performance oriented and tied to the Purposes and Intent section of Title 4. The latter approach would offer a range of options to comply. Jurisdictions would then be able to choose those options that are compatible with their particular economic development program and context within the region.

We look forward to working with Metro on this issue. We feel that until the above trends analysis is done and Title 4 is reworked to offer more flexibility, etc., it would be premature to designate RSIA's. Thank you for this opportunity to state our position.

TO: MPAC

FROM: Wink Brooks, Planning Director
City of Hillsboro

DATE: July 23, 2003

RE: Title 4/Mapping of Regionally Significant Industrial Areas (RSIAs) and
associated restrictions

City of Hillsboro staff has had several discussions about the new Title 4 language adopted by the Metro Council last December as part of the overall UGB expansion package. At first blush, we thought it would not be too difficult to identify potential RSIAs and started delineating properties in the City's northern industrial area. However, as we studied an aerial photograph of this area more closely, it became apparent that there was already significant parcelization in this vicinity, which is largely developed. In addition, where industrially zoned lands appear to be vacant, the vacant portions are being held, or have already been planned, for future expansion of existing industries on those sites. These circumstances led us to examine the new Title 4 restrictions more closely, and we became concerned that the additional standards and requirements could have a negative impact on the future of the City's well-established and thriving industrial base.

1. For example, Section 3.07.420 (F) states that:

"A city or county may allow division of lots or parcels into smaller lots or parcels as follows: 1. Lots or parcels less 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 or parcels so long as the resulting division yields the maximum number of lots or parcels of at least 50 acres."

Our concern is that this standard may be overly prescriptive and have the result of turning away economic development that might otherwise be attracted to these areas. There are other ways to ensure a supply of large industrial lots, and yet still maintain needed flexibility, that have not been fully considered by Metro and warrant a closer look. A "real world" example of Hillsboro's method of retaining large industrial lots over time, while at the same time allowing development of small and medium industrial uses, is described on the following page.

Hillsboro Special Industrial District Zoning

The overlay zone applied to the City's industrial sanctuary, M-P (SID) (Special Industrial District) has provided for both the preservation of large lots and the flexibility to accommodate small and medium size uses all in proximity to one another. This overlay district includes a 30-acre minimum lot size, but makes provision for staged development creating lots smaller than 30 acres (down to a minimum of one-acre) when certain conditions have been met, while retaining at least one 30 acre site for a single major industrial user. The 30 acre minimum lot size was a condition imposed by Metro in 1986 as part of UGB amendments approved at that time.

In our experience, this overlay district has been very effective in facilitating the development of the integrated mix of large primary industries and smaller support industries, as shown on the attached map. The application of the staged development requirements over time allowed the City to retain at least one 30-acre lot, which is located in the Westmark industrial park north of Hwy 26. There are no special use restrictions in the SID overlay, other than the requirement that all development be consistent with the provisions of the M-P Industrial Park zone, which allows traditional light industrial uses, offices, and an array of complementary commercial support services that are limited in scale to serve the needs of the employees of the surrounding industrial uses.

An analysis of approximately 1600 acres in Hillsboro's northern industrial area (see attached map) reveals an average lot size of 10.24 acres. The larger primary high tech industrial businesses in this area are surrounded by dozens of smaller supportive and related uses that provide the critical mass and synergy required to maintain and foster continued growth in the westside high tech cluster. It is likely that the successful growth and evolution of one of the most vibrant high tech centers in the country could not have occurred had restrictions, such as those imposed by the new Title 4 language, been in place over the last 20 years.

2. The City also has concerns about the language in Section 3.07.420 (E):

"As provided in subsection C of this section, a city or county may approve an office for industrial research and development or a large corporate headquarters if: 1. The office is served by public or private transit; and 2. If the office is for a corporate headquarters, it will accommodate, for the initial occupant, at least 1,000 employees."

The provision of public transit in the region's outlying industrial areas is substandard, and no plans/funding to extend transit to these areas are in place. The requirement to provide private transit might not be too onerous to some businesses, but others might be inclined to look at sites elsewhere without this restriction. We also share the City of Gresham's concerns, as stated in a memo to MTAC, dated July 7, 2003, about the validity of limiting corporate headquarters to those with a minimum of 1,000 employees. What research or reasoning supports that number? We assert that it is erroneous to assume that a company shopping for a new corporate

headquarters site to house 800 employees will automatically look for higher priced land in a center when informed they cannot locate in our industrial areas.

We cannot force businesses to locate in centers in the Metro region by precluding them from our industrial areas. Hillsboro is home to a regional center and two town centers, and fully supports development of centers throughout the region, but we are by no means convinced that there is a cause and effect relationship between stimulating development in centers by imposing the overly strict Title 4 restrictions on industrial lands. Incentives may be necessary to encourage location of businesses in centers that may otherwise locate in industrial areas. Regulating businesses out of industrial areas does not assure that these businesses would automatically locate in centers. Options throughout the nation and world abound.

We further concur with Gresham that Title 4 overly restricts the types of offices that can locate in RSIA's and could have a dampening effect on expansion of existing businesses. We also agree with Gresham's argument regarding the trend toward an increasing blurring of traditional distinctions between offices, research and development, manufacturing and certain forms of commercial development. For example, Intel has an approved master plan for a 90-acre site in the Westmark industrial park north of Hwy 26 (in the special industrial district overlay) that includes a research and development campus that would employ approximately 7,000 to 8,000 people at much higher than traditional manufacturing wages. The site also includes three buildings for general office uses. The scale of these buildings would not be compatible in our centers. Other types of office uses may also not be appropriate for centers, and would not locate in those anyway due to higher land costs. Do we really want to turn away all of these types of economic development opportunities when our unemployment rates are consistently among the highest in the nation?

There are many other concerns that the City has with the Title 4 language that have come to light as we tried to identify areas on the map that we wanted to designate as RSIA's. We are willing to work with Metro and our jurisdictional partners to revise Title 4 to provide the flexibility we believe is needed to prevent the potential stagnation and further decline of the region's economy. We urge Metro to delay adopting a map of RSIA's until thorough research on the impacts of the new Title 4 restrictions has been conducted and local jurisdictions have opportunity to reconsider the language.

Thank you for the opportunity to comment on this important process that is critical to the economic well being of our community and the region as a whole.



City of Tualatin

18880 SW Martinazzi Avenue
Tualatin, Oregon 97062-7092
Main 503.692.2000
TDD 503.692.0574

August 11, 2003

Metro Council President David Bragdon
Metro
600 NE Grand Avenue
Portland, Oregon 97232

RE: Regionally Significant Industrial Areas

Dear Council President Bragdon:

Thank you for the opportunity to comment on the new Title 4, Regionally Significant Industrial Areas design type concept map and standards. I appreciate the opportunity to explore the effects of the new standards on Tualatin and garner input from the industrial property owners of the City.

After review, discussion with staff and input from property owners, the City of Tualatin questions why any of the land in Tualatin should bear the Regionally Significant Industrial Area design type. Our reasons are as follows:

1. Over the past year and a half, the City of Tualatin has been working with industrial property owners to retain industrial land for industrial uses based on local circumstances. The first Plan Text Amendment (PTA) addressing this is PTA-02-07. City Council approved this PTA on November 25, 2002. This PTA requires a greater separation between service and cardlock fueling stations; requires these stations to be set back from SW 124th and SW Pacific Highway; and eliminates certain commercial uses from industrial lands.

Additionally, Tualatin Council passed PTA-02-10 on March 24, 2003. This PTA restricts or eliminates certain commercial uses in industrial areas, creates a special commercial setback on two arterial streets and creates two commercial service overlay districts where auto-oriented commercial uses already exist and may continue to exist without being considered a non-conforming use.

Last, PTA-03-03, currently under development, would limit commercial uses as defined by Tualatin in the "Quarry Sector" of Tualatin. This is located in the northwest corner of the city, near Pacific Highway and SW 124th Avenue. The City Council will review this PTA on October 13, 2003.

With all three of these PTAs, citizen involvement was critical to the formation and adoption of the code language. This input has helped to shape the new code language in a way that meets the City's and industrial property owners' needs. Only through this collaborative process has the City of Tualatin been able to implement more protective standards on industrial lands.

2. On July 17, 2003, City staff held an open house with industrial property owners to discuss the RSIA design type. Of the 250 industrial property owners notified of the open house, thirteen people attended; an additional six people who could not attend called staff to discuss this issue. None wanted the RSIA designation on their property.

First, the property owners felt that the time frame in which to provide comments back to Metro regarding the first round of applying this designation was too short to understand all the ramifications of the design type. The attendees agreed that more outreach was necessary to the 250 industrial property owners in Tualatin. Second, the attendees felt the RSIA standards did not allow enough flexibility to recognize what jurisdictions are already doing to protect industrial lands. Third, the RSIA language could ultimately prevent an industrial operation from having a little retail show room if the five percent limit of commercial areas were to be met. The attendees identified this small retail area as a key component of their businesses and did not want to see it threatened. Additionally, the attendees voiced concern that there is no agreed upon definition of 'Industrial'. The nature of industrial development has changed markedly over the past decade and many jobs that appear as a typical office job are really industrial in nature. Last, the attendees felt that the language did not acknowledge the current market forces and the demand for land.

3. The City Council discussed RSIA at its July 14, 2003 and August 4, 2003 work sessions. While the Tualatin City Council recognizes the potential problem associated with the loss of industrial lands to non-industrial uses, the Council remains skeptical that the new Title 4 regulations will protect industrial lands in a way that works at the local level for job creation. The Council continues to wonder what the benefit of RSIA designation is for the City of Tualatin. Additionally, the Council asserts that the degree of public involvement Tualatin put into its efforts on industrial land issues is lacking in the Metro process.

Tualatin staff presented maps to the City Council showing the extent of Tualatin's industrial lands, areas where the designation should not apply for various reasons (i.e. industrial business parks, urban renewal blocks, commercial service overlays, etc.) and the overlay of wetlands and greenways over the industrial area. The wetlands and greenways divide many industrial lots into smaller pieces, making larger scale development harder to accomplish. This fracturing of industrial lands by wetlands and greenways does not appear to lend the area to being a RSIA.

4. Tualatin staff presented the RSIA language to the Tualatin Planning Advisory Committee (TPAC) on July 10, 2003 for its consideration. TPAC raised several questions: What impact do wetlands have on designation? How much commercial use is there now? What benefits does Tualatin get from this designation? Can the Metro Council apply more conditions to these lands in the future above what is currently in Title 4? Ultimately, TPAC did not see the local benefit of RSIA.
5. Last, City of Tualatin staff has concerns about the proposed language, many of which were voiced by other interested parties. Staff is concerned about the lack of flexibility in the Metro language and disregard of local efforts to protect industrial lands. The management of the commercial inventory in RSIA's will be extremely difficult as RSIA's cross jurisdictional boundaries. Staff believes that there has been insufficient time for adequate public outreach and to explain the new design type to those who could be affected by it. More public outreach is needed to educate the industrial property owners in Tualatin on the new standards and to learn of their position on this new design type. The 1,000-employee cut-off point for headquarters also seems arbitrarily selected. Last, staff desires a clear definition of what is meant by "Industrial" prior to considering the RSIA designation for any lands in the region.

Staff also has concerns about the development of the standards themselves. In 2002, MTAC crafted the new Title 4 standards as a kind of placeholder, knowing that the language must be revisited and refined prior to adopting a map identifying specific areas as RSIA. This has not yet been done.

While the City of Tualatin understands the need to establish regulations to protect industrial lands, the City has already developed standards that address industrial lands. The additional Metro requirements do not adequately address the local situation and establishes limitations that do not work with the local or regional market. Thank you for the opportunity to comment on the RSIA design type and its application to the City of Tualatin.

Regards;



Mayor Lou Ogden

c: City of Tualatin Council
Steve Wheeler, City Manager
Doug Rux, Community Development Director
Stacy Hopkins, Associate Planner
Mary Weber, Metro



City of Tualatin

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Main 503.692.2000
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August 20, 2003

Ms. Mary Weber
Metro
600 NE Grand Avenue
Portland, OR 97232

RE: August 14, 2003 RSIA meeting with Tualatin

Dear Ms. Weber:

Thank you for coming to Tualatin last week to discuss the Regionally Significant Industrial Areas (RSIA) design type and language with the City of Tualatin. I found the discussion beneficial as it clarified some vague points of the Title 4 RSIA language. I hope you and Dick Benner found the discussion enlightening on Tualatin's model for addressing industrial land development. I look forward to reviewing the Title 4 language again once it is edited based on discussions with jurisdictions in the Metro area.

As indicated at the meeting, Tualatin has a few questions it would like to have Metro respond to in writing. First, the City wants to know exactly what the benefit of designating lands as RSIA is for the City. After much thought and conversation on RSIA, City staff and City Council are still uncertain of the benefits to the City of designating lands as RSIA given our existing land use regulations. Second, the City wants to know if the Metro Council can or could designate lands as RSIA without a local jurisdiction's consent.

Last, during our conversation last Thursday, the subject of substantial compliance arose. As I described at the meeting, Tualatin's Code is already quite strict on the uses allowed on industrial lands. The City has taken great efforts to develop an industrial lands program that is appropriate for the City, our industrial landowners and companies and Tualatin's unique circumstances. The City of Tualatin would like to see Metro evaluate and possibly adopt a substantial compliance clause in the Title 4 language.

Thank you again for the opportunity to discuss RSIA with you. I look forward to continuing this conversation in the upcoming months.

Regards,

Doug Rux, AICP
Community Development Director

Cc: Dick Benner, Metro
Steve Wheeler, City Manager
Stacy Hopkins, Associate Planner



PORT OF PORTLAND

MEMORANDUM

TO: ANDY COTUGNO, LYDIA NEILL, MARY WEBER AND DICK BENNER
FROM: BRIAN CAMPBELL, SUSIE LAHSENE, PORT OF PORTLAND PLANNING STAFF
SUBJECT: TITLE 4 IDENTIFIED ISSUES AND POTENTIAL SOLUTIONS
DATE: 8/29/2003

Following is a list of issues we see as problematic with the existing Title 4 language, and some potential ideas for solutions. Most of these issues are the result of a rather quick adoption process last fall, and upon reflection and further review of how they would actually work, it is evident that the language does need some adjustment. That being said, it is important for Metro staff and Councilors to understand that Port staff is 100% behind the concepts imbedded in Title 4. It is extremely critical that the region protect its valuable supply of industrial land.

Overarching recommendation - Metro staff has been talking to a number of jurisdictions around the region about ideas for fixes to Title 4. In addition to this process, we believe it will be absolutely critical to the workability of Title 4 for Metro staff to also take the lead in negotiating solutions among key players in the debates over language. That cannot be done at MTAC, or especially MPAC. It must be done in a small group setting, with an exchange of information on revision ideas and how they will actually work. Our suggestion is that Metro organizes a set of meetings in September to ensure timely resolution of this issue.

Issues & Recommendations

3.07.420 Section C.

Definition of Industrial Use. Until GMELS can put a more definitive answer to this perennial question, should Metro attempt to supply its own answer for the decision in December? Since all jurisdictions have latitude in Title 4 to answer it within their own code, we're not sure that it's a problem for the RSIA exercise, or that Metro needs to answer it at this point. Perhaps Metro could, at a minimum, put together a compendium of what is and isn't allowed in each jurisdiction's code to help inform the discussion.

Airports are not generally an industrial use, although they are presumed to be an important component of RSIA's. This issue needs to be addressed by acknowledging airports, and the array of accessory uses that normally go with them, as a specifically allowed use within RSIA's. We will suggest specific language on how best to do this.

Section E.

1000 employee corporate office requirement. From our discussions with real estate professionals and others it is clear that there is a great deal of misunderstanding about how this provision would actually work. Metro should clarify exactly which kind of corporate offices this applies to in order to ensure that the debate is focused on any real issues, rather than on perceptions.

Section F.

Application of the 50 acre minimum provision to both vacant and developed land. The original stated need for the changes to Title 4 had to do with preserving large blocks of land for development. Some version of this certainly needs to apply to vacant or low value improvement land. However, areas that already have industrial development are very difficult to re-develop with industrial uses under the best of circumstances, usually needing large subsidies to remain industrial. They have already been platted for the existing use, so most areas would not be subject to this provision in any case, but adding this provision to any existing industrially developed property seems like another large impediment to continuing the property in industrial use. We recommend eliminating this provision for existing industrially developed parcels.

After the remnant parcels less than 50 acres are sold, there is no provision for allowing additional property to be subdivided below 50 acres. We see this as a practical problem that needs to be discussed among jurisdictions that have some history with industrial land divisions. We think it is not unreasonable, for instance, to allow an ownership to further divide one of the remaining 50 acre parcels after the other remnants are sold in order to allow a number of smaller industrial support firms to co-locate with larger firms. Existing city or county ordinances needs to be looked at closely to see whether any can serve as a model, or whether a different approach is warranted.

Section G.

The first sentence appears to be unnecessary, since the ordinance already allows the division of lots less than 50 acres in size. The second sentence may present practical problems to a jurisdiction trying to accommodate a number of smaller industrial users, or trying to create appropriately sized lots for the industries that are developing. It may be better to have an "escape" provision that allows a jurisdiction to require a developer to master plan a large piece of property and preserve an appropriate number of larger parcels, depending on the overall size and configuration of the property in question. This might be the same solution as the one for Section F.

MEMORANDUM

TO: Andy Cotugno, Metro

FROM: Rich Faith, City of Troutdale

DATE: October 22, 2002

TOPIC: Comments and Suggestions Regarding Proposed Title 4 Amendments - Regionally Significant Industrial Lands

The following redline version of the proposed Title 4 amendments reflects my suggested changes to the proposal. My rationale for these changes is given in italics.

Title 4 – Industrial and Other Employment Areas **DRAFT**

3.07.420 Protection of Regionally Significant Industrial Areas

- A. Regionally Significant Industrial Areas are areas with site characteristics relatively rare in the region that render them especially suitable for industrial use. Each city and county with land use planning authority over areas shown on the 2040 Growth Concept Map as Regionally Significant Industrial Areas shall derive plan designation and zoning district boundaries of the areas from the general locations on the 2040 Growth Concept Map.
- B. Each city and county with land use planning authority an area designated by Metro on the 2040 Growth Concept Map as Regional Significant Industrial Area shall as part of compliance with the concept planning requirements of section 3.07.1120 of the Urban Growth Management Functional Plan, derive plan designation and zoning district boundaries of the areas from the general locations on the 2040 Growth Concept Map.
- C. After determining boundaries of Regionally Significant Industrial Areas pursuant to subsection A and B, the city or county shall adopt implementing ordinances to limit development in the areas to industrial uses, uses accessory to industrial uses, and those non-industrial uses necessary to serve the needs of businesses and employees of the area-, unless approved as a conditional use or through a public hearing process. For purposes of this Title, research and development companies, experimental and testing laboratories, and trade or commercial schools shall be regarded as industrial uses.

(It seems that exceptions to the rule are often necessary. It is impossible to anticipate uses that may come along that are a legitimate need in these areas but are not industrial in nature, nor accessory to industrial uses, nor necessary to serve the needs of businesses and employees of the area. Uses that fall into this category should only be allowed through a public hearing process such as a conditional use.

So that there is no doubt that research and development activities, etc. are permitted with regionally significant industrial areas, I propose adding language that specifically states this.)

- D. Notwithstanding subsection C of this section, a city or county shall not approve the following as an outright permitted use:

(If a larger scale commercial use is compatible with, or complementary to, a regionally significant industrial area, then local jurisdictions should have the opportunity to allow these by conditional use or similar public hearing process. The conditional use process alone acts as an obstacle to discourage many proposals that are not suitable or appropriate for the area in question.)

1. A commercial retail use with more than 20,000 square feet of gross leasable area in a single building or in multiple buildings ~~within close physical proximity that are part of the same development project;~~

(I'm merely trying to give more specificity to what I think is meant by "within close physical proximity".)

2. Commercial retail uses with a total of more than 20,000 square feet of gross leasable area on a single lot or parcel, or on contiguous lots or parcels, including those separated only by transportation right-of-way; or
3. Commercial retail uses that would occupy more than five percent of the net developable portion of the area.

- E. Notwithstanding subsection C of this section, a city or county may approve as an outright permitted use a commercial office use that is not accessory to industrial uses in the area if:

1. ~~The office is for research and development and is served by public or private transit; or~~

(This becomes unnecessary in light of my suggested change to 3.07.420C.)

2. ~~The~~ office is for an owner-occupied corporate headquarters on a lot or parcel of at least 25 acres, is subject to a master plan that sets forth plans for long-term use of the tract, and is served by public or private transit.

F. A city or county may allow division of lots or parcels into smaller lots or parcels as follows:

1. Lots or parcels 20 acres or smaller may be divided into smaller lots or parcels without limitation on the size of resulting lots or parcels.
2. Lots or parcels 50 acres or larger shall be subject to a 50-acre minimum lot size.
3. Lots or parcels larger than 20 acres, but smaller than 50 acres shall be subject to a ~~45~~10-acre minimum lot size.

(The way this was written it makes it impossible to divide lots between 20 and 30 acres in size. Lots less than 20 acres can be divided; lots 30 to 50 acres in size can be divided with a 15-acre minimum lot size; but those between 20 and 30 acres in size are stuck unless the 15-acre minimum is reduced to 10 acres. It's out of fairness to any 20-30 acre parcels that I suggest this change.)

4. Notwithstanding paragraphs 2 and 3 of this subsection, any lot or parcel may be divided into smaller lots or parcels for the following purposes:
 - a. To facilitate provision of public facilities and services to an industrial use;
 - b. To protect a natural resource;
 - 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 industrial use; or
 - d. To reconfigure the pattern of lots and parcels pursuant to subsection F of this section.

G. A city or county may allow reconfiguration of lots or parcels less than 50 acres in area if the reconfiguration is more conducive to industrial use and results in no net increase in the total number of lots and parcels over the number prior to reconfiguration. Lots or parcels 50 acres or greater in area may also be reconfigured so long as the resulting area of any such lot or parcel is not less than 50 acres.

H. Notwithstanding subsections C and D 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 10 percent more floorspace.

3.07.430 Protection of Industrial Areas

- A. In Industrial Areas mapped pursuant to Metro Code section 3.07.130 that are not Regionally Significant Industrial Areas, cities and counties shall limit new and expanded non-industrial uses to those appropriate in type and size to serve the needs of businesses and employees in the Industrial Areas.
- B. In an Industrial Area, a city or county shall not ~~approve~~ allow as an outright permitted use:

(My rationale is the same as that given under 3.07420D.)

- 1. A commercial retail use with more than 60,000 square feet of gross leasable area in a single building or in multiple buildings ~~within close physical proximity that are part of the same development project~~;

(Same comment as given under 3.07.420D1.)

- 2. Commercial retail uses with a total of more than 60,000 square feet of gross leasable area on a single lot or parcel, or on contiguous lots or parcels, including those separated only by transportation right-of-way;

- 3. ~~Schools, churches or those institutional and community services uses intended to serve people who do not work or reside in the Area.~~

(There may be instances when institutional and community service uses have a legitimate need to be within industrial areas. I do not think they should be prohibited.)

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 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 as an outright permitted 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 gross leasable 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 individual 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.

~~E. A city or county may authorize new commercial retail uses 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 3.07-2 of Title 2 of the Urban Growth Management Functional Plan.~~

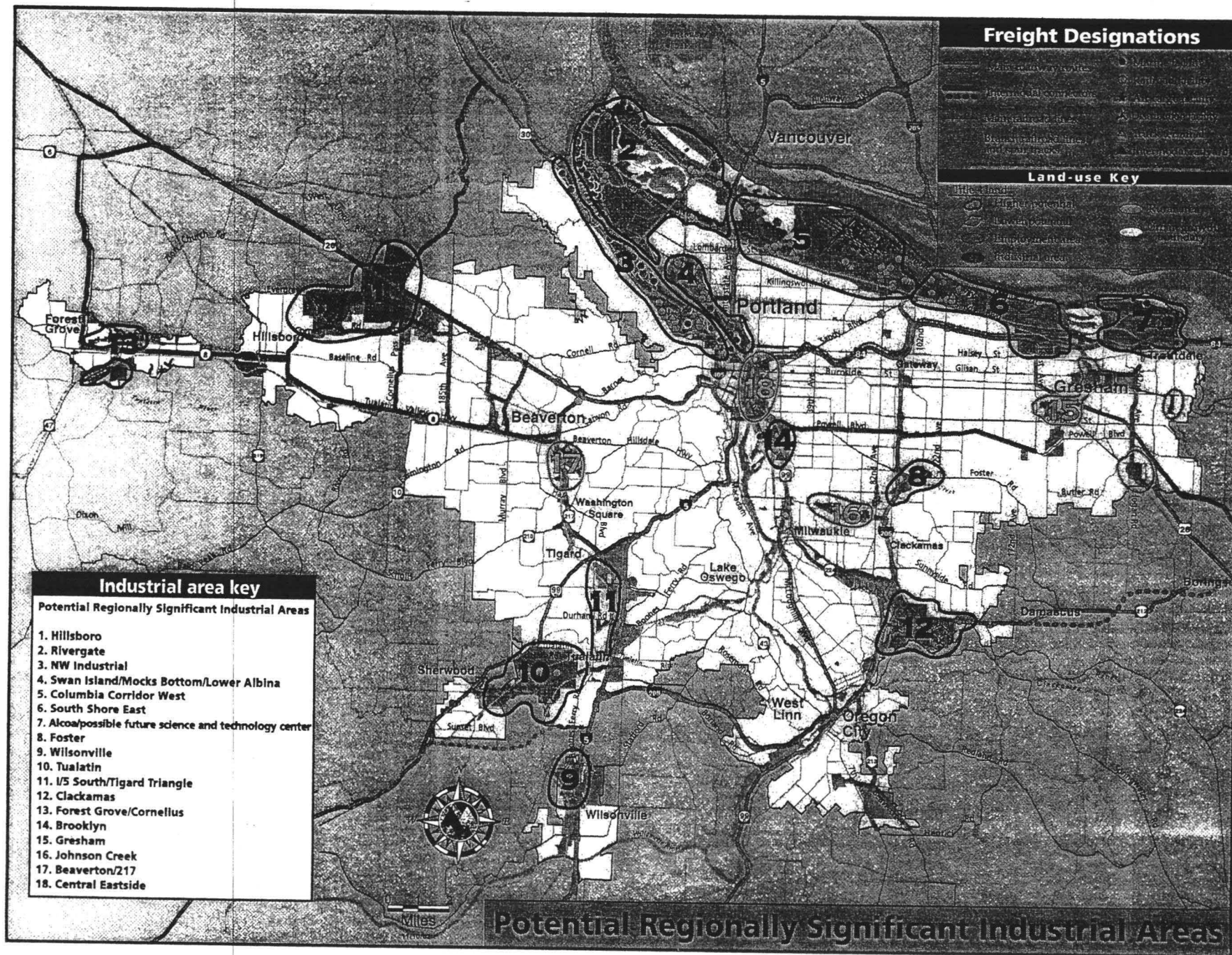
(This strikes me as an administrative nightmare to try to apply. I'd rather see it deleted.)

3.07.460 Government Offices

A. Cities and counties shall encourage the siting of government offices and other appropriate government facilities in Centers and Station Communities by taking action pursuant to section 3.07.620 to eliminate or reduce unnecessary physical and regulatory barriers to development and expansion of government offices in Centers and Station Communities.

~~B. Cities and counties shall discourage the siting of government offices outside Centers and Station Communities by requiring a demonstration by the applicant government agency that sites within Centers cannot reasonably accommodate the proposed office due to characteristics of the office other than parking for employees.~~







(There are many legitimate purposes for siting government offices outside centers and stations areas. I do not think it is reasonable or necessary to require this. Subsection A should be adequate to address this issue.)



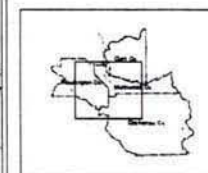
Regionally Significant Industrial Areas

Ordinance #03-1022

DRAFT 10/21/2003

-  Title 4 Employment Land
-  Title 4 Industrial Land
-  Title 4 Regionally Significant Industrial Area 2002 Decision
-  Local Government Proposed RSIA
-  Other Sites Under Consideration by Metro Council
-  Staff Proposed RSIA

disturbances, which have serious detrimental effects on the environment, e.g. forest fires, forest fires, etc. (see also the article, "The role of the forest in the environment").



Location Map



WISCONSIN



METRO

Date: October 21, 2003
To: Richard Benner, Interim Regional Planning Director
From: Mary Weber, Community Development Manager

Re: ***An Assessment of Potential Regionally Significant Industrial Areas***

Background

The Metro Council amended Title 4 to afford a higher level of protection to Regionally Significant Industrial Areas (RSIAs) than to Industrial Areas in general. The Metro Council took this action based upon information the Metro Council received about industrial land during the periodic review analysis and hearings process – principally the Regional Industrial Lands Study (RILS) and Metro's own "Urban Growth Report: An Employment Land Need Analysis" (UGR-Jobs). The information showed that much industrial capacity had been absorbed by the economic expansion of the mid-1990s. It also showed that much of the remaining capacity was constrained: divided into parcels too small for the growth industries of the future; converted to non-industrial use; regulated to protect wetlands or floodplains and; inadequately served by water, sewer or transportation facilities.

The Metro Council aimed its amendments of Title 4 at conversion of industrial land to non-industrial uses. In the UGR-Jobs (page 31), the Council noted both positive and negative effects of this conversion. On the positive side, conversion (1) allows commercial uses to provide retail services to industrial employees and reduce trips; (2) provides opportunities for infill and redevelopment of aging industrial areas; and (3) allows flexibility of use that may provide the margin for industrial profitability. On the negative side, conversion (1) increases the cost of land for industrial use; (2) introduces uses that generate conflicts with industrial practices; and (3) may force relocation of industrial uses to less suitable sites. The Metro Council hopes to take advantage of the positive consequences of conversion in Industrial Areas and prevent the negative consequences in RSIAs.

Which lands should be designated RSIA?

There is guidance from the Regional Framework Plan, the Regional Transportation Plan, Title 4 of the Urban Growth Management Functional Plan, Periodic Review Ordinance No. 02-969B, Metro Council Resolution No. 03-3341A, the UGR-Jobs, MetroScope and the factors the Metro staff developed in consultation with cities and counties to help identify RSIAs.

1. Regional Framework Plan: Policies 1.4.1 and 1.4.2 of the Regional Framework Plan (RFP) speak of RSIAs as 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."*** The RFP leaves a more specific determination of RSIAs to implementation of Title 4 by the Metro Council and local governments.

2. Regional Transportation Plan: Policy 15.0 states as Objectives (a) ***"Provide high-quality access between freight transportation corridors and the region's freight intermodal facilities and industrial sanctuaries..."***; and (b) ***"Coordinate public policies to reduce or eliminate conflicts between current and future land uses, transportation uses and freight mobility needs, including those relating to: Land use changes/encroachments on industrial lands; and Transportation and/or land use actions or policies that reduce accessibility to terminal facilities or reduce the efficiency of the freight system."*** The policy recognizes the critical relationship between freight transportation and conflicting land uses. Although the Regional Transportation Plan (RTP) does not define "industrial sanctuary", it seems clear that the policy contemplates industrial areas in which commercial or residential uses do not dominate the transportation system.
3. Title 4: Title 4 also draws attention to the relationship between industrial land and the transportation system. One purpose of Title 4 is: ***"To protect the capacity and efficiency of the region's transportation system for movement of goods and services...."***
4. Ordinance No. 969B, UGR-Jobs, MetroScope: By adoption of the UGR-Jobs and the Generalized Map of RSIA's, the Council made clear that ***RSIA's are to be derived from those lands designated as Industrial Areas on the 2040 Growth Concept map***, and that not all Industrial Areas should be designated RSIA. The UGR-Jobs speaks of some industrial areas that are in the midst of transition to mixed-use areas (page 31). MetroScope modeling identified areas of industrial job loss during the planning period. In general the gains are the areas identified as having greater potential as RSIA's. These areas are the large industrial areas comprised of the Columbia South Shore Industrial Area, the Portland Harbor, the Clackamas Industrial District, the Tualatin/Wilsonville Industrial District and the Hillsboro Industrial District. While conversely, industrial losses (identified as having lower potential) are likely to occur in the Central City, Eastside Industrial area, Highway 217 corridor and Vancouver CBD. Maps from the MetroScope analyses are attached.

The UGR-jobs offers further guidance. The UGR-Jobs translates the regional economic forecast into demand for industrial land for particular building types: tech/flex, warehouse/ distribution and general industrial. These building types and the industries that occupy them need sites with certain locational and siting characteristics. The UGR-Jobs finds that sites with these characteristics are in very short supply in the urban growth boundary (UGB).

If these are the industries likely to add family-wage industrial jobs in the future, and sites with the locational and siting characteristics they need are in short supply, then land in Industrial Areas with these characteristics are logical candidates for designation as RSIA. Moreover, if the region is looking for sites with these characteristics outside the UGB, state planning law may require Metro to designate areas inside the UGB with these characteristics as RSIA's.

5. Resolution No. 03-3341A: The Metro Council, considering information from industry representatives, industrial land brokers and studies on clustering, directed the Metro

staff to study for possible inclusion in the UGB land that is **(1) close to freeway interchanges; (2) relatively flat; and (3) near existing industrial areas.**

This information indicated that the warehouse and distribution industry needed sites with the following characteristics:

- Freeway access within 3-5 miles of an interchange
- Large enough areas to accommodate of number of uses
- Slopes less 5 percent
- Highway routes are key: I-5, I-84 and I-205
- Highway 26 is not desirable due to congestion

General industrial site characteristics are:

- Freeway access within 3 miles of an interchange
- Net parcel sizes between 1-5 acres and 10-20 acres
- Location near other firms (labor pool)
- Stable soils and flat sites
- Manufacturing sites greater that 20 acres must have slopes less that 2 to 3 percent
- Manufacturing sites between 1-5 acres, slopes no more than 5 to 10 percent

For tech flex industrial uses the location and site characteristics are:

- Net parcel size greater than 10 acres
- Availability of specialized utilities
- Stable soils
- Proximity to existing high tech companies and suppliers
- Access to airport no more than 45 minutes mid-day (passengers)
- Some rolling topography but slope not more than 5 percent

6. **Factors:** The Metro staff, after consultation with cities, counties and other interests, developed a set of factors to consider in the identification of RSIA's. These factors reflect the locational and siting characteristics from Metro Council Resolution No. 03-3341A. As directed by Title 4, Metro staff worked with cities and counties in the region to apply the factors to designated Industrial Areas within their jurisdictions. Some cities and counties submitted candidate RSIA's to Metro based upon the factors. Striving for region-wide consistency, Metro staff also applied the factors to areas in cities and counties that chose not to submit candidate areas. The factors are:

- **Distribution** - Area serves as support industrial land for major regional transportation facilities such as marine terminals, airports and rail yards.
- **Services** - Availability and access to specialized utilities such as specialty gases, triple redundant power, abundant water, dedicated fire and emergency response services
- **Access** - Within 3 miles of I-5, I-205, I-84 (within the UGB), State Route 224 (within the UGB)
- **Proximity** - Located within close proximity of existing like uses
- **Use** - Predominantly industrial uses

Reasons not to designate an industrial area as a RSIA

Not all industrial areas need additional restrictions that come with the RSIA designation. Here are a few examples of reasons why an industrial area should not be designated as a RSIA.

- The industrial site/area is bordered on several sides by residential uses. In this case it is unlikely that the area will expand or be maintained over time because of the conflicts with residential uses.
- Existing non-conforming uses make it unlikely that the conflict between uses will diminish and that over time the area might be better zoned for employment uses.
- Flexibility of employment uses on the site is important for redevelopment to occur.

What follows is an analysis by area of the industrial land and how the characteristics of the area fit the RSIA factors. A map of each area is attached to this memorandum. The specific land data was derived from the 2000 vacant land supply. This is the inventory used for the 2002-2022 periodic review of the urban growth boundary.

Areas appropriate for RSIA designation

A general assessment of the areas on the *Potentially Regionally Significant Industrial Area* map indicate that the following areas meet the factors and are also lands that meet the general site and location criteria for industrial uses.

- Areas 1 – Hillsboro industrial area, south of Highway 26
- Areas 2, 3-4, 5 and 6 – Northwest Industrial Area, Rivergate, Swan Island and Columbia Corridor
- Area 12 - Clackamas distribution area around Highway 212/224
- Area 14 - Brooklyn Yards

Areas to consider for RSIA designation in the future

The areas may be appropriate for designation as RSIA's in the future:

- Area 9, Wilsonville industrial area
- Area 10, Tualatin industrial area
- Area 7, Troutdale industrial area

These areas as they exist today are local industrial districts. In the case of Wilsonville and Tualatin, if additional lands were added to the UGB for industrial uses and the I-5/99W connector improved truck access to I-5 then these areas would be appropriate for designation as RSIA's. In regard to Troutdale, the uses are local in nature and there is no opportunity to expand the industrial area or connect it to the Columbia South Shore industrial area. However, if the Reynolds Metals site were to redevelop as an intermodal facility, much of the area would redevelop to uses supporting an intermodal facility. If this were the case then the Troutdale industrial area would also be appropriate for designation as a RSIA.

Area Assessments

The acreage information is from the 2000 vacant land inventory. The buildable acres is displayed with the 2000 inventory. Local government submittals and area maps are attached. Also attached are the Standardized Zoning map for the region and the Title 4 Industrial Land with Slopes and Floodplain map.

Freight Designations

- Main roadway routes
- Intermodal connectors
- Main railroad lines
- Branch railroad lines and spur tracks
- Marine facility
- Railroad facility
- Air cargo facility
- Distribution facility
- Truck terminal
- Intermodal railroad

Land-use Key

- High potential
- Lower potential
- Employment area
- Industrial area
- Rural area
- Urban growth boundary

Industrial area key

Potential Regionally Significant Industrial Areas


1. Hillsboro
2. Rivergate
3. NW Industrial
4. Swan Island/Mocks Bottom/Lower Albina
5. Columbia Corridor West
6. South Shore East
7. Alcoa/possible future science and technology center
8. Foster
9. Wilsonville
10. Tualatin
11. I-5 South/Tigard Triangle
12. Clackamas
13. Forest Grove/Cornelius
14. Brooklyn
15. Gresham
16. Johnson Creek
17. Beaverton/217
18. Central Eastside



0 1 2
Miles
11/10/02


Potential Regionally Significant Industrial Areas

Standardized Regional Zoning


 1/4 Mile Buffer of
Title 4 Industrial Land

 Commercial

 Industrial

 Multi Family

 Mixed Use

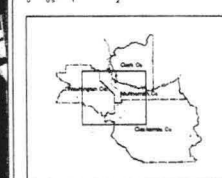
 Parks & Open Spaces

 Rural

 Single Family

Authority: Land Use Data is derived from various sources including aerial photography, ground surveys, and other available information. The data is not intended to be used for legal purposes. The data is not intended to be used for legal purposes. The data is not intended to be used for legal purposes.

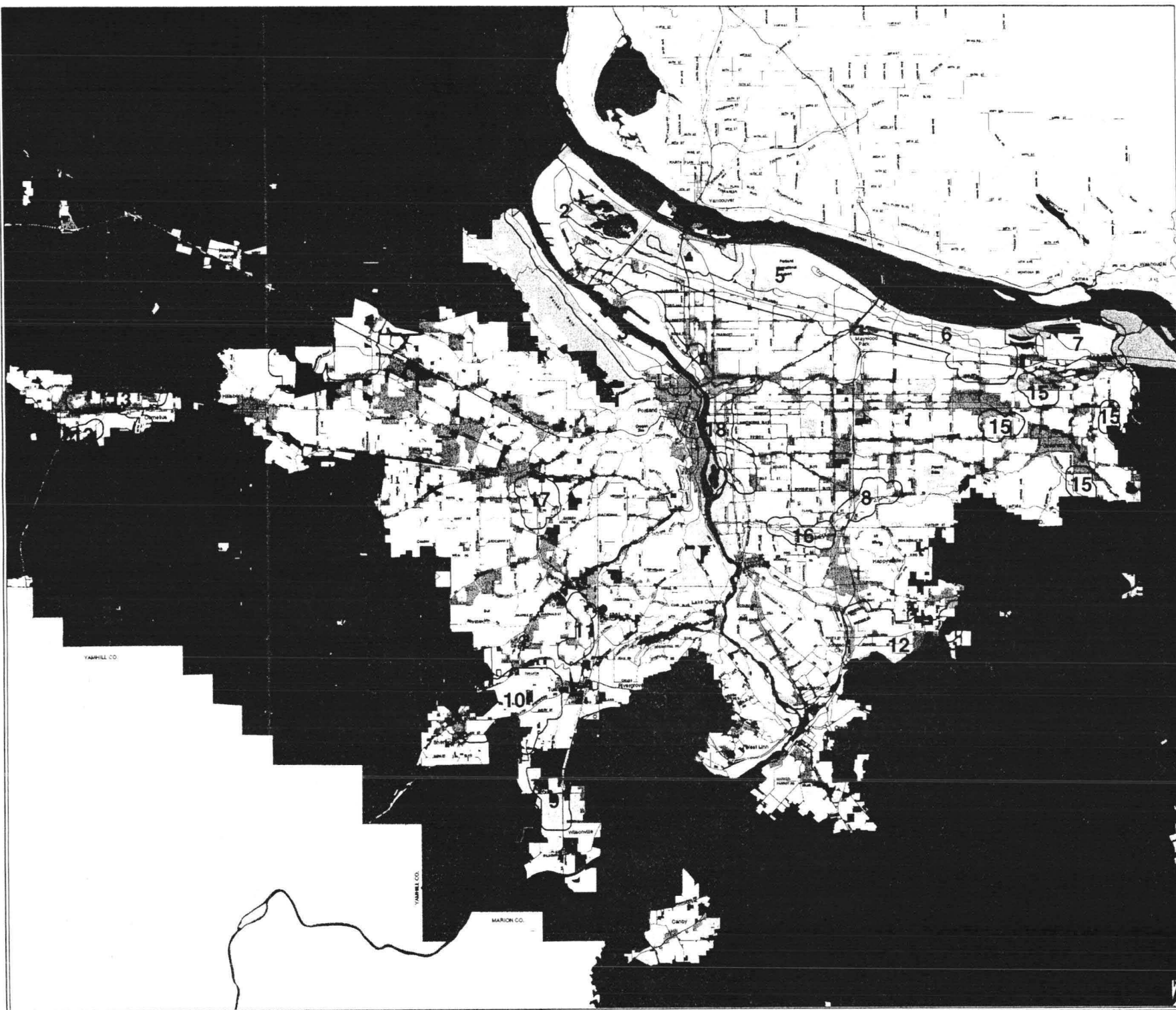
1 inch equals 1.00 mile
0 1 2 3 4 5 6 7 8 9 10



Location Map



Map of Marion County, Indiana, showing the location of the study area. The map is not intended to be used for legal purposes. The map is not intended to be used for legal purposes. The map is not intended to be used for legal purposes.



Area 1- Hillsboro Industrial Area

General Description

Area 1 encompasses the City of Hillsboro's hi-tech industrial area. At the center of the area is the Hillsboro airport.

Factor Analysis

Distribution

- The area does not serve as a regional warehouse or distribution area. The industrial area is within 3 miles of a Highway interchange but Highway 26 suffers from congestion that increases travel time to I-5, I-84 and Portland International Airport. Rail service is not available.

Services

- The industrial portion to the south of Highway 26 has access to specialty gases and triple redundant power from the PGE Sunset Substation. It is unlikely that these specialized utilities will be available to land to the north of Highway 26 because of the expense of extending these services north.

Access

- Within 3 miles of Highway 26 and within minutes from the Hillsboro airport.

Proximity

- The industrial area is part of the Hi-Tech Sunset Corridor.

Use

- The uses are predominately industrial with the exception of the commercial services associated with the Hillsboro airport. The industrial area to the north of Highway 26 forms the northern edge of the UGB and to the east is residential development.

Summary

This industrial area consists of flat land with slopes less than 10 percent and no floodplain. Very little of the area has environment constraints. The area to south of Highway 26 has access to some of the most sophisticated utilities in the country that are required by hi-tech firms. Intel operates two large facilities, one at Ronler Acres and the other at Jones Farm.

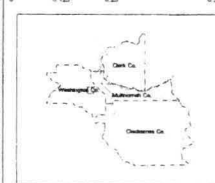
Staff recommends that the industrial lands to the south of Highway 26 be considered as Regionally Significant. If the Council were to add new industrial land adjacent to the industrial area to the north of Highway 26, then this area might also be considered as Regionally Significant Industrial Land.

Study Area 1



DISCLAIMER: This map was prepared for the purpose of displaying land ownership. It is not intended to be used for any other purpose. The map is not a warranty, nor is it a representation of any kind. The map is not a warranty, nor is it a representation of any kind. The map is not a warranty, nor is it a representation of any kind.

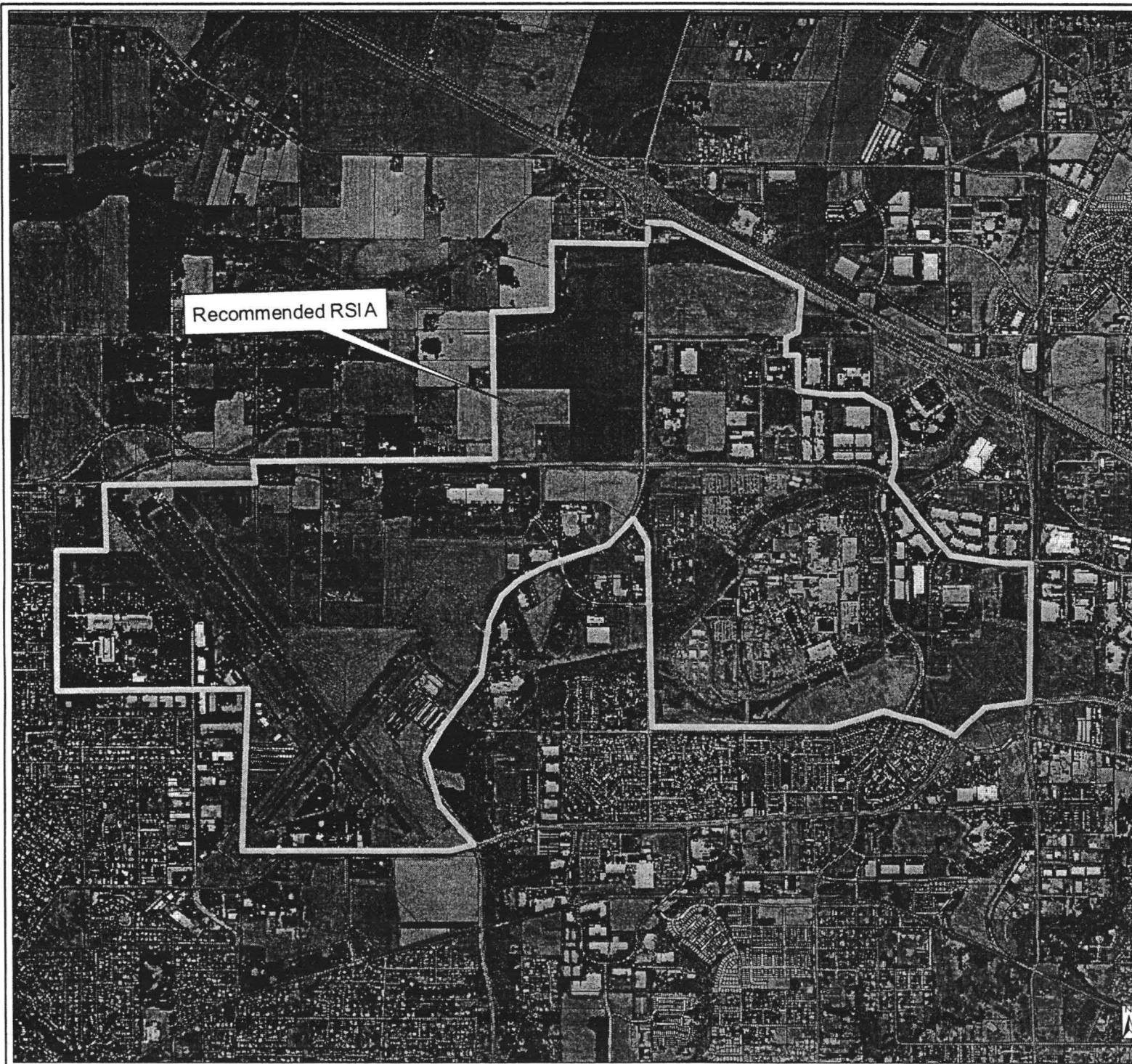
Scale: 1 inch = 0.5 miles



Location Map



REGIONAL LAND INFORMATION SYSTEM
 10000 N. 100th Ave., Suite 100, Portland, OR 97220
 TEL: (503) 751-1142 FAX: (503) 751-1143
 www.rlis.org



Draft RSIA Boundary Recommendation

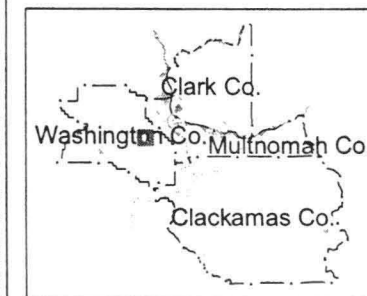
Study Area 1-Hillsboro

----- Urban growth boundary
□ Taxlots

WARNING: some maps combine data layers of differing map accuracies, e.g. flood plains can be laid on tax lots. When this occurs, the map is not reliable to correctly show data at the tax lot level.

The information on this map was derived from digital datasets on Metro's GIS. Care was taken in the creation of this map. Metro cannot accept any responsibility for errors, omissions, or positional accuracy. There are no warranties, expressed or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying this product. However, notification of any errors will be appreciated.

1 inch equals 0.46 miles



Location Map

METRO DATA RESOURCE CENTER
800 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232-2738
TEL (503) 797-1742 FAX (503) 797-1909
drc@metro.dst.or.us www.metro-region.org

Areas 2 – Northwest industrial Area, 3 & 4- Rivergate and Swan Island, 5 and 6 - Columbia Corridor to Gresham, 14- Brooklyn Yards - Portland

General Description

The City of Portland prepared a matrix that categorized the recommended factors and provided specific parameters for how they would apply to RSIA's, other industrial and mixed employment areas. The analysis included, location, area size, location advantages, industry mix, site sizes, facility types, neighbor sensitivity and infrastructure. The areas proposed by the city consist primarily of the Portland Harbor and Columbia Corridor industrial districts and makes up 94 percent of the industrial land designated in Portland's *Comprehensive Plan*.

Factor Analysis

Distribution

- The areas are located at the main hub of Oregon's freight transportation system, where the shipping channels, main rail lines and yards, freeways, Olympic Pipeline, and Portland International Airport converge.

Services

- May serve special power, water, sewer, and Telco needs.

Access

- Most sites are within 1 mile of regional truck system.

Proximity

- The areas are predominantly surrounded by industrial uses. Areas have a very small percentage of residential uses nearby.

Use

- These areas make up the largest concentration of manufacturing and distribution facilities in the state.

Summary

The City of Portland is recommending approximately 12,500 gross acres in these areas for designation as RSIA's. Detailed information on the City's analysis is attached.

Metro staff generally concurs with the City's recommendation. Staff recommends that the Metro Expo Center property in the Columbia Corridor RSIA not be designated as a RSIA. The RSIA designation creates another conflict with the industrial zoning that recognizes the Expo Center as a non-conforming use. As more research about job land is undertaken, Metro should reexamine these areas to determine if all of these lands should be designated as RSIA's. Staff also recommends extending the RSIA designation to connect to the Gresham portion of the RSIA.

Reasons not to designate an industrial area as a RSIA

Not all industrial areas need additional restrictions that come with the RSIA designation. Here are a few examples of reasons why an industrial area should not be designated as a RSIA.

- The industrial site/area is surrounded on several sides by residential uses. In this case it is unlikely that the area will expanded or be maintained over time because of the conflicts with residential uses.
- Existing non-conforming uses make it unlikely that the conflict between uses will diminish and that over time the area might be better zoned for employment uses.
- Flexibility of employment uses on the site is important for redevelopment to occur.

DATE: July 29, 2003

TO: Mary Weber, Manger Community Development

FROM: Marci La Berge, Associate Regional Planner

RE: *SUMMARY OF MEETINGS HELD DURING JULY 2003 WITH JURISDICTIONS REGARDING DISCUSSION OF TITLE 4, RSIA EVALUATION FACTORS, AND THE RSIA CONCEPT MAP.*

Introduction

The following information summarizes the meetings held with jurisdictions and agencies with potential RSIA lands, as shown on the concept map adopted in Ordinance 02-969B, as part of the December 2002 periodic review decision. Discussion at the meetings focused on three items: Title 4, RSIA evaluation factors, and the concept map.

There was little concern voiced about the evaluation factors, and most jurisdictions indicated they could work with them. The few specific comments made were regarding

- high degree of service of some items listed under Services,
- words that would better express factors or highways to be added to Access, and
- questioned number of the factors to be met.

The Title 4 RSIA discussion ranged from comments that the language allows jurisdictions flexibility, to the language is too restrictive and will inhibit development. Themes that were heard from more than one jurisdiction included:

- Concern about implementation of 5% commercial cap in RSIA's.
- Concern that Metro is doing regional zoning.
- Title 4 is too restrictive economic development requires flexibility.
- The issue is land use planning versus market readiness.
- Jurisdictions currently have effective zoning that protects the industrial areas.
- What is the benefit of the RSIA designation, what is the incentive?
- Need incentives for businesses to locate in centers rather than desirable less expensive industrial areas.

During the discussion of refining the concept map, the following issues were expressed:

- The need to talk to industrial property owners to see if they would want a RSIA designation on their lands.
- The RSIA designation would prevent the jurisdiction from achieving future development goals that depart from an industrial use.
- Need incentives for jurisdictions to want to designate land as a RSIA.

Jurisdictions were not certain if they could meet with their councils, commissions, and industrial property owners by the December 2003 adoption schedule. Many were skeptical whether they could identify enough land with the right attributes for a RSIA. This was due to existing small

industrial parcels, mixed uses, environmental considerations, and incompatible uses. Where there are currently vacant or underutilized industrial properties jurisdiction staff indicated that the RSIA design type would restrict their development options.

Meeting Summaries

Beaverton

Study Map Area: # 17

Planning Staff: Hal Bergsma, Steve Sparks

Title 4 issues

- No problems with Title 4 language.
- Within the area of I-5, 217, near Western and Allen there are existing warehousing uses interspersed with other uses.
- The east side of Western is parcelized. It is a viable industrial area with conversion occurring. Due to poor truck access and constrained turning movements it is not a suitable warehouse location. Don't want to loose the industrial uses, but it is not appropriate for a RSIA designation. Considerable amount of industrial property is vacant or underutilized; for example, land is being used for vehicle storage by the many automobile businesses in Beaverton.
- To address the concerns about the workability of the 5% commercial cap in a RSIA (Title 4 section 3.07.420D.2), suggested Metro looks at Beaverton's Development Control Areas language (section 20.15~~60~~). Adjacent jurisdictions could pre-agree to a quota; an intergovernmental agreement written into the code that describes how the 5% will be apportioned.

60

Clackamas County

Study Map Area: #12, 16

Planning Staff: Greg Jenks, Doug McClain

Title 4 issues

- Title 4 is too restrictive.
- The issue is land use planning versus market readiness.
- Large institutional uses such as hospitals with a research component should be an allowed use in a RSIA.
- Assembling of lots will probably not occur within the area of the potential RSIA.
- North side of highway 212 there are retail uses.
- South side of highway 212 are industrial uses, potential for RSIA designation.
- Federally owned Camp Withycome area would not be a RSIA.

Evaluation Factors

- Under Services, abundant water is a high threshold to meet. Otherwise OK.

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 03-3382, FOR THE PURPOSE OF ADOPTING THE PORTLAND AREA AIR QUALITY CONFORMITY DETERMINATION FOR THE 2004 REGIONAL TRANSPORTATION PLAN AND 2004-07 METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM

Date: October 30, 2003

Prepared by: Mark Turpel

BACKGROUND

Federal regulations require that Metro's financially constrained system of the Regional Transportation Plan (RTP) and its Transportation Improvement Program (MTIP), which is drawn from the financially constrained RTP, be updated every three years. Federal approval of the updates can't be made until the region demonstrates that the updates meet Clean Air Act (CAA) requirements (a conformity determination).

The last full analysis conformity determination was approved January 26, 2001. Accordingly, in order to avoid a conformity lapse, a new conformity determination must be made by the USDOT, in consultation with the US Environmental Protection Agency by January 26, 2004. A conformity lapse is to be avoided as it could result in delay of most new transportation construction projects in the region.

The three air pollutants of concern within the region directly related to transportation and included in the air quality maintenance plans' motor vehicle emission budgets (maximum pollutant levels for the Portland area) are: Carbon Monoxide (CO), volatile organic compounds (VOC) (VOC are also called hydrocarbons - HC) and oxides of Nitrogen (NOx). NOx and VOC are precursors to ground level ozone, or smog.

Federal and state regulations further require that air quality conformity be demonstrated not only for the present year, but also in future years when planned additional transportation investments included in the MTIP or financially constrained RTP could increase air pollution. Air quality maintenance plans have established motor vehicle emission budgets that must not be exceeded in order to demonstrate conformity. Budget years for which analyses must be completed include 2006 (VOC and NOx only), 2007 (CO only), 2010, 2015, 2020 and 2025. Accordingly, an air quality conformity determination of the financially constrained 2004 RTP and the 2004-07 MTIP has been completed for public and technical review and comment and Metro Council consideration.

All of the required local tasks have been completed and the Metro Council is being asked to approve this work and direct that a request be made for US Department of Transportation Conformity Determination of the 2004 RTP and 2004-07 MTIP.

