

BEFORE THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF EXPRESSING )	
COUNCIL INTENT TO AMEND METRO'S )	RESOLUTION NO. 90-1351
URBAN GROWTH BOUNDARY FOR CON- )	
TESTED CASE NO. 90-1, WAGNER )	
PROPERTY )	

WHEREAS, Contested Case No. 90-1 is a petition from Marvin and Bonnie Wagner to the Metropolitan Service District for a locational adjustment of the Urban Growth Boundary to include approximately 6.35 acres east of Wilsonville in Clackamas County as shown on Exhibit A; and

WHEREAS, A hearing on this petition was held before a Metropolitan Service District Hearings Officer on September 25, 1990, in Wilsonville; and

WHEREAS, The Hearings Officer has issued his Report and Recommendation, attached as Exhibit B, which finds that all applicable requirements have been met and recommends that the petition be approved; and

WHEREAS, The property is currently outside, but contiguous with, the boundary for the Metropolitan Service District; and

WHEREAS, The Metropolitan Service District Code Section 3.01.070(c)(i) provides that action to approve a petition including land outside the District shall be by resolution expressing intent to amend the Urban Growth Boundary after the property is annexed to the Metropolitan Service District; now, therefore,

BE IT RESOLVED,

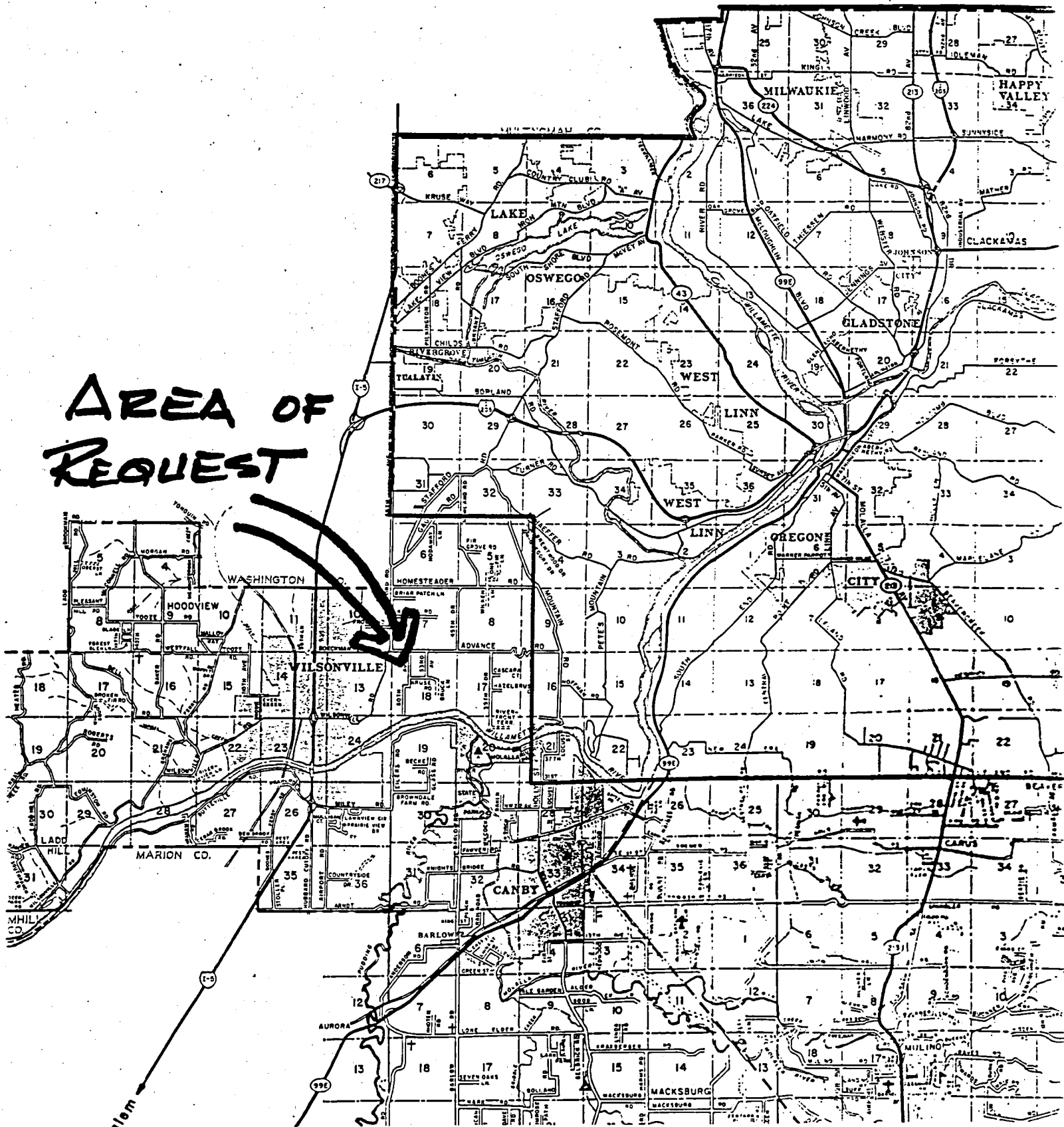
That the Metropolitan Service District, based on the

findings in Exhibit B, attached, and incorporated herein, expresses its intent to adopt an Ordinance amending the Urban Growth Boundary as shown in Exhibit A within 30 days of receiving notification that the property has been annexed to the Metropolitan Service District, provided such notification is received within six (6) months of the date on which this resolution is adopted.

ADOPTED by the Council of the Metropolitan Service District this 13th day of December, 1989.

  
\_\_\_\_\_  
Tanya Collier, Presiding Officer

ES/es  
11/26/90



3-05

R.R.F.F. - 5

MARKET

STAFFORD

S.W.

AMERICAN

94.42 Ac.

700  
0.43 Ac.  
800  
0.60 Ac.

900  
0.21 Ac.

601  
29.25 Ac.  
27480

LOT 43.82

1000  
0.42 Ac.  
27520

1101  
60.00 Ac.

G.A.D.

LOT 43.72

1200  
4.00 Ac.  
6351

PROPOSED UGB  
AMENDMENT

ROAD

ROAD

RA-1  
3-5 du/  
acre

TRAIL ACRES

2100  
4.84 Ac.  
6360

2000  
19.44 Ac.

G.A.D.

LOT 43.78

2300  
3.60 Ac.

2400  
10.98 Ac.

2500  
5.22 Ac.

2600

2001  
2.00 Ac.  
28335  
By PS 986  
1228.60'

3-19

ANGEL LANE  
PUBLIC LANE RD.



2700  
25 RI AC



**METRO**

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

# Memorandum

Date: December 6, 1990

To: Metro Council  
Executive Officer  
Interested Staff

From: *gwb*  
Gwen Ware-Barrett, Clerk of the Council

Regarding: RESOLUTION NO. 90-1351, FOR THE PURPOSE OF EXPRESSING  
COUNCIL INTENT TO AMEND METRO'S URBAN GROWTH BOUNDARY FOR  
CONTESTED CASE NO. 90-1, WAGNER

The Council will consider Resolution No. 90-1351 at its December 13 meeting. Attached is a letter dated December 3 from Jim Van Lente, President, Far West C.P.O., expressing the organization's support of the opponents and the hearings officer's recommendation VII-G. This letter is sent to you for information only, and is not a part of the official record in this matter.

gpwb  
a:\cpo.ltr

attachment

RECEIVED DEC 06 1990

December 3, 1990

Tanya Collier, Presiding Officer  
Council of the Metropolitan Service District  
2000 S.W. First Avenue  
Portland, OR 97201-5398

RE: Report and Recommendations of Hearings Officer Contested  
Case 90-1

Dear Ms. Collier,

On 11/29/90 Farwest C.P.O. held a special meeting for this case. The proponent, Wagner, made a 30 minute presentation, as did opponents Anderson & Connolly. Questions and discussions followed in accordance with Roberts rules.

Results of the ensuing election were:

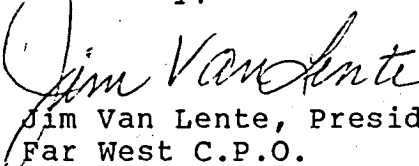
31	Against
1	For
6	Abstained
<u>38</u>	Total

This constitutes a 2/3 majority required by our bylaws for Farwest to support the opponents, Anderson & Connolly.

An additional vote was taken to support Epstein's Recommendation VII - G.

Thank you for consideration and allowing Far West C.P.O. to participate.

Sincerely,

  
Jim Van Lente, President  
Far West C.P.O.

BEFORE THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

In the matter of the petition of Marvin and Bonnie	)	<u>Contested Case No. 90-01</u>
Wagner to amend the Urban Growth Boundary	)	HEARINGS OFFICER
to add 6.35 acres to the urban area	)	REPORT &
north of Wilsonville in Clackamas County	)	RECOMMENDATION

I. Nature and Summary of the Issues

Petitioners propose to add 6.35 acres (the "Subject Property") to the Urban Growth Boundary (UGB) north of and adjoining Wilsonville in Clackamas County. Petitioners also own 17.6 acres already in the UGB adjoining the Subject Property. Petitioners propose to include the Subject Property in the UGB to facilitate development of their property and to facilitate dedication of a realigned right of way for Wilsonville Road.

The majority of the road realignment will occur on land already in the UGB. However, a roughly 800-foot long half-width section of the road is planned on the northwest part of the Subject Property outside the UGB on land zoned for exclusive farm use.

One issue in this case is whether the petitioners can dedicate the half-width right of way for realigned Wilsonville Road if the petition is denied. If the right of way can be dedicated for the road outside the UGB, or if the road can be built on land already inside the UGB, then the petition should be denied, because it does not result in an improvement in urban service efficiency to land already inside the UGB.

Petitioners argued they cannot dedicate right of way on land zoned GAD based on state law. No one else addressed the issue. Metro Counsel should advise the Council regarding this issue. Given the record, the hearings officer concludes that the petitioners cannot create a parcel necessary to dedicate right of way from land zoned for exclusive farm use.

If the right of way cannot be dedicated without granting the petition, then granting the petition facilitates the substantial public service efficiency represented by the realigned road, and it should be approved if it complies with other criteria for a Locational Adjustment, because granting the petition is a necessary first step to dedication of the right of way.

Another issue is whether the Council can and should treat the "right of way" and "remainder" portions of the Subject Property differently. The half-width right of way for realigned Wilsonville Road on the Subject Property is referred to as the "right of way" portion. The rest of the Subject Property is referred to as the "remainder" portion.

Metro Code (MC) Section 3.01.070 allows the Council to approve a petition in whole or in part; therefore, the two portions of the Property can be considered and acted on separately. Whether the Council should consider them separately is discretionary and not dictated by clear and objective standards. In acting on UGB Locational Adjustment cases in the past, the Council has not considered parts of a property separately.

Findings adopted in support the rules for Locational Adjustments in the Metro Code provide that, if including a parcel containing 10 acres or less in the UGB results in any benefit to land already in the UGB, then the petition complies with the efficiency standard of MC section 3.01.040(a)(1) for the whole parcel. This suggests that a parcel containing 10 acres or less should be considered as a unit at least for purposes of MC section 3.01.040(a)(1).

If the Subject Property is treated as a unit, then the merits of the road realignment warrant finding that the all of the Property complies with MC section 3.01.040(a)(1).

If the "right of way" and "remainder" portions of the Subject Property are treated separately, the hearings officer concludes that only the "right of way" portion fulfills the increased service efficiency standard of MC section 3.01.040(a)(1). Inclusion of the "remainder" portion of the property does not increase the efficiency of public facilities.

The hearings officer also concludes that including the "remainder" portion is not necessary for urbanization of or for delivery of public services to land inside the UGB, and that it increases the potential incompatibility between urban uses on the Subject Property and nearby agricultural activities, and therefore violates MC section 3.01.040(a)(4) and (5), respectively.

Given the past practice of the Council of considering a locational adjustment parcel as a single unit, the finding adopted in support of the rules noted above, and the circumstances of the case, including the relatively small size of the Subject Property, the buffer provided by the natural feature on the "remainder" portion, and the residential land use east of the north part of the Property, the hearings officer recommends that the Subject Property be considered as a unit.

The hearings officer recommends the UGB be amended to include the Subject Property, because dedication and improvement of the road increases the efficiency of road services for land already within the UGB, that increased efficiency cannot be accomplished without use of agricultural lands, including the Subject Property will not cause significant environmental, energy, social or economic impacts, and urban use of the Subject Property will be compatible with nearby agricultural activities.

However, so that the Council can evaluate the merits of treating the Subject Property as a unit versus treating each portion separately, the Report and Recommendation provides findings for both approaches. That way, the Council can draw its own conclusions about how the property should be treated.

## II. Procedures and Record

### A. History, Proceedings, and Comments from affected jurisdictions.

1. On or about June 28, 1990, Richard Whitman filed a petition for a Locational Adjustment for Parcel 2200 in Township 3 South, Range 1 East, WM, Clackamas County (the "Subject Property") on behalf of its owners, Marvin and Bonnie Wagner. See Exhibits 4 and 5.

2. On or about August 27, 1990, the hearings officer sent notices by certified mail to owners of land within 250 feet of the Subject Property, the petitioners, the City of Wilsonville, Clackamas County, and the Far West Citizens Planning Organization (CPO) that a hearing would be held September 25 regarding the petition. The notices and certificates of mailing are included as Exhibits 2 and 3. A notice of the hearing also was published in *The Oregonian* on or before September 5.

3. On September 25, 1990, from 2:30 pm until about 4:30 pm, the hearings officer held a public hearing at the Wilsonville City Hall. Nine witnesses testified in person about the petition. The hearing was recorded on audio tape. Two witnesses testified in writing. See Exhibits 18 and 19.

4. After the September 25 hearing, the hearings officer left the record open for 3 days to allow William Ciz to submit written testimony and for an additional 3 working days for submission of a response from the petitioner. See Exhibits 25 and 26.

5. On November 1, 1990, the hearings officer filed with the Council this Report and Recommendation.

B. Written record. The following documents are part of the record in this matter. The hearings officer also takes official notice of relevant provisions of the comprehensive plans and land development ordinances of the City of Wilsonville and Clackamas County.

<u>Exhibit No.</u>	<u>Subject matter</u>
1	Memorandum from Seltzer to Epstein dated 8/20/90
2	Notice of public hearing and map of the Subject Property
3	Certificates of mailing of notice of hearing
4	Letter from Seltzer to Whitman dated 6/28/90
5	Petition for Locational Adjustment
6	Notice of Proposed Action to DLCD
7 A-D	Requests for comment from Clackamas County Sheriff, West Linn School District, Tualatin Valley Fire and Rescue District, and Clackamas County
8	Comment from Tualatin Rural Fire Protection District
9	Comment from West Linn School District
10	Letter from Whitman to Sorenson dated 6/22/90
11	Letter from Whitman to Seltzer with attachments (PMALGBC forms)
12	Letter from Whitman to Seltzer dated 9/5/90
13	Letter from Starner (Wilsonville) to Seltzer dated 9/4/90
14	Letter from Bruck to Wagner dated 9/4/90
15	Letter from Cook (Clackamas County) to Seltzer with attachments
16	Clackamas County Board Order 90-806
17	Wilsonville Resolution 778
18	Letter from Beck to Epstein dated 9/25/90
19	Letter from Connolly to Epstein dated 9/24/90
20	Letter from Van Lente (Far West CPO) to Epstein dated 9/25/90
21	Soil Survey for Clackamas County Area (excerpt)
22	Petition in support of application and attached map
23	Letter from Wagner to Connolly dated 9/19/90
24	Map showing existing and proposed orchard and rights of way
25	Letter from Ciz to Epstein dated 9/27/90
26	Letter from Whitman to Epstein dated 10/3/90
27	Profiles of Commercial Agriculture (excerpt)

C. Responses from service providers and affected jurisdictions.

1. The Subject Property is in the Tualatin Valley Fire and Rescue District and West Linn School District 3J. Both districts filed a written comment recommending approval of the petition. See Exhibits 8 and 9.

2. The Subject Property is in unincorporated Clackamas County. The County Commissioners adopted a Board Order recommending approval of the Locational Adjustment only to the extent the land included in the UGB will be included in a realigned right of way for Wilsonville Road. See Exhibit 16. The County did not make an express recommendation regarding that portion of the Subject Property that is not needed for the realigned right of way of Wilsonville Road. However, the Board Order includes the following findings:

... It further appearing to the Board it is not necessary to include the entirety of the parcel within the Urban Growth Boundary in order to incorporate the road realignment, and

... It further appearing to the Board the County Comprehensive Plan allows agricultural land be designated urban only after considering retention of that agricultural land, and it appears the request to include all the property in the Urban Growth Boundary is not supported by County Comprehensive Plan policies to retain agricultural lands...

3. The Subject Property adjoins the City of Wilsonville. The City Council adopted a resolution recommending approval of the petition. See Exhibit 17.

### III. Basic Findings About the Subject Property and the Surrounding Area

A. Location. The Subject Property is situated south of and adjoining Boeckman/Advance Road, east of the southerly extension of Stafford Road, and about 475 feet east of Wilsonville Road. The west edge of the site adjoins the UGB and the city limits of Wilsonville in Clackamas County. See the map included in Exhibit 2.

B. Legal description. The legal description of the Subject Property is Tax Lot 2200, Township 3 South, Range 1 East, WM, Clackamas County.

C. Size and shape. The Subject Property is a rectangle about 215 feet wide (east-west) and 1316 feet deep (north-south) and contains about 6.35 acres.

D. Existing and proposed uses.

1. The subject property is used predominantly for an agricultural purpose in conjunction with the adjoining 17.6-acres to the west. Based on Exhibit 24, the Subject Property contains about 253 filbert trees on the northwesterly 3.6 acres of the property. The southeasterly 2.75 acres of the Subject Property is not developed; it contains native vegetation and a seasonal drainageway.

2. The petitioner intends to annex the Subject Property to Wilsonville (see Exhibit 11) and to apply for an appropriate Comprehensive Plan amendment and zone change to an urban designation and a residential zone. If the annexation, plan amendment and zone change are approved, the petitioner plans to:

a. Dedicate the northwesterly 1 acre of the Subject Property for a realignment of Wilsonville Road consistent with City development requirements,

b. Develop about 2.75 acres of the Property for dwellings together with the adjoining 17.6 acres owned by petitioners inside the UGB (TL 1800 and 200), and

c. Establish 2+ acres of the Property as an open space and drainage tract.

3. The residential density that would be permitted on the area dedicated for road and open space purposes will be transferred to the remainder of the petitioner's land (TL 1800 and 200 and the developable portion of TL 2200). If TL 2200 has the same zoning as adjoining land in the UGB, it could be developed for up to 31 dwelling units. Storm water from all three parcels would be discharged to the drainageway on the Subject Property. The petitioner did not submit more detailed plans for the proposed development.

**E. Surrounding land uses, designations, and zoning.**

1. The 14-acre parcel west of the Subject Property (TL 1800) and the 3.6-acre parcel to the southwest (TL 200) also are owned by the petitioners. Unlike the Subject Property, the parcels to the west are inside the Urban Growth Boundary and the City of Wilsonville. The parcel to the west contains the petitioners' home; both parcels contain filbert trees that are part of the orchard that includes the trees on the Subject Property. The properties are designated Residential on the Wilsonville Comprehensive Plan Map and are zoned RA-1 (Residential-Agriculture, 3 to 5 dwellings per acre). The property inside the UGB can be developed for up to 88 dwelling units, based on existing zoning.

2. Land south, east, northeast, and north of the Subject Property is designated Agricultural and zoned GAD (General Agricultural District) by the Clackamas County. Land to the south and southeast is used for nursery stock. Directly east of the north part of the Subject Property is a single family home on a 4+ acre parcel. Farther east are tilled fields and pasture. Land to the north across Boeckman/Advance Road is used for a tree farm.

3. Land northwest of the site is designated Rural on the County Comprehensive Plan Map and is zoned RRFF5 (Rural Residential/Farm and Forest 5 acres). That land is used predominantly for rural residential development and small scale farming and animal husbandry.

**F. Public facilities and services.**

**1. Sewer and water.**

a. The Subject Property is not served by a private well or sanitation system or public water system or sewer. The nearest water and sewer lines are situated about 800 feet southwest of the Subject Property in the Wilsonville Road right of way south of the stream at the southwest corner of Tax Lot 1800.

b. Tax Lots 1800, 400, and 500 --- inside the Wilsonville city limits and the UGB --- also are not served by public water or sewer. To provide water and sewer to those properties and to the Subject Property, the City would have to extend lines across the stream at the southwest corner of Tax Lot 1800.

c. Water and sewer lines extended as part of recent development in the City southwest of the Subject Property were sized to accommodate service to all properties in the urban area, based on testimony from City Engineer Richard Drinkwater. Mr. Drinkwater concluded the incremental impact of service to these properties on capital facilities of the City is negligible, although the system would not accommodate further expansion to the north, and, at some undetermined time, the City will have to expand its capital facilities to provide sewer service to all developable land in the City.

**2. Storm water drainage.**

a. The Subject Property is not served by an improved public storm water drainage system. There is a roadside ditch along Boeckman/Advance Road at the north edge of the property. Also a natural drainage channel that enters the Subject Property near its northeast corner and extends southwest diagonally through the Subject Property to its southwest corner before continuing off-site to merge with a drainageway south of TL 200.



b. The City has not prepared a storm drainage master plan for the area that includes the Subject Property or adjoining urban land to the west. City policies promote use of natural drainageways. The City urban renewal plan provides that storm drainage is to be provided as part of the Wilsonville Road realignment project. See Exhibit 26.

3. Roads and transit access.

a. The north edge of the Subject Property adjoins Advance/Boeckman Road. That road is identified as a collector street on the Wilsonville Master Street System Plan. It has a 20-foot paved section between gravel shoulders and drainage ditches.

b. Stafford Road terminates at a 90° intersection with Boeckman/Advance Road at the northwest corner of the Subject Property. It is identified as an arterial road. It has a 20-foot paved section between gravel shoulders and drainage ditches.

c. Wilsonville Road is about 475 feet west of the Subject Property. It is designated as an arterial road on the Wilsonville Master Street System Plan. It has a 90° intersection with Boeckman/Advance Road. It has a 20-foot paved section between gravel shoulders and drainage ditches adjoining TL 1800 and 200, but has been improved to full urban standards adjoining recent development further south.

(1) There have been 5 vehicle accidents at the intersections of Wilsonville and Boeckman Roads and of Stafford and Boeckman Roads in the last three years, based on a summary by the petitioner of accident statistics from the sheriff's office.

(2) Wilsonville Road is to be realigned so the centerline of the road aligns with the centerline of Stafford Road. The realigned right of way will extend south and southwest to intersect with existing Wilsonville Road near the southwest corner of Tax Lot 1800. It will roughly split Tax Lot 1800 into two equal pieces and will require removal of the existing dwelling and much of the filbert orchard on that lot. The right of way for realigned Wilsonville Road will be 64 feet wide with 6-foot wide permanent easements on both sides, based on testimony from City Engineer Richard Drinkwater. The existing right of way of Wilsonville Road may be vacated once the road is relocated; however, at least a portion of the road is likely to continue to be used for access to TL 400 on the west side of the road because it will not adjoin relocated Wilsonville Road.

(3) The City of Wilsonville will require the petitioner to dedicate the realigned Wilsonville Road right of way through TL 1800 as a condition of approval of development permits for TL 1800 and 200 west of the Subject Property. See Exhibit 13. The City also will require the petitioner to improve the street before occupancy of structures on the Subject Property, such as by making the improvement, participating in a local improvement district (LID), or including the project in the City's Urban Renewal District with financing provided by tax increment revenue.

d. The Subject Property is not within one-quarter mile of a transit corridor designated by Metro.

G. Soil, slope and natural features.

1. The Subject Property contains predominantly Aloha Silt Loam soils on slopes of 0 to 6%, based on the SCS Soil Survey of Clackamas County. This soil has a agricultural capability class of Class II. The soil survey map is at a scale that makes it difficult to state precisely the area of the site with this soil, but it appears that about 2/3 of the site or about 4 acres is this type of soil. It is found on the north and west portions of the Subject Property.

2. The seasonal drainage channel on the Subject Property contains Xerochrepts and Haploxerols soil on slopes of 20% or more, based on the SCS map. This soil has an agricultural capacity class of Class VIIe. The site contains a little more than 2 acres of this soil type. Petitioners' attorney testified 2.8 acres of the site contains this soil, but there is no precise quantification in the record. Based on an inspection of the site, little of the Xerochrepts and Haploxerols soils are sloped more than 20%, particularly at the north end of the drainage channel. A topographic survey is needed to determine slopes precisely.

3. The predominant natural feature on the site is the seasonal drainageway that extends from near the northeast corner of the Subject Property to the south edge of the property, from which point it continues south. The drainageway was dry during site inspection. The banks of the drainageway are covered in predominantly deciduous trees and shrubs. The remainder of the Subject Property does not contain significant natural features; most native vegetation was removed to enable farming of the site.

#### H. Relevant Comprehensive and Urban Renewal plan designations, policies, & zoning.

1. The Subject Property is designated Agricultural on the Clackamas County comprehensive plan map and is zoned GAD (General Agricultural District). The Subject Property is not in an area approved as an exception to Goal 3 (Agriculture).

2. The Wilsonville Comprehensive Plan does not designate the Subject Property. However, the Master Street System and Function Classification Map in the City Plan provides conceptually that Wilsonville Road is to be realigned to extend northeast across TL 1800 west of the Subject Property and along the north part of the west edge of the Subject Property so the centerlines of Wilsonville Road and Stafford Road align. This will eliminate a "jog" created by two 90° turns in a 1/10-mile section of road where Wilsonville Road and Stafford Road now join. The Clackamas County Plan also provides for realignment of Wilsonville Road (Transportation Element 32 and Map V-9).

a. A final design for the Wilsonville Road realignment has not been prepared by the City. The City has considered several scenarios for realigning the road, including one or more that do not use land outside the UGB. If the final road plan differs from the conceptual plan in the comprehensive plan, the City may need to amend the plan.

3. The Wilsonville Comprehensive Plan does not require the City to provide funds to acquire and develop the right of way for the Wilsonville Road realignment per se. Policies 3.3.1, 3.3.3 and 3.3.5 of the Plan provide in relevant part:

The Street System Master Plan has been designed to meet projected year 2000 traffic volumes. It specifies the design standard for each arterial and major collector street. The conceptual location of proposed new major streets are also identified. However, actual alignments may vary from the conceptual alignments based on detailed engineering specifications and design considerations, provided that the intended function of the street is not altered...

... Dedication of adequate right of way, as established in the Street System Master Plan, or as otherwise approved by the Planning Commission, shall be required prior to actual site development...

The City shall assume the responsibility to plan, schedule, and coordinate all street improvements through a Capital Improvements Plan...

4. The Wilsonville Urban Renewal Plan includes the realignment of Wilsonville Road as a project. The Urban Renewal District does not extend beyond the city limits; therefore, the project does not involve the Subject Property. If the Subject Property is not involved in the project, only a half-width dedication and improvement would be made at the north end of the road realignment. The project includes associated storm drainage, water, and sewer system development. The Urban Renewal Plan for the City has yet to be adopted, and is scheduled for an advisory vote in November, 1990. Costs of the Wilsonville Road realignment project are listed below:

Construction	\$496,000
Property acquisition	\$100,000
Engineering and legal fees	<u>\$189,400</u>
Total	\$785,400

5. Wilsonville Zoning Ordinance section 4.167(f) requires, prior to issuance of a building permit or recording of a final plat, an applicant to dedicate right of way in accord with the Street System Master Plan and to file a waiver of remonstrance against formation of a local improvement district. It also requires a minimum setback of 55 feet from the centerline of a street or 25 feet from the edge of the right of way whichever is greater.

6. Regarding storm water management, the City Plan provides the following in Policies 3.4.3 and 3.4.4 in relevant part:

Major natural drainageways shall be established as the backbone of the drainage system and designated as open space. The integrity of these drainageways shall be maintained as development occurs... Developers shall be required to retain and protect existing vegetation in steeply sloped (15 percent or above) and landslide prone areas to decrease the amount of surface runoff, to preserve areas of natural percolation and help stabilize landslide prone areas...

7. Section 402 of the Clackamas County Zoning and Development Ordinance (ZDO) contains the regulations for the GAD zone. That section does not allow roads or drainage utilities as a principal use. However, "utility facilities necessary for public services" and "public and private conservation areas and structures for the conservation of water, soil, forest, or wildlife habitat or resources" are permitted as nonfarm uses following a public hearing and compliance with certain approval criteria.

8. Clackamas County Comprehensive Plan Map V-15 provides for a bicycle path along Wilsonville Road. The Pathways Master Plan and Policies 3.3.11 and 3.3.12 of the Wilsonville Comprehensive Plan also provide for development of a bicycle path along Wilsonville Road. Policy 3.3.12 provides in relevant part:

... When land is developed which includes a designated pathway, appropriate dedication of right of way or easements shall be required. In cases where the proposed development will substantially increase the need for the path, construction also may be required prior to occupancy...

Policy 3.3.13 provides that pathways shall be completely separated from vehicular traffic, unless physical barriers or interim phasing warrant creation of a pathway that is merely delineated by pavement markings, curbs, or bumper blocks or that shares traffic right of way with motor vehicles.

9. Wilsonville Zoning Ordinance section 4.136(5) provides for density transfers:

When calculating the density of a planned development, the total area shall include the area of the proposed development, including streets, dedications, and mapped open space designated in the Comprehensive Plan up to 10% of the total land area.

10. Wilsonville Zoning Ordinance section 4.161(5) protects stream corridors. The width of the protected area along a stream varies with the classification of the stream. Along a "major drainageway," the minimum buffer is 20 feet from the channel bottom centerline plus 1 additional foot for each percent of bank slope greater than 12%. Along a "minor drainageway," the minimum buffer is 10 feet from the channel bottom centerline plus 1 additional foot for each percent of bank slope greater than 12%. Along a "seasonal drainageway," the minimum buffer is 10 feet from the channel bottom centerline. Based on the record, the City would classify the drainageway on the Subject Property as seasonal.

IV. Applicable Approval Criteria for Location Adjustment

A. Background.

1. The UGB is intended to accommodate urban growth through the year 2000. It can be changed in two ways. One method involves Major Amendments, which generally involves a change of more than 50 acres in the UGB.

2. The other way to change the UGB is called a Locational Adjustment. Metro Ordinance No. 81-105 provides that a Locational Adjustment may be warranted where a patent mistake was made when the UGB was drawn, where the addition uniquely facilitates development of land already in the UGB, where the addition of two acres or less would make the UGB coterminous with property lines, or where other conditions warrant the addition based on standards in that ordinance, codified in Metro Code Chapter 3.01.

a. Need for more urban land is not relevant to a Locational Adjustment.

b. A Locational Adjustment cannot add more than 50 acres to the UGB. To prevent contiguous, incremental amendments from exceeding the 50 acre maximum, a Locational Adjustment cannot add more than 50 acres including all similarly situated land.

c. It is assumed that a change of 50 acre in the region would not affect the efficiency of major public facilities, considering the population and area for which major public facilities are designed. But, all land in the UGB is intended to be developed for urban uses. If 50 acres is added to one part of the UGB, it could supplant use of a comparable size area or combination of areas elsewhere in the UGB. This could affect the efficiency of public services and increase energy consumption and pollution from travel in the region. That is, there would be costs and potential service inefficiencies, because public facilities would be available to serve land in the UGB that would not be developed and because there would be costs to serve the land that is added to the UGB.

d. To ensure the effect of adding land to the UGB is warranted despite the potential service inefficiencies elsewhere in the region, Ordinance 81-105 requires Metro to consider whether the addition of a given area to the UGB would increase the efficiency of public services and facilitate development inside the existing UGB. If so, then the benefit from adding the land can outweigh the cost that may accrue from not developing a comparable area inside the UGB.

e. The larger the size of the area to be added, the greater the cost that may accrue from not developing a comparable area inside the UGB. The cost of leaving a 10 acre or smaller parcel inside the UGB vacant is so small that it is not significant if, as a result of adding a comparable size area to the UGB, any benefit accrues to land in the UGB abutting the land to be added. For Locational Adjustments involving more than 10 acres, a net benefit should result to the area inside the UGB. The larger the area involved, the greater the benefit required.

f. Statewide Planning Goal 3 (Agriculture) is intended to protect agricultural land. The UGB is one way to fulfill that goal by clearly delineating urban and nonurban areas. The Locational Adjustment standards reflect this priority by allowing agricultural land to be included in the UGB only under compelling circumstances.

B. Locational Adjustment standards. The relevant standards for addition of land to the UGB, contained in Metro Code Section 3.01.040(a), are as follows.

(a) As required by subsections (b) through (d) of this section, Locational Adjustments shall be consistent with the following factors:

(1) *Orderly and economic provisions of public facilities and services.* A Locational Adjustment shall result in a net improvement in the efficiency of public facilities and services, including but not limited to, water, sewerage, storm drainage, transportation, fire protection and school in the adjoining areas within the UGB; and any area to be added must be capable of being served in an orderly and economical fashion.

(2) *Maximum efficiency of land uses.* Considerations shall include existing development densities on the area included within the amendment, and whether the amendment would facilitate needed development on adjacent existing urban land.

(3) *Environmental, energy, environmental and social consequences.* Any impact on regional transit corridor development must be positive and any limitations imposed by the presence of hazard or resource lands must be addressed.

(4) *Retention of agricultural land.* When a petition includes land with Class I-IV soils that is not irrevocably committed to non-farm use, the petition shall not be approved unless it is factually demonstrated that:

- Retention of the agricultural land would preclude urbanization of an adjacent area already inside the UGB, or
- Retention of the agricultural land would prevent the efficient and economical provision of urban services to an adjacent area inside the UGB.

(5) *Compatibility of proposed urban uses with nearby agricultural activities.* When a proposed adjustment would allow an urban use in proximity to existing agricultural activities, the justification in terms of factors (1) through (4) of this subsection must clearly outweigh the adverse impact of any incompatibility...

(d) Petitions to add land to the UGB may be approved under the following conditions:

(1) An addition of land to make the UGB coterminous with the nearest property lines may be approved without consideration of the other conditions of this subsection if the adjustment will add a total of two acres or less, the adjustment would not be clearly inconsistent with any other factors in subsection (a), and the adjustment includes all contiguous lots divided by the existing UGB.

(2) For all other additions, the proposed UGB must be superior to the UGB as presently located based on consideration of the factors on subsection (a). The minor addition must include all similarly situated contiguous land which could also be appropriately included within the UGB as an addition based on the factors in subsection (a).

## V. Arguments in Support of the Petition

A. In summary, petitioners make the following major arguments in favor of the Locational Adjustment:

1. Development of the 17.6 acres owned by petitioners inside the UGB and 4.83 other acres inside the UGB is impossible without dedication and improvement of the realigned Wilsonville Road, including that portion of the realigned right of way now outside the UGB, because traffic in the area exceeds the capacity of Wilsonville Road until the road is realigned, and dedication of the right of way and improvement of the roadway is not possible unless the area needed for the road is included in the UGB and annexed to the City.

a. The City should not, and perhaps cannot, annex land outside the UGB or include such land in the Urban Renewal District.

b. Petitioners cannot dedicate right of way for realignment of Wilsonville Road outside the UGB without violating ORS 215.213(2).

(1) ORS 215.213(2) and 215.296 allow construction of public roads and highways in an agricultural zone (such as GAD) if it does not create a new parcel or force a significant change in accepted farm practices on surrounding land devoted to farm use or significantly increase the cost of accepted farming practices.

(a) Under ORS 215.010(1), a "parcel" is created on agricultural land by partition or by deed. The right of way for the realignment would be acquired by partition and deed pursuant to Clackamas County regulations. Therefore, dedication of the right of way (by granting a deed) on land zoned GAD would violate ORS 215.213(2). One way around this prohibition is for the County to acquire all of the Subject Property. This would substantially increase land acquisition costs, if the County purchases the property for the road realignment.

(b) If 1 acre of the Subject Property is used for a road, and 2.75 acres of the Subject Property is not suitable for agriculture because it is part of the drainageway, then only about 3 acres of the Subject Property could be used for agriculture. Such a small area of land cannot be used practicably for agriculture without forcing a significant change in or significantly increasing the cost of accepted farming practices.

2. Petitioners cannot discharge storm water from land in the UGB to the drainageway on the Subject Property outside the UGB, because the Clackamas County GAD zone does not allow urban level utility facilities. Therefore, petitioners would have to build a new 1700-foot long storm sewer at a cost of \$200,000 to accommodate storm water from land now within the UGB.

3. Petitioners could not build a bicycle path on the east side of the realigned Wilsonville Road, because the Clackamas County GAD zone does not allow urban level utility facilities. Therefore, the path would have to be located on the west side of the road, requiring the path to cross the road at its south end.

4. If the road realignment cannot be financed by Urban Renewal tax increment funds, then it will fall on the petitioners to build it. This would cause an onerous financial impact on petitioners, and would prevent or delay urbanization of the petitioners' land already in the UGB.

5. Including the Subject Property in the UGB will increase the efficiencies of scale for the petitioners by increasing the number of dwelling units that can be built on petitioners' property. This will reduce the incremental cost per unit of development, including costs of extending public water, sewer and roads. Because including the Subject Property increases the permitted number of dwelling units on petitioners' property by about 35%, (31 units allowed on Subject Property + 88 units allowed on land already in UGB), the cost per unit of infrastructure improvements is reduced an equivalent amount. Also, if the subject 6.35 acres is added to the UGB, then the area of land inside the UGB that needs public water and sewer services is increased by about 25% ( $6.35 \div 24.83$  acres = 25%). This, too, reduces the per unit service delivery cost an equivalent amount and results in more efficient service delivery.

