

A G E N D A

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METRO

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MEETING: METRO POLICY ADVISORY COMMITTEE

DATE: April 14, 2004

DAY: Wednesday, 5:00-7:00 p.m.

PLACE: Metro Council Chamber/Annex

NO	AGENDA ITEM	PRESENTER	ACTION	TIME
	CALL TO ORDER	Becker		
1	INTRODUCTIONS	All		5 min.
2	ANNOUNCEMENTS	Becker		3 min.
3	CITIZEN COMMUNICATIONS			3 min.
4	CONSENT AGENDA • Meeting Summary for March 24, 2004	Becker	Decision	5 min.
5	COUNCIL UPDATE	Bragdon		5 min.
6	TITLE 4 REGIONALLY SIGNIFICANT INDUSTRIAL AREAS	Rob Drake	Decision	45 min.
7	GREATER METROPOLITAN EMPLOYMENT LAND STUDY (GMELS)	Bev Bookin	Briefing	15 min.
8	METRO FISH & WILDLIFE HABITAT PROGRAM	Deffebach	Briefing	30 min.

UPCOMING MEETINGS:

April 28, 2004 & May 12, 2004

For agenda and schedule information, call Kim Bardes at 503-797-1537. e-mail: bardes@metro.dst.or.us

MPAC normally meets the second and fourth Wednesday of the month.

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METRO POLICY ADVISORY COMMITTEE MEETING RECORD

March 24, 2004 – 5:00 p.m.

Metro Regional Center, Council Chambers

Committee Members Present: Charles Becker, Herb Brown, Nathalie Darcy, Rob Drake, Dave Fuller, Gene Grant, Ed Gronke, Judie Hammerstad, John Hartsock, Tom Hughes, Kent Hutchinson, Vera Katz, Richard Kidd, Deanna Mueller-Crispin, Doug Neeley, Dan Saltzman, Martha Schrader

Alternates Present: Richard Carson, Tim Crail, John Leeper,

Also Present: Betty Atteberry, Westside Economic Alliance; Linda Bauer, Citizen; Ann Beier, DLCD; Hal Bergsma, City of Beaverton; Jim Bernard, City of Milwaukie; Beverly Bookin, CCA/CREEC; Donald Bratsch, Coalition to Save the Valley; Al Burns, City of Portland; Bob Clay, City of Portland; Gary Clifford, Multnomah County; Valerie Counts, Hillsboro; Brent Curtis, Washington County; Bob Durgan, Anderson Construction; Kay Durtschi, Andy Duyck, Washington County; Ed Gallagher, City of Gresham; MTAC; Bill Hayhurst, Coalition to Save the Valley; R. Scott Hemble, Clackamas County; Kathy Henton, MCCI & Gresham CIC; Jim Jacks, City of Tualatin; Delna Jones, CFM; Jackson Kellogg, Citizen; Norm King, City of West Linn; Curt Kipp, Wilsonville Spokesman Newspaper; Larry Ksiouzyk, DLCD; Hannah Kuhn, City of Portland; Stephen Lashbrook, City of Lake Oswego; Charlotte Lehan, City of Wilsonville; Greg Leo, Coalition to Save the Valley; Irene Marvich, League of Women Voters; Anthony Merrill, Mayor's Office; Greg Miller, AGC; Alice Norris, City of Oregon City; Laura Oppenheimer, The Oregonian; Steve Pfeiffer, Perkins Coie; John Ramig, Pat Ribellia, City of Hillsboro; Robert Russell, Coalition to Save the Valley; Amy Scheckla-Cox, City of Cornelius; Dolores Scott, Coalition to Save the Valley; Dr. Chas Scott, Coalition to Save the Valley; Susan Stevens, Coalition to Save the Valley; Thane Tienson, Landye Bennett; Jonathan Williams, Intel; David Zagel, TriMet

Metro Elected Officials Present: Liaisons – Carl Hosticka, Council District 3, Susan McLain, Council District 4; David Bragdon, Council President

Metro Staff Present: Kim Bardes, Dan Cooper, Andy Cotugno, Lydia Neill, Linnea Nelson, Mary Weber, Ray Valone

1. INTRODUCTIONS

Mayor Charles Becker, MPAC Chair, called the meeting to order at 5:04 p.m. Those present introduced themselves.

2. ANNOUNCEMENTS

Chair Becker handed out a memo regarding Healthy Centers, A Strategy for MPAC Action, and said he would speak more directly to the subject at the end of the meeting if time allowed.

3. CITIZEN COMMUNICATIONS

Greg Leo said that there were a number of parties from the southern part of the region that were interested in the discussion pertaining to Ordinance 04-1041A.

4. CONSENT AGENDA

Meeting Summary for March 10, 2004.