ANALYSIS/INFORMATION

1. Known Opposition

None known. The region is and has been in compliance with the Clean Air Act since 1996. The proposed transportation investments included in the 2004 RTP and the 2004-07 MTIP when added to the present transportation systems, are estimated to result in air quality conditions which continue to meet the Clean Air Act.

2. Legal Antecedents

There are a wide variety of past Federal, State and regional legal actions that apply to this action.

Federal regulations include:

- the Clean Air Act, as amended [42 U.S. C. 7401, especially section 176(c)]; and
- Federal statutes concerning air quality conformity [23 U.S.C. 109(j)];
- US EPA transportation conformity rules (40 CFR, parts 51 and 93)
- USDOT rules that require Metro to update RTPs on a three-year cycle [23 CFR 450.322(a)].

State regulations include:

- Oregon Administrative Rules for Transportation Conformity, (OAR Chapter 340, Division 252);
- Portland Area Carbon Monoxide Maintenance Plan and Portland Area Ozone Maintenance Plan each prepared in 1996 and which received Federal approvals on September 2, 1997 and May 19, 1997 respectively.

Previous related Metro Council actions include:

- Metro Resolution No. 00-2999, adopting the air quality conformity for the 2000 RTP;
- Metro Resolution No. 02-3186A, amending the 2000 RTP and 2002 MTIP to incorporate OTIA bond projects (using a estimate of additional air quality impacts from the projects added to the RTP and MTIP);
- Metro Resolution 03-3351, amending the 2000 RTP and MTIP to incorporate the South Corridor LRT Project (again, using a less than full analysis method to assess air quality impacts from the project when added to the RTP and MTIP).

3. Anticipated Effects

Approval of this Resolution will allow submittal of the air quality conformity determination as set forth in Part 4 (Air Quality Conformity) of Exhibit A to the US Department of Transportation, Federal Highway Administration and Federal Transit Administration as well as the US Environmental Protection Agency for their review and hopefully, approval. This approval will allow Metro and local, regional and state agencies to proceed with transportation investments within the region.

4. Budget Impacts

None. The subject transportation investments are allocations of Federal and State transportation funds.

RECOMMENDED ACTION

Adopt Resolution 03-3382.

Cornelius

Study Map Area: #13

Planning Staff: Richard Meyer

Title 4 issues

- Has no problems with Title 4 language
- Would very much like industrial land designated as RSIA
- Cornelius has warehousing and manufacturing activities that support other industries in the western sector of the region. Stewart Stiles refrigerated warehouses for high tech needs and canning operations that support agriculture of region. Supportive industries that are important to key clusters.
- Sees RSIA designation as a very positive thing for Cornelius.

Evaluation Factors

- Sees factors as too restrictive, would be difficult to meet them depending on how many had to be met.
- Area is six miles from US26, and US26 is not listed with other highways under the access factor.

Fairview, Troutdale, Wood Village

Study Map Area: # 6, 7

Planning Staff: John Andersen, Rich Faith, Sheila Ritz

Title 4 issues

- Language is not flexible, and may prevent jurisdictions from implementing plans for future development of industrial areas located in potential RSIA land.
- Concerned about the workability of the 5% cap on commercial uses in a RSIA. How would commercial uses be divided between two or three adjacent jurisdictions, and how would it be monitored over time?
- Much of their land has Goal 5 considerations due to its proximity to the Columbia River. Would like to see those areas develop with recreational uses instead of manufacturing.
- Large parcel west of the former aluminum plant may be possible RSIA candidate.

Forest Grove

Study Map Area: #13

Planning Staff: Jon Holan

Title 4 issues

- No issue with commercial limits
- Lot limitation not an issue
- What is the incentive for industrial lands to be defined as a RSIA?
- Have some nonconforming residential uses in the industrial areas.

Factors

- Thinks that triple redundancy power is unnecessary, double redundancy works fine for Forest Groves high tech firms.

Gresham

Study Map Area: # 6, 7, 15

Planning Staff: John Pettis, Ron Bunch, Terry Vanderkooy.

Title 4 issues

Gresham produced a memo stating its concerns about the Title 4 standards for Regionally Significant Industrial Areas. Wanted to postpone discussion of evaluation criteria or drawing lines on the refined concept map until Title 4 concerns were addressed.

- Concerned that the lack of flexibility may prevent jurisdictions from accommodating changes in trends and the next wave of industrial development.
- How to implement (section 3.07.420D) 20,000 square foot cap and the 5% cap on commercial retail use.
- Why is Research and Development treated differently from manufacturing uses?
- The transit requirement puts suburban communities such as Gresham at a disadvantage for attracting R&D.
- Title 4 needs to broaden its scope of the kinds of offices allowed in the RSIA's beyond R&D and corporate office headquarters.
- Suggested creation of a model code for Title 4 with performance standards.

Evaluation Factors

- Would not comment at this time.

Hillsboro

Study Map Area: # 1

Planning Staff: Karla Antonini, Wink Brooks

Title 4 issues

- Can't put everything in Centers. Need incentives for businesses to locate there.
- Offer incentives to encourage uses to locate in Centers, without prohibiting them from locating in other areas.
- Uses such as call centers should be allowed in industrial areas, where rents are affordable.
- Commercial restrictions in Title 4 are not a problem for Hillsboro.
- Have problem with sections E, F and G of Title 4, as being too restrictive and would prevent Hillsboro from agreeing to a RSIA designation. Hillsboro has a myriad of plans for large development projects on the table. They have experience and success parcelizing large lots and also assembling small lots into large ones.

Milwaukie

Study Map Area: #16

Planning Staff: John Guessner

Title 4 issues

- Has no problem with Title 4 language.
- Would like to explore designating industrial land in two locations (perhaps as RSIA) on the Title 4 map. One north of the Milwaukie town center and another area (approximately 300 acres) on the north side of Highway 224.

Evaluation Factors

- Add fiber optics to Services factor.

Oregon City

Planning Staff: Dan Drentlaw, Commissioner Doug Neeley

Title 4 issues

- Would like to designate approximately 250 acres of new land that was annexed into the 2002 UGB expansion.
- They believe RSIA designation can be a marketing tool.
- Being adjacent to a college, industry could use the school as a training base.
- Highway 213 is in close proximity of the area.

Evaluation Factors

- Requested that Highway 213 be added to the Access factor.

Portland

Study Map Area: # 2, 3, 4, 5, 6, 8, 14, 18

Planning Staff: Bob Clay, Al Burns, Troy Doss, Elissa Gertler

Title 4 issues

- Supportive of Title 4 language.
- It is broad enough to allow flexibility to jurisdictions.
- Suggested leaving it flexible with no further use and lot size restrictions.
- The regional discussion comes down to market versus land use goals.

Evaluation factors

- Agreed that factors look good for now.

Concept Map

Not ready to provide suggestions on locations of RSIA's. Will need to bring suggestions through the chain of command. Will provide information by July 28.

Columbia Corridor Environmental and land use committee

Mary Gibson contact.

Title 4 issues

- There needs to be citizen participation.
- There should be a tax lot based mailing so that property owners can fully participate in a public process
- Need to know what it means to be in a RSIA and out of a RSIA
- There should be more flexibility after Metro adopts its map and when jurisdictions go through their public process and adopt a map. Metro needs to honor the changes that come about after the public hearings.

Port of Portland

Study Map Area: # 1, 2, 3, 4, 5, 7

Planning Staff: Brian Campbell, Mary Gibson, Peggy Krause, Tom Bouillion

Title 4 issues

- Strongly support the principles and concepts contained in Title 4. Need to look at finer points to get it right. Need to define terms.
- Perhaps there should be the designation of regionally significant transportation facilities for airports.
- PDX has retail
- How many 50 acres industrial lots are there in the region.

Evaluation factors

- Highway 26 should be added to the list of Access factors.
- Under Access factor add Boulevard so that it reads Columbia Boulevard Corridor.

Sherwood

Study Map Area: # 10

Planning Staff: Dave Wechner

Title 4 issues

- RSIA could work in Sherwood if connector is built between 99W and I-5. Tualatin Sherwood Road is a disincentive for business to locate in Sherwood.
- Railroad line is underutilized and trains are not very frequent. Needs a railroad siding.
- Sherwood has a large 90-acre plus parcel of land, but no one is coming in. There need to be incentives to attract industry.

Evaluation Factors

- Under Access factor, suggests that travel time presents a more realistic measure than using distance (within three miles of a particular highway).

Tigard

Study Map Area: # 11

Planning Staff: Jim Hendryx, Barbara Shields, Dick Bewersdorff

Title 4 issues

- Industrial area is already parcelized.
- Railroad goes through the area but is not a major link.
- General industrial uses, office incubator type spaces.
- Area on concept map is a linear constrained area with office parks and other industrial uses.
- Access close to freeway.
- Small industrial flex, office and services.
- Need definitions in Title 4 such as, what is a RSIA, industrial job, and office. difficult to know what Metro is talking about without clear definitions.
- Clarify language in Table 3.07-4. Tigard has five zones please list all zones or just say Tigard.
- RSIA not appropriate for this area.

Evaluation Factors

- Suggest that under Reasons Not to Designate, should add another bullet that says "doesn't have any of the above"
- Terms need to be defined in bullets.

Tualatin

Study Map Area: #10

Planning Staff: Doug Rux, Stacy Hopkins

Title 4 issues

- Conditions too constrained on commercial uses.
- RSIA is an unsophisticated answer to a complex problem that goes beyond land use issues.
- Need more thoughtful discussion regarding large lots and flexibility, not one size fits all.
- We don't know how the market works, its unpredictable.
- The limitation on locating corporate headquarters in RSIA's doesn't mean that they will choose to locate in Centers. Due to high cost and lack of adequate sized facilities to accommodate them, they will locate somewhere easier. Need financial carrots if Metro wants them to locate in Centers.
- There are no 50 plus acre sites in Tualatin.
- There are currently too many regulations on existing industrial land.
- Will the Metro Council place additional use restrictions or conditions, beyond those stated in Title 4, on industrial lands designated as RSIA's?

Tualatin will have an open house to meet with industrial property owners and discuss Title 4 and RSIA's with its city council.

Factors

- Factors are all right unless a certain number of them must be met.
- There should be consideration of level of service on roadways that feed freeways listed under the Access heading. For example, a large warehouse district on Tualatin Sherwood Road would create a traffic nightmare.

Wilsonville

Study Map Area: # 9

Planning Staff: Paul Cathcart, Maggie Collins

Title 4 issues

- Feel good about Title 4; think standards are good
- Industrial zoning allows up to 30% commercial use.
- If industrial areas don't play out for RSIA, perhaps employment land would qualify.
- There are many green areas throughout the industrial area, may be Title 3 conflicts.
- Industrial area has warehousing district, small industrial, office, and car dealerships.

Evaluation factors

- Evaluation factors are general, but ok.

Ordinance No. 03-1024, For the Purpose of Adopting the 2004 Regional Transportation Plan as the Regional Transportation System Plan and the Regional Functional Plan for Transportation to meet State Planning Requirements.

Second Reading – Public Hearing – No Final Action

Metro Council Meeting
Thursday, December 4, 2003
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ADOPTING THE 2004 REGIONAL) Ordinance No. 03-1024
TRANSPORTATION PLAN AS THE REGIONAL)
TRANSPORTATION SYSTEM PLAN AND THE REGIONAL)
FUNCTIONAL PLAN FOR TRANSPORTATION TO MEET) Introduced by Councilor Park
STATE PLANNING REQUIREMENTS)
)

WHEREAS, federal law requires Metro to demonstrate every three years that its Regional Transportation Plan ("RTP") conforms to the Clean Air Act; and

WHEREAS, the U.S. Department of Transportation and the U.S. Environmental Protection Agency last found the RTP to conform to the requirements of the Clean Air Act on January 26, 2001; and

WHEREAS, cities and counties in the region have made amendments to their transportation system plans ("TSPs") in order to comply with Metro's 2000 RTP, and these TSP amendments have generated proposed amendments to the Regional Street Design and Freight System maps and minor revisions to other model system maps in the RTP; and

WHEREAS, cities and counties, in the course of amending their TSPs, identified new transportation projects and studies and changes in the location, description, cost or timing of previously approved projects; and

WHEREAS, Metro and cities and counties of the region have completed corridor studies, and concept plans pursuant to Title 11 of the Urban Growth Management Functional Plan, since adoption of the 2000 RTP, and these plans have generated proposed technical amendments to Chapter 6 (Implementation) of the RTP; and

WHEREAS, the Council directed that this update to the RTP be limited in scope to reflect changes in projects and programs since adoption of the 2000 RTP, in anticipation of a major review of RTP policies and projects in the next three-year cycle, due for completion by 2007; and

WHEREAS, the Metro Council has received and considered the advice of its Joint Policy Advisory Committee on Transportation and its Metro Policy Advisory Committee, and all proposed amendments identified in Exhibit "A" have been the subject of a 30-day public review period; and

WHEREAS, the Council held public hearings on the 2004 RTP on December 4 and December 11, 2003; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. Chapter 2 (Transportation) of the Regional Framework Plan ("RFP") and Chapter 1 (Regional Transportation Policy) of the RTP are hereby amended as set forth in Part 1 of Exhibit A, attached and incorporated into this ordinance.
2. Chapters 3 and 5 of the 2000 RTP are hereby amended as set forth in Part 2 (Project Update) of Exhibit A, attached and incorporated into this ordinance, to identify the scope and nature of the proposed transportation improvements that address the 20-year needs and a financial plan for implementing the recommended projects.
3. Chapter 6 (Implementation) of the RTP is hereby amended as set forth in Part 3 (Technical Update) of Exhibit A, attached and incorporated into this ordinance, to demonstrate regional compliance with state and federal planning requirements and establish regional TSP and functional plan requirements for city and county comprehensive plans and local TSPs.
4. Metro's 2000 RTP and these amendments to it, together with Titles 2 and 10 of the Urban Growth Management Functional Plan, comprise Metro's 2004 RTP, adopted as the regional functional plan for transportation under ORS 268.390, the regional "metropolitan transportation plan" required by federal transportation planning law, and the regional transportation system plan required by state planning law.
5. The Findings of Fact and Conclusions of Law in Exhibit B, attached and incorporated into this ordinance, explain how these amendments to the RTP conform to the requirements of the Clean Air Act and comply with state transportation and land use planning laws and the RFP.

ADOPTED by the Metro Council this ____ day of December 2003.

David Bragdon, Council President

ATTEST:

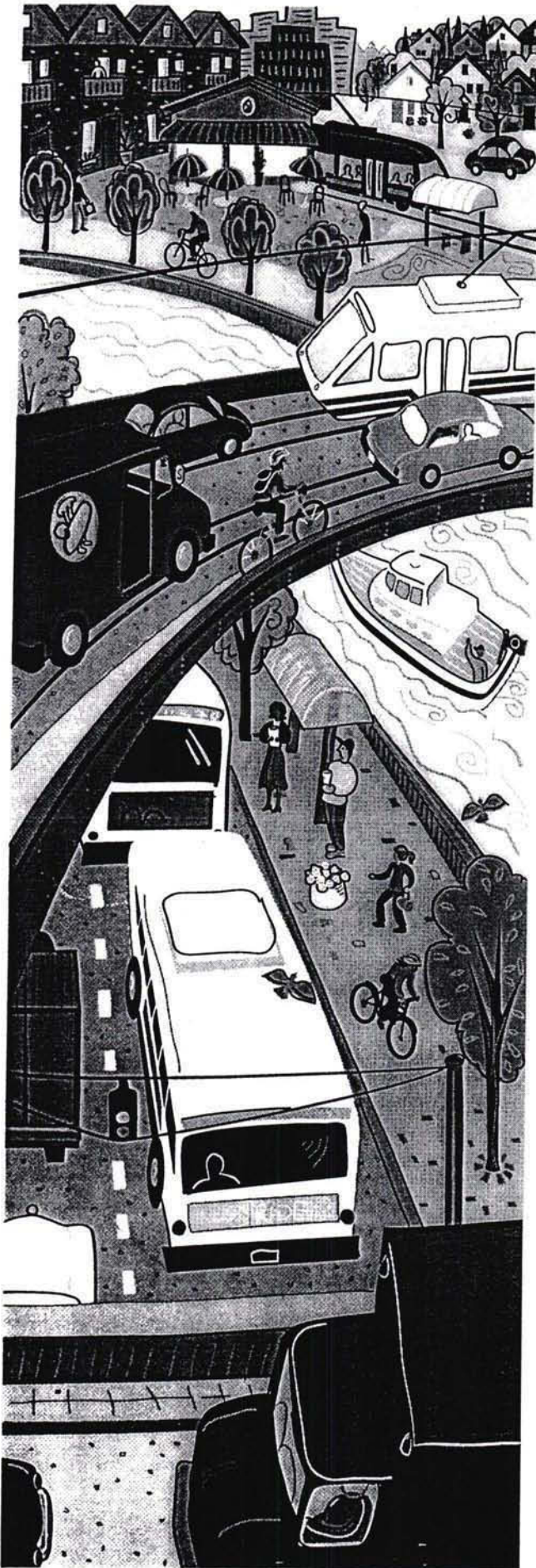
Approved as to Form:

Recording Secretary

Daniel B. Cooper, Metro Attorney

Exhibit "A" to Ordinance No. 03-1024

Too Large to Copy
Regional Transportation Plan
may be found on the Metro
Website or by contacting
Kim Ellis at (503) 797-1617



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STAFF REPORT

CONSIDERATION OF ORDINANCE NO. 03-1024 FOR THE PURPOSE OF ADOPTING THE 2004 REGIONAL TRANSPORTATION PLAN AS THE REGIONAL TRANSPORTATION SYSTEM PLAN AND THE REGIONAL FUNCTIONAL PLAN FOR TRANSPORTATION TO MEET STATE PLANNING REQUIREMENTS

Date: November 4, 2003

Presented by: Andrew C. Cotugno

PROPOSED ACTION

This ordinance would adopt the 2004 Regional Transportation Plan (RTP) as the regional transportation system plan (TSP) and the regional functional plan for transportation, as required by ORS 268.390, and would bring the RTP into compliance with the state Transportation Planning Rule (TPR). The 2004 RTP includes:

- RTP Policies - Chapter 1 of the RTP includes the policy component of plan. It has been updated to incorporate functional map amendments recommended in local transportation plans adopted since 2000 and endorsed by Metro as "friendly amendments" as part of the local review process. This action will also amend Ordinance No. 97-715B, updating Chapter 2 of the Regional Framework Plan with the updated Chapter 1 of the RTP.
- RTP Projects and Systems Analysis - Chapters 2 through 5 of the RTP identify the 20-year transportation needs for the region, detail the scope and nature of proposed improvements that address the 20-year needs and a financial plan for implementing the recommended projects. The chapters have been updated to incorporate project amendments recommended in local transportation plans adopted since 2000 and endorsed by Metro as "friendly amendments" as part of the local review process and technical or factual updates to the plan text that reflect updated population, employment and other empirical data needed to establish a new planning horizon year of 2025. Chapter 3 includes a description of the preferred system, which is intended to satisfy the state TPR requirements for an "adequate" system, as well as procedures and criteria in Chapter 6 for amending the projects.
- RTP Implementation - Chapter 6 of the RTP establishes regional compliance with state and federal planning requirements, and sets requirements for city and county compliance with the RTP. This chapter also establishes criteria for amending the RTP project lists, and the relationship between the RTP and the Metro Transportation Improvement Program (MTIP). Chapter 6 also identifies future studies needed to refine the RTP as part of future updates. These future studies are consistent with state TPR provisions that require refinement planning in areas where a transportation need exists, but further analysis is required to define specific solutions.

EXISTING LAW

Metro is required to complete a periodic update of the Regional Transportation Plan (RTP) in order to maintain continued compliance with the federal Clean Air Act. The U.S. Department of Transportation (DOT) and the U.S. Environmental Protection Agency (EPA) approved and acknowledged the 2000 RTP air quality conformity determination on January 26, 2001. Under federal regulations, the RTP must be updated every three years to ensure that the plan adequately addresses future travel needs and is consistent with the federal Clean Air Act. As a result, a new plan demonstrating conformity with the Clean Air Act must be approved and acknowledged by US DOT and US EPA in a formal conformity determination by January 26, 2004, when the current US DOT/US EPA conformity determination for the 2000 RTP expires. If the conformity determination expires, the plan is considered to "lapse," meaning that federally-funded transportation improvements could not be obligated during the lapse period. This consequence would apply to engineering, right-of-way acquisition or construction of any federally funded or permitted transportation project, except those defined as exempt because they do not have the possibility of increasing vehicle emissions.

Because the 2000 RTP was the result of a major update and was completed relatively recently, the 2004 update represents a minor effort that was limited to meeting state and federal requirements, and incorporating new policy direction set by Joint Policy Advisory Committee on Transportation (JPACT) and the Metro Council as part of various corridor and special studies adopted since 2000. The update also incorporated a number of "friendly amendments" proposed as part of local transportation plans adopted since 2000.

The next RTP update (which will be required by 2007) is proposed to be a more expansive effort that involves broader public discussion of plan policies and projects. By limiting this update to previously adopted local plans and corridor studies, projects that are included have been subject to past public involvement. This approach would establish a cycle of every other update being a "major" effort that reopens discussion of the RTP on a more fundamental level at six-year intervals.

FACTUAL BACKGROUND AND ANALYSIS

Background on the RTP

The 2000 RTP was the culmination of a major, five-year effort to completely overhaul the plan to reflect new federal and state regulations and the (then) newly adopted 2040 Growth Concept. It was the first RTP to be acknowledged by the Land Conservation and Development Commission as consistent with statewide planning goals.

The 2000 Regional Transportation Plan was developed to include separate layers of planned projects and programs that respond to differing federal, state and regional planning mandates. These layers are:

- the **financially constrained system**, which responds to federal planning requirements, and is based on a financial forecast of limited funding over the 20-year plan period

- the **priority system**, which responds to state planning requirements, and assumes that significant new revenue must be identified in order to provide an adequate transportation system over the 20-year plan period
- the **preferred system**, which responds to regional planning policies adopted as part of the 2040 Growth Concept and Regional Framework Plan, including specific system performance measures.

The federal “metropolitan transportation plan” is contained in applicable provisions of Chapter 1, 2, 3, 4 and 6 of the 2000 RTP. The policies and financial analysis in Chapters 3 and 4 for the preferred system of policies and facility improvements are for regional, not state, transportation planning requirements. The priority system described in Chapter 5 of this plan serves as the statement of adequacy for the purpose of compliance with the state TPR. The priority system includes a broad set of needed transportation projects and programs that generally keep pace with growth in the region, while implementing key elements of the 2040 Growth Concept.

The 2000 RTP was adopted in three stages: (1) an interim, federal element in 1995 that ensured continued certification under federal regulations, (2) a greatly expanded policy document approved in 1996 that established a new direction for the RTP that mirrored the 2040 Growth Concept and (3) a system component approved in 1999 that updated and expanded the planned projects called for in the region during the 20-year plan period. These components were assembled and jointly adopted by the Metro Council and JPACT in August 2000 as a complete plan addressing all federal, state and regional requirements.

The August 2000 adoption triggered a state requirement that local transportation plans be updated for consistency with the RTP within one year of the August 10, 2000 adoption date. As of today, all local plans have been updated for consistency, and have either been adopted or are in the final stages of adoption. To this extent, the elements of the RTP that are implemented through local plans, including design considerations for boulevards, local street connectivity requirements and a new “congestion management” process for developing transportation projects that requires thorough review of alternatives to road expansion before new road projects are identified.

The August 2000 action also included an update to the Title 2 Parking requirements, including the provision to design large parking lots with street-like features and layouts that encourage infill development and support walking and bicycling. These new parking requirements have also largely been incorporated into local plans.

Major Tasks for the 2004 RTP Update

Federal Regulations and Air Quality Conformity

The most pressing need for this update to the RTP is continued compliance with the federal Clean Air Act. The U.S. Department of Transportation last made a conformity determination on the 2000 RTP on January 26, 2001, and a new plan demonstrating conformity with the Clean Air

Act must be in place on January 26, 2004, when the 2000 RTP conformity determination expires. The conformity determination is made jointly by the Federal Highway Administration (FHWA) and Federal Transit Administration (FTA). Failing to adopt an updated RTP within the three year federal timeline means that federal-funded transportation improvements could not be obligated during the lapse period.

Most of the federal requirements only required minor revisions to the RTP in order to maintain compliance. The more involved efforts involve the requirement for a "financially constrained" plan and demonstration of conformity with the federal Clean Air Act. The conformity finding is based on the projects that make up the "financially constrained" plan. The financial constraint exercise consists of developing a projection of reasonably expected transportation funding over the 20-year plan period, and selecting a subset of projects from the plan that fit within this "constraint".

As the federally recognized system, the financially constrained system is also the source of transportation projects that may be funded through the Metropolitan Transportation Improvement Program. The MTIP allocates federal funds in the region, and is updated every two years, and includes a rolling, four-year program of transportation improvements.

Given that the larger set of "priority" RTP projects is nearly four times the project revenue in the existing 2000 RTP, was a difficult task to accomplish. The function of the "financially constrained" set of projects is further elevated by the fact that this list defines which projects in the plan are eligible for federal funding. The 2004 Regional Transportation Plan provides an updated set of financially constrained projects and programs for future MTIP allocations.

Previous Post-Acknowledgement Amendments

In June 2002, the Metro Council and JPACT adopted a series of three "post-acknowledgement" amendments. These changes to the RTP reflected recently completed studies that had been anticipated in the original RTP adoption action, and were approved as a resolution that directed staff to bring the amendment to the next regular update to the RTP.

The "post-acknowledgement" amendments included changes resulting from the *Green Streets Study*, the *Elderly and Disabled Transit Study* and the *Corridor Priorities Project*, both completed in late 2001. These studies addressed specific, outstanding needs identified in the 2000 RTP. A third "post-acknowledgement" amendment was comprised of a number of minor text changes that were generated by the LCDC order that acknowledged the plan in June 2001.

Because the "post-acknowledgement" amendments were reviewed in detail as part of resolutions approved by JPACT and the Metro Council, they will simply be forwarded as part of the overall RTP update ordinance, with no further changes proposed.

Local Transportation Plan “Friendly Amendments”

Under state rules, local governments in the Metro region were required to update local transportation plans for consistency with the 2000 RTP. Metro was involved in these local updates at a detailed level, with project staff assigned to each jurisdiction. As each local plan was completed, any proposed amendments to the RTP were called out and identified as “friendly amendments” in Metro’s formal comments on the local plans. These “friendly amendments” represent refinements to RTP maps and project descriptions and have been incorporated into the 2004 RTP.

Transportation Planning Rule and State Planning Goals

In 1991, the Land Conservation and Development Commission adopted the Oregon Transportation Planning Rule (TPR). The TPR implements State Land Use Planning Goal 12, Transportation, which was adopted by the Oregon Legislature in 1974. The TPR requires most cities and counties and the state’s four MPOs to adopt transportation system plans that consider all modes of transportation, energy conservation and avoid principal reliance on any one mode to meet transportation needs. By state law, local plans in MPO areas must be consistent with the regional transportation system plan (TSP). Likewise, the regional TSP must be consistent with the Oregon Transportation Plan, adopted in 1992 by the Oregon Transportation Commission.

The state TPR requires that transportation system plans provide an adequate system of improvements that meet adopted performance measures. The 2004 RTP consolidates the preferred and priority systems from the 2000 RTP into a single “preferred” system that will serve as the regional TSP. This analysis of this system will then be used to make a determination of adequacy for the purpose of compliance with the state TPR.

However, projects identified in this new system cannot be funded through the MTIP process unless they are also included in the smaller financially constrained system. Instead, these projects and programs are intended to guide local transportation plans and land use actions, and serve as the source of future projects in the financially constrained system, either through amendments to the Regional Transportation Plan, or through the regular updates that occur every three to five years.

Two major highway corridors will continue to remain “outside the plan” until exception findings on rural and resource goals for the portions of the corridors located outside of the urban growth boundary are completed and approved by LCDC. These include the Sunrise Corridor Unit 2 and I-5 to 99W connector.

The Sunrise corridor work will begin shortly, as part of the parallel Sunrise Corridor Unit 1 DEIS and Damascus/Boring Concept Plan projects, but the recommendations from these studies will not be available before the RTP update is scheduled to conclude in early 2004. Likewise, a proposed corridor study for the I-5 to 99W connector was allocated funding through the MTIP process, and could be completed in the next few years, but would remain “outside” the RTP until then. Both corridors will continue to be portrayed on the RTP system maps, which set the long-range vision for the region’s key transportation corridors, but those portions of the corridors

located outside the urban growth boundary will not be included as projects in the plan until the respective corridor studies are complete and exceptions findings are approved by LCDC.

Thresholds for Changes to the RTP

Given time and resource constraints, the Metro Council directed staff in May 2003 to complete a “housekeeping” update to the RTP, with the understanding that the next update (which will be required by 2007) will be a more expansive effort that involves broader public discussion of plan policies and projects. This approach established a cycle of every other update being a “major” effort that reopens discussion of the RTP on a more fundamental level at six-year intervals. The 2004 RTP update was limited to regulatory and other mandated changes needed to keep the plan current, and following guidelines listed below:

1. Revisions required by federal statute or regulation.
2. Revisions required by state statute or administrative rule.
3. RTP amendments approved by Council Ordinance since August 2000, such as the South Corridor map and project amendments.
4. RTP amendments forwarded by Council Resolution to this scheduled update, such as the I-5 Trade Corridor and Green Streets amendments.
5. Amendments to the Regional Street Design map resulting from ODOT's effort to create a comprehensive map of Special Transportation Area (STA) designations.
6. Local functional map and project amendments recommended in local transportation plans adopted since August 2000, and endorsed by Metro as part of the local plan review process as “friendly amendments”.
7. Technical or factual updates to the plan text that reflect updated population, employment and other empirical data needed to establish a new planning horizon year of 2025.
8. Limited transportation analysis updates based on the limited modeling proposed to meeting air quality conformity requirements.
9. Identification of new topics warranting further study as “outstanding issues” in Chapter 6 of the updated RTP.

As the final point suggests, these guidelines deferred major topics not already described in this staff report to be addressed as discrete RTP amendments, or deferred to a subsequent RTP update.

Technical Considerations

Because of the inherent time and resource constraints, a single round of modeling and analysis was utilized for this update. The principal purpose for this approach was to complete the federal air quality conformity analysis required to demonstrate that the updated plan is consistent with the region's air quality maintenance plan.

To achieve this, the 2004 RTP update combined the preferred and priority systems contained in the 2000 RTP as a single preferred system that established the universe of projects eligible for inclusion in the financially constrained system that is eligible for federal funding. Exceptions to this guideline were local and regional projects identified in corridor refinements and local transportation plans since the 2000 RTP was adopted. This approach focused TPAC's activities on defining the financially constrained system, and was based on the assumption that the combination of preferred system projects from the existing plan, and new projects from subsequent studies, will be adequate to meet travel demand in the new 2025 horizon year.

As part of documenting findings from this limited RTP modeling exercise, staff will review and update system performance conclusions from the 2000 RTP, as appropriate, to reflect the new systems. The 2004 RTP Update did not include an iterative process of multiple rounds of modeling to test new projects against the congestion management system and other RTP performance measures, since the new preferred system of improvements is expected to perform adequately. Any outstanding issues that are identified will be referenced for future corridor or area studies.

2004 RTP Update Products

The results of the 2004 RTP update work tasks are included in the 2004 Regional Transportation Plan Public Comment document, which is included as Exhibit "A." A 30-day public comment period was held from October 31, 2003 through December 4, 2003.

BUDGET IMPACT

None.

KE:acc

Agenda Item Number 6.4

Resolution No. 03-3380, For the Purpose of Designation of the 2004 Regional Transportation Plan as the Federal Metropolitan Transportation Plan to meet Federal Planning Requirements.

Public Hearing – No Final Action

Metro Council Meeting
Thursday, December 4, 2003
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF DESIGNATION OF) RESOLUTION NO. 03-3380
THE 2004 REGIONAL TRANSPORTATION)
PLAN AS THE FEDERAL METROPOLITAN)
TRANSPORTATION PLAN TO MEET) Introduced by Councilor Park
FEDERAL PLANNING REQUIREMENTS)

WHEREAS, federal law requires Metro to demonstrate every three years that its Regional Transportation Plan ("RTP") conforms to the Clean Air Act; and

WHEREAS, the U.S. Department of Transportation (Federal Highway Administration and the Federal Transit Administration) and the U.S. Environmental Protection Agency last found the RTP to conform to the requirements of the Clean Air Act on January 26, 2001; and

WHEREAS, federal transportation planning rules require Metro, as the Metropolitan Planning Organization ("MPO"), to identify a MPO Planning Boundary; and

WHEREAS, a post-adoption air quality analysis must demonstrate conformity with the federal Clean Air Act for continued federal certification; and

WHEREAS, the Metro Council has received and considered the advice of its Joint Policy Advisory Committee on Transportation and its Metro Policy Advisory Committee, and all proposed amendments identified in Exhibit "A" have been the subject of a 30-day public review period; and

WHEREAS, the Council held a public hearing on the 2004 RTP on December 11, 2003; now therefore,

BE IT RESOLVED that the Metro Council:

1. The 2004 Regional Transportation Plan ("RTP"), adopted by the Council in Ordinance No. 03-1024, shall be the federal Metropolitan Transportation Plan
2. The map in Part 1 (Policy Update) of the 2004 Regional Transportation Plan Update, adopted by the Council in Ordinance No. 03-1024, shall be the Metropolitan Planning Organization Planning Area Boundary for purposes of the federal Metropolitan Transportation Plan.

3. The Chief Operating Officer shall submit this resolution and the 2004 RTP and the 2004 RTP/2004-07 MTIP Air Quality Conformity Determination as set forth in Part 4 (Air Quality Conformity) of Exhibit A to the U.S. Department of Transportation (Federal Highway Administration and the Federal Transit Administration) and the U.S. Environmental Protection Agency for review for acknowledgement that these documents conform with the requirements of the Clean Air Act prior to January 26, 2004.

4. The Findings of Compliance in Exhibit B, attached and incorporated into this resolution, explain how the 2004 RTP conforms to the requirements of the Clean Air Act and federal planning requirements.

ADOPTED by the Metro Council this ____ day of December 2003.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney



Exhibit "A" to Resolution No. 03-3380

Exhibit too large to
copy, contact Kim Ellis
for a copy or document
may be found on Metro
web-site.



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STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 03-3380, FOR THE PURPOSE OF DESIGNATION OF THE 2004 REGIONAL TRANSPORTATION PLAN AS THE FEDERAL METROPOLITAN TRANSPORTATION PLAN TO MEET FEDERAL PLANNING REQUIREMENTS

Date: November 6, 2003

Prepared by: Kim Ellis

PROPOSED ACTION

This resolution would adopt the 2004 Regional Transportation Plan (RTP) as the federal metropolitan transportation plan and would bring the RTP into compliance with the Clean Air Act and federal planning requirements. The 2004 RTP includes:

- RTP Policies – Chapter 1 of the Regional Transportation Plan (RTP) presents the overall policy framework for specific transportation policies, objectives and actions identified throughout this plan. It also sets a direction for future planning and decision-making by the Metro Council and the implementing agencies, counties and cities.

The proposed policy amendments for the 2004 Regional Transportation Plan are limited to several transportation system map changes in Chapter 1. No changes to Chapter 1 policy text are proposed as part of this update. The updated system maps include a number of "housekeeping" amendments that reflect fine-tuning of the various modal system maps. Many of these amendments were recommended by local cities and counties as part of local transportation plans adopted since the last RTP update in August 2000. In addition, a new map that identifies the Metropolitan Planning Organization (MPO) Planning Boundary is proposed to be added to Chapter 1 of the RTP. This boundary defines the area that the Regional Transportation Plan applies to for federal planning purposes.

- RTP Projects and Systems Analysis - Chapters 2 through 5 of the RTP identify the 20-year transportation needs for the region, detail the scope and nature of proposed improvements that address the 20-year needs and a financial plan for implementing the recommended projects. The chapters have been updated to incorporate project amendments recommended in local transportation plans adopted since 2000 and endorsed by Metro as "friendly amendments" as part of the local review process and technical or factual updates to the plan text that reflect updated population, employment and other empirical data needed to establish a new planning horizon year of 2025. Chapter 5 also includes a description of the financially constrained system, which is required for federal certification, and serves as the basis for a conformity determination with the federal Clean Air Act that will be addressed through a separate Resolution No. 03-3382.
- RTP Implementation - Chapter 6 of the RTP establishes regional compliance with state and federal planning requirements, and sets requirements for city and county compliance with the RTP. This chapter also establishes criteria for amending the RTP project lists, and the relationship between the RTP and the Metro Transportation Improvement Program (MTIP). Chapter 6 also identifies future studies needed to refine the RTP as part of future updates.

EXISTING LAW

Metro is required to complete a periodic update of the Regional Transportation Plan (RTP) in order to maintain continued compliance with the federal Clean Air Act. The U.S. Department of Transportation (DOT) and the U.S. Environmental Protection Agency (EPA) approved and acknowledged the 2000 RTP

air quality conformity determination on January 26, 2001. Under federal regulations, the RTP must be updated every three years to ensure that the plan adequately addresses future travel needs and is consistent with the federal Clean Air Act. As a result, a new plan demonstrating conformity with the Clean Air Act must be approved and acknowledged by US DOT and US EPA in a formal conformity determination by January 26, 2004, when the current US DOT/US EPA conformity determination for the 2000 RTP expires. If the conformity determination expires, the plan is considered to “lapse,” meaning that federally-funded transportation improvements could not be obligated during the lapse period. This consequence would apply to engineering, right-of-way acquisition or construction of any federally funded or permitted transportation project, except those defined as exempt because they do not have the possibility of increasing vehicle emissions.

Because the 2000 RTP was the result of a major update and was completed relatively recently, the 2004 update represents a minor effort that was limited to meeting state and federal requirements, and incorporating new policy direction set by Joint Policy Advisory Committee on Transportation (JPACT) and the Metro Council as part of various corridor and special studies adopted since 2000. The update also incorporated a number of “friendly amendments” proposed as part of local transportation plans adopted since 2000.

In addition, federal transportation planning rules require Metro, as the Metropolitan Planning Organization (“MPO”), to identify a MPO Planning Area Boundary. This boundary defines the area that the Regional Transportation Plan applies to for federal planning purposes. The boundary includes the area inside Metro's jurisdictional boundary, the urban growth boundary and the 2000 census defined urbanized area boundary for the Portland metropolitan region. A new map has been added to chapter 1 of the RTP to meet this requirement.

FACTUAL BACKGROUND AND ANALYSIS

The most pressing need for this update to the RTP is continued compliance with the federal Clean Air Act. Most of the federal requirements only required minor revisions to the RTP in order to maintain compliance. The more involved efforts involve the requirement for a “financially constrained” plan and demonstration of conformity with the federal Clean Air Act. The conformity finding is based on the projects that make up the “financially constrained” plan. The financial constraint exercise consists of developing a projection of reasonably expected transportation funding over the 20-year plan period, and selecting a subset of projects from the plan that fit within this “constraint.” The financially constrained system of projects is then evaluated to determine whether implementation of the projects would violate the federal Clean Air Act.

In October 2003, Metro staff worked with members of the Transportation Policy Alternatives Committee (TPAC) and other interested parties to develop a comprehensive inventory of regional transportation projects identified in local plans and special studies adopted since the 2000 RTP was completed in order to update the 2000 RTP project list. This inventory included:

- new projects or studies that are not currently in the 2000 Regional Transportation Plan, but that have been adopted in local transportation system plans (TSPs) and regional corridor studies through a public process
- updates to existing 2000 RTP projects or studies to reflect changes in project location, description, cost and recommended timing

Nearly all city and county transportation plans in the Metro region have been updated during the past three years to be consistent with the 2000 RTP. In the process of completing these updates, many local

plans identified new transportation projects of regional significance that are proposed as part of the draft 2004 RTP as amendments. Some corridor studies that have been completed (or are nearing completion) since the last RTP update in August 2000 have been endorsed by resolution with the expectation that the new projects generated by these studies would be incorporated into the current RTP update. This includes the Powell/Foster Corridor Study, Phase 1.

Finally, the Pleasant Valley Concept Plan, Powell Boulevard Streetscape Study and the McLoughlin Boulevard Enhancement Plan were completed in 2003 with the expectation that new projects generated by these local planning efforts would be incorporated into the 2004 RTP. The recommendations endorsed in each of these efforts are also reflected 2004 RTP.

The updated preferred system of projects served as the basis for defining an updated financially constrained system of improvements that represents a subset of roughly half of the preferred system. Development of the financially constrained system followed the basic principles of (a) maintaining the Region 2040 Plan policy emphasis of the 2000 RTP by focusing improvements in areas that serve as the economic engines for the region, including centers, ports and industrial areas, and (b) maintaining a similar project balance among travel modes, including roads, transit, bikeways, pedestrian improvements and other project categories.

The 2004 Regional Transportation Plan provides an updated set of financially constrained projects and programs for future MTIP allocations and is anticipated to meet the federal clean air act. As the federally recognized system, the financially constrained system is also the source of transportation projects that may be funded through the Metropolitan Transportation Improvement Program. The MTIP allocates federal funds in the region, and is updated every two years, and includes a rolling, four-year program of transportation improvements.

Technical Considerations

Because of the inherent time and resource constraints, a single round of modeling and analysis was utilized for this update. The principal purpose for this approach was to complete the federal air quality conformity analysis required to demonstrate that the updated plan is consistent with the region's air quality maintenance plan.

To achieve this, the 2004 RTP update combined the preferred and priority systems contained in the 2000 RTP as a single preferred system that established the universe of projects eligible for inclusion in the financially constrained system that is eligible for federal funding. Exceptions to this guideline were local and regional projects identified in corridor refinements and local transportation plans since the 2000 RTP was adopted. This approach focused TPAC's activities on defining the financially constrained system, and was based on the assumption that the combination of preferred system projects from the existing plan, and new projects from subsequent studies, will be adequate to meet travel demand in the new 2025 horizon year.

As part of documenting findings from this limited RTP modeling exercise, staff reviewed and updated system performance conclusions from the 2000 RTP, as appropriate, to reflect the new preferred and financially constrained systems. The 2004 RTP Update did not include an iterative process of multiple rounds of modeling to test new projects against the congestion management system and other RTP performance measures, since the new preferred system of improvements is expected to perform adequately. Any outstanding issues that were identified are referenced for future corridor or area studies.

In addition to updating transportation projects and growth forecasts, Metro must demonstrate that the 2004 RTP meets federal and state air quality analysis requirements. During November, Metro completed a technical analysis known as air quality conformity.

The results of the 2004 RTP update work tasks are included in the 2004 Regional Transportation Plan Public Comment document, which is included as Exhibit "A." A 30-day public comment period was held from October 31, 2003 through December 4, 2003. The Metro Council is being asked to approve this work and direct that a request be submitted for US Department of Transportation and U.S. EPA review and acknowledgement of the 2004 RTP Conformity Determination.

ANALYSIS/INFORMATION

1. Known Opposition

None known. The region is and has been in compliance with the Clean Air Act since 1996. The 2004 RTP financially constrained system of transportation improvements is anticipated to meet federal clean air act requirements.

2. Legal Antecedents

There are a wide variety of past Federal, State and regional legal actions that apply to this action.

Federal regulations include:

- the Clean Air Act, as amended [42 U.S. C. 7401, especially section 176(c)]; and
- Federal statutes concerning air quality conformity [23 U.S.C. 109(j)];
- US EPA transportation conformity rules (40 CFR, parts 51 and 93)
- USDOT rules that require Metro to update RTPs on a three-year cycle [23 CFR 450.322(a)].

State regulations include:

- Oregon Administrative Rules for Transportation Conformity, (OAR Chapter 340, Division 252);
- Portland Area Carbon Monoxide Maintenance Plan and Portland Area Ozone Maintenance Plan each prepared in 1996 and which received Federal approvals on September 2, 1997 and May 19, 1997 respectively.

Previous related Metro Council actions include:

- Metro Resolution No. 00-2969, adopting the air quality conformity for the 2000 RTP;
- Metro Resolution No. 02-3186A, amending the 2000 RTP and 2002 MTIP to incorporate OTIA bond projects;
- Metro Ordinance 03-1007A, amending the 2000 RTP to incorporate the two phases of the South Corridor Study
- Metro Resolution 03-3351, amending the 2000 RTP and MTIP to incorporate the South Corridor LRT Project (again, using a less than full analysis method to assess air quality impacts from the project when added to the RTP and MTIP).

3. Anticipated Effects

Approval of this Resolution will allow submittal of the 2004 RTP as set forth in Exhibit A to the US Department of Transportation, Federal Highway Administration and Federal Transit Administration as well as the US Environmental Protection Agency for their review and hopefully, acknowledgement by US DOT and US EPA in a formal conformity determination that the 2004 RTP complies with the federal Clean Air Act and federal planning requirements. This approval will allow Metro and local, regional and state agencies to proceed with transportation investments within the region.

4. Budget Impacts

None. The subject transportation investments are allocations of Federal and State transportation funds.

RECOMMENDED ACTION

Adopt Resolution 03-3380.

Agenda Item Number 6.5

Resolution No. 03-3381, For the Purpose of Adopting the 2004-07 Metropolitan Transportation Improvement Program
for the Portland Metropolitan Area.

Public Hearing – No Final Action

Metro Council Meeting
Thursday, December 4, 2003
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APROVING THE 2004-	)	RESOLUTION NO. 03-3381
07 METROPOLITAN TRANSPORTATION)	
IMPROVEMENT PROGRAM FOR THE	)	Introduced by Councilor Rod Park; JPACT
PORTLAND METROPOLITAN AREA.		Chair

WHEREAS, the Portland metropolitan area Metropolitan Transportation Improvement Program (MTIP), which reports on the programming of all federal transportation funds to be spent in the region, must be updated every two years in compliance with federal regulations, and

WHEREAS, the Metro Council and Joint Policy Advisory Committee on Transportation (JPACT) have recently proposed programming of the "regional flexible funds" portion of the federal allocation of transportation funds to this region through the Transportation Priorities 2004-07 process, and

WHEREAS, the Oregon Department of Transportation has proposed programming of federal transportation funds for projects in the Portland metropolitan area through the State Transportation Improvement Program, and

WHEREAS, the transit service providers TriMet and South Metropolitan Area Rapid Transit (SMART) have proposed programming of federal transit funds, and

WHEREAS, these proposed programming of funds must be found in compliance with all relevant federal law and administrative rules, including a demonstration of compliance with the Oregon State implementation plan for air quality, and

WHEREAS, the draft Metropolitan Transportation Improvement Program for the Portland, Oregon metropolitan area, attached as Exhibit A, demonstrates compliance with all relevant federal law and administrative rules, and

WHEREAS, the companion Metro Resolution No. 03-3382 demonstrates compliance with the federal Clean Air Act and the Oregon State implementation plan for air quality, and

WHEREAS, a public process has provided an opportunity for comments on the programming of federal funds to specific projects in specific fiscal years and whether that programming meets all relevant laws and regulations, in addition to the extensive public processes used to select those projects to receive these funds; now therefore

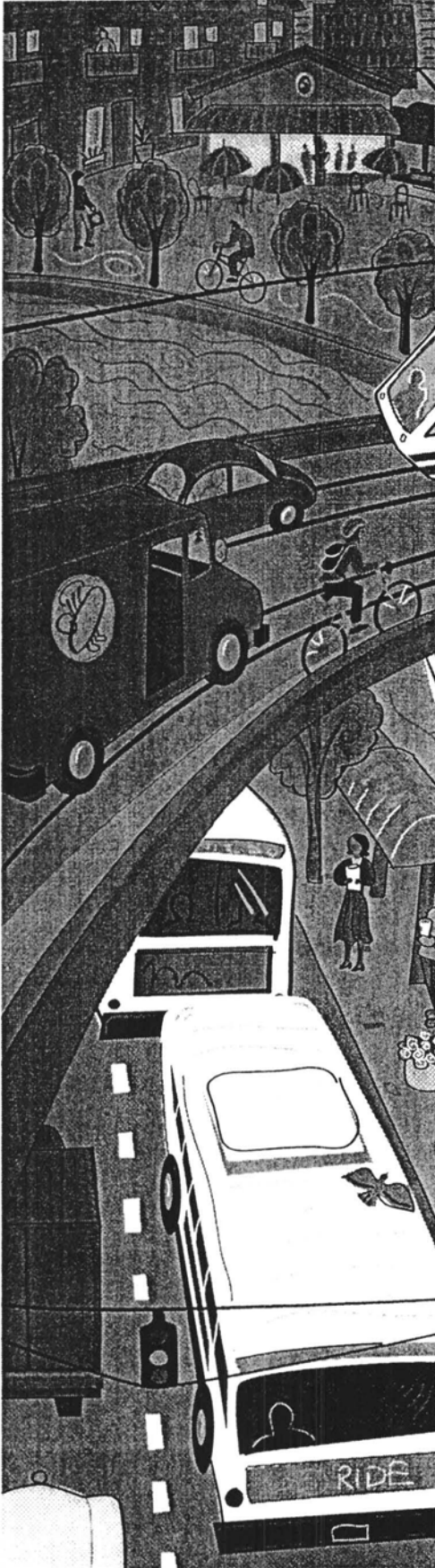
BE IT RESOLVED that the Metro Council adopt the 2004-07 Metropolitan Transportation Improvement Program for the Portland metropolitan area as shown in Exhibit A.

ADOPTED by the Metro Council this 18th day of December, 2003

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney



Resolution No. 03-3381
Exhibit A

Document too large to copy,
please contact Ted Leybold in
Planning for a copy.

Draft

Metropolitan Transportation Improvement Program

*Portland Metropolitan Area
Fiscal Years 2004 through 2007*

September 19, 2003



METRO

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STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 03-3381, FOR THE PURPOSE OF APPROVING THE 2004-07 METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM FOR THE PORTLAND METROPOLITAN AREA.

Date: November 20, 2003

Prepared by: Ted Leybold

BACKGROUND

The 2004-07 Metropolitan Transportation Improvement Program (MTIP) is a report that summarizes all programming of federal transportation funding in the Metro region for the federal fiscal years 2004 through 2007 and demonstrates that the use of these funds will comply with all relevant federal laws and administrative rules.

Generally, there are three sources of proposed programming of federal transportation funds that are reflected in the MTIP; "regional flexible funds" whose projects are selected in the Transportation Priorities process by JPACT and the Metro Council, projects and maintenance on the national highway system proposed by the Oregon Department of Transportation through the State Transportation Improvement Program (STIP) process, and transit projects proposed by the region's transit agencies. Federal regulations designate JPACT and the Metro Council as the bodies responsible for allocating the comprehensive package of federal highway and transit funds for the Portland metropolitan area.

The projects and programs recently selected by JPACT and the Metro Council to receive regional flexible funds for the years 2006 and 2007 have been assigned to their respective years of allocation and fund type (Surface Transportation Program or Congestion Mitigation/Air Quality) in the MTIP. Furthermore, previous programming of these funds for the years 2004 and 2005 have been updated to reflect changes in construction schedules and project costs.

The programming of state highway funds is proposed through the state wide State Transportation Improvement Program process. Projects and programs within the Metro region are summarized within the MTIP. Projects that increase vehicle capacity are included in the total cost report: Table 4.1. Other state projects: bridge rehabilitation, pavement preservation, safety, and operations are summarized in Tables 4.2.1 through 4.2.4. JPACT and Metro Council commented on the metropolitan portion of the STIP during the public comment period of that process on January 16, 2003. That comment letter is included in the MTIP as Appendix 10.

The programming of federal transit funds to the metropolitan region is summarized in Table 2.2-1. In addition to the regional flexible funds programmed to transit activities through the Transportation Priorities process, there are several types of federal funds summarized, including rail new starts, a program for low income access to jobs, allocations for bus purchases and allocations for maintenance of the bus and rail systems.

Adoption of this resolution would fulfill JPACT and the Metro Council's role within federal law to program federal funds, consistent with federal regulations as documented in Exhibit A; the Metropolitan Transportation Improvement Program for the Portland metropolitan area, federal fiscal years 2004 through 2007.

ANALYSIS/INFORMATION

1. **Known Opposition** None known at this time.
2. **Legal Antecedents** This resolution programs transportation funds in accordance with the federal transportation authorizing legislation (currently known as the Transportation Equity Act for the 21st Century or TEA-21). The allocation process is intended to implement the Transportation Priorities 2004-07 program policies as defined by Metro Resolution No. 02-3206. This MTIP must be consistent with the Regional Transportation Plan, which would be accomplished through action on draft Metro Ordinance No. 03-1024 adopting the 2004 Regional Transportation Plan. This MTIP must also be determined to be in conformance with the federal Clean Air Act, which would be accomplished through action on draft Metro Resolution No. 03-3382.
3. **Anticipated Effects** Adoption of this resolution is a necessary step to make the transportation projects and programs defined in Exhibit A eligible to receive federal funds to reimburse project costs.
4. **Budget Impacts** Adoption of this resolution is a necessary step in making eligible federal surface transportation program funds for planning activities performed at Metro. This includes \$730,000 of federal Surface Transportation Program funds to be used for planning activities at Metro in the current fiscal year.

RECOMMENDED ACTION

Approve the resolution as recommended.

Agenda Item Number 6.6

Resolution No. 03-3382, For the Purpose of Adopting the Portland Area Air Quality Conformity Determination for the 2004 Regional Transportation Plan and 2004-07 Metropolitan Transportation Improvement Program.

Public Hearing – No Final Action

Metro Council Meeting
Thursday, December 4, 2003
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ADOPTING THE	)	Resolution No. 03-3382
PORTLAND AREA AIR QUALITY CONFORMITY)	
DETERMINATION FOR THE 2004 REGIONAL)	
TRANSPORTATION PLAN AND 2004-07	)	Introduced by Councilor Park
METROPOLITAN TRANSPORTATION)	
IMPROVEMENT PROGRAM)	

WHEREAS, the Metro Council adopted Resolution No. 00-2999, demonstrating that the 2000 Regional Transportation Plan ("RTP") met state and federal air quality regulations and authorizing submittal of the air quality conformity determination to the United States Department of Transportation ("USDOT"); and,

WHEREAS, on January 26, 2001, the USDOT, represented by the Federal Highway Administration ("FHWA") and the Federal Transit Administration ("FTA"), after consultation with the United States Environmental Protection Agency ("EPA"), approved Metro's air quality conformity for the 2000 RTP; and

WHEREAS, state and federal regulations require that the region update its transportation plans every three years; and,

WHEREAS, state and federal regulations also require that the region demonstrate that its updated transportation plans conform with air quality standards; and,

WHEREAS, the region is approaching three years from its last full air quality conformity determination; and

WHEREAS, discussions with local, state and federal agencies concerning how best to update the RTP and Metropolitan Transportation Improvement Program were held, including meetings on September 18, 23, 24, 25, 26, and October 7, 8, 14, 15 and 22, 2003; and,

WHEREAS, Metro has prepared, in partnership with local, state and federal entities, a 2004 RTP, including a financially constrained system and a 2004-07 Metropolitan Transportation Improvement Plan ("MTIP"); and,

WHEREAS, Metro staff coordinated interagency consultation with the Transportation Policy Advisory Committee, FHWA, FTA, EPA, Oregon Department of Environmental Quality, Oregon Department of Transportation and TriMet on October 2, 2003, concerning the data, assumptions, methodology and technical and public review processes of a new air quality conformity determination for the financially constrained system of the 2004 RTP and the 2004-07 MTIP; and,

WHEREAS, a new air quality conformity determination for the 2004 RTP financially constrained system of projects and the 2004-07 MTIP has been prepared and is attached as Exhibit "A" to this resolution; and,

WHEREAS, notice of the availability of the air quality conformity determination for the 2004 RTP and 2004-07 MTIP was published in the *Oregonian* newspaper on September 29, 2003, stating that public comments concerning the 2004 RTP, 2004-07 MTIP and air quality conformity determination would be taken from October 31, 2003 to December 4, 2003; and,

WHEREAS, all comments provided during the period of review have been presented to the Metro Council in a public hearing prior to consideration of this resolution; and

WHEREAS, all recommendations from the Joint Policy Advisory Committee ("JPACT"), have been presented to the Metro Council prior to consideration of this resolution; and

WHEREAS, federal requirements to update the RTP and MTIP are not complete or final without an updated air quality conformity determination; now therefore,

BE IT RESOLVED,

1. The Metro Council approves the Air Quality Conformity Determination for the 2004 RTP and 2004-07 MTIP, attached as Exhibit A to this Resolution, as a determination that the 2004 Regional Transportation Plan, adopted by the Council by Ordinance no. 03-1024 on December __, 2003, and the 2004-2007 Metropolitan Transportation Improvement Program are in conformity with all state and federal air quality requirements.

2. The Metro Council directs the Chief Operating Officer to request concurrence with this air quality conformity determination from the USDOT, in consultation with the EPA, in order to confirm that the financially constrained system of the 2004 RTP and the 2004-07 MTIP conforms to the State Implementation Plan for attainment and maintenance of National Ambient Air Quality Standards in the Portland area Carbon Monoxide and Ozone Maintenance Plans.