6. The impact of the road realignment on petitioners' property inside the UGB --- it splits the property in half with a curvilinear road creating two triangular parcels --- makes it more difficult to design a practicable housing complex. Including the Subject Property in the UGB will offset in part the negative effects of the road relocation on the petitioners' property by increasing the number of units on that property and by providing a larger buildable area on the east side of the realigned road.

7. Pursuant to the City comprehensive plan and development codes, the easterly 2.75 acres of the Subject Property will be preserved as an open space and drainage tract. This provides a buffer between urban development on petitioners' property and adjoining agricultural uses to the east and southeast. More than 45 residents of the area signed a petition supporting the Locational Adjustment, showing that they believe the adjustment will not adversely affect their agriculture activities. Petitioners also agreed to execute a covenant waiving rights to object to lawful agricultural practices on adjoining land. Taken altogether, this shows urban development on the Subject Property will not adversely affect agricultural uses in the area.

8. Granting the petition enables Wilsonville Road to be developed by the City sooner than it would be by the County and enables the road and adjoining development to be subject to one set of standards.

#### VI. Findings Applying Approval Criteria to the Facts of the Case

In applying the approval criteria to the facts of the case, it is useful to distinguish the merits of including that portion of the Subject Property that will be dedicated for the Wilsonville Road realignment (the "right of way portion") from the merits of including the rest of the Subject Property in the UGB (the "remainder portion").

##### A. Orderly and economic provision of and net improvement in efficiency of public facilities and services (§ 3.01.040(a)(1)).

###### 1. Water and sewer.

a. Water and sewer can be provided to the Subject Property by extending a line from the public water and sewer lines that will be built in the realigned Wilsonville Road right of way. It would be orderly and economic to serve the Subject Property with water and sewer service once Wilsonville Road is realigned and associated infrastructure improvements are made. Realignment and improvements will be made as a condition of approval of development of petitioners' land already in the UGB. Therefore, the Subject Property can be served by public water and sewer systems in a timely and orderly manner.



b. Including the "right of way portion" of the Subject Property in the UGB increases the City's options about where to locate the water and sewer lines. That is, if the right of way portion is included in the UGB, then the water and sewer lines can be placed anywhere in the right of way. However, the City could locate the water or sewer lines in the right of way to be dedicated from land already in the UGB. Therefore, the Locational Adjustment is not necessary to provide water or sewer service to land already in the UGB. Including the right of way portion of the Subject Property to the UGB does not affect the construction or operating cost of the water or sewer line. Therefore, including the "right of way portion" of the Subject Property to the UGB has no net effect on the provision or efficiency of water or sewer service.

c. Including the "remainder portion" of the Subject Property in the UGB is not necessary to provide water or sewer service to land already in the UGB, because water and sewer lines will not cross the Subject Property to serve land already in the UGB. Including the "remainder portion" of the Subject Property to the UGB potentially increases the number of dwelling units served by the water and sewer systems, marginally increasing service efficiency by having the system serve more dwelling units and reducing per unit service costs by spreading those costs over more users. However, such a result by itself cannot result in a net improvement service efficiency for purposes of the Locational Adjustment standards, or else every petition would have to be approved on that basis. The service cost reductions per unit will be offset by higher gross construction cost. Therefore, including the "remainder portion" of the Subject Property in the UGB has no net effect on water or sewer system service efficiency in the UGB.

d. To the extent including both portions of the Subject Property in the UGB expedites development of all of petitioners' land, it also expedites water and sewer system improvements associated with realignment of Wilsonville Road and expedites delivery of water and sewer services to land already in the UGB that do not have those services, including TL 1800 and 400. However, water and sewer service to land already in the UGB is physically practicable without including either portion of the Subject Property in the UGB. Also, water and sewer service can be provided to land in the UGB when petitioners' land already in the UGB is developed. Therefore, including both portions of the Subject Property in the UGB has no effect on water or sewer system service efficiency in the UGB.

## 2. Roads and transportation.

a. If the Subject Property is included in the UGB, it can have vehicular access to realigned Wilsonville Road and to Boeckman/Advance Road. Therefore, the Subject property can be served by roads in an orderly and efficient manner.

b. Property already in the UGB can be served by Wilsonville Road. However, the permitted use of land already in the UGB may be constrained by the capacity of Wilsonville Road, because its route and level of improvements. If the road is realigned and improved, then full use of adjoining urban land would be permitted.

c. Wilsonville Road is required to be realigned and improved before urban use of the petitioners' property already in the UGB.

(1) Petitioners argue ORS 215.213(2) and 215.296 preclude dedication of the right of way outside the UGB, because such a dedication results in creation of a "parcel" and would force a significant change in accepted farm practices on adjoining farm land.

(2) Given the limited record regarding this issue, the hearings officer agrees with petitioners that dedication of a portion of the Subject Property for the road would violate ORS 215.213(2), because dedication of right of way from the Subject Property results in creation of a parcel as defined by state law. Therefore, including the "right of way portion" of the Subject Property results in more efficient delivery of road services that benefit land already inside the UGB. The hearings officer notes, an argument could be made that state law was not intended to treat a right of way as a parcel and that dedication of the right of way does not result in creation of an additional parcel; it merely adjusts the boundary between two existing parcels --- TL 1800 and TL 2200.

(3) However, dedication of the half-width right of way from the Subject Property would not violate ORS 215.296, because it would not force a significant change in accepted farming practices. It would reduce the farmable area of the Subject Property by one acre. It is not so much the dedication of the right of way from the Subject Property that makes farming the Subject Property problematic; it is the loss of the remainder of the filbert orchards on petitioners' property already inside the UGB. By developing their land already in the UGB, petitioners' eliminate most of their orchard. It is that development that has the most significant impact on the farm use potential of the Subject Property. Even if the right of way is not dedicated from the Subject Property, the Subject Property still is too small to be farmed by itself, given the drainageway on the property, based on Exhibits 14 and 27. Petitioners could dedicate right of way for the northeast half-width of realigned Wilsonville Road without violating ORS 215.296.

d. Including the "remainder portion" of the Subject Property in the UGB is not necessary to provide and does not facilitate access to other property inside the UGB. It makes it easier for petitioners to recover the cost of road improvements or reduces the per unit cost by allowing petitioners to build more units whose residents can be charged for the improvements. However, that does not result in more efficient delivery of urban services; only that it would be more economical to the petitioner if the petitioner ultimately builds the road. This sort of private economic benefit is not relevant to the Locational Adjustment. Therefore, including the "remainder portion" of the Subject Property in the UGB does not affect road system service efficiency in the UGB.

3. Police and Fire. Police and fire protection services can be provided to the Subject Property from existing or planned facilities in the vicinity, based on responses from service providers. Fire hydrants can be added as needed. Given the relatively small size and potential development of the Subject Property, no change in the efficiency of delivery of these services would follow from including the Subject Property in the UGB.

4. Schools. School services can be provided to the Subject Property from existing and planned facilities in the vicinity, based on responses from service providers. By including the Subject Property in the UGB and realigning Wilsonville Road, school-related traffic would benefit from improved road services.

#### 5. Storm drainage.

a. The Subject Property can be served by storm drainage by discharging water into the drainageway on the property. Therefore, the property can be served by drainage facilities in a timely and orderly manner.

b. Including the "right of way" portion of the Subject Property in the UGB will make it possible for the realigned Wilsonville Road to contain complete storm drainage features. Therefore, including that portion of the property in the UGB results in a net improvement in the efficiency of the storm drainage system.

c. It is not necessary to include the "remainder portion" of the Subject Property in the UGB to provide drainage services for land already in the UGB. Petitioners' property already in the UGB can discharge water to the storm sewer scheduled to be built in the Wilsonville Road right of way, to the drainageway south of the TL 1800, or to the drainageway on the Subject Property.

(1) The hearings officer disagrees with petitioners' argument that storm water cannot be discharged from land inside the UGB to land outside the UGB, because such an activity is not listed as a permitted use in the GAD zone. Clackamas County could conclude the use of the drainageway for drainage does not rise to the level of a land use under the GAD zone or could grant a conditional use permit for the drainage features as a public utility.

(2) Including the "remainder portion" of the Subject Property in the UGB makes it easier to discharge storm water from the urban area to the drainageway, because a conditional use permit would not be necessary. It is not clear from the Rules for Locational Adjustments or from past actions pursuant to those rules whether administrative ease is intended to be a measure of service efficiency, however the hearings officer concludes administrative ease is not a measure of service efficiency.

(3) Given that drainage services can be provided to land inside the UGB without the "remainder portion," including that portion of the property in the UGB does not result in a net improvement in the efficiency of the storm drainage system.

B. Land use efficiency (§ 3.01.040(a)(2)).

1. Including the "right of way portion" of the Subject Property in the UGB is necessary to enable full development of a realigned Wilsonville Road and thus to enable full development of land already in the UGB. Therefore, including the "right of way portion" results in maximum efficiency of land uses in the urban area.

2. Including the "remainder portion" of the Subject Property in the UGB is not necessary to enable urban use of land already in the UGB and therefore does not affect the efficiency of land uses inside the UGB. Including the "remainder portion" of the Subject Property in the UGB does not provide access which otherwise does not exist to the adjoining property; it does not provide services which would not otherwise exist to the adjoining property; it does not remedy physical development limitations which exist on the adjacent urban property. The Subject Property and adjoining lands to the north, east, and south are developed for agricultural and rural residential uses consistent with their County Comprehensive Plan Map designation. The adjoining land to the west can be developed independent of the "remainder portion" of the Subject Property, consistent with their City Comprehensive Plan Map designation.

3. Including the "remainder portion" of the Subject Property in the UGB could facilitate development of the adjoining land to the west by allowing more dwelling units to be built on land in the UGB through density transfers --- the density allowed on land dedicated for roads and for open space could be transferred to the land already in the UGB. More efficient use of land in the UGB results if such density transfers occur. However, the density from the drainageway and road could be transferred onto the "remainder portion" of the Subject Property rather than onto land to the west. There is no means to assure that density from the undevelopable parts of the Subject Property would be transferred to land to the west.

4. Petitioners also argued the costs of development associated with property in the UGB can be spread over a larger area and more dwelling units if the "remainder portion" of the Subject Property is included in the UGB. However, private economic benefits due to potential cost-spreading are not relevant to a Locational Adjustment except to the extent they are shared by the public at large. In this case, including the "remainder portion" of the Subject Property does not result in cost savings to the public.

5. The curvilinear route of realigned Wilsonville Road makes development of TL 1800 more difficult, because of the long curved road frontage. Including the "remainder portion" of the Subject Property in the UGB would make it easier to develop part of TL 1800, because it could be combined with TL 1800 to create a larger and therefore more flexible developable area. To this extent, including the "remainder portion" of the Subject Property in the UGB facilitates more efficient use of land already in the UGB.

C. Environmental, energy, social and economic consequences (§ 3.01.040(a)(3)).

1. Including the Subject Property in the UGB will not have significant environmental, energy, or economic consequences, because of the relatively small size and development potential of the property. Physical development limitations presented by the drainageway on the property will be addressed pursuant to land development laws of the local governments; the Wilsonville Code requires protection of at least a 20-foot wide portion of the drainageway as an open space tract. The Locational Adjustment would not affect regional transportation corridors, because the site is so far from I-5.

2. Including the Subject Property in the UGB could have adverse social consequences if urban development on the property disrupts nearby agricultural uses and rural residences. Adverse consequences could include a perception that urban uses are extending into the agricultural area, reducing the certainty that agricultural uses will be protected from such intrusions, and encouraging speculation.

a. Including the "right of way portion" of the Subject Property will not cause adverse social consequences, because the road will buffer urban uses on land in the UGB from adjoining agricultural land to the northeast, and the "remainder portion" of the Property and the drainageway on the southeast portion of the Subject Property will buffer urban uses on land in the UGB from agricultural land to the southeast.

b. Including the "remainder portion" of the Subject Property will not cause adverse social consequences, because the drainageway on the southeast portion of the Subject Property will buffer urban uses from agricultural land to the southeast, and the limited developable area at the north end of the property and the existing home on land to the east of the north end of the property will minimize the potential for urban/farm conflicts.

D. Retention of agricultural land (§ 3.01.040(a)(4)).

1. The Subject Property contains Class VII soils based on Exhibit 21. The Locational Adjustment is subject to Section 3.01.040(a)(4), because the property also contains Class II soils, is designated and zoned for farm use by Clackamas County, and is not irrevocably committed to non-farm use.

2. Retention of the "right of way portion" of the Subject Property in agricultural use would preclude development of realigned Wilsonville Road to full width standards. Unless Wilsonville Road is developed to full urban standards, development of land already in the UGB could exceed the capacity of the road system. It is necessary to include the

"right of way portion" of the Property in the UGB to enable development of Wilsonville Road to full width standards and thus permit full development of land within the UGB.

3. Retention of the "remainder portion" of the Property in agricultural use would not preclude urbanization of adjacent land inside the UGB, because adjoining land in the UGB can be developed without that portion. Retention of the "remainder portion" of the Subject Property would not prevent the efficient and economical provision of urban services to the adjacent land inside the UGB, based on findings VI.A.1.c and d, 2.d, 5.c, and B.2. This is the principal reason to treat the "right of way" and "remainder" portions of the Subject Property separately --- conversion of agricultural land is not necessary to provide the service efficiencies that in large part justify a Locational Adjustment.

4. On the other hand, the "remainder portion" of the Subject Property is not large enough on its own to accommodate accepted farming practices common to the area. The minimum developable area required for such use is 5 acres, based on Exhibits 14 and 27. The "remainder portion" contains not more than 3 acres of developable land. The minimum lot size for farm uses in the area --- the smallest lot size allowed by Clackamas County --- is 9 acres. The "remainder portion" could be joined with land to the east to create a larger developable area. However, because there is a home on the developable land east of the north part of the Subject Property, it is unlikely that combining the "remainder portion" with adjoining land to the east will enhance its productivity for agriculture. Therefore, if the "remainder portion" is not included in the UGB, it will be a substandard sized parcel that cannot be used for any purpose without a conditional use permit from Clackamas County unless merged with adjoining nonurban land. That makes it of low value for agricultural purposes except to the extent it provides a buffer between agricultural and urban lands.

E. Compatibility with agricultural activities (§ 3.01.040(a)(5)).

1. The Locational Adjustment would allow an urban use in the vicinity of agricultural activities described in finding III.E. These agricultural activities could be adversely affected by trespass and vandalism from residents of the Subject Property or users of the road across the Subject Property, and residents of the Subject Property could object to accepted farming practices, such as use of natural and chemical fertilizers.

2. Potential adverse effects of urban use of the "right of way portion" of the Subject Property on agricultural uses in the area could be reduced by fencing the east side of realigned Wilsonville Road, prohibiting direct access from that road to adjoining agricultural lands for nonfarm purposes, and establishing a buffer between that portion of the property included in the UGB and adjoining agricultural land. The substantial public interest in realigning Wilsonville Road, including the service efficiencies noted above, outweigh the potential incompatibility between urban uses on the "right of way portion" of the property and nonurban uses on land to the east.

3. Potential adverse effects of urban use of the "remainder portion" of the Subject Property would be reduced by the buffering effect of the drainageway-open space tract and by the presence of a single family home east of the north portion of the property. Urban uses and agricultural activities would not adjoin directly. However, they would be physically closer to each other if the "remainder portion" of the Subject Property is included in the UGB. This increases the potential for incompatibility. The negligible public benefits resulting from inclusion of the "remainder portion" of the Subject Property in the UGB do not outweigh the potential incompatibility between urban uses on the property and nonurban uses on land to the east. This is a second reason to treat the "right of way" and "remainder" portions of the Subject Property separately --- to provide the maximum protection and compatibility for nearby agricultural activities.

F. Superiority of proposed UGB (§ 3.01.040(d)(2)).

1. If the "right of way portion" of the Subject Property is included in the UGB, then Wilsonville Road can be realigned. This enhances road services and provides greater flexibility regarding the location of utilities within the right of way. The north part of that road would form the edge of the urban area, resulting in a superior UGB, because the road is an easily perceptible boundary between urban and nonurban areas. As it is now, the UGB falls between two of petitioners' properties and is not readily apparent on the ground. Therefore, including the "right of way portion" of the Subject Property in the UGB does result in a superior UGB.

2. If the "remainder portion" of the Subject Property is included in the UGB, then the drainageway on the east side of the property becomes the edge of the UGB. This has little effect on the efficiency of urban services. The drainageway creates an easily perceptible boundary at the southeast part of the property, but not at the northeast part of the property where it differs little from surrounding land in appearance, similar to the existing UGB. Including the "remainder portion" of the Subject Property in the UGB does not result in an inferior or superior UGB.

3. The existing UGB is coterminous with property lines. If the "right of way portion" of the Subject Property is included in the UGB, but not the "remainder portion," then the UGB will not be coterminous with property lines. The UGB will split the Subject Property into 1-acre and 5.35-acre portions. However, the 1-acre portion will be dedicated for right of way purposes, so that the west property line of the Subject Property will be the east edge of the Wilsonville Road right of way. Therefore, in the end, the UGB will be coterminous with property lines if the "right of way portion" of the Subject Property is included in the UGB, but not the "remainder portion."

G. Similarly situated land (§ 3.01.040(d)(3)).

The petition includes similarly situated lands, considering topography, soils, and other natural features of the land and considering the ownership patterns in the area. The only property owned by petitioners with access to realigned Wilsonville Road that can be served by public sewer and water facilities is the Subject Property.

VII. Conclusions and Recommendation

A. Whether the Subject Property is considered as a unit or in two portions, public facilities and services can be provided in an orderly and economic manner, including water, sewer, storm drainage, roads, fire, police, and schools.

B. If the Subject Property is considered as a unit, then the efficiency resulting from inclusion of the "right of way portion" of the Property is sufficient to warrant inclusion of the "remainder portion" of the Property. If the two portions of the Property are considered separately, then the "remainder portion" of the Property does not comply with the increased service efficiency criterion of MC section 3.01.040(a)(1).

1. Including the "right of way portion" of the Subject Property increases the efficiency of road services for land already in the UGB, because it provides right of way for realignment and widening of Wilsonville Road. That realignment and widening cannot be done to full urban standards consistent with ORS 215.213(2) without the amendment. The realignment and widening is necessary for urban development of land inside the UGB.

2. Including the "remainder portion" of the Subject Property in the UGB does not increase or reduce the efficiency of urban services for land already in the UGB, although it would facilitate higher density on adjoining land inside the UGB pursuant to a density transfer and would expedite development of land in the UGB.

C. Including the "right of way portion" of the Subject Property increases land use efficiency in the UGB by allowing realignment and widening of Wilsonville Road, thus allowing full urban development of land already in the UGB. Including the "remainder portion" of the Subject Property in the UGB is not necessary to enable urban use of land in the UGB and does not necessarily increase the efficiency with which that land is used. Therefore if the Subject Property is treated as a unit, the petition complies with MC section 3.01.040(a)(2). If the Subject Property is treated in two portions, the "remainder portion" of the Subject Property does not comply with that section.

D. Whether the Subject Property is considered as a unit or in two portions, including the Subject Property in the UGB will not have adverse environmental, energy, social, or economic consequences and will comply with MC section 3.01.040(a)(3).

E. Retention of the "right of way portion" of the Subject Property in agricultural use would preclude development of realigned Wilsonville Road to full width standards. Therefore, including the "right of way portion" in the UGB complies with MC section 3.01.040(a)(4). Retention of the "remainder portion" of the Subject Property, which is agricultural land, would not preclude urbanization of an adjacent area already inside the UGB, because adjoining land in the UGB can be developed without that portion of the property. Therefore, if the Subject Property is treated in two portions, the "remainder portion" of the Subject Property should not be included in the UGB, because it would violate MC section 3.01.040(a)(4).

F. The substantial public interest in realigning Wilsonville Road, including the service efficiencies noted above, outweigh the potential incompatibility between urban uses on the "right of way portion" of the property and nonurban uses on land to the east. The lack of public benefits resulting from inclusion of the "remainder portion" of the Subject Property in the UGB do not outweigh the increased potential incompatibility between urban uses on the property and nonurban uses on land to the east. Therefore, if the Subject Property is treated in two portions, the "remainder portion" of the Subject Property should not be included in the UGB, because it would violate MC section 3.01.040(a)(5).

G. If the Subject Property is treated as a unit, then the UGB will be superior to the present UGB if the Subject Property is included in the UGB. If the Subject Property is treated in two portions, then the UGB will be superior to the present UGB if the "right of way portion" of the Subject Property is included in the UGB, but not if the "remainder portion" of the Subject Property is included in the UGB.

H. The petition does include all similarly situated contiguous land outside the UGB.

I. For the foregoing reasons, the hearings officer recommends that the Metropolitan Service District Council grant the petition in Contested Case 90-01 if the Council decides to treat the Subject Property as a unit. If the Council decides to treat the property as two portions, then the hearings officer recommends the Council grant the petition only for the "right of way portion" of the Property and deny the petition for the "remainder portion" of the Property.

J. Given the past practice of the Council of considering a locational adjustment parcel as a single unit, the finding adopted in support of the rules for locational adjustments noted above, and the circumstances of the case, including the relatively small size of the Subject Property, the buffer provided by the natural feature on the "remainder" portion, and the residential land use east of the north part of the Property, the hearings officer recommends that the Subject Property be considered as a unit and, therefore, that the Council approve the petition for the whole Property.

DATED this 1st day of November, 1990.

Respectfully submitted,

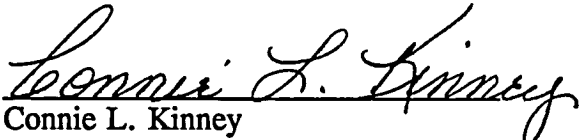
  
Larry Epstein  
Hearings Officer



## CERTIFICATE OF SERVICE

I hereby certify that on the 2nd day of November, 1990, I served a true copy of the foregoing Report and Recommendation of the Hearings Officer: Contested Case No. 90-1: Wagner, on each of the persons on the attached list either in person or by depositing an envelope containing the copies in the U.S. Mail at Portland, Oregon, with first-class postage prepaid thereon, addressed respectively, as shown on the attached list.

Dated this 2nd day of November, 1990.

  
Connie L. Kinney

Planning & Development  
Department

## STAFF REPORT

### CONSIDERATION OF RESOLUTION NO. 90-1351 FOR THE PURPOSE OF EXPRESSING COUNCIL INTENT TO AMEND METRO'S URBAN GROWTH BOUNDARY FOR CONTESTED CASE NO. 90-1, WAGNER

Date: November 26, 1990

Presented By: Larry Shaw

#### BACKGROUND

Contested Case No. 90-1 is a petition from Marvin and Bonnie Wagner of Wilsonville for a locational adjustment of the Urban Growth Boundary in Clackamas County. The property proposed for inclusion in the UGB is an approximately 6.35 acre parcel located east of Wilsonville, as shown in Exhibit A to the Resolution. The City of Wilsonville has gone on record in support of the amendment. Clackamas County has taken a position in support of an amendment to accommodate the proposed road realignment, but has concerns about the compatibility of making the total amendment with the County's comprehensive plan.

Metro Hearings Officer Larry Epstein held a hearing on this matter on September 25, 1990, in Wilsonville. Testimony was received from both the petitioner and from concerned citizens. The Hearings Officer's Report and Recommendation, attached as Exhibit B to the Resolution, concludes that the petition meets the applicable standards and should be approved. A number of exceptions have been filed to the decision, and they are attached to this staff report for your review.

Following presentation of the case by the Hearings Officer, and comments by the petitioner, the parties to the case will be allowed to present their exceptions to the Council. The petitioner will be given the opportunity to respond to the exceptions posed by parties. The Hearings Officer will be available to clarify issues as they arise.

At its meeting on the 13th of December, 1990, Council can approve this Resolution or remand the findings to staff or the Hearings Officer for modification. If the Resolution is approved, petitioner will need to annex the property to Metro prior to Council action on an Ordinance formally granting the petition.

The annexation to the Metro district would occur concurrently with annexation to Wilsonville, and is an action of the Portland Metropolitan Area Local Government Boundary Commission. Should the Council approve this resolution, and if the petitioner then accomplishes the annexation of the subject property to the Metro district within 6 months of the date of Council approval, then the Council should expect to see an ordinance finally amending the UGB early in 1991.

ANALYSIS

There are several issues raised by this case. First, the subject property is currently zoned for agricultural use. The locational adjustment procedure is very protective of land zoned for agricultural use and requires the applicant to show factually that development consistent with adopted and acknowledged comprehensive plans inside the existing UGB would be precluded without the amendment.

The Hearings Officer has concluded that the proposed realignment of Wilsonville Road must include an amendment of the UGB for at least the right-of-way needed for the project. He goes on to conclude that Metro's own findings for the locational adjustment process, and past practice in making locational adjustments, suggest that the entire parcel should be included in the amendment. The petitioners conclude that it would violate state law not to include the entire parcel in the amendment.

Opponents to the petition generally agree that the road right-of-way should be brought into the UGB, and that the road itself will make a good division between urban and rural. However, they disagree with the Hearings Officer's conclusion that the remainder of the 6.35 acre parcel, slightly more than 5 acres, should be included in the amendment. Hence, a decision to approve the resolution and thereby accept the Hearings Officer's Report and Recommendation would ratify Council's past practice of not "splitting" parcels when making locational adjustments of the UGB.

As the Hearings Officer notes on page 1 of his report, an interpretation of ORS 215.213 is required to rule on this petition. I concur with the Hearings Officer's interpretation that the proposed road is a reconstruction of a public road under ORS 215.213(2)(r) that is not a permitted use because a new "parcel", as defined in ORS 215.010(1), would be created via the acquisition of the additional right of way by partition and deed. Therefore, an addition to the UGB of at least the right of way is needed for the road alignment, which as findings F.1. demonstrate, creates a superior UGB.

This petition may be considered in whole or in part under Metro Code 3.01.070. The findings proposed by the Hearings Officer conclude that this particular 6.35 acre parcel should be treated as a whole because of its relatively small size and the Council's past practice of not splitting parcels. If the Council concludes that inclusion of this 6.35 acre parcel in the UGB results in any benefit to land already in the UGB then the petition complies with the efficiency standard in Metro Code 3.01.040(a)(1).

Based on these findings, if the council decides to exercise its discretion to split the parcel and add only the proposed road right of way to the UGB, the "remainder" 5.35 acre portion cannot,

Resolution 90-1351: Staff Report page 3

by itself, be included in the UGB because it would violate Metro Code 3.01.040(a)(4). The "remainder" portion, if treated separately, could only be included if additional benefits are demonstrated by the evidence, and the findings proposed by the Hearings Officer are amended.

LS:ES/es  
11/30/90

EXHIBITS FOR CONTESTED CASE 90-1: WAGNER



**METRO**


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

# Memorandum

Case # 90-1 Exhibit # 1  
Offered by METRO STAFF  
Date received 9/25/90 By LE  
METRO HEARINGS OFFICER

August 20, 1990

To: Larry Epstein, Hearings Officer

From: Ethan Seltzer, Land Use Coordinator 

Re: STAFF REPORT ON CONTESTED CASE NO. 90-1, PETITION FROM MARVIN G. AND BONNIE WAGNER FOR A LOCATIONAL ADJUSTMENT OF THE URBAN GROWTH BOUNDARY

Petitioner requests the addition of approximately 6.35 acres located south of Boeckman Road and immediately east of the present Wilsonville city boundary. To be approved, the petitioner must demonstrate compliance with the standards in Metro Code Section 3.01.040.

Locational adjustments are meant to be small scale, technical adjustments to the Urban Growth Boundary (UGB). They are a device used to adjust the boundary when a mistake was made in the original drawing of the boundary line, when the addition of a small acreage will uniquely facilitate the development of lands adjacent to the proposed addition and already in the UGB, or the addition involves an addition of two acres or less intended to make the UGB coterminous with property lines. In any case, the need for the property in the UGB is not a factor in judging the suitability of the proposed addition.

In brief, a successful demonstration of compliance with the standards must show that the adjustment will:

- result in a net improvement in the efficiency of the delivery of public facilities and services in adjoining areas within the UGB, and that the land in question itself can be served in an orderly and economic manner;
- lead to maximum efficiency of land uses;
- positively relate to any regional transit corridors and positively address any limitations imposed by the presence of hazard or resource lands;
- retain agricultural land when the petition involves lands for which no exceptions to goals 3 and 4 have been granted; and
- be compatible with nearby agricultural uses, or show why adherence to all the other conditions clearly outweigh any incompatibility.

In addition, a locational adjustment adding land to the UGB must be for less than 50 acres and must include within its boundaries all similarly situated contiguous lands, in order to avoid the piecemeal expansion of the UGB through a series of contiguous locational adjustments.

I have reviewed the materials submitted by the petitioner and would like to direct your attention to the following issues for further examination during the hearing on this matter, scheduled for September 25, 1990:

1) Proposal involves rural lands not excepted from Statewide Planning Goals 3 and 4 - The locational adjustment process was intentionally designed to be very protective of agricultural and forest resource lands. Care was taken to ensure that the process not become a "backdoor" exceptions process for rural resource lands adjacent to the urban growth boundary. Consequently, petitioner will need to show that either planned urbanization on existing urban land is prevented without the addition or that no alternative exists to meet the identified urban need without including some amount of the rural resource land in question inside the urban growth boundary.

2) No urban development without the road improvement - Petitioner contends that no urban development can occur on approximately 20 acres without the improvement of the road (Page 3, II(1)(A)). However, petitioner notes that new development in the vicinity generating some 15,000 trips per day has recently been allowed. Petitioner also notes that Wilsonville would require dedication of an easement prior to allowing development. Petitioner should clarify whether development would be prevented without the improvement or whether the city would prevent development that didn't provide for the improvement at some time in the future.

3) Cost Spreading - Petitioner notes that including the 6.35 acre parcel in the urban area would accomplish a "25%" reduction in the cost of providing water and sewer services. This is apparently based on the assumption that the per acre assessment would be lower as the number of acres in the project increases. Yet, as petitioner notes, some 2.3 acres would be retained as open space. Petitioner should clarify how the assessments would be made and provide data regarding the extent to which the proposed addition would actually decrease assessments for existing urban land.

4) Amendment as only way to correct road problem - On pages 7 and 8 petitioner cites two reasons in state law and the Clackamas County comprehensive land use plan which support their argument that there is no other means but a UGB amendment to realign the road. First, petitioner claims that the road realignment would create a new parcel, one for the right-of-way and one for the remainder of Tax Lot 2200, and that therefore the whole Tax Lot needs to be included to avoid this problem. This raises an

interesting issue, since conceivably a road realignment could occur in a situation like this where the adjacent parcel was not 6.35 acres but perhaps 500 acres. Would this require the inclusion of all 500 acres?

Second, petitioner has noted that new substandard parcels cannot be created. However, petitioner also notes that the average parcel size in the vicinity is somewhat in excess of 9 acres, making the existing parcel already "substandard". No data have been presented which sustain the claim that the existence or creation of "substandard" parcels would result in forcing a change in significant farm or forest practices or force an increase in the cost of significant farm or forest practices.

Finally, Clackamas County, in its position regarding the petition, supports including the acreage needed for the right-of-way but not the remainder of the parcel fearing a violation of its comprehensive land use plan policies. The essence of the issue here seems to revolve around whether any rural resource lands beyond those needed directly for the right-of-way can or should be included in an amendment, and whether a UGB amendment is, in fact, the appropriate vehicle for addressing all issues regarding the improvement of roads or other facilities straddling the UGB.

Clearly, petitioner has raised a number of important issues. At hearing it will be critical to clarify the issues noted above and to resolve any apparent conflict between petitioner's reading of the County's comprehensive plan, and the County's interpretation of the extent to which they believe the boundary ought to be moved.

5) Urban Renewal Funding - Petitioner claims that since urban renewal funding is the likely source for financing the improvement, that the entire right-of-way needs to be urban (page 9, II(4)(B)(c)). Petitioner should clarify the status of the urban renewal district and whether other alternatives exist for funding the improvement.

6) Split Jurisdiction - Petitioner claims that not making the amendment would result in a jurisdictional quagmire (page 10, II(4)(B)(d)). However, split responsibility for facilities and the development of joint agreements for planning and management are not unique in this region. Petitioner should clarify the unique implications of this associated with this case.

Please feel free to contact me should you have any questions. I have furnished a copy of this staff report to the petitioner.



**NOTICE OF PUBLIC HEARING**  
**METROPOLITAN SERVICE DISTRICT**

Case # 90-1 Exhibit # 2  
Offered by METRO STAFF  
Date received 9/27/90 By UE  
METRO HEARINGS OFFICER

Tuesday, September 25, 1990, at 2:30 pm at the Wilsonville City Hall, 30000 Town Center Loop East, Wilsonville, Oregon, the Metropolitan Service District (Metro) will hold a public hearing on a petition to include approximately 6.35 acres within the Portland Metropolitan Area Urban Growth Boundary (SEE ATTACHED MAP).

The petitioners, Marvin G. and Bonnie Wagner of Wilsonville, OR, have requested a locational adjustment of the UGB, a specific land use action included in the Metro Code. The property is comprised of one tax lot located south of Boeckman Road and east of and adjacent to the present Wilsonville city boundary. The legal description is Tax Lot 2200, Section 18, T3S, R1E, W.M. Its present zoning is GAD, as described in the Clackamas County comprehensive land use plan.

**BACKGROUND**

Under ORS 268.390 Metro is responsible for management of the Urban Growth Boundary for the Portland metropolitan area consistent with the Statewide Planning Goals adopted by LCDC. LCDC Goal 14 (Urbanization) lists seven factors that must be considered when an urban growth boundary is amended, and also requires compliance with the standards and procedures for taking a goal exception, as listed in Goal 2 (Land Use Planning).

Metro has adopted standards and procedures for smaller adjustments to its Urban Growth Boundary that LCDC has acknowledged for compliance with the requirements of Goal 14 and Goal 2. These standards and procedures are contained in Chapter 3.01 of the Metro Code and apply to this case.

Copies of the applicable code sections and the standards for locational adjustments are available from Metro staff.

**HEARING**

The hearing will be conducted before attorney, Larry Epstein, who has been designated as Hearings Officer by the Metro Council. Procedures for the hearing are those set forth in Metro Code Chapters 2.05 and 3.01. Following the close of the hearing record, the Hearings Officer will prepare a written report and recommendation to the Metro Council recommending that the application be approved or denied. Thereafter, the Council will hold a public meeting and either approve or deny the application or remand the matter to the Hearings Officer for further proceedings. Parties at the hearing may, but need not, be represented by an attorney.

In order to have standing in this case, both before the Metro Council and later, should an appeal result, you must either testify at the hearing or submit written comments to the Hearings Officer prior to the close of the hearing record. Therefore, not participating at this stage of the process could effect your ability to participate at a later date.

The hearing will commence promptly at 2:30 pm and continue until completed. Interested persons may submit additional testimony orally or in writing. Please address written testimony to Larry Epstein, Attorney at Law, 722 SW Second Avenue, Suite 400, Portland, OR 97204. Depending upon the number of persons wishing to testify, the Hearings Officer may impose time limits on testimony. The Hearings Officer may continue the hearing without further notice.

#### FOR MORE INFORMATION...

For further information about this case, about the standards for approving the request, or about any aspect of the proceeding, please contact Ethan Seltzer, Land Use Coordinator, at the Metropolitan Service District, 2000 S.W. First Avenue, Portland, Oregon 97201-5398, telephone 220-1537. Copies of a summary of hearing procedures and of the standards of approval will be mailed upon request, and will be available at the hearing. Other relevant materials may be copied and mailed at cost, or may be reviewed at the Metro Office.

3-05

R.R.F.F. - 5

ROAD

TRAIL	ACRES
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2	100
3	100
4	100
5	100
6	100
7	100
8	100
9	100
10	100
11	100
12	100
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99	100
100	100

3-19

ANGEL LANE  
PUBLIC RD.

94.42 Ac.

700	0.43A
800	0.60A

900  
O. 21 Ac.

601  
29.25Ac.  
27480

LOT 43.82

1000  
0.42 Ac  
27520

1101  
80.00 Ac.

G.A.D.

LOT 43.72

1200  
4.00 Ac.  
6351

See  
PS 1958

7

ROAD

RA-1  
3-5" du/  
acre

2100  
4.84 Ac.  
6360

2000  
19.44 Ac.

pasture  
G.A.D.

LOT 43.78.

2001  
2.00 Ac  
B4 P5986

2300  
3.60 Ac.