Motion:	Herb Brown, Special Districts, Multnomah County, with a second from John Hartsock, Mayor of Wood Village, moved to adopt the consent agenda without revision.
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Vote:	The motion passed unanimously.
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5. COUNCIL UPDATE

Council President Bragdon said that Ordinance 04-1046 would be on the Council agenda the following day. He mentioned the open houses that Metro had been holding pertaining to Goal 5 and Industrial Lands and informed the members that there would be a summary of those open houses presented at the next MPAC meeting. He also informed the committee members that Council would be reviewing the Metro budget over the course of the next few weeks.

6. ORDINANCE 04-1041

Councilor Hosticka gave a brief description of Ordinance 04-1041.

Motion:	Judie Hammerstad, Mayor of Lake Oswego, with a second from Vera Katz, Mayor of Portland, moved to recommend to the Metro Council to adopt Ordinance 04-1041A.
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Tom Hughes asked if Councilor Hosticka was planning on applying the ordinance as policy to the upcoming Urban Growth Boundary Expansion decision in June.

Carl Hosticka said that if it was adopted now it would become part of policy for the June decision.

Tom Hughes asked at what point and time between now and June would they establish the criteria that they would use to determine which lands would be off limits and which lands would be considered?

Carl Hosticka said that the work on that had already begun, the report from the Department of Agriculture would help them begin that work, and they would most likely adopt it before they begin to make decisions about policy.

Tom Hughes said he felt there was a broad agreement to protect agricultural land, but not a consensus on what criteria to apply to which lands. There was a need to establish criteria to determine which lands were essential and which lands were not essential. He was concerned that there would be enough time between now and June to have the Department of Agriculture create, and then vet among various stakeholders, criteria and still make the decision by June.

Judie Hammerstad said that was a good reason for passing the motion now. The ordinance would protect the farmland. She also said that she felt it would end land speculation. They couldn't predict the future, but maybe by passing the ordinance they could demonstrate that as a committee they valued farmland, and maybe that would carry weight next time a decision needed to be made. She urged support for the ordinance.

Doug Neeley said he supported the ordinance.

Tom Hughes asked Carl Hosticka if he felt there was time to set the criteria?

Carl Hosticka said that he thought there was time. The staff report would be available shortly and they had a couple more months until June to discuss it more broadly.

Herb Brown said it was a good idea to protect the farmland but he wondered if there could be a provision to examine it again in 5-years.

Kent Hutchinson said that he was not convinced that the brain trust was the State Department of Agriculture. He said that he supported the amendment, but he was concerned that they would not have enough time to query farmers. He said it needed to be tied to the economic reality of a community. He also said that he did not think that Metro had legal authority to cross over into Marion County unless they were invited. He suggested that Metro consult with Marion County.

John Leeper said that he did not see the purpose in making a site-specific exclusion such as the Willamette River or the Pudding River. He said that they were moving from creating general policy to being site-specific.

Susan McLain said that the criteria were important. She said that staff from the Department of Agriculture had attended all 5 Agricultural Symposiums that they have had in Washington, Clackamas, and Multnomah counties. She said that the Department of Agriculture and the staff members had been working on this for 18 months. Metro had tried hard to make sure that that the work was thorough and complete.

Kent Hutchinson said that there had to be more time for public comment.

Doug Neeley said he thought there would be public comment at the Council meetings when this came forward.

David Bragdon said that any time they had an ordinance they also had public hearings. He said that when he scheduled the ordinance it would be in conjunction with the UGB ordinance, which was noticed to 65 thousand households, and that there were three scheduled evening hearings in the region.

Kent Hutchinson said that he did not think that was the type of forum farmers would attend and Metro should advertise those hearings in the Capital Press.

Carl Hosticka said that the major issue was should they adopt the ordinance, as a matter of policy, in their desire to preserve the importance of agricultural land and its contribution to the agricultural economy. Whether they applied the ordinance to the June decision depended on whether they could develop criteria between now and June. That was probably why it was even more important to pass the ordinance now, because if they had to wait for the criteria to be developed, it could potentially slow down the process.

Rob Drake said that he agreed with the letter from the Port of Portland distributed at the last meeting, that stressed the value of that area and property for industrial land for warehousing. He said that MPAC balanced goals in the region all the time.

Richard Carson said that Commissioner Pridemore supported the ordinance.

Tom Hughes said he needed to see the criteria before he could feel comfortable about what he was voting on. He said that 130 acres south of the Willamette was a golf course and not farmland and therefore the land was not pristine farmland.

Judie Hammerstad said that golf courses were a permitted use on farmland, like churches and schools. The only way they could give permanence to this was through the state legislator or through Metro's

charter. She suggested that they pass this ordinance and show MPAC support for the concept, and then it would move to the next part of the process.

Chair Becker said it was important to protect agricultural lands and keep compact urban forms. He said it was important to draw the line somewhere. He said that they needed to support investments made in infrastructure and not create additional needs for other infrastructures. They were also concerned about maintaining the jobs/housing balance within the region. He said he would vote in favor of the ordinance.