ADOPTED by the Metro Council this __ day of _____ 2003.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

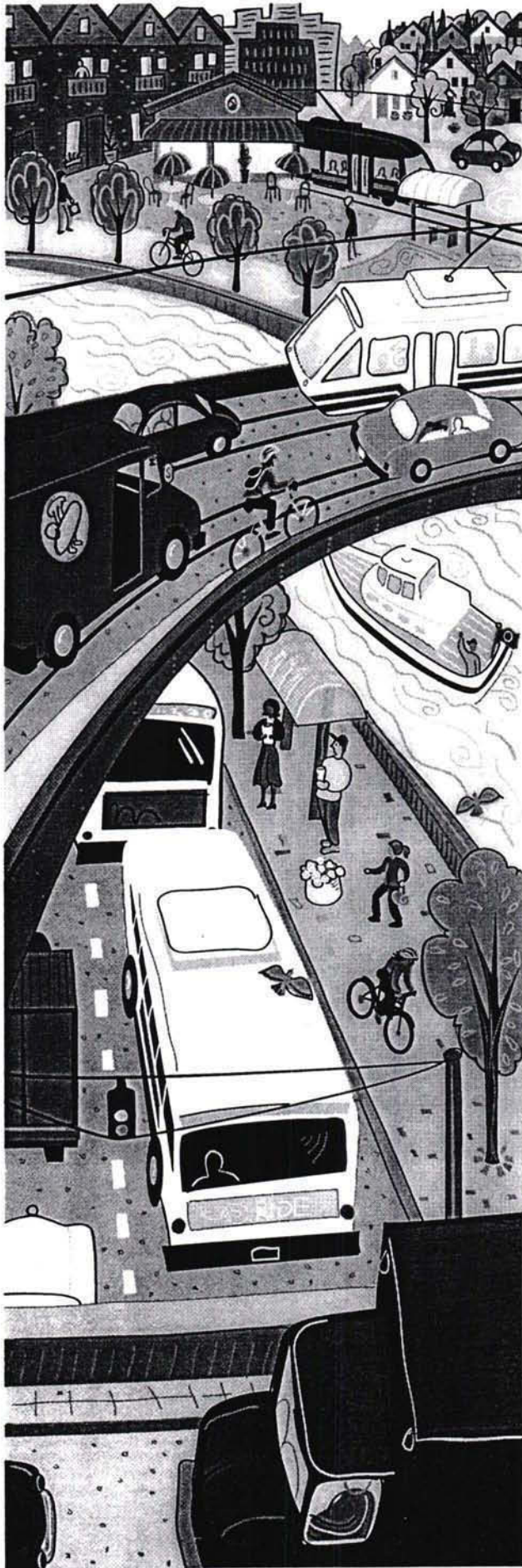


Exhibit "A" to Resolution No. 03-3382

Exhibit too large to copy,
please contact Kim Ellis
in Planning for a copy.



METRO

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BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AUTHORIZING THE CHIEF)	RESOLUTION NO. 03-3393A
OPERATING OFFICER TO ISSUE A NON-SYSTEM)	
LICENSE TO WILLAMETTE RESOURCES, INC., FOR	)	Introduced by Michael Jordan,
DELIVERY OF PUTRESCIBLE SOLID WASTE TO	)	Chief Operating Officer, with the
THE COFFIN BUTTE LANDFILL	)	concurrence of David Bragdon,
	)	Council President

WHEREAS, the Metro Code requires a non-system license of any person that delivers solid waste generated from within the Metro boundary to a non-system disposal facility; and,

WHEREAS, Willamette Resources, Inc., (WRI) currently has a non-system license to deliver mixed solid waste, including putrescible waste, to the Coffin Butte Landfill, which license will expire on December 31, 2003; and,

WHEREAS, WRI has applied for a new non-system license under the provisions of Metro Code Chapter 5.05; and,

WHEREAS, the application is in conformance with the requirements of Chapter 5.05 of the Code; and,

WHEREAS, the Chief Operating Officer has analyzed the application and recommended approval of the applicant's request for a non-system license with the conditions and in the form attached to this resolution as Exhibit A; and,

WHEREAS, this resolution was submitted to the Chief Operating Officer for consideration and was forwarded to the Council for approval; now therefore,

THE METRO COUNCIL RESOLVES AS FOLLOWS:

The Chief Operating Officer is authorized to issue a non-system license to WRI in a form substantially similar to the license attached as Exhibit A.

ADOPTED by the Metro Council this ____ day of _____, 2003.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney



METRO

LICENSE NO. N-005-04(3)

SOLID WASTE NON-SYSTEM LICENSE

Issued pursuant to Metro Code § 5.05.035.

1. Licensee:

LICENSEE: Willamette Resources, Inc. 10295 S.W. Ridder Rd. Wilsonville, OR 97070 Contact person: Mike Huycke Phone: (503) 570-0626 Fax: (503) 570-0523 E-Mail: mike.huycke@awin.com	FACILITY NAME AND LOCATION: Willamette Resources, Inc. 10295 S.W. Ridder Rd. Wilsonville, OR 97070 Contact person: Mike Huycke Phone: (503) 570-0626 Fax: (503) 570-0523 E-Mail: mike.huycke@awin.com
PARENT COMPANY: Allied Waste Industries, Inc. 15880 N. Greenway-Hayden Loop Scottsdale, AZ 85260 Phone: (602) 423-2946 Fax: (602) 423-9424	PROPERTY OWNER: Willamette Resources, Inc. 10295 S.W. Ridder Rd. Wilsonville, OR 97070 Contact person: Mike Huycke Phone: (503) 570-0626 Fax: (503) 570-0523 E-Mail: mike.huycke@awin.com

2. Nature Of Waste Covered By License:

Solid waste, including putrescible waste, generated within the boundaries of Metro.

3. Calendar Year Tonnage Limitation:

This license grants the Licensee the authority to dispose of up to 45,000 tons per calendar year of the waste described in section 2 of this license.

4. Non-System Facility:

The licensee hereunder may deliver the solid waste specified in this non-system license only to:

Coffin Butte Landfill
28972 Coffin Butte Road
Corvallis, OR 97330

5. Term of License:

The term of this license will commence on January 1, 2004 and expire on December 31, 2006.

6. Reporting of Accidents and Citations:

Licensee shall report to Metro any significant incidents (such as fires), accidents, and citations involving vehicles of its transportation carrier during the loading and transporting of solid waste on behalf of the licensee.

7. Additional License Conditions:

This non-system license shall be subject to the following conditions:

- (a) The permissive transfer of solid waste to the Coffin Butte Landfill authorized by this license will be subordinate to any subsequent decision by Metro to direct the solid waste described in this license to another facility.
- (b) Reporting of tonnage delivered under the authority of this license at frequency intervals to be determined by Metro. Such reporting may be required on a weekly or daily basis should the licensee approach the tonnage limit stipulated in section 3 of this license or the combined tonnage of all NSLs issued by Metro approach the tonnage not obligated under Metro's disposal contract. Likewise, Metro reserves the right to direct the licensee's waste flow to system facilities with a minimum of 24 hours notice.
- ~~(b)~~(c) This license shall be subject to amendment, modification or termination by Metro's Chief Operating Officer in the event that the Chief Operating Officer determines, at his or her sole discretion, that:
 - (i) there has been sufficient change in any circumstances under which Metro issued this license, or in the event that Metro amends or modifies its Regional Solid Waste Management Plan in a manner that justifies modification or termination of this license,
 - (ii) the provisions of this license are actually or potentially in conflict with any of Metro's contractual obligations under the terms of a contract that became effective before the effective date of this license, or
 - (iii) Metro's solid waste system or the public will benefit from, and will be better served by, an order directing that the waste described in section 2 be

transferred to, and disposed of at, a facility other than the facility described in section 4, above.

(e)(d) This license shall, in addition to subsections (i) through (iii), above, be subject to amendment, modification, termination, or suspension pursuant to the Metro Code.

(d)(e) No later than the fifteenth (15th) day of each month, beginning with the next month following the signature date below, Licensee shall:

- (i) submit to Metro's Solid Waste & Recycling Department a Regional System Fee and Excise Tax Report, that covers the preceding month, and
- (ii) remit to Metro the requisite Regional System Fees and Excise Taxes in accordance with the Metro Code provisions applicable to the collection, payment, and accounting of such fees and taxes.

(e)(f) Licensees shall not transfer or assign any right or interest in this license without prior written notification to, and approval of, Metro.

~~(f) This license shall terminate upon the execution of a designated facility agreement between Metro and the Riverbend Landfill.~~

8. Compliance with Law:

Licensee shall fully comply with all applicable local, regional, state and federal laws, rules, regulations, ordinances, orders, and permits pertaining in any manner to this license, including all applicable Metro Code provisions and administrative procedures adopted pursuant to Chapter 5.05 whether or not those provisions have been specifically mentioned or cited herein. All conditions imposed on the collection and hauling of the licensee's solid waste by federal, state, regional or local governments or agencies having jurisdiction over solid waste generated by the licensee shall be deemed part of this license as if specifically set forth herein.

9. Indemnification:

Licensee shall defend, indemnify and hold harmless Metro, its elected officials, officers, employees, agents and representatives from any and all claims, demands, damages, causes of action, or losses and expenses, or including all attorneys' fees, whether incurred before any litigation is commenced, during any litigation or on appeal, arising out of or related in any way to the issuance or administration of this non-system license or the transport and disposal of the solid waste covered by this license.

Signed:

Acknowledgement & Acceptance of the
Terms and Conditions of this License:

Signature

Signature of Licensee

Michael Jordan, Chief Operating Officer

Print name and title

Print name and title

Date

Date

SK:bjl

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STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 03-3393A FOR THE PURPOSE OF AUTHORIZING THE CHIEF OPERATING OFFICER TO ISSUE A NON-SYSTEM LICENSE TO WILLAMETTE RESOURCES, INC., FOR DELIVERY OF PUTRESCIBLE SOLID WASTE TO THE COFFIN BUTTE LANDFILL

December 4, 2003

Prepared by: Steve Kraten

BACKGROUND

Description of the Resolution

Approval of Resolution No. 03-3393A will authorize the Chief Operating Officer to issue a non-system license (NSL) to Willamette Resources, Inc., (WRI) to annually deliver up to a maximum of 45,000 tons of mixed solid waste, including putrescible waste, to the Coffin Butte Landfill located in Corvallis, Oregon. The WRI facility is located in Wilsonville, Oregon (Metro District 3). The existing license will expire on December 31, 2003.

ANALYSIS/INFORMATION

1. Known Opposition

There is no known opposition to the proposed license renewal.

2. Legal Antecedents

Changes to Code Chapter 5.05 approved by the Council with an emergency clause on October 9, 2003, made the issuance of NSLs for putrescible waste subject to approval by the Council rather than subject to approval by the Chief Operating Officer as was previously the case. Section 5.05.035(c) of the Metro Code provides that, when determining whether or not to approve an NSL application, the Council shall consider the following factors to the extent relevant to such determination.

- (1) *The degree to which prior users of the non-system facility and waste types accepted at the non-system facility are known and the degree to which such wastes pose a future risk of environmental contamination;*

The Coffin Butte Landfill (CBLF) first came into use during the 1940s or 50s when it served as the landfill for the nearby Adair Village Military base. Later, the landfill accepted industrial wastes from the Wah Chang facility located in Albany, Oregon. When the CBLF became a Subtitle D landfill in 1992, the original unlined cells were capped. However, there remains a problem of leachate contamination of groundwater that is presently being monitored by the DEQ. Since 1992, the landfill has been filling only lined cells and operating with the required environmental controls required by the Oregon Department of Environmental Quality (DEQ). (The Coffin Butte Landfill is a Metro designated facility authorized to receive non-putrescible solid waste without the need for haulers to obtain non-system licenses.)

- (2) *The record of regulatory compliance of the non-system facility's owner and operator with federal, state and local requirements including but not limited to public health, safety and environmental rules and regulations;*

The Coffin Butte Landfill is permitted by the DEQ to take unlimited amounts of authorized wastes (putrescible, non-putrescible, special and cleanup wastes). The facility was issued a Notice of Noncompliance (NON) by DEQ in 1998 for failure to immediately report a landfill fire. Another NON was issued in July 2001 when too high a level of non-methane gasses was detected in the landfill gas power generation system. The problem was promptly remedied. These are considered to be relatively minor violations; both DEQ and Benton County considers the landfill to be a well-run facility that is in compliance with federal, state and local requirements. Benton County and the landfill executed an agreement in December 2000 establishing the parameters to be monitored by the Benton County Environmental Health Division, and authorizing the landfill to accept quantities of waste consistent with the DEQ permit. The facility has a good compliance record with public health, safety and environmental rules and regulations.

- (3) *The adequacy of operational practices and management controls at the non-system facility;*

The Coffin Butte Landfill uses operational practices and management controls that are typical of Subtitle D landfills and considered by the DEQ to be adequate for the protection of health, safety, and the environment.

- (4) *The expected impact on the region's recycling and waste reduction efforts;*

The waste to be covered by the proposed license is putrescible waste and post-recovery residual. WRI already performs recovery on non-putrescible commercial and industrial waste at an average recovery rate of 33 percent. Approval of the license is not expected to impact the region's recycling and waste reduction efforts.

- (5) *The consistency of the designation with Metro's existing contractual arrangements;*

Metro has committed to deliver 90 percent of the total tons of "acceptable waste" that Metro delivers to general purpose landfills to landfills operated by Metro's waste disposal contract operator, Waste Management. WRI seeks authority to transfer waste that meets the definition of "acceptable waste" as used in Metro's waste disposal contract. This license is one of several that are coming before the Council at the same time. If all of the proposed licenses are approved, then the total amount of "acceptable waste" authorized under NSLs for delivery to non-Waste Management landfills will amount to an estimated 9.9 percent of Metro waste delivered to general purpose landfills based on a very conservative projection of the total amount of "acceptable waste" that will be delivered to general purpose landfills next year.* The NSLs contain provisions that can be used to increase the frequency of tonnage reports and amend tonnage authorizations should projections indicate a likelihood of a conflict or potential conflict with Metro's waste disposal contract.

These applications, in total, will place Metro very close to the ten percent of waste not obligated under the disposal contract. Staff tracks the tonnage "trajectory" of each licensee on an ongoing basis and believes there are sufficient "triggers" to enable Metro to adjust NSL tonnage allocations, if necessary, toward the end of each calendar year should there be a potential for exceeding the ten percent contractual limitation.

* The 9.9 percent is calculated by taking the sum of the tonnages in the NSL applications and dividing by amount of waste that is subject to the 90 percent flow guarantee. The latter amount is based on Metro's FY 2004-05 tonnage forecast (prepared October 2003).

- (6) *The record of the applicant regarding compliance with Metro ordinances and agreements or assistance to Metro in Metro ordinance enforcement and with federal, state and local requirements including but not limited to public health, safety and environmental rules and regulations; and*

WRI and United Disposal Service have a joint NSL authorizing delivery of a maximum of 5,500 tons of waste to the Covanta waste-to-energy facility located in Marion County, Oregon. In FY 2002-03 the tonnage cap on this NSL was exceeded by 3,531 tons. Metro did not issue a formal Notice of Violation. In FY 2003-04 the cap on this NSL was exceeded again, this time by 243 tons. For the second incident WRI was issued a formal notice of violation but no fine was imposed.

In addition, WRI has twice violated its solid waste facility franchise tonnage cap. The first time was in calendar year 1999 when WRI exceeded its 50,000-ton cap by 2,219 tons. For this violation, WRI was issued a formal notice of violation and fined \$2,219. WRI contested the penalty, which was upheld by a hearings officer and the Metro Council, and WRI paid the fine. The second time occurred in fiscal year 2002-03 after the tonnage cap had been increased to 65,000 tons and changed from a calendar year to a fiscal year basis. In this incident WRI exceeded its cap by 1,246 tons. Metro responded by issuing a formal notice of violation and imposing a fine of \$6,000. WRI paid the second penalty without contesting Metro's decision.

- (7) *Such other factors as the Chief Operating Officer deems appropriate for purposes of making such determination.*

WRI also has another NSL to deliver this same waste stream to the Riverbend Landfill. In 2002, WRI shifted its waste flow to the Riverbend Landfill toward the end of the year after reaching the cap on its Coffin Butte Landfill NSL. It intends to do so again this year.

Conclusion

The Chief Operating Officer finds that the proposed license satisfies the requirements of Metro Code Section 5.05.035 for the requested Solid Waste Facility License.

3. Anticipated Effects

The effect of Resolution No. 03-3393A will be to issue an NSL for delivery of up to 45,000 tons per calendar year of solid waste, including putrescible waste, to the Coffin Butte Landfill.

4. Budget Impacts

The regional system fee and excise tax will continue to be collected on waste delivered under authority of the proposed NSL. Approval of all the NSLs presented to the Council will result in a total tonnage authorization nearly identical to the current authorization and is expected to maintain the status quo.

RECOMMENDED ACTION

The Chief Operating Officer recommends approval of Resolution No. 03-3393A, and issuance of an NSL substantially similar to the NSL attached to the resolution as Exhibit A.

120403c-02

From: "Grant, Gene" <genegrant@dwt.com>
To: 'Randy Nicolay' <Randy_Nicolay@pgn.com>
Date: 11/26/03 5:17p.m.
Subject: RE: Metro hearing on regional transportation plan for testimony on Mt. Scott Creek Trail

Randy.

How about doing a letter to the Metro Councilors along these lines if you cannot come to the hearing? I could read your letter at the hearing next Thursday.

Thanks,

Gene Grant
 Davis Wright Tremaine LLP
 Suite 2300
 1300 SW 5th Ave.
 Portland OR 97201

Office 503 778 5427
 Cell 503 709 9698
 Fax 503 778 5299
 Email genegrant@dwt.com

-----Original Message-----

From: Randy Nicolay [mailto:Randy_Nicolay@pgn.com]
 Sent: Wednesday, November 26, 2003 11:46 AM
 To: kuhnorma@aol.com; clinth@ci.happy-valley.or.us;
 wandak@ci.happy-valley.or.us; genegrant@dwt.com; jonathan.s.edwards@kp.org;
 robwheelerhv@msn.com; pacificg@teleport.com; mackarib@worldnet.att.net;
 rsmbrooks@worldnet.att.net
 Subject: Re: Metro hearing on regional transportation plan for testimony on Mt. Scott Creek Trail

I don't know if I can make it, but I do have Metro's Master Plan in 1992 that showed the trail alignment as part of the plan connecting Talbert to Powell Butte. I worked with Mel when his office was still on First Ave on putting this plan together. When the first bond measure failed HV only got part of the funding which we used towards the trail west of 129th, and for the section in the Nature Park. This is not a new idea, just adding more funding for a past approved project.

Thank-youRandy***

>>> "Grant, Gene" <genegrant@dwt.com> 11/26/2003 10:01:12 AM >>>

When: Thursday, December 04, 2003 2:00 PM-4:00 PM (GMT-08:00) Pacific Time (US & Canada); Tijuana.
 Where: Metro Council Chamber

~~*~*~*~*~*~*~*

Mel Huie of Metro has asked that we provide testimonials on the need for Metro to add the Mt. Scott Creek Trail to the Regional Transportation Plan so that we can get funding for it. I would like to have as many as possible

come and testify. Since Randy, Jonathan and I all work close to the Metro Building I am hoping all three of us can testify in favor at the hearing. I will provide more definite time for the testimony as soon as I receive word. This should only take 30 minutes of your time to testify. Clint and Wanda, please notify the Parks Committee members by email to see if any of them could attend the hearing and testify in favor. This step is a key to getting Metro funding for the trail all the way to Mt. Talbert from our City Park.

Thanks,

Gene Grant, Mayor
Happy Valley, Oregon
C/O Davis Wright Tremaine LLP
Suite 2300
1300 SW 5th Ave.
Portland OR 97201

Office 503 778 5427
Cell 503 709 9698
Fax 503 778 5299
Email genegrant@dwt.com

Exhibit A
Ordinance No. 03-1025
(Willamette Resources, Inc. Franchise)

PROPOSED AMENDMENTS

Amendment No. 1. Amend Franchise Section 1.4 as follows:

1.4	Term	Inception date:	December 31, 2003
		Expiration date:	December 31, 2007 2008

Amendment No. 2. Amend Franchise Section 4.2 as follows:

4.2	Limit on waste accepted	<p>The Franchisee shall accept no more than 65,000 tons of putrescible waste <u>generated or originating inside the Metro region</u> within each Metro fiscal year irrespective of whether the waste originated inside or outside the Metro region. <u>The Franchisee shall not accept solid waste generated or originating outside the Metro region if to do so would limit Franchisee from accepting 65,000 tons of putrescible waste, or any non-putrescible waste, generated or originating inside the Metro region.</u></p>
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Amendment No. 3. Delete Franchise Section 5.18, "Access for ODOT inspectors."

Amendment No. 4.

a. Amend Franchise Section 2.13 as follows:

2.13	Definitions	<p>Unless otherwise specified, all other terms are as defined in Metro Code Chapter 5.01. In the event that the Metro Code is amended, the latest amended version shall apply to this franchise.</p>
-------------	--------------------	---

b. Amend Franchise Section 4.3 as follows:

4.3 Prohibited waste The Franchisee shall not knowingly accept or retain any material amounts of the following types of wastes: materials contaminated with or containing friable asbestos; lead acid batteries; liquid waste for disposal; vehicles; infectious, biological or pathological waste; radioactive waste; hazardous waste; or any waste prohibited by the Franchisee's DEQ Disposal Site Permit. The Franchisee also shall not knowingly accept or retain any material amounts of any other wastes identified in an ordinance adopted by the Metro Council during the term of this Franchise.

c. Amend Franchise Section 4.4 as follows:

4.4 Material recovery required The Franchisee shall perform material recovery on non-putrescible waste accepted at the facility at the rate stipulated in Metro Code Chapter 5.01, as amended by an ordinance adopted by the Metro Council during the term of this Franchise, or deliver said non-putrescible wastes to a Metro authorized solid waste facility whose primary purpose is to recover useful materials from solid waste. The Franchisee also shall perform material recovery on other types of waste identified in an ordinance adopted by the Metro Council during the term of this Franchise.

d. Amend Franchise Section 4.6 as follows:

4.6 No disposal of recyclable materials; other potential disposal bans Source-separated recyclable materials may not be disposed of by landfilling or incineration. The Franchisee also shall not dispose, by landfilling or incineration, any other wastes identified in an ordinance adopted by the Metro Council during the term of this Franchise.

Amendment No. 5. Amend Franchise Section 4.5 as follows:

- | | | |
|------------|------------------------------|--|
| 4.5 | Prohibition on mixing | The Franchisee shall not mix any source-separated recyclable materials or <u>source-separated</u> yard debris brought to the facility with any other solid wastes. Recyclable materials recovered at the facility may be combined with source-separated recyclable materials for transfer to markets, processors, or another solid waste facility that prepares such materials for reuse or recycling. |
|------------|------------------------------|--|

Amendment No. 6. Amend Franchise Section 5.2 as follows:

- | | | |
|------------|---------------------------|--|
| 5.2 | Qualified Operator | The Franchisee shall provide an operating staff qualified to carry out the functions required by this franchise and to otherwise ensure compliance with Metro Code Chapter 5.01. Facility personnel, <u>as relevant to their job duties and responsibilities,</u> shall be familiar with the <u>relevant</u> provisions of this franchise and the <u>relevant</u> procedures contained within the facility's operating plan (see Section 6.0). |
|------------|---------------------------|--|

Amendment No. 7. Amend Franchise Section 6.6 as follows:

- | | | |
|------------|---------------------------------------|--|
| 6.6 | Procedures for odor prevention | <p>The operating plan shall establish procedures for preventing all <u>objectionable odors from being detected off the premises of the facility.</u> The plan must include:</p> <ul style="list-style-type: none">a. A management plan that will be used to monitor and manage all odors of any derivation including malodorous loads delivered to the facility; andb. Procedures for receiving and recording odor complaints, immediately investigating any odor complaints to determine the cause of odor emissions, and remedying promptly any odor problem at the facility. |
|------------|---------------------------------------|--|

Amendment No. 8. Franchise Section 8.8, "Nuisance complaints," shall be renamed, "Procedures for nuisance complaints," and shall be inserted as a part of the Operating Plan requirements as new Franchise Section 6.8.

Exhibit A
Ordinance No. 03-1026
(Pride Recycling Company Franchise)

PROPOSED AMENDMENTS

Amendment No. 1. Amend Franchise Section 1.4 as follows:

1.4	Term	Inception date:	December 31, 2003
		Expiration date:	December 31, 2007 2008

Amendment No. 2. Amend Franchise Section 4.2 as follows:

4.2	Limit on waste accepted	The Franchisee shall accept no more than 65,000 tons of putrescible waste <u>generated or originating inside the Metro region</u> within each Metro fiscal year irrespective of whether the waste originated inside or outside the Metro region. The Franchisee shall not accept solid waste <u>generated or originating outside the Metro region if to do so would limit Franchisee from accepting 65,000 tons of putrescible waste, or any non-putrescible waste, generated or originating inside the Metro region.</u>
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Amendment No. 3. Delete Franchise Section 5.18, "Access for ODOT inspectors."

Amendment No. 4.

a. Amend Franchise Section 2.13 as follows:

2.13	Definitions	Unless otherwise specified, all other terms are as defined in Metro Code Chapter 5.01. In the event that the Metro Code is amended, the latest amended version shall apply to this franchise.
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b. Amend Franchise Section 4.3 as follows:

4.3 Prohibited waste The Franchisee shall not knowingly accept or retain any material amounts of the following types of wastes: materials contaminated with or containing friable asbestos; lead acid batteries; liquid waste for disposal; vehicles; infectious, biological or pathological waste; radioactive waste; hazardous waste; or any waste prohibited by the Franchisee's DEQ Disposal Site Permit. The Franchisee also shall not knowingly accept or retain any material amounts of any other wastes identified in an ordinance adopted by the Metro Council during the term of this Franchise.

c. Amend Franchise Section 4.4 as follows:

4.4 Material recovery required The Franchisee shall perform material recovery on non-putrescible waste accepted at the facility at the rate stipulated in Metro Code Chapter 5.01, as amended by an ordinance adopted by the Metro Council during the term of this Franchise, or deliver said non-putrescible wastes to a Metro authorized solid waste facility whose primary purpose is to recover useful materials from solid waste. The Franchisee also shall perform material recovery on other types of waste identified in an ordinance adopted by the Metro Council during the term of this Franchise.

d. Amend Franchise Section 4.6 as follows:

4.6 No disposal of recyclable materials; other potential disposal bans Source-separated recyclable materials may not be disposed of by landfilling or incineration. The Franchisee also shall not dispose, by landfilling or incineration, any other wastes identified in an ordinance adopted by the Metro Council during the term of this Franchise.

Amendment No. 5. Amend Franchise Section 4.5 as follows:

- | | | |
|------------|------------------------------|--|
| 4.5 | Prohibition on mixing | The Franchisee shall not mix any source-separated recyclable materials or <u>source-separated</u> yard debris brought to the facility with any other solid wastes. Recyclable materials recovered at the facility may be combined with source-separated recyclable materials for transfer to markets, processors, or another solid waste facility that prepares such materials for reuse or recycling. |
|------------|------------------------------|--|

Amendment No. 6. Amend Franchise Section 5.2 as follows:

- | | | |
|------------|---------------------------|---|
| 5.2 | Qualified Operator | The Franchisee shall provide an operating staff qualified to carry out the functions required by this franchise and to otherwise ensure compliance with Metro Code Chapter 5.01. Facility personnel, <u>as relevant to their job duties and responsibilities</u> , shall be familiar with the <u>relevant</u> provisions of this franchise and the <u>relevant</u> procedures contained within the facility's operating plan (see Section 6.0). |
|------------|---------------------------|---|

Amendment No. 7. Amend Franchise Section 6.6 as follows:

- | | | |
|------------|---------------------------------------|--|
| 6.6 | Procedures for odor prevention | <p>The operating plan shall establish procedures for preventing all <u>objectionable odors from being detected off the premises of the facility</u>. The plan must include:</p> <ul style="list-style-type: none">a. A management plan that will be used to monitor and manage all odors of any derivation including malodorous loads delivered to the facility; andb. Procedures for receiving and recording odor complaints, immediately investigating any odor complaints to determine the cause of odor emissions, and remedying promptly any odor problem at the facility. |
|------------|---------------------------------------|--|

Amendment No. 8. Franchise Section 8.8, “Nuisance complaints,” shall be renamed, “Procedures for nuisance complaints,” and shall be inserted as a part of the Operating Plan requirements as new Franchise Section 6.8.

Exhibit A
Ordinance No. 03-1027
(Recycle America Franchise)

PROPOSED AMENDMENTS

Amendment No. 1. Amend Franchise Section 1.4 as follows:

1.4	Term	Inception date:	December 31, 2003
		Expiration date:	December 31, 2007 2008

Amendment No. 2. Amend Franchise Section 4.2 as follows:

4.2	Limit on waste accepted	The Franchisee shall accept no more than 65,000 tons of putrescible waste <u>generated or originating inside the Metro region</u> within each Metro fiscal year irrespective of whether the waste originated inside or outside the Metro region. <u>The Franchisee shall not accept solid waste generated or originating outside the Metro region if to do so would limit Franchisee from accepting 65,000 tons of putrescible waste, or any non-putrescible waste, generated or originating inside the Metro region.</u>
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Amendment No. 3. Delete Franchise Section 5.18, "Access for ODOT inspectors."

Amendment No. 4.

a. Amend Franchise Section 2.13 as follows:

2.13	Definitions	Unless otherwise specified, all other terms are as defined in Metro Code Chapter 5.01. In the event that the Metro Code is amended, the latest amended version shall apply to this franchise.
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b. Amend Franchise Section 3.9 as follows:

3.9	Source-separated organic materials	In accordance with Metro Code Chapter 5.05, the Franchisee is authorized to accept <u>source-separated organic materials</u> for the purpose of transfer to a DEQ-permitted composting facility or other DEQ-permitted processing facility. <u>Source-separated organic materials</u> may be accepted only if they (a) have been separated from other solid waste by the generator prior to delivery to the facility, and (b) are suitable for controlled biological decomposition such as for making compost. The Franchisee shall keep source-separated organic material separate from other solid waste at the facility and shall provide records showing that the source-separated organic materials are delivered to a composting or processing facility, and not disposed of. <u>The Franchisee also shall comply with any source-separated organic materials maximum contamination requirements identified in an ordinance adopted by the Metro Council during the term of this Franchise.</u>
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c. Amend Franchise Section 4.3 as follows:

4.3	Prohibited waste	The Franchisee shall not knowingly accept or retain any material amounts of the following types of wastes: materials contaminated with or containing friable asbestos; lead acid batteries; liquid waste for disposal; vehicles; infectious, biological or pathological waste; radioactive waste; hazardous waste; or any waste prohibited by the Franchisee's DEQ Disposal Site Permit. <u>The Franchisee also shall not knowingly accept or retain any material amounts of any other wastes identified in an ordinance adopted by the Metro Council during the term of this Franchise.</u>
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d. Amend Franchise Section 4.4 as follows:

4.4	Material recovery required	The Franchisee shall perform material recovery on nonputrescible waste accepted at the facility at the rate stipulated in Metro Code Chapter 5.01, <u>as amended by an ordinance adopted by the Metro Council during the term of this Franchise, or deliver said non-putrescible wastes to a Metro authorized solid waste facility whose primary purpose is to recover useful materials from solid waste. The Franchisee also shall perform material recovery on other types of waste identified in an ordinance adopted by the Metro Council during the term of this Franchise.</u>
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e. Amend Franchise Section 4.6 as follows:

4.6	No disposal of recyclable materials; other potential disposal bans	Source-separated recyclable materials, <u>source-separated yard debris, or and source-separated organic materials</u> accepted at the facility may not be disposed of by landfilling or incineration. <u>The Franchisee also shall not dispose, by landfilling or incineration, any other wastes identified in an ordinance adopted by the Metro Council during the term of this Franchise.</u>
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Amendment No. 5.

a. Amend Franchise Section 4.5 as follows:

4.5	Prohibition on mixing	The Franchisee shall not mix any source-separated recyclable materials, <u>source-separated yard debris, or source-separated organic materials</u> brought to the facility with any other solid wastes. Recyclable materials recovered at the facility may be combined with source-separated recyclable materials for transfer to markets, processors, or another solid waste facility that prepares such materials for reuse or recycling.
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[NOTE: ADOPT AMENDMENT NO. 5(b) ONLY IF COUNCIL HAS REJECTED AMENDMENT NO. 4(c).]

b. Amend Franchise Section 4.6 as follows:

4.6	No disposal of recyclable materials	Source-separated recyclable materials, <u>source-separated yard debris, and source-separated organic materials</u> accepted at the facility may not be disposed of by landfilling or incineration.
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Amendment No. 6. Amend Franchise Section 5.2 as follows:

5.2	Qualified Operator	The Franchisee shall provide an operating staff qualified to carry out the functions required by this franchise and to otherwise ensure compliance with Metro Code Chapter 5.01. Facility personnel, <u>as relevant to their job duties and responsibilities,</u> shall be familiar with the <u>relevant</u> provisions of this franchise and the <u>relevant</u> procedures contained within the facility's operating plan.
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Amendment No. 7. Amend Franchise Section 6.6 as follows:

6.6	Procedures for odor prevention	<p>The operating plan shall establish procedures for preventing all <u>objectionable odors from being detected off the premises of the facility.</u> The plan must include:</p> <ul style="list-style-type: none">a. A management plan that will be used to monitor and manage all odors of any derivation including malodorous loads delivered to the facility; andb. Procedures for receiving and recording odor complaints, immediately investigating any odor complaints to determine the cause of odor emissions, and remedying promptly any odor problem at the facility.
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Amendment No. 8. Franchise Section 8.8, "Nuisance complaints," shall be renamed, "Procedures for nuisance complaints," and shall be inserted as a part of the Operating Plan requirements as new Franchise Section 6.8.



CITY OF GRESHAM

Community and Economic Development Department
1333 NW Eastman Parkway
Gresham, OR 97030-3818

1204030-04

REC'D DEC 02 2003

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December 2, 2003

The Honorable David Bragdon
Council President, Metro
600 NE Grand Avenue
Portland, OR 97232

Re: Regionally Significant Industrial Areas

Dear David:

The City of Gresham would like to formally request changes to the proposed RSIA policy language and map. Our changes reinforce the intent of RSIA to preserve regional industrial sanctuaries, while also allowing some flexibility to local jurisdictions to meet their unique employment needs.

As you know, the industrial sector is changing rapidly. We feel it is important to be responsive to the new and innovative approaches of manufacturing and all its supporting uses. And while we are actively seeking ways to attract new industries, we are also continuously working to retain and grow our successful existing businesses. I ask for your serious consideration of the following proposals:

RSIA Policy Language

Section 3.07.420 C: Add "offices for industrial uses"

Administrative offices and similar offices that do not generate customer activity are part of the new industrial economy and should be allowed as a standalone use in RSIA. We propose a clarification of offices for industrial uses be added to this section that reads, "Offices used for activities such as research and development and corporate administrative functions that do not provide customer walk-in or retail services."

Gresham has a number of multi-tenant, industrial flex-space buildings where offices are an important component. This space attracts many start-up industrial companies who expand their office as their business grows. More importantly, based on our industrial lands study, the highest job densities occur in areas where industrial offices are included in the land use mix. Gresham's top priority is to bring jobs to East County. If we can achieve a higher job density, we can use our industrial lands with much greater efficiency.

Section 3.07.420 C: Eliminate “expansion” of non-conforming uses

While it is important to preserve as much land within industrial sanctuaries for industrial uses, it is also important to retain successful companies. We have agreed to the inclusion of the US Bank Corp Loan Processing Center in RSIA, but can only accept this designation if expansion of non-conforming uses is allowed. US Bank Corp is one of our largest employers and has expressed an interest in expanding. Gresham is eager to retain this company and can with this minor revision to the RSIA language.

Section 3.07.420 E: Eliminate research and development

Knowledge-based industries require a certain degree of flexibility, which is restricted under current RSIA language. Research and development is a viable industrial use and should be allowed as a standalone use in RSIA without special conditions. Many research and development companies start out very small. Requiring transit service for these uses is simply too arduous. This requirement will effectively prevent research and development uses from locating in Gresham.

RSIA Map

Two areas proposed by Metro are of concern and need to be eliminated from RSIA consideration.

Area 1: Northwest Gresham

Gresham originally proposed an area east of 185th and north of the main line railroad tracks. Metro has expanded this area south to I-84 and west. We will accept the RSIA designation on lands north of Sandy Boulevard and just east of 185th to create a consistent district with City of Portland. The remaining land south of Sandy Boulevard should remain industrial or employment land except for the Boeing and Boyd's properties. These companies have agreed to the RSIA designation (see attached map).

The lands south of Sandy Boulevard are included in our Urban Renewal District, which envisions them as an employment core for Rockwood. Flexibility of employment uses is key for redevelopment to occur. Currently a majority of the area is zoned business park with some light industrial. Gresham's business park zoning is intended for manufacturing and related industrial activities with allowances for research and development and office space. Direct commercial use is restricted. We believe our current zoning will aid redevelopment of this now under-utilized area. It is a better blend with existing uses in the area and adjacent uses to the south now zoned industrial.

Area 2: Brick Works

The City of Gresham does not agree with Metro Council's proposal to designate the Brick Works as RSIA. The Brick Works will undergo a planning process in conjunction with the Springwater Master Urbanization Plan, but it is not considered an element of Springwater. This was a contractual efficiency agreed to by Metro.

Given the current uses surrounding the Brick Works such as high-end residential, parks, and schools, a zoning change from heavy industrial to employment is anticipated. A mix of uses is sought to

The Honorable David Bragdon

December 2, 2003

Page 3

support the existing neighborhood as well as future growth in that area. The owners of the site do not want the RSIA designation and are eager to participate in the planning process and identify marketable uses for the land.

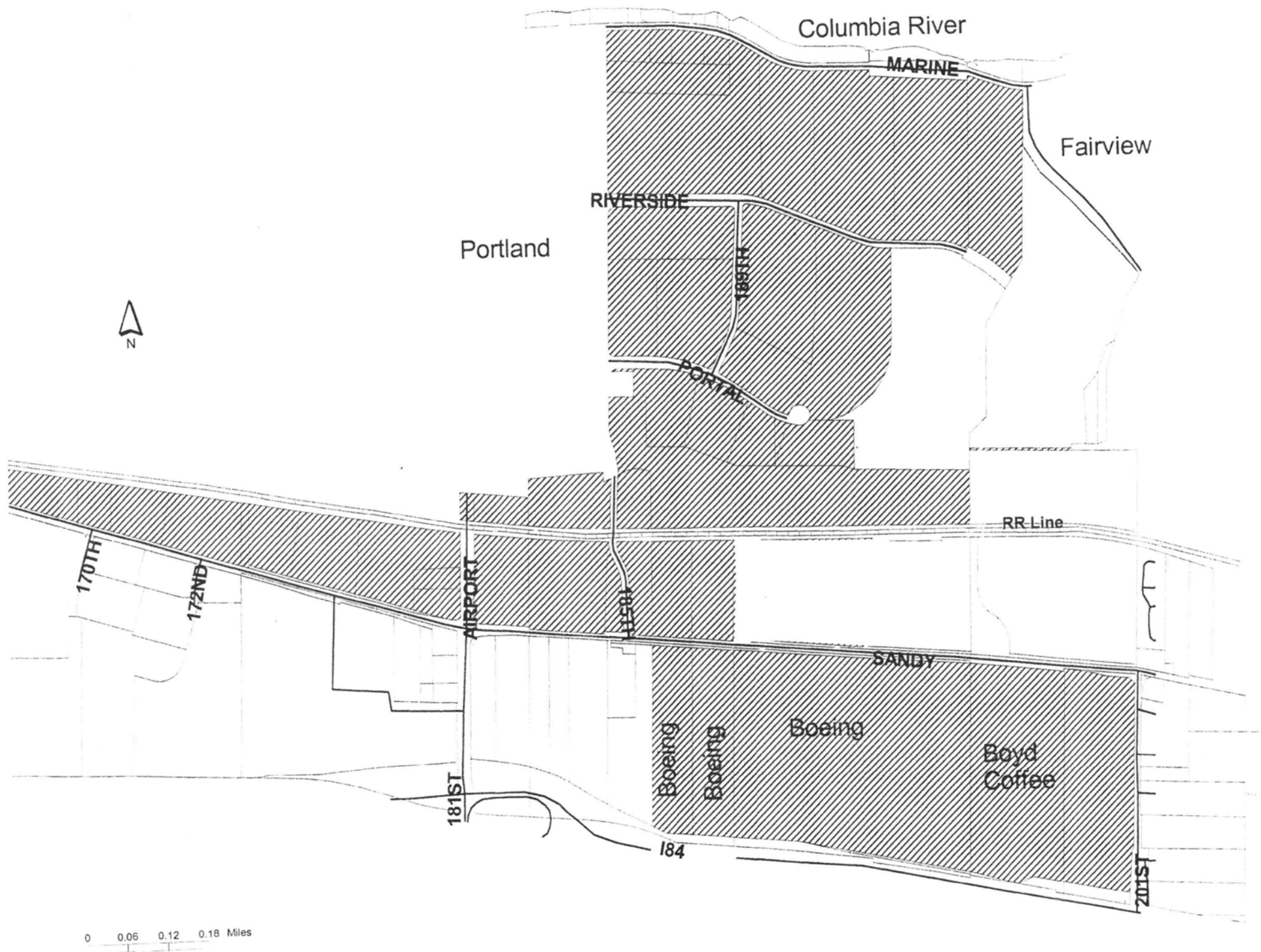
The City of Gresham is a strong supporter of Metro's growth policies and, while we fully support the objective of RSIA, we believe there are a number of ways to achieve it. Thank you for your full and objective consideration of our needed changes.

Sincerely,

A handwritten signature in dark ink, appearing to read "Max Talbot", with a stylized, flowing script.

Max Talbot, Director
Community & Economic Development

c: Mary Webber, Metro



120403C-05



PUBLIC AFFAIRS | STRATEGIC COMMUNICATIONS | RESEARCH

December 4, 2003

David Bragdon
Council President
Metro Regional Center
600 NE Grand Avenue
Portland, OR 97232-2736

Dear David:

Please accept this letter for the record for Metro's hearing today on Ordinance No. 03-1021.

As you will note, it is being submitted on behalf of Providence Health System-Oregon.

It is not possible for us to be on hand this afternoon, but we wanted to submit comments for the record and are following advice of Metro staff to deliver this letter in close proximity to the time of the hearing today.

Thank you for your consideration.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Dave', with a horizontal line extending to the right.

David M. Fiskum
Partner

CONKLING
FISKUM &
McCORMICK
INC.

Portland

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Portland, OR 97204

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Providence Health System

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97213

Tel 503.215.3188
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December 4, 2003

Mr. David Bragdon
Presiding Officer, Metro Councilor, District 7
Metro Regional Services
600 NE Grand Ave.
Portland, OR 97232-2736

**Re: Metro Ordinance No. 03-1021;
Testimony by Providence Health System - Oregon**

Dear President Bragdon:

This letter is submitted to the Metro Council on behalf of Providence Health System – Oregon.

Providence Health System – Oregon is the state's second largest private employer with nearly 14,000 employees and a payroll in excess of \$600 million.

Providence Health System – Oregon supports the efforts by Metro and Portland area governments to ensure a strong local economic climate. To this end, we believe the Metro Council should consider several amendments to this ordinance to ensure that a strong economic climate continues and to provide an opportunity for health services to generate jobs and economic growth in Portland. At the moment, the proposed ordinance excludes institutional uses, including health providers, from industrial areas.

That, we believe, is shortsighted. According to a recent New York Times articles (which I have included for your review), health services grew consistently over the past four years during the same time that traditional manufacturing employment declined. Oregon has experienced the same trend.

I would encourage the Metro Council to not adopt the proposed ordinance and to consider the changes to the proposed ordinance I have discussed below.

Mr. David Bragdon
December 4, 2003
Page 2

1. Section 3.07.420.C.

I have two comments on this section. First, this section should be amended to allow institutional uses in regionally significant industrial areas as long as those institutional uses meet or exceed the employee per acre regional framework plan or other measure to demonstrate an institutional use's contribution to a strong economic climate.

Additionally, the July 7, 2004 date is far too soon. Even applications now in progress may not be authorized by final land use approval by that date. July 7, 2005 is far more realistic as a reasonable date.

2. Section 3.07.420.E.

This section should have a new subsection providing for institutional uses to be allowed on at least twenty (20) acres when such uses demonstrate a contribution to a strong economic climate. The twenty acre threshold establishes a reasonably large lot and ensures a use large enough to achieve economic benefits.

3. Section 3.07.420."F".

The Council should consider a new subsection "F" to accommodate institutional uses.

4. Section 3.07.440.

The Council should consider a new subsection F to consider institutional uses.

Finally, this ordinance removes a great deal of discretion from local governments and makes it much more difficult to site institutional uses in the Portland economic area. Providence believes that Metro and local governments should work together to encourage economic growth and institutional uses that are part of that solution. This ordinance should be revised to reflect that philosophy and to recognize that institutional uses have a prominent role in the area's economic growth.

Mr. David Bragdon
December 4, 2003
Page 3

I look forward to your response and hope to work with you and your staff to address these issues.

Very truly yours,



Dana White

Director, Regional Real
Estate/Property Management

Providence Health System

The New York Times
nytimes.com

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November 8, 2003

3 Months of Job Growth Best in 3 Years

By DAVID LEONHARDT

The longest hiring slump in more than 60 years appears to be finally ending.

Employment grew by 126,000 jobs in October, the best showing in nine months, and job growth in August and September was stronger than the government initially estimated, the Labor Department reported yesterday. It was the greatest job growth over three months since late 2000.

The unemployment rate fell slightly last month, to 6 percent from 6.1 percent in September.

"We've turned the corner," said Mickey Levy, chief economist at Banc of America Securities. "Businesses are finally shedding some of their cautiousness."

Restaurants, real estate companies, doctor's offices and other parts of the giant service sector added to their payrolls. The number of people working part time because they could not find full-time work fell by 139,000, to 4.8 million. Average hourly wages rose by just a single cent, but an increase in hours, as businesses worked harder to keep up with rising demand, fattened weekly paychecks.

Still, the recent job gains remain modest by many measures. They are not large enough to keep up with the growth of the labor force over the long term and are far smaller than the average gain over the last 50 years when the economy was growing as rapidly as it has been recently.

For both the economy and the 2004 presidential campaign, a central question becomes whether hiring will continue to accelerate even as the recent stimulus from tax cuts and low interest rates fades.

The report offered obvious political benefits for the White House, which has credited the three tax cuts passed since 2001 with softening the economic slump and predicted that they would eventually lead to job growth.

"We're delighted," said N. Gregory Mankiw, the chairman of President Bush's Council of Economic Advisers. "I think we'll see robust job growth going forward."

Mr. Bush, speaking in Winston-Salem, N.C., said, "This administration has laid the foundation for greater prosperity and more jobs across America." He added that he would not rest "until everybody who wants to work can find a job."

The recent job gains have already complicated life for Democrats, who have made the severe job losses a centerpiece of their political message. On the campaign trail yesterday, however, they continued to attack Mr. Bush's record on the economy.

Representative Pete Stark of California, the ranking Democrat on the Joint Economic Committee of

Congress, noted that the current pace of job growth would need to continue for 19 months for the country to return to the peak employment level reached in early 2001.

The stock market changed little after the report's release, and the Standard & Poor's 500-stock index closed at 1,053.21, down 0.5 percent. But the interest rate on 10-year Treasury notes rose to the highest level since September, suggesting that investors were more confident that economic growth would remain healthy.

The job increases represent clear progress after two and a half years of layoffs and weak hiring that have sliced the nation's payrolls by more than 2.5 million jobs, the biggest decline since the early 1980's.

Most forecasters say that interest rates that are still low and the large tax refunds that many families can expect next spring will help keep household spending strong through early next year. By then, the economy will have enough momentum — in the form of rising employment and business investment — to grow at a healthy pace without the help of government stimulus, the economists say.

In the three months ended Sept. 30, the economy expanded 7.2 percent, the fastest rate since 1984.

"The fundamentals of the economy are lined up pretty darn well," John W. Snow, the Treasury secretary, said in a phone interview. "This recovery is beginning to take hold."

A smaller group of economists remain concerned, however, that the same forces that prevented job growth in 2002 and early 2003, despite the economy's expansion, will continue to mute hiring next year. They point out that even many service-sector companies are moving jobs to countries with lower wages and that the steps business have taken to become more efficient allow them to make more goods with fewer workers.

"We've really boosted growth with a Herculean stimulus effort," said Lakshman R. Achuthan, managing director of the Economic Cycle Research Institute in New York, referring to interest rate reductions by the Federal Reserve and the tax cuts. "And we have only 100,000-plus jobs."

The economy must add about 150,000 jobs or more each month to keep up with population growth and bring down the jobless rate over a long period of time. In the 1990's, the economy created an average of 181,000 jobs a month.

In a recent survey, only 12 percent of chief executives of large companies said that they planned to increase employment in the last three months of this year, according to the Business Roundtable, a lobbying group made up of the executives. Thirty-six percent said they would reduce their work forces.

If the job gains do continue, they will increase the odds that the Fed will raise its benchmark short-term interest rate during the first half of next year. Since June, the Fed has kept the federal funds rate on overnight loans between banks at its lowest level since 1958 in an effort to jump-start the economy.

Low interest rates have led to a surge in mortgage refinancing, giving many families more cash to spend, and also decreased the cost of many other types of loans.

The job market also began showing signs of life late last year, when employment grew during four consecutive months, only to deteriorate early this year. But the 2002 increase — 205,000 new jobs in four months — was not as large as the 286,000 gain in the last three months.

In October, the service sector, construction industry, and state and local governments all added to their payrolls.

Kohl's, the department store chain, opened 48 stores last month as part of its continued expansion and since August has hired about 140 workers, on average, at each store, a company spokeswoman said. Since July, Microsoft has hired about 1,300 workers, many of whom will work on software for cellphones and other machines that are not computers.

These increases and others outweighed job cuts at federal agencies and manufacturers. Still struggling against foreign competition, manufacturers cut jobs for the 39th consecutive month, but the loss was the smallest since the early months of the streak.

The recent upturn in jobs has helped college graduates, who have suffered over the last two years more than they typically do during a downturn. But the jobless rates for workers with only a high school education and for blacks increased, while the rates fell for whites, Latinos and college graduates.

The labor market recovery "is still in its early stages and still somewhat fragile," Drew Matus, an economist at Lehman Brothers, wrote in a note to clients yesterday. "This is at most the beginning of the end, not the end itself."

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NEWS ANALYSIS

Bloom Is on the Economy

By FLOYD NORRIS

One flower may not prove the winter is over, but yesterday's employment report provided a strong indication that the economy is in an accelerating recovery.

The surge in employment was greater than most economists had expected, including gains in October and higher counts than previously reported for both August and September.

"At business cycle turning points, upward revisions are the rule," said Robert J. Barboza, the chief economist of ITG/Hoenig. "You can be pretty confident that the initial estimate for October will be revised upward, as well."

The growth in employment now appears to have begun in August, as tax rebate checks were being received and cashed by millions of American parents. Those checks were the driving force in a surge in retail sales, which provided the demand that seems to have led some businesses to start hiring.

The pickup in the American economy has been mirrored elsewhere. Economic numbers in recent weeks have been better in most industrialized societies. Central banks in Australia and Britain even decided to raise interest rates this week, citing fears that their economies were starting to overheat. And some economists were quick to forecast that the Federal Reserve would soon follow suit, perhaps as early as its January meeting.

To some economists, the surge in growth should not come as a surprise. Both the Federal Reserve, through a sustained campaign to lower interest rates, and the government, through a combination of spending increases and tax cuts, have taken the actions intended to stimulate economic growth.

But there has been so much talk of a "jobless recovery" that some skeptics had concluded that no increase in employment was likely. And that made the impact of the employment numbers greater than might have been the case otherwise. The Labor Department found there were 270,000 more jobs in October than it counted a month ago when it released the September report.

"The lesson is that macroeconomic policy is powerful, even though it sometimes works with a lag," said Richard Hoey, the chief economist of the Dreyfus Corporation. "The economic cycle is back."

By no means are the current job numbers especially impressive. The government says that 130.13 million Americans were employed in October, fewer than the number working in February of this year and down 1.8 percent — or 2.4 million jobs — from the peak of 132.56 million registered in February 2001.

But the direction seems clear. One statistic compiled by the government is an index of hours worked in the private sector of the economy. Using a three-month moving average to smooth out volatility in the data, that figure is now showing an increase in hours worked for the first time since the end of 2000. It is rising at a 1.1 percent annual rate. At the low, in November 2001 — when the recession officially ended — the number of hours worked was falling at an annual rate of 5.4 percent.

"The number of people working is rising, and the workweek is rising," Mr. Barbera said. "Going from an economy on life support from mortgage refinancings and tax cuts to a self-sustaining recovery requires growing jobs to generate income."

There is not yet conclusive evidence that the economy has made that transition, but the fact that job growth ran ahead of schedule is an indication that it probably is. Retail sales are less impressive than they were when the tax rebate checks were being cashed this summer, but that is to be expected.

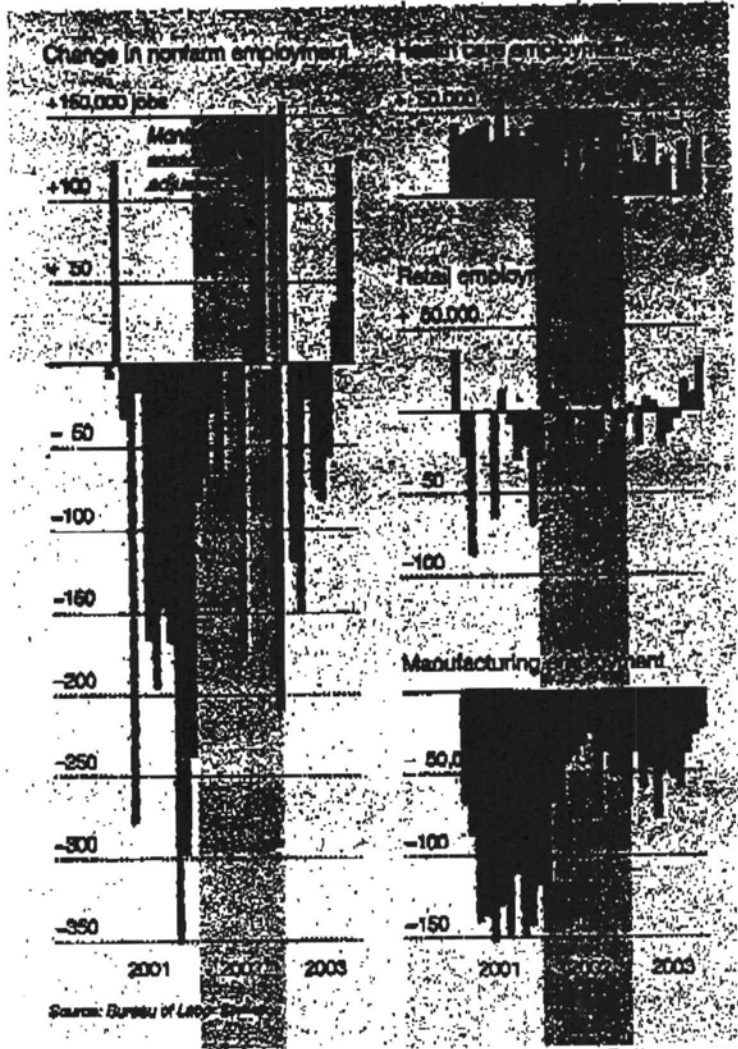
One sign of the beginning of a recovery is the rise in the number of temporary jobs. Companies often hire temporary workers when business picks up, since they need help but are concerned that the need may be temporary. The latest numbers show that the economy has gained 286,000 jobs since employment hit bottom in July. Of that total, 19 percent have been in the form of temporary employment.

By contrast, in the final months of the economic expansion that ended in early 2001, the number of temporary jobs was declining even as overall employment was growing. In that case, employers facing weakening demand chose to drop temporary workers first.

The extent to which the recently created temporary jobs are replaced by full-time jobs in coming months will be one clue to whether the recovery is really gaining speed.

The unemployment rate fell to 6 percent in October, down from a peak of 6.4 percent in June but still far above the low of 3.9 percent reached in December 2000. The rate would have gone higher save for the fact that some people dropped out of the labor market, and therefore were not counted as unemployed.

By September, noted John F. Vall, senior strategist of Mizuho Securities USA, just 66.08 percent of the adult population was in the work force, either employed or unemployed. That was a 10-year low, but it ticked up to 66.11 percent in October. "As this number picks up, it will keep the unemployment rate from falling too low, as more people look for jobs," he said.



3 Months of Job Growth Best in 3 Years



The New York Times

Bloom Is on the Economy

By FLOYD NORRIS

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The pickup in the American economy has been mirrored elsewhere. Economic numbers in recent weeks have been better in most industrialized nations. Central banks in Australia and others have decided to raise interest rates this week, citing fears that their economies were starting to cool. And some economists were quick to forecast that the Federal Reserve would soon follow suit, perhaps as early as its January meeting.

To many economists, the surge in growth would also come as a surprise. The Federal Reserve, through its monetary policy, is



Scarce Industrial land fuels battle

Suburban mayors recoil at proposed Metro rules limiting retail stores and other uses on hard-to-find industrial land

11/09/03

LAURA OPPENHEIMER

There's no sure plan for growing the next Nike or Intel on an empty field.

But a group of business leaders and suburban mayors say unnecessary rules will certainly kill budding possibilities. And that's what they see in a Metro proposal.

Ironically, it's that same proposal the Metro leaders say offers the best chance to nurture a new crop of industrial powerhouses in the Portland suburbs, from Gresham to Hillsboro.

The proposed rules for industrial lands include limiting retail uses and how lots are subdivided while requiring mass transit options for employees at some types of businesses.

Many industry groups and suburban mayors say the proposed rules from the Portland area's regional government are so strict they'll disqualify or scare off business. Suburban city leaders want the flexibility to define industry broadly or to adjust zoning to match market demands -- as they've done for years.

"We don't want to say to a biotech firm, 'I'm sorry, but since we don't have transit service, you'll have to wait 20 years,'" said John Pettis, a Gresham planner. "Obviously, from their perspective, there will be other states or other areas to go to."

As the debate adds volume and Metro aims its proposal for a December decision, nearly every business and economic player agrees the stakes are high. Key players from the governor on down look to industry for the seeds to revive Oregon's moribund economy.