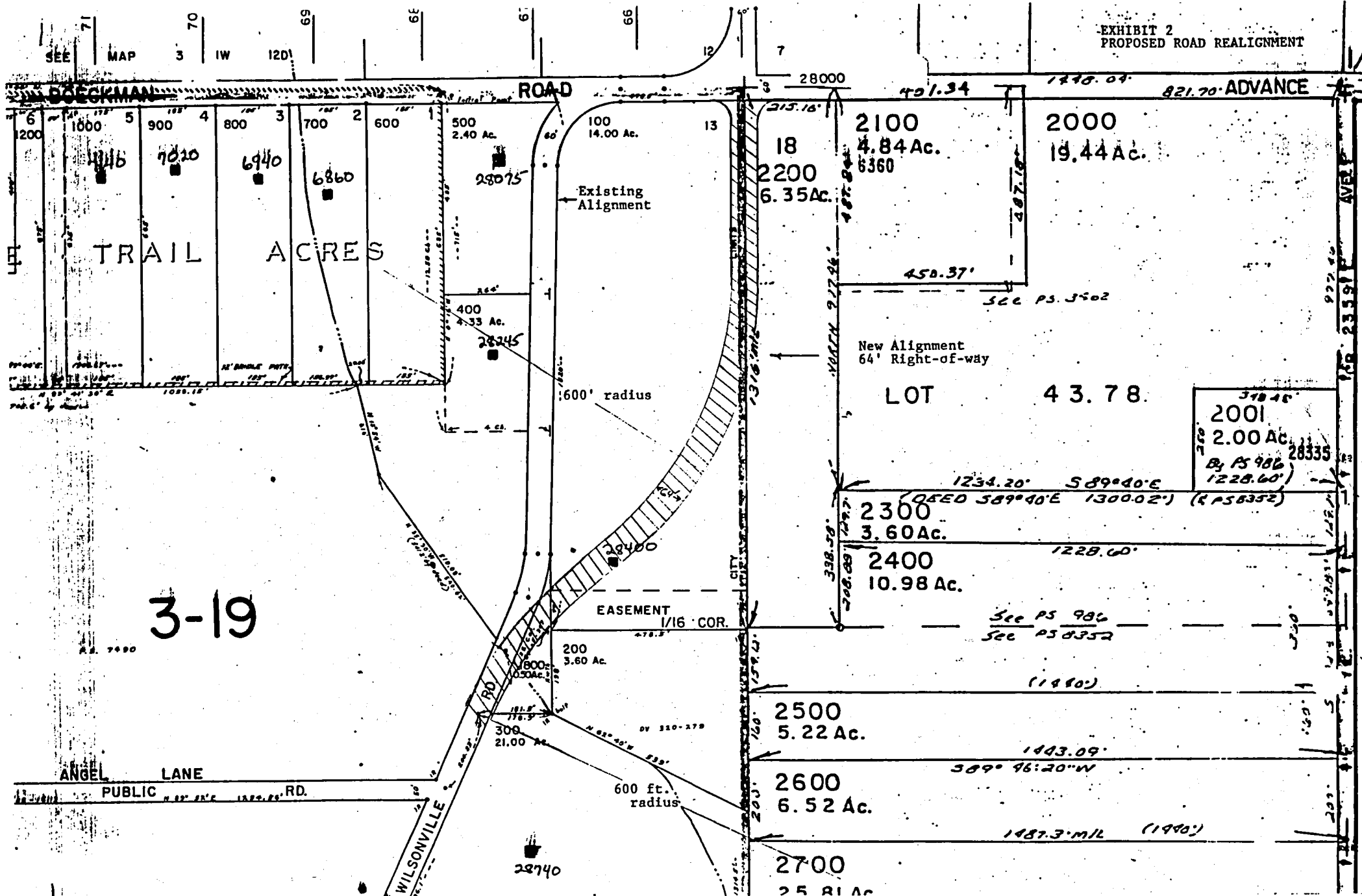
2400  
10.98 Ac.

EASEMENT  
1/16 COR

2500  
5.22 Ac.

2600

SEE MAP 3 1W 120





# METRO

2000 SW First Avenue  
Portland, OR 97201-5398  
(503) 221-1646  
Fax 241-7417

Case # 90-1 Exhibit # 4  
Offered by SELTZER  
Date received 9/25/90 By ME  
METRO HEARINGS OFFICER

June 28, 1990

Richard M. Whitman  
Ball, Janik, and Novack  
101 SW Main Street, Suite 1100  
Portland, OR 97204-3274

Executive Officer  
Rena Cusma

Metro Council

Mike Ragsdale  
Presiding Officer  
District 1

Gary Hansen  
Deputy Presiding  
Officer  
District 12

Lawrence Bauer  
District 2

Jim Gardner  
District 3

Richard Devlin  
District 4

Tom DeJardin  
District 5

George Van Bergen  
District 6

Ruth McFarland  
District 7

Judy Wyers  
District 8

Tanya Collier  
District 9

Roger Buchanan  
District 10

David Knowles  
District 11

Dear Mr. Whitman,

This letter acknowledges receipt of the application of the Wagners for a locational adjustment of the Metro Urban Growth Boundary. This application will be known as "Wagner" and has been assigned Case Number 90-1.

I have reviewed the application and have determined that the following elements are needed before the application can be accepted as complete:

- 1) Comment from local jurisdictions - Comment from Wilsonville and/or Clackamas County is required and has not been received by this office.
- 2) Service Provider Comment - Comment is required from providers of water, sewerage, storm drainage, and transportation services to the subject property. A letter from the relevant local planning department is sufficient for transportation and storm drainage. Service provider comments for school and fire services have been received by this office to date.

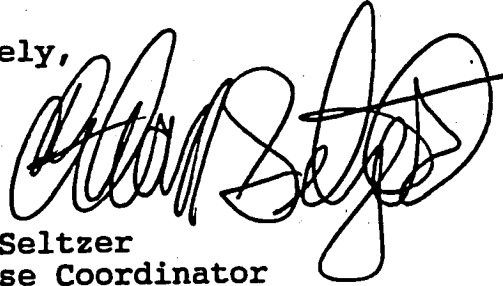
It is the responsibility of the petitioner to see that all items noted above are received by this office no later than 5 pm on Monday, July 23, 1990. Failure to complete the application as noted above will result in the rejection of the petition. Should the petition be completed, Metro will then schedule a hearing before a Hearings Officer no sooner than 45 days from the date on which the application is accepted by Metro as complete.

This letter also acknowledges receipt of the Wagner's check in the amount of \$2300.00 as a deposit against Metro and Hearings Officer costs in processing this application. The check will not be deposited until Metro accepts the application as complete. If the application is not

accepted, your deposit of \$2300.00 will be returned in full.

Please feel free to contact me should you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ethan Seltzer', written over a large, loopy circular flourish.

Ethan Seltzer  
Land Use Coordinator

Petition for Locational Adjustment  
Metro's Urban Growth Boundary (UGB) (check one):

X addition        removal

Note: To add land in one location and remove land in another, please complete one form for the addition and another for the removal.

1. a. Petitioner's name and address:

Marvin G. and Bonnie Wagner  
28400 S.W. Wilsonville Road  
Wilsonville, OR 97070  
Phone number: 682-3667

b. Contact person, if other than petitioner (consultant or attorney) or if petitioner is a local government:

Mr. Richard Whitman  
Ball, Janik & Novack  
101 S.W. Main Street, Suite 1100, Portland, OR 97204  
Phone number: 228-2525

2. What is petitioner's interest in the property:

X Property Owner  
       Contract Buyer  
       Option to buy  
       Other legal interest (Specify:       )  
       Local government

3. County in which property is located: Clackamas

4. If the locational adjustment requested were approved, would you seek annexation to (or de-annexation from) a city?

X Yes, the City of Wilsonville  
       No

5. Description of properties included in the petition (list each lot individually and attach a copy of the appropriate tax assessor's map(s)):

a. Legal Description  
(Township, Range,  
Section, Lot):

Part of the Northwest quarter of the Northwest quarter  
of Section 18, T3S., R1E of the W.M., Clackamas County,  
Oregon (Assessor's parcel No. 2200).

- b. Acres: 6.35
- c. Owner's Name  
& Address  
(Mark "Same"  
if same as  
petitioner): Same
- d. Improvements  
on property  
(e.g., none,  
one single  
family dwelling,  
barn, gas station,  
etc.): None

Attach additional sheets as needed.

6. a. What sewerage facilities currently serve the property?

- ☒ None, all land is vacant
- ☐ Package sewage treatment plant
- ☐ Sewer Line to public system
- ☐ Septic Tank

b. If septic tanks, have any septic tanks in the area failed?

- ☐ Yes, (Explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_) )
- ☐ No

7. How close is the nearest sewer trunk? 800 ft.

8. a. Are additional sewer trunks for the area planned?

- ☒ Yes ☐ No

b. If yes, how close to the property would planned  
sewer lines run? adjacent

9. How is water provided to the property?

- ☐ Private Well
- ☐ inch water line provided by \_\_\_\_\_  
(city or water district)
- ☒ No water provided



10. How close is the nearest water main? 800 ft.

11. a. Are additional water mains for the area planned?

X Yes        No

b. How close to the property would planned water lines run? adjacent

12. Are there any natural or man-made boundaries to development running along or near your property (rivers, cliffs, etc.)?

X Yes (Describe: Intermittent stream along eastern edge of property)  
Mark location on assessor's map or attach other map or photo.

       No

13. What is the current local plan designation of the property? Agricultural

14. What is the current local zoning designation? GAD

15. Does the comprehensive plan identify any natural hazards in this area?

       Yes (Describe and explain applicable comprehensive plan policies: \_\_\_\_\_)

X No

16. Does the comprehensive plan identify any natural or historic resources in this area? No

       Yes (Describe resources and explain applicable plan policies: \_\_\_\_\_)

17. How do you plan to develop the property if your petition is approved?

The intermittent stream will be rezoned for open space - providing a buffer between the road and adjoining agricultural uses. The remainder of the property will be used for road right-of-way, and for planned residential development.

18. On a separate sheet of paper, please discuss how approval of your petition would comply with each of the applicable standards from the Metro Code (attached green sheets). Only petitions found consistent with these standards may be approved. Metro staff will use the information received from

this petition, the local government, and other sources as needed, to prepare a list of questions for the Hearings Officer on whether these standards have been met. You and other parties may then submit any additional testimony in support of or opposition to the petition at the hearing. The Hearings Officer will then weigh the testimony received and submit the findings and recommendations to the Metro Council for action.

18. Petitioners Signatures

I/WE THE UNDERSIGNED HEREBY PETITION THE METROPOLITAN SERVICE DISTRICT TO ADD TO/REMOVE FROM THE URBAN GROWTH BOUNDARY THE PROPERTY DESCRIBED HEREIN.

SIGNED,

<u>Name</u>	<u>Tax Lot</u>	<u>Date</u>
<u>Marvin G. Wagner</u>	<u>2200</u>	<u>6-11-86</u>
<u>Bonnie Wagner</u>	<u>2200</u>	<u>6-11-86</u>
<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>

JH/gl  
2383B/223  
05/07/87

## **Summary of Applicant's Proposal and Compliance with Metro Standards for Locational Adjustments.**

### **I. Summary of Need for Proposed Locational Adjustment.**

#### **A. Background.**

Mr. and Mrs. Wagner are petitioning Metro for a locational adjustment to the City of Wilsonville's Urban Growth Boundary (UGB). The proposed minor boundary change would add a single parcel of 6.35 acres to the UGB. The parcel is owned by the Wagners, and is designated as Clackamas County Assessor's Parcel No. 2200, in R1E T3S Section 18, (hereafter the "Clackamas Property"). See attached Exhibit 1 (Site Plan).

This parcel is adjacent to other property owned by the Wagners inside the City of Wilsonville, in two parcels totalling 17.60 acres. The property inside Wilsonville (hereafter the "Wilsonville Property") contains a home and a barn, and is zoned RA-1 (designated as 3-5 units per acre on the Comprehensive Plan) by the City of Wilsonville.

The primary purpose of this proposed addition to Wilsonville's UGB is to enable the Wagners, in cooperation with the City, to plan and complete certain infrastructure improvements that are critical to the development of the Wilsonville Property.

#### **B. Realignment of Wilsonville/Stafford Road and Related Intersection Improvements.**

In its current alignment, Wilsonville/Stafford Road (designated as a major arterial in the Comprehensive Plans of both the City of Wilsonville and Clackamas County) takes two 90 degree turns within 1/10th of a mile as it crosses the Wilsonville city limit. See attached Exhibit 1 (Site Plan). These two corners, one of which is adjacent to a church, present a substantial public safety hazard that has led to four serious accidents in recent years according to the records of the Clackamas County Sheriff's office.

As a result of the threat to public safety posed by this alignment, both the City and the County have proposed relocating this section of Wilsonville/Stafford Road to eliminate the two corners. The proposed right-of-way for the new section of Wilsonville Road, and for the intersection with Boeckman and Advance Roads, encompasses the northwestern corner of the Clackamas Property outside the current UGB, and splits the Wilsonville Property diagonally (and would require removing the existing home). See attached Exhibit 2 (Proposed Road Alignment).

The City of Wilsonville has informed the Wagners that any development of the Wilsonville Property will be conditioned on the dedication of right-of-way for the proposed realignment and intersection improvements. In addition, the City has indicated that the road improvements themselves would be financed either through a local improvement district (LID) or, more likely, through inclusion of the project in the City's urban renewal district--with financing through tax-increment revenues.

As a result of the current alignment of Wilsonville/Stafford Road (the fact that the road enters the city limits at a corner), any realignment designed to eliminate the two corners now present has to encompass lands not presently within the City's UGB. Because it is impossible for development of the Wagner's Wilsonville Property to proceed without these improvements, and the improvements cannot occur on the Clackamas Property until it is annexed to the City of Wilsonville (for reasons explained below), the locational adjustment is required for the development of adjacent urban land as specified in Section 3.01.040(a) of the Metro Code.

#### C. Storm Drainage Improvements.

Another infrastructure improvement that is critical to the development of the Wagner's Wilsonville Property is storm drainage. Although the City has not prepared a storm drainage plan for this area, the City Engineer has reviewed the site and has indicated that storm drainage would be provided by making improvements to the intermittent stream which runs from North to South along the eastern portion of the Clackamas Property. See attached Exhibit 3 (Storm Drainage Improvements). This stream and its banks encompass 2.3 acres of the 6.35 acre Clackamas Property.

#### D. Buffering for Adjacent Agricultural Lands.

The realignment of Wilsonville/Stafford Road, while needed for public safety and efficiency, will move a major arterial closer to agricultural lands. Under Goal 4.4 of Wilsonville's Comprehensive Plan, agricultural lands outside the City should be protected either by providing a buffer use or a transition zone. City of Wilsonville Comprehensive Plan at 72. Recognizing this, the City of Wilsonville Planning Staff and the Wagners have agreed that upon annexation of the Clackamas Property to the City, the eastern portion (approximately two acres) of this property should be zoned for open space, and its natural vegetation and stream course left in place, to buffer adjacent agricultural lands. As noted above, this portion of the Clackamas Property is also needed for storm drainage improvements that will serve areas within the current UGB.

**E. The Feasibility of Developing the Wilsonville Property Upon Relocation of Wilsonville/Stafford Road.**

The dedication of right-of-way for the new section of Wilsonville/Stafford Road, and the intersection with Advance/Boeckman, will remove approximately 2.0 acres of developable land from the 17-acre Wilsonville Property. In addition, the new road alignment will result in the creation of two acute triangular parcels (with the narrow portions being undevelopable). This will severely reduce the amount of housing that the Wagners can develop on their property and may make it difficult to meet both Metro's housing goals for Wilsonville (8 dwelling units/acre) and Wilsonville's design criteria for residential planned developments. See, e.g., Wilsonville Code Section 4.421. Although much of the Wagner's Clackamas property is needed for infrastructure improvements, the remaining portions of the six-acre parcel can be used to offset (in part) the negative effects of the Wilsonville/Stafford Road relocation on residential development in the Wilsonville Property.

**II. Metro Standards for Locational Adjustments to Urban Growth Boundaries.**

Chapter 3.01 of the Metro Code sets forth certain standards for approval of petitions for locational adjustments to an Urban Growth Boundary. The application of each of these criterion to the Wagner proposal is set forth below.

**1. Net Improvement in the Efficiency of Public Facilities and Services. Metro Code § 3.01.040(a)(1).**

**A. Effect of Locational Adjustment on Transportation Facilities. Metro Code § 3.01.040(a)(1).**

As described above, improvements to Wilsonville/Stafford Road are required before the properties in this area of Wilsonville can be urbanized. The area dependent on this road improvement includes not only the Wagner's Wilsonville Property, but two additional parcels (Tax Lots 1800 and 400) with an additional 4.83 acres. In all, 22.43 acres of undeveloped land within the Wilsonville UGB will not be developed to urban densities without the proposed road realignment, which is in turn dependent on the addition of the 6.35 Clackamas parcel to the UGB.

The relocation of Wilsonville/Stafford Road, and the proposed UGB amendment, will also result in a net improvement in transportation services for other properties in Wilsonville to the South of Wagner property. Recent developments within one-half mile of the intersection have added 15,000 trips per day to the local street system. By removing one intersection

altogether, and straightening the other, the road relocation will make traffic flow more efficient for this major North/South arterial.

**B. Effect of Locational Adjustment of Storm Drainage Services. Metro Code § 3.01.040(a)(1).**

The development of the Wagner's Wilsonville Property to urban densities will require off-site storm drainage improvements to the seasonal stream shown on Exhibit 4. The improvements required are on lands outside the current UGB. Wilsonville's Comprehensive Plan calls for the utilization of major natural drainageways "as the backbone of the drainage system." Plan at 34. The Plan also specifies that these drainageways shall be designated as open space. Id.

**C. Effect of Locational Adjustment of Water and Sewer Services. Metro Code § 3.01.040(a)(1).**

There are existing water and sanitary sewer mains in Wilsonville Road within 200 feet of the Wagner's Wilsonville Property, and within 700 feet of the Wagner's Clackamas Property. Tax Lots 1800, 400 and 500 are also not served with water or sanitary sewer lines. Altogether, there are 24.83 acres of land within this area of the current UGB that are unserved.

Extending water and sanitary sewer lines will require constructing a crossing at the seasonal stream located on the southwestern edge of these properties. This crossing will be done in conjunction with the relocation and bridge work for Wilsonville/Stafford Road. The high cost of constructing the crossing, in conjunction with the relatively small area now within the UGB that would be served by the extension, makes it difficult to justify this project. The addition of 6.35 acres will increase the area over which this cost can be spread by over 25 percent, thereby substantially increasing the efficiency of extending water and sewer services.

**D. Effect of Locational Adjustment of Fire Protection and School Services. Metro Code § 3.01.040(a)(1).**

Fire protection services for this area are provided by a station of the Tualatin Rural Fire Protection District at Ellison Road. By enabling the relocation and improvement of Wilsonville/Stafford Road and the intersection with Boeckman and Advance Roads, this locational adjustment will improve response time to the area and remove a threat to the safety of both Fire District personnel and the public. During the past four years there have been four serious (injury), and over six less serious, accidents at this intersection. Since these intersections are heavily used by the school district's buses, this locational adjustment will also benefit the district.

Any development on the 6.35 acres outside the UGB will not have an appreciable effect on the utilization of fire or school services.

**E. Ability to Provide Public Services to the Clackamas Property in an Orderly and Economical Fashion. Metro Code § 3.01.040(a)(1).**

With the planned extension of water and sanitary sewer services along Wilsonville Road, these services will be available adjacent to the Clackamas Property. As stated above, water and sewer lines now terminate in Wilsonville Road, 700 feet from the Clackamas Property.

Road access to the site will be provided by the relocation of Wilsonville/Stafford Road. The site now has access at its northerly boundary to Advance Road.

**2. Existing Development Densities of the Clackamas Property and Facilitation of Development of Adjacent Urban Land. Metro Code § 3.01.040(a)(2).**

**A. Existing Development Density of the Clackamas Property. Metro Code § 3.01.040(a)(2).**

The 6.35 acre Clackamas Property is undeveloped. There are no existing improvements that present any impediment to urbanization.

**B. Facilitation of Needed Development of Adjacent Urban Land/Consistency with Comprehensive Plans. Metro Code § 3.01.040(a)(2).**

At the end of Chapter 3.01.040, a note to Metro's Code clarifies the interpretation of this standard. "Staff has found that it was the Metro Council's intent that, for the purposes of interpreting and applying this standard, the term 'needed' should be taken to mean 'consistent with the local comprehensive plan and/or applicable regional plans.'" This locational adjustment is consistent with the Comprehensive Plans of both Clackamas County and the City of Wilsonville.

The Wilsonville Comprehensive Plan contains specific references to the need to realign Wilsonville Road, and shows the realignment on its proposed list of transportation improvements. At page 30 of the Comprehensive Plan (Table II), the City states that Wilsonville Road, east of Town Center Loop should be realigned with Stafford Road, bypassing the "S" curve. Table at 30. This realignment is also indicated on the Comprehensive

Plan's Master Street System and Functional Classification, map at 29, and in the City's Pathway Plan, map at 33, and on the City's list of public facility projects, table at 51-53.

The Wilsonville Plan also identifies the need for residential development of the Wagner property now within the UGB. The Plan designation for the property is residential, with a density of three to five dwelling units per acre. This would allow for up to 88 units.

Clackamas County has also identified the need for a realignment of the Wilsonville/Boeckman intersection in its Comprehensive Plan. The Plan calls for Wilsonville Road to be upgraded to urban standards between the railroad tracks and the Northeast city limit, Transportation Element at 32, and the accompanying map shows the realignment (extending onto the Wagner's Clackamas Property outside the UGB), map V-9.

**3. Environmental, Energy, Economic and Social (ESEE) Consequences. Metro Code § 3.01.040(a)(3).**

**A. Impact on Regional Transit Corridor Development. Metro Code § 3.01.040(a)(3).**

The closest regional transit corridor to the Clackamas Property is Interstate 5, which is approximately one and one-quarter miles away. Development of the property at urban densities would generate no more than 500 trips per day, only a small portion of which would be on I-5. This impact is so small as to be insignificant.

**B. Limitations Imposed by the Presence of Development Hazards. Metro Code § 3.01.040(a)(3).**

The Clackamas County Comprehensive Plan lists the following as natural hazards: floodplains, landslide areas, organic/compressible soils, earth faults and slope of 20 percent or greater. None of these hazards are present on the Clackamas Property.

**C. Limitations Imposed by the Presence of Resource Lands. Metro Code § 3.01.040(a)(3).**

The properties adjacent to the site in Clackamas County are designated as resource land (agricultural) under the County's Comprehensive Plan, and are zoned as General Agricultural (GAD). The four parcels involved average 9.72 acres.

Under the City of Wilsonville's Comprehensive Plan and Zoning Code (if the site is annexed to Wilsonville), the eastern edge of the Wagners' property will be designated as open space and existing vegetation will be left in place. See Wilsonville



Comprehensive Plan Policies 3.4.3 and 3.4.4 (at 34-35), and Wilsonville Code Section 4.421(b). These provisions will insure preservation of an approximately 100 foot vegetated buffer between the Wagners' property and adjoining agricultural uses. In addition, the Wagners are willing to record a deed covenant, as a condition of this approval, recognizing the right of adjoining agricultural uses to continue accepted farming practices.

**D. Other ESEE Consequences. Metro Code § 3.01.040(a)(3).**

The Clackamas County Comprehensive Plan Inventory of Goal 5 resources does not identify any natural resources requiring protection in the vicinity of this site. Policies 1.0 and 2.0 of the County's Comprehensive Plan provide for Metro to take the lead in maintaining and amending urban growth boundaries.

**4. Retention of Agricultural Lands. Metro Code § 3.01.040(a)(4).**

**A. Retention of the Clackamas Property as Agricultural Lands Would Preclude Urbanization of Adjacent Parcels Already Within the UGB. Metro Code § 3.01.040(a)(4)(A)(i).**

As described above, development of 24.83 acres now within Wilsonville's UGB is dependent on off-site road and storm drainage improvements on the 6.35 acre property that is the subject of this petition. Without an amendment to the UGB, these improvements and their financing would be precluded.

The Wagner's Clackamas Property is zoned GAD, with a Comprehensive Plan designation of agricultural. Under ORS 215.213(2) the "reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new parcels" is allowed on agricultural lands only where the local governing body finds that the road will not force a significant change in accepted farm practices on surrounding lands devoted to farm use, or significantly increase the cost of accepted farm practices. ORS 215.213(2)(r) and ORS 215.296(1).

Under these statutes, there are two obstacles to the realignment of Wilsonville Road onto agricultural lands outside the current UGB. First, the road realignment may not be made if it would result in the creation of a new parcel. ORS 215.213(2)(r). Under ORS 215.010(1) a "parcel" is created on agricultural lands by partition under ORS 92.010, by partition under local ordinance, or by deed. ORS 215.010(1). In this case, the right-of-way for the realignment within Clackamas County would be acquired by partition and deed pursuant to Sections 402.09, 402.11(A) and 1007 of the Clackamas County

Zoning and Development Ordinance (ZDO). Under ORS 215.010(1) this means that the road realignment necessarily would result in the creation of a new parcel, which is prohibited under ORS 215.213(2)(r). The only means around this prohibition is to have the County acquire the entire 6.35 acre property so that the prohibition on the creation of new parcels would not apply. This would add significantly to the expense of the road realignment (it would more than triple the amount of land needed to be acquired), making it extremely unlikely that the project would ever be built.

Secondly, under ORS 215.213(2)(r), a road realignment on agricultural lands is allowed only if the local governing body makes findings under ORS 215.296(1) that the road "will not: force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use." See also, Clackamas County Comprehensive Plan, Land Use Element, Agriculture Goals 3.0 and 6.0 (land uses which conflict with agricultural uses shall not be allowed; roads shall be developed in a manner and to a level compatible with maintaining agricultural areas).

In this case, the proposed road realignment will result in the direct loss of approximately five percent of the 6.35 acre Clackamas Property, of which fifty percent is already unsuitable for farm use due to the presence of an intermittent stream running from North to South along the eastern half of the property (this stream is inventoried on the National Wetlands Inventory and is not in farm use). The end result of the realignment would be the creation of an isolated three acre plot of agricultural lands, adjacent to a major arterial, and with access only from the narrow northern boundary. Given these circumstances, it is impossible for Clackamas County to find that the road will not force a significant change in, or significantly increase the cost of, accepted farming practices on adjacent lands.

Additional standards for divisions of lands are contained in Clackamas County ZDO Section 402.9. These standards prohibit the creation of lots smaller than the "acreage supporting the typical commercial farm unit in the area. . . ." ZDO Section 402.09(B)(1). A 6.25 acre parcel would not meet this standard.

**B. Retention of the Parcel as Agricultural Lands Would Prevent the Efficient and Economical Provision of Urban Services to an Adjacent Area Already Within the UGB. Metro Code § 3.01.040(a)(4)(A)(ii).**

a. Storm Drainage.

Under Section 402.03 of the Clackamas County ZDO, urban level utility facilities and services are not listed as a permitted use. Cf. ORS 215.213(1)(d). As a result, the off-site storm drainage facilities and improvements needed to develop the Wagners' Wilsonville Property would have to be located within the City of Wilsonville. These facilities and improvements are required under Policies 3.4.3 and 3.4.5 of the City's Comprehensive Plan.

Restricting storm drainage improvements to that portion of the Wagner property within the City of Wilsonville means that a new, 1700 foot, storm drain main would have to be built from North to South, probably along the new alignment of Wilsonville Road. Without the restriction, storm drainage would be directed to the existing natural drainageway in the Wagner's Clackamas Property. See Exhibit 3. The incremental expense of a new artificial storm drainage system is approximately \$200,000.

b. Bikeways.

As part of the Wilsonville Road realignment and improvement project, the City of Wilsonville Comprehensive Plan calls for the development of a primary pathway/bikeway. City of Wilsonville Comprehensive Plan at 33. This improvement is also called for in the Clackamas County Comprehensive Plan. Clackamas County Plan Map V-15. Under the City of Wilsonville's Comprehensive Plan, this bikeway is to be "completely separated from vehicular traffic and within an independent right-of-way." Wilsonville Plan at 25. To avoid multiple road crossings, the pathway/bikeway through the Wagners' property would have to be located on the eastern side of the new alignment, outside the UGB in Clackamas County. Like storm drainage, however, urban-level bikeways are not a permitted use in Clackamas County's GAD district, so that development of the Wagner Property now within the UGB would require relocating the bikeway and providing for two crossings of Wilsonville Road, a major arterial with high traffic volumes and speeds.

c. Financing.

Although the Wagners' will be required to dedicate the lands required for the urban level services described above, some of the improvements are planned to be financed through the City of Wilsonville's Urban Renewal District with tax increment financing. Most of these improvements are designed to serve a wider area of Wilsonville and tax increment financing will spread these costs on a more equitable basis.

As has been shown, many of these improvements are needed on lands currently outside the UGB and the City of

Wilsonville. Amending the UGB will allow the City to include these areas within its Urban Renewal District so that a single source of financing may be used for the entire project. The alternative, assuming land use hurdles can be overcome, is for the improvements to be financed directly by the Wagners. Given the high level of infrastructure improvements needed to develop this property in relation to the amount of developable land, owner financing is certainly onerous and will at least delay, if not prevent, the urbanization of the Wagners' Wilsonville Property.

**d. Uniform Standards.**

The City of Wilsonville and Clackamas County have differing standards for road improvements, storm drainage and bikeways. In the event Wilsonville Road could be realigned onto agricultural lands in the county, the eastern half of the road would be subject to county road standards and the western half to city standards. There is no agreement between Wilsonville and Clackamas County providing for which standards are to control in such a situation. Furthermore, there is no agreement regarding which jurisdiction would be responsible for maintenance. Amending the UGB will assure that consistent standards are applied and that responsibility for long-term maintenance is clearly identified.

**5. Compatibility With Nearby Agricultural Activities. Metro Code § 3.01.040(a)(5).**

See Section II.3.C., above.

**6. Superiority of the Proposed UGB and Inclusion of Similarly Situated, Contiguous Land. Metro Code § 3.01.040(d)(2).**

Metro Code Section 3.01.040(d)(2) provides that minor additions to a UGB must include all similarly situated contiguous land. The Wagners' Clackamas Property is the only property necessary for the development of lands already within Wilsonville's UGB in this area due to the unique infrastructure requirements that apply.

**7. Size Limits on Additions of Lands to the UGB. Metro Code § 3.01.040(d)(3).**

The Metro Code states that "[a]dditions . . . generally should not add more than 10 acres of vacant land to the UGB. The Wagners' addition would add 6.35 acres, well within this limit. As amended, the UGB would follow the seasonal stream on the eastern edge of the property--providing a natural boundary, and all urban-level service improvements necessary for development would be provided within the UGB.

3-05

G.A.D.

LOT 43.72

G.A.D.

LOT 43.78.

RA-1  
3-5 du/  
acre

TRAIL	ACRES
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3-19

P.D.R.

ANGEL LANE  
PUBLIC RD.

EXHIBIT 2  
PROPOSED ROAD REALIGNMENT

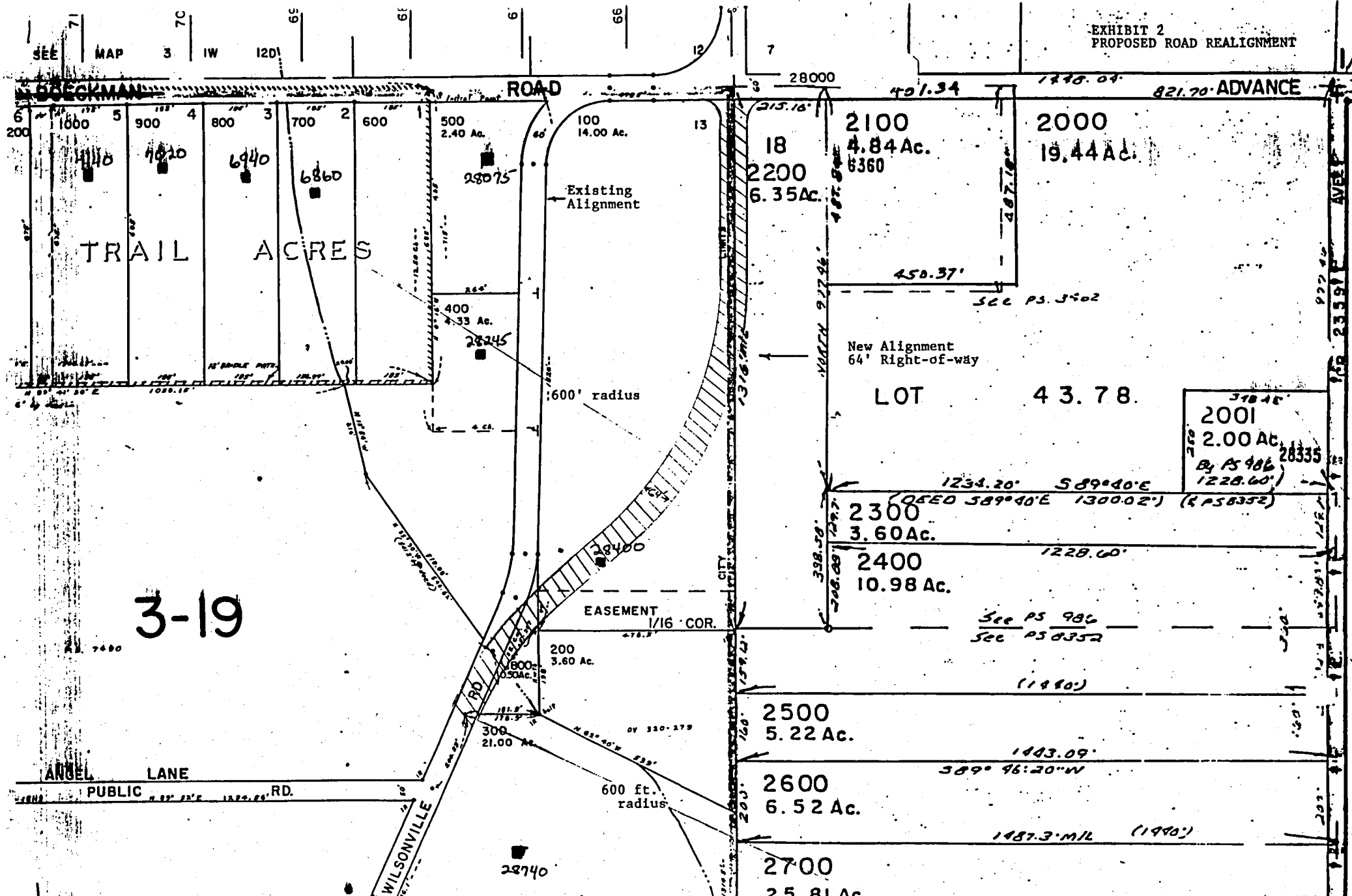


EXHIBIT 3  
EXISTING CONDITIONS AND  
STORM DRAINAGE

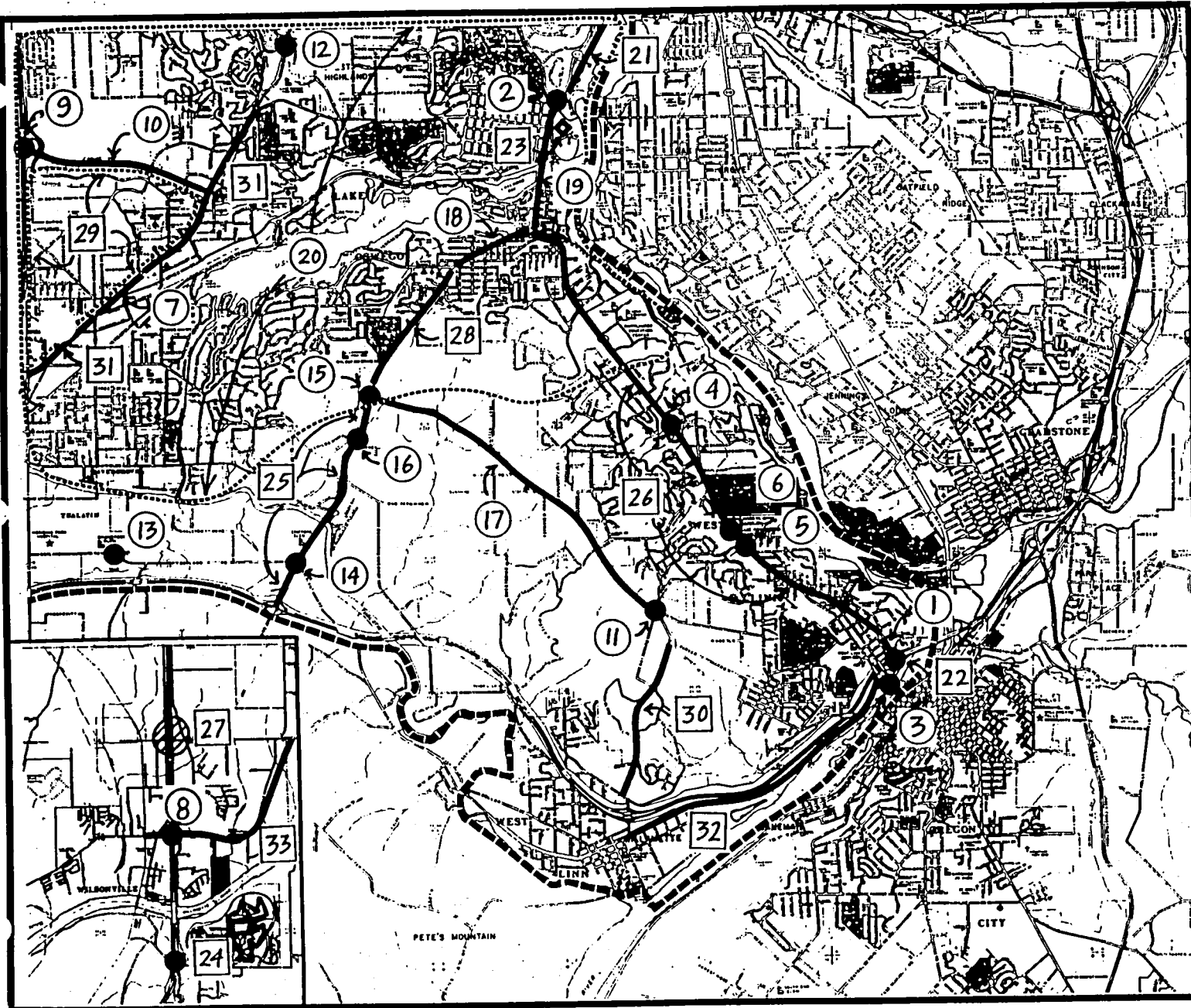
PHASE  
8

TL 500  
2.40 AC

OPEN SPACE/  
STORM DRAINAGE  
IMPROVEMENTS

COURT

CLACKAMAS COUNTY  
COMPREHENSIVE PLAN



WEST URBAN AREA  
PROJECTS NEEDED

① thru ②① 0-5 YEARS

②① thru ③③ 5-20 YEARS

— ROAD IMPROVEMENT

● INTERSECTION IMP.