Vote:	The motion passed with 17 ayes and 4 nays.
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7. TITLE 4 RSIA ORDINANCES/SUBCOMMITTEE UPDATE & MTAC COMMENTS

Rob Drake said that the subcommittee had met one more time and produced the document that was included in the packet. Members of the subcommittee felt that there was not enough time to consider medical facilities and their use in industrial lands. A Providence representative was at that last meeting. He said that the subcommittee was asking for Metro to appoint a fast-track committee to look at the issue of medical facilities on a limited basis in industrial areas. Metro could finish the periodic review in June and allow more time for experts and folks to examine the issue.

Mary Weber handed out a revised/updated version of the Title 4 language. She reviewed the materials that were included in the packet and those that were handed out at the meeting from the MTAC discussion. All those materials are attached and form part of the record.

Hal Bergsma reviewed the green copy that included the changes provided by the RSIA Subcommittee. That copy is attached and forms part of the record.

Vera Katz asked what they wanted the MPAC members to do.

Hal Bergsma said that this was an alternative that could be explored as well as the existing option.

Dave Fuller said he would like an overview of what properties would be on the RSIA map. He said that he understood that it would only be applied to lands brought in on the last addition to the UGB unless the local jurisdiction made a request. He said he had concern that Troutdale, Fairview, and Wood Village continued to carry that designation.

David Bragdon said that portions of it did not just apply to RSIA. He said that in terms of amending the map – they would be able to do that after they heard from the members. He said that he could not speak for the Council, but he thought that there was a move to make an amendment for the areas that Dave Fuller was speaking to.

Andy Cotugno said that the proposed version of Title 4 was supposed to be accompanied by the map that represented the RSIA's recommended by the local governments. At the next meeting they should be ready to make a recommendation on both the map and the language of the ordinance. Therefore, if there was an area that they specifically wanted included or excluded, that should be part of the recommendation. Andy Cotugno said that the RSIA's that came in during 2002 were already adopted as RSIA's and were not part of this effort. It was the territory inside the old UGB that was in question, and their recommendation at the next meeting should be explicit about what areas would be included and what areas would be taken out.

Doug Neeley said that the wording in the ordinance “training facilities primary purpose was to provide training for industrial workers” might imply to jurisdictions only current industrial workers. He wanted the jurisdictions to understand that it was for the industry and would provide training for future employees as well.

Chair Becker said that the question would be whether or not they had a training facility that was connected to an industry or an independent training facility for a type of industry.

Doug Neeley said it should provide for both types of training. He said he was not just talking about in-house training, but rather any kind of training that was needed.

Rob Drake said he thought it would be for future industrial needs. They didn’t know what those future industries would be and therefore should keep the provision as broad as they could.

John Hartsock said that for the Damascus area – it was the only area that had no ability to choose where the RSIA’s were to be located. He said that beyond the question of hospital needs, they had other institutional needs to consider, such as the two high schools, four middle schools, and ten elementary schools. They, therefore, needed to get through the concept plan.

Chair Becker said the concept plan helped jurisdictions to consider the full community and the sort of facilities needed within that community.

John Hartsock said that the RSIA had a little bit stronger designation.

Tom Hughes said that Hillsboro would like to see an increase of square footage of allowable retail use. He said that currently Hillsboro had an industrial complex that employed about 45,000 people during the day, and a 3,000 square foot limit wouldn’t be enough for a Carl’s Jr. So they were looking for a more workable square footage that would allow them to provide restaurant space that wouldn’t require business to go outside the area. If they weren’t able to build adequate restaurant space into the industrial areas then there was also the consideration of an additional burden on traffic because employees would have to leave area to eat. He suggested that 5,000 square feet for the seating area was more workable. He agreed with the general discussion that medical and hospital facilities were needed around the region, and to accommodate that need there should be maximum flexibility for those requirements. He suggested that a more reasonable approach would be to continue with the current language in the ordinance and make changes later, after the study on medical facilities was complete.

Gene Grant asked Mayor Drake if the subcommittee’s recommendation to study the hospital issue further was related to the Clackamas County RSIA areas brought in 2002, or was it only for the existing industrial areas that were non-RSIA?

Rob Drake said he thought it was a good idea to take a good look at that area whether it was RSIA or industrial land to figure out what needed to be done.

Andy Cotugno said that there was a discrepancy about the 3,000 versus the 5,000 square foot restaurant seating space that he wanted to clarify. He said that at MTAC they were clearly talking about 3,000 square feet in regionally significant industrial areas. They had debated 3,000 versus 5,000 versus 7,500 square feet for the industrial areas. The recommendation from Hal Bergsma retained the 3,000 square feet in regionally significant and purposed to change the industrial to 5,000 square feet. He said that what the

subcommittee submitted to him supported MTAC's action. He said that the philosophy that MTAC was employing was that things should be a bit tighter in RSIA and a bit looser in industrial.