But they say they are fighting an uphill battle as a shortage of property, increasing land values and a jungle of red tape decreases the odds companies will expand or set up shop. And they are facing an atmosphere where businesses of all sizes and types have characterized Portland-area governments in general -- and Metro in particular -- as unfriendly to business.

Metro leaders say their proposal would protect important large industrial sites by ruling out big-box stores, banks, insurance companies and other businesses that don't bring new money into the area. An added benefit, they say, is that stricter rules will protect more farmland.

Metro President David Bragdon said he plans to keep the proposal mostly intact but will consider minor changes to address the concerns of suburban and business leaders.

"This is designed to enhance industrial employment," he said. "But when the largest industrial employers in the region are having heartburn, clearly there's a problem." Less land than needed. Land-use experts last year identified a critical shortage of industrial sites, especially parcels of at

least 50 acres that could become homes for job-producing businesses.

In December, Metro responded with a promise to fend off other types of business from the most important pieces of industrial land. The decision was part of Metro's expansion of urban uses onto 18,600 acres of rural land.

Despite the record increase, the expansion remains 2,000 acres short of what Metro estimates industry will need during the next 20 years.

At the start of its efforts to protect the lands, Metro staff and individual councilors stuck 6,300 acres under a heading of "regionally significant industrial areas." The lands would be subject to the proposed rules, which would be fine-tuned by the end of this year.

Now that the regulations have taken shape, local governments and business groups are recoiling. Many are begging for their land to be excluded. Others just want less strict rules.

Local governments, the Metro staff and individual councilors have suggested areas to be included.

Metro is too narrowly defining the future of industry in the state, Hillsboro Mayor Tom Hughes says. He contends many companies will be turned off by the idea of an extra layer of government dictating the way they do business.

"We don't want a situation where virtually none of the large lots will be necessary, because no one will want to come here and put up with the regulations," Hughes said.

According to Metro's proposal, businesses in the selected areas would have to follow several rules: Nonindustrial companies could establish corporate headquarters only if they have at least 1,000 employees. Public transit or a company alternative would have to serve corporate headquarters and research-and-development sites. Existing lots larger than 50 acres could only be subdivided if the maximum number of 50-acre plots is preserved. Retail locations could not exceed 20,000 square feet or cover more than 5 percent of a parcel's area. Differences get personal. Tempers have flared as Metro debated the proposal with its critics.

Last month, Bragdon says, he grew frustrated by the sudden backlash against a policy that was put in motion nearly a year ago. After reading a draft of a contentious letter from the city of Hillsboro, he fired off an e-mail to several Metro councilors and staff members.

Bragdon's e-mail described a "sinister alliance" between Hillsboro and the Regional Economic Development Partners, a business-oriented coalition. Bragdon suggested a "pre-emptive counter-offensive" against critics and responded to some of their complaints with one word: "Duh."

In an interview, Bragdon characterized the e-mail as "totally out of line" and said he apologized to the people affected by it. Recent meetings helped him understand concerns about industrial restrictions, Bragdon said, though he insists on keeping the basic concept intact.

Some business groups were furious about the e-mail. Hillsboro's Hughes said he was disappointed but would rather focus on problems with the agency's proposals.

Home to many of the region's industrial heavy-hitters, Hillsboro is trying to woo another high-profile business to a 200-acre site at Northwest Evergreen Road and Shute Road. Emerging industries that manufacture more ideas than products or have smaller work forces shouldn't be excluded, Hughes says.

Many business and government representatives — from Nike and Intel to a bloc of East Multnomah County mayors — have weighed in on the situation. The mayors say regulating 600 acres in Gresham and 1,800 in the Troutdale/Fairview area will drive away smaller employers.

likely to locate in new industrial areas.

In Gresham, city leaders worry about how they'll attract companies to the new 1,200-acre Springwater area. Top-notch businesses with fewer than 1,000 employees could provide important family-wage jobs, the city contends, and public transit probably won't reach Springwater for years.

Metro councilors say they understand the desire to hash out details, but some are put off by cities' requests to be excluded from the program.

"We've sat and heard how we didn't have any large industrial sites and it's so important to protect them," Councilor Susan McLain said at a recent hearing. "Is there something that has changed in the last 12 months?"

The Metro Council is slated to vote on industrial protections Dec. 18, after three public hearings and several discussions with advisory groups that include local planners and mayors. Balancing industrial, farm needs This crescendo of discussion coincides with Metro's search for additional industrial lands to fulfill last year's unmet need. Environmentalists who favor a tight urban growth boundary are paying close attention. The more existing industrial land that is protected, they say, the less farmland that will be consumed at the rural fringes.

In a state put on the map by both high-tech business and high-value crops such as nursery stock and wine grapes, the trade-off sparks passionate debate.

The environmental land-use group 1,000 Friends of Oregon opted not to challenge Metro's industrial expansions last year, despite a philosophy against developing farmland. Promises to use existing industrial land wisely helped persuade 1,000 Friends to support the expansion, group attorney Mary Kyle McCurdy said.

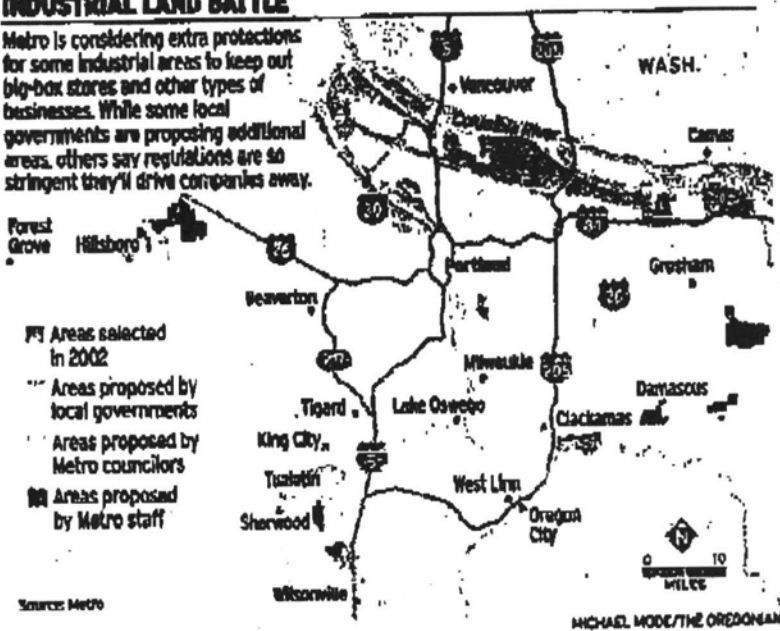
"Those parcels have to be protected," she said. "There's always going to be economic pressure to allow more lucrative or ready-to-go uses."

Businesses don't want to gobble farmland willy-nilly or squander needed industrial land, said Betty Atteberry of the Westside Economic Alliance. But they do want more options for nontraditional industries and small- to medium-sized firms, she said.

All new businesses don't have to start out as Nikes or Intels, she says, they just need to have the land to lay down roots and grow. Laura Oppenheimer. 503-294-5957; loppenheimer@news.oregonian.com

INDUSTRIAL LAND BATTLE

Metro is considering extra protections for some industrial areas to keep out big-box stores and other types of businesses. While some local governments are proposing additional areas, others say regulations are so stringent they'll drive companies away.



CITY OF HILLSBORO



December 4, 2003

David Bragdon, President
And Metro Councilors
Metro
600 NE Grand Avenue
Portland, OR 97232

RE: Metro Ordinances 03-1021 and 03-1022, Amending Title 4 of the Metro Functional Plan and adding Regionally Significant Industrial Areas (RSIAs) to the Title 4 Map.

Dear President Bragdon and Councilors:

Thank you for the opportunity to present these comments on the proposed additional Title 4 text and Regionally Significant Area (RSIA) additions to the Title 4 Map. The City of Hillsboro submits this letter for the record on this matter.

We contend that most of the contents, and the potential application to Hillsboro, of the proposed Title 4 regulations and RSIA sites:

- Are inconsistent with relevant analyses and information contained in the *2002-2022 Urban Growth Report: Employment Land Need Analysis* (August, 2002) ("2002 UGR") which are supposed to be the factual and evaluative basis for the proposed Title 4 regulations.
- Lack evidence that support or justify a need for the regulations and RSIA Map designations.
- Undermine and will thwart the pursuit and achievement of state and local economic development and economic recovery priorities.
- Likely exceed and thus violate the limits to Metro's land use planning authority prescribed by state law and the Metro Charter.
- Will not achieve and actually will undermine the stated objectives of Title 4.
- Are unneeded as Hillsboro Industrial Land Regulations already adequately protect the Hillsboro sites proposed for RSIA designation and the new Title 4 restrictions.

Accordingly, we respectfully recommend that Metro (1) repeal Title 4 adopted by Ordinance No. 02-969B (2) reject the new Title 4 regulations proposed in Ordinance 03-1021, and (3) if RSIAs are needed, limit RSIA map designations to those RSIA areas identified in the attached 10-13-2003 draft Map originally proposed in Ordinance 03-1022 that reflects the suggestions of various local governments in the Region, rejecting the map currently proposed in Ordinance 03-1022.

I. The proposed Title 4 regulations and RSIA sites are inconsistent with and not supported by Metro's 2002 UGR.

The new Title 4 regulations and RSIA Map designations focus on regulating (prohibiting) specific types of uses, existing industrial areas bear no logical or “nexus” relationship to the industrial land “need” identified and quantified by the 2002 UGR.

While the 2002 UGR identifies the greatest need for *large industrial lots* (lots for warehousing/distribution and high tech/flex firms), the Title 4 regulations and RSIA Map focus primarily on regulating *types of uses* within RSIA areas. The UGR states:

There is a significant industrial land shortage across the whole region. The shortage, in net acres, is over 5,600 acres – on a gross acre basis (adding streets and other factors), the shortage amounts to a total of 7,000 gross acres. There is a shortage of acreage across all size ranges. We note that there is a shortfall of about 9 large lots. This is based on the technical conclusion of a demand for about 14 large lots in the region (defined to be lots greater than 50+ acres) and a supply of about 5 large lots in the UGB. (UGR, p. 36.)

The UGR “findings” regarding commercial uses within industrial areas do not support the recommended new Title 4 use restrictions. Rather, they acknowledge that mixing commercial and industrial uses oftentimes will financially support new or greater industrial development. The UGR states as follows:

The industrial need (5700 total acres over the next 20 years) conclusion assumes over 2800 vacant net acres of industrial supply (“vintage industrial refill land” inside the UGB) converted to commercial development. . . . There is evidence to strongly suggest that commercial renovation of vintage industrial refill land is desirable. Furthermore, there is compelling evidence to suggest the desirability of allowing new commercial development on vacant industrial land. . . . Finally, the supply of large-lot industrial sites can easily turn into a monopoly if there are too few industrial sites available in various market areas in the region. (UGR, p. 40)

If commercial encroachment to the degree assumed and allowed by this UGR is curtailed or prohibited by a future Metro ordinance (such as Ordinances 03-1021 and 03-1022), then the commercial surplus (inside the UGB) can quickly turn to a significant deficit...and some but not all of the newly protected industrial land could be switched over to serve the deficit in industrial land. (UGR, p. 35)

The UGR notes the regional need for 4 Tech/Flex lots above 50 acres for the 2000-2022 time frame. The most recent UGB addition more than provided for these 4 needed lots. Further, METRO imposed 50 and 100 acre lot size conditions as part of the UGB decision. Title 4 is unneeded and contraindicated in meeting the needs identified in the UGR.

There are numerous examples of Title 4 directions conflicting with the UGR, ranging from not accounting for the increase in land need caused by Title 4 additional restrictions placed on land use to direct contradictions of UGR conclusions.

II. There is no evidence in the record to support a “need” for the new Title 4 regulations and proposed RSIA Map sites not suggested by local governments.

A. The 2002 UGR Does Not Support the Proposed Title 4 Office and FIRE Restrictions.

The premise underlying the draft Title 4 regulations and RSIA designations - that there has been significant, adverse “encroachment” of non-industrial uses into industrial areas - is clearly not supported by the 2002 UGR findings, or by other pertinent Metro studies or reliable evidence in the record. (See UGR citations above)

On p. 5, the 2002 UGR cites the conclusion of the *Regional Industrial Land Study* that “It may be desirable to mix industrial and commercial uses on industrial land when it can be shown that the commercial portion of the development enhances opportunities to create industrial development when a strictly-industrial project will not pencil-out.

While the new Title 4 regulations effectively and arbitrarily reject future development of large-scale “campus-style development” that commonly contains some supportive and complementary commercial and office uses by its office and FIRE use restrictions, this result is not endorsed or compelled by the 2002 UGR. The UGR states:

On the large-end, there are larger-scale campus style development (e.g., industrial parks, business parks, special technology incubator parks, etc.). We have not investigated this effect. This style of development – if it should persist into the future – would likely increase the demand for large lot parcels through aggregation of small- and medium-lot demand. These campus-style developments could accommodate a mix of commercial and tech/flex style users. Our analysis did not include this style of development and therefore the tables developed in the next section would likely undercount the need for large lot development. (UGR, p. 22)

Why the UGR summarily chose not to analyze this dominant style of newer industrial development throughout many areas in the Region for many years has never been explained. This intentional omission seriously undermines the reliability of the 2002 UGR’s quantitative 20-year industrial land need determination.¹

¹ The UGR also intentionally ignored estimating future need for “industrial business parks” – another prevalent industrial development practice throughout newer industrial areas in the Region. The UGR states:

The industrial data need analysis does NOT include an estimated demand for future industrial business park development. This is actually a fairly significant policy point. The limitations of our analysis is that we estimated individual parcel demand based on the assumption that future firms will consume land on a *stand alone* pattern, when in reality we know of industrial and business parks that provide a proportion of small-lot users needs. What this implies is that there may be a larger demand for large-lot industrial than the 9 . . . this analysis suggests or the likely range of 6 to 24 large lots that the RLIS report predicts.

More critical, relative to the new Title 4 regulations and Map, this omission means that the UGR, itself, may not be used to support the clear presumption underpinning the regulations and RSIA map sites that prohibiting offices and FIRE uses within industrial areas will actually “save” industrial land. On its face, while that presumption has some logic when applied to warehousing/distribution land, it falls apart when applied to high tech/flex industrial areas and other types of general industrial areas where industrial business parks and campus-style developments have been (or are planned to be) the dominant style of newer industrial development. The true effect of the Title 4 office and FIRE restrictions will be to foreclose further industrial parks and campus-style industrial development within RSIA areas without supporting evidence that this “policy choice” is sound or defensible.

B. There is No “Title 4 Problem” To Be Solved in the Hillsboro Industrial Sanctuary and Other Newer Industrial Areas in the Region.

An October 13, 2003 Metro staff report admits that “estimating the saving on Industrial and RSIA lands inside the UGB is not as straightforward as for the new lands brought into the UGB in 2002.” The staff report goes on to say that “the historical rate for non-industrial uses in industrial areas is 20%”, and that “...it is assumed for this analysis that the 10% and 5% limit on commercial retail development has already been reached in these developed industrial areas.”

This is an erroneous assumption in the case of Hillsboro’s 1,600 acre northern industrial area. According to NAISC designations, commercial retail uses occupy less than 2% of this land area. Metro staff has publicly said that their Data Resource Center analysis revealed that the 20% encroachment factor varied widely throughout the region, from 5% in the newer outlying industrial areas (i.e. Hillsboro, Tualatin) to 20% in the more mature industrial areas in the Portland central city. The Regional Industrial Lands Study² reported a 15% encroachment factor.

It is inaccurate to apply a 20% overall encroachment factor region-wide and, especially, in Hillsboro’s northern industrial area. There has been minimal encroachment and there is very little vacant, buildable land there within which such encroachment could actually occur due to already approved Planned Unit Development Permits for undeveloped portions of master-planned sites and City restrictions against such encroachment embedded in its M-P zoning of the area.

C. There is no evidence that the Hillsboro industrial zoning creates a regional problem that METRO needs to solve.

Hillsboro has utilized the M-P Zone, a high performance industrial zone that has set a model for many communities around the US and some in Europe for developing a cluster of high technology with software development and newer emerging 21st century industries. There is no data that demonstrates that the M-P zone has caused a problem. If anything, all the data indicates we have done a good job. Despite repeated requests for feedback from Metro as to what we have done wrong, to date there has been no response from Metro.

² RILS, OTAK, 2001.

Our high performance in zoning the M-P zone, along with the SID zone, has already accomplished the issues Metro is trying to accomplish currently, and this was completed long before Metro took the initiative to do it. By Hillsboro previously precluding large retail uses and focusing the zoning on creation of jobs, particularly export jobs along with the accessory uses necessary to make the area healthy, Hillsboro has provided an environment that encourages the expansion and retention of those jobs.

When we look at the direction that various drafts of Title 4 is taking the region, Hillsboro finds Title 4 changes are taking us backward—away from high performance zoning and flexibility that supports industry cluster needs and toward old style regulation and Euclidian zoning.

The evidence does not support the Title 4 changes.

D. Metro's Studies Do Not Support the Title 4 Regulations and RSIA Map Designations.

Metro's report, "*Examination of Commercial Encroachment on Industrial Land*"³, states that zone changes [from industrial to commercial] do not appear to be very common in the region. It notes that, when asked if encroachment is a problem that needs to be solved, most jurisdictions interviewed responded that the issue has been overstated, and that the problem has already been solved through the adoption of Title 4 in 1996. The report concludes that "...commercial encroachment is a problem based on perception and should not be used as an argument for or against additional actions regarding the industrial land supply until a definition is agreed upon and a policy objective for the amount of commercial use that is acceptable in an industrial zone is articulated." (emphasis added) Apparently the Metro Council has decided to proceed with adoption of the revised Title 4 language and specific RSIA Map despite the findings and conclusions of its own report.

In addition to limiting uses to prevent encroachment, another of Metro's stated objectives was to preserve large lots for industrial users, although there is minimal discussion of this objective in either the October 13th or 22nd staff reports. The final UGR indicates there is no need for 100+ acre lots for tech-flex uses, where an earlier version of the UGR had shown a need for one 100+ acre lot. The final UGR also shows only four tech-flex lots 50-100 acres in size are needed. Such a limited need for 50-100 acre lots throughout the region to accommodate tech-flex development hardly warrants such rigid land division standards as those in the new Title 4 language.

³ *Examination of Commercial Encroachment on Industrial Land*, Metro, April 2003.

III. Adoption/Implementation of the new Title 4 Regulations and RSIA Designations Will Thwart the Pursuit and Attainment of State and Local Economic Development (Recovery) Priorities.

In the face of the Region's (and State's) staggering unemployment rate adding the Title 4 and RSIA restrictions to a constrained industrial land supply will undermine the state's concerted and priority efforts to bolster a sagging Oregon economy. The Governor's Industrial Lands Taskforce recently issued a report⁴ which documents public testimony that Oregon has a reputation nationally of not being "open for business" and "out of the game" on industrial development. In that light, what wisdom is there in encumbering 60% of the region's industrial land base with additional regulation over and above existing local, state and regional regulations that won't achieve its stated objectives in any event?

Put more plainly, how does adding office and FIRE restrictions to existing and new industrial areas make such areas attractive to outside industrial developers accustomed to building industrial parks and campus-style industrial developments and to their underwriters accustomed to financing such development because of known and, thus, manageable financial investment risks?? Some of the Governor's Industrial Land Task Force Findings apply here:

"The current behavior of the market reflects a melding or blurring of the boundaries between commercial/office and industrial uses. This means that many of the traditional definitions of industrial embodied in zoning ordinances are obsolete."

"The Taskforce also found that 'industrial land is not a homogenous commodity and it must be analyzed with market needs clearly in mind. Industrial land inventories and projections . . . must be defined in terms of what types of industry a city, county or region can *realistically* attract and what kinds of land they need by location, size, price, physical characteristics and services.'"

This Task Force's admonition is borne out by the state's top employer's grave concerns about the wisdom of adopting new regulations that in reality would make a site much less attractive to a potential industrial firm. Surely this concern should give Metro pause to carefully consider whether these types of regulatory limitations might become unintentional disincentives for business start-ups, relocations or expansions.

Furthermore, Metro should already know that the Legislature recently declared the responsible development of industrial and employment sites to be a matter of statewide concern which triggers certain preemptory principles that will guide a determination whether the Title 4 regulations and RSIA Map are enforceable. There is a statutory declaration that "in carrying out statewide comprehensive land use planning, the provision of adequate opportunities for a variety of economic activities throughout the state is vital to the health, welfare and prosperity of all the people of the state."⁵ According to a report⁶ prepared for the 2003 Legislature, this statute

⁴ *Positioning Oregon for Prosperity*, Report of the Governor's Industrial Lands Taskforce, Sept. 2003

⁵ ORS 197.712(1)

requires (through LCDC) that local comprehensive plans contain several types of analyses in order to ensure that economic issues have been adequately addressed in the local comprehensive planning process. (emphasis added)

All recent private sector economic studies of the regional and state economy note the importance of the clusters. In fact, supporting the health of our industry clusters is the unifying strategy of various efforts to aid our economy. The RSIA map targets the core of Oregon's Hi-Tech cluster and portions of the Bio and Software clusters. Testimony from many parties, including Intel, note the Title 4 restrictions will seriously harm our economy. There is no study or data from Metro that demonstrates that these regulations will either "do no harm" or provide aid to the development of our key economic clusters. For reasons stated throughout this letter, we firmly believe the regulations will harm and could eventually destroy our key economic cluster.

The state and local governments have declared this area as a key economic development area. In addition to general strategic industry designations and targeted national and international business recruitment activities, there are some specific geographic actions taken. First the state approval of Strategic Investment Program (SIP) applications for Intel Ronler Acres and IDT. These approvals were initiated by the businesses and approved by Washington County and Hillsboro. The SIP grants certain tax advantages tied to private investment. Further, the state has approved various grants and loans to finance infrastructure in this area. It would be inappropriate for Metro, through Title 4, to interfere with or impair these state action commitments.

The Hillsboro Economic Development Council, the urban renewal agency for the City of Hillsboro, adopted the Ronler Acres Project in order to revitalize this area for jobs and housing. This urban renewal project is one of the most successful redevelopment projects in the state by any measure.

This project represents a local decision that prioritizes redevelopment of this area and adopts a specific redevelopment plan. The authority to do this is contained in the Oregon Constitution.

The Title 4 restrictions are potentially inconsistent with the redevelopment plans of the Ronler Acres Project area. If the Title 4 restrictions effectively alter already financed redevelopment plans in the Ronler Acres Project, or vested development rights in those plans, the City would be compelled not to apply them to the Project Area.

⁶ *Sufficiency of Commercial and Industrial Land in Oregon*, (OTAK, Inc. and ECO Northwest, Dec. 2002)

IV. The Proposed Title 4 Regulations and RSIA Designations may Exceed, and thus Violate the Limits of Metro Land Use Authority Prescribed by State Law and the Metro Charter.

After reviewing the proposed Title 4 measures, our City Attorney concluded the following and advises against the City relying on Title 4 as a justification for incorporation of the regulations into our Zoning Ordinance.

We question whether this type of prescriptive regulatory authority over another local government is conferred by state statute; whether other parts of state law preempt Metro's power, especially regarding zoning and economic development areas. Further, we believe there is a likelihood that Title 4 exceeds the authority granted Metro by relevant parts of the Metro Charter. We are concerned that: 1) this type of authority may not be conferred by state law; 2) the proposed exercise of authority may be inconsistent with and preempted by state statutes and regulations; and, 3) the proposed ordinance may not be consistent with or is not being adopted in a manner consistent with the Metro Charter.

V. The Proposed Title 4 Regulations and RSIA Designations Will Not Achieve, and Actually Will Undermine its Stated Objectives.

Our grave concern about the "need" for and efficacy of the proposed Title 4 regulations and RSIA designations for Hillsboro prompted us to ask EcoNorthwest for its thoughts about the measures. Its response accompanies this letter. It concludes the following:

- Title 4 policies may have the unintended consequences of: 1) restricting the expansion of some traded-sector businesses that are not strictly industrial by Title 4 definitions (especially those that are professional services), or 2) constraining the options of industrial users with respect to their development in the RSIA.⁷
- In going beyond strict retail use controls, Title 4 is on less solid ground, as some of the impact on the growth of traded-sector, export-oriented, high-multiplier businesses in the region is either unclear or potentially negative.⁸
- Some industrial uses are traded sector (a corporate headquarters, an R&D facility, a major office campus for a professional services firm) – in the latter category there might be many operations that would not initially (or perhaps ever) be "accessory to industrial use".⁹
- Restrictions of FIRE and professional services, including headquarters, may be a problem. If the restrictions were to force all new businesses of this type into largely developed town centers that would almost certainly be a drag on the region's economic development.¹⁰

⁷ ECONorthwest, December 1, 2003 memo to City of Hillsboro.

⁸ Ibid.

⁹ Ibid.

¹⁰ Ibid.

We would also direct the Council's attention to comments made by another leading economist in the region in a letter to President Bragdon:

- Defining land use demand into simple categories such as industrial or office does not reflect current realities of firm-driven demand. Office, R&D, manufacturing, and warehouse functions are often found in the same facility, making categorization using dated land use categories difficult.¹¹
- Firms require not only the ability to meet their current space needs, but also some level of confidence that they can meet their anticipated needs.¹²
- Overly prescriptive restrictions on allowable uses on a site limit a firm's future flexibility, an increasingly important aspect in making a location decision.¹³

VI. Existing Hillsboro Regulations Adequately Protect Industrial Lands for Industrial Uses.

The City has a long history of successful industrial development that has fostered development and cultivation of the Silicon Forest - a major economic engine driving the regional and state economy. The Ronler Acres site in Hillsboro is a prime example of how the City and private sector worked together successfully to create the state's largest employer. Hundreds of residential lots were consolidated into a large industrial site via urban renewal. Public/private partnerships emerged resulting in multi-billion investments to develop this site into today's Hillsboro High Technology Industrial Sanctuary. All of this was accomplished with our existing land use plans and regulations.

The Euclidian RSIA regulatory approach, as proposed, will work against the heretofore successful and highly productive public/private partnership approach the City has used to date to develop our successful industrial sanctuary.

Due to these concerns, the City is not willing to voluntarily offer up any of our industrial land base for RSIA designation (other than the airport site, owned and offered by the Port of Portland). The Shute Road Site was designated RSIA by Metro when added to the UGB, and additional conditions imposed by Metro are even more restrictive than the proposed Title 4 RSIA restrictions. The areas in Hillsboro currently under consideration by Metro Council for RSIA designation are not supported by the City or many of the affected property owners.¹⁴

At the very least, Metro should postpone adoption of the Title 4 revisions and the specific RSIA map. At this juncture, there is little consensus, and the matter has progressively become more disputatious. There is increasing awareness of the potential adverse impacts the proposed restrictions and limitations could have on the region's industrial land base, and on the state's economic recovery. There are many questions that need to be answered and unknown

¹¹ Jerald W. Johnson, Principal, Johnson Gardner LLC. November 10, 2003 letter to David Bragdon.

¹² Ibid.

¹³ Ibid.

¹⁴ Metro Ordinance No. 03-1022

consequences that should be investigated and thoroughly analyzed before Metro proceeds with any further Title 4 language revisions or specific RSIA mapping.

There are already numerous regulations currently in effect in Hillsboro that control the preservation and development of industrial lands:

**Applicable Metro Growth Management Functional Plan Requirements:
(incorporated into the Hillsboro Zoning Ordinance)**

- Title 2: Regional Parking Restrictions
 - Minimum parking required at 2 spaces/1000 sq ft gross floor area for most industrial uses
 - Maximum of 8 spaces/1000 sq. ft. allowed for customer service communications centers; maximum of 0.05 spaces/1000 sq. ft. allowed for warehouses
- Title 3: Water Quality, Flood Management & Fish & Wildlife Conservation
 - Development prohibited in water quality sensitive areas
 - Vegetated corridor required along wetlands and streams ranging from 15 to 200 feet
 - Additional requirements being developed for fish and wildlife habitat protection and restoration
- Title 4: Industrial & Employment Areas
 - Prohibit commercial uses greater than 60,000 sq. ft.
 - Additional restrictions on uses and land divisions being developed for new category: Regionally Significant Industrial Areas (RSIA)

City of Hillsboro Regulations:

- Significant Natural Resource Overlay District (SNRO)
 - Development limited in fish and wildlife habitat resource areas
 - Compensatory mitigation required for impacts to resources
- Regulatory Food Plain District
 - Limited development subject to special permit, balanced cut and fill requirements
 - Standards required by FEMA apply
- MP Industrial Park Zone
 - Retail uses not allowed except limited commercial support services
 - Offices allowed
- MP (SID) Industrial Park (Special Industrial District)
 - 30 acre minimum lot size with provisions for staged development allowing smaller lots over time
- Shute Road Site Special Industrial District Overlay
 - Strict limitations on uses (high tech and related accessory uses)
 - Retail uses of any type or size strictly prohibited
 - Strict limitations on lot sizes (one 100 acre lot, or three 50 acre lots)

The overlay zone applied to the City's industrial sanctuary, M-P (SID) (Special Industrial District) has provided for both the preservation of large lots and the flexibility to accommodate small and medium size uses all in proximity to one another. This overlay district includes a 30-acre minimum lot size, but provides for staged development creating lots smaller than 30 acres (down to a minimum of one-acre) when certain conditions have been met, while retaining at least one 30 acre site for a single major industrial user.

In our experience, this overlay district has been very effective in facilitating the development of the integrated mix of large primary industries and smaller support industries, as shown on the attached map. The application of the staged development requirements over time allowed the City to retain at least one 30-acre lot, which is located in the Westmark industrial park north of Hwy 26. There are no special use restrictions in the SID overlay, other than the requirement that all development be consistent with the provisions of the M-P Industrial Park zone, which allows traditional light industrial uses, offices, and an array of complementary commercial support services that are limited in scale to serve the needs of the employees of the surrounding industrial uses.

An analysis of approximately 1600 acres in Hillsboro's northern industrial area reveals an average lot size of 10.24 acres. The larger primary high tech industrial businesses in this area are surrounded by dozens of smaller supportive and related uses that provide the critical mass and synergy required to maintain and foster continued growth in the westside high tech cluster. It is likely that the successful growth and evolution of one of the most vibrant high tech centers in the country could not have occurred had restrictions, such as those imposed by the new Title 4 language, been in place over the last 20 years.

It is not clear that additional Title 4/RSIA regulations mandated by Metro would add anything beneficial to the plethora of regulation already in place. As stated previously, the need for additional industrial land restrictions has not been validated for the region, or in particular, for the City. On the contrary, the City has demonstrated that existing industrial regulations are adequate to meet our economic development goals and sustain the City's vision for future industrial investment, expansion and job creation.

The City is concerned that Metro may be stepping over the line in directly requiring us to amend our zoning ordinance to include specific use limitations and partitioning standards to be applied to specifically delineated parcels, rather than establishing policies to be applied through our comprehensive plan. We are further concerned that imposition of these restrictions may be inconsistent with our existing comprehensive plan policies, and may impair the City's ability to meet its Goal 9 obligations.

When the Title 4 revisions creating the new RSIA design type and the generalized regional RSIA map ("bubble map") and associated restrictions on uses and land divisions went to MPAC fall of 2002, I recall saying that I was reluctant to vote on the language before I had seen the specific map.

Several other MPAC members had similar concerns, resulting in the Council adopting language last December including the following provision: “Each city and county with land use planning authority over areas shown on the Generalized Map of Regionally Significant Industrial Areas adopted in Ordinance No. 02-969 shall derive specific plan designation and zoning district boundaries of the areas from the Map, taking into account the location of existing uses that would not conform to the limitations on non-industrial uses ...and the need of individual cities and counties to achieve a mix of types of employment.” The adopted language further states: “By December 2003, Metro shall, **following consultation with cities and counties**, adopt a map of Regionally Significant Industrial Areas adopted in Ordinance No. 02-969...”. (emphasis added)

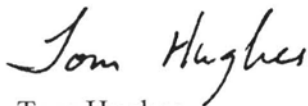
Despite the earnest efforts on the part of Metro staff to coordinate the proposed RSIA mapping in Hillsboro, and their attempts to work with us and other jurisdictions on possible language revisions, I fear that the Council has little interest in consulting with the City to rationally consider why we do not support the RSIA designation of 2,394 acres (54%) of our industrial land base, but rather seems determined to adopt stringent regulations that have not been thoroughly researched and could potentially further dampen economic recovery.

The preamble of the Metro Charter states that Metro is created “...in order to establish an elected, visible and accountable regional government that is responsive to the citizens of the region and works cooperatively with our local governments.”¹⁵ (emphasis added) The spirit of local government cooperation has not been evidenced to date on the Title 4/RSIA mapping matter. In this spirit we can only hope that these concerns by one of those local governments on behalf of our citizens will be given due consideration.

Thank you.

Sincerely,

CITY OF HILLSBORO



Tom Hughes
Mayor

Attach:

¹⁵ Metro Charter, August 2003 update.

Metro Report



METRO
People Places
Open Spaces

Urban Growth Report: 2002-2022

Non-Residential Land Need Forecast & Assessment

- ♦ Industrial Land Demand
- ♦ Industrial Supply Data
- ♦ Commercial Land Demand
- ♦ Commercial Supply Data

**A 20-Year Land Need Analysis prepared
for the Metro Council**

August 2002
Revised: December 2002

Mike Burton
Executive Officer

Planning Department
Andy Cotugno
Director

Prepared by:
Data Resource Center
Dennis Yee
Chief Economist

Conclusion

The Residential Urban Growth Report (UGR) is a technical document estimating the capacity for providing housing within the Urban Growth Boundary (UGB), and comparing this capacity with the expected growth for the next 20 years. The 2002 Residential UGR provides a portion of the technical findings needed to verify the State Goal 14 requirements needed to amend the UGB.

The Residential UGR compares the Regional Population and Housing Forecast with the zoned land capacity from 24 cities and three counties to determine whether a 20-year land supply is available inside the current UGB. A series of additions and subtractions are made to better estimate the land supply.

If a deficit is found ORS 197.296 and Metro Code provide several options for addressing the deficit. Three options available to the region include: 1) expand the UGB by the number of acres necessary to meet housing needs, 2) create additional capacity inside the UGB by adopting additional regulations or other measures, 3) combine expansion of the UGB and policy changes to meet a shortfall. Policy changes could take the form of upzoning, minimum floor area ratio (FAR) requirements or incentives that optimize development of land. The Department of Land Conservation and Development has stated that Metro can only take credit for increases in capacity if a regional regulation or measure has been adopted.

In brief, the housing need (demand number) for the 2000-2022 1/2 time frame is 220,700 units. The estimated capacity within the existing UGB is 177,300 units, which results in a deficit of 43,400 units. With additional measures to encourage greater refill in Centers, the capacity of the UGB can reasonably be expected to increase to 183,300 units, thereby reducing the deficit to 37,400 units. Specific assumptions and policy choices associated with this estimate are elaborated in the report. Table 1 is an overall synopsis of the housing needs analysis.

2000-2022 Urban Growth Report
Dwelling Unit Capacity Estimate & Need
2002-2022 Regional Forecast
of Residential Land Need
November 2002

Line No.

		SUPPLY	DEMAND
	Residential Demand Estimates (in Households)		
1a/	4-County Population Forecast (July 2000 to Dec. 2022) - 22 1/2 years		744,200
1b/	4-County Household Forecast (July 2000 to Dec. 2022) - 22 1/2 years		312,100
2/	Capture 68% of 4-County Forecast in Metro UGB		212,200
3/	plus: 4% vacancy rate		8,500
4/	Household Demand in the Metro UGB:		220,700
	July 2000 Vacant Land Inventory (all zones):		
5/	Gross Vacant Land	Metro UGB 44,000	
6a/	less: Title 3 (Water Quality Protection)	7,600	
6b/			
7/	Gross Vacant Buildable Acres (GVBA) - rounding	36,400	
8/	less: Fed., State, Municipal exempt land (actual count)	1,700	
9/	less: Acres of Platted Single Family Lots (actual count)	2,000 A	
10/	less: Acres for Places of Worship and Social Org. (per capita basis)	700 C	
11/	less: Major Easements (Natural Gas, Electric & Petroleum) (actual count)	700 R	
12/	less: Acres for New Streets (0%, 10%, 18.5%)	4,900 E	
13/	less: Acres for New Schools (per capita student basis: H=45, M=55, E=70)	900 S	
14/	less: Acres for New Parks (based on SDC fees)	1,100	
15/	Net Vacant Buildable Acres (NVBA)	24,400	
	NVBA by Type:	Metro UGB	
16/	Net Vacant Buildable Acres – Employment see Employment Land Need Analysis		
17/	Net Vacant Buildable Acres - Residential	14,900	
	Net Vacant Buildable Acres (NVBA)	14,900	
		Metro UGB	
18/	Dwelling Unit Capacity at Current Local Zoning (as of Jan. 2001)	108,700	
19/	add: Res. Development in vac. Mixed Use Areas (MUC)	10,400 U	
20/	less: Units Lost to Underbuild @ 20%	(23,800) N	
21/	add: Units from Residential Refill @ 26.3%	58,000 I	
22/	add: Minimum Development Capacity on Title 3 land (actual count)	500 T	
23/	add: Units from Platted Single Family Lots (actual count)	14,000 S	
24/	add: Land Adjustments (land capacity for these items not included in line 18/)		
24a/	Pleasant Valley Master Plan	5,000	
24b/	Villebois Village	2,300	
24c/	Marylhurst Convent town center development	700	
24d/	Washington Square regional center plan update	1,500	
25/	Subtotal: Dwelling Unit Capacity	177,300	
26/	Net Need in Residential Dwelling Units (DEFICIT):		(43,400)
27/	add: Added policy actions inside UGB (refill: +2.7% centers)	6,000	
28/	Adjusted Dwelling Unit Capacity	183,300	
29/	Net Need for Residential Households (DEFICIT):		(37,400)

Chapter 1

Introduction to the Report

Purpose

State land use law and Metro Code require periodic review of the Metro's UGB to assess its capacity to accommodate future urban growth for a 20-year period. The 2002 *Residential Urban Growth Report* (UGR) represents the technical findings needed to verify that State Goal 14, has been met in order to amend the UGB.

The Residential UGR is a blending of science, policy and technical assumptions in a study that estimates regional housing capacity. This report uses the best available research about urban growth boundaries, capacity and economic growth to estimate regional housing need (demand). The supply (inventory) estimates in this report are to the maximum extent possible grounded in scientific research and up-to-date geographic information system (GIS) data. Where data are inconclusive, policy assumptions are recommended based on region wide goals and objectives.

State law, Metro Code and current policy direction provided by the Executive Office are all integral to estimating supply and demand. These estimates, therefore, represent a mix of regulation, policy and technical findings. State law ORS 197.269(2) requires at least 20 years supply of buildable land be provided for residential development. In addition to planning for future housing, Metro also plans for a 20-year land supply for commercial and industrial development which is addressed in the 2002 UGR: An Employment Land Need Analysis.

UGR Update – What's New?

Two Reports

The 2002 UGR has been separated into two companion reports – A Residential Land Need Analysis and An Employment Land Need Analysis.

In general, the methodology used for calculating the regional housing capacity in the Residential UGR has remained constant for the past several years, making it an almost rote exercise. Calculating employment land need on the other hand has proved to be a more complex procedure, and staff is currently exploring better methods to more accurately determine the regional need. Due to the distinct character of the methodologies, staff developed two stand-alone reports – A Residential Land Need Analysis and An Employment Land Need Analysis. This report deals solely with the residential land need analysis.

Upzone/Ramp-Up/Underbuild

Several methodological changes are included in the 2002 edition of the Residential UGR. These changes are in response to implementation of the Functional Plan requirements and a review of our technical practices. Most jurisdictions have adopted minimum density standards (80 percent of the underlying zoning) and are in compliance with Title 1, Table 1 targets of the Urban Growth Management Functional Plan. Achieving compliance with Table 1 targets is an indication that local jurisdictions have completed all zoning changes to increase capacity and therefore the upzone and ramp-up factors from the 1997 UGR are no longer necessary. Ramp-up had been included in prior UGRs as a discount to the anticipated upzone by local governments to account for the time it takes to make the required Functional Plan changes. The Functional Plan requires local governments to set minimum residential density standards at 80 percent of the maximum allowed.

Accessory Dwelling Units

Staff conducted a review of the accessory dwelling units factor. In review, we believe that to call out accessory dwelling units as a separate factor double counts both refill rate and the density assumptions for vacant land. In addition to this, efforts to track the construction of these units have proven difficult. Thus they are not called out separately in this report as an addition to land capacity.

Major Utility Easements

A new deduction from the land supply is being made for major utility easements in order to comply with State law and to more fully account for all non-buildable lands. The type of easements and the land area removed from buildable land is detailed in Chapter 4.

Residential Vacancy Rate

A residential vacancy rate of 4 percent is specifically called out in the 2002 Residential UGR. Although a 5 percent residential vacancy rate has been assumed in past editions of the UGR it had not been called out as part of the adjustments to the land demand discussion.

Adjustments

A new factor called adjustments has been added to this report. An allowance is reserved for adjustments to the buildable land supply so that the most accurate information is available for the 2002 Residential UGR. The "supply" was based on 2000 vacant land data and zoning and adjustments provide a way to report and more accurately account for major land use changes that have occurred since that time. Specific adjustments are outlined in the Summary Table on page 4 and are listed in detail in Appendix B.

New Model

Output from the new MetroScope model is used for portions of the 2002 Residential UGR. The MetroScope model is a set of decision support tools developed to evaluate changes in economic conditions, land use trends and transportation activity within the region. The four models that comprise MetroScope include an economic model, travel model and two real estate location models. All these models interact with the Metro GIS and the Regional Land Information System (RLIS) to allow mapping of results and maintenance of spatial relationships between data. The model is run in five-year iterations between the land use and transportation models. The purpose of bringing the four models together into a single, integrated framework is to allow them to interact with each other, producing more accurate predictions of future conditions and allowing them to better reflect the full effects of policy choices.

Five potential growth case studies were run to test the effectiveness of a range of policy options in implementing the 2040 Growth Concept or making changes to enhance the effectiveness of the existing policies. Each case study was a test of a unique set of policy objectives. A Base Case study tested the impacts of the application of current 2040 Growth Concept policies. An I-5 Trade Corridor case study tested whether major transportation improvements to the I-5 trade corridor diminish or enhance the effectiveness and the implementation of the 2040 Growth Concept. A third case study tested whether developing a new complete community in the Damascus area would effectively accommodate a 20-year need for land. An Enhanced 2040 Centers case study tested whether additional policies and incentives would enhance the functionality of 2040 Centers while limiting UGB expansion. Selected parts of this information helped provide the range of possible outcomes from different UGB decisions. Of particular importance to this report are the model outputs for the refill and capture rates.

Centers Research

Metro is evaluating the Centers identified on the 2040 Growth Concept map to determine if there is additional capacity to be found within these areas that would effect the bottom line numbers for this Residential UGR, testing capacity and policy effectiveness.

Centers are the keystone of the region's strategy to manage growth. The adopted Regional Framework Plan and the Functional Plan establish policy directions, regulations and recommendations to strengthen Centers. The hierarchy of Centers designated on the 2040 Growth Concept map includes the Central City, 7 Regional Centers, 30 Town Centers and the Station Communities around light rail stations.

Metro conducted a three-phased study to examine Centers. Phase I was a series of interviews with local government staff. Phase II of the Centers study consisted of an economic analysis examining why Metro's Centers are not developing at the densities anticipated. Phase III identified tools and developed an action plan designed to answer strategic and regional level implementation questions. A fuller discussion of the implications of the research is in the Increase in Refill Rate section in Chapter 5 of this report. A copy of the studies can be found on Metro's website at www.metro-region.org.

Background

In 1997, Metro Council adopted the Regional Framework Plan and in 1996, the Functional Plan requirements. The plans provided coordinated guidance to local jurisdictions to manage future urban growth. In December 1997, the first UGR was issued and approved by Metro Council. The 1997 UGR concluded that there was a deficit of 32,370 dwelling units and a nearly 2,900 acre job shortfall.

Earlier in 1997, the Oregon Legislature enacted ORS 197.299¹ that required Metro to show substantial progress towards meeting this land need, within two years of identifying any shortfall in supply. At least half the need was to be accommodated by the end of 1998 and the remainder by the end of 1999. Accommodating 20 years of residential capacity within the UGB can be accomplished by increasing the size of the UGB or adopting policies to increase capacity of lands within the current boundary. Metro Code and State Law require review of the UGB capacity at least every five years.² The last complete review was conducted for the 1997-2017 period.

Consistent with State law, the Metro Council in December 1998 amended the UGB by adding 3,549 gross acres. The Metro Council also indicated their intent to add an additional 1,831 acres by resolution on the same date. These actions by the Metro Council met the requirement in State law to satisfy at least half of the land need identified in the 1997 UGR by the end of 1998. By the conclusion of 2000, the 1997-2017 UGB review was completed with two major changes recognized. First, the original need for 32,370 dwelling units was disallowed by DLCD because it was based upon 200-foot stream setbacks, which had not been implemented. This effectively eliminated the need for the "second half" of the needed UGB expansion of 1,831 acres. Second, the courts rejected 939 acres of expansion requiring this shortfall to be made up in the 2002 assessment.

Key Points:

- *State law requires that 20-year supply of land be provided within the UGB.*
- *The need estimates found in the UGR blend regulation, policy choices and technical findings.*
- *A deficit of 939 acres from the 1997-2017 UGB assessment must be made up in this round.*

¹ ORS 197.299 was introduced as HB 2709.

² ORS 197.296 was introduced as HB 2493.

2002 Periodic Review

Metro – Periodic Review

To comply with state law to ensure the land supply is adequate for a 20-year period, Metro requested the Land Conservation and Development Commission (LCDC) place Metro in a process called "periodic review" for the UGB. Periodic review is a cooperative process between the state, local governments and other interested persons.

Periodic review of the UGB takes place to assure that the process of reviewing and amending the UGB complies with statewide planning goals and that adequate provisions are made for needed housing, employment, transportation and public facilities and services. The law requires cities and counties to do periodic review every 5 to 15 years, depending upon their size and location. Small cities and counties are exempt. Metro must do periodic review every 5 to 10 years. Metro's last periodic review was completed in December 1992.

This periodic review includes a two-phase process. The first phase addressed legislative amendments to the UGB for the period 1997-2017 and was completed in September 2000, when the Metro Council determined that a 20-year supply of land was available. The second phase began in the fall of 2000 and covers the 20-year period from 2002 to 2022. The UGB may be amended if a demonstrated need exists.

Report Outline

The Dwelling Unit Estimate Summary Table (Table 1) summarizes the need analysis for housing. Table 1 illustrates deductions made to the gross vacant buildable acres (GVBA) to arrive at net vacant buildable acres (NVBA). Chapter 2 summarizes the regional population and dwelling unit forecast. Chapter 3 in this report expands in detail on lines 1 – 4 of the Summary Table dealing with demand. Chapters 4 and 5 provide more detail on lines 6 – 27 dealing with supply.

Chapter 2

2002-2022 Regional Forecast

Summary

As a basis for estimating future regional housing and employment demand, the baseline 2002-2022 Regional Forecast developed by Metro represents the most likely and reasonable “middle-of the-road” growth projection. The forecast assumes a policy neutral stance on growth management and transportation policies in the region. What this means is that the forecast carries out the regulations and policies that are in force today and extrapolates their likely impacts in producing housing and employment demand projections (regional need) for the region. The forecast extends from July 2000 to December 2022, a period of 22.5 years. This is due to the fact that the best available data exists for 2000, based upon the July 2000 aerial photos and there must be a 20-year land supply from the date of the decision, which will be in December 2002.

The regional economic forecast is based on a framework of how the region has responded to historical trends – including economic, industry, demographic, national and global forces at work in the region. The regional baseline population and household forecast is tied to the economy of the region by the interaction of migration and employment trends/comparative economic strengths with neighboring state economies. A continuing vibrant regional economy will continue to draw migrants in the pursuit of greater economic opportunity and regional amenities. More importantly, about half of the region's future population growth will be based on demographic characteristics of the region that exist today. Population growth will continue because residents will have children, and their children will have children.

Lastly, the regional baseline forecast was not derived to predict the variations in growth caused by recessions nor firm-level decisions such as the behavior of a single company. The forecast does not forecast business cycles. Instead, the forecast is meant to be indicative of what trajectory or growth path the region is likely to have during the next 20 to 30 years. By looking at historical trends and relationships, by discerning emerging trends, and folding into the regional forecast the expert opinions of regional experts and national forecasters (DRI-WEFA), the regional baseline forecast represents the reasonable approach available for the upcoming UGB decisions.

Alternative growth projections could also be considered, but have been deemed to be less likely and less reasonable approaches. Optional assumptions based on different national and international outlooks could easily produce a higher or lower regional forecast, but are less plausible. DRI-WEFA and other national sources have produced alternative U.S. growth scenarios which could be used to prepare regional high or low growth outlooks, but they represent a much lower probability of materializing in the future.

As part of completing periodic review, Metro will produce a high and low forecast later this year to accompany its regional baseline forecast. Based on national estimates, the baseline regional forecast represents more than an 80 percent probability while a significantly higher or lower regional forecast faces less than a 10 percent probability each of happening.

Actions taken by public agencies throughout the region could have the effect of increasing or decreasing this forecast (examples include – but are not limited to – Columbia River channel deepening, truck access into the Columbia Corridor, decreased investment in transportation and airport capacity, inadequate higher education financing, economic development incentives, and quality of life oriented actions such as clean water and access to open space).

Chapter 3

Residential Demand Analysis

Residential Demand – Overview

Residential Demand is taken directly from the Regional Economic and Population Forecast.³ A four-county population and household forecast from July 2000 to December 2022 (which equals 22.5 years) provides the basis for the demand estimate. The July 2000 vacant land inventory is being used as the basis for estimating supply. The December 2002 demand forecast is being used to insure a 20-year supply for the December 2002 decision. Population in the Metro region is expected to increase at a moderate pace of 1.6 percent per year. By the year 2022, population growth is expected to add another 744,200 residents to the region (in the four-county SMSA).⁴

In terms of the Metro UGB, population growth is expected to add 525,000 more residents or about another 212,000 households (or 220,700 dwelling units assuming a 4 percent vacancy rate). Metro Council had extensive discussions about the use of a vacancy rate. In Appendix A, Table Note 3, there is a description of the range considered for vacancy rate. Metro may look into vacancy rate as part of Task 3. These UGB figures are based on a 68 percent capture rate, which has been the historic rate between 1980 and 2000.

During the 1990s, about two-thirds of new residents had never lived in the Portland area before. Net immigration will still be a force driving population growth in the future, but a lesser one. Only about half of the region's population increase during the next 20 years will come from migration; the remainder will come from residents having children.⁵

Regional population growth is expected to average about 1.6 percent per year through 2030, as compared to about 2 percent from 1970 to 2000. Population will increase more rapidly in the near term as current conditions favor an economic rebound, which will attract greater number of migrants. Over the long haul, the average growth rate per year will start to taper off as regional economic growth moderates.⁶

Key Points:

- *Population growth through the forecast period is expected to increase at a moderate pace of 1.6 percent per year.*
- *By the year 2022, population growth is expected to add another 744,000 residents to the region.*
- *Migration contributes 50 percent of population growth.*

Capture Rate

Since the geographic extent of the Residential UGR is the limits of the UGB, a forecast of housing units (dwelling units) is derived for the portion of growth anticipated to occur inside the UGB. This proportion of growth (capture rate) is the fraction of dwelling units predicted to occur in the UGB relative to the total amount of growth overall in the four-county region (Multnomah, Clackamas, Washington and Clark Counties). The 1997 UGR, as well as subsequent updates, assumed the capture rate for the UGB to be 70 percent for households. Capture rate in the 2002-2022 Residential UGR is assumed to be 68 percent.

³ Economic Report to Council 2000-2030 Regional Forecast, preliminary draft March 2002.

⁴ SMSA four counties include Clackamas, Clark, Multnomah and Washington Counties.

⁵ 2000-2030 Regional Forecast, preliminary draft March 2002.

⁶ 2000-2030 Regional Forecast, preliminary draft March 2002.

Capture rate data is drawn from two sources; historic and future estimates. Historic estimates are available from 1980 up through year 2000. The basis for the capture rate is derived from historical data from 1980 through 1998. Historical data indicate a capture rate of 54 percent to 77 percent. The table listed below shows the range of capture rates.

Table 2
Metro Region Historical Capture Rates

Metro Capture Rates - 5 years:	1980-85	1985-90	1990-95	1995-00
Households	65.5%	53.7%	76.6%	68.8%
Metro Capture Rates - 10 years:	1980-90		1990-00	
Households	58.2%		72.9%	
Metro Capture Rates - 20 years:				1980-00
Households				67.8%

Future estimates of capture rates, based on specific land use assumptions, are an output from the MetroScope model.⁷ Five potential growth case studies were run to test the effectiveness of a range of policy options in implementing the 2040 Growth Concept or making changes to enhance the effectiveness of these policies. Each case study was a test of a unique set of policy objectives. A Base Case study tested the impacts of the application of current 2040 Growth Concept policies. An I-5 Trade Corridor case study tested whether major transportation improvements to the I-5 trade corridor diminish or enhance the effectiveness and the implementation of the 2040 Growth Concept. A third case study tested whether developing a new complete community in the Damascus area would effectively accommodate a 20-year need for land. An Enhanced 2040 Centers case study tested whether additional policies and incentives would enhance the functionality of 2040 Centers while limiting UGB expansion.

MetroScope case studies capture rates range from 52 percent to 79 percent depending upon the amount of land added to the UGB and the amount of capacity made available within the UGB. As experience and modeling has shown, capture rates can vary based on a number of different factors. The reasonable range of capture rates to assume based upon both historic and modeled rates, range from 65 to 75 percent.

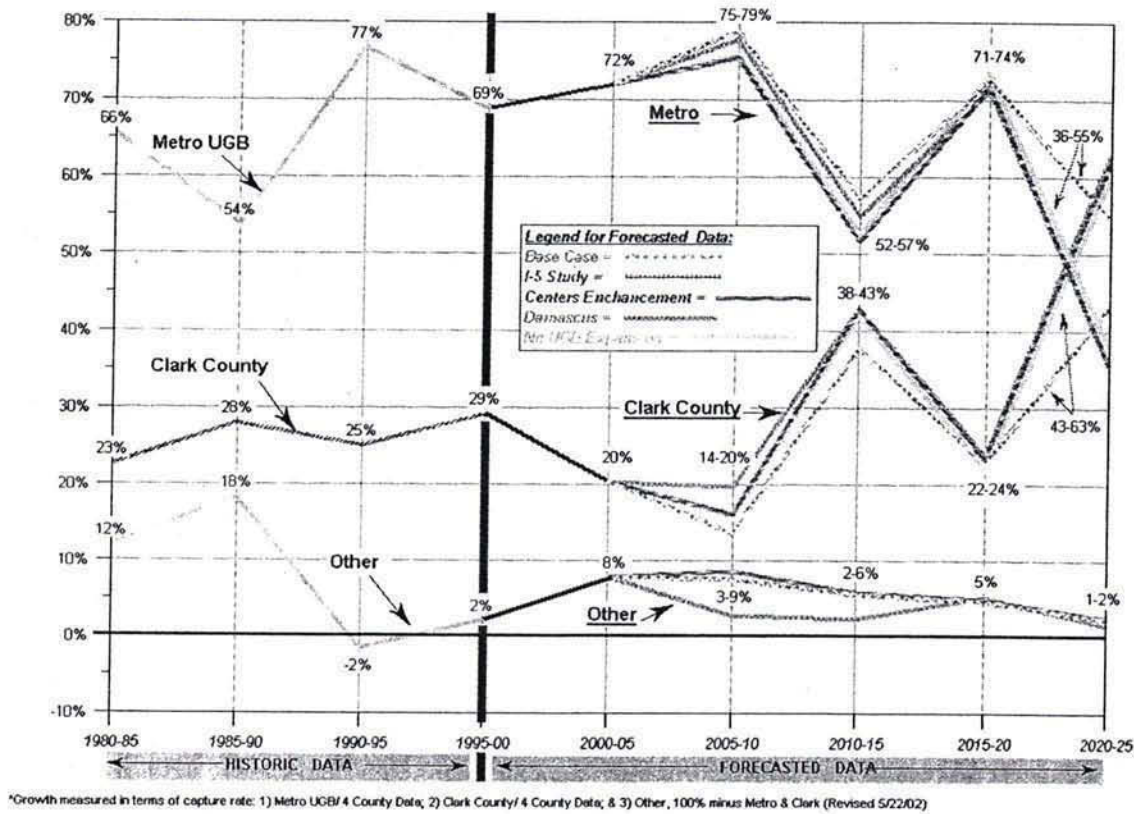
The Capture Rate Graph (Figure 1 - Household-Share of Growth) illustrates a direct relationship between the capacity within the Metro UGB, Clark County's UGA and is reflected in capture rates. In other words, a policy that holds a tight Metro UGB pushes growth to Clark County, whereas a policy that allows a larger UGB means less proportional growth in Clark County.

It is assumed that the remaining residential growth will locate to Clark County, unincorporated portions of the tri-county area, and cities located beyond the Metro UGB (e.g., Banks, Barlow, Canby, Estacada, Gaston, Molalla, North Plains and Sandy).

⁷ The MetroScope Model is a decision support tool developed to evaluate changes in economic conditions, land use trends and transportation activity. Five case studies were modeled and produced estimates of capture rates in five-year increments from 2000 up through 2025.

Figure 1

HOUSEHOLDS - SHARE OF GROWTH*, 1980-2025
Clackamas, Multnomah, & Washington Counties In Oregon; & Clark County In WA



Magnitude of Capture Rate Choices

Capture rate changes produce substantial swings in the amount of households that need to be accommodated within the UGB. Three scenarios are illustrated in Table 3 that show the effect of differing capture rates on the regional forecast (65 percent, 70 percent, 75 percent) with the resulting change in demand from the recommended 68 percent capture rate.