◆ TRANSIT STATION

⊘ SPECIAL TRANSPORTATION  
STUDY AREA

○ TRANSPORTATION/  
CIRCULATION STUDY AREA

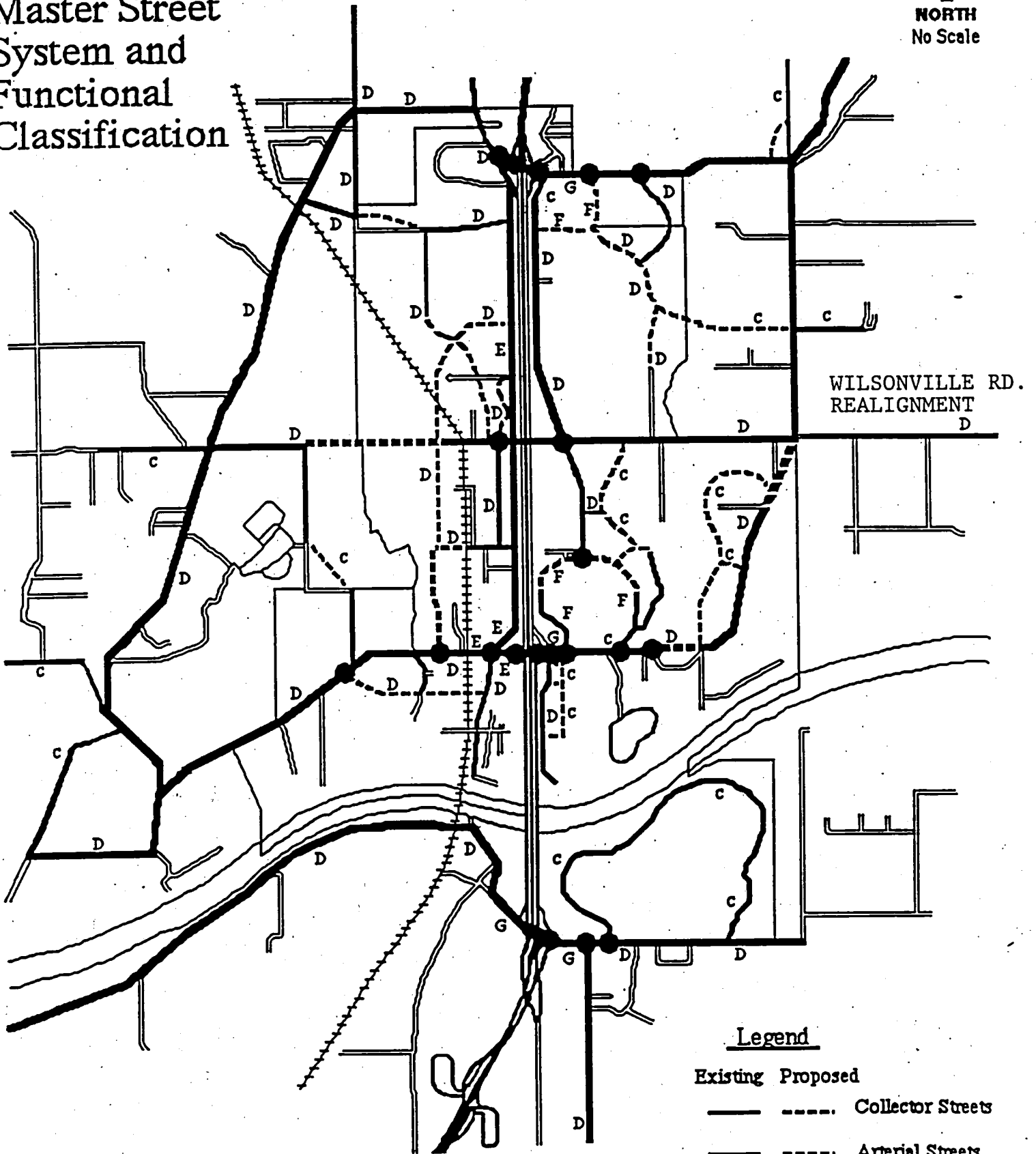
MAP V-9

WILSONVILLE ROAD REALIGNMENT







# Master Street System and Functional Classification

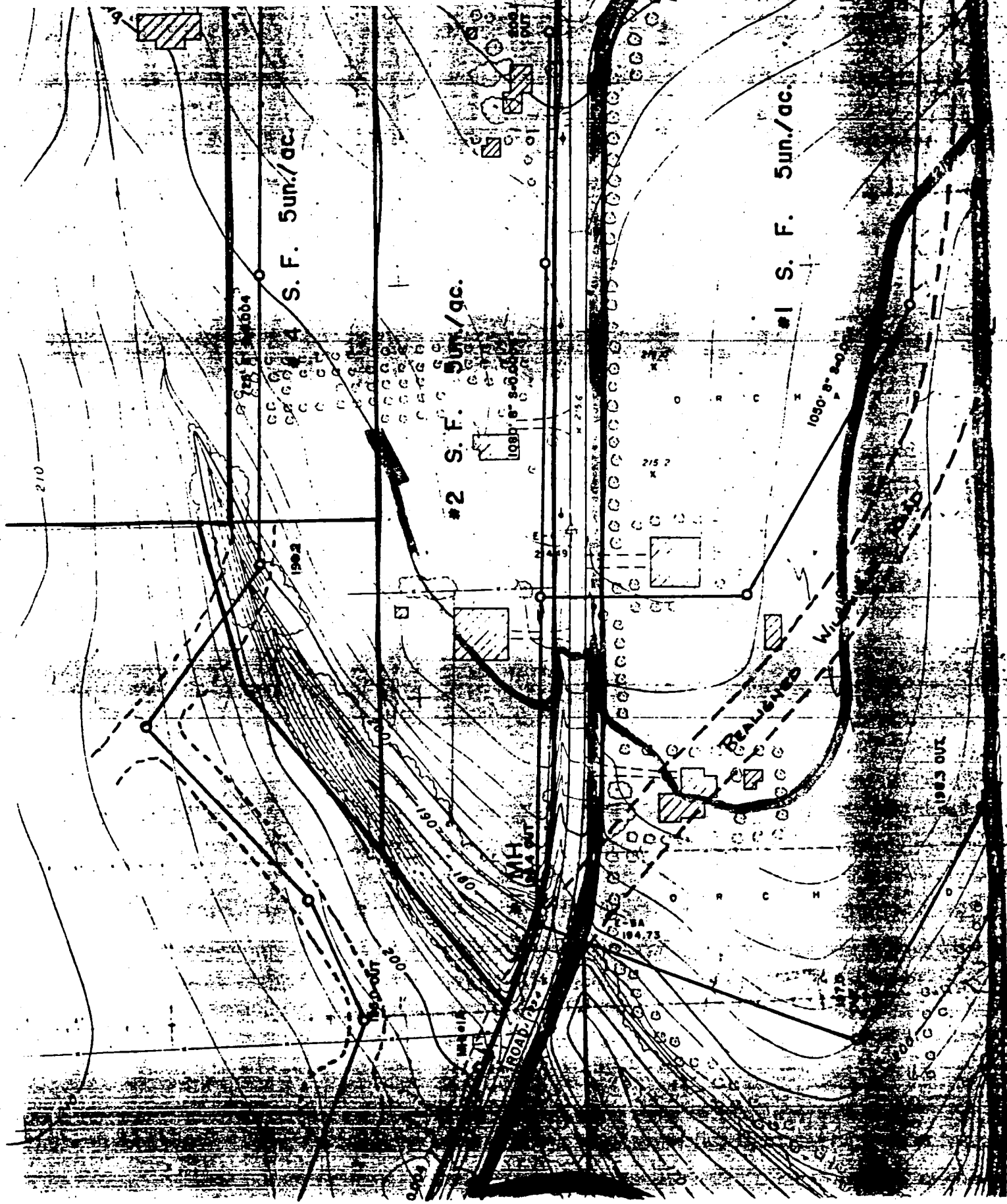
  
NORTH  
No Scale



Note: Existing and proposed "A" and "B" classification local streets are not shown on this map.

Legend	
Existing	Proposed
	 Collector Streets
	 Arterial Streets
	C to G Design Standards
	● Traffic Signals

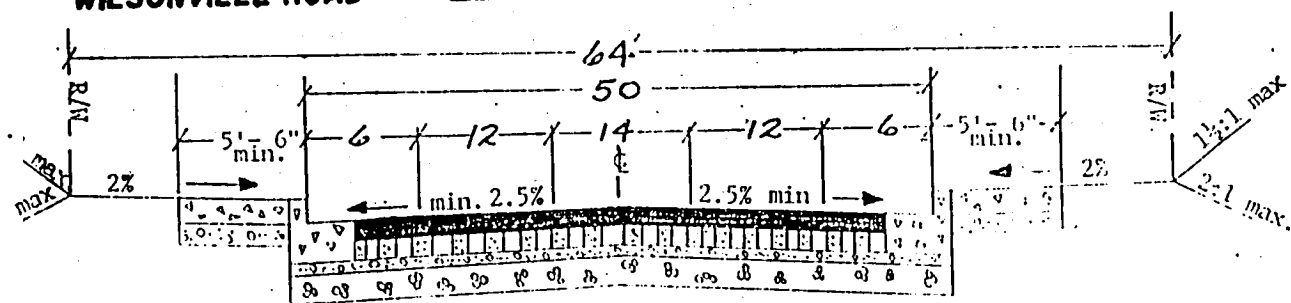
TOPOGRAPHY AND  
WATER/SANITARY SEWER PLAN



WILSONVILLE ROAD

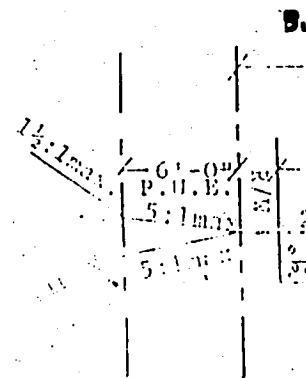
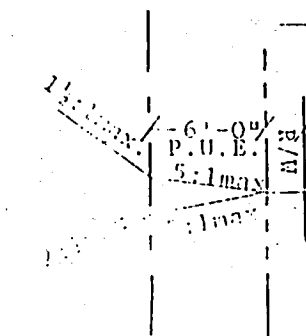
CITY LIMITS

SU



Arterial Road

PROPOSED STREET SECTIONS  
MINIMUMS



# NOTICE OF PROPOSED ACTION

Must be sent to DLCD 45 days prior to  
See OAR 660-18-020

Case # 90-1 Exhibit # 6  
Offered by METRO STAFF  
Date received 7/25/90 By LE  
METRO HEARINGS OFFICER

Jurisdiction Metro

Date Mailed 7/27/90 Local File Number 90-1

Date Set for Final Hearing on Adoption 9 25 90  
Month Day Year

Time and Place for Hearing 2:30 PM WILSONVILLE CITY HALL  
3000 TOWN CENTER LOOP EAST

Type of Proposed Action (Check all that apply)

☒ Comprehensive  
Plan Amendment

☐ Land Use  
Regulation Amendment

☐ New Land Use  
Regulation

Please Complete (A) for Text Amendments and (B) for Map Amendments

- A. Summary and Purpose of Proposed Action (Write a brief description of the proposed action. Avoid highly technical terms and stating "see attached".):

Action on petition for locational adjustment of Metro's Urban Growth Boundary to add 6 acres east of Wilsonville at the intersection of Boeckman Road and Stafford Road.

- B. For Map Amendments Fill Out the Following (For each area to be changed, provide a separate sheet if necessary. Do not use tax lot number alone.):

Current Plan Designation:

Rural

Proposed Plan Designation:

Urban

Current Zone:

GAD

Proposed Zone:

N/A

Location: Part of the NW 1/4 of the NW 1/4 of T3S, R1E, Section 18, TL 2200: East of Wilsonville, South of Boeckman Road.

Acreage Involved: 6.35

Does this Change Include an Exception? Yes ☒ No

For Residential Changes Please Specify the Change in Allowed Density in Units Per Net Acre:

Current Density:

Proposed Density:

**List Statewide Goals Which May Apply to the Proposal:** Metro takes the position that Goals 1, 2, 3, and 14 do not apply directly to locational adjustment proposals, but only through the standards and procedures adopted in Chapter 3.01 of the Metro Code, which has been acknowledged.

**List any State or Federal Agencies, Local Government or Local Special Service Districts Which may be Interested in or Impacted by the Proposal:**

Wilsonville, Clackamas County

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**Direct Questions and Comments To** Ethan Seltzer

2000 SW First Avenue

Portland, OR 97201

(Phone) 220-1537

**Please Attach Three (3) Copies of the Proposal to this Form and Mail To :**

Department of Land Conservation and Development  
1175 Court Street, N.E  
Salem, Oregon 97310-0590

**NOTE:** If more copies of this form are needed, please contact the DLCD office at 373-0050, or this form may be duplicated on green paper. Please be advised that statutes require the "text" of a proposal to be provided. A general description of the intended action is not sufficient. Proposed plan and land use regulation amendments must be sent to DLCD at least 45 days prior to the final hearing (See OAR 660-18-020).

**\*\*\* FOR DLCD OFFICE USE \*\*\***

**DLCD File Number** \_\_\_\_\_ **Days Notice** \_\_\_\_\_

<pa>proposedform

JUN 25 1990

BALL, JANIK & NOVACK  
ATTORNEYS AT LAW  
ONE MAIN PLACE  
101 S.W. MAIN STREET, SUITE 1100  
PORTLAND, OREGON 97204-3274  
TELEPHONE (503) 228-2525  
TELECOPY (503) 295-1058

RICHARD M. WHITMAN

9TH FLOOR, 601 PENNSYLVANIA AVE. N.W.  
WASHINGTON, D. C. 20004  
TELEPHONE (202) 638-3307  
TELECOPY (202) 783-6947

June 22, 1990

Case # 90-1 Exhibit # 7A-0  
Offered by WHITMAN  
Date received 9/15/90 By LE  
METRO HEARINGS OFFICER

@

Lt. Don Vicars  
Clackamas County Sheriff's Office  
2223 S. Kaen Road  
Oregon City, OR 97045

Dear Lt. Vicars:

Enclosed is a copy of a petition to Metro for a minor boundary change to the Wilsonville UGB in the vicinity of the Wilsonville Road/Boeckman Road intersection. Under Metro's Code, all service providers, including the Sheriff's Office, may comment on proposed minor UGB changes.

The minor boundary change, or "locational adjustment," would add 6.35 acres to Wilsonville's UGB in order to allow the City to proceed with the realignment of Wilsonville Road to eliminate two dangerous 90 degree turns. According to the Clackamas County Sheriff's Office at least four serious accidents have occurred on this section of Wilsonville Road in the last four years. Due to provisions of ORS 215.213 and Clackamas County's Comprehensive Plan it is effectively impossible to accomplish this realignment without changing the UGB.

We feel strongly that this project is beneficial to public safety as it would eliminate a dangerous intersection that is heavily used by traffic at high speeds. In addition, the intersection is immediately North of a new school in the City of Wilsonville. Both the City of Wilsonville and Clackamas County identify the need for this realignment in their Comprehensive Plans and the existing alignment is a serious public safety hazard. As a result we feel that a positive recommendation to Metro is appropriate.

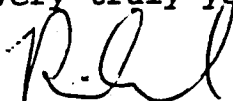
The Sheriff's Office's recommendation must be submitted to Metro by July 21, 1990 to be considered. If it is possible to provide comments sooner than this we would appreciate it. Please let me know if there are any timing problems with this schedule.

BALL, JANIK & NOVACK

Clackamas County Sheriff's Office  
June 22, 1990  
Page 2

Thank you for your consideration of this matter and please feel free to call me if you have any questions.

Very truly yours,



Richard M. Whitman

RMW:jvg

Enclosures

cc: Mr. and Mrs. Wagner  
Mr. Stephen T. Janik  
Mr. Ethan Seltzer

Request for Comment from Service Provider

(Part I to be completed by petitioner and submitted to each service provider listed on "Summary of Requests for Comments from Service Providers." Part II to be completed by the service provider and returned to Land Use Coordinator, Metropolitan Service District, 2000 S.W. 1st Avenue, Portland, Oregon 97201-5398)

Part I

To: Tualatin Valley Fire and Rescue  
Name of Service Provider

From: Mr. and Mrs. Wagner  
Name of Petitioner

Attached is a copy of a petition for a locational adjustment to Metro's Urban Growth Boundary (UGB). Please review this petition and submit your comments on it to Metro as soon as possible, but NO LATER THAN \_\_\_\_\_.

In general, land placed inside the UGB will develop to a residential density of at least four units a net acre or for urban commercial or industrial use, as determined by local zoning. Land outside the UGB cannot be served by sewer, and generally, cannot be developed at more than one unit to the net acre. In reviewing this petition, please consider: (1) whether its approval would make it easier (less expensive) or harder (more expensive) to serve other, adjacent areas for which service is planned or expected; and (2) how easy or difficult it would be to extend your service to the area included in the petition if the petition were approved.

Thank you for your help. Please call the Land Use Coordinator, at Metro, 221-1646, if you have any questions.

Part II

I have reviewed the attached petition for a locational adjustment to Metro's UGB and I:

☒ Support Approval

☐ Oppose Approval

☐ Have No Comment

☐ Support with Conditions

Comments and explanation (explain any conditions)

(Attach additional pages if needed.)

Signed [Signature]

Date 6/27/90

Title PLANS Exam.



Request for Comment from Service F

(Part I to be completed by petitioner and submitted to each service provider listed on "Summary of Requests for Comments from Service Providers." Part II to be completed by the service provider and returned to Land Use Coordinator, Metropolitan Service District, 2000 S.W. 1st Avenue, Portland, Oregon 97201-5398)

Part I

To: West Linn School District  
Name of Service Provider

From: Mr. and Mrs. Wagner  
Name of Petitioner

Attached is a copy of a petition for a locational adjustment to Metro's Urban Growth Boundary (UGB). Please review this petition and submit your comments on it to Metro as soon as possible, but NO LATER THAN \_\_\_\_\_.

In general, land placed inside the UGB will develop to a residential density of at least four units a net acre or for urban commercial or industrial use, as determined by local zoning. Land outside the UGB cannot be served by sewer, and generally, cannot be developed at more than one unit to the net acre. In reviewing this petition, please consider: (1) whether its approval would make it easier (less expensive) or harder (more expensive) to serve other, adjacent areas for which service is planned or expected; and (2) how easy or difficult it would be to extend your service to the area included in the petition if the petition were approved.

Thank you for your help. Please call the Land Use Coordinator, at Metro, 221-1646, if you have any questions.

Part II

I have reviewed the attached petition for a locational adjustment to Metro's UGB and I:

☒ Support Approval

☐ Oppose Approval

☐ Have No Comment

☐ Support with Conditions

Comments and explanation (explain any conditions)

(Attach additional pages if needed.)

Signed Robert L. Cox

Date 6/25/90

Title Superintendent

Case # 90-1 Exhibit # 10  
Offered by WHITMAN  
Date received 7/12/90 By LE  
METRO HEARINGS OFFICER

BALL, JANIK & NOVACK  
ATTORNEYS AT LAW  
ONE MAIN PLACE  
101 S.W. MAIN STREET, SUITE 1100  
PORTLAND, OREGON 97204-3274  
TELEPHONE (503) 228-2525  
TELECOPY (503) 295-1058

9TH FLOOR, 601 PENNSYLVANIA AVE. N.W.  
WASHINGTON, D.C. 20004  
TELEPHONE (202) 638-3307  
TELECOPY (202) 783-6947

RICHARD M. WHITMAN

June 22, 1990

Mr. Wayne Sorenson  
Planning Director  
City of Wilsonville  
P.O. Box 220  
Wilsonville, OR 97070

Dear Wayne:

Enclosed is a copy of the Wagners' petition for a minor boundary change to the Metro/Wilsonville UGB. We have made several changes to the petition since our meeting on June 14, 1990, including adding to the analysis of why the UGB amendment is needed to facilitate the development of lands already within the UGB.

One of the questions which arose at our meeting was why we couldn't restrict the UGB change to only that portion of the property needed for the new road alignment. I have looked into this question and there are three reasons why this could not be done. First, it is generally Metro's policy to have the UGB follow property lines. See Metro Code Section 3.01.040(d)(1). Secondly, the other portions of the property are required for storm drainage and bikeway improvements, and Metro requires that "all similarly situated contiguous land" be included in the petition. See Metro Code Section 3.01.040(d)(2). Finally, under ORS 215.213(2) and Section 402 of the Clackamas County Zoning and Development Ordinance, the parcel can't be divided. In sum, the only way for this road realignment to occur is for the entire parcel to be included in an amended UGB.

Any concerns the City or County may have regarding the effect of this amendment on agricultural lands should be allayed upon a close examination of the petition and what the City of Wilsonville's Code provides for a parcel such as the one involved here. The City's Code and Comprehensive Plan, by imposing a setback of at least 55 feet from the centerline of an arterial (Code Section 4.167(f), and by requiring that natural drainage ways be designated as open space (Plan Policy 3.4.3), effectively preclude any development on the lands proposed for addition to the UGB. This will insure that the agricultural uses on

BALL, JANIK & NOVACK

Mr. Wayne Sorenson  
June 22, 1990  
Page 2

adjoining properties are not effected by this change to the UGB and that the potential for conflict between urban and agricultural uses is not increased.

It is my understanding that this petition will go to the Planning Commission as an information item on July 9, 1990, and to the City Council for a resolution/recommendation on July 16, 1990. As you know, the City's comments must be in to Metro by July 21, 1990 to be considered with the petition. Please let me know if there are any timing problems and if there will be an opportunity to testify on what position the City should take.

We feel strongly that this UGB amendment and road realignment is in the best interests of both the City of Wilsonville and Clackamas County. As you know, both jurisdictions identify this realignment in their Comprehensive Plans and the existing alignment is a serious public safety hazard. As a result we feel that a positive recommendation to Metro is appropriate. Please feel free to call me if you have any questions regarding this matter.

Very truly yours,

  
Richard M. Whitman

RMW:jvg  
Enclosures  
cc: Mr. and Mrs. Wagner  
Mr. Stephen T. Janik  
Mr. Ethan Seltzer

RMW\JVG\RMW\WAGNER\WILSNVL.622

BALL, JANIK & NOVACK  
ATTORNEYS AT LAW  
ONE MAIN PLACE  
101 S.W. MAIN STREET, SUITE 1100  
PORTLAND, OREGON 97204-3274  
TELEPHONE (503) 228-2525  
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RICHARD M. WHITMAN

9TH FLOOR, 601 PENNSYLVANIA AVE. N.W.  
WASHINGTON, D. C. 20004  
TELEPHONE (202) 638-3307  
TELECOPY (202) 783-6947

June 28, 1990

BY MESSENGER

Mr. Ethan Seltzer  
Land Use Coordinator  
METRO  
2000 S.W. First Avenue  
Portland, OR 97201-5398

Re: Wagner Petition for Locational Adjustment

Dear Ethan:

Enclosed please find the Wagners' Petition for a locational adjustment to Metro's Urban Growth Boundary. At our earlier meeting on June 14, 1990, you indicated that we needed to explain in more detail why the retention of the subject property as agricultural lands would preclude urbanization of adjacent parcels already within the Urban Growth Boundary. As you know, the urbanization of the Wagners' (and other) property currently within the City of Wilsonville is contingent on the realignment of Wilsonville Road to lands outside the City's boundaries. While public road modifications are a permitted use under ORS 215.213(2)(r), such projects are permitted only in the event that they do not result in the creation of a new parcel, and only if the county can make findings that the road will not force a significant change in accepted farm practices or significantly increase the cost of such practices. Given that a new parcel would result from the acquisition of right-of-way by Clackamas County, and that the right-of-way would remove a significant portion of the agricultural lands on the property (only part of which are suitable for farm use), this project is effectively impossible so long as the parcel is outside the Urban Growth Boundary.

Why  
would  
new parcel  
result?  
What effect?

The Wagner Petition includes the completed Metro forms, an analysis of how the Petition complies with Metro's standards for locational adjustments, a series of exhibits, a notice list for all property owners within 500 feet, a check for \$2,300 and calculation of UGB amendment deposit form, and a completed application to the Boundary Commission for annexation. As per our phone conversation yesterday, comments from the City of Wilsonville will be available after their meeting on July 16,

BALL, JANIK & NOVACK

Mr. Ethan Seltzer  
June 28, 1990  
Page 2

1990 and comments from the County should be available after their meeting on July 5, 1990. Comment forms for all other service providers have been sent out and should be received by you shortly. One of these comment forms (from Tualatin Valley Fire & Rescue) has been returned to us directly and I am enclosing it with the Petition.

This should complete the Wagner Petition file pending receipt of comments. Please call me if you determine that there is any material missing from the application or if you feel that any additional information is needed to strengthen the application.

Thanks for your continuing assistance.

Very truly yours,



Richard M. Whitman

RMW:jvg  
Enclosures  
cc: Mr. Marvin C. and Bonnie Wagner  
Mr. Stephen T. Janik  
Mr. Gene Wolf

JVG\RMW\WAGNER\SELTZER.628

**Transerv**  
PACKAGE EXPRESS

(503) 241-0484

ACCT. NO.

850298

NON-NEGOTIABLE AIRBILL SHIPPER'S AGENT  
PICKUP TIME AND DATE

6/28 1:05

DRIVER

M-U

PDX 44525

AGENT'S COPY

DATE

June 28, 1990

DECLARED  
VALUE \$

NAME		TELEPHONE		NAME		TELEPHONE	
FROM: COMPANY NAME				TO (FROM): COMPANY NAME			
ADDRESS				ADDRESS			
CITY		STATE		CITY		STATE	
REFERENCE				DEPT./ORDER NO.			
THIRD PARTY BILLING		NAME		ADDRESS		CITY	
NO. PCS.		DESCRIPTION		WEIGHT		RATE	
AIR EXPRESS		LOCAL DELIVERY		SPECIAL INSTRUCTIONS		RETURN DELIVERY	
NEXT DAY A.M. (DELIVER WEEKDAY)		EXPRESS LETTER (UP TO 8 oz.)				WRONG ADDRESS	
INTERNATIONAL		EXPRESS ENVELOPE (UP TO 2 lbs.)				WAITING TIME	
*NEXT DAY BY 9		CUSTOMER PACKAGE (OVER 2 lbs.)				OTHER	
*SATURDAY SVC.		OVERNIGHT TUBE				VALUATION CHARGE	
*SAME DAY						FIRST FLIGHT OUT SERVICE	
*LATE PICKUP						TOTAL	
*EXTRA CHARGE APPLIES							
RECEIVED BY		TIME		DATE			
X		1:10		6/28			
				RETURN TO			

# CALCULATION OF UGB AMENDMENT DEPOSIT

1. Deposit toward Administrative costs (actual costs billed at \$35/hour for Land Use Coordinator time)

Enter \$700 if petition is 20 acres or less,  
\$1,400 if more than 20 but less than 50,  
\$2,500 if more than 50 acres

\$700

2. Deposit toward Hearings Officer and Public Notice costs (actual costs billed from invoices received)

\$ 1,600

TOTAL

\$2,300

2750B/223

PMALGBC FORM #6  
BOUNDARY CHANGE DATA SHEET

1. EXISTING CONDITIONS IN AREA TO BE ANNEXED OR WITHDRAWN

- A. Land Area: Acres 6.35 acres or Square Miles \_\_\_\_\_
- B. General description of territory. (Include topographic features such as slopes, vegetation, drainage basins, floodplain areas, which are pertinent to this proposal).

The property is generally level, with the exception of the eastern third, which has slopes of up to 30% leading to an intermittent stream. The flatter portions are in orchard.

- C. Describe land uses on surrounding parcels. Use tax lots as reference points.

North: TL 1101 - Nursery/tree farm (blue spruce); TL 2000 Rural residential.

East: TL 2100 - rural residential; TL 2000 - planted in pasture; TLs 2300, 2400 - orchard.

South: \_\_\_\_\_

West: Owner's parcel TL 100 - orchard

- D. Existing Land Use:

Number of single-family units 0 Number of multi-family units 0

Number commercial structures 0 Number industrial structures 0

Public facilities or other uses None

What is the current use of the land proposed to be annexed:

2/3rds in farm use (orchard), 1/3 in open space.

- E. Total current year Assessed Valuation \$ 2,160



F. Total existing population 0

## II. REASON FOR BOUNDARY CHANGE

- A. ORS 199.462 of the Boundary Commission Act states: "In order to carry out the purposes described in ORS 199.410 when reviewing a boundary change..., a boundary commission shall consider local comprehensive planning for the area, economic, demographic, sociological projections pertinent to the proposal, past and prospective physical developments of land that would directly or indirectly be affected by the proposed boundary change..." Considering these points, please provide the reasons the proposed boundary change should be made. Please be very specific. Use additional pages if necessary. (This information is often quoted in the Staff Report, so be thorough and complete.)

Annexation is proposed to facilitate the orderly and efficient provision of services to adjoining properties within the City of Wilsonville. Portions of the property will be used for a road realignment, portions for open space, and portions for storm drainage. All of these improvements are necessary to the development of adjacent land within the City of Wilsonville. See attachment for additional information. These improvements are specifically called for in both the City's and County's

- B. Comprehensive Plans.  
If the property to be served is entirely or substantially undeveloped, what are the plans for future development? Be specific. Describe type (residential, industrial, commercial, etc.), density, etc.

The property to be annexed will be used primarily for open space, storm drainage, and road right-of way. The eastern third will be zoned for open space; the western two-thirds will be zoned for medium density residential. However, given the City's setback requirements, very little residential development is expected to occur on the annexed property.

### III. LAND USE AND PLANNING

A. Is the subject territory to be developed at this time? Within 2-3 years

B. Generally describe the anticipated development (building types, facilities, number of units).

Medium density residential (approximately 16 units) in the south-  
western portion of the site. Remainder in open space, road right-  
of-way, and vacant land. Residential units would most likely be  
multi-family, subject to planned development review requirements  
of the City of Wilsonville.

C. If no development is planned at this time, will approval of this proposal increase the development potential of the property? Marginally  
If so, please indicate in terms of allowable uses, number of units).

See above.

D. Does the proposed development comply with applicable regional, county or city comprehensive plans? Please describe.

The City of Wilsonville Comprehensive Plan calls for the infra-  
structure improvements that make up the bulk of this proposal, as  
does Clackamas County's Plan. Any residential use would require a  
Plan amendment and zone change.

E. What is the zoning on the territory to be served? GAD

F. Please indicate all permits and/or approvals from a City, County, or Regional Government which will be needed for the proposed development. If already granted, please indicate date of approval and identifying number:

Approval	Project File #	Date of Approval	Future Requirement
Metro UGB Amendment	_____	_____	<u>X</u>
City or County Plan Amendment	_____	_____	<u>X</u>
Pre-Application Hearing (City or County)	_____	_____	_____
Zone Change (City or County)	_____	_____	<u>X</u>
Preliminary Subdivision Approval	_____	_____	_____
Final Plat Approval	_____	_____	_____
Land Partition	_____	_____	<u>X</u>
Conditional Use/PDR	_____	_____	_____
Variance	_____	_____	_____
Sub-Surface Sewage Disposal	_____	_____	<u>X</u>
Building Permit	_____	_____	_____

Please submit copies of proceedings relating to any of the above permits or approvals which are pertinent to the annexation.

G. Can the proposed development be accomplished under current county zoning? Yes \_\_\_\_\_ No X

If No,---has a zone change been sought from the county either formally or informally. Yes \_\_\_\_\_ No X

Please describe outcome of zone change request if answer to previous questions was Yes. \_\_\_\_\_

H. Is the proposed development compatible with the city's comprehensive land use plan for the area? Yes X No \_\_\_\_\_  
City has no Plan for the area. Has the proposed development been discussed either formally or informally with any of the following? (Please indicate)

City Planning commission X City Planning Staff X

City Council X City Manager \_\_\_\_\_  
Please describe the reaction to the proposed development from the persons or agencies indicated above.

Planning Director is very supportive, as is the City Engineer since the primary purpose of this proceeding is to enable a much needed road realignment. City Planning Commission and Council will hear Metro petition in July.

- I. If a city and/or county-sanctioned citizens' group exists in the area of the annexation, please list its name and the address of a contact person.

Farwest Neighborhood Association, Jim Valente, tel. 635-5243.

#### IV. SERVICES AND UTILITIES

- A. If the reason for the annexation or withdrawal is to obtain specific municipal services such as water service, sewerage service, fire protection, etc., please indicate the following:

1. Proximity of facilities (such as water mains, sewer laterals, storm drains, etc.) to the territory to be annexed. (Please indicate location of facilities--for example: 8" water main in Durham Rd. 500' from east edge of territory). Please indicate whose facilities they are and whether in fact these facilities will be the ones actually providing service to the area. If the facilities belong to another governmental entity, explain the agreement by which they will provide the service and what the city's policy is on subsequent withdrawal and/or compensation to the other unit.

Water and sewer will be extended along the realignment of  
Wilsonville Road. Both water and sewer are available in the  
existing alignment, 700' from the property (8" main). Services  
are provided by the City of Wilsonville.

2. The time at which services can be reasonably provided by the city or district. When financing is available
3. The estimated cost of extending such facilities and/or services and what is to be the method of financing. (Attach any supporting documents.)

Preliminary cost estimate for road realignment, water, and  
sewer is \$785,400.

4. Availability of the desired service from any other unit of local government. (Please indicate the government.)

N/A.

- B. If the territory described in the proposal is presently included within the boundaries of any of the following types of governmental units, please so indicate by stating the name or names of the governmental units involved.

City _____	Rural Fire Dist. <u>Tualatin Valley</u>
County Service Dist. _____	Sanitary District _____
Hwy. Lighting Dist. _____	Water District _____
Grade School Dist. <u>West Linn</u>	Drainage District _____
High School Dist. <u>West Linn</u>	Diking District _____
Library Dist. _____	Park & Rec. Dist. _____
Special Road Dist. _____	Other Dist. Supplying Water Service _____

- C. If any of the above units are presently servicing the territory (for instance, are residents in the territory hooked up to a public sewer or water system), please so describe.

N/A

APPLICANT'S NAME Marvin and Bonnie Wagner

MAILING ADDRESS 28400 SW Wilsonville Rd.

Wilsonville, OR 97070

TELEPHONE NUMBER \_\_\_\_\_ (Work)

682-3667 (Res.)

REPRESENTING \_\_\_\_\_

DATE: \_\_\_\_\_

PMALGBC FORM #15

PETITION FOR ANNEXATION TO THE CITY OF WILSONVILLE, OREGON

TO: The Council of the City of WILSONVILLE, Oregon

We, the undersigned property owners of and/or registered voters in the area described below, hereby petition for, and give our consent to, annexation of the area to the City of WILSONVILLE. If approved by the city, we further request that this petition be forwarded to the Portland Metropolitan Area local Government Boundary Commission for the necessary procedures as prescribed by ORS 199.490(2).

The property to be annexed is described as follows:

(Insert Legal Description here OR attach it as Exhibit "A")

See Exhibit A.

PMALGBC FORM #16

CERTIFICATION OF PROPERTY OWNERSHIP

(Double Majority Method)

I hereby certify that the attached petition for annexation of the territory described therein to the City of \_\_\_\_\_ contains the names of the owners of a majority of the land area of the territory to be annexed.

NAME \_\_\_\_\_

TITLE \_\_\_\_\_

DEPARTMENT \_\_\_\_\_

COUNTY OF \_\_\_\_\_

DATE: \_\_\_\_\_

.....  
PMALGBC FORM #17

CERTIFICATION OF REGISTERED VOTERS

I hereby certify that the attached petition for annexation of territory described herein to the City of \_\_\_\_\_ contains the names of at least a majority of the electors registered in the territory to be annexed.

NAME \_\_\_\_\_

TITLE \_\_\_\_\_

DEPARTMENT \_\_\_\_\_

COUNTY OF \_\_\_\_\_

DATE \_\_\_\_\_

PMALGBC FORM #4

CERTIFICATION OF LEGAL DESCRIPTION AND MAP

I hereby certify that the description of the property included within the attached petition (located on Assessor's Map \_\_\_\_\_) has been checked by me and it is a true and exact description of the property under consideration, and the description corresponds to the attached map indicating the property under consideration.

NAME \_\_\_\_\_

TITLE \_\_\_\_\_

DEPARTMENT \_\_\_\_\_

COUNTY OF \_\_\_\_\_

DATE: \_\_\_\_\_



PMALGBC FORM #19

(This form is NOT the petition)

ALL OWNERS OF PROPERTY AND/OR REGISTERED VOTERS INCLUDED IN BOUNDARY CHANGE PROPOSAL AREA

(To be completed IF the proposal contains 10 or fewer land owners/registered voters. Please indicate the name and address of all owners/voters regardless of whether they signed an annexation petition or not. This is for notification purposes.

NAME OF OWNER/VOTER	ADDRESS	PROPERTY DESIGNATION (Indicate tax lot, section number, Township and Range)
(1) <u>Mr. Marvin Wagner</u>	<u>28400 SW Wilsonville Rd.</u>	<u>2200, 18, T3S, R1E</u>
	<u>Wilsonville, OR 97070</u>	
(2) <u>Mrs. Bonnie Wagner</u>	<u>same</u>	<u>same</u>
(3)		
(4)		
(5)		
(6)		
(7)		
(8)		

PMALGBC FORM #19 (continued)

(This form is NOT the petition)

ALL OWNERS OF PROPERTY AND/OR REGISTERED VOTERS INCLUDED IN BOUNDARY CHANGE PROPOSAL AREA

(To be completed IF the proposal contains 10 or fewer land owners/registered voters. Please indicate the name and address of all owners/voters regardless of whether they signed an annexation petition or not. This is for notification purposes.

NAME OF OWNER/VOTER	ADDRESS	PROPERTY DESIGNATION (Indicate tax lot, section number, Township and Range)
(9)		
(10)		

## DOUBLE MAJORITY WORK SHEET

(If needed, use separate sheet for additional listings).