Rob Drake said that he was willing to have the subcommittee to weigh-in on that issue. He said he thought that could apply to both areas.

Chair Becker said that perhaps it should go back to the subcommittee.

Susan McLain reminded the committee that it had a June decision deadline. She said there was a difference of opinion between MTAC and MPAC, and that MPAC should weigh through that and make a decision.

Doug Neeley asked if the subcommittee could come back with a recommendation at the next meeting.

Rob Drake said that he thought they could.

Dave Fuller said that his understanding from that discussion had been that 5,000 square feet would apply to both types of land.

Rob Drake said that he also thought it was 5,000 square feet for both.

Chair Becker asked the subcommittee members present to affirm that. They did, and it was agreed that 5,000 square feet for both types of land was what it should be.

Andy Cotugno said that Metro staff would incorporate the revisions and have that for the members at the next meeting along with the accompanying map.

8. ORDINANCE 04-1046

Ray Valone reviewed the ordinance and its background. That ordinance, and staff report were part of the meeting packet and therefore form a part of the record.

Motion:	John Hartsock, Mayor of Wood Village, with a second from Nathalie Darcy, Citizen, Washington County, moved to approve the recommendation of the ordinance to Metro Council.
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Vote:	The motion passed unanimously.
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Chair Becker reviewed the handout, Strategy for Creating Healthy Centers, which he had passed out at the beginning of the meeting. That handout is attached and forms part of the record.

John Hartsock said that the Greater Metropolitan Employment Lands Study (GMELS) process was about 4 years long and he wanted to know if Metro was committed to doing the entire process?

Andy Cotugno said that Metro was not doing the study but was participating with 10 or more other government and private organizations that were doing it on a consortium basis. The first phase was a sculpting process to identify the problem and identify the work program to examine that problem. When that phase was done, all those parties would get together to review and decide if they wanted to move on

to the next step and continue to contribute. He said that the next step was slated to take place about July of 2004.

Tom Hughes said it was a great idea and that they really did need to have collective efforts on how to develop centers. There were jurisdictions that were encountering problems.

David Bragdon said that he thought the Council would be receptive to partnering in the endeavor. The Council had identified this as an area that they wanted to work on.

Chair Becker suggested forming a subcommittee and he asked those that wanted to be on the subcommittee to email him before the next meeting.

Doug Neeley asked if the subcommittee could only be comprised of members of MPAC or could jurisdictions with centers actually put someone forward to participate.

Chair Becker said it was his hope that jurisdictions would participate. He stressed that those struggling should come to express questions and concerns and that those that were successful also come to share their expertise.

There being no further business, Chair Becker adjourned the meeting at 6:32 p.m.

Respectfully submitted,

Kim Bardes
MPAC Coordinator

ATTACHMENTS TO THE RECORD FOR MARCH 24, 2004

The following have been included as part of the official public record:

AGENDA ITEM	DOCUMENT DATE	DOCUMENT DESCRIPTION	DOCUMENT NO.
#2 Announcements	3/22/04	Letter from Mayor Hughes to Chair Becker announcing Nick Wilson as the alternate for Other Cities for Washington County.	032404-MPAC-01
#6 Ordinance 04-1041A	3/24/04	Packet of email and letters pertaining to Ordinance 04-1041A. These emails and letters are also part of the complete Growth Record	032404-MPAC-02

#7 Title 4 RSIA Ordinances/Sub-committee Update & MTAC Comments	3/15/04	Memo from Steve Kountz, City of Portland to Gil Kelley, City of Portland re: Transportation impacts of Title 4 proposal	032404-MPAC-03
#7 Title 4 RSIA Ordinances/Sub-committee Update & MTAC Comments	3/18/04	Title 4: Industrial and Other Employment Areas, revisions to 3/11/04 version reflecting 3/18/04 MPAC subcommittee meeting results, based on notes from Hal Bergsma, City of Beaverton Planning Manager	032404-MPAC-04
#7 Title 4 RSIA Ordinances/Sub-committee Update & MTAC Comments	3/18/04	Title 4: Industrial and Other Employment Areas, revisions to 3/11/04 version reflecting 3/18/04 MPAC subcommittee meeting results, based on notes from Hal Bergsma, City of Beaverton Planning Manager (Green Copy)	032404-MPAC-05
#7 Title 4 RSIA Ordinances/Sub-committee Update & MTAC Comments	3/18/04	Title 4: Industrial and Other Employment Areas, revisions to 3/11/04 version reflecting 3/18/04 MPAC subcommittee meeting results, based on notes from Hal Bergsma, City of Beaverton Planning Manager (Clean Version)	032404-MPAC-06
#7 Title 4 RSIA Ordinances/Sub-committee Update & MTAC Comments		Optional language to section 3.07.430B drafted by Hal Bergsma for discussion	032404-MPAC-07
Not on agenda	3/24/04	Memo from Mayor Becker, City of Gresham, to MPAC members re: Healthy Centers – A Strategy for MPAC Action	032404-MPAC-08