Table 3

CAPTURE RATES	65%	70%	75%
Four-County Housing Forecast within the Metro UGB	202,800	218,400	234,000
4-County with 4% Vacancy Rate	210,900	227,100	243,400

Changes in the capture rate result in an increase in the need of approximately 3,200 dwelling units per 1 percent increase in the rate. Assuming a lower capture rate than previously will have consequences to neighboring communities, because the overall population within the four-county area is only partially affected by the size of the Metro UGB. If the capture rate in the Metro UGB is pushed downward,

together with limits on the Clark County UGA, the demand for dwelling units is shifted to neighboring communities like Banks, Scappoose, Canby, etc. Selection of the capture rate should take into consideration impacts on surrounding communities.⁸

Effects of the Capture Rate on Residential Refill Rates

Generally, there is an inverse relationship between residential refill rates and the capture rate, although this relationship can be affected by a number of different factors. Essentially, the higher the refill rate the less new vacant land (UGB expansion) Metro needs to add to accommodate growth. The lower the refill rate, the more land Metro will need to add to the UGB. This year, the decision process has benefited from the addition of a new tool – capture rate and refill rate outputs from the MetroScope model. As shown by MetroScope, limited UGB expansion results in higher market demand for refill but not at a sufficient rate to avoid shifting a share of growth outside the Metro UGB. Conversely, a larger expansion ensures growth is accommodated in the Metro UGB but undermines market demand for refill.

Some key refill rate findings from the MetroScope analyses suggest that:

- Higher refill rates are achievable through an aggressive program of incentives for development in designated mixed-use Centers. Selection of a refill rate should be tied to how aggressive a Centers incentive program is adopted.
- Higher than planned redevelopment and infill rates (refill) can be achieved but at the expense of lower capture rates and higher home prices.
- For residential purposes, maximizing the use of Centers substantially increases residential refill and reduces overall residential vacant land consumption.
- Demand for refill in Centers is highest in the central city areas.

Key Points:

- *The overall residential capture rate assumed in the 2002 Residential UGR is 68 percent*
- *A capture rate of 68 percent is assumed to indicate the average proportion of residential growth that will occur within the UGB until 2022. The rates are derived from the two decades of historic data and MetroScope modeling results.*
- *Historical capture rates from 1980-2000 ranged between 54 percent and 77 percent.*
- *Capture rates from MetroScope model case studies from 2000 - 2020 range from 52 percent to 79 percent.*
- *A reasonable range to consider for this Residential UGR is 65 percent to 75 percent.*

⁸ For more detailed information about capture rates please refer to June 3, 2002 memo from Lydia M. Neill, Principal Regional Planner to Andy Cotugno, Planning Director, and the MetroScope findings report.

Chapter 4

Buildable Lands Analysis – Determining the Region's 20-Year Land Supply

Land Inside the UGB

The 2002 UGB contains 235,549 acres. December 1998 UGB amendments brought approximately 3,000 additional acres into the boundary.⁹

Vacant Land Inventory

Metro's Data Resource Center (DRC) has been producing a regional Vacant Land Study every other year since 1990. The most recent Vacant Land Study completed is based on digital aerial photography flown in July 2000. This study identifies fully and partially developed parcels within the Metro region. As part of updating the data for the 2002 Residential UGR, the supply of vacant land on hand is derived from the stock of vacant land data identified by the July 2000 data. Based on this careful inventory, there is a total of 43,900 gross vacant acres.¹⁰

Metro defines vacant parcels as tax lots with no improvement value or building(s). In addition, Metro has defined partially vacant parcels as those with an undeveloped portion of a lot that is larger than one-half acre.

In updating each year's vacant lands inventory, DRC staff focus on removing areas from the previous year's inventory that have become developed. Each parcel in the UGB is examined. Building permit data collected from local jurisdictions assist with this effort. County tax assessor data are also checked to ensure that the parcel in question has no improvement value located on it (an improvement value would indicate that the parcel is developed or at least partially developed).

In addition to removing developed areas from the vacant land data layer, staff may identify additional vacant lands that were undetected in the previous year's inventory. This occurred with the 1998 update. Metro's 2000 aerial photos have a higher level of resolution (one-foot pixels) than the 1998 aerial photos (two-foot pixels), allowing greater precision in the identification of vacant areas. Each year since Metro began measuring vacant lands the accuracy of Metro's vacant lands data has incrementally improved.

Metro's definition of vacant land follows very specific guidelines. The following points clarify important attributes of Metro's vacant land analysis methodology.

- Vacant lands do not indicate whether a vacant parcel is listed on the market to be sold and developed. The vacant lands inventory process does not include a qualitative judgement about a parcel's desirability for development, or identification of issues that would affect development.
- The vacant lands data alone do not necessarily indicate that the parcel is buildable. The Residential UGR starts with vacant lands, and using GIS, removes the areas that are considered environmentally constrained such as wetlands and floodplains (i.e., there is an important distinction between vacant lands and vacant *buildable* lands).

⁹ Includes Pleasant Valley Maser Plan, Dammasch Town Center concept, South Hillsboro and excludes Stafford and Bethany which were remanded by the courts.

¹⁰ Source: RLIS 2000 data.

Key Points:

- *Aerial photography was flown in July 2000.*
- *Partially vacant land is defined as vacant parcels with an undeveloped portion of the lot that is greater than one-half acre (over 20,000 square feet).*
- *Vacant land is defined as any undeveloped parcel/tax lot and any partially undeveloped lot with the undeveloped portion larger than one-half acre.*
- *Vacant land data do not imply a degree of development readiness or current marketability.*

Gross Vacant Acres to Gross Vacant Buildable Acres

Environmentally Constrained Land

Environmentally constrained land is deducted from Gross Vacant Land to arrive at Gross Vacant Buildable Acres (GVBA). Metro's Stream and Floodplain Protection Plan (Title 3 of the Functional Plan) was adopted by Metro Council in June 1998. It requires cities and counties within the Metro UGB to meet regional performance standards relating to water quality and floodplain management. This analysis assumes that all riparian areas beyond those defined in Title 3 are buildable. Environmentally constrained land is protected under Title 3 of the Metro Functional Plan. Through Metro's Title 3 process, 7,600 vacant acres¹¹ of environmentally sensitive land has been identified. Environmentally constrained lands include only water quality and flood management areas (as defined in Title 3 of the Functional Plan), consisting of:

Title 3 Restrictions

- 1996 flood inundation areas and FEMA floodplains.
- Wetlands, from an enhanced National Wetlands Inventory and local wetland inventories.
- Wetland Areas, 50 feet from the edge of wetland.
- Riparian Areas, variable riparian corridor between 15 feet and 200 feet depending on the area drained by the water feature and the slope of the land adjacent to the water.

Steep Slopes Beyond Title 3

The buildable lands analysis assumes that upland areas with slopes greater than or equal to 25 percent outside of adopted Title 3 riparian areas have development potential.¹² The development potential on steep slopes is assumed to be current zoning.

Development on Environmentally Constrained Land (Title 3)

Environmental constrained lands do not have the same development capacity as buildable lands. These types of land include steep slopes, flood plains, wetlands, natural resource and riparian areas.

Although environmentally constrained land is not included in the net vacant buildable land inventory, some low-density type development has historically occurred in these areas. Capacity on these lands is calculated by each environmental land component (i.e., floodplains, 1996 flood areas, and steep slopes outside of Title 3 regulated areas). Lots located wholly within Title 3 areas continue to be allotted one dwelling unit per tax lot, because Metro code allows this exemption to Title 3 limitations. Approximately 500 tax lots are located wholly within the Title 3 regulated areas and therefore would result in additional capacity of approximately 500 dwelling units which is accounted for on line 22 of Table 1.

¹¹ Source: RLIS 2000 data.

¹² The 1997 UGR assumed these areas were environmentally constrained. The June 1998 adoption of Title 3 regulations did not protect these lands unless falling within water quality and flood management areas.

Additional Technical Notes on Capacity Estimates

Steep Slopes

Steep slopes are defined as those areas greater than 25 percent slope. In the past (1997 UGR), these areas have been considered unbuildable. These lands are more expensive to develop, are less efficient to develop because of topographic constraints and may have life and property safety concerns due to geologic hazards. In the 1999 UGR Update it was stated that the historical rate of development in steep sloped areas was estimated by examining building permit data from 1995 through 1998. The historical rate and current zoned capacities on these lands were reported as approximately the same (6.4 dwelling units per 5 acres). Therefore, in the 2002 Residential UGR, current zoning is assumed. To the extent steep slopes are included in Title 3 coverage, they are treated as Title 3 areas (see above).

Floodplains

Floodplains are defined as areas located within the 100-year floodplain and indicated on the Federal Emergency Management Agency's (FEMA) maps¹³, and/or the area inundated by the 1996 flood. Structures located in the floodplain can cause life and property losses in the floodplain and downstream. Most jurisdictions allow construction in the flood plain as long as the finished floor elevation is located at least one foot above the FEMA flood elevation. Title 3 allows construction in the floodplain with balanced cut and fill. Balanced cut and fill requirements may decrease future construction in the floodplain due to cost. Land within the 100-year floodplain and 1996 flood inundation area (located outside of the Title 3 water quality and riparian areas) are assumed to develop at zoned capacity.

Cities and Counties in Compliance with Title 3 Requirements¹⁴

Standard	No. Jurisdictions Applicable	No. Jurisdictions in Compliance	Percent Implemented
Floodplain	25	22	88%
Water Quality	26	19	73%
Erosion Control	27	25	93%

Key Points

- *Environmentally constrained lands do not have the same development capacity as buildable lands.*
- *These types of land include steep slopes, flood plains, wetlands, natural resource and riparian areas.*
- *Capacity in Title 3 regulated lands is estimated at 500 dwelling units based upon one unit per lot.*
- *Capacity on non-Title 3 regulated steep slope lands and floodplains and 1996 flood areas is based on current zoning.*

Gross-to-Net Reductions

GVBA are further refined to account for future streets, schools, parks, places of worship/fraternal organizations, and major utility easements over the 20-year planning period.

¹³ Maps distributed by FEMA.

¹⁴ As of July 25, 2002.

Federal, State, Municipal Exempt Land

A total of 1,700 acres of federal, state, county and city owned land have been removed from gross vacant buildable acres (GVBA).¹⁵ The data was identified from tax assessor codes for exempt uses. No dwelling unit capacity is assumed on these lands because they are assumed to address public facility needs for cities, counties and federal agencies. Housing Authority and Portland Development Commission lands were not removed from gross vacant buildable acres because they are in public ownership to provide housing capacity. This method is consistent with that used in the 1997 UGR and subsequent updates.

Vacant Single Family – Platted Lots

All parcels less than 3/8 of an acre are temporarily set aside from the inventory of GVBA. These parcels do not receive reductions for future streets, parks, schools and places of worship/fraternal organizations, because they are assumed to have sufficient right-of-way already dedicated to serve them because of their small size and they are already platted to their minimum possible size. A total of 2,000 acres of small platted lots are temporarily removed from GVBA.¹⁶

In single family zones, capacity on these parcels is assigned one dwelling unit per parcel rather than the underlying zoning classification. The dwelling capacity (one per lot) on this subset of vacant land is later added back to the final supply estimates when the residential portion of net vacant buildable land is converted into a dwelling unit capacity estimate.

Lots less than 3/8 of an acre but zoned for non-residential or multi-family purposes are also not reduced in capacity by the gross-to-net reduction calculation for similar reasons as stated above. However, these individual parcels are included back into net vacant buildable acres to compute dwelling unit capacity for multi-family development and employment land supply respectively based upon the zoning classification assigned to that parcel. This is consistent with the method used in the 1997 UGR and subsequent updates.

Future Streets

As noted above no reduction for future streets is applied to parcels less than or equal to 3/8 of an acre in size. A 10 percent reduction is applied to parcels between 3/8 of an acre and one-acre. Staff assumes due to the smaller size of these parcels that the likelihood is great they are already served by some street access and that only limited further right-of-way would be required. An 18.5 percent reduction is applied to parcels larger than one acre. The total deduction for new streets is 4,900 acres.¹⁷

The 18.5 percent reduction is based on a study of subdivision development during 1997 and 1998 on all parent parcels larger than one acre. A total of 170 platted subdivisions were reviewed from each of the three counties. Of these subdivisions, the average amount of land used for streets was 18.5 percent. Although this rate is applied globally to all vacant land, it was derived from measuring only single family lots.

The 18.5 percent rate applies to all street classifications. Expansion of freeway and arterial streets suggested in the RTP will partially occur within existing rights of way or adjacent to already developed parcels. The RTP estimates that approximately 1,600 acres are required for these future expansions. The 18.5 percent assumption for all vacant land provides enough land for these acres because of the

¹⁵ Source: RLIS 2000 data.

¹⁶ Source: RLIS 2000 data.

¹⁷ Source: 2000 RLIS data.

excess land assumed for multi-family and non-residential parcels that require substantially less than 18.5 percent for streets. These rates were used in the 1997 UGR and subsequent updates.

Review of the Street Right-of-way Widths

Metro Council has asked staff to review the local street allowance based on the implementation of the Transportation Planning Rule (TPR) to allow narrower streets. Most of the local governments have completed this work and allow a variety of street designs to be used in new subdivisions depending upon topography, functional classification, anticipated traffic volumes and adjoining uses. The recommended pavement width for narrow streets (curb to curb) is between 20 to 28 feet although right-of-way is needed to accommodate more than just curb to curb pavement width. Additional right-of-way is required to accommodate street trees in planter strips, sidewalks and driveway aprons that meet ADA standards. With additional storm water run-off concerns right-of-way widths are not likely to be reduced further although pavement widths may be reduced.

To evaluate whether the narrow street widths were being applied an additional analysis of newly dedicated right-of-way (2001) was conducted by DRC staff. A sample was collected of 395 right-of-way segments in Washington, Clackamas and Multnomah Counties within the UGB. Most right-of-way segments ranged from 30-65 feet in width with the most common being 50 feet. The second most frequent width was 35 feet. The average length was between 268 to 276 feet. Portland had the greatest number of new dedications. From this data it was difficult to discern whether the dedication was only for a portion of the width of the street (i.e., 35 feet of a 70 right-of-way). To examine whether the percentage of street right-of-way dedicated is adequate for different size parcels an additional study would need to be undertaken to examine subdivision plats. This information is not available from the RLIS database and would involve obtaining copies of the plats from each of the counties. For this report, the existing 0-10-18.5 percent deductions will be used. This assumption produces a deduction of a total of 4,900 acres for new streets.

Future Public Schools

Acres for New Schools

In order to estimate the amount of land dedicated for future schools, the ratio of students per acre by elementary, middle and high school is used to calculate the school land need. In past UGRs, this pencils out to 70 students per acre figured for an elementary school, 60 students per acre for a middle school and 55 students per acre for a high school. These ratios are based on the amount of land school district staff believe they will be able to obtain for each of the school types. There are three ways to approach how Metro estimates the amount of land necessary for future schools. One approach is based on what the school district wants to build. The second approach is based on what the school district can obtain under constrained land conditions, and the last approach is based on current conditions.

A projection of student population growth is estimated from the regional forecast. This projection is adjusted to coincide with the UGB capture rate. The estimates are also adjusted to account for the number of students believed to attend private schools or being home schooled. Approximately 90 percent of all students attend public schools.

Each of these options represents a different set of assumptions for how much land per student is required.

"Ideal" Site Size Requirements

	<u>Students Per Acre Ratio</u>	<u>Site Size</u>	<u>Enrollment Size</u>
High School	55	40 acres	2,200 students
Middle School	60	20	1,200
Elementary School	70	10	700

"Constrained" Site Size Requirements – 20% Denser than Ideal

	<u>Students Per Acre Ratio</u>	<u>Site Size</u>	<u>Enrollment Size</u>
High School	65	40 acres	2,600 students
Middle School	70	20	1,400
Elementary School	85	10	850

Actual Student Land Need Ratio, 2001

	<u>Students Per Acre Ratio</u>
High School	50
Middle School	40
Elementary School	52

The "constrained" option was selected with the addition of 200 acres for the 2002 Residential UGR. A total of 900 acres are needed for new schools.

Future Parks

History

The amount of land needed for development of future parks is computed based upon a park ratio of acres of parkland per 1,000 residents. The 1997 Update to the UGR was based on a 1998 survey rate of 20.9 acres per 1,000 residents. This ratio was updated from 14.4 acres per 1,000 that was used in the 1997 UGR. This ratio was based on an inventory of parks and open spaces completed in 1997 (Metro's Greenspaces Department). The park ratio included neighborhood parks, wildlife refuges and preserves, Metro and municipal open spaces, and regional parks. From this need, acquisitions inside and outside the UGB through the Greenspaces bond measure were subtracted producing a net set aside for parks. The 20.9 ratio used in the 1997 Update resulted in a need of 8,598 acres which was then reduced by 4,900 acres for parks and open space acquisitions (past and future) both inside and outside of the UGB. The total deduction for parks was 3,678 acres (3,700 rounded).¹⁸

Review by MPAC Parks Subcommittee

The MPAC Parks Subcommittee was charged with making an estimate recommendation for future park land needs. They explored five possible methods of estimating future parks and their likely impact on the housing and job capacity calculations within the Metro UGB.¹⁹ A summary description of each approach follows:

1) Existing Ratio. This is an estimate based on the existing ratio of acres of parks to people and forecasting new parks from the forecast of new people in the region (20.6 acres per 1,000 residents). Using this method, future parks could consume as many as 10,860 acres.

2) Active Parks Ratio. This is an estimate based on active parks - the active parks being lands like playgrounds and ball fields, the passive parks being features like steep slopes, streams, etc. This

¹⁸ Source: Technical Appendix to Dwelling Unit Capacity Estimates for the 1999 UGR, December 1999.

¹⁹ For more information about the MPAC Parks Subcommittee report, refer to A Background Report for Estimating Future Parks and their Capacity Implications within the Metro UGB, June 19, 2002.

method yields an estimate of about 2,290 acres of new active parks. Passive park lands, likely to have little development potential, are not accounted for in this paper.

3) Historic Rate. This approach looks at the actual rate of addition of park and open spaces to the UGB for several different periods. This method yields an estimate of at least 8,000 acres of new parks land need.

4) Parks-to-Developed Land Ratio. This method estimates future parks based on the past ratio of parks to developed land. However, while it documents that there are about 16 acres of parks and open space for every 100 acres of developed land as of the year 2002, it does not yield a year 2022 estimate.

5) Fiscal Resource. This is an estimate based on the existing fiscal resources available to purchase new lands. This is estimated in large part based on estimates of existing system development charges as well as any dedicated local bond measures also available to purchase open space. This method yields an estimate of about 1,050 acres.

The MPAC Parks Subcommittee believes the best estimate for future parks is about 1,050 acres over the next 20 years. This estimate is based on what is financially justifiable by using available revenue sources (primarily system development charges). It should be noted that this estimate does not take into account the impact of future funding mechanisms that may be approved and implemented in the future. It is also based on acquisition of those types of parks that could be expected to be provided in conjunction with new development and that would need to be located on lands that could otherwise accommodate new jobs or housing. These lands would accommodate active parks that usually need relatively flat building sites to accommodate playgrounds, sports fields, etc. It was also the conclusion of the MPAC Subcommittee that this does not reflect the desired level of parks throughout the UGB. Subsequent to this, MPAC recommended 2,300 acres based on the expectation that resources exceed the base System Development Charges level, but Council selected 1,100 acres because they felt they couldn't count on the extra funds.

At this time, 1,050 acres are assumed to be needed for future parks, as recommended by the MPAC Parks Subcommittee. For purposes of the Residential UGR, 1,050 acres has been rounded to 1,100 acres.

Future Places of Worship and Fraternal Organizations

The total deduction for places of worship is 700 acres.²⁰ The land need for future places of worship and fraternal organizations are based upon a ratio of 1.4 acres per 1,000 persons which reflects existing conditions that was calculated in 1994 for the 1997 UGR. An estimate of the ratio applied to population projections and the amount of land for future need for places of worship and fraternal organizations are calculated and then the current vacant land holdings of these organizations are deducted from the future need. Rather than removing the specific parcels owned by places of worship and fraternal organizations, these parcels were retained as part of the region's buildable land supply, and 700 acres of land need was deducted proportionally from parcels of gross vacant buildable land, in the same manner as schools and parks. Approximately 85 percent of the need for these uses are estimated to occur in residential areas, with the remaining 15 percent in commercial areas (based on historic land holding patterns). The same assumption was used in the 1997 UGR and subsequent updates.

²⁰ Source: RLIS 2000 data.

Re-use and Redevelopment of Church Lands

Metro Council pointed out that there are a number of religious organizations that have developed affordable and senior housing on church owned lands that were previously committed for religious purposes. It appears that although this is occurring it is difficult to accurately measure how many of these instances have taken place. Staff has queried Metro Housing program staff and some local governments to get a sense of where these changes have taken place and the frequency of the occurrence.

Anecdotal evidence has indicated that churches are frequently broadening their mission and providing more social services, daycare and education. Although this has obvious benefits to the community, this may raise compatibility issues in residential neighborhoods where most churches are located. Most zoning codes currently permit church uses to occur in residential and commercial zones. In addition to providing some of the services mentioned above, there have been some instances where church sites are redeveloped for housing use.

Redevelopment of church sites may be most applicable in areas found in older neighborhoods that are losing membership as their membership ages. Although St. Anthony's in southeast Portland has been developed as a model for the Archdioceses of Portland that they hope can be replicated in other parts of the country the decision to undertake this type of development is up to the individual parish. Individual parishes within the Catholic Church are responsible for buying, selling and developing their land and there is no overall stated mission by the church to require or encourage this type of activity.

The Housing Technical Advisory Committee (HTAC) examined the St. Anthony's model and tried to assess the probability of replicating this elsewhere in the region. An initial search of church properties in RLIS as well as contacts with church groups proved difficult and was not pursued.

Because of the lack of evidence of a trend that these lands are fulfilling some of the housing demand it is recommended that redevelopment activity on these types of lands be monitored in the future to ascertain whether redevelopment of these sites is occurring by developing parking lots, excess land or converting church buildings to housing uses. In the meantime, selection of an appropriate refill rate could include a judgement of the rate of this redevelopment activity.

Major Utility Easements

The total amount of actual land used for easements by natural gas, electric and petroleum utilities, and radio and TV towers is 700 acres.²¹ Radio and TV tower tax lots were identified and removed from the buildable land inventory. Easements for major utilities consist of linear corridors of land based on specific width requirements for public safety. These include a 75-foot easement requirement for Bonneville Power Administration lines and natural gas lines, and a federal 50-foot standard for petroleum pipelines. Easements typically allow very limited uses and do not allow the construction of buildings in these areas and are therefore removed from the buildable land inventory. This deduction is a new factor that has been included to more fully approximate non-buildable land.

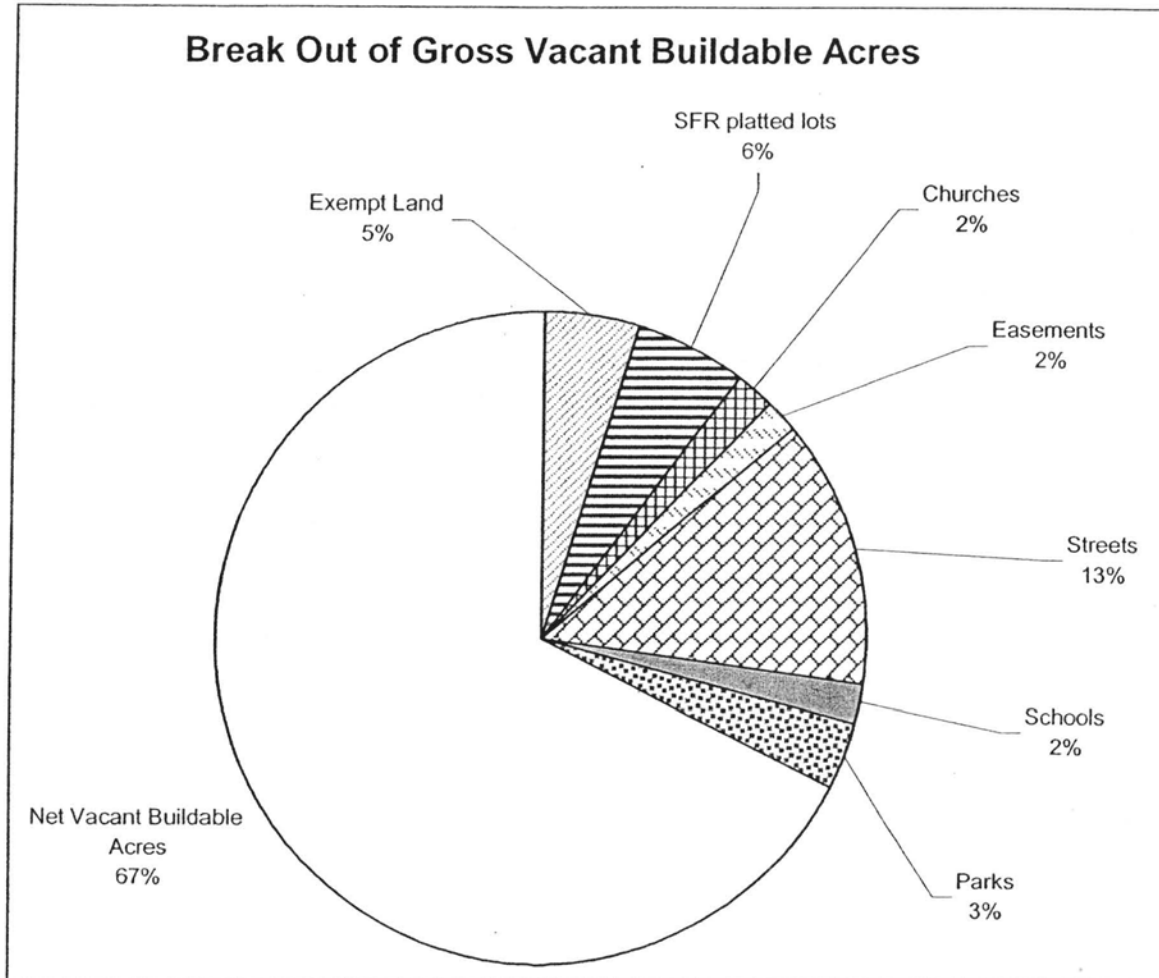
Gross vacant buildable land minus land needed for future streets, schools, parks, places of worship/fraternal organizations, and major utility easements yields Net Vacant Buildable Acres. The aggregate rate of reduction from GVBA based upon these various components is approximately 25 percent.

²¹ Source: RLIS 2000 data.

Figure 2: Break Out of Total Gross Vacant Buildable Acres

Figure 2 graphically depicts the relative size of each category of land that is removed from gross vacant buildable acres.

Figure 2



Net Vacant Buildable Land

The region's dwelling unit capacity is estimated from net vacant buildable acres (NVBA). NVBA is broken out by residential uses according to the underlying zoning of each parcel. A total of 14,900 acres of NVBA is available for conversion to residential uses.

Land Adjustments

A new factor is reserved for adjustments to the buildable land supply so that the most accurate information is available for the 2002 Residential UGR. The vacant and buildable land supply is based on 2000 aerial photography that was flown in July 2000. There may be instances where local governments have adopted area plans, such as the Washington Square Regional Center, that increase the residential or employment capacity of lands that was not reflected in the 2000 land supply and 2000 zoning. In addition, federal, state or local governments may have sold vacant public properties that are now available for development such as the Dammasch Hospital site in Wilsonville. There also may be

instances where the Standard Regional Zoning information has been incorrectly identified. A set of decision making rules help guide which lands will be considered for adjustments to the 2002 Residential UGR and which lands will be reconciled during the next legislative process.

A table of all changes is included as Appendix B to the Residential UGR. These changes are anticipated to be ongoing.²²

Decision Rules for Buildable Land Supply Changes

All changes to the buildable land supply must have taken place by December 31, 2002. Any subsequent changes effective after this date would be picked up in a subsequent UGB analyses. A minimum of 20 acres is required because this analysis is conducted on a regional level. Changes would be made to the buildable land supply based on:

- Only those areas will be considered where formal land use action has taken place.
- Errors in a Standardized Regional Zone (SRZ) assignment.
- Mapping error; either an incorrect assignment to vacant or developed categories.
- Change in the categorization of land from public to private ownership, (minimum of 20 acres in size).

²² For more information about land adjustments please refer to May 17, 2002 Memo.

Chapter 5

Residential Supply Analysis

Itemized Accounting of Residential Dwelling Unit Capacity

After adjusting GVBA by various gross-to-net factors (i.e., exempt land, platted lots, future streets, easements, schools, parks and places of worship), the amount of vacant land remaining becomes Net Vacant Buildable Acres (NVBA). The land that is zoned for residential purposes is separated to create the supply of vacant residential land for capacity calculation. This is the vacant land that residential dwelling units can be constructed upon. NVBA available to be converted to dwelling unit capacity totals 14,900 acres.

Dwelling Unit Capacity at Current Local Zoning Densities

Net vacant buildable acres are converted to dwelling unit capacity by aggregating local zoning classifications to Metro's Standard Regionalized Zones (SRZs). RLIS is the source for current local zoning (through 2001). SRZs normalize 746 different zoning categories across 24 cities and 3 counties. SRZs assume the average density in each zone when the assignments are made to the regionalized category. This density applied to the specific location of net buildable acre yields dwelling unit capacity. This is consistent with the method used in the 1999 UGR Update.

Standard Zoning Designations

A new list of standard zoning designations was included in the 1999 Update of the 1997 UGR. Metro staff defined a broader set of zoning designations, to capture a greater level of detail from approximately 746 different zoning categories that now exist throughout the region. The standard zoning designation list was last updated in 2002. The 26 standard regional zoning designations are shown below in Table 4.

Table 4 – Standard Regional Zoning Designations

Standard Regional Zone And Abbreviation	Dwelling Unit Per Net Acre
RRFU (Rural or Future Urban)	10.0
FF (Agricultural or Forestry)	10.0
SRF1 (Single Family 1)	2.0
SRF2 (Single Family 2)	3.0
SRF3 (Single Family 3)	4.5
SRF4 (Single Family 4)	6.0
SRF5 (Single Family 5)	7.5
SRF6 (Single Family 6)	10.0
SRF7 (Single Family 7)	16.5
MFR1 (Multi-family 1)	20.0
MFR2 (Multi-family 2)	40.0
MFR3 (Multi-family 3)	75.0
MFR4 (Multi-family 4)	100.0
MUC1 (Mixed Use Center 1)	14.1
MUC2 (Mixed Use Center 2)	25.9
MUC3 (Mixed Use Center 3)	58.8
CC (Central Commercial)	0
CG (General Commercial)	0
CN (Neighborhood Commercial)	0

Standard Regional Zone And Abbreviation	Dwelling Unit Per Net Acre
CO (Office Commercial)	0
IL (Light Industrial)	0
IH (Heavy Industrial)	0
IA (Industrial Area)	0
IMU (Mixed Use Industrial)	0
PF (Public Facilities)	0
POS (Parks and Open Space)	0

As was discussed above, SRZs represent a range of densities. The previous step uses the midpoint of the range. Dwelling capacity based on these current zoning densities is 108,700 units (prior to the adjustments noted below).

Key Points:

- *The 746 unique local zones have been collapsed into the 26 SRZs.*
- *Gross vacant buildable land minus land needed for future streets, schools, parks, places of worship/fraternal organizations, and major utility easements yields NVBA.*
- *A new deduction is being made for major utility easements in order to more fully account for all buildable lands.*
- *A new factor has been added to reflect adjustments to the 2002 buildable land supply so that the most accurate capacity information is available for the 2002 Residential UGR.*

Residential Development in Mixed Use Areas

Dwelling unit capacity is adjusted to account for additional units generated by residential development on vacant land in mixed-use zones. Additional housing unit capacity from residential development in mixed-use areas is estimated at 10,400 dwelling units.

*Capacity
of mixed
use areas*

Underbuild Rate

Underbuild represents a statistical estimate of the dwelling unit capacity lost due to residential development at less than maximum permitted densities in residential zones. The underbuild accounts for such factors as poor access, steep slopes, small or odd shaped lots, neighborhood common areas, greenways, storm water detention areas and many other site specific conditions, that make it difficult to develop at full capacity as indicated by the zoning.

Flexible local codes may allow the market to respond more efficiently to physical constraints. Higher market demand for residential lots may make it more economical to develop solutions to constraints. Higher land prices have the effect of decreasing underbuild because there is a greater profit incentive to use land more efficiently and build closer to maximum densities.

Under the Metro Code Section 3.07.120, regulations establish a minimum density requirement that specifies that residential development must at least be constructed at 80 percent of the maximum density. This requirement was adopted by Metro Council in November 1996 and is being implemented by local jurisdictions through code changes. In effect, the Functional Plan provides assurance that underbuild will be no more than 20 percent for residential development within the UGB. Because this is a regulated floor for zoning capacity the UGR assumes that 80 percent of capacity in residential zoning districts will be achieved. In the 1997 UGR, the Metro Council adopted a rate of 21 percent underbuild

for single family residential development as a result of a study conducted in 1995. For this report, the underbuild rate is assumed to be 20 percent.

Underbuild is reported as a loss of 23,800 dwelling units from zoned capacity.

Residential Refill Rate

Residential refill is defined as development of new residential units on any lot defined in the Metro database as "developed." Refill is a term that includes both infill and redevelopment. Redevelopment occurs when a structure is removed and another built in its place. Infill occurs when more units are constructed on an existing developed site. Since "vacant" land includes any tax lot or any part of a tax lot that has a vacant portion larger than ½ acre, this includes development on an existing developed lot or partially developed lots with a vacant portion smaller than ½ acre.

Observed residential refill rates were obtained from a Technical Report Residential Refill Study conducted in February 1999 that reported a rate of 25.4 percent. This study was repeated in January 2000 and was entitled Report on the Residential Refill Study for 97-98 reported a rate of 26.3 percent. The studies found that a point estimate of the refill rate could vary based on economic cycles, policy changes and incentives. Policy changes and incentives can increase the rate and the rate is expected to increase over time. Data from these studies suggest that the amount of land added to the UGB is inversely related to refill rates. These rates are averages for the entire region, but reflect areas of the region that have refill rates that are much higher (central city and other areas with high demand and limited supply) and other areas are lower than the regional average. Areas with lower refill rates are most likely due to lessened demand, lower land prices, age of buildings and/or where there is a more readily available supply of vacant land. Development prefers greenfield or vacant sites to sites with constraints that must be resolved prior to development. Redevelopment issues include site contamination, building remediation or land assembly that increase development costs and add uncertainty to the process. These constraints may be offset by the fact that refill parcels are likely to have transportation access and utilities already available.

In the 1999 UGR Update, the Metro Council choose an aspirational refill rate of 28.5 percent. At the time this rate was adopted, existing experience from a study and adopted policies supported a refill rate between of 26.3 percent and 28.5 percent.

Residential Refill Rates

REFILL RATES	
Historical Refill Rates	25.4% to 26.3%
1999 UGR Rate	28.5%

The 2002 Residential UGR assumes a historical refill rate of 26.3 percent and proposes changes to increase the refill rate to 29 percent based on past trends, modeled rates, computation of accessory dwelling units and a combination of incentives and minor policy changes. ORS 197.296(6) provides the legal basis for this proposed increase.

"197.296 (6) If the housing need determined pursuant to subsection (3)(b) of this section is greater than the housing capacity determined pursuant to (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 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 schools districts and the local government that has the authority to approve the urban growth boundary;

- (b) Amend its comprehensive plan, regional plan, functional plan or land use regulations to include new measures that demonstrably increase the likelihood that residential development will occur at densities sufficient to accommodate housing needs for the next 20 years without expansion of the urban growth boundary. A local government or metropolitan service district that takes this action shall monitor and record the level of development activity and development density by housing type following the date of the adoption of the new measures:
or
- (c) Adopt a combination of the actions described in paragraphs (a) and (b) of this subsection."

Modeled Refill Rates

The MetroScope model produces forecasted refill rates as an output from the model. Rates from the model case studies are helpful in choosing a rate that best reflects the Metro Council's objectives and policy choices for the region. The MetroScope model rates range from 26.6 percent to 50.7 percent depending upon the policy assumptions imbedded in each case study. For example- the Centers and Hold the UGB case studies produced refill rates between 44-50 percent using a very aggressive incentive program that was spread across the region in most all regional and town centers. Even the Damascus case study produced higher refill rates that were spread over the region even though the targeted incentives were located in the Damascus area. Table 5²³ illustrates the different refill rates that could be used to estimate the potential for refill related development if additional capacity was provided through upzoning, incentives or implementation of other programs in different employment zones. For example, the use of incentives in Centers can boost the refill rate by making this type of land more attractive for development.

2040 Centers Implementation Strategy

Metro's consultants recommended that Metro policy focus on the implementation of Regional and Town Centers. The Centers policy needs to start with a recognition that the region's Centers are all evolving at different rates in terms of planning, market position and implementation. Metro can and should play a role in each of the three stages of Centers development. In broad terms, it is helpful to think about the evolution of Centers in three stages: planning, emerging and maturing. Implementation assistance can and should be tailored to each stage along the evolutionary cycle of Centers growth.

The study recommended that the definition of Centers in the Regional Framework Plan be enhanced to better define the concept of Centers without adding more regulatory language dictating densities, mix of uses or transportation requirements.

The primary policy change should focus on implementation. To date, development in Centers has been lacking due to a combination of market realities and the fact that Centers are the most difficult places in the region to do development. Metro policy can facilitate development in Centers through its role as teacher and coach. Amendments to the Functional Plan should provide flexibility for local governments

²³ Table excerpted from Table 3 Localized Refill Rates – MetroScope Case Studies, UGR Primer, June 3, 2002.

to encourage the types of development that is most appropriate for their communities while at the same time encouraging development in Centers. An in depth discussion of Metro's recommended policies are contained in the 2040 Refinement Report, Policy Recommendations.

The Residential UGR anticipated an additional 2.7 percent capacity in designated mixed-use Centers will be achieved through incentives, MTIP, and additional measures to achieve a final refill rate at 29 percent.

New policy directions for inclusion in the Metro Code or the Regional Framework that focus on developing successful Centers include:

- Refine the definition of a Center. The 2040 Growth Concept refers to a "Neighborhood Center" but does not expand on this. The hierarchy of Centers could be expanded to include this type of Center that is smaller than a Town Center.
- Develop additional policies to strengthen Center development. A regional strategy for Centers could include investment in Centers by Metro and efforts by Metro to secure complementary investments by others.
- Monitor and develop performance measures for Centers to determine whether strategies for Centers are succeeding and report the results to the region and the state.
- Develop an incentive program to assist in implementation.
- Focus appropriate types of development in Centers including corresponding policies in other areas such as restricting commercial uses in significant industrial areas.

Next Steps in the Evolution of Centers

A work program to implement the recommendations from the Centers studies and the MPAC Jobs Subcommittee will be developed. This will include development of new Centers policies. Issues that need further examination are:

- Determining the relationship between the Centers and Corridors
- Examining the relationship between the Centers and Employment and Industrial Areas
- Measuring performance
- Determining a process for categorizing and prioritizing the Centers
- Agency roles for Centers development
- Addressing regulations

Accessory Dwelling Units

In November 1996, Metro Council adopted the Functional Plan with a requirement that cities and counties not prohibit the construction of at least one accessory dwelling unit within any detached single family dwelling. Local Governments had a deadline to amend their codes accordingly by February 1999. Based on this requirement in the Functional Plan, the capacity analysis in the 1999 UGR Update provided for accessory units as a proportion of the total number of single family dwellings. In each successive preparation of the UGR all factors are evaluated by staff to determine if they can be supported by available data or if a new methodology can be developed to more accurately reflect market conditions. After review of the accessory dwelling unit factor staff recommended deleting this separate line item due to the fact that accessory dwelling units have proved difficult to count and track. Accessory dwelling units are more appropriately included as an incidental component of the refill rate and as part of the densities assumed on vacant land.

Why do we Expect Increases to Refill Rates in the Future?

The Residential UGR is forecasting a very small increase in the refill rate within the next 20 year period because of several factors. First, the magnitude of change of a refill rate from 26.3 percent to 29 percent is extremely small when the results of that change take place over a 20 year period. For

example, a 6,000 dwelling unit deficit (difference between 26.3 and 29 percent refill rate) over 20 years is only 300 units per year or when compared equally to 24 cities it amounts to an increase of 12.5 units per year. In summary this small increase in the refill assumption is valid for the following reasons:

- Past trends- Metro Refill Studies confirmed rates increasing from 25.4 to 26.3 percent
- 2040 continues to play out in Regional and Town Center development
- Model confirmation- MetroScope confirmed the rate of 26 percent with the Base case model run²⁴
- MetroScope model runs confirm that incentives do indeed produce higher refill rates
- Incentives and policy adjustments will be targeted at areas where demand is greatest such as Regional and Town Centers that are performing well and the Central East Side Industrial District
- Accessory dwelling units are now included in the refill rate
- New Refill Study- will be performed as part of Performance Measures follow up work

When do we expect to see changes in the refill rate?

Undoubtedly time will pass before changes in the refill rate can be observed in either a localized basis or regionally. The reason for this delay is that policy changes take time to be drafted and implemented. In addition, the market needs time to respond to policy changes and the availability of incentives to create measurable results also takes time. Examples of incentive programs range from increased MTIP allocations, implementation of additional urban renewal districts, and availability of additional resources to recruit and locate target business in Regional and Town Centers. Selected policy changes in specific areas could raise the rates in those areas as well as the overall regional refill rate and justify the use of a higher refill rate in the 2002 Residential UGR. The Central east side Industrial district has a refill rate in the Base case of 40 percent which increases to upwards of 90 percent in the Centers and Hold the UGB cases. Granted these cases applied a very aggressive refill strategy that is not expected to be duplicated for this area but it shows the tremendous upside for realizing a higher refill rate (both localized and regionally). No other Center showed such a dramatic increase. For example- the City of Portland will be developing a work program to review the plan for the Central City area in 2003. This work is anticipated to take approximately one year to complete. Amending a plan that could allow more housing opportunities in this district generally takes 3-4 years to complete. Certainly this planning and allowance for market adjustments can be accomplished with the 20 year planning horizon and justify a slightly higher overall regional rate.

Based upon proposed adoption of a "Centers" strategy, including the application of MTIP funding to areas that are achieving increased centers development Metro is proposing a 29 percent refill rate.

²⁴ The difference between the observed rate of 26.3% and the Base case of 26.6% is probably not statistically significant.

Table 5: Localized Refill Rates – MetroScope Case Studies

Employment Zones	Areas ²⁵	Base Case	Damascus	Centers	Hold the UGB	Rate Differences Between Base and Hold UGB
106	Central Eastside	40.4	42.0	90.4	96.1	55.7
304, 306	Beaverton	52.1	54.1	68.1	67.7	15.6
202, 203	Clackamas TC	20.25	45.4	27.9	31.25	11.0
124	Gresham	15.6	20.1	36.6	38.0	22.4
311, 312	Hillsboro	34.2	38.75	45.1	44.7	10.5
206	Oregon City	19.8	35.7	39.3	38.8	19.0
101	Portland CBD	99.6	99.6	99.7	99.8	.2
303	Tigard	53.0	54.0	72.8	72.4	19.4
301	Tualatin	13.1	25.9	34.9	34.4	21.3
211	Wilsonville	11.5	18.0	16.8	20.3	8.8
213	West Linn	7.1	7.7	12.9	17.1	10.0
All zones	Regional Rate ²⁶	26.6	32.3	44.0	50.7	24.1

Key Points

- *Metro Refill Study confirms a refill rate between 26.3 and 30 percent.*
- *MetroScope model runs confirm that incentive programs can produce higher refill rates.*
- *A key finding from this research is that the region's needs and Metro's function have changed since the adoption of the existing policies related to the 2040 Growth Concept.*
- *Focus policy changes on implementation.*
- *By focusing on incentives in Centers we can achieve a refill rate of 29 percent.*
- *A work program to implement the recommendations from the Centers studies and the MPAC Jobs Subcommittee will be developed.*

²⁵ Areas are rough approximations of regional and town center boundaries. Regional and town center boundaries do not nest within MetroScope employment zones.

²⁶ Includes all zones not just those listed in the selected areas above.

Appendix A

Table Notes

- 1a-1b. Source: Metro Data Resource Center, Metro Report, Economic Report to the Metro Council, 2000-2030 Regional Forecast, March 2002, preliminary draft.
2. Source: Capture rate assumption derived from MetroScope base case study and the historical capture rate from 1980-98. The capture rate is defined as the proportion of housing (or employment) that locates inside the Metro UGB relative to the four-county area (Multnomah, Clackamas, Washington and Clark). Other case study options which were tested and investigated with the MetroScope real estate and land use model indicate a range of potential capture rates depending on different land use policy assumptions.

Case Study Option Test Scenario:	Periodic Capture Rates (percent)					Entire 2000-25
	2000-05	2005-10	2010-15	2015-20	2020-25	
Base Case	71.9	79.0	57.0	72.6	54.5	66.2
I-5 Transportation Study	71.9	79.0	57.0	72.6	54.5	66.0
Centers Enhancement	71.9	75.4	51.5	71.8	35.5	59.0
Damascus/New Community	71.9	77.7	54.9	71.1	35.6	60.0
No UGB Expansion	71.9	75.7	52.5	73.5	37.7	60.4

Source: MetroScope case studies

Metro Region Capture Rates

Metro Capture Rates - 5 years:	1980-85	1985-90	1990-95	1995-00
Households	65.5%	53.7%	76.6%	68.8%
Metro Capture Rates - 10 years:	1980-90		1990-00	
Households	58.2%		72.9%	
Metro Capture Rates - 20 years:				1980-00
Households				67.8%

Historical Capture 1980-98 = 70%

Source: Census reports, building permits, PSU population estimates as compile by Metro DRC.

3. Source: Metro DRC analysis as compiled from Portland General Electric vacancy data. We assume a vacancy rate of 4 percent based on the average historical trend. Vacancy rates vary widely from year-to-year based on available housing supply and the amount of current demand. Speculation by homebuilders in one period may tend to overbuild and create a surplus stock, which pushes up the vacancy rate. In periods of strong population growth, vacancy rates fall due to higher demand for housing. In slack periods vacancy rates may rise due to lower

population demand. The PGE data show vacancy rates swings of between 3.5 percent to 7.6 percent and the 2000 Census estimate of 6.2 percent. Finally, vacancy rates may never decrease close to zero because of "frictional vacancy." People change homes all the time, so in order to facilitate these moves, there necessarily has to be a percentage of the housing stock that remains unoccupied.

4. Dwelling Unit Demand is calculated from the household forecast with the 4 percent vacancy rate added to the projected change in household total to arrive at this figure.
5. Source: Metro RLIS, 2000. Vacant Land Analysis.
- 6a. Source: Metro RLIS, 2000. GIS tabulation of Title 3 regulation for water quality protection. This data layer includes five parts: 1) streams and rivers, 2) variable 75 to 200 foot riparian buffer (for water quality protection only), 3) 1996 flood area, 4) 100-year flood plain and 5) wetlands.
7. Gross Vacant Buildable Acres is calculated as the difference in gross vacant land less Title 3 setbacks for water quality protection.
8. Source: Metro RLIS, 2000. Land that is identified in the county assessors' records as tax exempt and owned by federal, state or municipal authorities is set aside from the buildable land and assumed to be reserved for future public facilities.
9. Source: Metro RLIS, 2000. Individual tax lots (i.e., platted lots) zoned for single family and under 3/8 acre are set aside from the supply of buildable land. We assume one dwelling unit for each lot. This is added back into the dwelling unit capacity estimate in line 23. – Lots are reported in acres and later translate to units.
10. Source: Metro RLIS, 2000. Estimated future land need for future churches is determined on a per capita basis of 1.4 acres per 1,000 future residents. This rate was determined in 1994 for the 1997 UGR.
11. Source: Metro RLIS, 2000. Actual GIS tabulation of known major easements for radio/TV towers, natural gas, petroleum and electricity lines intersecting with Metro's vacant land data. (Note: significant portions of the easements show development existing on it today.)
12. Source: Metro Data Resource Center analysis of street dedications in new subdivisions, unpublished GIS report, 1994. In this study, we determined that subdivisions or areas greater than one acre which have developed for residential purposes usually dedicate up to 18.5 percent of the initial buildable lot area for street. If the initial development site is under 3/8 acre, we found that the existing street network provided sufficient access to home sites. Development sites between 3/8 and one acre usually dedicated about 10 percent of the initial site area to streets.
13. Source: Interviews with local school district building facilities managers and site selection committees. The three methods assumed a different student per acre ratio for determining future school land need. The estimated land need ranged from 700 to 1,200 acres. (**Sample may not be scientifically representative.**) Council acknowledged a greater need for schools by choosing a deduction for future schools of 900 acres.

14. The 1997 UGR park ratio included neighborhood parks, wildlife refuges and preserves, Metro and municipal open spaces and regional parks.

The methods under consideration for calculating future parkland provide a range of values from 10,860, to 8,000, to 2,290 to 1,050 acres depending upon the ratio used. The MPAC Parks Subcommittee recommended a method based on the existing fiscal resources available to purchase new lands. This method yields an estimate of 1,050 acres (1,100 acres rounded).

15. Net Vacant Buildable Acres is a term of art in the Urban Growth Report. This estimate of land supply/inventory is the amount of vacant land that is available for accommodating future jobs and housing after deducting for the gross-to-net factors previously described.
16. Amount of Net Vacant Buildable Areas for accommodating future employment. – See the 2002-2022 Urban Growth Report: An Employment Land Need Analysis.
17. Amount of Net Vacant Buildable Areas for accommodating future housing.
18. Source: RLIS 2001 for zoning and 2000 Vacant Lands Analysis for buildable lands. The calculation of dwelling unit capacity is the product of residential land standardized regional zone designations that correspond to single and multi-family densities per local zones.
19. An estimate of the amount of vacant mixed use land designated in town centers and regional centers which will go toward brand new housing units. This figure does not account for mixed use redevelopment which will also add dwelling units to the region's capacity. The mixed use redevelopment amount is accounted for in line 21.
20. Based on what Metro's functional plan requires and regulates municipalities and counties to achieve at least 80 percent of their stated zoning densities.
21. Source: Metro Redevelopment Study, 1998. The latest actual readings of the amount of redevelopment is 25.4 percent (1994-96) and 26.5 percent (1996-98) of all new residential units are developed on parcels that Metro has identified as developed in its Vacant Land Inventory procedures.

MetroScope	
Case Study Options	Estimated Refill Rate
Base Case	26.6%
I-5 Transportation Study	26.6
Centers Enhancement	44.0
Damascus/New Community	32.3
No UGB Expansion	50.7

Metro Council in its prior decision assumed an "aspirational" residential refill rate of 28.5 percent.

22. Source: Metro RLIS, 2000. An actual count of the number of tax lots which are wholly inside the Title 3 Water Quality protection area.

- 23. Source: Metro RLIS, 2000. The actual number of tax lots under 3/8 of an acre regardless of single family zoning density is added back as the number of already platted lots.
- 24.- Land adjustments are the land capacity for those items not included in line 18.
- 24d. See Appendix B.
- 25. Dwelling Unit Capacity is the summation of all the adjusted dwelling unit factors from above.
- 26. Additional policy actions effectively increase the refill rate by 2.7 percent to a total of 29 percent.
- 27. Adjusted dwelling unit capacity takes into consideration the effects of the additional policy actions applied inside of the UGB.
- 28. The estimated need is the difference between supply (i.e., dwelling unit capacity) and demand. The amount is negative which indicates a shortage of capacity in the current UGB.

Appendix B

Land Adjustments

Criteria:

- changes between July 2000 and December 2001
- formal action has been taken
- error in a SRZ
- mapping error
- change in the categorization of land from public to private ownership and a minimum of 20 acres in size

Villebois

Tax Lots:

31W15 02800 42 acres

31W15 02900 130 acres

City has this zoned for public facilities. Although planning efforts have been undertaken, there is no adopted plan for rezoning the area at this time. There is a Master Plan that was adopted by resolution in 1997. It is not an element of the comprehensive plan nor has any rezoning taken place. At this time, there is a study of this area in progress which is refining the Master Plan and rezoning is anticipated early next year to start the PUD process.

Although it is not in the Comprehensive Plan, it is possible to assume 2,300 dwelling units for this area for two reasons.

First, there is a reference in the Wilsonville Comprehensive Plan that states that development of the area has to be in conformance with the Master Plan which calls for 2,300 dwelling units. Second, in selling the property, the State placed a condition that at least 2,300 housing units would be built there. Right now, there is no estimate of employment capacity but it is expected that the employment uses would serve the housing and not, due to transportation limitations, become a destination area. There is an intent to provide employment and some thought is being given to design a community that is very supportive of home base occupations.

The Metro SRZ is General Commercial; maybe more appropriate as SFR 7.

West Hayden Island

Tax Lots:

2N1E19 00100	37 acres
2N1E19 00200	1 acre
2N1E19 00300	54 acres
2N1E28 00200	87 acres
2N1E29 00200	23 acres
2N1E29 00300	410 acres
2N1E29 00400	15 acres
2N1E30 00100	11 acres
2N1E30 00200	78 acres
2N1E30 00300	28 acres
2N1E30 00400	4 acres
2N1E33B 00200	6 acres

2N1E33B 00300	27 acres
2N1E33B 00400	3 acres
2N1E33B 00500	12 acres
2N1E33B 01100	1 acre
2N1W24 00100	1 acre

Total approximate acres: 798

Zoning brought into the UGB for a marine terminal only. The City has maintained the County's agricultural/forestry zoning.

The Metro SRZ for this site is Agricultural or Forestry which assumes 10 units to the acre, need to amend the Metro SRZ to Heavy Industrial, Parks/Open Space or Public Facilities.

Marylhurst

Tax Lots:

21E14 00300	55 acres
21E14 00400	52 acres
21E14 00401	7 acres
21E14 00402	8 acres

Total approximate acres: 122

Zoning: Lake Oswego has zoned this property Office Commercial and Office Campus. The 1995 Master Plan allows for 680 dwelling units.

Current Metro SRZ is Office Commercial that does not assume housing, need to amend the Metro SRZ to MUC 1.

Rosemont School

Tax Lots – numerous starts with 1N1E15BD

The site is approximately 8 acres and will accommodate 165 dwelling units.

Current Metro SRZ is MFR 1; this is the correct SRZ.

Camp Withycombe

Tax Lots:

22E09A 00900	43 acres
22E09A 00901	5 acres
22E10 00601	123 acres
22E10 00602	27 acres
22E10 00691	37 acres

Total approximate acres: 235

The State of Oregon owns Camp Withycombe. The area including the firing ranges was purchased by ODOT for Sunrise Corridor. The land, suitable for development, which would remain after the highway is built, is likely to be less than 20 acres in size and have wetland and hazardous material issues. The remaining portion of the camp (other than the firing ranges) will continue to be used for military purposes.

Current Metro SRZ is Heavy Industrial, need to amend to Public Facilities.

Durham Quarry

Tax Lots:

2S113AC01200	8 acres	Tigard
2S113DB00100	20 Acres	Tualatin

There is a Mixed-use Overlay Zone on the Quarry. Through an IGA, Tualatin is dealing with the application. Housing is an allowed use at a range of 25-50 units per acre but not required. There will be approximately 3,000 jobs generated at full build out of the quarry. There has been some interest in developing housing but the bulk of the development is most likely to be commercial.

Current Metro SRZ is Mixed Use Industrial on the Tigard portion and General Commercial on the Tualatin portion. This needs to be amended to Office Commercial or, if we want to assume some housing will be developed, MUC 2.

Washington Square Regional Center

Tigard portion adopted in February 2002. As it is a Regional Center, it is included in the amendments even though it was adopted after December 2001. There are no changes to Washington County and Beaverton portions.

Added capacity of 1,500 housing units and 4,465 jobs, approximately 986 acres.

Amend the Metro SRZ.

Downtown Lake Oswego

Metro SRZ is Central Commercial, should be amended MUC 2.

Alpenrose Dairy

Tax Lots:

1S1E18 00100	51.4 acres
1S1E8CC 00100	.4 acres

It is used for industrial purposes but it is zoned and the comp plan designation is for low density housing. R-10 – 10,000 sq. ft. lots and R-7 – 7,000 sq. ft. lots.

Current Metro SRZ is either SFR4 or SFR5, needs to be amended to SFR3.

Rock Creek – Happy Valley

Tax Lots:

various 12E36D, 22E01(A,B&D), 23E06(B&D)

Housing Capacity is 2,997

Job Capacity is 904

Current Metro SRZ is Rural Residential and Agricultural, needs to be amended to MUC 1, MUC 2, SFR 2 and SFR 5.

Coffee Creek Prison

Tax Lots:

Map 3S-1-3AB Tax Lots 500, 600, 700, 701, 702

Map 3S-1-3A Tax Lots 1300, 1301, 1400, 1500, 1600, 1601

Map 3S-1-3AA Tax Lots 800, 900, 1000, to include the Bonneville Power Administration easement
119 Acres

At build out, the prison will house 1,252 inmates and employ 430 people.

Current Metro SRZ is Mixed Use Industrial, should be amended to SFR6.

Former Urban Reserve No. 55

300 Acres

The City has not rezoned this property. A consultant has been hired to prepare a plan for this area. The Court of Appeals decision was rendered in February 2002 and the City did not develop any plans during the appeal period.

Current Metro SRZ is Rural Residential, this is the correct SRZ at this time.