[illegible]

PMALGBC FORM #20 (continued)

REGISTERED VOTERS

[illegible]

## SUMMARY

TOTAL NUMBER REGISTERED VOTERS IN THE PROPOSAL 2

NUMBER OF REGISTERED VOTERS WHO SIGNED 2

PERCENTAGE OF REGISTERED VOTERS WHO SIGNED 100%

TOTAL ACREAGE IN PROPOSAL 6.35

ACREAGE SIGNED FOR 6.35

PERCENTAGE OF ACREAGE SIGNED FOR 100%

PMALGBC FORM #18

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION INITIATING ANNEXATION OF TERRITORY TO THE CITY OF Wilsonville

This matter is before the Common Council of the City of Wilsonville  
hereinafter referred to as Council; and

It appearing that:

- 1) The Council is authorized by ORS 199.490(2)(a)(B) to initiate an annexation upon receiving consent in writing from a majority of the electors registered in the territory proposed to be annexed and written consent from owners of more than half the land in the territory proposed to be annexed.
- 2) The Council has received the necessary "consents" in sufficient numbers to meet so-called "double majority" annexation requirements listed above and has set the boundary of the territory proposed for annexation as authorized by ORS 199.490(2)(a)(B).

~~3) The territory proposed to be annexed is presently within the  
Water District and/or Sewer  
District and the Council intends to withdraw the territory from the  
District(s)  
by authority of ORS 222.520 subsequent to consummation of the annexation.~~

NOW THEREFORE BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF  
Wilsonville AS FOLLOWS:

- 1) that the Council by this resolution approves the proposed annexation with the boundaries described in Exhibit "A" and depicted in Exhibit "B" attached hereto:
- 2) that the City recorder is hereby directed to file certified copies of the statements of consent and this Resolution with the Portland Metropolitan Area Local Government Boundary Commission at once.

The foregoing Resolution adopted this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
(City Recorder)

CITY OF: \_\_\_\_\_

ADDRESS \_\_\_\_\_

\_\_\_\_\_  
(Zip)

BALL, JANIK & NOVACK  
ATTORNEYS AT LAW  
ONE MAIN PLACE  
101 S.W. MAIN STREET, SUITE 1100  
PORTLAND, OREGON 97204-3274  
TELEPHONE (503) 228-2525  
TELECOPY (503) 295-1058

RICHARD M. WHITMAN

Case # 90-1 Exhibit # 12  
Offered by WHITMAN  
Date received 9/15/90 By LE  
METRO HEARINGS OFFICER

9TH FLOOR, 601 PENNSYLVANIA AVE. N.W.  
WASHINGTON, D.C. 20004  
TELEPHONE (202) 638-3307  
TELECOPY (202) 783-6947

September 5, 1990

Mr. Ethan Seltzer  
Land Use Coordinator  
METRO  
2000 SW First Avenue  
Portland, OR 97201-5398

Received  
4:55 AM  
9/5/90  
*[Signature]*

Re: Wagner Petition for a Locational  
Adjustment to the UGB, Metro Case No. 90-1

Dear Ethan:

The following narrative is in response to the issues raised in your staff report on contested case No. 90-1. Please forward this response, including the enclosures, to Mr. Larry Epstein as part of the record for this case.

**Issue No. 1: Is Planned Urbanization on Existing Urban Land Precluded or Made Less Efficient Without the Adjustment to the UGB?**

Three of the issues raised for further examination (Numbers 1, 2 and 4) deal with the ultimate question of whether urbanization of existing urban lands would be precluded without the proposed amendment, Metro Code § 3.01.040(a)(4)(A)(i), or whether retention of the agricultural land would prevent the efficient and economical provision of urban services to an adjacent area inside the UGB, Metro Code § 3.01.040(a)(4)(A)(ii). Because each of the three issues raised in the staff report pertains to the same ultimate question, they are dealt with together in this response.

The issues raised in the staff report come down to two questions: 1) whether the portion of the Wagner property now within the UGB can be developed for urban uses without the road realignment and other public service improvements being made on lands outside the UGB, and 2) whether these improvements can be performed while retaining the land as agricultural land under ORS 215, Goal 3 and the county's comprehensive plan.

Mr. Ethan Seltzer  
September 5, 1990  
Page 2

**1.A. Can the Wagner Property Within the UGB be Developed Without Improvements Being Made on the Wagner Property Outside the UGB?**

The City of Wilsonville's Comprehensive Plan Policy 3.3 states that:

"[d]edication of adequate right-of-way, as established in the Street System Master Plan, or as otherwise approved by the Planning Commission, shall be required prior to actual site development.

If the proposed development would cause an existing street to exceed the minimum service capacity, then appropriate improvements shall be made prior to occupancy of the completed development."

The Street System Master Plan identifies the realignment of Wilsonville Road as a needed street system improvement. Thus, the city has informed the Wagners that development of their property may not occur without the dedication of the right-of-way for the realignment. As indicated in the petition, a portion of this right-of-way must, necessarily be on agricultural lands within Clackamas County. Furthermore, due to increasing traffic levels on Wilsonville Road, and to traffic anticipated from the development of the Wagner property and other projects in the vicinity, the city has told the Wagners that the improvement must be in place prior to occupancy of any development on their property. Thus, there is no question that the urbanization of that portion of the Wagner property already within the UGB is dependant on the realignment of Wilsonville Road, portions of which are on the Wagner property outside the UGB.

In addition, as explained in the petition, certain other services including storm drainage, sewer and water could be more efficiently and effectively provided to the Wagner property now within the UGB if this amendment were approved. One of these improvements, storm drainage, requires making urban level service improvements on the Wagner property outside of the UGB.

**1.B. Can the Improvements be Made While Retaining these Lands as Agricultural Lands?**

Both the staff report and Clackamas County's findings reflect some question as to whether the realignment of

Mr. Ethan Seltzer  
September 5, 1990  
Page 3

Wilsonville Road onto agricultural lands could be accomplished by adding only that portion of property necessary for the right-of-way. ORS 215.213(2)(q) allows as a use in areas zoned for exclusive farm use the "[c]onstruction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels." However, such uses are subject to ORS 215.296, which requires that such uses be allowed only if it is found that the use will not: a) force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or b) significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use. ORS 215.296(1).

These statutes raise two issues: a) would the dedication of right-of-way to Clackamas County result in the creation of a new land parcel (prohibited by ORS 215.213(2)(q)), and b) what would the effect of the road realignment be on farm practices and costs on surrounding lands? As explained in the petition, Petition at 7-8, it is our position that dedication of the right-of-way would result in the creation of a new parcel and is thus prohibited so long as done on agricultural lands.

Perhaps more importantly, neither Metro staff nor the county have recognized what relocation of Wilsonville Road would do to the feasibility (let alone the cost) of agricultural use on the remaining portion of the 6.35-acre parcel. This parcel has been managed as a single farm unit (Filberts) along with the 17.60 acres the Wagners' own within the City of Wilsonville.

Realignment of the road would have the following consequences. First, by bisecting the Wagner parcel now within the city and removing the existing dwelling, the realignment would preclude any further agricultural use of that portion of the Wagners' property. This leaves the 6.35-acre parcel as a remnant.

Second, after the right-of-way for the realignment is taken, between 2.2 and 1.75 acres of the parcel outside of the UGB will remain suitable for agricultural use. See attached map. The net land remaining after deducting area for the right-of-way and the area which is too steep for agricultural use would produce approximately \$350/year in income. As demonstrated by the attached letter from Mr. Bruck, and from statistics in the attached survey by the Extension Service (which show that the



Mr. Ethan Seltzer  
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Page 4

minimum practicable parcel size for this type of farm use is 5.0 acres), this is too small an area to allow the existing agricultural use to continue. As a result, it is impossible for Metro, or Clackamas County to make supportable findings that the road realignment will not force a significant change in, or increase in cost of, accepted farm practices as required by ORS 215.213(2) and ORS 215.296(1). While the county may be able to make such findings for a larger parcel ("500 acres"), where the use has such a direct impact on a small parcel, it is inappropriate to try and maintain that agricultural lands could be preserved.

**Issue No. 2: Effect of the Adjustment on Public Improvement Costs.**

The City of Wilsonville has indicated that those portions of the 6.35-acre parcel that contain the stream corridor would be zoned for open space upon annexation to the city. See City of Wilsonville Comprehensive Plan at p. 34. The amount of area that would be zoned for open space is actually 2.75 acres (see attached map), not 2.3 acres.

Although this portion of the property would not be developed, it's addition to the UGB would nevertheless result in the spreading of development costs over a greater number of units and a lowering of the per unit cost of providing services. This is due to the fact that Wilsonville Code allows for density transfers from areas zoned for open space. The net result of this provision will be to both retain this area as open space, and to allow a larger number of units to be built on the portion of the property already within the UGB. As a result, the per unit cost of providing services will be decreased, whether financed through a local improvement district or directly by the developer.

The 25% reduction in cost stated in the Wagners' petition is based on two facts. First, because of the location of the realigned Wilsonville Road, and the city's designation of much of the 6.35-acre parcel for open space, no substantial development would occur on this portion of the property. Thus, there would be no marginal cost associated with providing services to the 6.35 acres. At the same time, because of the density transfer provision of the Wilsonville Code, the addition

Mr. Ethan Seltzer  
September 5, 1990  
Page 5

of 6.35 acres to the existing land areas within the UGB of 17.60 acres would result in a net increase in the number of units allowed of approximately 25%. As a result, the per unit cost of providing services to the area within the UGB would be reduced by at least this amount.

Additional cost savings, in the amount of approximately \$200,000 would be realized by utilizing the natural drainageway on the 6.35-acre parcel for storm drainage. See Petition at 9. Utilization of the natural drainageway for storm drainage is consistent with the city's comprehensive plan, and would greatly reduce the extent of artificial storm drainage improvements required to develop the property due to proximity of the natural drainageway.

**Issue No. 3: Sources of Funding for Public Improvements.**

As indicated in the Wagners' petition, the preferred source of funding for the realignment of Wilsonville Road is through an urban renewal district. This district has not yet been formed. The City of Wilsonville is awaiting the outcome of an advisory ballot measure (on the November ballot) before proceeding to finalize the district and adopt an urban renewal plan.

In the event the city does not proceed with the urban renewal district, the road relocation and other public facility improvements needed for the development of the Wagner property would be financed primarily through more traditional mechanisms such as local improvement districts and developer fees. It is expected that at least a portion of the cost of the road realignment would be borne by other developments in this area of Wilsonville.

**Issue No. 4: Multiplicity of Public Improvement Standards.**

The main discrepancy between the road standards of the City of Wilsonville and Clackamas County is that the city requires that an additional 25 foot setback be maintained along major arterials to preserve room for future road improvements, while the county has no such requirement. Without an amendment to the UGB and annexation of the parcel to the city, there is no basis for the county to require a property owner to maintain such a setback. Given that it is unlikely that the 6.35-acre parcel

Mr. Ethan Seltzer  
September 5, 1990  
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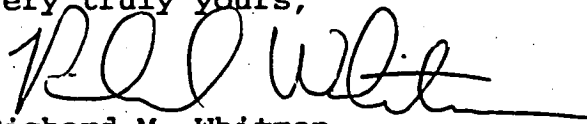
would remain in agricultural use due to its small size (see above), this means that the cost of future road improvements may be increased by incompatible development.

There is no question that both the city and the county prefer to have the relocation and improvement of Wilsonville Road be preformed under the auspices of a single jurisdiction. The county, in its findings on this petition, found that "it is desirable to have all the realignment right-of-way within the Urban Growth Boundary and the City of Wilsonville in order to have consistent roadway development standards and provide for single jurisdiction maintenance." Clackamas County Board of Commissioners, Order No. 90-806.

The problem is not just one of road standards. The two jurisdictions also differ as to the timing of when the realignment should be performed. This makes coordinating the financing of the improvement difficult. Under the county's comprehensive plan, the improvement is not scheduled for funding until 5 to 20 years from now. Clackamas County Comprehensive Plan at Map V-9. In contrast, the city is willing to move ahead on this project now.

I hope that this clarifies some of the issues to be addressed at the hearing. Please let me know if you have nay questions regarding the above material or the enclosures.

Very truly yours,



Richard M. Whitman

Enclosures

cc: Mr. Marvin Wagner  
Mr. Stephen T. Janik

Case # 90-1 Exhibit # 13  
Offered by STAR MEP  
Date received 9/25/90 By LE  
METRO HEARINGS OFFICER

City of  
**WILSONVILLE**  
in OREGON

30000 SW Town Center Loop E • PO Box 220  
Wilsonville, OR 97070  
(503) 682-1011

September 4, 1990

Mr. Ethan Seltzer  
Land Use Coordinator  
METRO  
2000 SW First Avenue  
Portland, OR 97201-5398

Re: Wagner Petition for a Locational Adjustment to the UGB,  
Metro Case No. 90-1.

Dear Mr. Seltzer:

It has come to our attention that one of the issues that will be addressed at the contested case hearing on the above-referenced petition is whether the city would allow development to occur on the portion of Mr. and Mrs. Wagner's property already within the City of Wilsonville prior to dedication and improvement of a new right-of-way for the relocation of Wilsonville Road.

As you know, the need for this realignment is reflected in both the city's and Clackamas County's comprehensive plans. Both jurisdictions have recently reaffirmed the need for the realignment in the context of their respective comments on the Wagner petition to Metro.

Regarding the specific issue noted above, Policy 3.3.3 of the city's comprehensive plan states that:

"[d]edication of adequate right-of-way, as established in the Street System Master Plan, or as otherwise approved by the Planning Commission, shall be required prior to actual site development.

If the proposed development would cause an existing street to exceed the minimum service capacity, then appropriate improvements shall be made prior to occupancy of the completed development."

Based on these provisions of the comprehensive plan, and our estimation of the traffic levels now on Wilsonville Road and the additional traffic that would be generated by development of the Wagner property in conjunction with other developments occurring in the area, we have advised the Wagner's that dedication and improvement of the right-or-way will be required prior to development of their property within the City of Wilsonville.

I hope this clarifies this issue, and I would request that this letter be made part of the record for the Wagner petition. Please feel free to contact Wayne Sorenson if you have any further questions regarding this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Steve Starner", with a long horizontal line extending to the right.

Steve Starner  
Community Development Director

cc. Mr. Wayne Sorenson  
Mr. Marvin Wagner  
Mr. Richard Whitman

Case # 90-1 Exhibit # 14  
Offered by Earl Bruck  
Date received 9/25/90 By ve  
METRO HEARINGS OFFICER

September 4, 1990

Marvin Wagner  
28400 SW Wilsonville Rd.  
Wilsonville, OR 97070

Dear Marv,

In response to your inquiry as to my interest in renting a hazelnut orchard of approximately 2 acres - I currently rent 130 acres and would not consider renting less than 10 acres. The 2 acres you refer to would in no way be economical due to its size, lay out and location, which would require moving equipment many times each season.

Furthermore, it is my opinion that any orchard of 2 acres in size will be impossible to rent. A grower cannot afford to bother with so few trees.

Regards,

Earl Bruck  
29665 SW 35th  
Wilsonville, OR 97070

*Earl Bruck*

The following is a brief summary of what is involved in the care of a hazelnut orchard. Estimated costs involved as well as income based on the production years 1987, 1988 and 1989.

A. Operations Required/Annual Basis

1. Hand pruning of each tree and remove brush -  
January, February, March
2. Fertilizer applied on the ground -  
March
3. Spray tree rows to kill grass and weeds -  
April, June
4. Spray for Leaf Roller insects -  
April
5. Mow orchard floor -  
April, May, June, July, August
6. Spray around each tree to control sucker growth -  
April, May, June, July, August
7. Spray Boron - May
8. Spray for Leaf Roller - June
9. Spray for Filbert Worm - July, August
10. Float orchard floor in preparation for harvest -  
August
11. Harvest Crop - October

B. Costs on a per acre basis (averaged out on an 18 acre orchard)

Operating Cost Only:

\$466.00 per acre ÷ 70 trees/A = \$6.66/Tree - Operating  
Costs Only, does not include land and equipment investment  
or taxes.

C. Income -

\* \$639.00 per acre ÷ 70 Trees/A = \$9.13/Tree - Income  
averaged over production years 1987, 1988, 1989.

Income \$639.00 per Acre

Costs \$466.00 per Acre

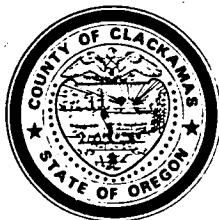
\$173.00 per Acre Profit

\* Nut Prices 1987 .43¢/lb

1988 .46¢/lb

1989 .38¢/lb

\* 1990 - Not yet available - projected to be  
less than 1989



# CLACKAMAS COUNTY

JUL 19

Case # 90-1 Exhibit # 15  
Offered by CLACK COUNTY  
Date received 7/2/90 By ve  
METRO HEARINGS OFFICER

## Department of Transportation & Development

WINSTON KURTH  
EXECUTIVE DIRECTOR

RICHARD DOPP  
DIRECTOR  
OPERATIONS & ADMINISTRATION

TOM VANDERZANDEN  
DIRECTOR  
PLANNING & DEVELOPMENT

July 16, 1990

Ethan Seltzer  
Land Use Coordinator  
2000 SW First  
Portland, OR 97201-5398

Dear Ethan,

Attached are proposed comments to Metro regarding the West Coast Grocery and Wagner UGB locational adjustment proposals. Our Board of Commissioners is expected to act on these comments Thursday, July 26.

As we discussed, Commissioner's Orders 84-1098 and 87-902 have set the general direction on locational adjustments when the service provider is a City. Attached are copies of those orders for reference.

I will forward copies of the Board action following their decision.

Sincerely,

A handwritten signature in dark ink, appearing to read "Gary M. Cook". The signature is fluid and cursive, with the first name "Gary" and last name "Cook" clearly visible.

GARY COOK, Planner  
Planning and Economic Development

1/gc/0716:elk



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

Urban Growth Boundary locational  
adjustments concurrent with city  
annexation.

ORDER NO. 84-1098

WHEREAS the Metropolitan Service District is responsible for management of the regional Urban Growth Boundary (UGB), and the Metropolitan Service District's rules for UGB locational adjustments require comment by the governing body of the affected county, and

WHEREAS a property owner's desire for urban services and a city's ability to provide those services should be a decision made by the two parties most directly involved, now therefore

IT IS HEREBY ORDERED that the Board of County Commissioners of Clackamas County supports property owner applications to Metro for Urban Growth Boundary locational adjustments in those cases in which

- (1) the city which will provide urban services endorses the application, and
- (2) an application has been made to annex the property to the city, and
- (3) no other city or service district objects to the UGB locational adjustment, and

IT IS FURTHER ORDERED that UGB locational adjustment applications which do not meet the above three conditions shall be considered individually by this Board.

DATED this 2nd day of August, 1984.

BOARD OF COUNTY COMMISSIONERS

  
Robert Schumacher - Chairman

  
Ralph Cooper - Commissioner

  
Dale Harlan - Commissioner

DES

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

In the Matter of Recommending  
Metro Consideration of  
Locational Adjustment to the  
Regional Urban Growth Boundary

ORDER NO. 87-902

This matter coming before the Board at this time and it appearing to this Board that the Metropolitan Service District's procedures for managing the regional urban growth boundary require County comment on application for boundary adjustments, and it further appearing that applications have been submitted to Metro for two properties (Prenni - T2S R1E Section 20AA Tax Lot 300 and Blazer Homes, Inc. - T2S R1E Section 18C Tax Lot 800 and T2S R1E Section 16CA Tax Lot 700) and

Whereas the property owners desires for urban services and a city's ability to provide those services should be a decision made by the parties most directly involved, and whereas

These applications do not now meet the following three criteria which according to Board Order 854-1088 are necessary for a County recommendation of support:

- (1) The City which will provide urban services endorses the application, and
- (2) An application has been made to annex the property to the City, and
- (3) No other City or service district objects to the UGB Locational Adjustment, and

It further appearing to the Board that a recommendation of either approval or denial at this time may prejudice a future County hearings on amendments to the County's Urban Growth Boundary.

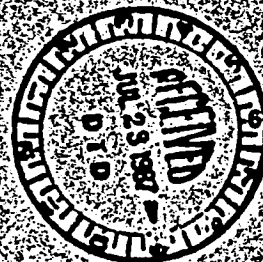
NOW THEREFORE BE IT RESOLVED that Clackamas County recommends to Metro that there is sufficient merit for Metro to conduct hearings to receive comments from Lake Oswego and interested citizens and then to determine consistency of the applications with Metro's locational adjustment standards.

On this 23rd day of July, 1987

*Ed Lindquist*  
Ed Lindquist, Chairman

*Walt Harlan*  
Walt Harlan, Commissioner

*Darlene Hooley*  
Darlene Hooley, Commissioner





# CLACKAMAS COUNTY

## Department of Transportation & Development

*St. Louis & Co.*  
**COPY**

TO: Mike Swanson  
FROM: Gary Cook  
DATE: July 12, 1990

WINSTON KURTH  
EXECUTIVE DIRECTOR

RICHARD DOPP  
DIRECTOR  
OPERATIONS & ADMINISTRATION

TOM VANDERZANDEN  
DIRECTOR  
PLANNING & DEVELOPMENT

SUBJECT: Request for Comments, Regional Urban Growth Boundary Amendment

We request the Board of Commissioners approve the attached Order (and materials) at their meeting on Thursday, July 26, 1990.

### BACKGROUND:

Marvin and Bonnie Wagner have filed an application with Metro to include a 6.3 acre parcel in the regional Urban Growth Boundary adjacent to Wilsonville. The property is planned agriculture and zoned GAD. Metro has requested Clackamas County provide comments regarding this request.

The Clackamas County and City of Wilsonville comprehensive plans show a realignment of Wilsonville Road which is split by the existing Urban Growth Boundary. Logically, the realignment right-of-way should be included within the Urban Growth Boundary as the roadway would be developed to urban standards for urban uses. At issue is the request to include the remainder of the 6.3 acre parcel within the Urban Growth Boundary.

The attached Order supports amending the Urban Growth Boundary necessary to include the road realignment. The Order finds conversion of the remaining property is not supported by agricultural land retention policies in the County Comprehensive Plan. If Metro approves the application (or includes a portion of the property within the regional UGB) it would be necessary to conduct hearings to amend the County's Urban Growth Boundary. The City of Wilsonville would be responsible for providing water and sewer services and would assume land use authority following annexation.

### FINANCIAL IMPACT:

Approval of this Order may require the County conduct future public hearings.

### COUNTY COUNSEL:

Does not require Counsel review.

### RECOMMENDED ACTION:

Approval of the attached Order forwarding Clackamas County's recommendation to Metro.

If you need additional information, please contact Gary Cook at 3314 or Larry Kato at 3312.

WINSTON W. KURTH - Executive Director  
Department of Transportation and Development

902 Abernethy Road • Oregon City, OR 97045-1100 • (503) 655-8521 • FAX 650-3351

<DA> bcc/m/0711/2

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

In the Matter of Providing  
Comments to Metro for the  
Wagner Urban Growth  
Boundary Amendment

ORDER NO.:  
PAGE 1 OF 2

This matter coming before the Board of County Commissioners and it appearing Marvin and Bonnie Wagner have petitioned Metro to include a 6.3 acre parcel within the regional Urban Growth Boundary, and

It further appearing to the Board, Metro has requested comments from Clackamas County on this application, and

It further appearing to the Board petitioners own adjacent tax lots, one within the Urban Growth Boundary and one outside the Urban Growth Boundary, and

It further appearing to the Board the City of Wilsonville and Clackamas County have included the realignment of Wilsonville Road in their Comprehensive Plans, and

It further appearing to the Board, a portion of the road realignment would be required from the Wagner property which lies outside the regional Urban Growth Boundary, zoned GAD by Clackamas County currently in agricultural use, and

It further appearing to the Board, development is proposed on the property within the Urban Growth Boundary and the applicants are proposing inclusion of the entirety of the parcel lying outside the Urban Growth Boundary within the urban area, and

It further appearing to the Board it is not necessary to include the entirety of the parcel within the Urban Growth Boundary in order to incorporate the road realignment, and

It further appearing to the Board it is desirable to have all the realignment right-of-way within the Urban Growth Boundary and City of Wilsonville in order to have consistent roadway development standards and provide for single jurisdiction maintenance, and

It further appearing to the Board the County Comprehensive Plan allows agricultural land be designated urban only after considering retention of that agricultural land, and it appears the request to include all the property in the Urban Growth Boundary is not supported by the County Comprehensive Plan policies to retain agricultural lands, and

It further appearing to the Board, Metro has the statutory responsibility for maintenance and amendments to the regional Urban Growth Boundary, and

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

In the Matter of Providing  
Comments to Metro for the  
Wagner Urban Growth  
Boundary Amendment

ORDER NO.:  
PAGE 2 OF 2

It further appearing to the Board, water and  
sewer services would be provided by the city of Wilsonville,

NOW, THEREFORE, IT IS HEREBY RESOLVED AND

ORDERED:

- Clackamas County supports the proposal to the extent the entire roadway realignment be included in the Urban Growth Boundary.
- If approved, Wilsonville is responsible for providing water and sewer services and would assume land use authority following annexation.
- If included in the regional Urban Growth Boundary, a public hearing be conducted to amend the County Urban Growth Boundary.

DATED this \_\_\_\_ day of \_\_\_\_\_, 1990

BOARD OF COUNTY COMMISSIONERS

\_\_\_\_\_  
Darlene Hooley, Chair

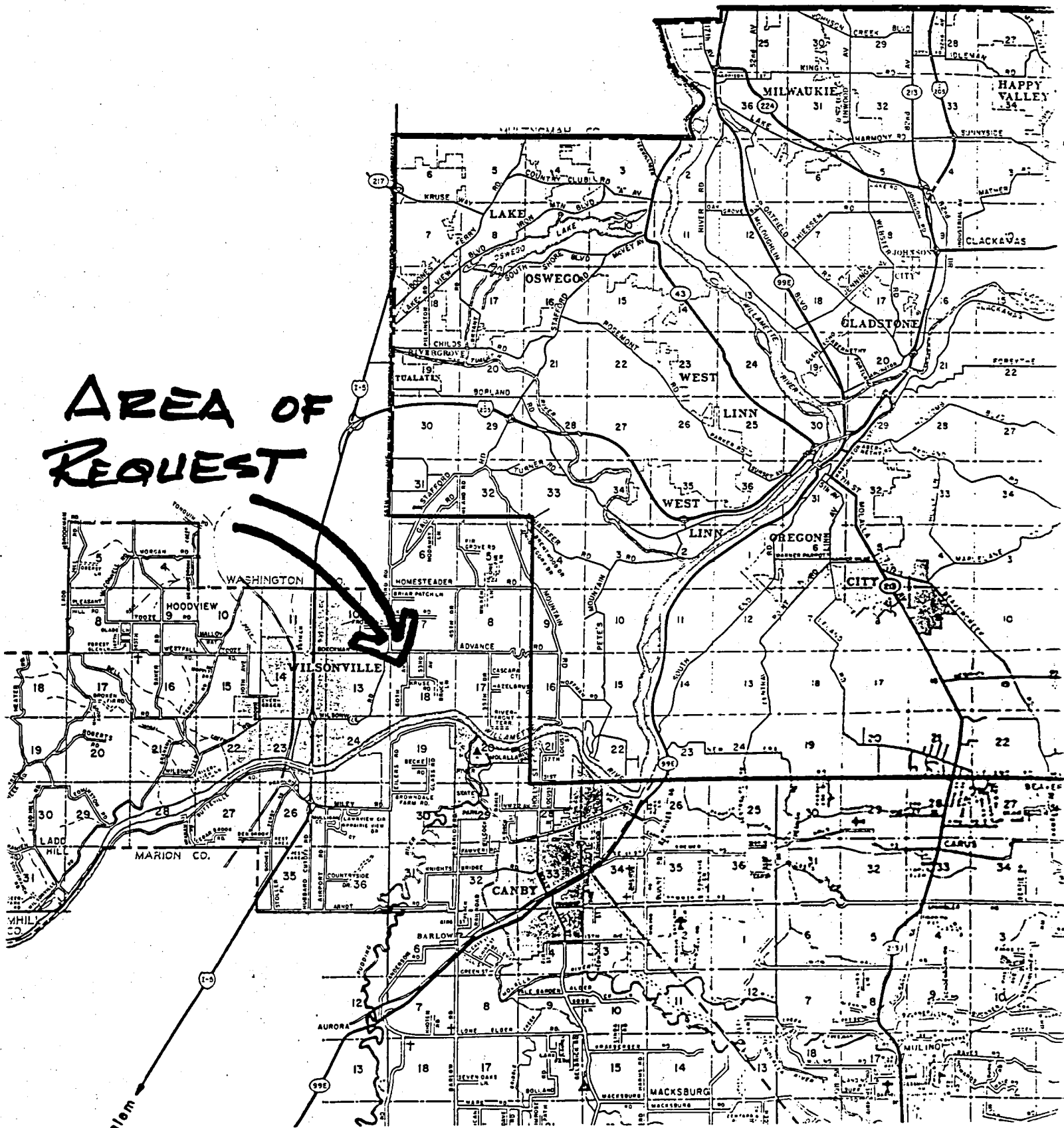
\_\_\_\_\_  
Judie Hammerstad, Commissioner

\_\_\_\_\_  
Ed Lindquist, Commissioner

<da>bcc/gc/0711/2



AREA OF  
REQUEST



3-05

R.R.F.F. - 5

ROAD

TRAIL ACRES

3-19

ANGEL LANE  
PUBLIC RD

P.D.R.

STAFFORD MARKET  
S.W. 1/4  
AMERICAN

94.42 Ac.

700  
0.43 Ac.  
800  
0.60 Ac.

900  
0.21 Ac.

601  
29.25 Ac.  
27480

LOT 43.82

1000  
0.42 Ac.  
27520

1101  
80.00 Ac.

G.A.D.

LOT 43.72

1200  
4.00 Ac.  
6351

PROPOSED UGB  
AMENDMENT

ROAD

RA-1  
3-5 du/  
acre

2100  
4.84 Ac.  
6360

2000  
19.44 Ac.

G.A.D.

LOT 43.78

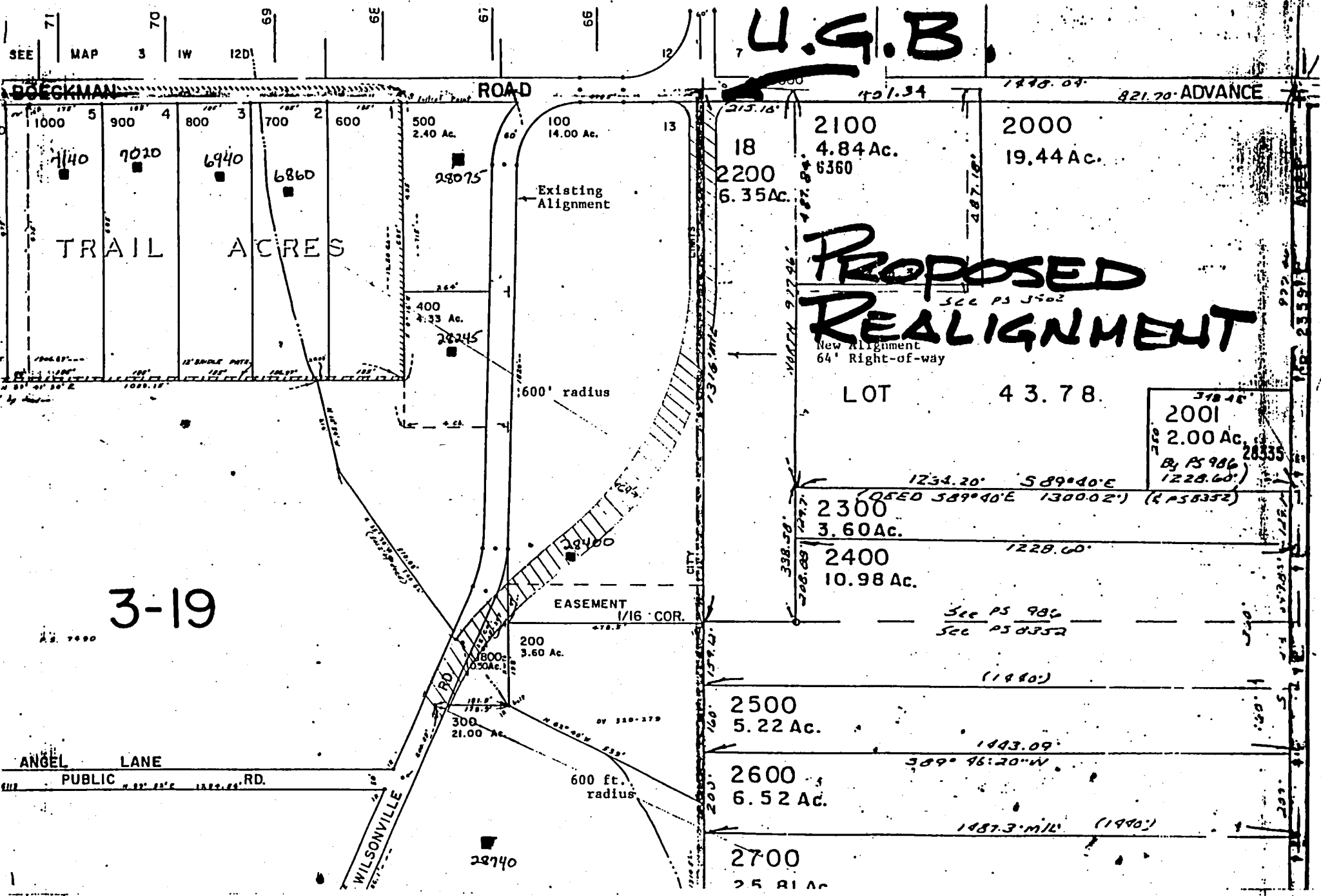
2300  
3.60 Ac.

2400  
10.98 Ac.

2500  
5.22 Ac.

2600  
6.52 Ac.

2001  
2.00 Ac.  
28335



U.G.B.

**PROPOSED  
REALIGNMENT**  
New Alignment  
64' Right-of-way

3-19

2001  
2.00 Ac.  
By PS 986  
1228.60'

2500  
5.22 Ac.

2600  
6.52 Ac.

2700  
25.81 Ac.

2100  
4.84 Ac.  
6360

2000  
19.44 Ac.

2300  
3.60 Ac.

2400  
10.98 Ac.

200  
3.60 Ac.

300  
21.00 Ac.

1800  
10.50 Ac.

28075

28245

28400

28740

6860

6940

7020

7140



CLACKAMAS COUNTY  
COMPREHENSIVE PLAN

WEST URBAN AREA  
PROJECTS NEEDED

① thru ②① 0-5 YEARS

②② thru ③③ 5-20 YEARS

— ROAD IMPROVEMENT

● INTERSECTION IMP.