TITLE 4: INDUSTRIAL AND OTHER EMPLOYMENT AREAS
(MPAC Version, 3/25/04, with revisions by Hal Bergsma and Doug Neely)

3.07.410 Purpose and Intent

A. The Regional Framework Plan calls for a strong economic climate. To improve the region's economic climate, Title 4 seeks to provide and protect a supply of sites for employment by limiting the types and scale of non-industrial uses in Regionally Significant Industrial Areas (RSIAs), Industrial Areas and Employment Areas. Title 4 also seeks to provide the benefits of "clustering" to those industries that operate more productively and efficiently in proximity to one another than in dispersed locations. Title 4 further seeks to protect the capacity and efficiency of the region's transportation system for the movement of goods and services and to encourage the location of other types of employment in Centers, Employment Areas, Corridors, Main Streets and Station Communities. The Metro Council will evaluate the effectiveness of Title 4 in achieving these purposes as part of its periodic analysis of the capacity of the urban growth boundary.

3.07.420 Protection of Regionally Significant Industrial Areas

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

B. Cities and counties shall review their land use regulations and revise them, if necessary, to include measures to limit the size and location of new buildings for retail commercial uses - such as stores and restaurants - and retail and professional services that cater to daily customers - such as financial, **insurance**, real estate, legal, medical and dental offices - to ensure that they serve primarily the needs of workers in the area. One such measure shall be that new buildings for stores, branches, agencies or other outlets for these retail uses and services shall not occupy more than **5,000** square feet of sales or service area in a single outlet, or multiple outlets that occupy more than 20,000 square feet of sales or service area in a single building or in multiple buildings that are part of the same development project, **with the following exceptions:**

1. Within the boundaries of a public use airport subject to a facilities master plan, customary airport uses, uses that are accessory to the travel-related and freight movement activities of airports, hospitality uses, and retail uses appropriate to serve the needs of the traveling public;

2. Training facilities whose primary purpose is to provide training to meet industrial needs;
and

3. Medical clinics and facilities that cannot be sited in Centers, Station Communities, Main Streets, Corridors, Employment Areas or Industrial Areas so long as the use satisfies the freight movement performance standard set forth in subsection C of this section.

C. Cities and counties shall review their land use regulations and revise them, if necessary, to include measures to limit the siting and location of new buildings for the uses described in subsection B and for non-industrial uses that do not cater to daily customers - such as bank or insurance processing centers - to ensure that such uses do not reduce off-peak performance on Main Roadway Routes and Roadway Connectors shown on Metro's Freight Network Map, November, 2003, below standards set in the 2004 Regional Transportation Plan or require added road capacity to prevent falling below the standards.

D. No city or county shall amend its land use regulations that apply to lands shown as RSIA on the Employment and Industrial Areas Map, as amended by Ordinance No. 04-1022A, to authorize uses described in subsections B or C that were not authorized prior to July 1, 2004.

E. Cities and counties may allow division of lots or parcels into smaller lots or parcels as follows:

1. Lots or parcels smaller than 50 acres may be divided into any number of smaller lots or parcels.

2. Lots or parcels larger than 50 acres may be divided into smaller lots and parcels pursuant to a master plan approved by the city or county so long as the resulting division yields at least one lot or parcel of at least 50 acres in size.

3. Lots or parcels 50 acres or larger, including those created pursuant to paragraph (2) of this subsection, may be divided into any number of smaller lots or parcels pursuant to a master plan approved by the city or county so long as at least 40 percent of the area of the lot or parcel has been developed with industrial uses or uses accessory to industrial use, and no portion has been developed, or is proposed to be developed, with uses described in subsection B or C of this section.


4. Notwithstanding paragraphs 2 and 3 of this subsection, any lot or parcel may be divided into smaller lots or parcels or made subject to rights-of-way for the following purposes:

a. To provide public facilities and services;

b. To separate a portion of a lot or parcel in order to protect a natural resource, to provide a public amenity, or to implement a remediation plan for a site identified by the Oregon Department of Environmental Quality pursuant to ORS 465.225;

c. To separate a portion of a lot or parcel containing a nonconforming use from the remainder of the lot or parcel in order to render the remainder more practical for a permitted use; or

d. To allow the creation of a lot for financing purposes when the created lot is part of a mater planned development.

F. Notwithstanding subsections B or C of this section, a city or county may allow the lawful use of any building, structure or land existing at the time of adoption of its ordinance to implement this section to continue and to expand to add up to 20 percent more floor area and 10 percent more land area. Notwithstanding subsection E of this section, a city or county may allow division of lots or parcels pursuant to a master plan approved by the city or county prior to July 1, 2004. 