Appendix C

Document Reference Section

Many different documents were used for background information in creating the Residential UGR. For additional information please refer to the following list of documents:

- Economic Report to the Metro Council: 2000-2030 Regional Forecast – March 2002
- 2000 Vacant Land Supply Inventory
- UGR Primer – June 2002
- Centers Study – June 2002
- School Site Staff Report – July 2002
- Land Adjustments Memo – May 17, 2002
- Parks Subcommittee Report – June 2002
- MetroScope Findings Report – 2002

Prepared by the
Industrial Lands Taskforce

REPORT OF THE GOVERNOR'S INDUSTRIAL LANDS TASKFORCE

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Table of Contents

Executive Summary	4
What is Industrial Land?	4
Is there a shortage of industrial land?	5
What should be done to ensure an adequate supply of industrial land?	6
What to do Immediately	7
What to Do Over the Next Year	8
What to Do by the End of the 2003-2005 Biennium	8
Industrial Lands Taskforce Report	10
Background	10
The Focus of this Report	10
What is "industrial land"?	11
Is there a shortage of industrial land?	16
What should be done to ensure an adequate supply of industrial land?	16
Critical Issues	16
State Land Use Program	16
Attitudes of State and Local Officials and General State Reputation	20
Responsibility of the Public and Private Entities in Maintaining an Inventory of Industrial Land	22
Infrastructure Financing	23
Secondary Issues	24
Conversion of Industrial Land to Other Uses	24
Old Mill Sites Brownfields	27
Wetlands	29

Executive Summary

Oregon's economy outpaced that of the nation in the 1990s. For the last several years, however, the economy has stalled. The reasons are many, and all are the subject of discussion. One potential problem, however, has been a recurring topic of discussion for the last three years: the adequacy of the supply of land for industrial users.

In February 2003 Governor Kulongoski established the Industrial Lands Taskforce to address a widely held perception that many of the fastest-growing and economically critical areas of the state have not maintained an adequate supply of industrial lands to meet the needs of a growing and prosperous state. After five public hearings where over 250 citizens testified and hours of deliberations, the Taskforce has concluded that our land use and infrastructure financing systems, as applied, have not consistently met this mandate.

The testimony received by the Taskforce repeatedly emphasized that the industrial lands issue is intertwined with many other issues. Thus, merely providing a supply of industrial lands will not assure that the Oregon economy recovers or that industry will expand or move here. Such factors as adequate housing, schools, water, sewers, transportation, and many other quality-of-life issues may have at least as great an impact on how successful Oregon will be in revitalizing its economy."

While fully recognizing this reality, the Taskforce concluded that it would best serve the purposes of the Executive Order by narrowing its focus to these key questions:

- What is "industrial land"?
- Is there a shortage of industrial land?
- What should be done to ensure an adequate supply of industrial land?

What is Industrial Land?

The Taskforce determined that a lack of consistent and agreed-upon definitions of basic terms will hamper any debate and agreement about policy changes.

Everyone has an intuitive sense of what "Industrial" is, but the Taskforce found that there was no universal definition that all agreed on. The current behavior of the market reflects a melding or blurring of the boundaries between commercial/office and industrial uses. This means that many of the traditional definitions of industrial embodied in zoning ordinances are obsolete. The Taskforce developed a working

The industrial lands issue is intertwined with many other issues. Merely providing a supply of industrial lands will not assure that the Oregon economy recovers or that industry will expand or move here.

The Taskforce focused on these key issues:

- *What is "industrial land"?*
- *Is there a shortage of industrial land?*
- *What should be done to ensure an adequate supply of industrial land?*

definition of “industrial” sufficient for Taskforce purposes, but more work will be needed to develop an adequate definition for land use planners to use in rewriting zoning ordinances.

The Taskforce also found that “Industrial land” is not a homogeneous commodity and it must be analyzed with market needs clearly in mind. One implication is that industrial land inventories and projections of need should not be based solely on a simple ratio of jobs to acres, which is the traditional method used by many land use planners. Rather, the inventory must be defined in terms of what types of industry a city, county or region can realistically attract and what kinds of land they need by location, size, price, physical characteristics, and services.

The Taskforce heard considerable testimony that the inventories of industrial land that local governments rely on are flawed because much of the identified land is not really “available”. “Available” to the Taskforce means land that is on the market at competitive prices. But, this is not the way comprehensive plans define “buildable”, which many industrial siters and developers assume to be the same as “available”. For example, most local plan inventories will show the undeveloped part of a large site in the inventory of “buildable” land based on the assumption that in the next 20 years the owner will build on it. That is appropriate in the context of Oregon land use laws, but hypothetical availability is of no use to industries seeking sites today or tomorrow. If the state is going to base land use plans on inventories of these lands, it needs to provide guidance on how to handle this difficult issue.

The Taskforce recommends that all of the above definitional issues be resolved by LCDC in the next 6-12 months. Pursuant to ORS 197.638, LCDC should obtain the assistance of the Oregon Economic and Community Development Department (OECD) to assist it to clarify and resolve these issues.

Is there a shortage of industrial land?

The Taskforce concluded that there is a significant lack of certain types of project-ready industrial land¹ in certain parts of the state. This conclusion is supported by the findings of the Portland-area Regional Industrial Lands Study (RILS), the HB3557 committee report, testimony received at Taskforce hearings, and the direct experience of Taskforce members. The Taskforce also concluded that the many jurisdictions lack a 20-year supply of industrial land.

However, the Taskforce also concluded that the short- and long-term shortage issue is not universal around the state. Some areas, like Klamath Falls and Medford, seem to have the short- and long-term supply issue under control. Other areas, however, such as Portland metro, Salem-Keizer, Eugene-Springfield, Bend, and Pendleton appear to have short- and in many cases long-term (20-year) supply shortages. And, they have shortages of parcels of the right size, configuration or location suited to certain uses.

¹ “Project-Ready” means land that can be made ready for construction to begin within six months, which means that some basic infrastructure must already be to the site, and that planning, zoning, and most environmental, infrastructure, and public comment issues must already be resolved so that all building permits can reasonably be obtained within six months. This is the term that most closely meets what the Taskforce means by providing a short-term supply of industrial land.

Many of the traditional definitions of industrial embodied in zoning ordinances are obsolete. “Industrial land” is not a homogeneous commodity and it must be analyzed with market needs clearly in mind.

The Taskforce recommends the definitional issues be resolved by LCDC in the next 6-12 months.

The Taskforce concludes that there is a critical shortage of industrial land in key parts of Oregon, both to meet immediate needs and long-term needs.

The Taskforce believes it must be the state's highest priority to utilize existing state land use laws to ensure that local government provides a 20-year supply of industrial land.

What should be done to ensure an adequate supply of industrial land?

The Taskforce has concluded that there are several causes for these problems and that some of the causes are more important in some locations than others. After reviewing all the issues identified during testimony and in other reports, the Taskforce divided the issues into two groups²:

Critical Issues

1. State Land Use Program
2. Attitudes of State and Local Officials and General State Reputation
3. Responsibility of the Public and Private Entities in Maintaining an Inventory of Industrial Land
4. Infrastructure Financing

Secondary Issues

1. Conversion of Industrial Land to Other Uses
2. Old Mill Sites
3. Brownfields
4. Wetlands

The Taskforce believes, that a first step local jurisdictions can take with respect to industrial land supply is to do what state law allows and requires them to do: have a 20-year supply of buildable lands inside their UGBs. The entire state's economy suffers when certain communities fail to meet their obligations to provide a full inventory of such lands. While this will not necessarily solve the need for project-ready sites, the Taskforce believes it must nonetheless be the state's highest priority to (a) identify the key communities critical to the state's economic recovery where a 20-year supply is not available, and then (b) to take one or more of the following actions to resolve the problem.

The Taskforce identified one problem that is not subject to easy resolution and that cuts across all the issues identified: attitude. The Taskforce heard much testimony that Oregon has a reputation nationally of not being "open for business." Oregon is "out of the game" on industrial development according to some. This is partly because there is inadequate project-ready land available in the right places at the right prices. Many of those testifying believe a problem is that many local and state governments are not very helpful to applicants in getting through the permitting process. To much industry today, "slow" is the same as "no" when it comes to permitting. The Taskforce make specific recommendations for overcoming this perception, but clearly resolving it is a key to the success of all the recommendations that follow.

Virtually all of the recommendations that follow involve the Department of Land Conservation and Development (DLCD) and the Governor's Economic Revitalization Team (GERT)³. The Taskforce recommends that the directors of these two agencies review the Taskforce's recommended lead agency and then determine the best overall strategy for dividing up the work, especially the work defined for the next 6-12 months. The agency that the Taskforce recommends should take responsibility for each action is noted. Where more than one agency is listed, a lead agency is recommended.

What to do immediately

a. Verify Industrial Lands Inventories in Key Communities

The inventories are the foundation on which local comprehensive plans are based. The Oregon Economic and Community Development Department (OECD), GERT, and DLCD (lead), together with the team recommended in (c) below, should **quickly** evaluate the adequacy of these inventories in key locations and then take appropriate action to correct them if they are in error.

b. Create an Agricultural Lands Team

A team of experts, led by the Department of Agriculture, should assist local governments in identifying which agricultural lands could be added to the Urban Growth Boundary (UGB) in key communities without significantly harming the agricultural industry or that are not part of what is considered by agriculture to be the "commercial agricultural base".

c. Create an Urban Lands Team

The state should make available a small team of experts drawn from state agencies (and perhaps some outside consultants), managed through DLCD and the GERT (lead), to provide direct assistance to solve the industrial lands problem in a limited number of communities or regions that OECD identifies as being critical to the overall economic health of the state. If the issue blocking provision of land is lack of an adequate inventory of industrial lands and the need is to write or process a UGB amendment or to update a zoning ordinance, the state team should provide this assistance directly to willing local governments.

d. Create Local and State Permitting Teams

even if land is available for industrial use, there may be complex permitting issues. Local governments should create "one-stop" permitting teams to manage all local permitting, similar to what Klamath Falls and Hillsboro have done. The state, through the GERT, should provide similar assistance where state and federal issues exist. The Taskforce concluded that unless such help is available, many prospective industrial developments would go elsewhere.

What to do immediately

a. Verify Industrial Lands Inventories in Key Communities

b. Create an Agricultural Lands Team

c. Create an Urban Lands Team

d. Create Local and State Permitting Teams

e. Completing the METRO UGB Expansion

f. GERT Funding

g. Site Certification

h. Immediate Opportunity Funds

i. Virtual Permitting

¹ This Executive Summary does not provide a summary of each of the specific findings for each of these categories; details are in the full report.

² The GERT used to be known as the Community Solutions Office (CSO). The name was changed by the 2003 Legislature.

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- e. **Completing the METRO UGB Expansion**
METRO recently added 1,900 acres of industrial land into the UGB, but estimates a need for about 2,700 additional acres. METRO should complete this process within nine months and DLCD/LCDC should conduct an expedited review process for it.
 - f. **GERT Funding**
The Taskforce highly recommends that the Legislature fully fund the Governor's Economic Revitalization Team and make it a permanent part of the way the state addresses intergovernmental development issues.
 - g. **Site Certification**
As provided for in the Governor's Executive Order establishing the Taskforce, OECDD should expedite the creation of its certified project-ready lands inventory. This will help overcome the perception that there is no project-ready land available in the state.
 - h. **Immediate Opportunity Funds**
The Legislature, the Oregon Department of Transportation (ODOT) and OECDD should do everything possible to increase allocations to these funds and the agencies should put a high-level official in charge of administering them. These funds would be used to solve infrastructure problems for identified "bird in the hand" industrial development opportunities that will create jobs in the near-term.
 - i. **Virtual Permitting**
The GERT (lead), DLCD and the Department of Consumer and Business Services (DCBS) should continue to support and spread the word about the "virtual permitting" process being implemented in Jackson and Josephine Counties. This process allows a landowner or developer to obtain all the conditional use permits, siting permits, and actual building permits needed to construct a hypothetical building on the site

What to Do Over the Next Year

What to Do Over the Next Year:

- a. *Consider "Time-out" Rule Making*
- b. *Regulatory Streamlining*
- c. *Alternative Financing*
- d. *Division of State Lands (DSL) Industrial Fund*

- a. **Consider "Time-out" Rule Making**
If the fast-track efforts described above do not quickly resolve the 20-year land supply issue, LCDC should consider adopting an emergency rule to allow amendments to UGBs to increase the supply of industrial land. This provision should only apply to a few identified jurisdictions and only for a very short period of time. The goal would be to resolve the major supply issues quickly while avoiding issues that arise from "super-siting".
- b. **Regulatory Streamlining**
The Governor's regulatory streamlining Executive Order, being managed by the Department of Consumer and Business Services (DCBS), can handle many of the issues related to shortening the time needed to get through the regulatory processes at the state level. Similar programs may be needed in local jurisdictions, for the Taskforce heard from developers that most of the roadblocks are experienced at the local level, not the state level.

c. Alternative Financing

The OECDD should examine alternative financing vehicles that can resolve the issue of requiring immediate-payback on infrastructure loans. If this requires legislation, then appropriate proposals should be prepared for the next legislative session.

d. Division of State Lands (DSL) Industrial Fund

The State Lands Board and the DSL (lead) should examine their Asset Management Plan to determine whether greater investment in industrial lands projects would provide an adequate return to the Common School Fund to meet its constitutional obligations. If so, then the Board should make funds available for industrial lands projects.

What to Do During the 2003-2005 Biennium

a. Update Industrial Land Inventories More Often

LCDC should require all jurisdictions over a certain size, not just METRO, to update their industrial land inventory and make appropriate adjustments every five to seven years so that the chance of again facing a severe shortage of industrial land is minimized.

b. Resolve Issues Related to Updating Comprehensive Plans

A significant part of the lack of short- and long-term supplies of industrial lands is due to local governments not maintaining their plans up-to-date. The reasons for this are complex and blame can be placed at the state as well as the local level. The net result is that some jurisdictions have an inadequate supply of project-ready industrial land to meet the varying needs of potential users, and some have an inadequate long-term supply as defined by state law. Goal 9 is a very powerful vehicle to resolve the industrial lands issue, but it appears that it is neglected, both by local governments and the state. LCDC (lead) and local governments need to examine what is causing this failure and either recommend legislation, create incentives, or make appropriate rule changes to resolve it.

c. Reexamine the State's Role in Providing Industrial Lands

An issue of great importance is for the state to decide whether providing an adequate supply of industrial lands is something to leave to the private market to resolve or is something government has a major role in resolving. In much of the rest of the country and the world, government plays a larger role than in Oregon through direct development of sites and funding infrastructure. In principle, port districts and other public entities in Oregon should be able to fill in where the private market is not able to do the job. In the past, the private market has provided most of the project-ready industrial land in the state, but high carrying costs and difficulties with acquiring sites appear to have diminished their role, especially in the Portland metro area. Compounding the problem, public resources are less available to acquire, develop and hold industrial sites. The Taskforce recommends that the

What to Do During the 2003-2005 Biennium:

- a. Update Industrial Land Inventories More Often*
- b. Resolve Issues Related to Updating Comprehensive Plans*
- c. Reexamine the State's Role in Providing Industrial Lands*

Legislature seriously consider expanding the role of the public sector in providing project-ready and long-term supplies of lands, and providing well-funded financial and other mechanisms for the state to assist private industry in providing such lands where needed. To determine the needs of the private industrial developers, OECDD (lead), GERT, and DLCD should consult with these developers to determine what is needed to enable them to participate in solving the shortage of project-ready lands. This recommendation is not intended to put the state in competition with private developers but rather to deal with the realities of the market.

Industrial Lands Taskforce Report

Background

On February 20, 2003, Governor Ted Kulongoski issued Executive Order 03-02, which found that

“Oregon’s economy is in distress. To meet this challenge, my highest priority over the next four years is to facilitate the growth of jobs and stimulate the economy. The private sector is the engine of growth for the economy. Accordingly, my economic development agenda seeks to create a stable climate for investment and a secure environment for business. I intend to position this state for a quick recovery from the downturn by actively promoting and aggressively working to retain, expand and recruit business to Oregon.”

Many people who monitor Oregon’s economy believe that among the contributors to its distress is that many of the fastest-growing areas of the state have not maintained an adequate supply of industrial lands to meet the needs of a growing and prosperous state. The Governor created the Industrial Lands Task Force to address this issue.

The Taskforce consists of individuals knowledgeable about the issues faced by cities, counties, economic development organizations and businesses in providing an adequate supply of industrial lands. The Taskforce was charged with investigating what is working and what is not working with respect to developing, identifying and protecting our industrial land supply, both short- and long-term. The Taskforce was chaired by Ms. Margaret Kirkpatrick, held five hearings around the state⁴ and solicited mail and email comments from Oregon communities, economic development and land use experts and business people.

As a basis for preparing this report, the Taskforce received testimony from over 250 citizens and experts in the field of industrial development and reviewed previous work done on the subject in Oregon. In particular, it has benefited from the work done under HB3557 on industrial and commercial lands, and the studies done in the Portland metropolitan area on industrial lands. The Taskforce itself is composed of individuals with broad experience in land use and industrial development, which also has been instrumental in developing this report.

This report contains the Taskforce’s conclusions and recommendations.

⁴ Medford, Albany, Bend, Pendleton, Beaverton in March-June 2003

The Focus of this Report

The testimony received by the Taskforce repeatedly emphasized that the industrial lands issue is intertwined with many other issues. Thus, merely providing a supply of industrial lands will not assure that the Oregon economy recovers or that industry will expand or move here. Such factors as adequate housing, schools, water, sewers, transportation, and many other quality-of-life issues may have at least as great an impact on how successful Oregon will be in revitalizing its economy.

While fully recognizing this reality, the Taskforce concluded that it would best serve the purposes of the Executive Order by narrowing its focus to the key question: do we or don't we have enough industrial land today and for the future? This means the Taskforce looked mainly at a sub-part (industrial land supply) of the total industrial land issue. Thus, issues like how much land do we need, the marketing of it, labor supply, the educational system, and the like are not examined in detail. The Taskforce principally probed these questions:

- What is "industrial land"?
- Is there a shortage of industrial land?
- What should be done to ensure an adequate supply of industrial land?

The following sections are each subdivided into two parts: (1) a discussion of the information the Taskforce received and (2) its recommendations for resolving the issues identified.

What is "industrial land"?

DISCUSSION

The Taskforce received much testimony advising that current definitions of many terms related to industrial lands used by planners are not adequate to today's needs. The Taskforce asked the presenters to provide good working definitions of terms, but the answers lacked detail, which indicates the complexity of the issue. The terms needing definition are: industrial, industrial **land**, **available** industrial land, and **project-ready** industrial land.

Industrial

When one examines a typical zoning ordinance, the definitional problem for "industrial" becomes clear. Zoning ordinances usually have different industrial zones that provide for a range of uses that range from "light" (quasi-commercial/office; business park) to "heavy" (manufacturing). Ordinances attempt to group uses with similar characteristics and impacts. Many ordinances complicate the definitional problem by allowing many commercial or residential uses in "industrial" zones by conditional use permit. In the Portland ordinance, for example, of the 30 uses listed for the employment and industrial zones, only 5 are not permitted at all in the

industrial zones and in the employment zones (i.e. office/commercial), only 3 uses are not permitted. Hence, there is inherent vagueness in what planners mean when they say "industrial". This definitional issue contributes directly to the "conversion" issue discussed separately below.

A recent study in the Portland area confirms that the current behavior of the market reflects a melding or blurring of the boundaries between commercial/office and industrial uses.

*"Not all "industrial jobs" go on industrial designated land. According to the **Regional Industrial Land Study (RILS) for the Portland-Vancouver Metropolitan Area**, the "traditional" industrial job sectors (including construction, manufacturing, transportation, communication, and public utilities) accounts for between 17% and 91% of the jobs in employment districts.*

*"The **Regional Industrial Land Study** also documented the fact that non-traditional industrial job sectors (including retail, service and government sectors) also utilize industrial land. The range of non-industrial jobs as a proportion of total jobs, was 15% for heavy industrial districts; 23% for general industrial districts; and 32% for mixed-use and light industrial districts."⁵*

Industrial Land

If there is a problem with the supply of industrial land, it must stem from the fact that there is not enough land of the right type, in the right location, at the right price for industries.

Any fuzziness in the definition of industrial **activity** transfers directly to the definition of industrial **land** to accommodate that activity. If there is a problem with the supply of industrial land, it must stem from the fact that there is not enough land of the right type, in the right location, at the right price for industries.

The Taskforce heard considerable testimony that land suited to warehousing may be considerably different from what is suitable for a high-tech chip plant, a pulp mill, or a small machine shop. Each type of industry desires certain site characteristics, among which are slope, site size, clustering with like industries, access to transportation (rail, air, transit, water, highway, bicycle, pedestrian), land cost, power, gas, water, telecommunications, and sewer. And, it is not sufficient, for example, merely to say "yes, water is available", because individual industries have varying needs for quantity, pressure, reliability, cost, and quality.

The Taskforce staff reviewed the report prepared by the HB3557 committee, *Methods for Evaluating Commercial and Industrial Lands Sufficiency*, and found that this report provides excellent guidance on defining "industrial land" in the context of each jurisdiction. However, the Taskforce received much testimony that indicated that local land use planners are unaware of this document and are still working under the assumption that industrial land supply needs can be determined simply by making a population projection and applying a ratio of jobs to land needed. This approach is clearly not adequate to assure a local government provides adequate land for today's industrial needs.

⁵ *Methods for Evaluating Commercial and Industrial Lands Sufficiency*, Otak and ECONorthwest, December 9, 2002, page 13-14.

Available Industrial Land

The Taskforce defined “available” as land that is on the market at competitive prices. It heard anecdotal information that convinced it that there is a shortage of available industrial land in most jurisdictions that are the major economic centers of the state. Gauging how much is available is complicated by the fact that the industrial inventories of buildable industrial land in land use plans often give an unrealistic picture of what land is truly “available” for industrial development. For example, a single user that is using only part of the site may own a site in a large parcel. Most inventories will show the undeveloped part of the site in the inventory of “buildable” land based on the assumption that in the next 20 years it is likely to be used. That is appropriate in the context of Oregon land use laws, but it ignores the short-run problem: the land is not available **now** for businesses seeking new sites.

There may also be vacant and buildable land in brownfields sites, such as the hundreds of acres along the Portland waterfront. Some of this acreage may not be cleaned up for many years. However, some acreage has been cleaned up and is now available. There are also lands where, for a variety of reasons, owners do not wish to sell or have unrealistic expectations of what they are worth. In both these cases the lands look available, but the definition of available or buildable does not include considerations that affect the timing of when these lands will be available for purchase at competitive prices. Hypothetically, all these lands are available and are likely to be developed within the 20-year planning horizon of the comprehensive plan. However, this theoretical availability is of no use to new industries seeking sites today or tomorrow.

Project-ready Industrial Land

There seems to be less ambiguity about the definition of this term, and some use it interchangeably with the terms “shovel-ready” and “market-ready”. The Taskforce concluded that the term “project-ready” is the best one to use for the purposes of this report. The Taskforce’s recommended definition is provided below.

RECOMMENDATIONS

Defining “Industrial”

The Taskforce has been unable to develop a clear definition of “industrial” that would resolve the various issues noted in the discussion above. However, the Taskforce has developed a definition of industrial that is sufficient for the purposes of this report, but the definition leaves unresolved where the line is between industrial and commercial/office. The working definition of “industrial” developed by the Taskforce has these parts:

- **What is included in the definition of industrial?**

Traded-sector businesses whose products are sold in national and international markets, including manufacturing and production, corporate headquarters, research and development facilities; warehousing and freight movement; wholesale sales; industrial service; ports, railroads and other

The Taskforce defined “available” as land that is on the market at competitive prices. There is a shortage of available industrial land in most jurisdictions that are the major economic centers of the state.

The Taskforce developed a definition of industrial that is sufficient for the purposes of this report, but the definition leaves unresolved where the line is between industrial and commercial/office.

Projections of need for industrial land require more detailed analysis than is provided by a simple ratio of, say, jobs to acres.

DLCD and OECD should clarify and resolve the issues involved with the designation and inventorying of "industrial" lands in local land use plans.

transshipment yards; solid waste reclamation; services for the industrial uses that occupy a small percentage of the industrial lands in a given area (e.g. medical clinics, daycare, vehicle repair). In other words, for the purposes of State policy and investment, the concern is less about what "industrial" businesses do on the land they occupy and more about whether what they do brings export income into the state and employs people in family-wage jobs.

- **What is not included in the definition of industrial?**
Lands for non-traded-sector financial, insurance, real estate and other professional office uses, unless they are accessory to an industrial use; retail businesses that sell to the general public and membership groups, and retail services that do not serve the industrial uses and that exceed a small percentage of the total industrial lands acreage in a given area (5-10% of net acreage); schools and colleges; medical centers; religious institutions; housing.
- **The gray area:**
the two-part definition above leaves a large gray area of uses that needs to be sorted out before a complete definition of "industrial" can be developed. The Taskforce was only able to define the bookends of the definition. Further work is clearly needed (see recommendations below).

Defining "Industrial Land"

The Taskforce believes that industrial land must be land that meets the needs of current and future industrial users of all types and sizes. This obvious conclusion means that projections of need for industrial land need more detailed analysis than is provided by a simple ratio of, say, jobs to acres. The issue must be analyzed in terms of what types of industry a city, county or region can realistically attract and what kinds of land they need by location, size, and services. In other words, "industrial land" is not a homogeneous commodity and must be analyzed with market needs clearly in mind.

The Taskforce highly recommends that DLCD (lead) and OECD provide training to local planners in using the *Methods for Evaluating Commercial and Industrial Lands* developed by the HB3557 committee. The methodologies many jurisdictions are using to develop their industrial land needs appear to be inadequate. The Taskforce also recommends that these agencies examine whether the methodology can be simplified for smaller jurisdictions into a set of templates or a "cookbook" that can be completed by the staff available to most jurisdictions.

Defining "Available" Industrial Land

The Taskforce recommends that this issue, **and the definitional issues with the previous two terms**, be resolved, pursuant to ORS 197.638, by having DLCD request OECD to assist it to clarify and resolve the issues raised by the designation and inventorying of "industrial" lands in local land use plans. The Taskforce is not suggesting that these departments develop a rigid definition of these terms, as they need to be adaptable to the wide variety of communities in the state. However, greater specificity would be helpful to all communities when doing their planning.

The question of “availability” will be a particularly difficult one, for it involves guessing the intentions of private (and in some cases public) land owners. But, if the state is going to base land use plans on inventories of these lands, it needs to provide guidance on how to handle this difficult issue. Goal 9 already requires that jurisdictions provide a short- as well as long-term supply of land, so resolving this issue may be more a matter of education and, possibly, enforcement than one of developing new rules. The LCDC should adopt the definitions into rule, if necessary.

Defining “Project-Ready” Industrial Land

“Project-Ready” means land that can be made ready for construction to begin within six months, meaning that some basic infrastructure needs to be provided before construction starts and/or that all building permits can reasonably be obtained within 6 months. This is the term that most closely meets what the Taskforce means by providing a short-term supply of industrial land.

Other terms are also in use, but can be differentiated from project-ready as follows:

“Shovel-ready” is land on which construction can begin immediately after obtaining building permits. This means all needed infrastructure is in place, or can be provided during the time it takes to construct the buildings.

“Market-ready” is land that is shovel-ready, fits what the market is demanding, and is priced right. This term is very hard to define in practice, so it is not used in this report.

“Project-Ready” means land that can be made ready for construction to begin within six months.

Is there a shortage of industrial land?

The Taskforce heard persuasive testimony that there is a significant lack of certain types of project-ready industrial land in certain parts of the state. The findings of the Portland-area Regional Industrial Lands Study, the HB3557 committee report, and the direct experience of Taskforce members support this conclusion. The Taskforce also heard persuasive testimony that the many jurisdictions lack a 20-year supply of industrial land.

However, the Taskforce also heard persuasive testimony that the short- and long-term shortage issue is not universal around the state. Some areas, like Klamath Falls and Medford, seem to have the short- and long-term supply issue under control. Other areas, however, such as Portland metro, Salem-Keizer, Eugene-Springfield, Bend, and Pendleton appear to have short- and in many cases long-term (20-year) supply shortages. And, they have shortages of parcels of the right size, configuration or location suited to certain uses.

The Taskforce heard persuasive testimony that there is a significant lack of certain types of project-ready industrial land in certain parts of the state.

What should be done to ensure an adequate supply of industrial land?

The Taskforce has concluded that there are several causes for these problems and that some of the causes are more important in some locations than others. The Taskforce is persuaded that there are some issues where the state has major responsibility for crafting a solution and others where the lead needs to be taken by local or federal agencies or by the private market.

The Taskforce's diagnosis of "the problem" is discussed below, divided into two topic areas:

Critical Issues

- State Land Use Program
- Attitudes of State and Local Officials and General State Reputation
- Responsibility of the Public and Private Entities in Maintaining an Inventory of Industrial Land
- Infrastructure Financing

Secondary Issues

- Conversion of Industrial Land to Other Uses
- Old Mill Sites
- Brownfields
- Wetlands

Critical Issues

State Land Use Program

DISCUSSION

This year marks the thirtieth anniversary of Senate Bill 100, the legislation that created Oregon's statewide land use system. Despite significant controversy and conflict, that land use system remains broadly popular with the majority of Oregonians. Initially, the establishment of UGBs throughout Oregon provided both certainty and adequacy for potential developers of industrial, commercial and residential lands. By clearly delineating what lands were available for each type of development, as well as what lands were preserved for farm or forest use or as open space, Oregon's land use system was a positive contributor to the state's economic boom in the 1990s.

Local plans can and should be an integral part of an economic development strategy because they should provide a short- and long-term supply of needed lands and a plan for providing needed infrastructure. However, the testimony received indicates the

Local plans can and should be an integral part of an economic development strategy but, the system is not operating as intended.

system is not operating as intended, and that a number of large communities have fallen considerably behind in providing needed lands, especially project-ready lands. The Taskforce heard persuasive testimony that the Salem-Keizer, Eugene-Springfield, Bend and the Portland Metro areas have failed to maintain a 20-year supply of industrial land and that the availability of project-ready land is in particularly short supply for some types of land. Jurisdictions that fail to provide needed lands face no apparent penalty for this failure, other than being out of the industrial lands market. The Taskforce finds that this is a significant problem and needs to be addressed.

The Taskforce heard testimony that a weakness of the state land use program is that it focuses on providing an adequate supply of land for long-term (20-year) needs, but does not have adequate mechanisms to ensure provision of project-ready lands for the short-term. For industrial lands, OAR 660-009-025 (3) requires that most local governments, during periodic review, "review and, if necessary, amend the comprehensive plan and the short-term element of the public facilities plan so that a three-year supply of serviceable sites is scheduled for each year, including the final year, of the short-term element of the public facilities plan." This requirement clearly is not being met.

There is a logic to why some local governments have not updated their inventories: the contentious nature of many land use decisions lead many elected officials to avoid offending or inflaming vocal constituencies over policies that won't have any practical pay-off for ten, fifteen or twenty years. They would prefer to wait until a large prospective employer is considering locating in their community, then find a way to expedite the planning process to accommodate them.

Although the state program provides for a periodic review of land use plans, testimony supports the view that this has been one of the least successful parts of the law. Some communities have engaged in reviews that failed to update the plans to meet changing needs, while others have become so disputatious that the process dragged on for more than a decade, leading some to conclude that "periodic review" had become "perpetual review." Recently, steps have been taken to expedite the review process, but the root issues of lack of adequate funding at the local level and how to handle the potential contentiousness of the process have yet to be resolved.

The Taskforce also heard testimony on the issue of UGB expansions. Several people testified that the process for expanding UGBs is too complicated, takes too long, and gives too much precedence to preservation of farmlands. However, the testimony was not persuasive that the state needs to make immediate changes to the statutes and rules governing UGB expansions, but suggests that this is a worthy subject for examination under future legislation.

The Taskforce finds, in addition, that successfully amending a UGB can be a very complicated matter under existing rules and that, as an interim solution, the state needs to provide additional support to certain communities to successfully complete such expansions where they are justified. The recent acceleration of processing of the METRO UGB amendment by LCDRC is an example of where extra help was provided successfully. The current work by the Department of Agriculture to define critical agricultural lands in the Portland Metro area is another.

A weakness of the state land use program is that it focuses on providing an adequate supply of land for long-term (20-year) needs, but does not have adequate mechanisms to ensure provision of project-ready lands for the short-term.

Testimony was not persuasive that the state needs to make immediate changes to the statutes and rules governing UGB expansions, but successfully amending a UGB can be a very complicated matter under existing rules and as an interim solution, the state needs to provide additional support to certain communities to successfully complete such expansions where they are justified.

The issue of whether, how much, and where agricultural industrial land should be converted to urban uses is complex. The Taskforce defers to the legislature or LCDC on this issue.

The Taskforce heard testimony that the state is over-protecting agricultural lands. It also heard testimony that agriculture is an industry just like any other and deserves to have its land base protected, just as some are asking for the industrial land base to be protected. The issue of whether, how much, and where agricultural industrial land should be converted to urban uses is complex and goes to the core of the debate about the values embodied in the state land use program. The state land use program clearly has procedures for converting agricultural land to urban uses (the urban growth boundary amendment process). Further, the program clearly has not made agricultural land "sacrosanct" given the many urban growth boundary amendments on agricultural land that have occurred since the program was established 30 years ago.

However, the Taskforce concluded that many jurisdictions are clearly having difficulties successfully amending their urban growth boundaries to accommodate industrial uses (and perhaps other uses). Their failures hurt the economy of the entire state in some cases, so there is a state interest in determining how to improve the process to make them more successful. The Taskforce feels it does not have the expertise to determine what changes would improve it. It defers to either a special commission that the Legislature or LCDC may establish to determine the appropriate changes.

Several of the recommendations below involve new studies by state and local governments. A valid criticism of these is that they may end up adding another layer of government administration that delays solving the problem. This is not the intent. Rather, the intent is to provide technical assistance quickly to local governments to enable them to resolve issues that have stymied development of adequate inventories of industrial lands.

RECOMMENDATION

a. Inventory Verification

Based on the testimony received, the Taskforce believes there is much reason to doubt the validity of the buildable industrial lands inventories in many jurisdictions, in particular jurisdictions which are major economic centers of the state. This is a serious issue, for it is the foundation on which local comprehensive plans are based. OECDD, GERT, and DLCD (lead), together with the team recommended in (d) below, should **quickly** evaluate the adequacy of these inventories in key locations and then take appropriate action to correct them if they are found in error. The recent experience of the RILS study and Metro in developing such inventories can provide useful information for this activity.

b. Inventory Updates:

LCDC should require all jurisdictions over a certain size, not just METRO, to update their industrial land inventory and make appropriate adjustments every five years so that the chance of again facing a severe shortage of industrial land is minimized.

The state should quickly evaluate the adequacy of industrial land inventories in key locations and then take appropriate action to correct them if they are found in error.

c. Agricultural Lands Team:

Create a team of experts, led by the Department of Agriculture, to assist local governments in identifying which agricultural lands could be added to the UGB without significantly harming the agricultural industry or are not part of what is considered by agriculture to be the "commercial agricultural base". This approach has been used in the Rogue Valley Regional Problem Solving project and is being used currently by METRO. This approach shows promise as a means of resolving the land hierarchy issue in statute. However, the approach also has the potential of becoming politicized by individual landowners lobbying for inclusion or exclusion from the UGB. The process has not been completed in either the Rogue Valley or the METRO area so how successful it will be is not known. This approach may lead LCDC to adopt rules about "agricultural sanctuaries" similar to the "industrial sanctuary" ordinances used in some cities and regions to protect significant industrial lands from encroachment and conversion.

Some local governments need assistance to identify which agricultural lands could be added to the UGB without significantly harming the agricultural industry or are not part of what is considered by agriculture to be the "commercial agricultural base".

d. Urban Lands Team

The state should make available a small team of experts drawn from state agencies (and perhaps some outside consultants), managed through DLCD and the GERT (lead), to provide direct assistance to solve the industrial lands problem in a limited number of communities or regions that OECD identifies as being critical to the overall economic health of the state. If the issue blocking provision of land is lack of an adequate inventory of industrial lands, the Taskforce believes that this team could resolve much of the issue within a few months by utilizing the methodology developed under HB3557. If the problem is a need to write or process a UGB amendment, update a zoning ordinance, or revised parts of a Transportation Systems Plan, the state team should provide this assistance directly to willing local governments. The Taskforce heard that many UGB amendments are hung up at the local level or in court, so this team could be extremely helpful in breaking through this logjam. House Bill 2011 added more resources to DLCD and could aid in expediting amendments.

The state should make available a small team of experts to provide direct assistance to solve the industrial lands problem in communities or regions critical to the overall economic health of the state.

e. Permitting Teams

Even if land is available for industrial use, there are likely to be complex permitting issues. Local governments should create such teams to handle all local permitting. The GERT should provide assistance where state and federal issues exist. The Taskforce concluded that unless such help is available, many prospective industrial developments would go elsewhere, especially since Oregon has a reputation of being a difficult place to permit projects.

f. Plan Update Failure

The Taskforce concluded that a significant part of the lack of short- and long-term supplies of industrial lands is due to local governments not maintaining their plans up-to-date. The reasons for this are complex and blame can be placed at the state as well as the local level, but the net result is that the state does not have adequate lands in its inventories. LCDC (lead) and local governments need to examine what has caused this failure and either recommend legislation (perhaps to provide more funding), create incentives,

LCDC should improve implementation of Goal 9, Goal 11, and Goal 14.

or make appropriate rule changes to resolve it. In particular, LCDC should investigate which key communities are failing to meet their industrial inventory requirements and meet with them to determine the source of the problem. Changes to the Periodic Review statute also have the potential to ameliorate the issue, but many believe Periodic Review needs a major overhaul and/or much greater levels of funding so that local governments can do the required work.

g. Goal Implementation

LCDC should reexamine the land use program to improve implementation of Goal 9 (economic development), Goal 11 (public facilities and services), and Goal 14 (urbanization and UGB amendments). This examination would need to focus on the issue of what is the right balance of agricultural lands protection versus needs for urban expansion. Goal 9 and the accompanying rules are a very powerful vehicle to resolve the industrial lands issue, but it appears that it is neglected, both by local governments and the state. LCDC may, at some point, need to use its enforcement powers to encourage some local governments to update their plans. The Taskforce also recommends that the state (together with advisors from the private sector) closely examine the needs of the market, in particular the question discussed in a later section of whether the private market can adequately provide certain types of project-ready industrial land.

h. Exclusive Farm Use (EFU) Tax Exemption Inside UGBs

The EFU tax exemption creates an incentive to hold the land inside UGBs rather than making it available to the market immediately. There exists a mechanism in ORS 197.756 to slowly remove these exemptions. However, this is not a "one size fits all" issue and valid reasons exist to preserve agricultural tax exemptions on some lands for an interim period. The Taskforce was cautioned that the state should not punish landowners inside UGBs who continue to farm but whose land the market may not need for 20 years. Nonetheless, state policy should not encourage landowners to hold land off the market when it is needed. The Legislature should consider whether existing statutes fairly balance these policy interests.

i. "Time-out" Rule Making

If the efforts in (a) and (d) above document a significant problem with an inadequate industrial land supply in key industrial market areas, LCDC should consider adopting an emergency rule to allow amendments to UGBs to increase the supply of industrial land. This provision should only apply to a few identified jurisdictions and only for a very short period of time (opt in or out of the program in, say, 90 days, and commit necessary local resources to do the work). The goal would be to resolve the major supply issues quickly while avoiding issues that arise from "super-siting" or shortcutting citizen participation. Such a process could involve such provisions as: fast-tracked review process by LCDC/DLCD; limited appeals/litigation, enhanced access to bond financing through OECD (sewer/water) or ODOT (roads), special priority for coordination of agencies by the GERT to speed the process on difficult properties.

j. **Virtual Permitting:**

The GERT (lead), DLCD and DCBS should continue to support further development of the "virtual permitting" process being implemented in Jackson and Josephine Counties. This process allows a landowner or developer to obtain all the conditional use permits, siting permits, and actual building permits needed to construct a hypothetical building on the site. The GERT and DLCD should develop and distribute a guidance document for local governments and economic development officers statewide. If the technique is suited to adoption by rule, LCDC and/or DCBS should consider doing so.

k. **Permitting Acceleration**

OECD (lead) and DLCD should examine the accelerated permitting processes developed in New York state and other parts of the country for ideas on how the overall industrial lands permitting process can be simplified and accelerated.

g. **Completing the METRO UGB Expansion**

METRO recently completed taking 1,900 acres of industrial land into the UGB, but there remains about 2,700 to take in. METRO should complete this process within 9 months and DLCD/LCDC should conduct an expedited review process for it. METRO should use as a criterion land that can be made project-ready quickly.

Attitudes of State and Local Officials and General State Reputation

DISCUSSION

The Taskforce heard testimony, supported by the experience of some Taskforce members, that some key state agencies and local governments involved in providing various types of permits or approvals for industrial lands seem too ready to say "you can't do that" rather than "let's figure out how you can accomplish it within the framework of the law".

This is an attitude issue that is difficult to solve through adoption of laws or regulations. A little-understood aspect of state land use law is that while individual jurisdictions may unilaterally adopt a "no growth" policy, state law prevents them from implementing it. The law requires them to provide for growth in so far as growth is allocated to them by the counties, a regional government, or in some cases, LCDC. Since the land use program also strongly limits growth that can occur outside urban growth boundaries, growth, if it is to occur, needs to occur within cities for all practical purposes. Within a county or region, the program permits allocating growth to some communities and not others, but this is a decision that is made jointly by the jurisdictions affected, not by individual jurisdictions alone. The Taskforce did not attempt to reach a conclusion on whether this is a good policy.

The Taskforce heard testimony that Oregon in general has a reputation nationally of not being "open for business". This is partly because there is a perception that there is virtually no project-ready land available, and what is available is in the wrong place or is too expensive. The perception is also partly due to the belief that many government permitting entities are not very helpful to applicants in getting through the permitting process.

The Taskforce heard testimony that Oregon in general has a reputation nationally of not being "open for business". Oregon is "out of the game" on industrial development according to some testimony. This is partly because there is a perception that there is virtually no project-ready land available, and what is available is in the wrong place or is too expensive. The perception is also partly due to the belief that many government permitting entities are not very helpful to applicants in getting through the permitting process. One individual who had sited a large plant testified that it was a critical part of his decision process to have a government entity say that it would coordinate all the local permitting processes to make sure they were completed on an agreed time schedule. He found very few agencies in any state that offered this "one stop shopping" service. Many businesses supported this comment by saying that "time is money; anything government can do to help cut the time to get through the processes is important in the location decision process". The Taskforce heard that Klamath Falls and Hillsboro routinely provide this type of service, but few of the major cities do.

The Taskforce also concluded that the lack of government responsiveness to applicants is more critical now than in the past. In the past, a business planned a one-to three-year project development timeline. But, today the timelines have been compressed and they need to be able to go from ground breaking to built-building in less than a year in many cases. Thus, following "normal" government processing times and procedures for permits contributes to a perception that a state or community is not "open for business".

In all parts of the state, the Taskforce heard praise for the Governor's Economic Revitalization Team approach to resolving issues. The GERT has been able to overcome many of the attitudinal issues presented in testimony. The GERT approach is a fast, cost-effective way to solve problems involving the state and local (and sometimes federal) governments.

RECOMMENDATION

a. GERT Funding

The Taskforce highly recommends that the Legislature fully fund the Governor's Economic Revitalization Team and make it a permanent part of the way the state addresses intergovernmental development issues. House Bill 2011 would make the GERT a permanent department within the state. The Taskforce also believes that a stable source of funding for this program should be secured in future legislative sessions.

b. Management Reform

The Taskforce finds that the attitude issue needs to be dealt with internally by state agencies and local governments at a management level. Solving it may necessitate more clearly separating the regulatory function of some agencies from the technical support and promotional function.

c. Streamlining

The Taskforce believes that the Governor's regulatory streamlining Executive Order, managed by DCBS (lead), can handle many of the issues related to

shortening the time needed to get through the regulatory processes at the state and local levels. OECDD has a "Streamlined Permitting Process" service, which has some notable successes, but the comments received by the Taskforce indicate that this program needs to be expanded considerably or improved. Similar programs may be needed in local jurisdictions, for the Taskforce heard that most of the developmental roadblocks are experienced at the local level, not at the state level.

d. Site Certification

As provided for in the Governor's Executive Order establishing the Taskforce, and in HB 2011, OECDD should expedite the creation of its certified project-ready lands inventory. This will help overcome the perception that there is no project-ready land available in the state. Rural areas cautioned that certification program should not be limited only to large sites, for the demand in rural areas is often for smaller ones. Sites of all sizes should be able to be certified, even if state resources are not used to do the certification.

OECDD should expedite the creation of its certified project-ready lands inventory.

Responsibility of the Public and Private Entities in Maintaining an Inventory of Industrial Land

DISCUSSION

The Taskforce heard testimony regarding the proper role of the public and private sectors in maintaining an inventory of industrial land. In Medford, for example, the private sector appears to be providing a large supply of project-ready sites, including large sites of over 100 acres. However, the Taskforce also heard testimony that the private sector is, of necessity, driven to look for relatively quick turnover in its lands, especially if investment in infrastructure has been made. Also, it is more likely to divide larger parcels into smaller ones to meet the larger demand for small sites rather than maintain an inventory of large sites (over 100 acres) for a few possible large industries that may (or may not) emerge over many years. Finally, since the values of commercial and residential land are so much higher than industrial land, the private sector has strong financial incentives to seek land use changes that permit those uses.

The Taskforce also heard testimony about how governments are handling this issue in other parts of the US and overseas. In Asia, which is the latest industrial boom area, industrial lands are almost exclusively developed by government entities, or with large government subsidies. This is also true in many parts of the US where public ownership of strategic industrial lands is routine. Of course, public ownership does not guarantee that conversion to other uses will never occur, but the economic pressure to do so is considerably less since there is a clear public purpose to preserve the lands for the intended industrial uses. From its tours and direct testimony, the Taskforce also concluded that public ownership is not a panacea. There are highly capable public entities, such as port districts, and there are others that are far less capable.

The Taskforce recommends that the state seriously consider expanding the role of the public sector in providing project-ready and long-term supplies of lands, or providing well-funded financial mechanisms for the state to assist private industry in providing such lands where market economics require it.

The state will not successfully develop a supply of project-ready industrial lands without considerably more public investment in infrastructure. The impacts of Measure 5 and other initiatives have materially eroded the capability of local government to finance infrastructure.

RECOMMENDATION

a. What is the State's Role in Providing Industrial Lands?

This is an issue of great importance. The Taskforce recommends that the Legislature take an overall look at what is needed in today's industrial environment to ensure a supply of Project-Ready industrial land over the long-term. The Taskforce has concluded from the testimony provided that existing mechanisms are not working. In principle, port districts and other public entities should be able to fill in where the private market is not able to do the job. While this has happened in the past, the public resources are no longer there to acquire land suitable to develop industrial sites in the longer term, let alone achieve project-ready status in the immediate future.

The Taskforce recommends that the state seriously consider expanding the role of the public sector in providing project-ready and long-term supplies of lands, or providing well-funded financial mechanisms for the state to assist private industry in providing such lands where market economics require it. This recommendation is not intended to put the state in competition with private developers but rather to deal with the market economics issues facing the private sector.

Infrastructure Financing

DISCUSSION

The Taskforce heard repeated testimony from public and private entities that the state will not successfully develop a supply of project-ready industrial lands without considerably more public investment in infrastructure. The discussion on infrastructure divided into two groupings: ODOT transportation infrastructure and all other infrastructure.

The plight of the state's transportation infrastructure is well documented and is the subject of considerable legislative focus during the current session. Since ODOT's roads carry over 80% of the vehicle-miles-traveled in the state, it is critical that these facilities be maintained and expanded, as needed. Had the gas tax kept up with inflation since 1991 (when the last general gas tax increase occurred), ODOT would have received an estimated \$15 billion more dollars than it did, which would have made a considerable difference in its ability to fund state and local transportation improvements. At the local level, testimony was presented that the money from the gas tax available per auto for some jurisdictions is half what it was 10 years ago. This makes it difficult or impossible for them to finance needed local road infrastructure improvements from traditional funding sources.

Smaller communities and rural areas almost unanimously testified that they would be unable to develop industrial sites without public grant and loan programs for other types of infrastructure: sewer, water, drainage, wetlands mitigation sites, railroad sidings and over-crossings, airports, ports, etc. Some appear to have been successful

in charging various types of fees to finance much of this infrastructure, but they too noted needs for state financing to supplement local and private efforts. Overall, however, the testimony was persuasive that the impacts of Measure 5 and other initiatives have materially eroded the capability of local government to finance infrastructure.

Not surprisingly, local governments would prefer that the state fund this infrastructure (either by building it, or giving local governments grants to do so). But, a number of entities testified that they also need new financing techniques to help them finance infrastructure on their own. Measure 5 has severely restricted their ability to finance infrastructure. One problem they noted was that the state loan programs require loans to begin being paid off almost immediately, whereas the land may not be sold for a number of years. They suggested creation of a new loan program where payments could be delayed for several years, or until the lands are sold. OECDD indicates that it has the ability to delay principal repayments, but state law prevents it from extending overall payback longer than 20 years, which may be necessary for maintaining a long-term supply of sites.

RECOMMENDATION

a. ODOT Funding

The Taskforce recommends that the Legislature begin work during the interim on a transportation funding package for the next session. The recently passed transportation package helps make up for past dis-investment in the transportation system and borrows against future revenues, but it is only a down payment on much-needed improvements. Similar legislation will also be needed next session.

b. OECDD Funding

The Taskforce recommends that the Legislature provide as much funding as possible for needed infrastructure development. This funding should be provided in two parts: part of the total budget should be available for grants and loans to all jurisdictions, regardless of location or size. Another part should be placed in a strategic reserve and used, much like the ODOT Immediate Opportunity Fund, to respond to **actual opportunities** where extra state funds are critical to "closing a deal".

c. Immediate Opportunity Funds

Both ODOT and OECDD should do everything possible to increase allocations to these funds and should put a high-level official in charge of administering them. These funds would be used to solve infrastructure problems for identified "bird in the hand" industrial development opportunities and will create jobs in the near-term. The processes for committing these funds needs to meet the time schedules of the businesses involved, which may be much faster than some agencies are used to moving.

d. Alternative Financing

The Taskforce recommends that OECDD examine alternative financing vehicles that can resolve the immediate-payback issue noted above.

Both ODOT and OECDD should do everything possible to increase allocations to their Immediate Opportunity Funds and should put a high-level official in charge of administering them.

e. **DSL Industrial Fund**

The Taskforce recommends the State Land Board (lead) and Division of State Lands examine their Asset Management Plan to determine whether greater investment in industrial lands projects would provide an adequate return to the Common School Fund to meet its constitutional obligations. If so, the Board should provide funds for industrial projects in the state.

Secondary Issues

Conversion of Industrial Land to Other Uses

DISCUSSION

The Taskforce heard much testimony on the issue of how to control or manage the process of converting industrial land to non-industrial uses. There was testimony that there has been considerable loss of industrial lands to non-industrial uses, which contributes to today's shortage of industrial land. However, after analyzing the issue, the Taskforce concluded that this is more an issue of perception than reality and, thus, the issue is not a major one with respect to the overall industrial land issue. However, the issue may be very significant in certain jurisdictions and it is a significant problem for ODOT, which faces tremendous traffic problems when land uses change unexpectedly.

METRO recently investigated the conversion issue in the Portland metropolitan area. Their conclusions are very insightful on the nature of the issue (emphasis added):

"Based on the information that has been gathered through zoning code review, interviews and site visits, it is unclear to what extent commercial encroachment on industrial lands is occurring if at all. Through the research process it became clear that in order to determine if encroachment is occurring, one would have to be certain about what encroachment is. The interviews revealed that people view this subject differently and that much of what they think is based more on perception and anecdotal evidence than hard data. For example, some stated that encroachment is a problem around the region, but few could identify a location where it had specifically occurred. Also, some identified locations that appear to have encroachment, but upon further investigation turned out to be zones that allow for a high mix of commercial and industrial uses.

"The fact that all industrial zones permit some level of commercial uses also complicates the identification of encroachment regardless of the definition one assumes. If industrial zones only allowed industrial activities, it would be possible to identify encroaching uses, however the region has not determined that completely segregated land uses are an appropriate land use system and it is unlikely that this will become the norm. Certainly if we had a completely segregated land use system, a notion such as encroachment would be easily measured, however because zoning regulations have moved away from the Euclidean orientation, it is still unclear what the true picture of encroachment is.

The Taskforce concluded that the conversion issue is more an issue of perception than reality and, thus, it is not a major one with respect to the overall industrial land issue. However, a change from industrial to commercial or residential use usually entails considerably higher volumes of traffic or a shift in traffic from off-hours to peak-hours. This can materially harm state and local highway capacity.

*"One conclusion that can be made from this analysis is that we as a region do not have a fully formed notion of what this issue really means. Some people feel that commercial encroachment is a problem and others don't. **The issues that have come out of the interview process show that there is little consensus about how industrial areas should be used and what they should look like.** There is some acknowledgement that industry has changed and that the line between commercial and industrial has become increasingly blurred, but how these changes should be incorporated into the land use system has yet to be fully determined. There is also a lack of agreement about what should be done with underutilized industrial land and whether it should be converted to commercial use or preserved for future industrial uses. Finally, there is no consensus on what the mix of uses should be and if there is a threshold of too much commercial or too little commercial activity appropriate for industrial areas.*

The main conclusion that can be drawn from this analysis is that commercial encroachment is a problem based on perception and should not be used as an argument for or against additional actions regarding the industrial land supply until a definition is agreed upon and a policy objective for the amount of commercial use that is acceptable in an industrial zone is articulated."⁶

The Taskforce understands that it is innate to the land market that owners want to get the greatest return for their land. Since residential and commercial land sells for 2 to 20 times industrial land (especially large-tract industrial land) and there is a cost to holding land, there is a great incentive for private owners to (a) sell their land for a 'higher' use and (b) subdivide larger parcels to meet the demand of purchasers that want smaller parcels, thus eroding the supply of large parcels.

The Taskforce also understands that there is a need for an orderly process to convert some industrial lands to other uses, as has occurred in some old industrial areas in Portland, in marine industrial uses along the coast, and old mill sites in Salem, Bend, Klamath Falls and other cities. The Taskforce further acknowledges that there may be a financial imperative to allow conversion in order to recoup the cost of restoration of brownfields sites.

One important aspect of the conversion issue is that a change from industrial to commercial or residential use usually entails considerably higher volumes of traffic and/or a shift in traffic from off-hours to peak-hours. Roadway infrastructure is designed based on certain assumptions about the future land use. Uses that generate more trips per acre of development, such as office and retail uses, will cause the transportation system to fail faster.

The Taskforce visited a site in Medford where government had recently invested millions in improving the road system based on the assumption the adjacent uses would be industrial, but the City of Medford is now under considerable pressure from the land owners to allow commercial uses. ODOT predicts that the new investment will become obsolete immediately if this occurs. The Taskforce also heard testimony about the rezoning by the City of Woodburn on I-5 of land to commercial, which has had a significant impact on I-5 and has overloaded the interchange. The Taskforce

⁶ METRO, *Examination of Commercial Encroachment on Industrial Land*, April 2003, page 13.

heard numerous other examples of conversion issues, including those at Keizer (near I-5), the Gateway area of Springfield, and the Sunnyside area in Clackamas County. The METRO study also commented on this issue:

*"Commercial uses generate a lot of auto trips and can interfere with the movement of freight in these areas. This was the main impact of encroachment noted by jurisdictions. Still others indicated that industrial areas that do not have adequate quantities of commercial uses also experience strains on the transportation system because employees must drive outside of the industrial area to access services."*⁷

RECOMMENDATION

a. Possible LCDC Rule Making

The Taskforce concluded that LCDC has the statutory authority to adopt rules to manage this problem, if, indeed, there is a problem. The METRO report cited above describes the difficulty in determining whether there is a problem at all. If a problem is identified, possible LCDC rules could include: (a) require that any conversion from industrial to another use must be accompanied by an offsetting increase in industrial land (or substantiation that there is at least a 20-year supply of industrial land in the community); this would be a "no net loss" provision. (b) Require that Transportation System Plans must be updated for the area affected by the use, plan or zone change before the change occurs. Further, LCDC should consider amending the rule requirements on when road improvements are provided to handle the new traffic to avoid assigning the new traffic to "paper" roads that are not on state or local construction plans. (c) Require jurisdictions to adopt clearer definitions of industrial and commercial uses similar to what METRO has done in Title 4.

b. Infrastructure Repayment

ODOT (lead) and LCDC could also consider proposing legislation that provides that when the state invests in infrastructure based on land uses in a comprehensive plan, and local government permits changes to those uses, reimbursement of the state's investment would be made to the state by the local government or the benefited land owners. This idea needs to be carefully analyzed for unintended consequences, such as paralyzing the rezoning process by creating great uncertainty about whether a payback might be required at a later date.

Old Mill Sites

DISCUSSION

The Taskforce heard some testimony about the need to provide for the reuse of abandoned mill sites. From the testimony presented, it appears there are thousands of these sites in the state. In Jackson County alone, the Taskforce was told, there are

⁷ METRO, *Examination of Commercial Encroachment on Industrial Land*, April 2003, page 9.

over 200 such sites. Most of the testimony supported the idea that opening all these sites up to industrial development would not likely solve the industrial lands shortage issue or create much new industrial development. This is mainly because the sites are remote or are adjacent to conflicting uses (residences, recreational areas, etc.) and would, therefore, not be desirable for many industries. Also, the cost of providing infrastructure to many of these sites is prohibitive.

RECOMMENDATION

a. Implement Legislation

The Taskforce concluded that this issue was handled by the legislation passed by the 2003 Legislature and that no further action by the Taskforce was needed.

Brownfields

DISCUSSION

"Brownfields" means real property where expansion or redevelopment is complicated by actual or perceived environmental contamination (ORS 285A.185). The Taskforce recognizes that industrial redevelopment of brownfields properties may be more challenging than comparable development of uncontaminated lands. Depending upon the specific site, remediation of contamination may be costly, although lands identified for industrial uses generally do not require cleanup to the same standards as comparable residential properties. In addition, many industrial properties have only minor or moderate levels of contamination and, therefore, may be cleaned up and redeveloped without extraordinary costs.