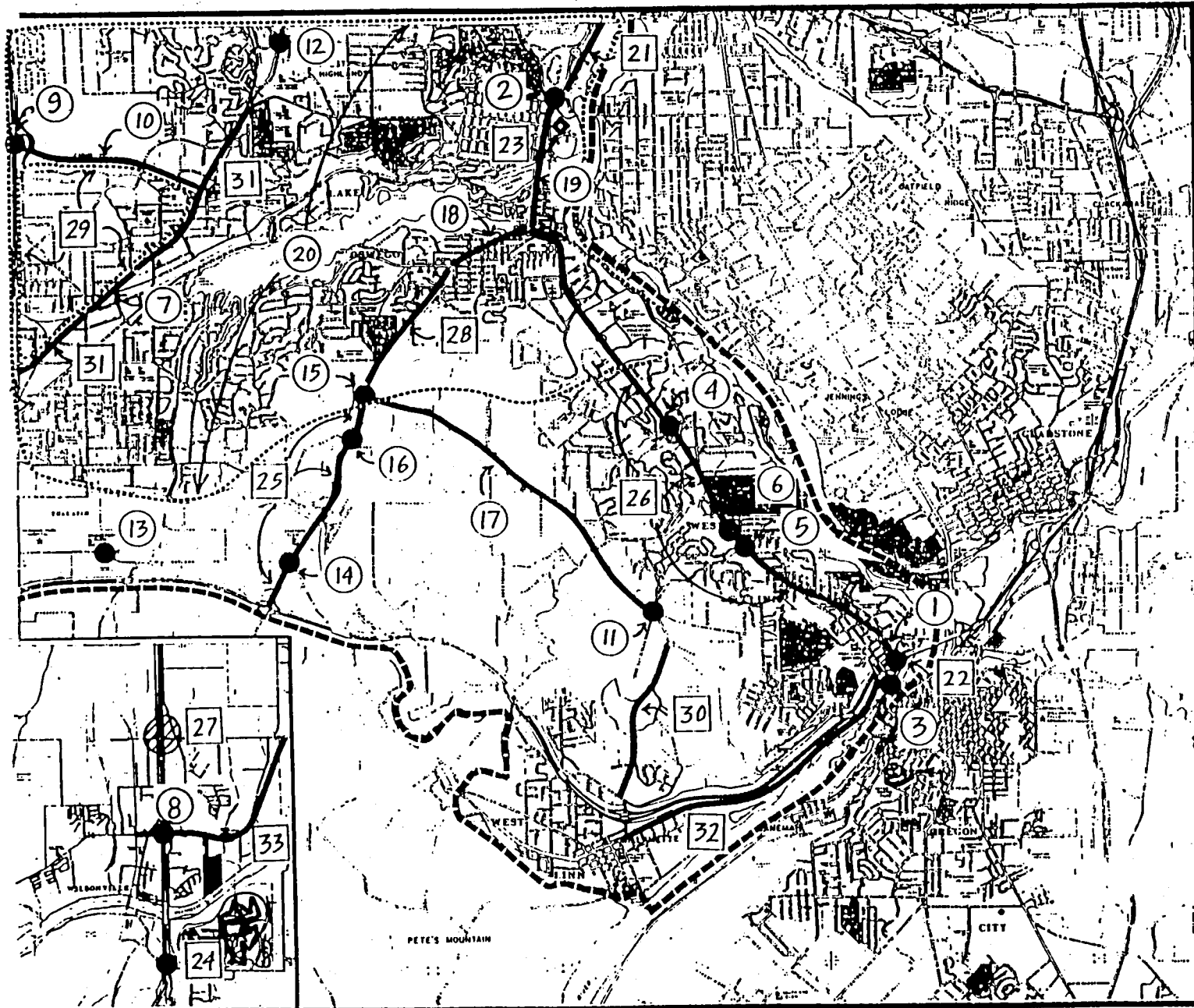
◆ TRANSIT STATION

⊘ SPECIAL TRANSPORTATION  
STUDY AREA

⊘ TRANSPORTATION/  
CIRCULATION STUDY AREA

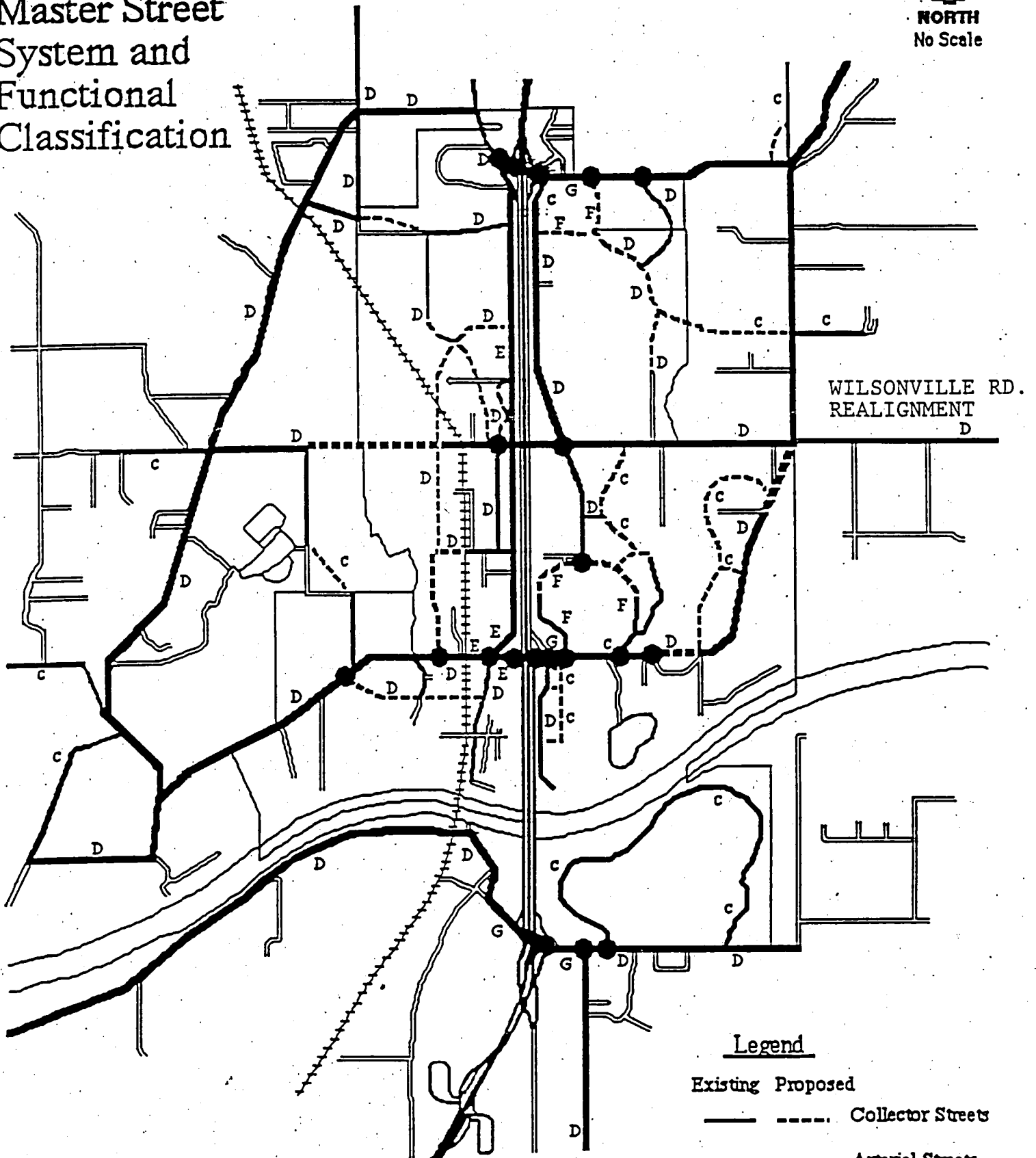
MAP V-9

WILSONVILLE ROAD REALIGNMENT



# Master Street System and Functional Classification

 **NORTH**  
No Scale



Note: Existing and proposed "A" and "B" classification local streets are not shown on this map.

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

In the Matter of Providing  
Comments to Metro for the  
Wagner Urban Growth  
Boundary Amendment

ORDER NO.: 90-806

PAGE 1 OF 2

Case # 90-1 Exhibit # 16

Offered by Clack. County

Date received 9/25/90 By W

METRO HEARINGS OFFICER

This matter coming before the Board of County Commissioners and it appearing Marvin and Bonnie Wagner have petitioned Metro to include a 6.3 acre parcel within the regional Urban Growth Boundary, and

It further appearing to the Board, Metro has requested comments from Clackamas County on this application, and

It further appearing to the Board petitioners own adjacent tax lots, one within the Urban Growth Boundary and one outside the Urban Growth Boundary, and

It further appearing to the Board the City of Wilsonville and Clackamas County have included the realignment of Wilsonville Road in their Comprehensive Plans, and

It further appearing to the Board, a portion of the road realignment would be required from the Wagner property which lies outside the regional Urban Growth Boundary, zoned GAD by Clackamas County currently in agricultural use, and

It further appearing to the Board, development is proposed on the property within the Urban Growth Boundary and the applicants are proposing inclusion of the entirety of the parcel lying outside the Urban Growth Boundary within the urban area, and

It further appearing to the Board it is not necessary to include the entirety of the parcel within the Urban Growth Boundary in order to incorporate the road realignment, and

It further appearing to the Board it is desirable to have all the realignment right-of-way within the Urban Growth Boundary and City of Wilsonville in order to have consistent roadway development standards and provide for single jurisdiction maintenance, and

It further appearing to the Board the County Comprehensive Plan allows agricultural land be designated urban only after considering retention of that agricultural land, and it appears the request to include all the property in the Urban Growth Boundary is not supported by the County Comprehensive Plan policies to retain agricultural lands, and

It further appearing to the Board, Metro has the statutory responsibility for maintenance and amendments to the regional Urban Growth Boundary, and

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

In the Matter of Providing  
Comments to Metro for the  
Wagner Urban Growth  
Boundary Amendment

ORDER NO.: 90-806  
PAGE 2 OF 2

It further appearing to the Board, water and  
sewer services would be provided by the city of Wilsonville,

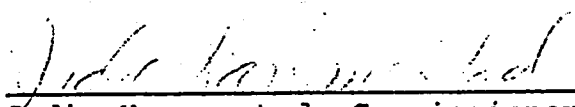
NOW, THEREFORE, IT IS HEREBY RESOLVED AND  
ORDERED:

- Clackamas County supports the proposal to the extent the entire roadway realignment be included in the Urban Growth Boundary.
- If approved, Wilsonville is responsible for providing water and sewer services and would assume land use authority following annexation.
- If included in the regional Urban Growth Boundary, a public hearing be conducted to amend the County Urban Growth Boundary.

DATED this 26th day of July, 1990

BOARD OF COUNTY COMMISSIONERS

  
Darlene Hooley, Chair

  
Judie Hammerstad, Commissioner

  
Ed Lindquist, Commissioner

 <da>bcc/gc/0711/2



RESOLUTION NO. 778

A RESOLUTION EXPRESSING THE WILSONVILLE CITY COUNCIL'S SUPPORT FOR AN URBAN GROWTH BOUNDARY AMENDMENT REQUESTED BY MARV WAGNER FOR ABOUT 6.35 ACRES OF LAND IDENTIFIED AS TAX LOT 2200, T3S-R1W, SECTION 18, CLACKAMAS COUNTY, OREGON

WHEREAS, Mr. Richard Whitman has prepared an application for Mr. and Mrs. Wagner requesting an amendment to the Portland Metropolitan Area Urban Growth Boundary; and

WHEREAS, the City of Wilsonville can extend and provide all necessary utilities and services needed to serve the subject property; and

WHEREAS, the subject property is located adjacent to the city's existing Urban Growth Boundary and, logically, would be best served by connection to city sewer, water and storm drainage to serve future development; and

WHEREAS, the Transportation Advisory Commission has reviewed this proposal and recommends that the City Council support and approve this application because it represents a positive step in realigning Wilsonville Road and increases the public safety; and

WHEREAS, the City Council has fully and carefully reviewed the petition for a locational adjustment and finds it to be a substantial and compelling argument in favor of amending the Boundary.

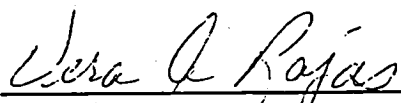
NOW, THEREFORE, THE CITY OF WILSONVILLE RESOLVED AS FOLLOWS:

1. That the City Council does hereby declare its support for and recommends that the Metro Council approve Marv Wagner's request for a locational adjustment to the Portland Metropolitan Area Urban Growth Boundary.

ADOPTED by the City Council of the City of Wilsonville at a regular meeting thereof this 16th day of July, 1990 and filed with the Wilsonville City Recorder this same date.

  
\_\_\_\_\_  
JOHN M. LUDLOW, Mayor

ATTEST:



VERA A. ROJAS, CMC, City Recorder

SUMMARY of Votes:

Mayor Ludlow AYE

Councilor Edwards AYE

Councilor Chandler AYE

Councilor Clarke AYE

Councilor Dant AYE

Request for Comment from Service Provider

(Part I to be completed by petitioner and submitted to each service provider listed on "Summary of Requests for Comments from Service Providers." Part II to be completed by the service provider and returned to Land Use Coordinator, Metropolitan Service District, 2000 S.W. 1st Avenue, Portland, Oregon 97201-5398)

Part I

To: City of Wilsonville  
Name of Service Provider

From: Mr. and Mrs. Wagner  
Name of Petitioner

Attached is a copy of a petition for a locational adjustment to Metro's Urban Growth Boundary (UGB). Please review this petition and submit your comments on it to Metro as soon as possible, but NO LATER THAN July 23, 1990.

In general, land placed inside the UGB will develop to a residential density of at least four units a net acre or for urban commercial or industrial use, as determined by local zoning. Land outside the UGB cannot be served by sewer, and generally, cannot be developed at more than one unit to the net acre. In reviewing this petition, please consider: (1) whether its approval would make it easier (less expensive) or harder (more expensive) to serve other, adjacent areas for which service is planned or expected; and (2) how easy or difficult it would be to extend your service to the area included in the petition if the petition were approved.

Thank you for your help. Please call the Land Use Coordinator, at Metro, 221-1646, if you have any questions.

Part II

I have reviewed the attached petition for a locational adjustment to Metro's UGB and I:

XX Support Approval

       Oppose Approval

       Have No Comment

       Support with Conditions

Comments and explanation (explain any conditions)

(Attach additional pages if needed.)

Signed

John M. Ludwig

Date

July 16, 1990

Title

Mayor

BALL, JANIK & NOVACK  
ATTORNEYS AT LAW  
ONE MAIN PLACE  
101 S.W. MAIN STREET, SUITE 1100  
PORTLAND, OREGON 97204-3274  
TELEPHONE (503) 228-2525  
TELECOPY (503) 295-1058

2ND FLOOR, 201 PENNSYLVANIA AVE. N.W.  
WASHINGTON, D.C. 20004  
TELEPHONE (202) 638-3307  
TELECOPY (202) 783-6947

RICHARD M. WHITMAN

June 22, 1990

Mr. Wayne Sorenson  
Planning Director  
City of Wilsonville  
P.O. Box 220  
Wilsonville, OR 97070

Dear Wayne:

Enclosed is a copy of the Wagners' petition for a minor boundary change to the Metro/Wilsonville UGB. We have made several changes to the petition since our meeting on June 14, 1990, including adding to the analysis of why the UGB amendment is needed to facilitate the development of lands already within the UGB.

One of the questions which arose at our meeting was why we couldn't restrict the UGB change to only that portion of the property needed for the new road alignment. I have looked into this question and there are three reasons why this could not be done. First, it is generally Metro's policy to have the UGB follow property lines. See Metro Code Section 3.01.040(d)(1). Secondly, the other portions of the property are required for storm drainage and bikeway improvements, and Metro requires that "all similarly situated contiguous land" be included in the petition. See Metro Code Section 3.01.040(d)(2). Finally, under ORS 215.213(2) and Section 402 of the Clackamas County Zoning and Development Ordinance, the parcel can't be divided. In sum, the only way for this road realignment to occur is for the entire parcel to be included in an amended UGB.

Any concerns the City or County may have regarding the effect of this amendment on agricultural lands should be allayed upon a close examination of the petition and what the City of Wilsonville's Code provides for a parcel such as the one involved here. The City's Code and Comprehensive Plan, by imposing a setback of at least 55 feet from the centerline of an arterial (Code Section 4.167(f)), and by requiring that natural drainage ways be designated as open space (Plan Policy 3.4.3), effectively preclude any development on the lands proposed for addition to the UGB. This will insure that the agricultural uses on



BALL, JANIK & NOVACK

Mr. Wayne Sorenson  
June 22, 1990  
Page 2

adjoining properties are not effected by this change to the UGB and that the potential for conflict between urban and agricultural uses is not increased.

It is my understanding that this petition will go to the Planning Commission as an information item on July 9, 1990, and to the City Council for a resolution/recommendation on July 16, 1990. As you know, the City's comments must be in to Metro by July 21, 1990 to be considered with the petition. Please let me know if there are any timing problems and if there will be an opportunity to testify on what position the City should take.

We feel strongly that this UGB amendment and road realignment is in the best interests of both the City of Wilsonville and Clackamas County. As you know, both jurisdictions identify this realignment in their Comprehensive Plans and the existing alignment is a serious public safety hazard. As a result we feel that a positive recommendation to Metro is appropriate. Please feel free to call me if you have any questions regarding this matter.

Very truly yours,



Richard M. Whitman

RMW:jvg  
Enclosures  
cc: Mr. and Mrs. Wagner  
Mr. Stephen T. Janik  
Mr. Ethan Seltzer

RMW\JVG\RMW\WAGNER\WILSNVL.622

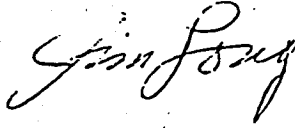
City of  
**WILSONVILLE**  
in OREGON

30000 SW Town Center Loop E • PO Box 220  
Wilsonville, OR 97070  
(503) 682-1011

COMMUNITY DEVELOPMENT DEPARTMENT  
ENGINEERING  
MEMORANDUM

DATE: JUNE 26, 1990

TO: WAYNE SORENSEN  
PLANNING DIRECTOR

FROM: JIM LONG  
ASSISTANT ENGINEER 

RE: WILSONVILLE ROAD REALIGNMENT THROUGH THE  
WAGNER PROPERTY

The attached letter and map from Richard M. Whitman was presented to the Transportation Advisory Commission at its regular meeting on June 21, 1990. After some discussion, the Commission approved the proposal and sent a recommendation to the City Council, requesting that they support the Wagner petition to Metro.

jl:md

Attachments: 6/21/90 Correspondence  
Map of Realignment  
TAC Approval & Recommendation

cc: Project file  
Inter-Office Communications - Engr.

BALL, JANIK & NOVACK  
ATTORNEYS AT LAW  
ONE MAIN PLACE  
101 S.W. MAIN STREET, SUITE 1100  
PORTLAND, OREGON 97204-3274  
TELEPHONE (503) 228-2525  
TELECOPY (503) 228-1088

9TH FLOOR, 601 PENNSYLVANIA AVE. N.W.  
WASHINGTON, D.C. 20004  
TELEPHONE (202) 638-3307  
TELECOPY (202) 783-6947

RICHARD M. WHITMAN

June 21, 1990

BY TELECOPY

Mr. Jim Long, Assistant  
City Engineer  
City of Wilsonville  
30000 S.W. Town Center Loop, E.  
P.O. Box 220  
Wilsonville, OR 97070

Re: Public Testimony to the City of Wilsonville  
Traffic Advisory Committee Requesting an  
Affirmation of the City's Policy on the  
Wilsonville Road Realignment

Dear Jim:

Please submit the attached public testimony to the City of Wilsonville's Traffic Advisory Committee for their consideration. I would also appreciate it if you could pass on my apologies to the Committee for not being able to be present at tonight's committee meeting due to a scheduling conflict.

Thank you for your assistance and please call me at 228-2525 if you have any questions regarding this matter.

Very truly yours,



Richard M. Whitman

RMW:jvg  
Enclosure  
cc: Mr. and Mrs. Wagner  
Mr. Wayne Sorenson  
Mr. Stephen T. Janik

RMW\JVG\RMW\WAGNER\LONG.621

BALL, JANIK & NOVACK  
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TELEPHONE (503) 228-2528  
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8th FLOOR, 801 PENNSYLVANIA AVE, N.W.  
WASHINGTON, D.C. 20004  
TELEPHONE (202) 638-3307  
TELECOPY (202) 783-8947

RICHARD M. WHITMAN

June 21, 1990

City of Wilsonville  
Traffic Advisory Committee  
30000 S.W. Town Center Loop, E.  
P.O. Box 220  
Wilsonville, OR 97070

Re: Request for Affirmation of the City of  
Wilsonville's Policy to Realign  
Wilsonville Road

Dear Members of the Traffic Advisory Committee:

I am an attorney representing Mr. and Mrs. Wagner who reside at 28400 S.W. Wilsonville Road, Wilsonville, Oregon. For the past several months Mr. and Mrs. Wagner and I have been working with the City of Wilsonville, the Metropolitan Service District (Metro) and Clackamas County to resolve how the improvements to Wilsonville Road in the vicinity of its intersection with Boeckman Road and Advance Road should be performed. As you may know, both the City of Wilsonville's and Clackamas County's Comprehensive Plans call for the realignment of Wilsonville Road in this area to eliminate two dangerous ninety degree turns in the current road alignment. At least four serious and many minor accidents have occurred at these ninety degree turns during the past five years. Eliminating these two turns by realigning Wilsonville Road would require putting part of that new alignment on lands just outside the City of Wilsonville boundary. See attached map.

Under provisions of state law and Clackamas County's Comprehensive Plan and Zoning and Development Ordinance, the realignment of Wilsonville Road onto lands outside the City of Wilsonville's Urban Growth Boundary is prohibited. To overcome this obstacle, we are submitting a petition to Metro to amend the Urban Growth Boundary of the City of Wilsonville to include the area now in Clackamas County necessary for this realignment to occur. As part of this process, both the City of Wilsonville and Clackamas County are required to comment on the petition to Metro. The Wagners' Metro petition will be coming before the

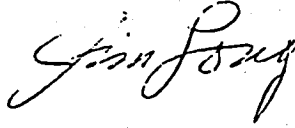
City of  
**WILSONVILLE**  
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COMMUNITY DEVELOPMENT DEPARTMENT  
ENGINEERING  
MEMORANDUM

DATE: JUNE 26, 1990

TO: WAYNE SORENSEN  
PLANNING DIRECTOR

FROM: JIM LONG  
ASSISTANT ENGINEER 

RE: WILSONVILLE ROAD REALIGNMENT THROUGH THE  
WAGNER PROPERTY

The attached letter and map from Richard M. Whitman was presented to the Transportation Advisory Commission at its regular meeting on June 21, 1990. After some discussion, the Commission approved the proposal and sent a recommendation to the City Council, requesting that they support the Wagner petition to Metro.

jl:md

Attachments: 6/21/90 Correspondence  
Map of Realignment  
TAC Approval & Recommendation

cc: Project file  
Inter-Office Communications - Engr.



Excerpt from the minutes of the Transportation Advisory Commission June 21, 1990 meeting.

Under Public Input, Written - Chairman Anderson read, for the record, a letter from attorney Richard M. Whitman, of the law firm of Ball, Janik & Novack, representing Mr. & Mrs. Wagner of Wilsonville.

"To the members of the Traffic Advisory Committee:

I am an attorney representing Mr. & Mrs. Wagner, who reside at 28400 S.W. Wilsonville Road, Wilsonville, Oregon. For the past several months Mr. & Mrs. Wagner and I have been working with the City of Wilsonville, the Metropolitan Service District, (Metro) and Clackamas County to resolve how the improvements to Wilsonville Road in the vicinity of its intersection with Boeckman Road and Advance Road should be performed. As you may know both the City of Wilsonville's and Clackamas County's Comprehensive Plans call for the realignment of Wilsonville Road in this area to eliminate two dangerous ninety degree turns in the current road alignment. At least four serious and many minor accidents have occurred at these ninety degree turns during the past five years. Eliminating these two turns by realigning Wilsonville Road would require putting part of that new alignment on lands just outside the City of Wilsonville boundary. See attached map.

Under provisions of state law and Clackamas County's Comprehensive Plan and Zoning and Development Ordinance, the realignment of Wilsonville Road onto lands outside the City of Wilsonville's Urban Growth Boundary is prohibited. To overcome this obstacle, we are submitting a petition to Metro to amend the Urban Growth Boundary of the City of Wilsonville to include the area now in Clackamas County necessary for this realignment to occur. As part of this process, both the City of Wilsonville and Clackamas County are required to comment on the petition to Metro. The Wagners' Metro petition will be coming before the City of Wilsonville Planning Commission and the City Council within the next three to four weeks.

Given the Traffic Advisory committee's leading role in setting transportation policy for the City of Wilsonville, we would like to request that the Committee reaffirm that it is the city's policy to realign Wilsonville Road in this area and that the Committee request that the Wilsonville City Council make a favorable recommendation to Metro regarding the Wagners' petition. A resolution of the Committee would help ensure that this badly needed road improvement occurs.

Thank you for your consideration of this matter."

(signed by Richard M. Whitman)

Chairman Anderson explained that in essence what is being talked about is one lane -- the east lane of the proposed realigned Wilsonville Road, which would fall outside of the Urban Growth Boundary and would make a four-way alignment with Wilsonville Road as it goes on past the intersection of Boeckman, Advance and Wilsonville Road.

When asked for additional information, Mr. Long pointed out that not only are the Wagners petitioning for the road section and right-of-way, to be included in the Urban Growth Boundary, but that the remaining portion of Tax Lot 2200 be included in the boundary change. For the city's support of this realignment, the Wagners are willing to provide the right-of-way for that road alignment. If the petition does not go through, and the City opts to proceed with this realignment it will be necessary to purchase or condemn the property. The city engineer and city planner have considered several options for the realignment of

Wilsonville Road, (a project which is part of the current comprehensive plan) and support this as the preferred alignment. Discussion continued.

**LEW HENDERSHOTT MOVED, SECONDED BY BILL PRATT, THAT TAC SEND A RECOMMENDATION TO THE CITY COUNCIL, REQUESTING THAT THEY SUPPORT THE WAGNER PETITION TO METRO. MOTION CARRIED 4-0.**

/md



William Ciz  
28300 S.W. 60th  
Wilsonville, Or 97070

November 21, 1990

Mr. Ethan Seltzer  
Land Use Coordinator, Metro  
2000 S.W. First Avenue  
Portland, OR 97201-5398

Re: Report and Recommendation of Hearings Officer contested  
Case Number 90-1

Dear Mr. Seltzer:

I would like to file an exception to the above referenced case. I disagree with the hearing officer's recommendation and also feel the issue of whether the right of way can be dedicated or the road built on land inside the U.G.B. needs more review and analysis.

The hearing officer's recommendation states that because the council has always considered the property in a locational adjustment as a single unit it should be included into the U.G.B. I feel the council should change their approach in this locational adjustment case and include only the right of way portion needed for the realignment of Wilsonville Road in the U.G.B. for the following reasons.

1. Clackamas County Commissioners support this position (report, page 4).
2. The Clackamas County Comprehensive Plan supports this position (report, page 4).
3. Only the right of way portion result in maximum efficiency of land uses in the urban area (report, page 16 #1).
4. If the "remainder portion" is included, a density transfer will occur allowing 31 additional units to be built on the property inside the U.G.B. Increasing density will increase conflicts with farming activities such as spaying, cultivation and harvesting on surrounding farm property outside the U.G.B. Including only the right of way portion would provide the maximum protection and compatibility for nearby agricultural activities (report, page 18 #3).
5. Including only the right of way portion results in a superior U.G.B. (report, page 19 F #1, 2, 3).
6. Including only the right of way portion produces benefits to the public (report, page 20, F).

I would also like to comment on another portion of the report under the section I. Nature and Summary of the Issues states, "One issue in this case is whether the petitioners can dedicate the half-width right of way for realigned Wilsonville Road if the petition is denied. If the right of way can be dedicated for the road outside the U.G.B., or if the road can be built on land already inside the U.G.B., then the petition should be denied, because it does not result in an improvement in urban service efficiency to land already inside the U.G.B."

I think this issue requires more review and analysis. The location of the road is only conceptual at this point. No actual engineering or survey work has been performed. The reason given for the location of the road by the City of Wilsonville is that if it is inside the city it will be easier to build because the city will have more control over funding and design, and there will be less of a need to coordinate with Clackamas County.

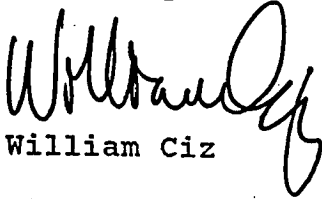
Wilsonville Road is an important arterial for both the Clackamas County and City of Wilsonville road systems. The influence of roads don't stop at jurisdictional lines. There are improvements that Clackamas County will have to make to the intersection and north of the Subject Property before this conceptual design will work. Perhaps more detailed design and engineering needs to be done before land outside the U.G.B. is determined to be needed for road improvements.

If additional right of way is needed, based on engineering, I believe the petitioners can dedicate the right of way for realignment of Wilsonville Road without movement of the U.G.B. State Highways and County Roads are improved with realignments and curve reductions every year. When resource land is impacted an exception to the statewide planning goals affected is the process used to construct the improvement. I see no reason why an exception to Goal 3 based on an intergovernmental agreement between the City of Wilsonville and Clackamas County cannot be the basis of the realignment when development occurs on the property inside the U.G.B. The city can require the developer to improve the road to standards acceptable to both the city and county. The agreement can also discuss maintenance of the new road and disposition of the old road.

Section 402 of the Clackamas County Zoning and Development Ordinance permits public facilities necessary for public services in GAD zones as a non-farm use (report, page 8 #7). No new parcels need be created; only a transfer of property from one tax lot to another (report, page 15 #2).

Many portions of the U.G.B. are defined by roads. If they are to remain as effective boundaries between urban and rural uses the exception process to Statewide Planning Goals, or including only the portion needed for right of way into the U.G.B. is the logical choice. Therefore I recommend the council either deny the petition because the road can be improved without expansion of the U.G.B., or include only that portion needed for the new road right of way into the U.G.B.

Sincerely,



William Ciz

cc: Ernest Russell  
Sparkle Fuller Anderson  
David Key  
Jill Hinckley  
Fred Hultman  
Wayne Sorenson  
Richard M. Whitman  
Marvin and Bonnie Wagner  
Gary Cook  
Milton and Florence Beck  
Joseph and Jean Connolly  
Jim Van Lente  
Robert J. Besmeh

Case # 90-1 Exhibit # 18  
Offered by BECK  
Date received 9/25/90 By ll  
METRO HEARINGS OFFICER

MILTON & FLORENCE BECK  
19 Hitching Post Lane  
Bell Canyon, CA 91307

September 25, 1990

To: LARRY EPSTEIN, Esq.

BY FAX: 503-228-7365

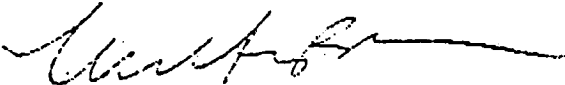
Re: Petitioners Marvin G. & Bonnie Wagner of Wilsonville, Ore.

Marvin G. and Bonnie Wagner, owners of Tax Lot 2200, Section 18, T3S, R1E, W.M., have requested a locational adjustment UGB, a specific land use action included in the Municipal Code.

Therefore, as the lawful and recorded property owners of 6360 S.W. Advance Rd., located adjacent to, and directly east of the Wagner's property, we are, at present, not in objection to the proposed locational adjustment.

MILTON & FLORENCE BECK

DATE

  
9/25/90

Case # 90-1 Exhibit # 19  
Offered by CONNOLLY  
Date received 9/25/90 By JE  
METRO HEARINGS OFFICER

6351 SW Advance Road  
Wilsonville, OR 97070

September 24, 1990

Mr. Larry Epstein  
Attorney at Law  
722 SW Second Avenue, Suite 400  
Portland, OR 97204

RE: Petition of Marvin & Bonnie Wagner  
of Wilsonville, Oregon.

Dear Mr. Epstein:

We are opposed to the petition by the Wagners to move the Urban Growth Boundary in order to include their Tax Lot 2200, Section 18, T3S, R1E, W.M. We urge you to recommend it be denied.

We own a small farm within a few hundred yards of the subject property. We purchased this just over a year ago in order to move to a rural setting. The last thing we or any other farm owner in the area wants is further encroachment of high density housing into farmland. The preservation of rural areas is one of the reasons Urban Growth Boundaries have been established.

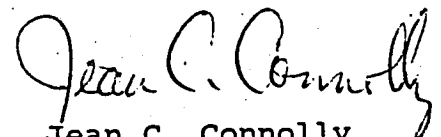
Attached is a letter from the petitioner which we received last week. Please note in the second paragraph the statement that the reason for the petition is to help the City of Wilsonville straighten out Wilsonville Road. We believe this is not a true representation of the petitioners's primary objective. On the contrary, we believe the petitioner simply wants to be able to sell the property for high density housing, but he cannot do so unless the property is included in the Urban Growth Boundary. A realtor has told us that the Wagners intended to list their property with him for sale.

It is our understanding that Clackamas County recently reviewed all Urban Growth Boundaries within the county for possible adjustment, and that this particular location was not one earmarked for consideration.

It is evident to us that the only reason the petitioners wish to have the Urban Growth Boundary moved is for personal financial gain. We ask you to recommend the petition be denied.

Very truly yours,

  
Joseph A. Connolly

  
Jean C. Connolly

Case # 90-1 Exhibit # 20  
Offered by VAN LENTE  
Date received 9/25/90 By LE  
METRO HEARINGS OFFICER

Far West CPO  
24025 S.W. Newland Road  
Wilsonville, OR 97070

DATE: September 25, 1990  
TO: METRO  
ATTN: Hearings Officer Epstein


RE: Proposed Urban Growth Boundary Change for Wagner

We are concerned about the precedent created by this application.

Unfortunately, we are not able to hold a properly noticed meeting by this date as required for an official position.

However, we wish to reserve the right to do so on any future hearings, appeals, etc. that result from this application and proceedings.

Very truly yours,



Jim Van Lente  
President  
Far West CPO

United States  
Department of  
Agriculture

Soil  
Conservation  
Service

In cooperation with  
United States  
Department of  
the Interior,  
Bureau of Land  
Management, and  
Oregon Agricultural  
Experiment Station

# Soil Survey of Clackamas County Area, Oregon

Case # 90-1 Exhibit # 21  
Offered by WHITMAN  
Date received 7/25/90 By KE  
METRO HEARINGS OFFICER



1 425 000 FEET

91B

12A

92F



Water capacity is about 10 to 13 inches. Effective rooting depth is 60 inches or more. Runoff is medium, and the hazard of water erosion is moderate. The water table is at a depth of 24 to 36 inches in winter and early in spring. This soil is droughty in summer.

This unit is used mainly for crops such as small grain, hay, and pasture. Berries are also grown. Some areas of the unit are used for timber production and as wildlife habitat and homesites. This unit is subject to increased use as homesites. Where the unit has been used as homesites, as much as 75 percent of the area not covered by buildings or other impervious material has been disturbed. The disturbed areas have been covered by as much as 24 inches of fill material or have had as much as 36 inches of the original profile removed by cutting or grading. The fill material is most commonly from adjacent areas of Woodburn soils that have been cut or graded.

This unit is suited to cultivated crops. It is limited mainly by wetness and slope. Wetness generally limits the suitability of this unit for deep-rooted crops. Crops that require good drainage can be grown if a properly designed tile drainage system is installed. In summer, irrigation is needed for maximum production of most crops. Sprinkler irrigation is a suitable method of applying water.

Excessive cultivation can result in the formation of a tillage pan, which can be broken by subsoiling when the soil is dry. When the soil is wet, grazing and other activities that cause trampling result in compaction of the surface layer, poor tilth, and excessive runoff. If the soil in this unit is plowed in fall, runoff and erosion can be reduced by fertilizing and seeding to a cover crop. All tillage should be on the contour or across the slope. Diversions and grassed waterways may be needed.

Returning all crop residue to the soil and using a cropping system that includes grasses, legumes, or grass-legume mixtures help to maintain fertility and tilth. Grain and grasses respond to nitrogen; legumes respond to phosphorus, boron, sulfur, and lime; and berries respond to nitrogen, phosphorus, and potassium.

This unit is suited to the production of Douglas-fir. The site index for Douglas-fir ranges from 160 to 175. On the basis of a site index of 169, the potential production per acre of merchantable timber is 10,800 cubic feet from an even-aged, fully stocked stand of trees 60 years old or 102,080 board feet (International rule, one-eighth-inch kerf) from an even-aged, fully stocked stand of trees 80 years old.

The main concern in producing and harvesting timber is wetness. Conventional methods of harvesting timber generally are suitable, but the soil may become compacted if heavy equipment is used when the soil is wet. Roads for year-round use need heavy base rock. Roads and landings can be protected from erosion by constructing water bars and by seeding cuts and fills.

Brushy plants such as western hazel and blackberry limit natural regeneration of Douglas-fir.

If this unit is used for homesite development, the main limitations are the slow permeability, wetness, low soil strength, and slope. Drainage is needed if roads and buildings are constructed. Wetness is reduced by installing drain tile around footings. Roads and buildings should be designed to offset the limited ability of the soil in this unit to support a load. Preserving the existing plant cover during construction helps to control erosion. Septic tank absorption fields do not function properly during rainy periods because of wetness and the slow permeability.

In summer, irrigation is needed for lawn grasses, shrubs, vines, shade trees, and ornamental trees. Plants that tolerate wetness and droughtiness should be selected unless drainage and irrigation are provided.

This map unit is in capability subclass IIIe.

#### 92F—Xerochrepts and Haploxerolls, very steep.

This map unit is on terrace escarpments. Slope is 20 to 60 percent. The native vegetation is mainly Douglas-fir, Oregon white oak, bigleaf maple, western redcedar, red alder, western hazel, Oregon-grape, and salal. Elevation is 50 to 1,000 feet. The average annual precipitation is 40 to 60 inches, the average annual air temperature is 50 to 54 degrees F, and the average frost-free period is 165 to 210 days.

This unit is about 50 percent Xerochrepts and 35 percent Haploxerolls. The components of this unit are so intricately intermingled that it was not practical to map them separately at the scale used.

Included in this unit are small areas of Saum, Jory, Cascade, Witzel, and Woodburn soils. Included areas make up about 20 percent of the total acreage.

Xerochrepts are deep and well drained. They formed in colluvium derived dominantly from igneous rock. No single profile of Xerochrepts is typical, but one commonly observed in the survey area has a surface layer of dark brown silt loam about 8 inches thick. The upper 7 inches of the subsoil is dark brown gravelly loam, and the lower 33 inches is brown and dark yellowish brown gravelly clay loam. The substratum to a depth of 60 inches or more is brown very cobbly clay loam.

Permeability of the Xerochrepts is moderate to moderately slow. Available water capacity is about 5 to 10 inches. Effective rooting depth is 40 to 60 inches or more. Runoff is rapid, and the hazard of water erosion is severe.

Haploxerolls are deep and well drained. They formed in colluvium derived dominantly from basic igneous rock. No single profile of Haploxerolls is typical, but one commonly observed in the area has a surface layer of very dark grayish brown silt loam about 12 inches thick. The upper 12 inches of the subsoil is dark brown silt loam, and the lower 26 inches is dark yellowish brown

silty clay loam and gravelly silty clay loam. The substratum to a depth of 60 inches or more is dark yellowish brown very gravelly loam.

Permeability of the Haploxerolls is moderate to moderately slow. Available water capacity is about 8 to 12 inches. Effective rooting depth is 40 to 60 inches or more. Runoff is rapid, and the hazard of water erosion is severe.

This unit is used for timber production and as wildlife habitat and homesites.

This unit is suited to the production of Douglas-fir. The site index for Douglas-fir ranges from 130 to 155. On the basis of a site index of 140, the potential production per acre of merchantable timber is 8,700 cubic feet from an even-aged, fully stocked stand of trees 60 years old or 77,280 board feet (International rule, one-eighth-inch kerf) from an even-aged, fully stocked stand of trees 80 years old.

The main concern in producing and harvesting timber is steepness of slope. The steepness of slope limits the kinds of equipment that can be used in forest management. Highlead or other cable logging methods can be used for harvesting timber. Use of these methods is limited during December through March.

The soils in this unit are subject to slumping, especially if road cuts are made in the steeper areas. Slumping can be minimized by locating roads in the more gently sloping areas and by using properly designed road drainage systems. Roads for year-round use need heavy base rock. Roads and landings can be protected from erosion by constructing water bars and by seeding cuts and fills. Brushy plants such as red alder and western hazel limit natural regeneration of Douglas-fir.

If this unit is used for homesite development, the main limitations are steepness of slope and the instability of the soils. The soils are subject to slumping, especially if road cuts are made in the steeper areas. Slumping can be minimized by locating roads in the more gently sloping areas and by using properly designed road drainage systems. Erosion is a hazard in the steeper areas. Only the part of the site that is used for construction should be disturbed. This unit generally is too steep to install septic tank absorption fields. Absorption lines should be placed in adjoining areas that are more nearly level.