3.07.430 Protection of Industrial Areas

A. Cities and counties shall review their land use regulations and revise them, if necessary, to include measures to limit new buildings for retail commercial uses - such as stores and restaurants - and retail and professional services that cater to daily customers – such as financial, insurance, real estate and legal offices - in order to ensure that they serve primarily the needs of workers in the area. One such measure shall be that new buildings for stores, branches, agencies or other outlets for these retail uses and services shall not occupy more than **5,000** square feet of sales or service area in a single outlet, or multiple outlets that occupy more than 20,000 square feet of sales or service area in a single building or in multiple buildings that are part of the same development project, **with the following exceptions:**

1. Within the boundaries of a public use airport subject to a facilities master plan, customary airport uses, uses that are accessory to the travel-related and freight movement activities of airports, hospitality uses, and retail uses appropriate to serve the needs of the traveling public;

2. Training facilities whose primary purpose is to provide training to meet industrial needs.


B. Cities and counties shall review their land use regulations and revise them, if necessary, to include measures to limit new buildings for the uses described in subsection A to ensure that they do not interfere with the efficient movement of freight along Main Roadway Routes and Roadway Connectors shown on Metro’s Freight Network Map, November, 2003. **Such measures may include, but are not limited to restrictions on access to freight routes and connectors, siting limitations and traffic thresholds.** This subsection does not require cities and counties to include such measures to limit other new buildings or uses.

 No city or county shall amend its land use regulations that apply to lands shown as Industrial Area on the Employment and Industrial Areas Map, as amended by Ordinance No. 04-1022A, to authorize uses described in subsections B or C of section 3.07.420 that were not authorized prior to July 1, 2004.

D. Cities and counties may allow division of lots or parcels into smaller lots or parcels as follows:

1. Lots or parcels smaller than 50 acres may be divided into any number of smaller lots or parcels.

2. Lots or parcels larger than 50 acres may be divided into smaller lots and parcels pursuant to a master plan approved by the city or county so long as the resulting division yields at least one lot or parcel of at least 50 acres in size.

3. Lots or parcels 50 acres or larger, including those created pursuant to paragraph (2) of this subsection, may be divided into any number of smaller lots or parcels pursuant to a master plan approved by the city or county so long as at least 40 percent of the area of the lot or parcel has been developed with industrial uses or uses accessory to industrial use 

4. Notwithstanding paragraphs 2 and 3 of this subsection, any lot or parcel may be divided into smaller lots or parcels or made subject to rights-of-way for the following purposes:

- a. To provide public facilities and services;
- b. To separate a portion of a lot or parcel in order to protect a natural resource, to provide a public amenity, or to implement a remediation plan for a site identified by the Oregon Department of Environmental Quality pursuant to ORS 465.225;
- c. To separate a portion of a lot or parcel containing a nonconforming use from the remainder of the lot or parcel in order to render the remainder more practical for a permitted use; or
- d. To allow the creation of a lot for financing purposes when the created lot is part of a master planned development.

E. Notwithstanding subsections A and B of this section, a city or county may allow the lawful use of any building, structure or land existing at the time of adoption of its ordinance to implement this section to continue and to expand to add up to 20 percent more floor area and 10 percent more land area. Notwithstanding subsection D of this section, a city or county may allow division of lots or parcels pursuant to a master plan approved by the city or county prior to July 1, 2004.

3.07.440 Employment Areas

- A. Except as provided in subsections C, D and E, in Employment Areas mapped pursuant to Metro Code Section 3.07.130, cities and counties shall limit new and expanded retail commercial uses to those appropriate in type and size to serve the needs of businesses, employees and residents of the Employment Areas.
- B. Except as provided in subsections C, D and E, a city or county shall not approve a commercial retail use in an Employment Area with more than 60,000 square feet of gross leasable area in a single building, or retail commercial uses with a total of more than 60,000 square feet of retail sales area on a single lot or parcel, or on contiguous lots or parcels, including those separated only by transportation right-of-way.

- C. A city or county whose zoning ordinance applies to an Employment Area and is listed on Table 3.07-4 may continue to authorize retail commercial uses with more than 60,000 square feet of gross leasable area in that zone if the ordinance authorized those uses on January 1, 2003.
- D. A city or county whose zoning ordinance applies to an Employment Area and is not listed on Table 3.07-4 may continue to authorize retail commercial uses with more than 60,000 square feet of gross leasable area in that zone if:
 - 1. The ordinance authorized those uses on January 1, 2003;
 - 2. Transportation facilities adequate to serve the retail commercial uses will be in place at the time the uses begin operation; and
 - 3. The comprehensive plan provides for transportation facilities adequate to serve other uses planned for the Employment Area over the planning period.
- E. A city or county may authorize new retail commercial uses with more than 60,000 square feet of gross leasable area in Employment Areas if the uses:
 - 1. Generate no more than a 25 percent increase in site-generated vehicle trips above permitted non-industrial uses; and
 - 2. Meet the Maximum Permitted Parking – Zone A requirements set forth in Table 3.07-2 of Title 2 of the Urban Growth Management Functional Plan.