Managing actual and potential environmental liabilities requires careful attention to state and, in certain limited areas such as Portland Harbor, federal laws. Although both federal and Oregon law impose liability for contamination, both laws also provide ways to avoid or limit such liability. Amendments in 2002 to federal law provide a statutory exemption to liability for prospective purchasers of contaminated properties and Oregon's cleanup law allows the Department of Environmental Quality (DEQ) administratively to limit the liability of a prospective purchaser. Beginning in 1995, DEQ has used that authority to enter into more than sixty Prospective Purchaser Agreements statewide that have limited liability and assisted redevelopment of contaminated properties.

Notwithstanding the 2002 federal liability amendments to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) that excludes purchasers from liability, EPA has indicated that it may provide additional liability protection by entering into Prospective Purchaser Agreements to further limit a purchaser's liability in certain circumstances. DEQ feels that liability law should not be a limiting factor on the redevelopment of the Portland harbor and is willing to work with landowners, the Environmental Protection Agency (EPA), and the City to resolve liability and cleanup issues that may be blocking reuse of these properties.

Cleanup costs may pose a significant obstacle to industrial redevelopment of some very highly contaminated properties when the cost to remediate the property to a level that is safe for the proposed use exceeds the clean-site fair market value of the property. The Taskforce heard convincing testimony that unless the public is willing to invest significant sums in rehabilitating the sites without requiring a direct financial return, it appears unlikely that some sites can be made marketable at competitive industrial land prices. However, if the sites are converted to residential or commercial uses⁸, the private market may be able to pay the costs for rehabilitating many of them. This poses significant policy issues for the state and the regions where this would occur because there would be a significant loss of industrial lands from the inventory. The loss may be ameliorated by the fact that many of the sites are abandoned or semi-abandoned and will remain idle unless they are rehabilitated.

METRO and other jurisdictions with significant brownfields in their inventories should examine how these lands should be treated in the industrial lands inventory.

DEQ and EPA should better inform the development community about opportunities for liability protection, and work together to resolve liability issues for prospective purchasers in the Portland Harbor and other sites.

RECOMMENDATION

a. Reexamine Inclusion in Inventories

METRO and other jurisdictions with significant brownfields in their inventories should examine how these lands should be treated in the industrial lands inventory (i.e. is it "buildable"), taking into account the environmental investigation and cleanup that have been performed at each property, investigation and cleanup that remain to be performed, the impact on development of complicating factors such as potential Superfund liability and the fact that cleanup costs may require conversion to non-industrial uses.

b. Liability Protection Education

The Taskforce heard testimony that a significant obstacle to redeveloping sites was a liability issue about future lawsuits. The Taskforce observes that DEQ and EPA have tools to limit the liability of prospective purchasers of contaminated property and, therefore, that the liability issue should not be an obstacle to redeveloping these properties. However, the development community may be unaware of these liability limitation mechanisms. The Taskforce, therefore, strongly recommends that DEQ (lead) and EPA better inform the development community about opportunities for liability protection, and work together to resolve liability issues for prospective purchasers in the Portland Harbor and other sites.

c. OECD Funding

Though some sites may require significant sums for remediation, many sites have only minor or moderate levels of contamination and, therefore, may be cleaned up and redeveloped without extraordinary costs. The Brownfields Redevelopment Fund managed by OECD is a direct loan and grant program to assess and cleanup brownfields. The Brownfields Redevelopment Fund should be capitalized sufficiently by the Legislature and grant funding priority should be given to projects that help with business recruitment and increase available supplies of industrial lands in areas with high demand.

⁸ Examples where this has occurred include: the redevelopment of the railroad yard in the Portland Pearl district and the Old Mill area in Bend.

Wetlands

DISCUSSION

The Taskforce expected to hear considerable testimony about how the difficulty of obtaining permits in wetlands was a significant obstacle to developing industrial land, but it did not. Even in Medford, where wetlands are rumored to be a major problem in the White City area, the issue was either resolved for many properties, or on the way to being resolved through actions being taken by the Division of State Lands. The Taskforce saw some property where the private landowners had not resolved their wetlands issues, but this was not due to a regulatory issue but because they didn't want to spend the money prior to having a buyer. Unfortunately, by not resolving the wetlands issue up front, the property is difficult to sell. The DSL-proposed virtual permitting of wetlands may help resolve this type of problem.

RECOMMENDATION

- a. The Taskforce recommends that DSL continue to implement the habitat conservation plan for the White City area and complete its regulatory streamlining processes for wetlands permitting.

The Taskforce recommends that DSL continue to implement the habitat conservation plan for the White City area and complete its regulatory streamlining processes for wetlands permitting.

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1 December 2003

TO: David Lawrence, City of Hillsboro
FROM: Terry Moore
SUBJECT: COMMENTS ON METRO'S TITLE 4

SUMMARY

Title 4 appears to aim at helping the regional economy by requiring local governments to limit non-industrial uses on various classes of industrial land, as identified by Metro. Helping the regional economy is a good objective. Having ample land for industrial development is consistent with that objective.

But the real targets of public policy with respect to business start-up, expansion, and relocation should be businesses in "the traded sector": businesses that trade outside the state and bring new money into the regional economy. The potential problems with the requirements of Title 4 stem from the fact that the correspondence between "industrial" uses and "traded-sector" uses is not perfect. The result is that Title 4 policies, while protecting industrial lands for many industrial users, may have the unintended consequences of (1) restricting the expansion of some traded-sector businesses that are not strictly industrial by Title 4 definitions (especially those that are professional services), or (2) constraining the options of industrial users with respect to their development in the sanctioned industrial areas. The rest of this memorandum explains why those effects could occur.

Those potential problems could be reduced by a more refined policy, but refinements take time. One could recast Title 4 to directly address the correct objectives: make it clear that some land can only be developed for use by businesses that are in traded-sector business categories, and in particular those traded-sector users that have large parcel needs in particular parts of the region. That definition would include most industrial uses, eliminate some, and add some other non-industrial uses that do a lot of exporting. The amount of that land with those restrictions would be relatively small, and it would be located in places that would allow it to be close ample buildable land zoned less restrictively for ancillary uses. Taking a firm position on allowable uses (especially by eliminating most possibility of conversion retail use) would reduce speculation and land price, and potentially bring more land on to the market. Alternatively, or in addition, policies regarding public service requirements and costs, and taxes and fees, would be structured to encourage the type of uses desired, and further decrease speculation.

BACKGROUND

On 19 November 2003 you called me to discuss Title 4 of Metro's Urban Growth Management Functional Plan (section 3.07.400). That section of the Plan addresses "Industrial and Other Employment Areas." Your concern was that certain provisions of Title 4 would be counter to the interests of Hillsboro and the region with respect to economic development.

I subsequently discussed your concerns with Randy Pozdena of ECONorthwest and Joe Cortright of Impresa. On November 20 I discussed with you by telephone the basic

conclusions of that review. You asked me to expand on those conclusions in writing. This memorandum does that.

I start with some disclaimers. The points in this memorandum are broad. We are basing our comments almost exclusively on the language in Title 4 (as published on the Metro web site), and the proposed amendments that you sent us (Metro Ordinance 03-1021). It would be typical for there to be other staff reports and committee minutes that address some of the points I raise. The specificity of some of the amendments to Title 4 in Ordinance 03-1021 suggest that Metro is responding to comments received. We have not seen that material and expect that some of our remarks may be redundant or wide of the mark because of that. None of us professes to be an expert on Title 4.

Each of us, however, has substantial experience with regional economics and economic development policy, both in theory and in the context of the Portland metropolitan region.¹ Our independent review of Title 4 raised some issues that do not appear to be addressed in the text of Title 4 itself.²

DEFINITIONS

Title 4 refers to “industrial and other employment areas”. Industrial and employment areas are presumably for industrial uses and employment uses. In the context of Title 4, industrial and employment uses do not cover all types of employment uses, since Title 4 is primarily about what types of employment (primarily retail, but in many areas also certain professional services) are not allowed in industrial and employment areas.

Those definitions, if I have them right, are probably confusing to the uninitiated, who would tend to view any business use is an employment use: industrial, office, and retail buildings all support employment. More critical, the lack of clear definition may also affect the value and interpretation of the proposed policies.

Presumably, industrial land and employment land are defined by the uses that they allow. Industrial and ancillary uses are broadly defined in 3.07.420.C. “Employment” uses (i.e., uses allowed on employment land) are not defined directly anywhere. Section 3.07.440 gives the start of definition by making it clear that commercial retail uses are to be restricted or, if large, avoided in Employment Areas, but that probably leaves more than Metro intended as acceptable for Employment Areas. Since the stated objective of Title 4 is to limit the types and scale of non-industrial uses in *Industrial and Employment Areas*, it appears that Employment Areas are also intended to be used primarily for industrial uses.

Thus, our assumption is that Regionally Significant Industrial Areas (RSIAs) are deemed by Metro to have characteristics that make them more special or important than Employment Areas for industrial use, and that they would therefore have stricter controls on non-industrial development. It appears that Title 4 has policies for three different levels of industrial land: the two above (RSIAs and Employment Areas), and one in between (Industrial Areas that are not Regionally Significant per 3.07.430).

From what I can tell, Metro’s focus appears to be more on defining broad *map areas* (e.g., RSIAs, Employment areas) than on defining the *kinds of uses* that it wants to see developed on those lands: presumably uses that would be consistent with the most directly stated goal of Title 4: to increase family-wage jobs.

¹ Short biographies are attached to this memorandum.

² They may be addressed in evaluations by Metro staff of the impacts of Title 4—if such evaluations exist, I have not reviewed them.

A small point on definitions that probably needs clarification, though it is not pertinent to the thrust of our arguments: Title 4 always refers to “lots and parcels” together, and defines neither. The definition that I am familiar with is that a lot is a tax lot for taxing purposes; it often is, but does not have to be, a legally transferable parcel. What might look from the road or a airplane like one parcel of land might be composed of several tax lots. Moreover, it is possible to construe a vacant “parcel” to mean “all contiguous vacant land owned by the same person,” which could mean something bigger yet.

We could not find a map of the RSIA's or employment areas on Metro's web site, but the appropriateness of specific locations is not the topic of this memorandum. The point I will make is that what is important is what kind of uses the areas allow, and whether those allowances are consistent with what I believe the region's economic development objectives should be.

WHY CARE ABOUT EMPLOYMENT AND INDUSTRIAL LAND?

Title 4 wants to preserve employment and industrial land by limiting “the types and scale of non-industrial uses”³ especially retail development. Consistent with state law and the Metro Regional Framework Plan, it wants to encourage “efficient development patterns,” and considers the concentration of certain kinds of retail uses in designated centers to be one of those efficient patterns. (3.07.410)

The reason given for protecting industrial land, by means of designating Regionally Significant Industrial Areas is that such areas “offer the best opportunities for family-wage industrial jobs.”⁴

Family-wage jobs are a typical and appropriate concern of public policy. The evidence is clear that the *average* wage in certain businesses sectors is higher than in others, and that businesses in manufacturing sectors, especially those considered high-technology, are likely to have an average wage that is higher than the overall average. But it is also clear that a high average wage can be achieved by having a combination of very high wages and low (non-family) wages, and that many non-manufacturing businesses have very high average wages (e.g., professional services: legal, medical, finance).

If the overarching objective is the health of the metropolitan economy, then there are better ways to operationalize that objective than family-wage jobs. While not articulated in Title 4, the economic reasons for caring about employment industrial and commercial land should derive from the following logic:

- Certain types of industrial and commercial growth are export oriented: for a given level of activity, employment, or land area, they bring more money into the region than other types of business. In general, large industrial uses tend to be export oriented; retail does not. [There are exceptions to that general conclusion for both industrial and retail users.] Professional services may or may not be: it depends on both the service and the characteristics of the specific business providing that service.
- If the region wants the economic benefits that the growth of traded-sector, export-oriented firms can provide, then it should facilitate their expansion.

³ Before the recent round of amendments, the language was “incompatible uses.”

⁴ Though Title 4 is explicit about the reasons for protecting *industrial* areas, it is not explicit about the reasons for protecting what it calls *Employment* areas. Presumably such lands also provide opportunities for family-wage jobs, presumably by allowing the industrial uses that Title 4 appears to associate with such jobs.

- The availability of industrial and commercial land (in location and quantities desired, and at prices deemed competitive) is a factor of production and a necessary condition for most industrial and commercial growth.
- Growth in traded-sector employment is, at least, not inconsistent with the desire to have growth in family-wage jobs.

If one accepts that logic (as I do), then economic development policy should focus on facilitating the growth (through expansion, start-up, or relocation) of firms that are bringing new money into the regional economy. Those firms may be large or small. In the 1970s the thrust of economic development policy was recruiting new, big firms. In the 1980s research showed that most growth came from small firms. By the 1990s the weight of the research suggested something in the middle: the start-up or expansion of small firms creates most of the growth, but big firms can be the catalysts for the expansion of those small firms (Intel is a good example for the Portland region).

There are many things public policy can do to facilitate the growth of the desired traded-sector firms. Most of them relate to reducing the costs of production.⁵ The key categories of factors of production are land, public services, labor, capital, and entrepreneurial skill. The public sector has programs that affect all of these: one can observe such programs at the state and local level throughout Oregon.

In that context, Title 4 is dealing primarily with one factor of production: land (and, indirectly, public services). In a typical production function for a traded-sector firm, the annualized cost of land, buildings, and public services (which might be considered the rent paid for space) is on the order of 5% to 20% of the total costs of production; most likely, 5% to 10%. So it is not a trivial cost, but not a dominant one. Labor is almost always the biggest cost. Capital costs (equipment) can be a large percentage of production costs for some high-tech firms. Taxes are bigger than land cost.

Nonetheless, Title 4 deals with land. What is the context for land availability and cost in the Portland metropolitan area? The dominating public-policy factor is the Urban Growth Boundary (UGB).

Urban economists generally agree about the theory of land markets, land prices, and the effect of a binding constraint on land supply (which is what the UGB is supposed to be). Land prices generally decrease as one moves from the central city to the fringe and beyond. They decrease because users of land (industry, office, retail, residents, government) value central locations more, because those locations reduce travel costs (for employees, raw materials, and finished products). They bid up the prices for central locations. As those prices increase, many users find they are better off by trading off the central location for lower land costs outside the center. The theory and empirical evidence is clear: office uses and retail will pay the most for land, followed by residential, and then by industrial. Industrial will pay less because it tends to need a lot of land relative to other uses, and to have less need for a central location.

That theory implies a smooth curve of declining land prices as one moves away from the central city. The reality is that there are lots of spikes in that smooth curve, in particular at subcenters of density. Gresham and Beaverton are subcenters. So is Kruse Way and the Sunset Corridor. Those subcenters typically exist where access characteristics (primarily highways) allow most of the transportation benefits of a central location without the higher land cost. That theory explains the higher prices of land around freeway interchanges.

⁵ There are also demand-side policies, which mainly relate to expanding or assuring the market for the goods or services produced. The public sector can buy locally, create marketing material for Oregon products, or send trade delegations to other states or countries. In our opinion, the supply-side (cost) policies are more direct and important.

In an unconstrained land market (no UGB), land prices would generally fall until they approximated the price of agricultural land: land so far away from the urban center and the availability of urban services that its highest use remains agricultural. In Oregon, UGBs were adopted in large measure because of the concern that urbanization would stretch a long way out. If UGBs are to have any effect, they must change the prices of land on both sides. Land values just outside a UGB drop toward agricultural land values because policy now says that urban services and the ability to do urban development will not be available any time soon. Land values inside a UGB increase because some land that was available for urbanization now is not (it is outside the UGB). This theory is corroborated empirically: the price of land can increase substantially (in rough terms, by a factor of 10) when it is brought into the UGB.

That market dynamic that is the context for our evaluation of Title 4. Higher land values in the UGB squeeze out the users who will pay the least for land. In general, those are the users that need a lot of land but do not need central locations: primarily manufacturing and warehousing.

The problem for public policy is that uses that pay the most for land are not necessarily the uses that are most important for economic development. In that regard, the state of Washington presents a more extreme and understandable illustration. Washington, unlike Oregon, has a sales tax. Local governments share in revenues generated by a sales tax. Thus, local governments have a strong fiscal incentive for providing land for and otherwise encouraging retail uses inside their limits: retail generates more in revenues than it imposes in costs for services.

That situation creates pressure for cities to rezone land from industrial to commercial retail, or to allow commercial retail uses to develop on industrially zoned land. Perhaps without realizing it, they are assuming that the regional economy will continue to function well because traded-sector businesses will find locations in other jurisdictions. They can take the revenues from retail, and leave to other jurisdictions the job of providing for the traded-sector (especially industrial).

Because Oregon does not have a sales tax, the situation is not that stark, but the problem is still there: if, for whatever reasons, local jurisdictions allow retail to outbid and squeeze out traded-sector uses, the overall economy could suffer. We believe that this is a fundamental problem that Title 4 is trying to address. We also believe it is a real problem, especially in the context of a binding UGB. The point I make later, however, is that the detailed prescriptions of Title 4 may not be addressing the problem in the best way.

KEY REQUIREMENTS OF TITLE 4

In an effort to preserve industrial and commercial land for industrial and commercial uses, Title 4 has the following provisions:

- To protect Regionally Significant Industrial Areas (RSIAs), local jurisdictions must delineate boundaries (consistent with Metro's generalized map) and then adopt policies that "limit development in the areas to industrial uses, uses accessory to industrial uses, offices for industrial research and development, corporate headquarters [with some limitations], utilities, and those non-industrial uses necessary to serve the needs of businesses and employees of the areas. Ordinances shall not allow financial, insurance, real estate or other professional office uses...." Metro is required to adopt specific boundaries for RSIAs by the end of 2003 (Ordinance 30-1022) which will be binding on local jurisdictions until they adopt more refined boundaries.
- Cities and counties are required to prohibit commercial retail uses: (a) of more than 20,000 square feet of retail sales area in a single building; or (b) occupying

more than five percent of the net developable portion of all contiguous Regionally Significant Industrial Areas.

- Office for industrial research and development is allowed if served by transit. A large corporate headquarters is allowed if it is served by transit and will initially accommodate at least 1,000 employees.
- A “lot or parcel” that is over 50 acres may be divided only if “the resulting division yields the maximum number of lots or parcels of at least 50 acres.” (Various exceptions for public facilities, natural resources, nonconforming uses, financing).
- Not all Industrial Land is “Regionally Significant” (3.07.430). On such land, “cities and counties shall limit new and expanded retail commercial uses to those appropriate in type and size to serve the needs of businesses, employees and residents of the Industrial Areas.” The same limitation of 20,000 square feet of retail sales area in a single building applies, but total retail limits increase to no more than ten percent of the net developable portion of the area or any adjacent Industrial Area.
- “Employment Areas” are also mapped (3.07.440) where “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.”
- Cities and counties are required to prohibit commercial retail uses 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.
- Certain exceptions are allowed: if the uses were authorized prior to 2003 and transportation is adequate; or if certain trip-generation and parking standards are met.

EVALUATION OF THE REQUIREMENTS OF TITLE 4

We are evaluating the requirements from an economic development perspective: what does Title 4 do to help or hinder achieving the objective of facilitating the growth of traded-sector, export-oriented, high-multiplier businesses in the region? [That objective is not explicitly stated in Title 4, but it should be. Title 4’s most clearly stated objective—to protect industrial lands because they “offer the best opportunities for family-wage industrial jobs”—appears, on the surface, consistent with the broader economic development objective I have stated. But it differs, and the differences are important.]

In that context, I am not very concerned about the restrictions Title 4 imposes on retail use for three reasons:

- It is hard to make the case that the region is somehow underserved with retail land: that consumers cannot buy what they want or need, or can only buy those things at prices that are demonstrably higher than those in other regions. A lot of retail development is about capturing existing share from existing retail establishments. Arguably, consumers benefit, but the benefits are unlikely to be large.
- Because the amount of money that consumers have to spend on retail is roughly fixed, their aggregate spending is unlikely to change much if new retail is built, so the economic effect on the region is small. We can think of two possible exceptions. If

a region somehow restricts the growth of retail square-footage by making the cost of development more expensive, people may shift to shopping outside the region, which they can do in one of two ways. First, they could physically shop in another region, taking some of their dollars out of the local economy. In the Portland metropolitan area, that would mean Clark County. But because of sales tax differences, the current net effect is probably for Clark County shoppers to shop in Oregon. Second, they could shop electronically. That trend is increasing; maybe a continuous rejuvenation of retail buildings can stem the leakage.

- Finally, the region does have other land that is planned and zoned for retail uses. Whether that land is sufficient in either a market or legal sense is not a topic that I am commenting on.

There is no doubt that certain types of retail development like industrial sites. In many cases they can get both good access and relatively low land prices. As I said, that's the problem for industrial users: retail developers can afford to outbid them for industrial land. If local zoning is permissive, then industrial (traded-sector) land will be lost to retail use.

Local zoning has to be clear that certain land will only be allowed to develop for traded sector uses. Since a comprehensive list of traded-sector uses would be hard to assemble, Metro's tack of defining instead what is *not* traded sector is reasonable. We agree that big-box retail is far enough from traded sector to be eliminated.

But Title 4 goes beyond retail prohibitions, and when it does it gets on less solid ground. Some of the impacts of Title 4 on "the growth of traded-sector, export-oriented, high-multiplier businesses in the region" are either unclear or potentially negative.

A problem, from the perspective of economic development theory as I have described it above, is that the approach regulates a functional categories of uses (e.g., industrial, commercial, retail), when the underlying policy rationale for the regulation is not about use, but about impacts (i.e., amount of new money in the economy; traded sector). Some industrial uses are purely or primarily local (a printing plant for a newspaper, a petroleum distribution facility). Some non-industrial uses are traded sector (a corporate headquarters, an R&D facility, a major office campus for a professional services firm). In the latter category might be many operations that would not initially (or perhaps ever) be "accessory to an industrial use".

The point is that the region ought to care less about whether the use is industrial, and care more about (1) whether the use is traded sector, and (2) whether it has a strong sub-regional locational preference. Not all 50-acre sites within the region are good substitutes for one another in the eyes of every traded sector industry.

In theory, the ideal policy is one that would directly address the issue of concern: making sure that land for traded-sector businesses is prohibited from being used by non- or low-traded-sector businesses that could bid more for the land (especially retail). That policy would require a list of either allowed or disallowed businesses, based on some assessment of their relative contribution to the regional economy by exporting goods and services and bringing out-of-state money into the economy.

In practice, that is no easy task, though it is not impossible. I have already done preliminary work on the topic, trying to identify desirable, export-oriented businesses based either on their economic multipliers (from input-output models like IMPLAN) or their location quotients (under the assumption that export-oriented firms would tend to specialize and have high location quotients).

Even if the technical task were doable, it would take time to complete and, more importantly, even more time to get through the standard process for getting agreement among the Metro and the 24 jurisdictions in the region.

Whatever direction the policy goes, the details matter. Consider some examples:

- We cannot tell from the language exactly some of it would be interpreted. One interpretation is that an industrial business could have all the office-based administration and R&D functions that it might want. Implicit seems to be a requirement that the ancillary business functions would have to be part of the parent company. The trend, however, is toward out-sourcing many business functions. Title 4 may lead to an odd situation where the land use and all its public service and economic impacts would be identical, but where their permissibility depends on who owns them.
- Restrictions on FIRE and professional services, including headquarters may or may not be a problem. If the restriction were to force all new businesses of this type into largely developed Town Centers, that would almost certainly be a drag on the region's economic development. It appears, however, that the restriction only applies in RSIs to new construction. But the relative amounts and locations of Metro's various categories of lands that can accommodate employment matters. If the amount of land in RSIs is relatively small, and if RSIs are bounded by Industrial Areas, Employment Areas, Corridors, Centers, and so that have ample land to accommodate in close proximity to the RSIs the uses that Metro wants to prohibit in RSIs, then the negative impacts on economic development may not be that great. They may be more than offset by the benefits of protecting the land for industrial uses. If the opposite is true (big RSIs with little surrounding land for the uses that are prohibited in the RSIs), then expect bigger negative impacts.
- It appears that all future subdivision of large parcels is prohibited. If I have this right, hypothetically a business could buy a large parcel, build on half of it, find no need to expand but a strong market from other traded-sector businesses for the other half of its parcel, and be unable to sell that half to those firms. It would have to sell the whole parcel: in other words, it would have to move.

In summary, Title 4 appears to have the right general objective: helping the regional economy by protecting industrial land. Despite all the cautions I have raised about the difference between "industrial" uses and "traded-sector" uses, a case could be made that there is a high degree of overlap: industrial uses will tend to be traded sector.

The problem is that the correspondence is not perfect. If the economy needs emergency medical treatment, operating with a meat cleaver and a hacksaw may be better than doing nothing at all, but expect some collateral damage.

A more refined solution is possible, but refinements take time. One could recast Title 4 to directly address the correct objectives: make it clear that some land can only be developed for use by businesses that are in traded-sector business categories, and in particular those traded-sector users that have large parcel needs in particular parts of the region. That definition would include most industrial uses, eliminate some, and add some other non-industrial uses that do a lot of exporting. The amount of that land with those restrictions would be relatively small, and it would be located in places that would allow it to be close ample buildable land zoned less restrictively for ancillary uses. Taking a firm position on allowable uses (especially by eliminating most possibility of conversion retail use) would reduce speculation and land price, and potentially bring more land on to the market. Alternatively, or in addition, policies regarding public service requirements and costs, and taxes and fees, would be structured to encourage the type of uses desired, and further decrease speculation.



J O H N S O N
G A R D N E R

520 SW Sixth Ave. Suite 914 Portland Oregon 97204

503 295 7832 fax 503 295 1107

November 10, 2003

Mr. David Bragdon
Metro Council President
Metro
600 NE Grand Avenue
Portland, OR 97232-2736

Dear Mr. Bragdon:

I am writing this letter to express my concern regarding remarks reportedly made regarding the Regional Economic Development Partners. I have been involved in the forecasting of land requirements in the Oregon State Land Use System for the last fifteen years, for clients including Metro and many local jurisdictions, and understand more than most the complexities of this type of work. Developing a more comprehensive regional understanding of land needs and the implications of land use policies is critical for the future of our land use system, and I believe that the contributions of groups such as the Regional Partners are highly important to this end.

Initial regional efforts to model land needed to accommodate employment were primitive at best, as Metro's primary forecasting focus was on residential needs. The Regional Industrial Lands Study represented a significant advance in the evaluation of the need for industrial land in the metropolitan area. This was the first major effort by the region to better understand the magnitude and character of need for employment land, although limited only to industrial land needs.

The composition of future demand for employment land in the metropolitan area is extremely difficult to forecast. Existing modeling efforts, including the RILS, are largely based on trend forecasts, looking backward to project the future. In reality, the demand for employment land is a function of a complex interaction of firm level decisions. These include decisions regarding current firm space needs, space needs over time, ownership options and the geographic allocation of firm functions. Firms require not only the ability to meet their current space needs, but also some level of confidence that they can meet their anticipated needs. Overly prescriptive restrictions on allowable uses on a site limit a firm's future flexibility, and increasingly important aspect in making a location decision.

The ability of anyone to forecast the aggregate impact of these decisions is extremely limited, a fact recognized by those with an understanding of land use modeling. Defining land use demand into simple categories such as industrial or office does not reflect the current realities of firm-driven demand. Office, research and development, manufacturing and warehouse functions are often found in the same facility, making categorization using dated land use categories difficult.

Over the last decade, a significant effort has been made to improve the Region's ability to understand and anticipate land needs, much of which has been spearheaded by Metro's excellent staff. This effort has been supported and greatly enhanced by the participation of groups such as the Regional Economic Development Partners. This group brings a wealth of experience and knowledge to this regional effort, and its contributions add significantly to the local knowledge base needed to inform public policy. I sincerely hope that Metro considers its partners as just that, as opposed to a group to be overcome.

Sincerely,

Jerald W. Johnson
Principal
Johnson Gardner LLC

Exhibit B to Ordinance No. 02-983BA
Conditions on Addition of Shute Road Site to UGB

1. Washington County or, upon annexation to the city of Hillsboro, the city shall complete the planning required by Metro Code Title 11, Urban Growth Management Functional Plan (UGMFP), section 3.07.1120, for the Shute Road site ("the site") within two years following the effective date of this ordinance.
2. Washington County or, upon annexation to the city of Hillsboro, the city shall apply interim protection standards to the site as provided in Metro Code Title 11, UGMFP, section 3.07.1110.
3. The site, as described in this ordinance, shall be designated Regionally Significant Industrial Area on the 2040 Growth Concept Map and shall be subject to Title 4 of the UGMFP of the Metro Code.
4. Washington County or, upon annexation to the city of Hillsboro, the city shall adopt provisions in its comprehensive plan and zoning regulations – such as setbacks, buffers and designated lanes for movement of slow-moving farm machinery - to ensure compatibility between industrial uses on the site and agricultural practices on land zoned for farm use to the west and northwest of the site.
5. The city of Hillsboro shall, within two years after the effective date of this ordinance, demonstrate that it has capacity to accommodate the additional dwelling units, as determined in Title 11 planning for the site, likely to be generated by the employment capacity of the site. The city may demonstrate this additional capacity through any measure or set of measures it chooses, including a Center Strategy pursuant to Title 6 of the UGMFP, in any or all of these design type designations: the Hillsboro Regional Center, Tanasbourne Town Center, Orencia Town Center, Station Communities, Corridors or Main Streets.
6. Neither the county nor the city of Hillsboro shall allow the division of a lot or parcel in the site to create a smaller lot or parcel except as part of the plan required in Condition 7 to reconfigure all of the lots and parcels that comprise the site.
7. Washington County or, upon annexation to the city of Hillsboro, the city shall, as part of Title 11 planning for the site in conjunction with property owners and affected local governments, develop a lot/parcel reconfiguration plan that results in (1) at least one parcel that is 100 acres or larger, or (2) at least three parcels 50 acres or larger. In either case the remainder of the site shall be configured pursuant to section 3.07.420 of Title 4 of the UGMFP, providing for protection of the portion of the site subject to Title 3 of the Metro Code.
8. Neither the county nor the city shall allow new commercial retail uses on the site. The county or the city may allow commercial office uses accessory to and in the same building with industrial uses.
9. Washington County or, upon annexation to the city of Hillsboro, the city, as part of Title 11 planning for the site, shall limit industrial uses on the parcels 50 acres or larger on the site that result from the reconfiguration plan required by Condition 7 to high-technology product manufacturing, either as the main activity or in conjunction with experimental product research, testing or prototype production, or other high-technology industrial uses that need a dependable and uninterrupted supply of specialized, dual-feed electric power or nitrogen gas. The county or city shall limit industrial uses on parcels smaller than 50 acres that result from the reconfiguration plan to those that are supportive of the industrial uses described above.

DRAFT 10/13/2003

- The information in this map will serve to protect digital documents from the U.S. Copyright Office's review of this map. Maps to protect digital documents from the U.S. Copyright Office's review of digital documents are not to be used for any other purpose, including the creation of new digital documents. The information in this map will serve to protect digital documents from the U.S. Copyright Office's review of digital documents.

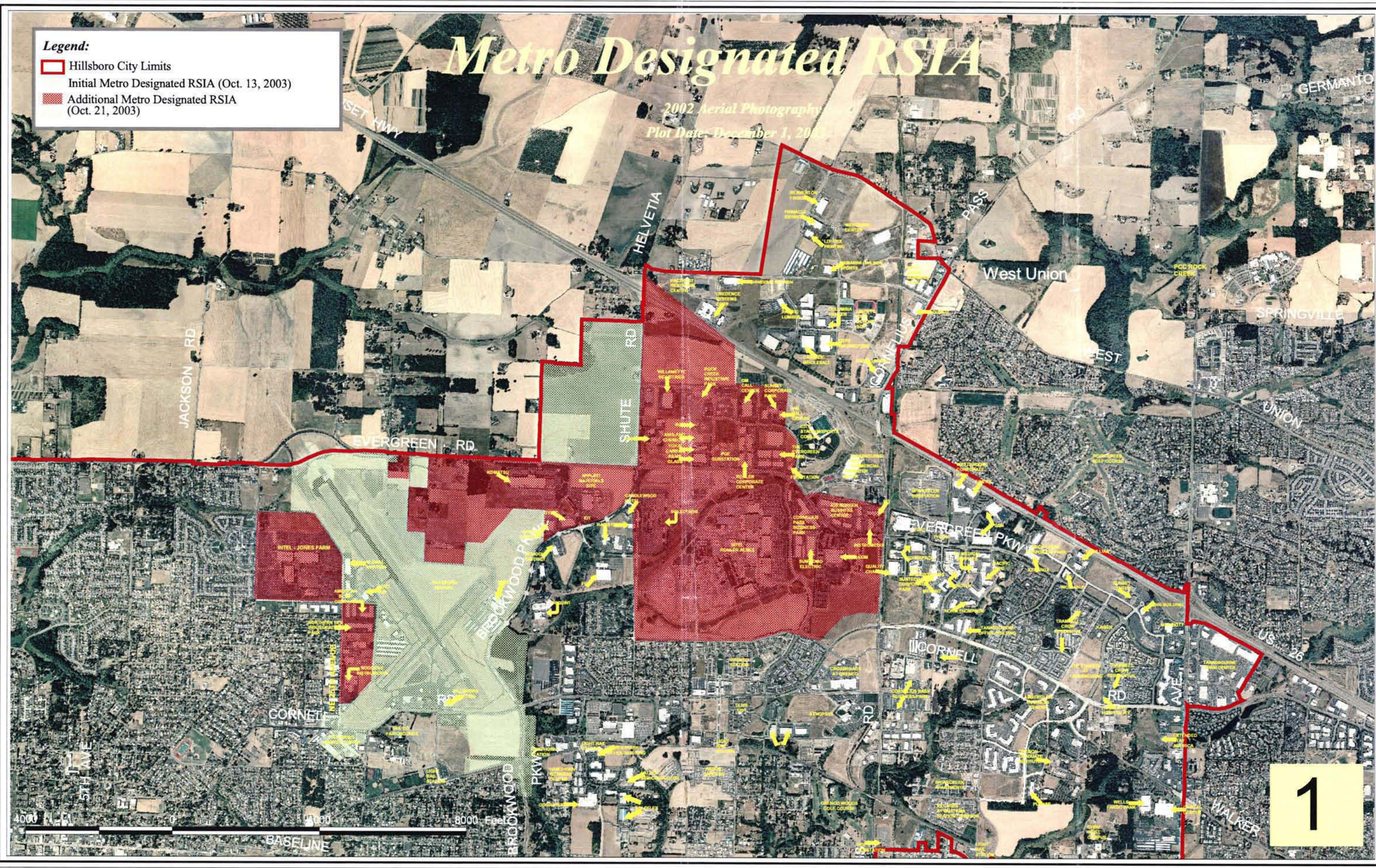


METRO DATA RESOURCE CENTER
301 NORTH EAST GAVIN AVENUE PORTLAND, OREGON 97202-2796
TEL: 503/751-1140 FAX: 503/287-1806
E-MAIL: metro@metrodata.com www.metrodata.com





Metro Designated RSIA

2002 Aerial Photography
Plot Date: December 1, 2003

- Legend:**
- Hillsboro City Limits
 - Initial Metro Designated RSIA (Oct. 13, 2003)
 - Additional Metro Designated RSIA (Oct. 21, 2003)

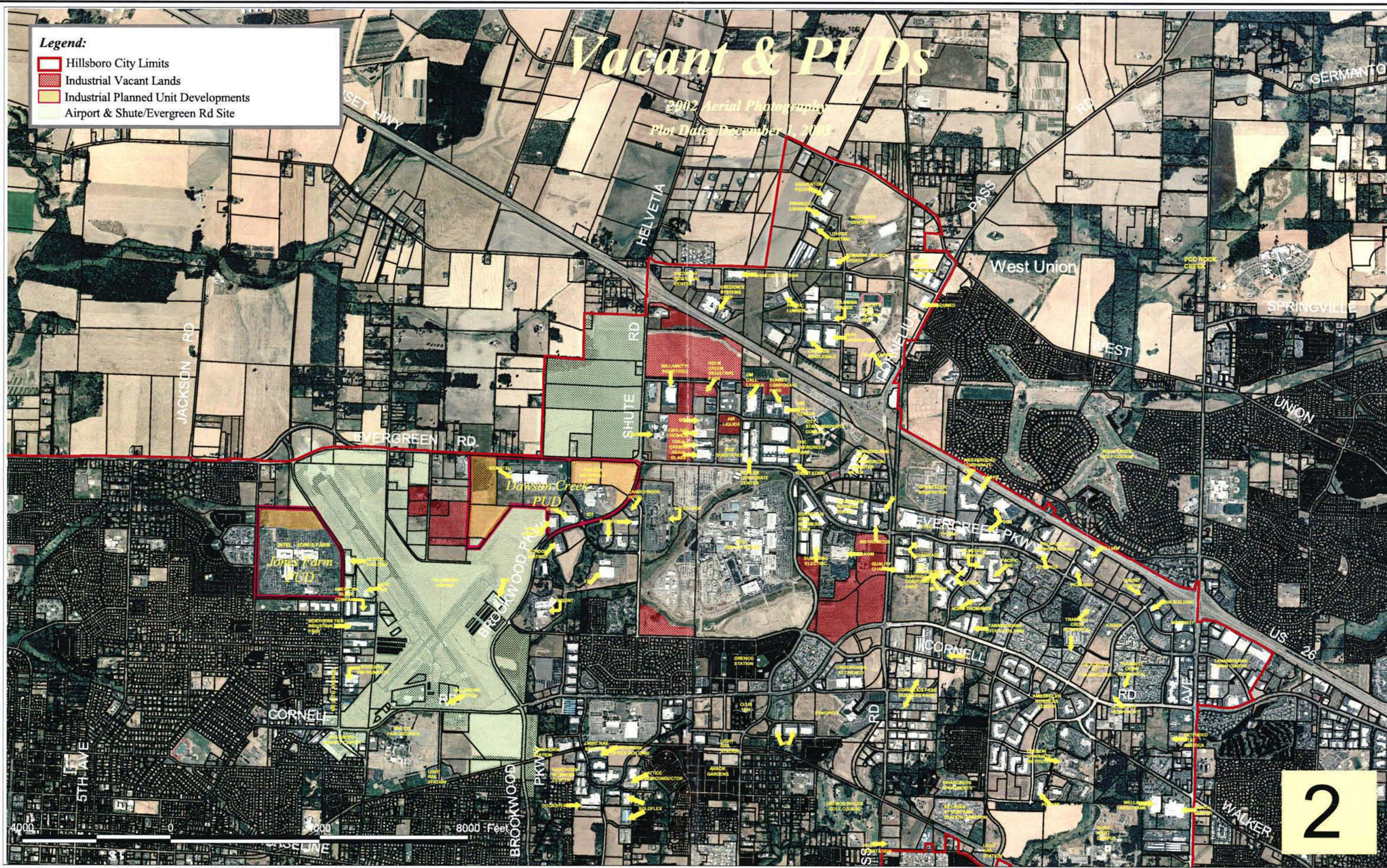


Legend:

-  Hillsboro City Limits
-  Industrial Vacant Lands
-  Industrial Planned Unit Developments
-  Airport & Shute/Evergreen Rd Site

Vacant & PUDs

2002 Aerial Photography
Plot Date: December 1, 2002



Legend:

- Hillsboro City Limits
- Vacant Land
- Expansion Area of Developed Site

Vacant Lands & Expansion Area of Developed Site

Shute Rd - Evergreen Rd Site Subject to Special Regulations

2002 Aerial Photography

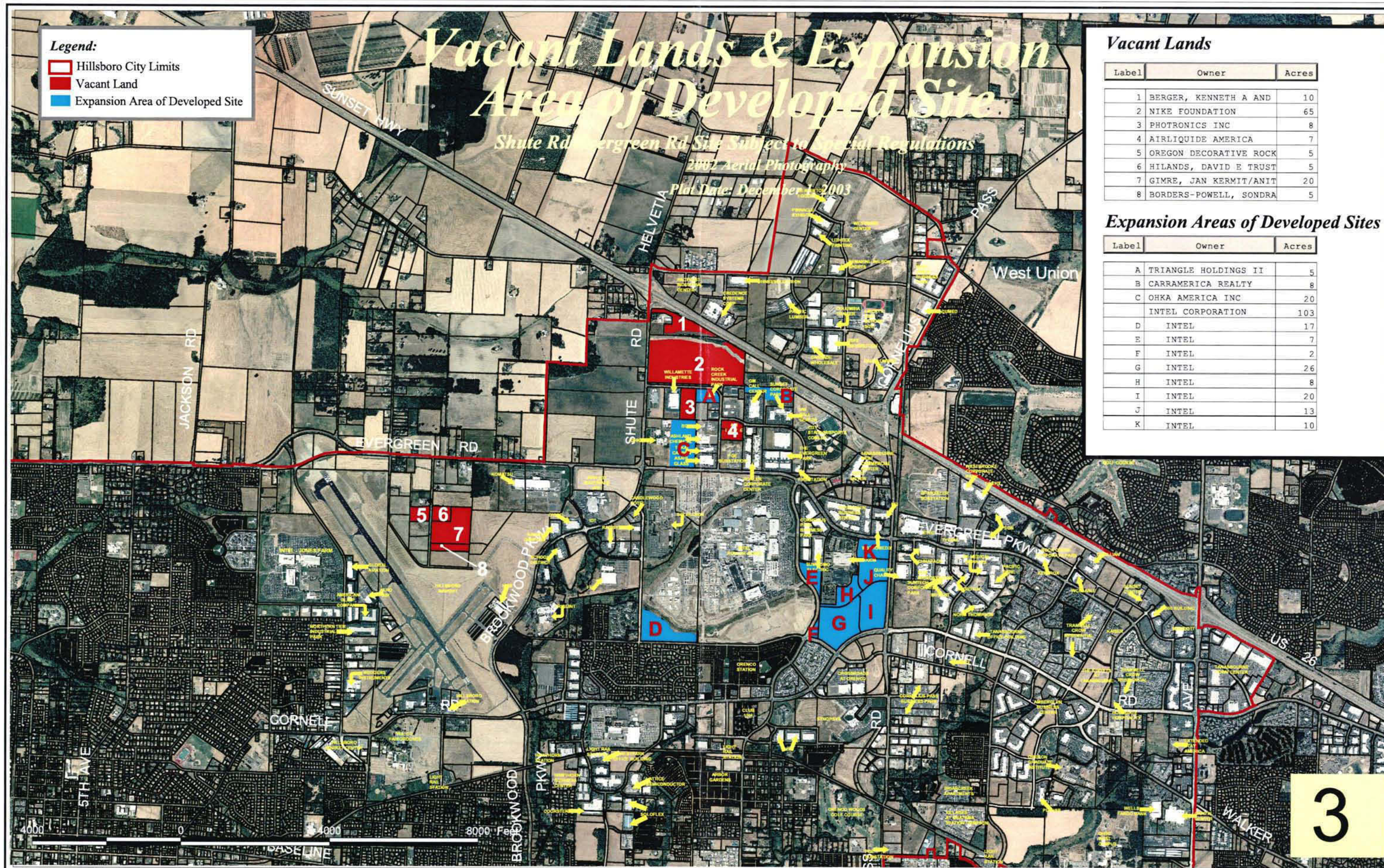
Plot Date: December 1, 2003

Vacant Lands

Label	Owner	Acres
1	BERGER, KENNETH A AND	10
2	NIKE FOUNDATION	65
3	PHOTONICS INC	8
4	AIRLIQUIDE AMERICA	7
5	OREGON DECORATIVE ROCK	5
6	HILANDS, DAVID E TRUST	5
7	GIMRE, JAN KERMIT/ANIT	20
8	BORDERS-POWELL, SONDR	5




Expansion Areas of Developed Sites

Label	Owner	Acres
A	TRIANGLE HOLDINGS II	5
B	CARRAMERICA REALTY	8
C	OHKA AMERICA INC	20
	INTEL CORPORATION	103
D	INTEL	17
E	INTEL	7
F	INTEL	2
G	INTEL	26
H	INTEL	8
I	INTEL	20
J	INTEL	13
K	INTEL	10



3

2002 Aerial Photography
Plot Date: December 1, 2002

 Hillsboro City Limits
 Lots Greater Than 50 Acres
 Expansion Area of Developed Site
 (Lots Greater Than 50 Acres)





12040308

534 SW Third Avenue, Suite 300 • Portland, OR 97204 • (503) 497-1000 • fax (503) 223-0073 • www.friends.org
Southern Oregon Office • P.O. Box 2442 • Grants Pass, OR 97528 • (541) 474-1155 phone/fax
Willamette Valley Office • 388 State Street, Suite 604 • Salem, OR 97301 • (503) 371-7261 • fax (503) 371-7596
Lane County Office • 120 West Broadway • Eugene, OR 97401 • (541) 431-7059 • fax (541) 431-7078
Central Oregon Office • P.O. Box 8813 • Bend, OR 97708 • (541) 382-7557 • fax (541) 382-7552

December 4, 2003

Metro Council President David Bragdon
Metro Council
600 SE Grand Avenue
Portland, OR 97232

Re: Ordinance No. 03-1021

Dear President Bragdon and Council Members:

Thank you for the opportunity to comment on the Council's efforts to protect industrial lands in the region. We want to thank your staff – especially Dick Benner and Mary Weber - for all the time they have put into what has been a moving target. Our comments today are necessarily preliminary because the potential amendments to Title 4 are a work-in-progress. The MTAC subcommittee on this, of which we are a member, will be meeting this coming Monday to see if we can find common ground on some issues, and MPAC will be taking it up next week. We hope that the Council will keep the record and/or hearing open in some manner to see if further resolution can be found.

Therefore, we will highlight some of our overall perspectives, noting that our view on any one element depends on what the overall package looks like.

- There needs to be a resolution of whether large lots for industrial uses (50 acres +) are actually needed. The RILS study concluded that the region was short on such parcels, and recommended adding about 14 or 15 more such sites. Metro's Employment UGR concluded there was a need for 14 lots of 50+ acres. However, the UGR also noted that this need was based entirely on "the assumption that past pattern of firm-sizes and lot sizes is repeated in the future." This has been driving the Council's look for large lots, and particularly driving it to look at agricultural lands. However, when protection for such lots was actually proposed in the RSIA code language, local governments and industrial users and developers have balked, asking for flexibility in lot size to one degree or another. The region cannot have it both ways – either it needs a fair number of 50+ acre sites or it does not.

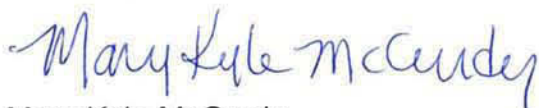
We are of the opinion that the need for 50+ acre sites is overstated, primarily because it is based on a type of industrial land use that we are not going to see much more of in the country, much less the region, in the

future. The changing nature of manufacturing means that most production will be offshore, while research & development, proto-type development, and other knowledge-based work will be done here. That type of work can take place in a variety of building and parcel types, and does not need a large, 1-story building for manufacturing. Therefore, we are open to looking at the ability to divide parcels below 50 acres, if that is also reflected in the Council's definition of what types of industrial lands it is looking for in evaluating the need for a UGB expansion for industrial use. We are also more open to smaller industrial parcels if the Council keeps a tight lid on the types and amounts of non-industrial uses that occur in the RSIA and Industrial areas.

- We do not support allowing non-corporate headquarters or non-industrial "administrative" offices (call centers, financial processing centers, etc...) in the RSIA's. These are appropriate users for employment areas, corridors, and centers.
- We support industrial headquarters and research and development uses in the RSIA's.
- We do not support allowing the conversion of any building in an RSIA existing or authorized as of July 7, 2004, to convert to a financial, insurance, real estate, or other professional office use. This is a huge loophole in what is suppose to be a regionally significant industrial area. These uses do not need to locate in such areas, and in fact are better suited to centers and corridors because of their need to be accessible to the public.
- There should be some allowance for retail and commercial uses that serve the employees or industries in the RSIA's, within a certain cap.

We hope to have the opportunity to comment further. Thank you for consideration of our testimony.

Sincerely,



Mary Kyle McCurdy
Staff Attorney

December 4, 2003

David Bragdon
President, METRO Council
600 Northeast Grand Ave.
Portland, Oregon

SUBJECT: R.S.I.A.

Dear Mr. Bragdon:

I am writing concerning a property that my family owns. It is an approximate 45 acre parcel located on the Southeast quadrant of Hogan and Palmquist in Southeast Gresham, and is further illustrated on Exhibit A. The purpose of this letter is to request that you remove this property from your list of Regionally Significant Industrial Areas.

We have been actively trying to sell this property since 1997, at which time we had approximately 60 acres. In the last 7 years we have sold 12 acres to the Gresham Barlow School District in a land swap, and have sold 3 acres to a self storage development company.

During those years we have always worked closely with the City of Gresham and their economic development department. In addition to our efforts and the efforts of our real estate brokerage firm, the City of Gresham has also always worked very hard to market this almost 50 acre parcel, including extensive interactions with Portland area and state wide economic development agencies.

Even with all of this marketing effort, we have only done the above two transactions. And this is for industrial zoned property available in 1 to 45 acre parcels that are fully road and utility served, priced at \$3.75 per square foot.

There are three specific reasons that we and the City of Gresham want this property removed from the list of Regionally Significant Industrial Areas.

First, as outlined above, we have tried to sell the property as industrial zoned property, and have been unable to.

Second, the property is removed from a major thorough fare, requiring travel on two lane roads through residentially zoned properties.

Third, and most importantly, the property has many industrially challenging zones and uses located adjacent to it. These include a magnet high school, an elementary school, an outdoor sports recreation park, high density single family detached dwellings, and high density apartments.

Invariably, the users and developers that have looked at the property through the years have also looked at the access and the surrounding uses, and have declined the opportunity to get involved with the property.

In recognition of these challenges, our interactions with the City of Gresham over the last couple of years have actively included the discussions of uses alternative to its current industrial zoning. Recently, this has included participation in the Springwater Community Plan project, where we hope to identify the best use for this property relative to the master plan for the balance of the Springwater Corridor. While this process may result in the identification of the property as industrial, we are hoping that some form of mixed use be-fitting the new gateway to the Springwater Corridor may also be considered.

To summarize:

- The parcel has been marketed as industrial zoned property since 1997 and is essentially un-salable.
- The property has access and transportation issues.
- The property has significant adjacent use issues.
- We have worked closely with the City of Gresham throughout this sales process, which is why they also recommend removal of the Regionally Significant Industrial Area designation.
- We are actively participating in the Springwater Corridor Project planning process, and would like to determine the outcome of this procedure without the forced pre-disposition to a total industrial zoning.

For all of the above reasons, we plead with you to please remove this parcel from your list of Regionally Significant Industrial Areas.

Sincerely,

A handwritten signature in black ink, appearing to read "David Jarrett", with a stylized flourish at the end.

David Jarrett

C: Mayor Charles Becker, City of Gresham

C.B.W. Business Center

Ready to Build Sites

Hogan & Palmquist Rd ❖ Gresham, Oregon



Property Highlights

- 1 - 48 +/- acres
- Sites with road and utilities in place
- Zoned Heavy Industrial
- Other zoning possible
- See reverse for representative sites and prices

FOR ADDITIONAL PROPERTY INFORMATION, CONTACT:

Mark Childs, P.E., SIOR
503-345-0321
markc@intfac.com

Information contained herein has been obtained from sources we deem to be reliable. We do not, however, guarantee its accuracy.

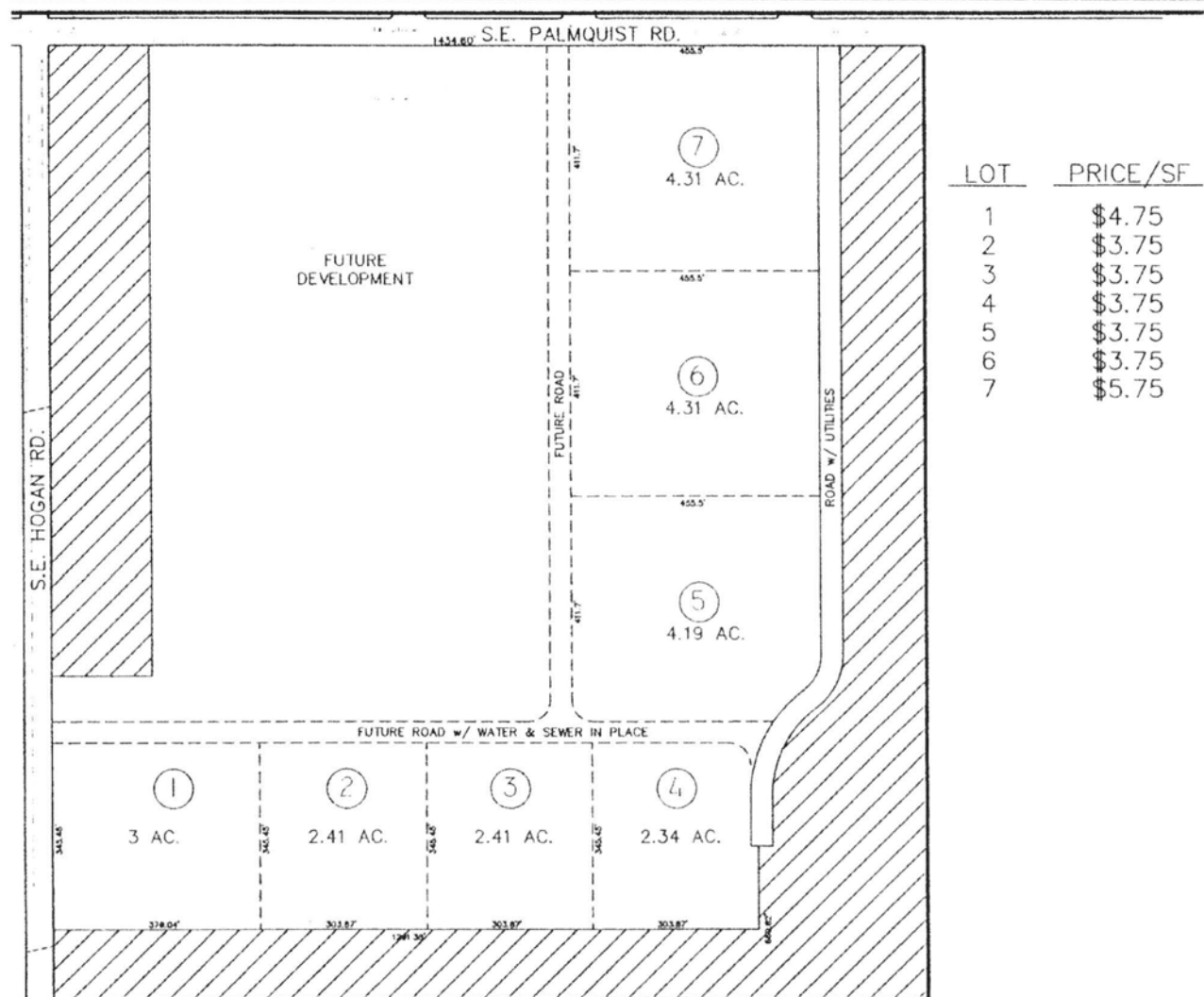


INTEGRATED COMMERCIAL, INC.
7754 SW CAPITOL HWY. ❖ PORTLAND, OR 97219
Visit our website: www.theintegratedcompanies.com

C.B.W. Business Center

Ready to Build Sites

Hogan & Palmquist Rd ❖ Gresham, Oregon



FOR ADDITIONAL PROPERTY INFORMATION, CONTACT:

Mark Childs, P.E., SIOR
503-345-0321
markc@intfac.com

Information contained herein has been obtained from sources we deem to be reliable. We do not, however, guarantee its accuracy.



INTEGRATED COMMERCIAL, INC.

7754 SW CAPITOL HWY. ❖ PORTLAND, OR 97219

Visit our website: www.theintegratedcompanies.com

**TESTIMONY TO THE METRO COUNCIL RELATED TO
REGIONALLY-SIGNIFICANT INDUSTRIAL AREAS (RSIA) (12/4/03)**

Good afternoon, I am Beverly Bookin, The Bookin Group, 1020 SW Taylor Street, Suite 760, Portland 97205. I am here today on behalf of the Commercial Real Estate Economic Coalition (CREEC) and its stakeholders that are involved in the sale, development and management of retail, office, institutional and industrial properties. I am also a member of the MTAC Ad Hoc RSIA group that has been meeting since early November to resolve the outstanding issues related to the establishment of RSIA's, including proposed modifications of the Title 4 text and map.

First, let me reiterate the position of the private-sector stakeholders that I represent with regard to the RSIA regulations. We:

- Support the findings in the RILS study regarding both the need to preserve industrially-zoned land for industrial purposes and to create an adequate supply of larger sites. Our concerns are not about the RSIA approach per se, but the potential for unforeseen consequences that could have a deleterious impact on the region's economic recovery.
- Do not want to impede the completion of Task 3 to add up to 2,800 gross acres of industrial land to the regional supply. We recognize that the RSIA approach – that is protection of the existing industrial land inventory within the UGB – is the one we have selected to meet the legal and political requirements to justify further expansion.

It is for this reason that CREEC asked me to serve on the MTAC Ad Hoc RSIA Committee. The private-sector interests that I represent want to be a part of the solution, that only can be achieved through continued consensus-building with our public partners. The proposal you have before you, containing two options, is a "work in progress". We are hoping to have some input from you today to provide us some guidance with the intent of meeting at least once early next week to refine our proposal for presentation to MPAC at its 12/10/03 meeting. As a result, CREEC is not prepared today to take a position on this proposal until it is more fully developed. We hope that the Council will either continue the hearing on these resolutions or at least keep the public record open for two weeks, until 12/18, so that all of the public and private stakeholders have adequate time to review MPAC's recommendation and prepare their responses.