This map unit is in capability subclass VIIe.

**93E—Xerochrepts-Rock outcrop complex, moderately steep.** This map unit is on high terraces and rolling uplands. Slope is 0 to 30 percent. The native vegetation is mainly Douglas-fir, Oregon white oak, western hazel, Oregon-grape, poison-oak, and grasses. Elevation is 100 to 500 feet. The average annual precipitation is 40 to 50 inches, the average annual air temperature is 52 to 54 degrees F, and the average frost-free period is 165 to 210 days.

This unit is about 60 percent Xerochrepts and 30 percent Rock outcrop. The components of this unit are so intricately intermingled that it was not practical to map them separately at the scale used.

Included in this unit are small areas of Witzel, Nekia, and Saum soils. Included areas make up about 10 percent of the total acreage.

Xerochrepts are shallow to moderately deep and are well drained. They formed in colluvium derived dominantly from andesite and basalt. No single profile is typical of Xerochrepts, but one commonly observed in the survey area has a surface layer of dark brown gravelly loam or loam about 8 inches thick. The subsoil is brown gravelly loam or loam about 18 inches thick. Basalt is at a depth of 26 inches. Depth to basalt ranges from 15 to 40 inches.

Permeability of the Xerochrepts is moderate to moderately slow. Available water capacity is about 3 to 7 inches. Effective rooting depth is restricted by the depth to basalt. Runoff is medium, and the hazard of water erosion is moderate. This soil is droughty in summer.

Rock outcrop consists of areas of exposed bedrock. These areas support only moss and lichens.

This unit is used as wildlife habitat and homesites and for timber production.

This unit is poorly suited to the production of Douglas-fir. On the Xerochrepts, the site index for Douglas-fir ranges from 110 to 125. On the basis of a site index of 115, the potential production per acre of merchantable timber is 6,360 cubic feet from an even-aged, fully stocked stand of trees 60 years old or 57,960 board feet (International rule, one-eighth-inch kerf) from an even-aged, fully stocked stand of trees 90 years old.

The main concerns in producing and harvesting timber are the restricted rooting depth and large areas of Rock outcrop, which can interfere with felling, yarding, and other operations involving the use of equipment. The low available water capacity generally influences seedling survival in areas where understory plants are numerous. Brushy plants such as western hazel and Oregon-grape limit natural regeneration of Douglas-fir.

If this unit is used for homesite development, the main limitations are the areas of Rock outcrop and depth to rock. topsoil can be stockpiled and used to reclaim areas disturbed during construction. Removal of gravel in disturbed areas is needed for best results when landscaping, particularly in areas used for lawns. In summer, irrigation is needed for lawn grasses, shrubs, vines, shade trees, and ornamental trees. The limited depth to bedrock interferes with excavation for utilities and septic tank absorption fields.

This map unit is in capability subclass VIIc.

**94D—Zygore gravelly loam, 5 to 30 percent slopes.** This deep, well drained soil is on mountainous uplands. It formed in colluvium derived dominantly from basalt and andesite mixed with volcanic ash. The native

PETITION

IN SUPPORT OF MARVIN AND BONNIE WAGNERS' APPLICATION TO METRO

We, the undersigned neighbors of Marvin and Bonnie Wagner, recognize that the two corners on Wilsonville Road as it crosses from the county into the city are a serious public safety hazard that has caused numerous accidents, and that this hazard is increasing as new homes and schools are built in the area. Furthermore, we recognize that to eliminate these corners, Wilsonville Road will have to be relocated through the Wagners' property both inside and outside the City of Wilsonville. To allow this relocation to occur, we recognize that the urban growth boundary will have to be changed to include the 6.35 acres remaining of the Wagners' property located outside the City of Wilsonville.

Therefore, we the undersigned neighbors of Marvin and Bonnie Wagner, support their application to Metro to change the Urban Growth Boundary.

Name

Address

1	<u>Robert E. Tapper</u>	<u>6901 SW Frogpond Ln. Wilsonville.</u>
2	<u>James E. Morgan</u>	<u>6720 SW Frogpond Ln. Wilsonville</u>
3	<u>Edgar Beckman</u>	<u>7115 SW Frogpond Ln. Wilsonville</u>
4	<u>Robert Montgomery</u>	<u>7130 Frogpond Lane Wilsonville, Ind.</u>
5	<u>Arthur Bruck</u>	<u>27427 SW 53 Wilsonville</u>
6	<u>Robert E. Hill</u>	<u>28900 SW 35th Wilsonville</u>
7	<u>Tom Felt</u>	<u>7151 SW Boeckman Rd Wilsonville</u>
8	<u>and P. Hill</u>	<u>7025 SW Boeckman Rd Wilsonville</u>
9	<u>Drs. J. D. &amp; H. T. HINE</u>	<u>7035 SW Boeckman Rd Wilsonville</u>
10	<u>Ernest Russell</u>	<u>27657 SW Stafford Rd Wilsonville 97072</u>
11	<u>Joseph A. Zinda</u>	<u>27687 Stafford Rd Wilsonville</u>
12	<u>Don Byrum</u>	<u>7070 Frogpond Lane Wilsonville</u>
13	<u>Harry Salt</u>	<u>7315 SW Frogpond Ln. Wilsonville</u>
14	<u>Don Kuehner</u>	<u>6651 SW Boeckman Rd 97070</u>
15	<u>James Kuehner</u>	<u>6651 SW Boeckman Rd 97070</u>
16	<u>Paul C. Channing</u>	<u>27227 SW Stafford Rd, Wilsonville</u>

1 Henry Z. Mehus

2 Julien V. Mehus

3 Betty Buse

4 Gay R. Buse

5 P. J. O'Hogan

6 Wayne S. Louie

7 Shirley L. Louie

8 Cliff W. Alexander

9 Bob Alexander

10 William D. Alexander

11 Nancy B. Coote

12 E. H. Coote

13 Edward L. Will

14 Kimberly D. Will

15 Anna M. Kruse Inskeep

16 Joe J. Bruch

17 Dale J. Kreibitz

18 Terrell J. Kreibitz

19 Fred Hohman

20 Allen L. Wagner

6725 S.W. Frogpond Ln 97070

" " "

7320 S.W. Frogpond Ln. 97070

" " "

7400 SW FROGPOND LN 97070

28355 S.W. 60<sup>th</sup> Wilsonville 97070

28355 S.W. 60<sup>th</sup> Wilsonville 97070

28424 S.W. 60<sup>th</sup> Wilsonville 97070

28424 S.W. 60<sup>th</sup> Wilsonville 97070

28424 SW 60<sup>th</sup> Wilsonville 97070

6860 SW Beckman Rd Wilsonville 97070

6140 SW Beckman Rd Wilsonville 97070

7020 SW Beckman Rd Wilsonville 97070

7020 " " " " " " "

5442 - S W. Kruse Rd - Wilsonville, OR

29500 SW Bruch Ln Wilsonville

6875 S. W. BECKMAN RD. WILSONVILLE, OR.

" " "

27817 SW Stafford - Wilsonville

28245 S.W. WILSONVILLE RD. WILSONVILLE

# PETITION

## IN SUPPORT OF MARVIN AND BONNIE WAGNERS' APPLICATION TO METRO

We, the undersigned neighbors of Marvin and Bonnie Wagner, recognize that the two corners on Wilsonville Road as it crosses from the county into the city are a serious public safety hazard that has caused numerous accidents, and that this hazard is increasing as new homes and schools are built in the area. Furthermore, we recognize that to eliminate these corners, Wilsonville Road will have to be relocated through the Wagners' property both inside and outside the City of Wilsonville. To allow this relocation to occur, we recognize that the urban growth boundary will have to be changed to include the 6.35 acres remaining of the Wagners' property located outside the City of Wilsonville.

Therefore, we the undersigned neighbors of Marvin and Bonnie Wagner, support their application to Metro to change the Urban Growth Boundary.

Name

Address

1 Denise Agito

6360 NW Advance Rd Wilsonville, Or

2 Amanda Perry

2700 SW Brack Ln Wilsonville

3 Marjorie M. Foster

2301 SW EK Rd - West Linn, Or

4 Tim Fagan

2323 S.W. EK Rd. West Linn, Or.

5 Allen George

7500 SW Fry Pond Lane, Wilsonville, OR

6 Fred Johnson

16161 SW Bell Rd - Sherwood, Or

7 Nellie Kruse

5442 SW Kruse Rd, W. Linn.

8 Gap Kruse

5442 SW Kruse Rd W. Linn.

9 Lynn Young

27767 SW Stafford Rd Wilsonville

9-20-90

to. LARRY EPSTEIN P.C.

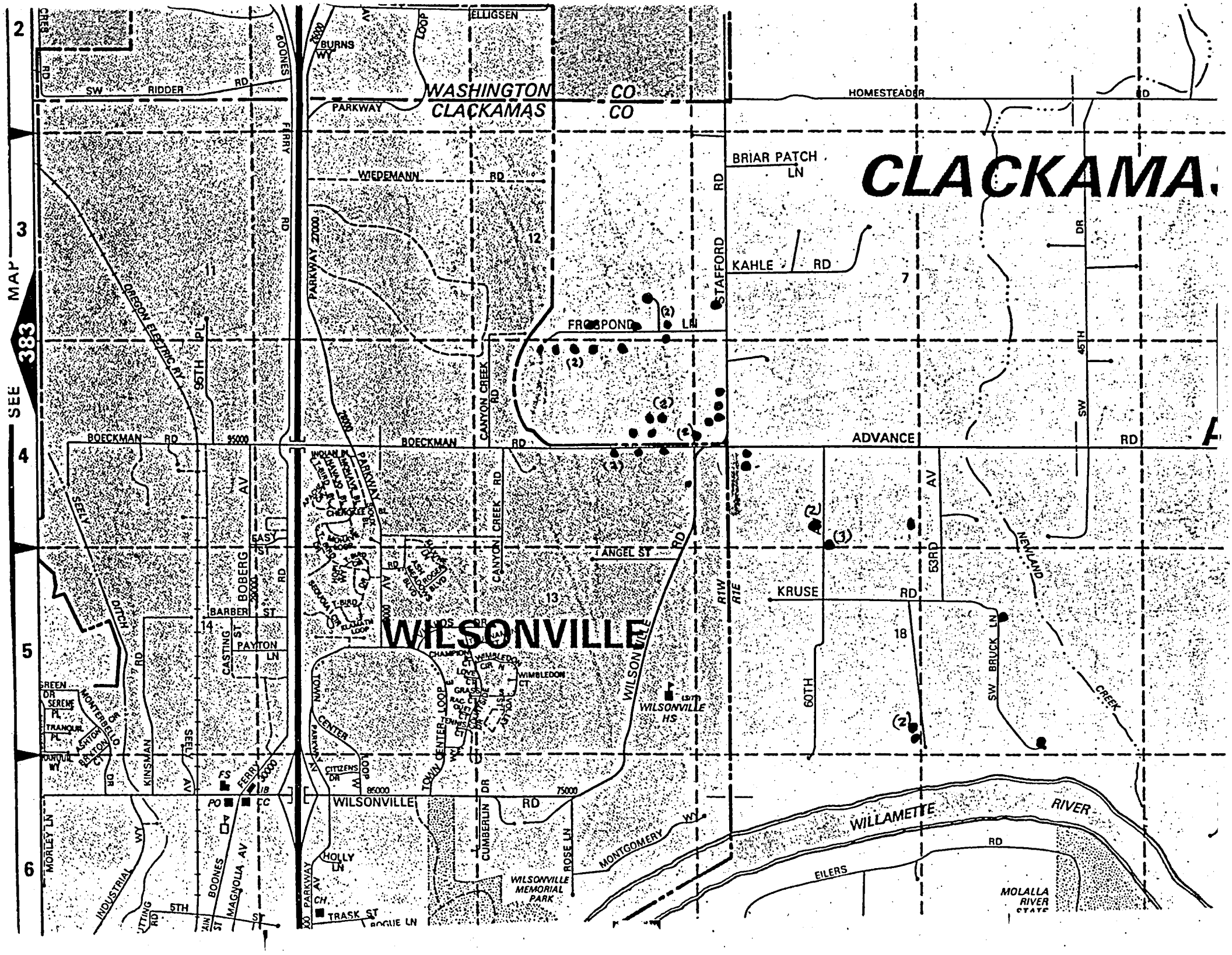
I Am PART OWNER OF TAX Lots  
2300, 2400, 2500 AND 2600 IN CLACKMAS  
County AND I Am IN FAVOR OF INCLUDING  
MARVIN WAGNERS 6.35 ACRES WITHIN THE  
Portland Metro AREA Urban Growth Boundary.

I will not be able to AT testify  
ON Sept. 25 1990, SO FEEL FREE TO USE  
THIS STATEMENT AS A YES Vote -

Yours truly

Robert J. Besmehn  
50776 4A Dike Rd.  
Scappoose, ORE. 97056

Robert / Besmehn



**CLACKAMA.**

**WILSONVILLE**

**WILLAMETTE RIVER**

**MOLALLA RIVER STATE**

September 19, 1990

Case # 90-1 Exhibit # 23  
Offered by WAGNER  
Date received 9/25/90 By LE  
METRO HEARINGS OFFICER

Mr and Mrs Joe and Jean Connolly  
6351 SW Advance Road  
Wilsonville, OR 97070

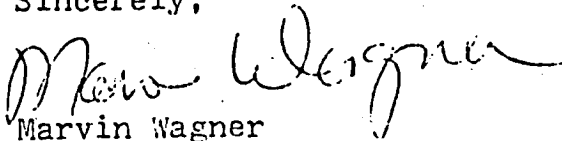
Dear Mr and Mrs Connolly:

I am writing to follow up on Mr Gene Wolf's conversation with you in late August regarding our petition to Metro to amend the Urban Growth Boundary to include a 6.35-acre parcel we own at the corner of Wilsonville and Advance Roads. As Mr Wolf stated, we wanted to meet with you, at your convenience, to discuss any concerns you might have regarding our petition. I was disappointed that you did not feel it necessary to meet with us, but I assumed that the reason was that after speaking with Mr Wolf any concerns that you had were resolved.

I have now heard that you are opposed to our petition, although I do not know what specific objections you have. I would like to repeat our offer to meet with you and any other neighbors who would like more information on what this matter involves at your convenience. We are making this petition to Metro in cooperation with the City of Wilsonville to make it possible to realign Wilsonville Road so that the two 90 degree corners at Advance Road and Boeckman Road can be eliminated. There have been a number of serious accidents on these corners in the last few years and one as recent as a few weeks ago. Both the city and the county would like to see the problem taken care of.

Please let me know if we can arrange a time to meet with you, or if there are any particular questions that you have regarding our petition.

Sincerely,

  
Marvin Wagner

28400 SW Wilsonville Rd.  
Wilsonville, OR 97070  
682-3667



EXHIBIT 24

NOTE: Exhibit 24 is a map that is too large for duplication.  
It is available for review at the Metro offices.

EXHIBIT @§

William Ciz  
28300 S.W. 60th  
Wilsonville, Oregon 97070

September 27, 1990

Mr. Larry Epstein  
Attorney at Law  
722 S.W. 2nd Avenue  
Suite 400  
Portland, OR 97204

Re: UGB Locational Adjustment  
Petition of Marvin & Bonnie Wagner  
of Wilsonville, Oregon.

Dear Mr. Epstein:

Thank you for leaving the record open for my written testimony which follows.

I own property approximately 1/4 to 1/2 mile from the parcel (Tax Lot 2200, Sec 18, T3S, R1E, W.M.) proposed to be included within the Wilsonville Urban Growth Boundary (UGB). I oppose the petition to add the 6.35 acres to the UGB for the following reasons:

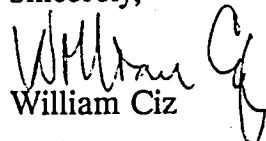
- Clackamas County did not include the addition of this property into Wilsonville's UGB during its recent periodic review.
- Clackamas County does not support the addition of this property to the UGB.
- Wilsonville does not currently have the water and sanitary sewage treatment capacity to handle all the developable property within the current UGB. The city is currently relying on urban renewal funds to finance these improvements. Should that program not come to pass, other methods to pay for these capital improvements would need to be provided. This may have some Goal 11, Public Facilities and Services, implications.
- Relocation of Wilsonville Road has other methods of compensation for the owner of the property and to finance construction of the road. An example of this is Urban Renewal Funds. The property is to be included within the city's Urban Renewal Area, those funds could pay for purchase of right of way and construction of the road.

Mr. Larry Epstein  
September 27, 1990  
Page 2

- The current zoning of the property, general agriculture.(GAD), would provide a good buffer between urban and farm uses.
- Only 1.5 acres of the 6.35 are developable. The narrow shape of the 1.5 acres makes its development questionable. Why should the UGB be expanded to include property that can't be developed. It only allows the owner or developer to transfer the density to the parcel currently inside the UGB. This pushes higher densities to the urban fringe and will place additional pressure on rural lands north and east of the UGB to be urbanized.
- The transfer of development rights, which will increase density on the parcel inside the UGB, is not compatible with agricultural uses on property to the north and east of the UGB.
- The location of the Wilsonville Road as shown on the map attached to the public hearing notice is only conceptual. Upon development of the property, it could be in a different location. If we are to look at the road relocation, the transfer of development rights, and storm drainage problems in a total package, as suggested by Mr. Whitman, it seems only fair to see the zoning and total proposed development plans for the properties. This would be the only way to make an intelligent decision in this case.
- The property inside the current Wilsonville UGB will receive additional acreage from abandonment of the current Wilsonville Road right of way upon the road relocation. This will lessen the impact of the property needed for the new road right of way.

In closing, relocation of Wilsonville Road is needed and can happen without the addition of 6.35 acres into the UGB. This expansion of the UGB does not create a more efficient urban form nor is it superior to the present UGB.

Sincerely,

  
William Ciz

cc: Mr. Richard Whitman  
Ball, Janik & Novack  
101 SW Main Street  
Suite 1100  
Portland, OR 97204

BALL, JANIK & NOVACK  
ATTORNEYS AT LAW  
ONE MAIN PLACE  
101 S.W. MAIN STREET, SUITE 1100  
PORTLAND, OREGON 97204-3274  
TELEPHONE (503) 228-2525  
TELECOPY (503) 295-1058

RICHARD M. WHITMAN

9TH FLOOR, 601 PENNSYLVANIA AVE. N.W.  
WASHINGTON, D. C. 20004  
TELEPHONE (202) 636-3307  
TELECOPY (202) 783-6947

October 3, 1990

Mr. Larry Epstein  
Hearings Officer  
722 S.W. Second Avenue  
Portland, OR 97204

Re: Petitioner's Rebuttal to Written Comments Submitted by Mr.  
William Ciz; Metro Contested Case No. 90-1

Dear Mr. Epstein:

The following narrative is in rebuttal to the written comments submitted by Mr. William Ciz in Metro contested case No. 90-1. For your convenience, I have number our rebuttal testimony in order corresponding to Mr. Ciz's comments. Please include this response as part of the record for this case.

**1. Failure of Clackamas County to Include UGB Addition in Periodic Review.**

There is no requirement in state law, or in applicable local ordinances that a UGB locational adjustment be included in a county's periodic review. Metro has exclusive jurisdiction for reviewing locational adjustments to the UGB under ORS 268.390(3) and 197.185 to 197.190, and Clackamas County would be acting beyond its authority if it purported to designate lands as urban through the periodic review process. The appropriate vehicle by which a county has input in a Metro decision on a locational adjustment is through the comment process provided for in Metro Code § 3.01.025. Clackamas County has submitted comments on this proposal, and the failure to include review of this petition in the periodic review process is irrelevant.

**2. Clackamas County's Lack of Support for UGB Addition.**

It misconstrues the county's comments on this petition to state that "Clackamas County does not support the addition of this property to the UGB." In fact, the order adopted by the County Board of Commissioners in regard to this petition states that "Clackamas County supports the proposal to the extent the entire roadway realignment be included in the Urban Growth Boundary." Clackamas County Order No. 90-806.

While the findings adopted for this order indicate some concern with that portion of the proposed addition not necessary for the road right-of-way, the order itself does not oppose any portion of the petition. Petitioner has provided testimony that the parcel (taken as a whole) is generally unsuited for agricultural use, and that therefore under the County's urbanization policy, an urban designation is warranted. See Clackamas County Comprehensive Plan Urbanization Policies (attached).

Furthermore, Clackamas County is on record as supporting locational adjustments in those cases in which: 1) the city which will provide urban services endorses the application, and 2) an application has been made to annex the property to the city, and 3) no other city or service district objects to the UGB locational adjustment. Clackamas County Order No. 84-1098 (attached). This petition meets all three of these criteria.

### **3. Ability of the City of Wilsonville to Provide Sewer and Water Service.**

Mr. Richard Drinkwater, Wilsonville City Engineer, has already provided testimony that the city currently has adequate water and sewer capacity to serve this property. Mr. Drinkwater's testimony pertained both to the capacity of the city's distribution system and its water supply and sewerage treatment capacities.

### **4. Use of City Funds to Compensate Owner for Diminution in Property Value.**

As previously stated in petitioner's response to the Metro staff report, the City of Wilsonville's Comprehensive Plan Policy 3.3 states that:

"[d]edication of adequate right-of-way, as established in the Street System Master Plan, or as otherwise approved by the Planning Commission, shall be required prior to actual site development.

If the proposed development would cause an existing street to exceed the minimum service capacity, then appropriate improvements shall be made prior to occupancy of the completed development."

The city has gone on record as stating that the property owner will be required to make the improvements necessary for the realignment prior to development of the Wagners' property now within the city. While it is possible that urban renewal funding may be used to pay for the improvements associated with the right-of-way (see attached project list for urban renewal

district), this is highly speculative given the pending advisory ballot on the urban renewal district. At this point in time, it appear far more likely that the improvement will be funded through a local improvement district with the Wagners as one of the primary members of the district. As noted in the attached project list, this improvement carries a preliminary cost estimate of \$685,400.

**5. GAD Zoning as a Buffer Between Urban and Farm Uses.**

Metro Code Sections 3.01.040(a)(3) and (5) require some consideration of the effect of a locational adjustment on adjoining agricultural lands. Petitioner has already submitted testimony that under both the county's and the city's comprehensive plans the eastern portion of the parcel would be required to be retained in open space -- preserving a buffer for adjoining agricultural properties. Petitioner has also submitted testimony showing that the remainder of the parcel is unlikely to be developed due to the configuration of the road right-of-way, setbacks and the remaining developable lands.

In addition, the Wagners' have obtained the signatures of over 45 neighbors, most of whom live on properties adjoining the Wagners in Clackamas County (additional signatures, including the owner of a large adjoining parcel are attached). The support of adjoining property owners, many of whom are currently engaged in agricultural uses, is a clear indication of their opinion that the addition will not have a detrimental effect on their use. Finally, the Wagners' have previously stated (in their application) that they are willing to record a covenant on their property waiving any right to object to lawful agricultural practices. Collectively, these facts demonstrate that the addition would be compatible with nearby agricultural activities, and objector has provided no facts to substantiate his assertion to the contrary.

**6. Possible Inability to Develop Lands Added to the UGB, and Transfer of Density to Lands Already Inside the UGB.**

The fact that the primary use of the lands added to the UGB by this petition would be for open space, road right-of-way, and as a source of density transfer to lands already inside of the UGB is not a reason for denial. In fact, this use of the property insures continued compatibility with nearby agricultural uses. No standard in the Metro Code requires that the property added to the UGB be developed for residential uses.

Any transfer of density to adjoining lands already within the City of Wilsonville would have to be in conformity with the city and Metro's housing density goals, which currently call for an average density of approximately eight dwelling units per acre in Wilsonville. The Wagner property now within the city

is designated for three to five units per acre, leaving ample room for a density transfer while still coming in at or below the Metro housing density goal.

7. Need to See Proposed Zoning Final Development Plans for the Property.


As stated at the hearing, the question before Metro in this case is whether the Wagners' property should be designated urban. There will be ample opportunity to comment on, or object to, specific development proposals for the Wagner property if and when it is annexed and rezoned by the Boundary Commission and the city.

8. Vacation of Current Right-of-Way as an Alternate Means of Compensation for Diminution in Property Value.

While it is possible that the city would vacate the current right-of-way for Wilsonville Road upon realignment, this seems unlikely due to the fact that the current alignment provides the only access to tax lot 400 (which is developed with a residence. At least half the alignment would have to be retained to provide access to this property (see attached map).

Thank you for this opportunity to submit rebuttal testimony.

Very truly yours,



Richard M. Whitman

attachments

cc. Mr. William Ciz  
Mr. Marvin Wagner  
Mr. Stephen T. Janik



## URBANIZATION

### GOALS

- . Clearly distinguish Urban areas from Rural, Agricultural and Forest areas.
- . Encourage development in areas where adequate public services and facilities can be provided in an orderly and economic way.
- . Insure an adequate supply of land to meet immediate and future urban needs.
- . Provide for an orderly and efficient transition to urban land use.
- . Distinguish lands immediately available for urban uses from Future Urbanizable areas within Urban Growth Boundaries.

### POLICIES

- 1.0 Coordinate with The Metropolitan Service District (Metro) in designating urban areas within Metro's jurisdiction and coordinate with affected cities in designating urban areas outside of Metro. Recognize the statutory role of Metro in maintenance of and amendments to the regional growth boundary.
- 2.0 The following areas may be designated as Urban:
  - a. Land needed to accommodate 20 years of future urban population growth.
  - b. Land needed for increased housing, employment opportunities and livability from both a regional and subregional view.
  - c. Land to which public facilities and services can be provided in an orderly and economic way.
  - d. Land which insures efficient utilization of land within existing urban areas.
  - e. Land which is best suited for urban uses based on consideration of the environmental, energy, economic and social consequences.
  - f. Agricultural land only after considering retention of agricultural land as defined, with Class I having the highest priority for retention and Class VI the lowest priority.
  - g. Land needed after considering compatibility of proposed urban uses with nearby agriculture activities.
  - h. Land where the strategic location of employment and living opportunities can minimize commuting distance, traffic congestion, pollution and energy needs.
- 3.0 Land use planning for urban areas shall integrate all applicable policies found throughout the Plan including the following:

- a. Locate land uses of higher density or intensity to increase the effectiveness of transportation and other public facility investments.
  - b. Encourage infilling of Immediate Urban Areas with a minimum of disruption of existing neighborhoods (see infill policies in the Housing Chapter).
  - c. Enhance energy conservation and transportation system efficiency by locating opportunities for housing near work and shopping areas.
  - d. Integrate developments combining retailing, office, and medium and high density housing at places with frequent transit service and pedestrian facilities.
- 4.0 Designate Immediate Urban land according to its definition. Map IV-1 illustrates Immediate Urban land as of 1989.
- 5.0 Convert land from Future Urbanizable to Immediate Urban when land is annexed to either a city or special district capable of providing public sewer. Zoning will be applied, compatible with the Plan when land becomes immediate urban.
- 6.0 Use the following guidelines for annexations having the effect of converting Future Urbanizable to Immediate Urban land:
- a. Capital improvement programs, sewer and water master plans, and regional public facility plans should be reviewed to insure that orderly, economic provision of public facilities and services can be provided.
  - b. Sufficient vacant Immediate Urban land should be permitted to insure choices in the market place.
  - c. Sufficient infilling of Immediate Urban areas should be shown to demonstrate the need for conversion of Future Urbanizable areas.
  - d. Policies adopted in this Plan for Urban Growth Management Areas and provisions in signed Urban Growth Management Agreements should be met (see Planning Process Chapter).

## 7.0 Immediate Urban Policies

- 7.1 Control land uses in Immediate Urban areas through the zoning and subdivision ordinances and application of urban zoning districts.
- 7.2 Place conditions on development to insure adequate services and facilities prior to or concurrent with development (see Transportation, and Public Facilities and Services chapters).
- 7.3 Simplify County ordinances as much as possible to encourage development in Immediate Urban areas.

## 8.0 Future Urbanizable Policies

- 8.1 Plan Future Urbanizable areas for eventual urban uses but control premature development (before services are available) by application of a future urbanizable zone of ten (10) acre minimum lot size within the Metro's Urban Growth Boundary (UGB). Rural zones of 5 acres minimum lot size or larger or agricultural or forest zoning may be used for future urbanizable areas outside the Metro UGB.
- 8.2 Prohibit residential subdivisions, as defined in the subdivision and Partitioning Ordinance, until the land qualifies as Immediate Urban.
- 8.3 Review partition requests to insure that the location of proposed easements and road dedications, structures, wells, and septic drain-fields are consistent with the orderly future development of the property at urban densities.
- 8.4 For land within the urban growth boundaries of Canby, Estacada, Sandy and Molalla, require conversion to immediate urban uses to occur only through annexation to a city. (See Public Facilities Policy 8.0 for limitations on septic tank use inside UGB's).

## 9.0 Regional Spectator Facility

- 9.1 Areas appropriate for consideration of siting a Regional Spectator Facility shall be shown by a symbol on the Land Use Plan map. Such areas shall be of suitable size, near major traffic facilities and generally compatible with surrounding uses.

## 10.0 Study Areas

- 10.1 The area along 82nd Drive south of the area currently zoned C-3 to the Gladstone city limits shall be a study area to determine the appropriate land use. The study shall be done in 1989-1990.
- 10.2 The area at the west end of the 212/I-205 interchange, including Thiessen Road and Roots Road, shall be a study area to determine the appropriate land use and transportation improvements. The study shall be done in 1989-1990.

## 11.0 Access Guideline

- 11.1 The multifamily area south of Otty Road and north of Verde Valley Subdivision, between I-205 and 92nd Avenue, should not take access to 92nd Avenue south of Idleman Road, but rather should take access on 92nd Avenue north of Idleman Road or on Otty Road.
- 11.2 The large area known as Lincoln Cemetery or Panorama Estates shall not be developed until a new road identified as the "Lester to Idleman Road" in the Comprehensive Plan is provided for. Any development shall have direct access to the I-205/Johnson Creek Boulevard interchange to prevent undue impacts to the neighborhood and traffic on area streets. In addition, an acceptable dedication of land for future park use shall be designated before development. The property will be developed pursuant to a master plan as a Planned Unit Development.

WILSONVILLE URBAN RENEWAL PROGRAM .. PROJECT LIST .. COST ESTIMATES

(All Cost Estimates are in 1990 Dollar Values)

6/7/90

PROJECT LIST	<u>COST</u>	<u>TIF</u>	<u>OTHER SOURCES</u>
A. <u>ROADS / UTILITIES WHERE NOTED:</u>			
1. CANYON CREEK NORTH			
Boeckman to Elligsen	1,466,300		
Includes storm drain	393,700		
Elligsen Road segment	553,000		
Engineering	361,950		
TOTAL	2,774,950	1,796,080	978,870
2. CANYON CREEK SOUTH .. (includes R.O.W.)			
Wilsonville Road to Boeckman	1,836,750		
Includes storm drain	604,500		
Intersection with Town Center Loop E.	372,000		
Engineering	421,990		
TOTAL	3,235,240	3,235,240	
3. TOWN CENTER SOUTH			
Includes storm, water, sanitary	712,500		
Engineering	106,880		
TOTAL	819,380	819,380	
4. TOWN CENTER LOOP			
Southern Extension includes storm,			
water, sanitary	937,590		
Engineering	140,640		
TOTAL	1,078,230	1,078,230	
5. BOECKMAN ROAD, EAST			
Canyon Creek to S.W. 65th includes			
storm, water, sanitary	1,350,000		
Engineering	202,500		
TOTAL	1,552,500	1,552,500	
6. BOECKMAN INTERCHANGE/RAMPS			
Engineering	5,750,000		
	862,500		
TOTAL	6,612,500	3,306,250	3,306,250

Project 1: Funds for work outside Urban Renewal Area  
Project 6: ODOT

A:PROJCOST

PROJECT LIST	COST	↓ TIF	OTHER SOURCES
A. <u>ROADS / UTILITIES WHERE NOTED: (continued)</u>			
7. WILSONVILLE ROAD, includes storm, water, sanitary East of I-5 West of I-5 Engineering	987,500 1,575,300 384,440		
TOTAL	2,947,240	2,947,240	
8. WILSONVILLE ROAD at Boeckman Realign, includes storm, water, sanitary Acquire property, sell residual .. net to Project Engineering/Legal fees	496,000 100,000 189,400		
TOTAL	785,400	785,400	
9. WEIDMAN ROAD AND RAMPS/OVERCROSSING Includes storm, water, sanitary (Cost to S.W. 95th by others) Overpass structure Engineering	1,501,000 2,250,000 562,650		
TOTAL	4,313,650	1,325,000	2,988,650
10. PARKWAY AVENUE, realignment at Boeckman Includes storm, water, sanitary Engineering	490,000 73,500		
TOTAL	563,500	563,500	
11. ALL "OLD TOWN" STREETS Includes storm drains, lighting Engineering	1,663,000 249,450		
TOTAL	1,912,450	1,912,450	
12. TRAFFIC SIGNALS (13 in U.R. Area) Engineering	1,560,000 234,000		
TOTAL	1,794,000	1,794,000	
<u>TOTAL ROADS / UTILITIES</u>	28,389,040	<u>21,115,270</u>	7,273,770
Project 9: ODOT			

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

Urban Growth Boundary locational  
adjustments concurrent with city  
annexation.

ORDER NO. 24-1098

WHEREAS the Metropolitan Service District is  
responsible for management of the regional Urban Growth Boundary (UGB), and the Metropolitan  
Service District's plans for UGB locational adjustments require comment by the governing body of  
the affected county, and

WHEREAS a property owner's desire for urban  
services and a city's ability to provide those services should be a decision made by the  
two parties most directly involved, now therefore


IT IS HEREBY ORDERED that the Board of County  
Commissioners of Clackamas County supports property owner applications to Metro for Urban  
Growth Boundary locational adjustments in those cases in which


- (1) the city which will provide urban services endorses the application, and
- (2) an application has been made to annex the property to the city, and
- (3) no other city or service district objects to the UGB locational adjustment, and

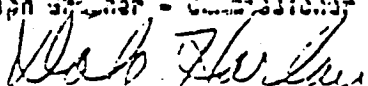
IT IS FURTHER ORDERED that UGB locational  
adjustment applications which do not meet the above three conditions shall be considered in-  
dividually by this Board.

DATED this 2nd day of August, 1934.

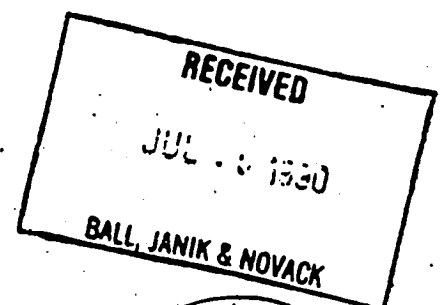
BOARD OF COUNTY COMMISSIONERS

  
ROBERT SCHUMACHER - Chairman

  
RALPH SCHUMACHER - Commissioner

  
DALE HARLAN - Commissioner

DES





# Profiles of Commercial Agriculture for the Northern Willamette Valley

District I  
Clackamas County

OSU Extension Service  
Department of Geography  
Oregon State University  
Special Report 697



Case # 90-1 Exhibit # 27  
Offered by WHITMAN  
Date received 9/25/90 By LE  
METRO HEARINGS OFFICER





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# **TREE NUTS**

District 1, Clackamas Co. 1983  
OSU Extension Service

Type of Agriculture Tree Nuts  
Landform Valley Floor  
Number of Survey Responses 14  
Population Number (From Census Data) 81  
Size Range Used in Computations 1-320

Data Item		BY LANDFORM							
		Totals		Valley Floor		Central Foothills		Northeast Foothills	
1. Size (acres) of total farm unit (includes rented and leased lands) <sup>1</sup>	MEAN	131.0		114.67		NO CASES		NO CASES	
	S.E.	27.0		28.62					
	MED.	101.0		74.50					
	VC/MC	14/0		12/0					
2. Distribution of acreage by landform <sup>2</sup>	MEAN	N/A		128					
	S.E.			33					
	MED.			103					
	VC/MC			10/2					
3. Gross Value of Products Sold (1982) (in thousands of dollars) <sup>3</sup>	MEAN	85.39		97.73					
	S.E.	24.02		26.79					
	MED.	30.00		104.17					
	VC/MC	13/1		11/1					
4. Percent of leased or rented lands (Private and Public)		Pr.	Pu.	Pr.	Pu.	Pr.	Pu.	Pr.	Pu.
	MEAN	26.6	0	26.8	0				
	S.E.	10.1	0	11.3	0				
	MED.	10.9	0	10.0	0				
	VC/MC	10/4	5/9	9/3	5/7				

S.E. = Standard Error

MED = Median

VC/MC = Valid Cases/Missing Cases

- 1 Farms are classified by landforms according to most income produced. Some acreage of a given farm may be on another landform.
- 2 Acreage under landforms includes only that portion of a farm which is on the given landforms.
- 3 Calculated by multiplying the # of farms in an income category by the mid-point of the income category.

District 1, Clackamas Co. 1983  
OSU Extension Service

		BY LANDFORM			
Data Item		Totals	Valley Floor	Central Foothills	Northeast Foothills
5. Asset Value (1982): Land, Bldg., Equip. (In thousands of dollars) (See Item 22)	MEAN	361.43	387.75	NO CASES	NO CASES
	S.E.	116.09	132.33		
	MED.	113.50	113.50		
	VC/MC	14/0	12/0		
6. Annual Expenses (1982) (In thousands of dollars) (See Item 23)	MEAN	32.08	33.24		
	S.E.	8.25	9.03		
	MED.	31.00	31.35		
	VC/MC	11/3	10/2		
7. Minimum # of acres to arrange a contract with a buyer	MEAN	1.00	1.00		
	S.E.	.67	1.00		
	MED.	1.50	1.00		
	VC/MC	3/11	2/10		
8. Typical field size (most common acreage)	MEAN	21.00	22.36		
	S.E.	3.66	4.21		
	MED.	15.00	24.00		
	VC/MC	13/1	11/1		
9. Distance to rent typical field size (in miles, one way)	MEAN	7.00	7.89		
	S.E.	2.38	2.58		
	MED.	3.50	5.00		
	VC/MC	10/4	9/3		
10. Minimum field size (acres)	MEAN	6.00	6.50		
	S.E.	1.69	1.78		
	MED.	4.88	5.00		
	VC/MC	11/3	10/2		
11. Distance to rent minimum field size (in miles, one way)	MEAN	2.00	2.67		
	S.E.	1.00	1.13		
	MED.	1.00	1.25		
	VC/MC	10/4	9/3		

Clackamas County

AGRICULTURE SURVEY

1. If either of the following categories applies to the person to whom this survey is addressed, do not complete the survey. Please check, and return in the envelope provided.