3.07.450 Compliance


- A. Upon review of land use regulations in effect prior to July 1, 2004, cities and counties may determine that such regulations are generally consistent with the purpose and intent of this Title as set forth in Metro Code section 3.07.410 and submit applicable regulations to Metro to demonstrate substantial compliance in accordance with the provisions of Metro Code section 3.07.810.

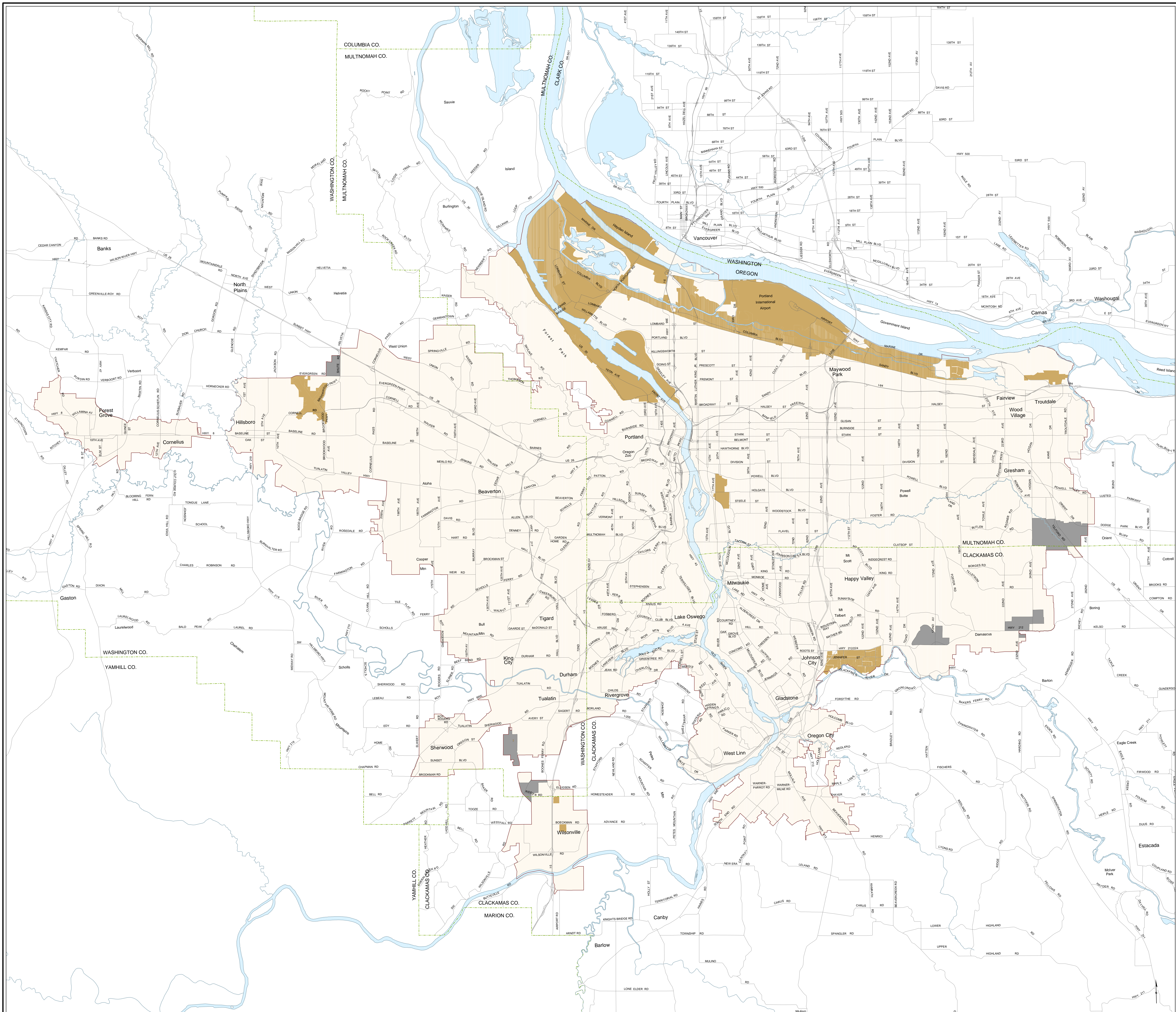
Regionally Significant Industrial Areas

Ordinance

Title 4 Subcommittee Recommendation

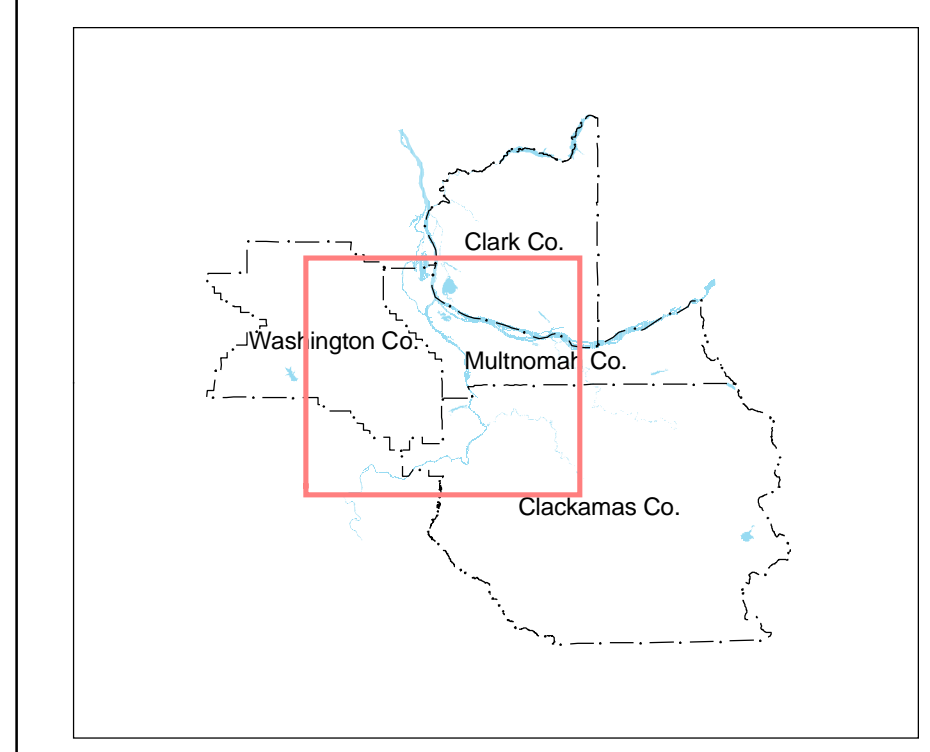
 Local Government Proposed RSIA

 Title 4 Regionally Significant Industrial Area 2002 Decision



WARNING: some maps combine data layers of differing map accuracies, e.g. flood plains can be lost on top soil. When this occurs, the map is not reliable to correctly show data at the tax lot level.

The information on this map was derived from digital databases on Metro's GIS. Care was taken in the creation of this map. Metro cannot accept any responsibility for errors, omissions, or positional accuracy. There are no warranties, expressed or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying this product. However, notification of any errors will be appreciated.



Location Map



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PHASE I GREATER METROPOLITAN EMPLOYMENT LANDS STUDY (GMELS) STATUS REPORT – APRIL 2004

GMELS is intended to yield a better understanding of the types of land needed in the Portland/Vancouver metro area for a full range of employment – including industrial, retail, office, institutional, mixed use and home-based uses. *Phase 1*, now underway, will lead to a “definitional framework” for employment land – responsive to national and global trends in the context of opportunities for best practice land use planning.

Focus groups during April-May will serve as *sounding boards* to present research results and, more importantly, discuss potential planning and zoning options for employment lands in the Portland metro area. This *status report* briefly outlines research work conducted to date and preliminary results.