In the interim, let me share with you the four issues that still give CREEC some concern:

- "One-size fits all approach". There is wide variability in the age and nature of the industrial areas in our region. Portland has the oldest industrial areas, including most of the region's heavy industries – metal fabrication, grain terminals, transportation equipment manufacturing and tank farms. Some of this is historical but mostly this is because Portland has a disproportionate share of the region's regional transportation facilities, including the Portland Harbor. Suburban industrial areas, including those in Tualatin, Hillsboro, Wilsonville and Gresham, are predominantly contained in office and flex-space complexes. Unfortunately, it is very difficult to develop a set of RSIA regulations that reflects these differences.
- Definition of "industrial". We are significantly hampered by the definition of "industrial", in the face of regional, national and global economic trends. We do know that we have to expand the definition to include a broad range of uses – biotechnology, nanotechnology, research/development, prototype manufacturing and software/digital production – that are primarily conducted in office or flex-space environments, but drawing the line between these "office" uses and non-industrial offices is proving to be very difficult. Moreover, our definition of "industrial" should also include non-industrial uses critical to the success of industrial areas, e.g., utility substations, fire stations, community college work training centers and occupational medicine clinics. We are hoping that the Greater Metropolitan Employment Lands Study (GMELS), the first phase of which is due to begin early next month, will begin to resolve this issue for use in our future planning efforts. If time permits, I would love to have an opportunity to update you on this project at the end of my testimony.

- Establishment of non-industrial "caps" in RSAs and other Title 4 Industrial Areas. In theory, establishing a stringent cap on all non-industrial uses in RSAs and a less stringent cap in Industrial Areas, holds promise, because 1) it insures that a vast majority of development in these areas will be reserved for industrial use; and 2) because it leaves it to local jurisdictions to decide the appropriate range and intensity of these uses in their respective industrial zones. In practice, establishing the base condition and tracking the compliance to the cap in each district over time creates significant methodological problems.
- Flexibility in further subdivision of "large sites". Although CREEC reconfirms the need to provide an adequate supply of large industrial parcels, it is critical that there be some flexibility in re-subdividing these sites once a target tenant is identified. A large company may initially want a larger site to land-bank for future expansion only to find that it can improve efficiency in its current facilities and doesn't need to expand; is caught in an economic turn-down and must sell off assets; or some other unanticipated circumstance. Moreover, over time, we want anchor tenants to become a magnet for other businesses, whether it is business partners, spin-off companies or suppliers. Without the subsequent ability to re-divide large sites, we are creating a significant impediment to the retention and attraction of new business enterprises.

Although I am not yet authorized to take a position on the MTAC "work-in-progress" proposal, I can say that we are leaning towards Option 2, reducing the mapped RSAs to those adjacent to major regional freight facilities, even though this means increasing the level of regulation in other Industrial Areas, as this is necessary to make sure that we can identify the 1,400 acres of industrial land within the UGB so that we can justify the Task 3 expansion to bring in the additional 2,800 gross acres.

Thank you for the opportunity to share our concerns in this important matter. I will be glad to respond to your questions as well as update you on the GMELS project.

PRESIDENT
MIKE SCHMID
kpft CONSULTING ENGINEERS

VICE PRESIDENT
JIM EDWARDS
BIRCHER PROPERTY SERVICES

SECRETARY
JACK ORCHARD
BALL JANIK LLP

TREASURER
JACK REARDON
WASHINGTON SQUARE

PAST PRESIDENT
M. JAMES MARK
MELVIN MARK COMPANIES

DIRECTORS

DAVID BENNETT
LANDYE BENNETT BLUMSTEIN

STEVE CLARK
COMMUNITY NEWSPAPERS

DIANA DAGGETT
INTEL CORPORATION

LOIS DITMARS
PETERKORT TOWNE SQUARE

NORM EDER
CONKLING FISKUM & MCCORMICK

DON ELSOM
PROVIDENCE ST VINCENT MEDICAL CENTER

TROND INGVALDSEN
STANDARD INSURANCE COMPANY

JOHN KAYE
TEKTRONIX, INC.

DICK LOFFELMACHER
PAC TRUST

JIM PETSCHIE
NIKE, INC.

DEAN RANDALL
VERIZON NORTHWEST

JOHN REES
REES & ASSOCIATES

BRIAN RICE
KEY BANK

RANDY YOUNG
NORRIS BEGGS & SIMPSON

TOM BRIAN
WASHINGTON COUNTY

ROB DRAKE
CITY OF BEAVERTON

DAVID LAWRENCE
CITY OF HILLSBORO

LOU OGDEN
CITY OF TUALATIN

BETTY ATTEBERRY
WESTSIDE ECONOMIC ALLIANCE

SUSTAINING MEMBERS

AMBERGLEN BUSINESS CENTER
CENTRAL BETHANY DEVELOPMENT
EQUITY OFFICE
FELTON MANAGEMENT CORP
INSIGNIA/ESG
INTEL CORPORATION
MELVIN MARK COMPANIES
NIKE, INC.
PAC TRUST
PORTLAND GENERAL ELECTRIC
PROVIDENCE HEALTH SYSTEM
PS BUSINESS PARKS
QWEST COMMUNICATIONS
STANDARD INSURANCE COMPANY
TEKTRONIX, INC.
TRAMMELL CROW RESIDENTIAL
VERIZON NORTHWEST
WASHINGTON SQUARE



Serving the economic communities of the Sunset Corridor and the Tualatin Valley

December 4, 2003

President David Bragdon
Metro Council
600 NE Grand Avenue
Portland, OR 97232

RE: Regionally Significant Industrial Areas

Thank you for the opportunity to comment on the Regionally Significant Industrial Area (RSIA) language and mapping.

In today's economic climate this state—the Governor's office and the Oregon legislature—and the region through Regional Partners and local jurisdictions have spent considerable time analyzing and identifying the factors that will lead to a healthy economic climate for the region and the state.

There has been a focus on having certified shovel ready industrial land and a streamlined regulatory process. One of the Alliance's goals has been to have an adequate supply of land to meet the needs of expanding industry clusters—providing job opportunities, sustaining the economic health of the area. What we heard at the Oregon Business Summit Monday was the need to have land use policies that are simpler, more certain and cost less. We strongly agree. Our concern is that the RSIA regulations are counter to a streamlined process—that it adds another set of rules to what already exist at the local jurisdictional level.

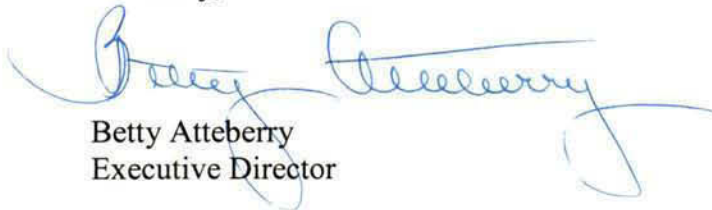
During the process of bringing in additional industrial land there was a concern raised regarding encroachment by other uses. That concern does not seem to be as serious as had been expressed earlier. Very little encroachment has occurred on the Westside and we believe the jurisdictions have been very vigilant on this issue having regulations in place so violations do not occur. In fact we believe local jurisdictions are the best manager of this process as each jurisdiction has its own set of industry clusters and works closely with each to identify their needs.

We believe any regulations to protect industrial use should be implemented at the local jurisdictional level and as such our recommendations are:

- 1) Maintain the existing RSIA map (adopted in December 2002).
- 2) Continue the discussion on RSIA over the next few months focusing on performance measures for local jurisdictions that are centered on loss of industrial land and size of existing parcels. Rather than adopt a second layer of regulations Metro should adopt performance standards to measure each jurisdictions capacity to protect designated land uses from encroachment by other uses.

Again we thank you for this opportunity to express our concerns. We look forward to working with you to reach a solution to this issue.

Sincerely,



Betty Atteberry
Executive Director



Southwest Neighborhoods, Inc.

7688 SW Capitol Highway, Portland, OR 97219 (503) 823-4592

December 3, 2003

Metro Regional Center
600 NE Grand Ave
Portland, OR 97232

Our coalition of 16 neighborhoods serving Southwest Portland has reviewed the RTP as posted on your website. We have also coordinated our concerns with the Portland Bureau of Transportation planning staff.

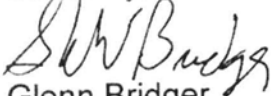
- Southwest Portland is behind the rest of the metropolitan area regarding the transportation infrastructure serving the communities. Within Portland itself, 45% of the substandard arterials in the entire city are within Southwest Portland, even though it comprises only about 1/7th of the land area. Pedestrian facilities, so important to our school children and our transit system, as well to air quality and personal health, are almost non-existent, with only 15+/-% of the city streets having sidewalks. Priority funding to bring Southwest Portland up to the standard of the rest of the metropolitan area must be provided if progress is to be made to counteract this historic neglect. These improvements can be accomplished in accordance with the Portland Transportation System Plan (TSP) but only if both the City and Metro provide funding.
- Comprehensive project development concept plans have been carried for three major project areas during the past decade in Southwest Portland. These are for Capitol Highway, Barbur Boulevard Streetscape, and South Portland Circulation.
 - Capitol Highway Plan. This is the oldest of these priority plans. Project funding to complete this construction has not been incorporated into the funded portion of the RTP. Specifically, The Portland TSP 90029 and 90070 need to be given immediate funding priority within the RTP, and RTP# 1202 must be retained.
 - Barbur Boulevard Steetscape Plan. This 1999 project to create a series of safer pedestrian crossings as well as construct longitudinal sidewalks along this major trafficway was to have

commenced upon plan completion. It hasn't, with only one crossing constructed in 4 years. This project appears to be RTP# 1199. It should have been completed prior to the current reconstruction of I-5 through the corridor and the construction of the ITS system designed to handle the added traffic demands of this corridor, but these projects were funded while the community and personal safety needs were not. Recommend immediate full funding. Note that subsequent studies of this corridor are also being recommended in the RTP, but the value of these improvements will be unaffected the results of those studies.

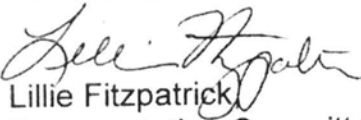
- South Portland Circulation Plan. This plan is contained in the RTP as #1027, with full funding at \$28,293,000. This is better handled as a series of projects, with those elements adding to the transportation infrastructure, such as the pedestrian bridge over Interstate 5 and the safer access to the Ross Island Bridge receiving priority and funding during the life of this RTP, and the other elements moved to the priority classification.
- In addition to those projects contained within specific plans, we offer comment on the following projects in the Portland TSP or in your RTP.
 - We strongly support RTP# 1211, Garden Home Road, SW (Capitol Hwy-Multnomah and RTP# 1189, Beaverton Hillsdale Hwy at 62nd Ave pedestrian improvements and urge the construction of these in the immediate future. These intersections are extremely dangerous at this time.
 - We urge Metro to consider moving RTP#'s 1176 and 1177 to the 2004-2009 time frame.
 - The recently identified safety improvements (guardrails) to Boonesferry Road and Arnold Street need to be added to both the TSP and RTP.
 - RTP# 1181, "Beaverton-Hillsdale Highway ITS" needs to have its description clarified to "Capitol Highway/Beaverton-Hillsdale Highway ITS". The project location appears to start on Capitol Highway as it includes Terwilliger within the project description. The Beaverton-Hillsdale Highway does not intersect Terwilliger, and the project most likely incorporates the signal at Capitol Highway and Terwilliger. Further, any ITS improvements that project excess traffic must be accompanied by adequate pedestrian facilities when placed in an urban setting such as this. Accordingly, the cost of this project needs to be increased to include the construction of any missing sidewalk and street crossing sections.
 - Key projects for moving traffic through SW Portland have not been included within the 2025 RTP Financially constrained system. These projects would provide relief to the I-5/Barbur/South Portland

- corridor. Specific items that should be brought into the funding umbrella to assure their construction are RTP#'s 1004, 1031, 1195, and 1196.
- Barbur Boulevard structures over Vermont and Newberry, in the vicinity of the northerly Capitol Highway/Barbur intersection. Five years ago ODOT performed emergency repairs to these structures while heavy traffic was detoured through residential areas. They indicated at that time the remaining physical life of these timber structures was 10 years. Reconstruction of these structures, with the addition of appropriate bike and pedestrian facilities, must be included in the immediate time frame.
 - Key projects for moving traffic through SW Portland have not been included within the 2025 RTP Financially constrained system. These projects would provide relief to the I-5/Barbur/South Portland corridor. Specific items that should be brought into the funding umbrella to assure their construction are RTP#'s 1004, 1031, 1195, and 1196.

Sincerely,



Glenn Bridger,
President, SW Neighborhoods, Inc.



Lillie Fitzpatrick,
Transportation Committee Chair,
SW Neighborhoods, Inc.

cc: John Gillam, Laurel Wentworth

From: "Chris Smith" <chrissm@easystreet.com>
Date: Wed, 3 Dec 2003 14:45:57 -0800
To: "Tom Kloster" <klostert@metro.dst.or.us>
Cc: "Michael Harrison" <mike.harrison@ci.portland.or.us>
Subject: FW: [wnwdiscussion] FW: Wake Up SW Portland our Transportation \$ are being stolen

Tom,

Can you please enter this into the public comment record for the RTP?

Thanks.

Chris

-----Original Message-----

From: Anne Dufay [<mailto:anne@nwnw.org>]
Sent: Wednesday, December 03, 2003 1:25 PM
To: 'wnwdiscussion'
Subject: [wnwdiscussion] FW: Wake Up SW Portland our Transportation \$ are being stolen

-----Original Message-----

From: Don Baack [<mailto:baack@pacifier.com>]

Greater SW Portland is going to be the loser in the latest changes to The Regional Transportation Plans if commissioner Jim Francesconi and the Portland Department of Transportation, PDOT, have their way. Guess what, a huge slush fund, \$80,375,000, for yet to be designed projects associated with the Tram and North MacAdam development will be the winner. The Tram is slated to get \$15 million, and changes to the west end of the Ross Island Bridge are slated to get over \$25 million from the scarce funds that will be spent in the immediate future. That will just be the beginning, notice how the tram costs have doubled in the past month? Is this huge slush fund going to pay for the tram cost over runs?

To pay for the largess in the North MacAdam to encourage development, we are asked to forgo improvements planned long ago and patiently awaiting funding.

The net effect on SW Portland will be a longer wait to get through the light on Barbur at Sheridan just south of I-405, we now must wait for 5 light cycles at the 5-6 pm rush hour, a two lane Front Avenue (Naito Parkway) which will force more traffic onto Barbur, and adversely affect our ability to get downtown to Oldtown, to the Ross Island Bridge and to NE Portland via the Steel Bridge. What will Barbur Blvd be like in this area when Front becomes constricted? We will wait even more signal cycles at Sheridan, we will still walk in the mud along Capitol Highway or worse, not be able to safely walk or bike along Capitol Highway at all. We will not be able to walk along Barbur Blvd for lack of sidewalks. We will not have signals at intersections which are very difficult to negotiate.

How is this grand theft of our transportation dollars happening? PDOT and Metro are in the process of a quick, stealth (there has been no City of Portland public comment opportunity, just a tiny postcard early in October, and the Portland City Council has not approved the changes) updating the Regional Transportation Plan, RTP. The RTP specifies which projects will be funded with federal transportation dollars in the next and subsequent rounds. To get considered in the next 5 years, your project must be on the preferred or financially constrained list. Everything else is eyewash.

I want to explain why I call the Barbur Streetscape Project the silk purse for a sow's ear project. In 1997 and 1998 the Oregon Department of Transportation Department, ODOT, was preparing to resurface Barbur Blvd. ODOT was preparing to address a number of sidewalk and bike lane deficiencies but did not want to install street trees as was required by City of Portland standards. A number of folks in SW Portland objected. The net result was an agreement between the citizens of SW Portland and Charlie Hales, at that time the Commissioner of Transportation, that an urgent study would be done for the bike and pedestrian needs of the entire length of Barbur Blvd, and that funding would follow on a priority basis. The study was completed within 6 months. To date, Tri-Met has funded and built just one small pedestrian crossing. 3 additional pedestrian crossings have been promised.

Until now the funding for the project, 4,620,000 has been on the preferred list. Now it is being dumped into the ignore category and we can put up with no sidewalks, interrupted and dangerous bike lanes for at least 10 years. Really makes you want to trust your government doesn't it.

You will be interested to know that just 2 capital projects have been built in SW Portland in the last 2 or 3 years with a total cost of under \$800,000.

What can we do? We can testify at the 2pm Metro Council hearing on December 4th about our objections to these changes. Ask them to put the following projects on the financially constrained list: 2 Capitol Highway Plan projects, Hoot Owl Corner and Sunset to Terwilliger, the section from Multnomah to Taylor's Ferry is already on that list. Ask them to keep the promises made on Barbur in 1998 and put the entire 4.6 million Barbur Streetscape Project back on the financially constrained list, ask that the signals at SW Multnomah Blvd and Garden Home, SW 62nd and Taylor's Ferry, SW Vermont and Capitol Highway at SW 25th, and the bike and ped improvements for BH Highway be on the financially constrained list. Ask that 5 million in funding for the pedestrian crossing of I-5 associated with the tram be broken out as a separate project so that the funds cannot be used for other purposes. Ask that the Newberry and Vermont Bridges on Barbur be put on the list for replacement in 5 years or so to assure the funds are available when these bridges must be replaced. (They underwent temporary repairs 5 years ago and were scheduled to last 10 years from that time.)

Ask that the total funds designated for the I-5, North MacAdam, Ross Island Bridge changes be reduced from the \$80,375,000, (projects 1025, 1027, 1030, 1087 and 1098) currently in the financially constrained budget. Ask that the projects be broken into a number of projects and a portion of them be removed from the financially constrained budget.

You can let Jim Francesconi and the rest of the Portland City Council know what you think of their transportation decisions and spending priorities. We are being screwed and I for one am tired of it. We need a more equitable distribution of transportation dollars. Here are a few facts:

Per the 1999 street inventory information I have: SW has 50.9 miles of substandard arterial street mileage, which represents 45% of the total substandard arterial street mileage in the entire City of Portland. Arterials are streets like Barbur, BH Highway, and Capitol Highway. SW has 144.7 miles of substandard local streets, 35% of the total substandard local streets in the City of Portland. The reason the arterials and streets are classified substandard is mostly due to not having sidewalks.

This is not going to change unless we decide to do something to change it. It will take each of us making our voice heard loud and clear. Join me in objecting to this theft.

Pass this on to your friends and neighbors. Speak up now.

Don Baack

Don Baack
6495 SW Burlingame Place
Portland, OR 97239-7001
503-246-2088
Baack@pacifier.com
SWTrails Web Site <http://explorepdx.com/swtrails.html>

November 25, 2003

Transportation Policy Advisory Committee (TPAC)
c/o Metro Planning Department
600 N.E. Grand Ave.
Portland, Oregon 97232-2736

Dear TPAC Members

Subject: Periodic Update of Regional Transportation Plan (RTP)

We are requesting that the following five projects be added to the RTP's "Financially Constrained List." The trails are on the Metro Council approved Regional Trails System Plan and Map, and the RTP. These are trail projects that Metro Parks and Greenspaces and local partners are working on together. Four of the five the trail projects are complementary to Metro's 2040 Plan and Centers objectives, and lie within one-mile of Regional Centers and/or Town Centers.

Project:

Sullivan's Gulch / Banfield Trail Feasibility Study (Regional Trail #37). This trail which would be on the north side of the freeway would connect the Eastbank Esplanade Trail to the I-205 Bike and Pedestrian Trail. The Central City, Lloyd District Regional Center, Hollywood Town Center and Gateway Regional Center would all be connected by the future trail. Inter-modal transportation connections at LRT stations, particularly the Gateway Transit Center.

Cost:

\$150,000.

Partners:

Portland Parks, Portland Department of Transportation, Portland Development Commission, Sullivan's Gulch Neighborhood Association, PSU Urban Studies and Engineering departments

Project:

Springwater to Trolley Trail Connection (Regional Trail #30). Plan, design and construct sidewalks on S.E. 17th Ave. between the two trails. Bike lanes currently exist on the street. The project will connect the Springwater Corridor and Three Bridges project to the Milwaukie Town Center and Trolley Trail. The proposed project is within one-mile of downtown Milwaukie.

Cost:

Preliminary Engineering and Design cost of \$200,000. Implementation costs will be determined during the PE phase.

Partners:

City of Milwaukie, City of Portland, Sellwood Moreland Improvement League (SMILE), Friends of the Trolley Trail

Project:

Mt. Scott Creek Trail (Regional Trail #48). Feasibility study and cost of trail design and construction, including an under-crossing for the trail at S.E. Sunnyside Rd. Regional trail just east of the Clackamas Regional Center. The trail would connect Happy Valley to Mt. Talbert.

Cost:

Feasibility Study cost of \$75,000. \$692,000 for ROW Acquisition, Design, Preliminary Engineering and Construction of the trail

Partners:

City of Happy Valley

Project:

Phillips Creek Trail (Regional Trail #32) Trail loop around Clackamas Regional Center, connecting to I-205 Bike / Pedestrian Trail and the North Clackamas Greenway Trail, following Phillips Creek. Funds needed for trail studies, design, preliminary engineering, and construction.

Cost:

Feasibility Study cost of \$100,000. The study will estimate costs for right of way acquisition, preliminary engineering and construction of the trail.

Partners:

Clackamas County

Project:

Columbia Slough Trail (Regional Trail #45). Completion of trail from Kelley Point Park east to Blue Lake Regional Park. Funds needed for acquisition of rights of way and easements; trail design, preliminary engineering and construction.

Cost:

Feasibility Study cost of \$150,000. Implementation costs to be estimated following the completion of the study.

Partners:

City of Portland Parks, Portland Bureau of Environmental Services, Portland Development Commission, Port of Portland, Columbia Slough Watershed Group

If you have any questions or need more information on these proposed additions to the "Financially Constrained" List in the RTP, please contact: Mel Huie, Regional Trails Coordinator at (503) 797-1731 or Heather Nelson Kent, Planning and Education Manager at (503) 797-1739.

Thank you for your consideration.

Sincerely,

Jim Desmond, Director
Metro Regional Parks and Greenspaces



PORTLAND PUBLIC SCHOOLS

9325 N. Van Houten / Portland, Oregon 97203

Phone: (503) 916-6260 • FAX: (503) 916-2619

CLARENDON SCHOOL

Office of the Principal

December 2, 2003

Metro Regional Center
600 NE Grand Ave.
Portland, OR 97232-2736

Dear Metro:


Clarendon Elementary is located two blocks south of Columbia Boulevard and two blocks west of Portsmouth Boulevard.

We are concerned with the shifting of non-local truck traffic from Lombard to Columbia Blvd. We know that Lombard had one of the highest fatality rates in the state, and we worry that this shift will increase the danger to our children crossing Columbia Blvd. to get to our school.


The problem is that we do have a light to help us cross at Portsmouth and Columbia Blvd., but it is located at the top of a hill and is on a blind curve coming from the east. We would like to ensure that our children's crossing is appropriately labeled with school crossing signs, that trucks are aware of the need to stop at our stop signs and lights and that they watch for children, especially before, during and after school hours.

We see that your plan calls for education and enforcement of existing regulations and a truck-signing program. We think that it is important for you to follow through on these promises to keep our children safe.

Sincerely,

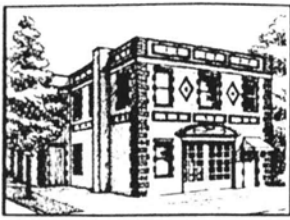

Antonio Lopez

Principal


Sylvia Evans
PTA President

and the School Site Council

nll



North Portland Neighborhood Services

2209 N. Schofield Portland Oregon 97217

503.823.4524 503.285.7843 fax

npo123@teleport.com

Arbor Lodge Bridgeton Cathedral Park East Columbia Kenton Hayden Island Overlook Piedmont Portsmouth St Johns University Park

November 28, 2003

Rex Burkholder
Metro Councilor, District 5
600 NE Grand Ave.
Portland, OR 97232

Dear Councilor Burkholder:

As Chair of the Hayden Island Neighborhood Network, I have been authorized to write on behalf of the North Portland Neighborhood Associations.

Over the past year, the Bi-State I-5 Partnership has been pursuing options to alleviate traffic congestion on the I-5 Corridor. The group's suggestion is to widen the existing bridge.

The North Portland Neighborhood Associations think that just adding capacity to the existing Interstate Bridge does not solve the immediate or future needs of the greater regional area. Increasing capacity on I-5 burdens the communities along the corridor, and does not solve our congestion problem. Also, as safety becomes more of a concern to all types of commerce and freight movements, just widening I-5 leaves us in a very unstable situation.

By putting another bridge across the Columbia River from Marine Drive at Portland Road to the Port of Vancouver we can help remove heavy freight congestion off the I-5 Corridor and direct it to where it needs to go – fast, efficiently and safely.

As economies move to a more "deliver on order" commerce, we must be able to transit freight quickly. Global market growth in the container business is anticipated to have container volumes doubling or tripling over the next decade. In reviewing the broader themes, it is apparent that freight has unique characteristics when compared to passenger traffic. But the improvement of freight productivity warrants examining the linkages between both the main system miles and freight facilities. * The current National Highway System International Connectors Infrastructures constraints are:

- Poor physical conditions
- Orphan status
- Inadequate coordination of investment strategies

**The Portland Development Commission agrees, saying the lack of inter-modal freight connections is the number one constraint to business investment in Portland after fears about the Superfund designation.

By building freight priority passageways we can alleviate congestion and risk while improving commerce and freight movement through the industrial areas and ports, both northern Oregon and southern Washington. This is what the I-5 Trade Corridor Study was created to do.

November 28, 2003
Page 2

The North Portland Neighborhood Associations join the Columbia Corridor Business Association, the Pacific NW International Trade Association, and the Ports of Vancouver and Portland in recommending inclusion of study of a west side arterial bridge over the Columbia River between the Ports in the I-5 Trade Corridor Study.

Sincerely,

Victoria Green
Chair, Hayden Island Neighborhood Network
On behalf of: Arbor Lodge, Bridgeton, Cathedral Park, East Columbia,
Kenton, Hayden Island, Overlook, Piedmont, Portsmouth, St. Johns and
University Park Neighborhood Associations

* Federal Dept. of Transportation, www.fhwa.dot.gov

**PDC, Summer 2003

December 4, 2003

To: Metro Council Members
From: Jill Fuglister, Coalition for a Livable Future
Catherine Ciarlo, Bicycle Transportation Alliance

Re: Comments on the 2004 RTP Update

Thank you for the opportunity to comment on the 2004 update of the Regional Transportation Plan. On behalf of the Coalition for a Livable Future and the Bicycle Transportation Alliance, we would like to express our concern about the process of the update. We recognize that Metro is under considerable pressure to meet federally imposed deadlines. However, we believe the public has not been given an opportunity for meaningful involvement in an update that, far from being a "minor" update, will have a tremendous impact on the region's transportation system.

The Coalition for a Livable Future (CLF) is a coalition of 60 community organizations working to protect, restore, and maintain healthy, equitable, and sustainable communities in the greater Portland metropolitan region. The Bicycle Transportation Alliance (BTA) is a non-profit organization working to create healthy, sustainable communities by making bicycling safer, more convenient and more accessible in Oregon. Both organizations support Metro's Region 2040 vision for the Portland metro area as a place where people of all ages, incomes and ability have an array of daily transportation options available to them. We believe that this can only be accomplished by deliberate, strategic investment that ensures the development of complete networks for all modes of travel – including transit, walking and bicycling – as well as motor vehicles.

We are concerned that the current RTP update, in the crunch to meet a constrained timeline, will move the region away from the principles and modal goals set out in the 2000 RTP. Furthermore, the public has not had a meaningful opportunity to understand and comment on these changes. Characterized as a "housekeeping" update, the proposed revisions add over \$1.5 billion in projects to the Financially Constrained list, according to Table 1, *Summary of 2004 RTP Financially Constrained System Project List Changes*.

Despite the scope of these proposed additions, Metro began work on the Air Quality Conformity Analysis on November 3, only three days after the public comment period opened. This raises a critical question: how would the Metro Council and JPACT respond if public comment were to reveal a lack of support for major projects being modeled? Clearly, with air quality modeling well underway, Metro would not be well positioned to respond in any meaningful fashion. Again, we understand that the region is facing tight deadlines with potentially significant effects. However, characterizing the update as "minor" is inaccurate at best.

The heart of CLF's and the BTA's concern about the update centers around the project mode split in the new Financially Constrained System. At the beginning of this RTP update, Metro staff laid out a set of guiding principles and targets that were to drive the update process. A key goal (driven by the need to keep the region in air quality compliance) was that project mode splits should remain relatively stable in the 2004 RTP Update process.

This goal has not been met. The table below is copied from Metro's public outreach materials, with a final column added. It reveals an 11% increase in road and bridge projects and a 14 % drop in transit dollars.

Distribution of Financially Constrained System Projects

Balancing Modes of Transportation	[TARGET SPLIT]		Change
	2000 RTP	Draft 2004 RTP	
Road and Bridge	35%	46%	+11%
Bicycle and Pedestrian	7%	9%	+2%
Transit Projects	55%	41%	-14%
Boulevard Projects	3%	4%	+1%

While we recognize that the changes result from OTIA III, the availability of state funding should not preempt Metro's planning process. Furthermore, if the region is going to make such a substantial shift away from the mode split outlined in the 2000 RTP, the public should understand that shift and have a meaningful opportunity to comment on it. Again, such a change is hardly "housekeeping."

Recognizing that the region must move forward with this RTP update in order to meet federal deadlines, CLF and the BTA urge the Council to note that the project mix in this update does not reflect a well-thought-out, well-coordinated strategy to achieve a truly multi-modal transportation system.

Looking forward to the next major RTP update, we urge the Metro Council to set a clear goal of achieving a mode split that looks more like that contained in the 2000 RTP – a document developed with extensive and meaningful public involvement. With virtually no public process and little technical evaluation, the current RTP update with its substantially shifted mode split should be considered an interim document. It should not be the basis of future plans.

Specifically, CLF and the BTA request that the Council adopt a resolution to use the 2000 mode split as the starting point for the next RTP. Moving forward, we urge you to set even more aggressive targets for transit, bicycle and pedestrian mode shares to guide the next update.

Thank you for your consideration of these comments. We look forward to working with Metro, the region's jurisdictions, and its citizens on the 2006 RTP update.

Sincerely,

Catherine Ciarlo Executive Director Bicycle Transportation Alliance	Jill Fuglister Coordinator Coalition for a Livable Future
---	---

December 2, 2003

Metro Council

600 NE Grand Ave.
Portland, OR 97232-2736

SUBJECT: Metro Council Public Hearing on RTP Update

I am pleased to write this letter in support of the placement of the Sullivan's Gulch / I-84 Trail Feasibility Study on the RTP's "Financially Constrained" list.

Along with one of our graduate students in urban studies and planning, I have had the pleasure of meeting with staff from Metro Parks and Greenspaces and the City of Portland to develop a scope for a short-term class project for civil & environmental engineering undergraduate students at Portland State University. We are looking forward to connecting our students' educational experience with a real world project led by Metro and the City. We hope that in some small way our students' analysis can contribute to the overall success of the Feasibility Study.

The PSU Center for Transportation Studies is pleased to be working with Metro and other agency partners on this and other important projects in our region. Please do not hesitate to contact me at 503-725-4249 if you need any additional information.

Sincerely,



Robert L. Bertini, Ph.D., P.E.
Director
Center for Transportation Studies

HON. EUGENE GRANT
Mayor

ROBERT BROOKS
JEFF DULCICH
JONATHAN EDWARDS
ROB WHEELER

City Manager
CLINT HOLMES

Assistant City Manager
City Recorder
WANDA KUPPLER

City of Happy Valley



12915 S.E. KING ROAD
HAPPY VALLEY, OR 97236-6298
TELEPHONE (503) 760-3325
FAX (503) 760-9397
Web site: www.happy-valley.org

Metro Council
Via hand delivery

Re: Mount Scott Creek Trail Project #48

Dear Councilors:

The Mount Scott Creek Trail was included in 1992 in the Metro Regional Trail plan as Project # 48. A segment of that project in Happy Valley has already been completed. With the completion of the new Sunnyside road bridge over Mt. Scott Creek the time is right to proceed to connect the Springwater trail on the north of Happy Valley with the existing trails on the portion of Mt. Talbert owned by Metro that is located just south of Happy Valley. This trail would allow for bicycle and pedestrian access to extensive trails in both north and south directions from Happy Valley. As you know Happy Valley is in great need of these means to get its residents out of their cars and exercising their bodies. This trail will also provide a very useful means of pedestrian and bicycle access from Happy Valley to the shopping center that is located at 122nd and Sunnyside Road. Most importantly this trail will provide the fast growing population of Happy Valley with a trail connection to the premier Metro amenities in the vicinity to Powell Butte via the Springwater Corridor and to Mt. Talbert on the south. Happy Valley is very willing to provide local funds to help complete this trail, but needs the help that will come from adding this trail to the Regional Transportation Plan. The City Council considers this our number one trail priority and we thank you for consideration of helping us complete the trail.

Very Truly

Eugene Grant
Mayor

Connections

Transit:

- All 8 Max stations
- 22 Bus lines
- All 3 Transit Centers

Bikeways:

- Serves 16 City Bikeways
- Regional links via the I-205 Trail and the Eastside Esplanade/OMSI-to-Springwater

Walking:

- 50 potential access points on north side
- 17 existing bridges links south side

Connections

Business Districts:

Downtown - Rose Quarter -

Lloyd - Hollywood -

82nd Ave - Gateway

Neighborhoods:

Directly serves 14 inner eastside

Portland neighborhoods

Within ¼ Mile:

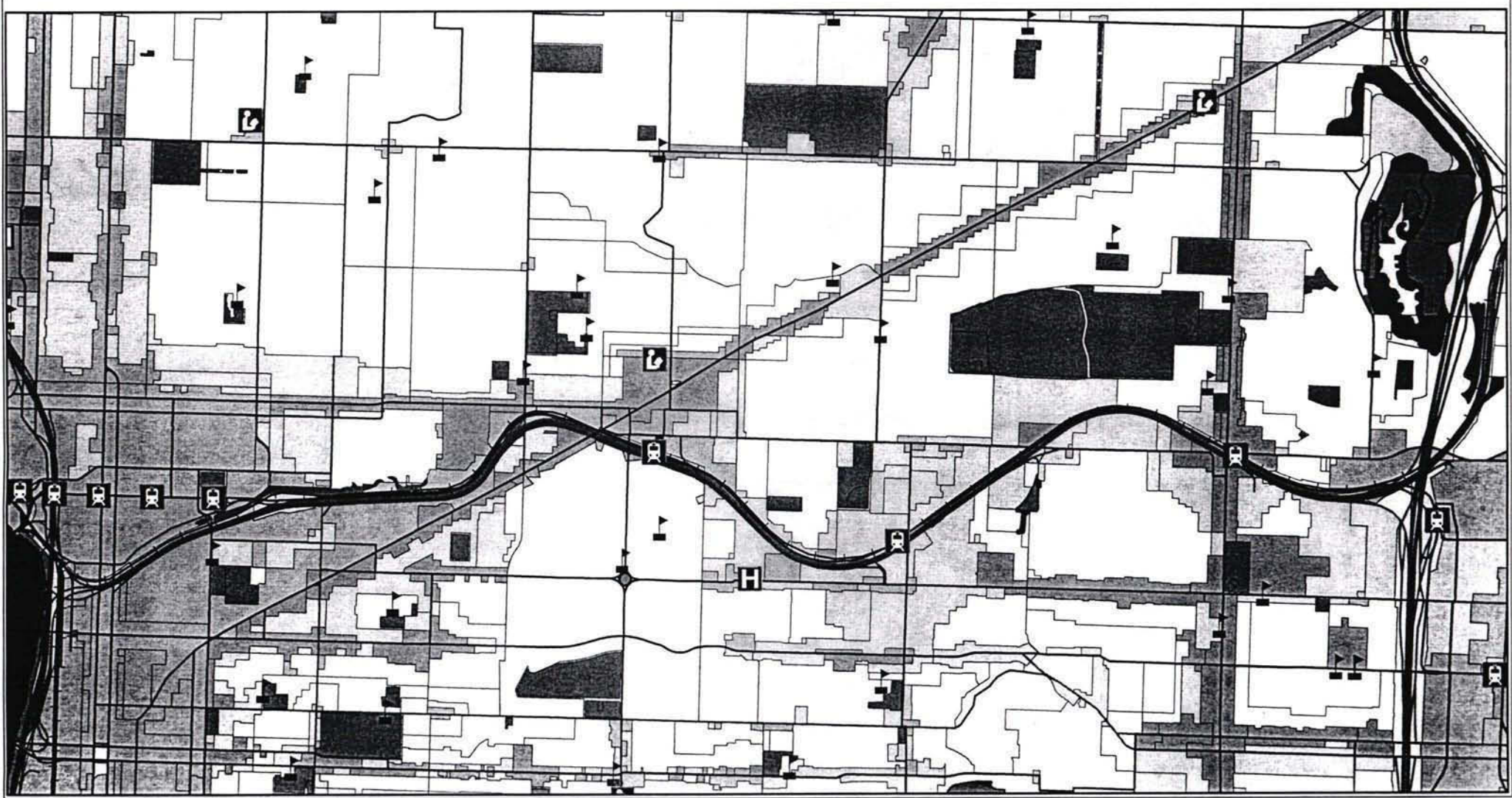
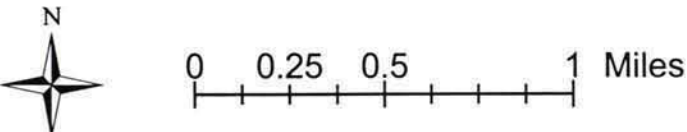
- 15 Parks
- 23 Schools and Playgrounds

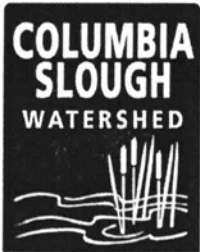
MORRIS WILL

Banfield Corridor Bicycle and Pedestrian Trail Project

Legend

Schools	Env Zone	Land Uses	MUC	Major Arterials TYPE — Freeways — Major Streets
Library	Rivers	COM	POS	
Hospital	Zoning	IND	RUR	
Max Stop	Other	MFR	SFR	
Parks			Nbhd. Boundary	
			Max Line	
			Railroad	
			Buslines	





The Columbia Slough Watershed Council

120403c-21

7040 NE 47th Avenue Portland, Oregon 97218-1212

Tel: 503.281.1132 Fax: 503.281.5187 Email: jay.mower@columbiaslough.org

www.columbiaslough.org

Jay Mower, Coordinator

Date: December 4, 2003

To: Metro Council

From: Jay Mower, Coordinator
Columbia Slough Watershed Council

A handwritten signature in black ink, reading "Jay Mower", is written over the "From:" line of the letterhead.

Re: Support for including the Columbia Slough Trail in RTP

One of my earliest civic activities after moving to Portland in 1991 was taking a community-sponsored walk on the yet-unfinished Springwater Corridor Trail. Over the years I have seen the benefits that this tremendous transportation feature provides to the public.

Metro knows that in order to achieve a balanced transportation system it is important to include multi-use trails in the Regional Transportation Plan. Providing citizens choices other than the automobile is critical to building livable communities. I support this.

I want you to know there is strong support for regional trails in the Columbia Slough Watershed area. In June of this year, after much work, the Watershed Council completed a long awaited Watershed Action Plan. In developing this plan we interviewed business and land owners, and worked with a wide array of community members. Our job, as a Watershed Council, is to encourage the community to implement the Action Plan.

The Action Plan's highest category is called Top Priority. One of our Top Priority projects is: *Completion of the Columbia Slough Trail*. As you may know, portions of the Columbia Slough trail are finished – and if you been on the trail, you know how beautiful it is – but there are many missing links and gaps. A fully-completed trail will provide multiple benefits. For example, there are hundreds of businesses along the Slough. When it is finished I am confident workers will use the Columbia Slough trail to access jobs. There will be access from Interstate MAX, I-205 bike path, and multiple bus routes that cross or travel near the Slough.

The Columbia Slough Watershed Council urges that you add the Columbia Slough Trail to the RTP's financially constrained list. We support this action.

Thank you very much.



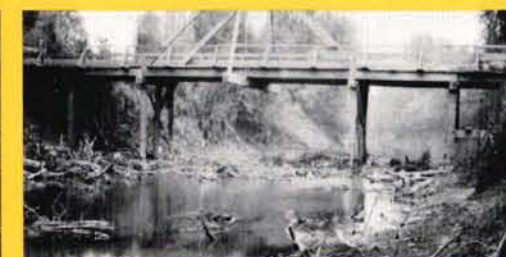
Here's What You Can Do

- Become a project partner or champion.
- Identify other funding sources and partners.
- Stay informed about the watershed and the progress being made.
- Share your knowledge and enthusiasm with others.
- Donate your time, money and "know-how."
- Participate in Slough events.

Something for Everyone

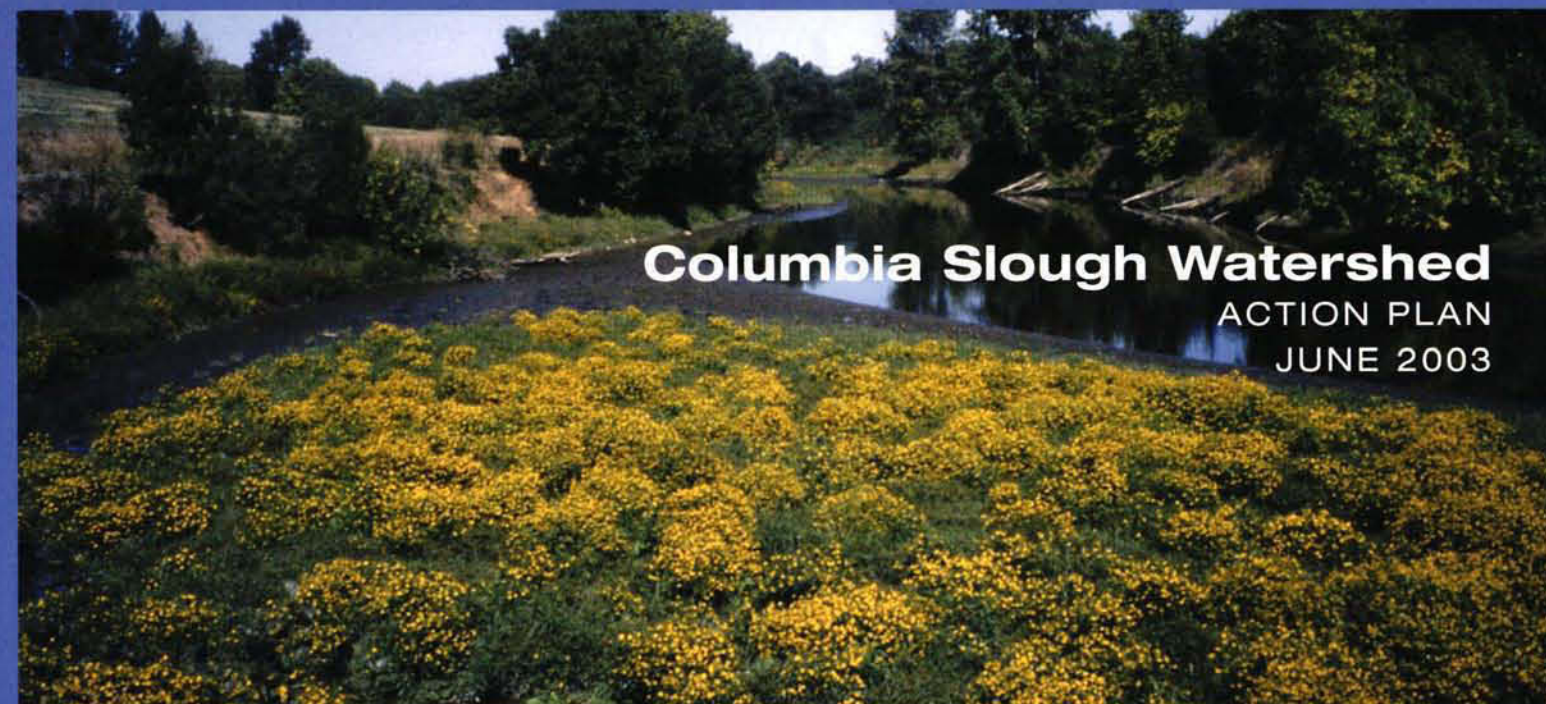
The *Action Plan* identifies 85 top-priority and high-priority projects and programs, within six categories, for the Council and stakeholders to conduct over the next five to 10 years. These actions will require many different skills, resources, and levels of support. The Council will use a variety of approaches to move the projects forward:

- Form partnerships with interested stakeholders and provide guidance and assistance to the partners.
- Support actions that have a champion – individuals or groups with a strong interest and commitment to make projects and programs a reality.
- Respond to concerns of private landowners and businesses regarding regulatory impediments to restoration actions.
- Seek funding sources, such as grants, government programs, organizations, businesses and individuals willing to contribute to implementation costs.
- Provide information and education about the work that needs to be done.
- Monitor projects and programs that are implemented to evaluate their success and identify needed improvements. As additional actions are identified in the future, they also will be considered for possible implementation.



Columbia Slough Watershed

ACTION PLAN
JUNE 2003



The many people who visit, care for, work, and live in the watershed can make a real contribution. Help restore and protect this unique shared home for future generations of people and wildlife.

CONTACT US TO FIND OUT MORE

Columbia Slough Watershed Council
7040 NE 47th Avenue
Portland, OR 97218-1212
503.281.1132
www.columbiaslough.org
info@columbiaslough.org

Print and CD copies of the *Watershed Action Plan* are available on request. The *Action Plan* is also available online at the Council's Web site.

Cover photographs:

Historical photos of Slough from 1917.

Larger photo of Lower Columbia Slough with Beggars Tick in full bloom, 2001, by Elaine Stewart, Metro Regional Services.

A Call To Action



Rivergate



Smith & Bybee Lakes



Peninsula Canal



Portland International Airport



Columbia South Shore



Fairview Lake



Fairview Creek



How You Can Help the Columbia Slough Watershed

SHARING THE HEALTH

The Columbia Slough Watershed is rich in diverse human and natural resources. It is a thriving urban area that offers many opportunities for development and economic growth. At the same time, it provides critical habitat for dozens of wildlife species that depend on it for food, shelter, and passage.

The variety of uses within the watershed presents great challenges. Urban growth and development over the years have put continuing pressure on environmental resources. Habitat loss, diminished water quality and invasive non-native vegetation are among the problems that threaten the natural utility of this great watershed today.

Fortunately, steps can be taken to help people and natural systems thrive side-by-side. One of the watershed's greatest assets is the commitment of citizens, businesses and organizations to find solutions that integrate a healthy environment with a sound economy. ***This is where you come in.***

A CALL TO ACTION

The Columbia Slough Watershed Council brings together multiple stakeholders who share a common interest in caring for the watershed's well-being. Over the years, the Council has supported programs and projects to improve water quality, fish and aquatic life, recreational uses, aesthetic quality and citizen education. It has worked with agencies, municipalities, landowners, business owners and residents to maintain the watershed's health and vitality.

The Council has developed a *Columbia Slough Watershed Action Plan* to continue this vital work. The overall goal of the *Action Plan* is to establish a unified approach to protect, enhance and restore the natural resources in the Columbia Slough Watershed, within a holistic watershed perspective. Building on past accomplishments, the *Action Plan* identifies additional actions needed to improve watershed conditions.

The Council's role will be to facilitate implementation of the *Action Plan* by seeking funding and partnerships with others. ***The participation of many different people and organizations who care about the watershed is essential to make the Action Plan a reality.***

PROFILE OF THE COLUMBIA SLOUGH WATERSHED

- Encompasses 50 square miles (37,741 acres)
- Slough is 18.7 miles long
- Contains 30 additional miles of smaller waterways; six lakes and six ponds
- Contains the largest protected wetland within an American city (Smith and Bybee Lakes Wildlife Area)
- Largest industrial area in Oregon with more than 4,200 businesses & 88,000 jobs
- Home to 158,000 people – five percent of Oregon's population
- Sustains an abundant population of:
 - 175 bird species
 - 26 fish species
 - 28 mammal species
 - 7 amphibian and reptile species
 - 131 plant species

EXAMPLES OF TOP-PRIORITY AND HIGH-PRIORITY PROJECTS

Restoration & Enhancement

Foster and assist restoration and enhancement projects to protect fish and wildlife habitat.

- Improve fish habitat in Lower Slough.
- Inventory, assess and restore 30 miles of secondary waterways.
- Construct wildlife under-crossing at Time Oil Road.

Water Quality & Quantity

Foster and assist implementing measures that improve water quality and quantity.

- Increase street tree plantings in neighborhoods east of 82nd Avenue.
- Enhance land surrounding Osborn Creek.
- Replace 13 culverts with bridges to improve slough flow.

Resource Collection

Develop and maintain a Web-accessible bibliography.

- Update bibliography semi-annually.
- Update GIS maps and related information.
- Maintain Internet access.

Outreach & Education

Develop, support and implement programs focused on the watershed's urban character and opportunities that enhance watershed health.

- Continue Slough School and other education programs.
- Build shelter in Smith and Bybee Lakes Wildlife Area for year-round activity.
- Develop Upper Slough interpretive center.

Monitoring

Evaluate program and project effectiveness; broaden citizen involvement.

- Evaluate effectiveness of Council activities.
- Promote efforts to track and record conditions at mitigation sites.
- Develop a forum to share monitoring information periodically.

Recreation

Promote and assist in the development of recreation facilities and experiences that foster stewardship and watershed health.

- Construct Kelley Point canoe launch.
- Complete gaps in 40-Mile Loop trail segments in the watershed.
- Build canoe launches at Whitaker Ponds, 143rd Avenue levee and Fairview Lake dam.



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SW Hills Residential League
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Mr. David Bragdon
METRO Council President
600 NE Grand Avenue
Portland, Oregon 97232

**RE: METRO REGIONAL TRANSPORTATION PLAN POLICY UPDATE
PUBLIC COMMENTS**

Dear Mr. Bragdon:

STAFF

Rita Pedersen
Executive Secretary

Thank you for the opportunity to comment on Metro's Policy Update concerning the 2004 Regional Transportation Plan (RTP). I have taken this occasion to review Metro's updated documents and compared its project highlights and amendments with proposals found in the City's Transportation System Plan (TSP).

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I speak to you as the President of SW Hills Residential League (SWHRL) on matters of concern in our neighborhood. The League was established and incorporated in 1969. We are recognized by the City as the official neighborhood association representing Portland's SW Hills neighborhood. That includes the Sunset Highway and the Terwilliger Parkway. Currently we have 23 Directors on our board who represent the various areas of the Neighborhood. We have been *Preserving Our Neighborhood's Heritage For 35 Years*. Today I speak of our neighborhood's future. I think you may know of our neighborhood—it's the one used familiarly by Portland civic leaders as a backdrop for the downtown livability. The Neighborhood is used by all Portlanders and visitors; we welcome that, but it has come with a cost.

The League is disappointed that the Metro Transportation Plan fails to recognize the true needs of the SW Hills. Conversely, Portland's Transportation System Plan continues to identify the Neighborhood's needs as genuine, just as they have done in past years—in their previous Twenty Year Transportation Plan. The problem is the City has not really done anything with the plan, except to construct lots of speed bumps on our neighborhood's streets. I will limit my remarks to two areas of the Metro plan: The Oregon Health Sciences University's (OHSU) Aerial Tram and Highway 26's Sunset Corridor. Metro proposes pumping millions and millions of transportation dollars into these two projects alone.

The OHSU Aerial Tram proposal, which we see you have allocated some \$ 15 million, does not adequately represent the authentic needs of the Neighborhood.

It's not innovative, rather it's elitist. Moreover, Metro should not be in the business of funding a private transportation system. It is noteworthy that many Oregonians have become cynical about the function and cost of big government bureaucracies, like Metro. The League is not a part of that movement. We remain optimistic about the potentials of government in solving problems. However, when Metro seemingly has abundant money to spend on risky, expensive and divisive projects, we pay attention. It is an outrageous waste of our transportation dollars. We strongly suggest deleting this project from Metro's Regional Transportation Plan, placing it reasonably where it belongs, in the Projects Dropped category. This would eliminate a burden of \$ 15 million from the financially constrained transportation system.

The League believes the City's proposal for the OHSU Aerial Tram is not responsive to the true needs of the Neighborhood and that it is irresponsible to use our City's transportation dollars to fund such a venture. OHSU and current city officials have underestimated the importance of cultivating friendly democratic relations with the leaders in our neighborhood system. Lately their theme resembles, "Damn the torpedoes! Full steam ahead!" It's not the Portland Way. SW Hills residents would definitely not identify one of our transportation needs as an aerial tram traveling above our streets. It is utterly not needed and it has been a highly divisive issue in all of the neighborhoods located in the OHSU vicinity (Homestead, Corbett/Terwilliger/Lair Hill, Hillsdale and SWHRL). OHSU has become committed to building higher and higher fences in the Neighborhood, mostly beneficial to themselves and their developers. Metro is adding fuel to the fire by proposing it partially fund this private and very expensive private transportation venture. Lastly, on this matter, there exist no compelling reason to build an aerial tram in the Neighborhood and it certainly does not conform to the City's own transportation plan. Portland's Transportation System Plan is highly supportive of making "it more convenient for people to walk, bicycle, use transit and drive less to meet their daily needs. By "transit" we assumed they meant public transportation, not private. The league joins collectively with other neighborhood associations in urging Metro to focus funding on public oriented projects that are highly beneficial to public and neighborhood needs.

Our second area of concern is Highway 26's Sunset Corridor. This is a portrait of a monstrous transportation failure. It's appearance is revolting, its congestion, noise, pollution and injury are legendary, yet Metro continues to propose spending millions and millions of transportation dollars improving this funnel. That is precisely what it is, a transportation funnel, because no matter how many lanes you add or improve, it still must pass through the tunnel entering or exiting the downtown. There's no getting around that fact. It's Paradise Lost and the concrete walls constructed to hold back Mother Nature's landscape resembles something from a dystopian science fiction scene, where humanity is diminished, cast aside to make room for machines. It's about as disastrous as it gets. It's not the future, it's the past and it's a huge failure. Apparently Metro still believes the automobile is indomitable, however there exist urban transportation models that promote the use of public transportation. Rather than perpetuating a poor transportation model, which has wasted enormous amounts of human time and resources the League proposes that a different trajectory be funded, one geared toward viable mass transit and multi-use transit ways for non-motorized travelers. We feel that reasonable progress can be

made toward constructing such transportation models if Metro refocuses the funding and expertise there. Portland needs the leadership to thoroughly prepare us for the future. Sadly Metro's current proposals falls short of meeting this need, as well as failing to address the here and now.

Back in the heyday of the civil rights movement, a wonderful, eloquent speaker, Fannie Lou Hamer, observed that she was sick and tired or being sick and tired. Well, that statement today nicely summarizes how many SW Hills residents feel. We live in an area of the City with no real multi-use transit ways, that are separated from increasingly speeding motor vehicle traffic. Intriguingly, every Twenty Year Plan that comes along identifies the same streets to be improved for a new generation. But it never seems to get done. The City's Transportation System Plan is the latest version of these prospects. In its introduction, City transportation leaders argues that "alternative approaches must be used to ensure integrated, comprehensive solutions." Our neighborhood loves this idea. Many of the streets identified for improvements in this current version have appeared before, so it leave us perpetually wondering what happened during the last twenty years. The streets and project numbers are as follows:

90001 Davenport
90024 Broadway
90029 Capitol
90031 Dosch
90034 Hamilton
90038 Humphrey
90049 Marquam
90054 Patton
90063 Sunset

There^{are} all there again cited for bicycle and pedestrian improvements. Certainly we would add SW Fairmount Boulevard to the streets identified. Fairmount is a scenic destination for all Portlanders and is long overdue for pedestrian improvements.

In sum, SW Hills Residential League recommends the following:

- *Delete funding for the OHSU Aerial Tram project
- *Direct the Metro staff planners to focus their talents on solving the Sunset Corridor's problems in practical and intelligent ways that utilize viable modern models
- *Direct the Metro staff planners to undertake a comprehensive update of the RTP, coordinating it thoroughly with the City's TSP
- *Re-direct the millions of dollars these additions will save the regional transportation program toward the "alternative approaches" Portland's transportation experts suggest

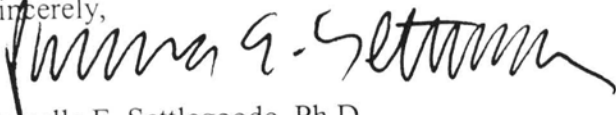
*Moving up the program years for the SW Hills street projects to 2004-10

SW Hills Residential League supports our City's vision for making our neighborhood's streets safe and friendly for non-motorized travelers. We believe such transportation improvement programs should be a transportation priority at Metro. In the SW Hills, the transportation experts long ago took away the Neighborhood's streetcars, which delivered people efficiently and safely up and down the hills and throughout the downtown. What has evolved are very large, noisy and polluting cars, that travel at very high speeds, up and down our narrow, windy, hilly and scenic streets. It's scary and the majority of people in the Neighborhood recognize this dangerous condition. There's a strong feeling that residents must transport themselves and their loved ones in cars, in order to protect themselves. In a sense, we've become caged birds with our cars and it only exacerbates the problem.

There's a systematic practice of denying Southwest neighborhoods their due. Metro and Portland's decisions in planning priorities have deprived us of safely being able to walk our streets, which remain largely devoid of transit ways for non-motorized people. There needs to be a corrective plan in place that promotes people not their automobiles. Metro's leadership can be the major catalyst for changing these deplorable conditions. Designing, funding and constructing a SW Hills transit way, for all Portlanders to utilize, would reverse the course of past actions.

Thank you for your attention to this very sensitive issue. SW Hills Residential League and our neighbors and friends look forward to working with Metro and City transportation leaders on these proposals in the near future.

Sincerely,



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