☐ DECEASED OR NO LONGER FARMING OR RANCHING  
☐ TOTAL FARM SALES LESS THAN \$2,500 FOR 1982

2. Please indicate which one of the following agriculture types best represents your operation. If your production occurs in more than one type, choose the type which contributes 50% or more of your total sales. If you do not produce a commodity which contributes 50% or more in sales, choose the general farm category. (CHECK ONE)

☐ CASH GRAINS (WHEAT, BARLEY, OATS, ETC.)  
☐ FIELD CROPS (SEED CROPS, MINT, HAY, ETC.)  
☐ VEGETABLE CROPS (CARROTS, SQUASH, SWEET CORN, ETC.)  
☐ BERRIES, GRAPES  
☐ TREE FRUITS  
☐ TREE NUTS  
☐ CHRISTMAS TREES  
☐ HORTICULTURAL SPECIALTIES (NURSERIES, GREENHOUSES, ETC.)  
☐ INTENSIVE ANIMAL HUSBANDRY (POULTRY, SWINE, SMALL ANIMALS, ETC.)  
☐ DAIRY FARMS  
☐ EXTENSIVE ANIMAL GRAZING (CATTLE, SHEEP)  
☐ HORSES  
☐ GENERAL FARMS, PRIMARILY CROP

3. How many acres do you operate? (Including rented or leased land)

☐ ACRES

- 3a. How many of these acres, if any, are rented or leased from others?

☐ ACRES (Private Land)  
☐ ACRES (Public Land)

4. Please check if you are:

☐ OWNER/OPERATOR  
☐ OPERATOR

☐ OTHER (SPECIFY) \_\_\_\_\_

- 4a. Please indicate your age group (optional):

☐ LESS THAN 35 YEARS  
☐ 36-49 YEARS  
☐ 50-65 YEARS  
☐ 65+ YEARS

5. Listed below are the major landforms in Clackamas County. Please indicate the number of acres in each landform for your farm or ranch, and check the dominant soil association on which you are operating in each landform area.

LANDFORM

A. \_\_\_\_\_ (ACRES) VALLEY FLOOR SOILS

Soil Association (CHECK ONE)

\_\_\_\_ Cloquato-McBee-Newberg  
 \_\_\_\_ Coburg-Conser-Malabon  
 \_\_\_\_ Aloha-Woodburn-Dayton  
 \_\_\_\_ Willamette-Woodburn-Aloha

\_\_\_\_ Latourell-Cenderly  
 \_\_\_\_ Salem-Clackamas  
 \_\_\_\_ Don't know

B. \_\_\_\_\_ (ACRES) NORTHEAST FOOTHILLS (North and east of the Clackamas River/Sandy-Gresham area)

Soil Association (CHECK ONE)

\_\_\_\_ Cascade-Powell  
 \_\_\_\_ Bornstedt-Cottrell  
 \_\_\_\_ Alspaugh-Cazadero-Molalla

\_\_\_\_ Aschoff-Bull Run  
 \_\_\_\_ Don't know

C. \_\_\_\_\_ (ACRES) CENTRAL FOOTHILLS (South and west of the Clackamas River)

Soil Association (CHECK ONE)

\_\_\_\_ Jory-Saum  
 \_\_\_\_ Bornstedt-Cottrell

\_\_\_\_ Alspaugh-Cazadero-Molalla  
 \_\_\_\_ Don't know

6. Which of the landforms listed in question 5 produces the most income for your farm or ranch? (CHECK ONE)

\_\_\_\_ A. VALLEY FLOOR SOILS  
 \_\_\_\_ B. NORTHEAST FOOTHILLS  
 \_\_\_\_ C. CENTRAL FOOTHILLS

7. Acreage operated may be located any number of miles from a "home" farm or ranch. Using your home farm or ranch as the starting point, please indicate how many acres fall in each of the categories listed below. (Include land owned and land leased or rented from others)

ACRES

(a) HOME FARM OR RANCH . . . . .  
 (b) NOT ADJACENT BUT LESS THAN FIVE MILES. . . . .  
 (c) FIVE TO TEN MILES. . . . .  
 (d) MORE THAN TEN MILES. . . . .  
 TOTAL. . . . .

8. (a) What is your most typical individual field size, in acres?

\_\_\_\_ ACRES

- (b) How far can you afford to travel, one way, to rent a field of typical size?

\_\_\_\_ MILES ONE WAY

- (c) What is your smallest field, in acres, which can be used for agriculture, considering equipment and other limitations?

\_\_\_\_ ACRES

- (d) How far can you afford to travel to rent a field of minimum size?

\_\_\_\_ MILES ONE WAY

9. What was the 1982 annual gross value of total sales from your farm or ranch operation? (CHECK ONE)

\_\_\_\_ Less than \$10,000  
 \_\_\_\_ \$10,000 to \$19,999  
 \_\_\_\_ \$20,000 to \$39,999  
 \_\_\_\_ \$40,000 to \$69,999

\_\_\_\_ \$70,000 to \$99,999  
 \_\_\_\_ \$100,000 to \$249,999  
 \_\_\_\_ \$250,000 to \$499,999  
 \_\_\_\_ \$500,000 or more

WRITTEN EXCEPTIONS TO THE HEARINGS OFFICER'S REPORT  
AND RECOMMENDATION FOR CONTESTED CASE 90-1: WAGNER

RECEIVED  
11/20/90  
[Signature]

Jean and Joe Connolly  
6351 S.W. Advance Road  
Wilsonville, OR 97070

November 18, 1990

Mr. Ethan Seltzer  
Land Use Coordinator, Metro  
2000 S.W. First Avenue  
Portland, OR 97201-5398

Re: Metro Memorandum Report and Recommendation of Hearings  
Officer Case Number 90-1: Wagner

Dear Mr. Seltzer:

The Hearings Officer suggests the Council treat the Subject Property as either one or two units. We request it be treated as two separate units; with one unit the "right of way" the other unit "remainder portion."

If, as the petitioner claims, the City of Wilsonville and Clackamas County have determined that Wilsonville Road must be realigned for safety reasons, we would agree that the "right of way" portion of the Subject Property should be placed inside the U.G.B. as described in Memo pg. 19 F-1.

However, we see no distinct improvement to the U.G.B. by including the "remainder portion" of Subject Property in it, and the memo agrees on pg. 19 F-2; "Including the "remainder portion" of the Subject Property in the U.G.B. does not result in an inferior or superior U.G.B.." We do see that the inclusion of the "remainder portion" would lead only to high density development of the Subject Property. (31 dwellings proposed)

The memo further states on page 2 that ". . . urban use of the Subject Property will be compatible with nearby agricultural activities." We disagree. Newcomers to rural areas often don't realize that working farms are not pristine, bucolic parks. Rather, they are rural lands filled with noises, smells, and pests along with seasonal aerial pesticide and herbicide spraying.

Last fall one newcomer complained to the Sheriff that a farmer harvesting his corn crop allowed some corn husks to blow onto the newcomer's property. Corn husks do not respect property lines, nor do flies and odors from manure piles and agricultural burning, nor sounds of bellowing cows or howling coyotes.

But the petitioner, claiming compatibility between urban and rural standards, ". . . agrees to execute a covenant waiving rights to object to lawful agricultural practices on adjoining land" on memo pg. 13-7. We ask, how can Mr. Wagner (who will be long gone) waive the rights of future tenants of multi-family dwelling, who may be sensitive to standard agricultural practices, i.e. pesticides, herbicides and smoke?

It is fallacious to think that a drainage way will ". . . minimize the potential for urban/farm conflicts" as stated in the memo pg. 17 C-2.b. More than a drainage ditch is needed to keep farms and high density dwellings separated. The proposed realigned road on the "right of way" portion would provide a tangible buffer between farms and urban dwellings.

We also disagree with the memo's statement on pg. 17 C-1 that there will be no significant environmental consequence because of the relative small size and development potential of the property. Five-to ten-acre intensive farms are the norm not the exception here in Wilsonville.

We live on the four-acre farm north of and across the road from the Subject Property. It is zoned G.A.D. We harvested four tons of oats plus four tons of hay this past fall. We will have a crop of rye ready in late spring followed by an acre of perennial nursery stock. Small does not mean fruitless.

On the same page 17 C-2 states that "Adverse consequences could include a perception that urban uses are extending into the agricultural area, reducing the certainty that agricultural uses will be protected from such intrusions and encouraging speculation."

We know firsthand about speculators. Just after buying our land last fall, a man came to our home and asked to buy it, saying he had just purchased the 80-acre tree farm which surrounds our farm. When we said we would not sell he laughed and said that we would want sell when we learned what he was going to do with the tree farm. He then said he would begin tearing out the trees in January 1990 and would break ground for a 4,000 unit mobile-home park in early spring! As he left, he laughed again and said, "You'll want to sell come spring."

We did not like his threat that if we didn't sell, we'd be sorry. We learned from the county planning department that the man would buy the tree farm only if he could break the U.G.B.. Boundary integrity protected our land, and because the county adhered to those boundaries the man did not get the tree farm, or our farm. That is precisely why boundaries were defined . . . to protect farm lands from indiscriminate development by unscrupulous speculators.

On pg. 15 d. moving the U.G.B. " . . . reduces the per unit cost by allowing petitioners to build more units. However, that does not result in more efficient delivery of urban services; only that it would be more economical to the petitioner . . ." Breaking the U.G.B. solely for one person's financial gain is not in the best interests of those who still work the lands.

We have one other concern about this realigned road. Can Wilsonville support two parallel roads? According to the memo on pg. 6, 3. (2) a portion of the present Wilsonville road "is likely to be used" so that the landowner on TL 400 will be able to drive



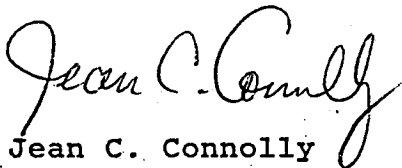
Page 3 --- Connolly --- Case Number 90-1: Wagner

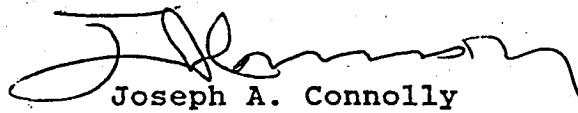
onto and off of his property. Since Wilsonville voters rejected the Urban Renewal Plan on Nov. 6, money may not be available to build a new road and also maintain the existing road.

We opposed the Wagner's petition to Metro in September, and after reading the Hearings Officer's report we are even more opposed and are more concerned about repercussions of a move in the U.G.B.. We are the stewards of our rural environment and as such we are ultimately responsible for its future which should not include over-burdened roads, smog, vandalism and trespasses endemic to urban life.

Therefore we ask that the petitioner's request for inclusion of "remainder portion" in the U.G.B. be denied and that the Subject Property be treated as two units.

Very truly yours,

  
Jean C. Connolly

  
Joseph A. Connolly

cc: Ernest Russell  
Sparkle Fuller Anderson  
David Key  
William Ciz  
Jill Hinckley  
Fred Hultman  
Wayne Sorenson  
Richard M. Whitman  
Marvin and Bonnie Wagner  
Gary Cook  
Milton and Florence Beck  
Jim Van Lente  
Robert J. Besmeh

RECEIVED  
11/20/90  
[Signature]

Sparkle Fuller Anderson  
27480 S.W. Stafford Road  
Wilsonville, OR 97070

November 17, 1990

Exceptions to Hearings Officers decisions  
on Case Number 90-1: Wagner

- 1) Agree: Including the "right of way portion" of the Subject property in the U.G.B, Metro Memorandum (MM) pg. 19 F 1.
- 2) Disagree: Subject Property will not adversely affect agricultural use in the area MM pg. 13 7.
- 3) Disagree: Subject Property included into the U.G.B. will not have adverse environmental, social economic consequences, MM pg. 20-D
- 4) Disagree: Recommendation that Subject Property be considered as a unit, MM pg: 21-J.

Sparkle Fuller Anderson  
27480 S.W. Stafford Road  
Wilsonville, OR 97070

November 17, 1990

Mr. Ethan Seltzer  
Land Use Coordinator, Metro  
2000 S.W. First Avenue  
Portland, OR 97201-5398

Re: Report and Recommendation of the Hearings Officer Case  
Number 90-1: Wagner

Dear Mr. Seltzer:

- 1) I agree that including the "right of way" portion of the Subject Property in the U.G.B. does result in a superior U.G.B. MM pg. 19 F 1. A finished road is a good definition between urban and rural land uses.
- 2) I disagree that Subject Property will not adversely affect agricultural use in the area, MM pg. 13-7. Any increased density as is proposed without visible boundaries impacts farm use. The increased traffic and trespass of hunters, children and pets onto undefined farm lands does impact agricultural use. I have a bull in my back yard, this year. He can peek into the Grange Hall safely, but not apartment windows. The barn on the property adjacent to the Subject Property houses two Arabian stallions, standing at stud. For the safety of the urban dwellers not familiar with "standard farm practices, we need clearly defined barriers between urban and rural farm use.
- 3) I disagree that Subject Property included into the U.G.B. will not have adverse environmental, social or economic consequences, MM pg. 20-D. MM page 17-2 explains adverse consequences could include a perception that urban uses are extending into agriculture area, reducing the certainty that agricultural uses will be protected from such intrusions, and encouraging speculation. The Subject Property is just such an intrusion.

My farm includes 40-acre, 20-acre and 10-acre parcels. I receive regular, unsolicited phone calls from people at the county office wanting to know about zoning of my farm, as well as the health and age of family members. Summer brings home buyers and realtors up my driveway looking

for subdivision acreage or homesites, usually of five acres or less. The original Wilsonville plan places a shopping center on top of my house. My only defense has been the integrity of the U.G.B. Taking a bite out of that protection is like blowing a hole in the dike. If the time comes to move the U.G.B., we should "all" be included equally, and not first come, first served. This should occur only when City and County plans and services are in agreement and the move is necessary. Annexation for one developer's profit will trigger a flood of speculation.

- 4) I disagree with the recommendation that the Subject Property be considered as a unit. MM pg. 21-J states, "past practice," small size, and land use to the east as reasons for granting this petition.

The small size of Subject Property, 6.35 acres, places it in accord with the land use east of immediate neighbors as stated on MM pg. 5-E, 2 and 3 (GAD) and RR/FF 5 acres, small scale farm, fruit trees, and animal husbandry. The Subject Property fits exactly the scale and use for land outside the U.G.B. where it is located.

MM pg. 3 C-2 states, "County Commissioners adopted a Board Order recommending approval of the Location Adjustment only to the extent the land included in the U.G.B. will be included in a realigned right of way for Wilsonville Road" . . . MM pg. 4 cont. "It further appearing to the Board it is not necessary to include the entirety of the parcel within the Urban Growth Boundary in order to incorporate the road realignment, and . . . It further appearing to the Board the County Comprehensive Plan allows agricultural land be designated urban only after considering retention of that agricultural land, and it appears the request to include all the property in the U.G.B. is not supported by County Comprehensive Plan policies to retain agricultural lands....!

This leaves the county opposed to breaking the U.G.B. for development, and leaves the city in favor, but only if they pass the Urban Renewal Plan to fund city services. Urban Renewal failed! January 1st brings a new city council with a new set of problems. Urban Renewal was to pay for drainage, MM pg. 6-b, and road improvements, MM pg. 6-3 (3) and without promised U.R.D. money, MM pg. 8-4, the city may want to return to the original "city" plan that would require building and maintaining only one road instead of two as would be required by Mr. Wagner's proposed second road, MM pg. 6-3-(2). I was also informed by a city council member that Wilsonville is already top-heavy with high-density housing as proposed by Mr. Wagner. Annexing more rural land for additional high-density housing only adds to the imbalance.

Lastly, if "past practice" listed above is reason enough to break the U.G.B. leaving rural lands and lifestyles open to high-density, high-profit development, then it's time to change those "past practices."

For these reasons I request the denial of the Hearings Officer's recommendation that Subject Property be considered as one unit.

Very truly yours,

A handwritten signature in cursive script that reads "Sparkle Fuller Anderson".

Sparkle Fuller Anderson

cc: Ernest Russell  
David Key  
William Ciz  
Jill Hinckley  
Fred Hultman  
Wayne Sorenson  
Richard M. Whitman  
Marvin and Bonnie Wagner  
Gary Cook  
Milton and Florence Beck  
Joseph and Jean Connolly  
Jim Van Lente  
Robert J. Besmeh

11-19-90 NOV 20 1990  
(13)

Mr. Ebon Seltzer  
Land Use Coordinator - Metro  
2200 SW 1st Ave.  
Portland, Ore.

File 90-1; Wagner  
220-1537

Dear Sir

I wish to register my opposition to moving the Urban Growth Boundary as contained in the Wagner petition. The proposed road change, while needed, takes in only a small fraction of the property involved & I can see no reason to change the U.G.B. accordingly.

In the interests of land owners nearby the proposed change of boundaries, I feel they would be done a real injustice to change from land to hi-density housing. These people have built their lives around these boundaries and going over it is totally unfair to make these changes unless there is compelling growth factors within the existing boundaries to make it necessary.

Sincerely -

David W. Key



WASHINGTON  
COUNTY,  
OREGON

November 23, 1990

Tanya Collier, Presiding Officer  
Council of the Metropolitan Service District  
2000 S.W. First  
Portland, OR 97201-5398

RE: EXCEPTION TO THE HEARINGS OFFICER'S REPORT AND RECOMMENDATION,  
CASE NO. 90-1 (WAGNER)

Dear Councillor Collier:

Washington County has no direct interest in the outcome of this case, and does not object to the hearings officer's recommendation, nor to the majority of his findings. We are, however, concerned about his acceptance of the petitioner's argument regarding the proper interpretation of ORS 215.213(2) and 215.296, which allow certain types of road construction in the EFU zones if no new parcel is created.

We do not dispute that a new parcel would indeed be created in this case, but take exception to the petitioner's argument that a new parcel is created whenever ownership is transferred by deed.

We request the following changes in the Hearings Officer's Report:

1. On page 12, Section V, A,1b.(1)(a):

Delete this paragraph and replace with the following: "The dedication of a new right of way for the realignment of Wilsonville Road would create a new parcel and thus cannot be undertaken in the existing EFU zone."

2. On page 15, Section VI, A.2.C(2):

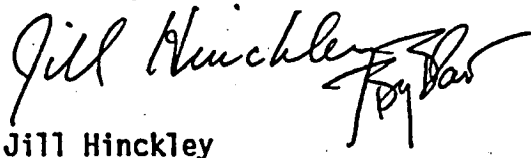
Delete the phrase "as defined by state law" at the end of the first sentence, and delete the last sentence in this subsection, beginning "The hearings officer notes...", in its entirety.

Letter to Tanya Collier  
Council of the Metropolitan Service District  
November 23, 1990  
Page 2

These changes recognize the need to include the proposed new right-of-way for the Wilsonville Road within the UGB without setting what we believe would be an inappropriate precedent for other circumstances.

Thank you for the opportunity to comment on this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jill Hinckley".

Jill Hinckley

cc: Ethan Seltzer, Metro  
Brent Curtis, Washington County DLUT  
Ernest Russell  
Sparkle Fuller Anderson  
David Key  
William Ciz  
Jill Hinckley  
Fred Hultman  
Wayne C. Sorenson, City of Wilsonville  
Richard M. Whitman of Ball, Janik, & Novack  
Marvin and Bonnie Wagner  
Gary Cook, Clackamas County  
Milton and Florence Beck  
Joseph and Jean Connolly  
Jim Van Lente, Far West CPO  
Robert J. Besmehr

JH:lt  
(11-23jil)



William Ciz  
28300 S.W. 60th  
Wilsonville, Or 97070

November 21, 1990

Mr. Ethan Seltzer  
Land Use Coordinator, Metro  
2000 S.W. First Avenue  
Portland, OR 97201-5398

Re: Report and Recommendation of Hearings Officer contested  
Case Number 90-1

Dear Mr. Seltzer:

I would like to file an exception to the above referenced case. I disagree with the hearing officer's recommendation and also feel the issue of whether the right of way can be dedicated or the road built on land inside the U.G.B. needs more review and analysis.

The hearing officer's recommendation states that because the council has always considered the property in a locational adjustment as a single unit it should be included into the U.G.B. I feel the council should change their approach in this locational adjustment case and include only the right of way portion needed for the realignment of Wilsonville Road in the U.G.B. for the following reasons.

1. Clackamas County Commissioners support this position (report, page 4).
2. The Clackamas County Comprehensive Plan supports this position (report, page 4).
3. Only the right of way portion result in maximum efficiency of land uses in the urban area (report, page 16 #1).
4. If the "remainder portion" is included, a density transfer will occur allowing 31 additional units to be built on the property inside the U.G.B. Increasing density will increase conflicts with farming activities such as spaying, cultivation and harvesting on surrounding farm property outside the U.G.B. Including only the right of way portion would provide the maximum protection and compatibility for nearby agricultural activities (report, page 18 #3).
5. Including only the right of way portion results in a superior U.G.B. (report, page 19 F #1, 2, 3).
6. Including only the right of way portion produces benefits to the public (report, page 20, F).

I would also like to comment on another portion of the report under the section I. Nature and Summary of the Issues states, "One issue in this case is whether the petitioners can dedicate the half-width right of way for realigned Wilsonville Road if the petition is denied. If the right of way can be dedicated for the road outside the U.G.B., or if the road can be built on land already inside the U.G.B., then the petition should be denied, because it does not result in an improvement in urban service efficiency to land already inside the U.G.B."

I think this issue requires more review and analysis. The location of the road is only conceptual at this point. No actual engineering or survey work has been performed. The reason given for the location of the road by the City of Wilsonville is that if it is inside the city it will be easier to build because the city will have more control over funding and design, and there will be less of a need to coordinate with Clackamas County.

Wilsonville Road is an important arterial for both the Clackamas County and City of Wilsonville road systems. The influence of roads don't stop at jurisdictional lines. There are improvements that Clackamas County will have to make to the intersection and north of the Subject Property before this conceptual design will work. Perhaps more detailed design and engineering needs to be done before land outside the U.G.B. is determined to be needed for road improvements.

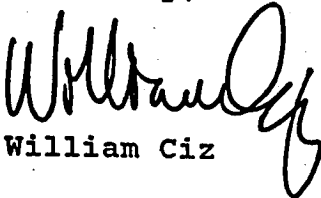
If additional right of way is needed, based on engineering, I believe the petitioners can dedicate the right of way for realignment of Wilsonville Road without movement of the U.G.B. State Highways and County Roads are improved with realignments and curve reductions every year. When resource land is impacted an exception to the statewide planning goals affected is the process used to construct the improvement. I see no reason why an exception to Goal 3 based on an intergovernmental agreement between the City of Wilsonville and Clackamas County cannot be the basis of the realignment when development occurs on the property inside the U.G.B. The city can require the developer to improve the road to standards acceptable to both the city and county. The agreement can also discuss maintenance of the new road and disposition of the old road.

Section 402 of the Clackamas County Zoning and Development Ordinance permits public facilities necessary for public services in GAD zones as a non-farm use (report, page 8 #7). No new parcels need be created; only a transfer of property from one tax lot to another (report, page 15 #2).

Page 3 -- Case Number 90-1 Ciz

Many portions of the U.G.B. are defined by roads. If they are to remain as effective boundaries between urban and rural uses the exception process to Statewide Planning Goals, or including only the portion needed for right of way into the U.G.B. is the logical choice. Therefore I recommend the council either deny the petition because the road can be improved without expansion of the U.G.B., or include only that portion needed for the new road right of way into the U.G.B.

Sincerely,



William Ciz

cc: Ernest Russell  
Sparkle Fuller Anderson  
David Key  
Jill Hinckley  
Fred Hultman  
Wayne Sorenson  
Richard M. Whitman  
Marvin and Bonnie Wagner  
Gary Cook  
Milton and Florence Beck  
Joseph and Jean Connolly  
Jim Van Lente  
Robert J. Besmeh

RECEIVED 1/28/90  
AS/CWA

BEFORE THE COUNCIL OF THE  
METROPOLITAN SERVICE DISTRICT

In the matter of the petition )  
of Marvin and Bonnie Wagner )  
to amend the Urban Growth )  
Boundary to add 6.35 acres to )  
the urban area north of )  
Wilsonville in Clackamas )  
County )

Contested Case No. 90-01

PETITIONER'S EXCEPTIONS  
TO HEARINGS OFFICER  
REPORT & RECOMMENDATIONS

Petitioners Marvin and Bonnie Wagner are filing the following exceptions to the Hearings Officer Report and Recommendations in this matter, pursuant to Metro Code Section 2.05.035.

1. Exception No. 1: the Written Record.

The Hearings Officer Report and Recommendations ("the Report") includes a list of Exhibits which were made a part of the written record in this matter. Report at 3. The Exhibits include two letters (the "Letter from Connolly to Epstein dated 9/24/90" and the "Letter from Van Lente (Far West CPO) to Epstein dated 9/25/90" -- Exhibits Nos. 19 and 20), which either were not received by the Hearings Office prior to the close of the hearing on September 25, 1990, or were not placed into the record by the Hearings Officer such that petitioners had an opportunity to present rebuttal testimony.

Metro Code Section 2.05.025(i) states that "[u]pon conclusion of the hearing, the record shall be closed and new evidence shall not be admissible thereafter. . . ." In subsection (c)(4) of this same section, the Metro Code also

provides that where evidence is presented by persons disputing a petition, the petitioner has a right to rebuttal testimony. At the hearing on September 25, 1990, petitioners were not informed that written testimony from the two persons listed in the Report had been submitted and no opportunity for rebuttal testimony was provided. As a result, the Metro Council should exclude the Hearings Officer's Exhibits Nos. 19 and 20 from the record for this matter. Although the record was left open by the Hearings Officer, this was done for the limited purpose of allowing Mr. William Ciz to submit written testimony, and for petitioners to submit rebuttal evidence to Mr. Ciz's testimony only. See, Metro Ordinance No. 88-265 (Brennt Property, Contested Case No. 87-4, dated October 13, 1988), Hearings Officer Report at 3 (exhibits excluded due to late filing).

2. Exception No. 2: Responses from Affected Jurisdictions.

The Report quotes several passages from Clackamas County Board Order No. 90-806, inferring that the County may not support the petition in regard to that portion of the affected property not needed for the right-of-way for the Wilsonville Road realignment. Report at 3-4. The Report also states that "[t]he County did not make an express recommendation regarding that portion of the Subject Property that is not needed for the realigned right of way of Wilsonville Road." Id.

This characterization of the county's position is not correct. Clackamas County has adopted a policy that it supports

"locational adjustments in those cases in which: 1) the city which will provide urban services endorses the application; 2) an application has been made to annex the property to the city, and 3) no other city or service district objects to the UGB Locational adjustment." Report, Exhibit 15 (Clackamas County Board Order No. 84-1098). All of these criteria are met by the Wagner petition and there was no repeal of this earlier ordinance by the county's resolution regarding the Wagner petition. Reading the county's two orders together, it is clear that the official position of the county is one of support of the entire petition, rather than one of neutrality.

3. Exception No. 3: Existing and Proposed Uses.

The Report states that the petitioner's plans for the property include the development of 2.75 acres of the 6.35-acre site for dwellings. Report at 4. No written or oral testimony submitted by petitioner supports this conclusion. In fact, petitioner believes it will be difficult if not impossible to develop any of the property proposed to be added to the UGB.

Once road right-of-way is dedicated for the realignment of Wilsonville Road, and the steeper vegetated portions of the property are set aside for open space (as required by the Wilsonville Zoning Code), 2.5 to 2.75 acres remain as potentially developable. However, the configuration of this developable area is as a long, narrow wedge, with the wider section at the northern boundary of the property. Given the city's setback

requirements, and the probability that access onto Wilsonville Road will be limited -- thus requiring some form of internal access road, it appears unlikely that any significant portion of the 6.35-acre parcel can be developed.

Even if one assumes that development can occur on this portion of the property, development at the same density allowed on petitioner's adjoining property within the City of Wilsonville (maximum of 5 dwelling units per acre) would allow at total of 13 units, not the 31 stated in the Report. Report at 4.

4. Exception 4: Orderly and Economic Provision of and Net Improvement in Efficiency of Public Facilities -- Sewer and Water.

The Report states that increases in service efficiencies resulting from having a greater land area or number of residential units across which development costs can be spread "cannot result in a net improvement service efficiency for purposes of the Locational Adjustment standards. . . ." Report at 14. This conclusion is contrary to Metro Policy and the standards that have been applied in the past to Locational Adjustment Petitions of less than 10 acres.

The findings adopted by the Metro Council in support of the locational adjustment standards state that "[a]dditions of 10 acres or less are assumed to entail a cost so small that any identified benefit to the efficiency or effectiveness of the UGB

is sufficient to overcome it." Metro Ordinance 81-105, Findings at 11 (emphasis added).

In a number of small (less than 10 acres) locational adjustment petitions, Metro has found that increases in public facilities' efficiencies resulting from having a larger land area, or more units, are sufficient to justify granting petitions. See, e.g., Metro Ordinance No. 88-265 (Brennt Property, Contested Case No. 87-4, dated October 13, 1988) Hearings Officer Report at 12-13, (greater use of existing capacity results in net improvement in efficiency for water and sewer); Metro Ordinance No. 86-196 (Tualatin Hills Church, Contested Case No. 85-2, dated March 13, 1986), Hearings Officer Report at 4 (service of property by existing capacity increases efficiency).

Based on its stated policy, and the precedent established in these and other cases, there will be an increase in service efficiency as a result of the addition of both the "right of way portion" and the "remnant portion" of the Wagner's property. Because increased usage is likely to occur through the transfer of density from the property now outside the UGB to the Wagner's property now within the UGB, the increase in efficiency will be even greater since service line extensions will be minimized.



5. Exception 5: Orderly and Economic Provision of, and Net Improvement in, Efficiency of Public Facilities -- Roads and Transportation.

The Hearings Officer has concluded that the "[p]roperty already in the UGB can be served by Wilsonville Road." Report at 14. This is not correct. While the property can be served for purposes of its current agricultural use, any change of use requiring land use approval by the City of Wilsonville, including any change to urban uses, will require that Wilsonville Road be realigned as shown in the city's Comprehensive Plan. Because the new alignment is located outside the UGB, and is precluded by ORS 215.213 and 215.296, the property now within the UGB can't be used for urban uses without this UGB amendment.

Furthermore, the Hearings Officers has concluded that "dedication of the half-width right of way from the Subject Property would not violate ORS 215.296, because it would not force a significant change in accepted farming practices." Report at 15. This conclusion is not supported by any evidence in the record. In fact, petitioner has submitted the only evidence on this point, which demonstrates that the 2.75 acres of land suitable for farm use that would be left on the property is too small to be an economically viable farm unit. Report, Exhibits 14, 21, 24 and 27.

The fact is that the City of Wilsonville will not allow the Wagners' property within the UGB to be developed for urban uses until Wilsonville Road is realigned. Approval of the road

realignment to the Wagners' parcel outside the UGB is the necessary precondition that will allow their property within the UGB to develop for urban uses, while at the same time making continued agricultural use of the "remnant portion" of their property infeasible. The Hearings Officer is incorrect in segregating these actions, and the Wagners are precluded from dedicating right-of-way for the road under ORS 215.296 until such time as the UGB and the zoning for the property are changed.

The Hearings Officer's argument that a lot line adjustment could be processed to move the property line to accommodate the road right-of-way is also incorrect. Report at 15. Under Clackamas County Code Section 902.03, and state law, lot line adjustments are allowed only if they do not result in a substandard parcel, or increase the deficiencies in an already substandard parcel. Because the Subject Property is already substandard in terms of lot size, see Clackamas County Code Sections 402.09(B)(1) and 402.09(F), a lot line adjustment is not possible for this property.

6. Exception 6: Orderly and Economic Provision of and Net Improvement in Efficiency of Public Facilities -- Storm Drainage:

As stated by the Hearings Officer, a conditional use permit would be required to utilize the natural drainageway on the Subject Property for urban level storm sewer purposes. Report at 15-16; Clackamas County Code Section 402.06(b)(3). What the Report fails to mention is that such a conditional use

would be allowed only upon a showing that the use would not conflict with the purposes of the county's General Agricultural District (GAD). Just as dedication of the road right-of-way would allow urbanization of the remainder of the Wagners' parcel and make continued agricultural use of the "remnant portion" economically unviable, the granting of a conditional use permit to allow urban-level storm drainage would trigger urbanization inconsistent with the county's purposes for its GAD zone. As a result, it is unlikely that a conditional use permit could be obtained by the Wagners - forcing them to make alternative storm drainage improvements costing in the vicinity of \$200,000.

7. Exception 7: Land Use Efficiency.

As stated in Exception No. 3, above, it is unlikely that the City of Wilsonville will allow significant development to occur on the Subject Property, given the need to limit access onto Wilsonville Road, and the long, narrow configuration of the portion of the property that is developable. Thus, any density transfer that occurs is almost certain to be directed to the Wagners' property already in the city -- resulting in a substantial increase in the efficiency of land uses. The statement in the Report that density from the drainageway and road could be transferred onto the 'remainder portion' of the Subject Property" is therefore incorrect. Report at 16.

In addition, by allowing a greater number of units to absorb the cost of the road realignment, including the "remainder

portion" of the Subject Property within the UGB will improve land use efficiency. The Hearings Officer's position that private economic benefit is not relevant to a locational adjustment is not correct. Report at 17; see Metro Ordinances and Reports cited supra, at 5.

8. Exception 8: Retention of Agricultural Lands.

The Report states that "[r]etention of the 'remainder portion' of the Subject Property would not prevent the efficient and economical provision of urban services to the adjacent land inside the UGB." Report at 18. As set forth in Exceptions 5 and 6, above, this is not the case. Due to the limitations on non-farm uses imposed by ORS 215.296, the road realignment and storm sewer uses required as preconditions for urbanization by the City of Wilsonville for the Wagners' property now within the UGB cannot be established without including the entirety of Tax Lot 2200 within the UGB.

Furthermore, the Report ignores that fact that over 50% of the "remnant portion" of the property is in Class VII soils. The Metro Code protects properties with agricultural soils in Classes I through IV. The Clackamas County Comprehensive Plan, which is somewhat more specific in its criteria, defines "Agricultural Lands" as "those of predominantly Class I-IV soils as identified by the US. Soil Conservation Service. . . ." Clackamas County Comprehensive Plan, Land Use Element at 3. Given that the soils on "remnant portion" of the property are

predominantly in Soils Classification VII, it is questionable whether this Metro criterion even applies to this portion of the Wagner property.

Finally, from a policy perspective it makes little sense to allow the "right of way" portion of this petition, when that portion will preclude agricultural use of the remainder, and then refuse to allow inclusion of the "remnant portion" in order to preserve agricultural lands.

9. Exception 9: Compatibility with Agricultural Activities.

The Hearings Officer's Report fails to mention that all of the major adjoining land owners have signed a petition supporting the inclusion of the entirety of the Wagner proposal within the UGB. Record, Exhibit 22. This, in conjunction with the fact that the Wagners' have agreed to record a deed covenant, waiving any objections to accepted farming practices, clearly indicates that there will be no conflict with nearby agricultural activities. The Report's conclusions to the contrary are unsupported by substantial evidence in the record as a whole. Report at 18. Furthermore, the fact that it is unlikely that urban uses will be developed on the subject property further assures that no conflict will occur. See, supra at Exception 2.

10. Exception 10: Superiority of the Proposed UGB.

The Hearings Officer states that if only the "right of way" portion of the Subject Property were allowed as an addition

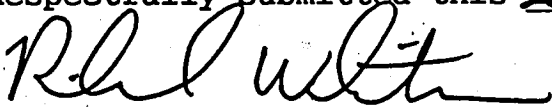
to the UGB, the property line would be moved to be coterminous as a result of the dedication of the right-of-way by the Wagners. This dedication is specifically precluded by ORS 215.213(2) and 215.295. Clackamas County also prohibits such action. Clackamas County Code Section 402.09. Thus, if only the "right-of-way" portion is added, the UGB will not be coterminous with property lines. The only way for this to occur is to add the entire parcel.

To the extent that the Metro Council is concerned that this case will set a precedent that is problematic, in that it appears to require that entire parcels be included within the UGB when non-farm uses are proposed on EFU lands, it should be noted that this will only occur in very specific circumstances. Inclusion of the entire parcel is only necessary where the parcel involved is so small that agricultural uses are effectively precluded by the non-farm use that would be allowed the UGB change. So long as the EFU remnant created by including only a part of a parcel within the UGB is as large as the acreage supporting typical farm units in the area (see Clackamas County Code Section 402.09(B)(1)), the "partial lot" approach referred to by the Hearings Officer could be used. This approach to the problems raised by this case makes sense in that it both preserves viable parcels for agricultural uses, and insures that the UGB amendment process will not create uneconomic remnants of resource land. It also conforms with Metro's general policy of

requiring a higher showing of necessity for proposed additions to the UGB as the size of the addition increases.

For these reasons, the Wagners request that the Metro Council consider their proposal in its entirety. Carving out a portion of the proposed addition that is too small for resource use is both prohibited by state and local land use regulations, and makes for bad land use policy.

Respectfully Submitted this 23<sup>rd</sup> day of November, 1990,



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