Employment & Development Mega-Trends: The American economy is in the early stages of a potentially profound transition – from a *baby-boomer* driven workplace to an older and more slowly growing workforce – except as offset by in-migration including well educated younger adults.

From a real estate perspective, traditional distinctions between industrial and commercial uses are increasingly *blurred* – exemplified by changing economic metrics from the Standard Industrial Classification (SIC) to the North American Industrial Classification System (NAICS). With the exception of retail and industrial/office end user opportunities, the economic rebound may yet be several years away. When the market does return, it will not necessarily be a return to “business as usual” but to a much more globally competitive landscape – with older properties perhaps increasingly left behind.

Nationally, industrial property prospects are currently brightest for distribution and weakest for flex-tech – with considerable uncertainty for manufacturing space. Issues affecting return of a competitive office market supporting new development include potential slowed workforce growth and continued corporate preference for suburban and exurban campus/business park sites. Consumer retail spending remains surprisingly strong, but with development product headed in two divergent directions – large format and fine-grained urban street retail.

Land Use Case Studies: Seattle, Raleigh/Durham, Phoenix, Oakland, Vancouver BC, Hamilton Ontario and Singapore were selected as national/international case studies because of their reputation for innovative economic development and land use planning. With the exception of Seattle and Vancouver BC, most have proactive regional planning with aggressive economic development efforts targeting defined business and industrial clusters. For example, Oakland and Hamilton are actively focused on industrial retention and attraction while Raleigh/Durham and Phoenix emphasize high-wage jobs. Incentives available also vary widely.

Vancouver and Singapore are testing new industrial zoning approaches allowing a wider range of employment and, in some cases residential, uses with higher densities in industrial areas; Oakland is shifting away from allowing commercial and housing uses in industrial zones. Phoenix and Raleigh/Durham allow commercial office in industrial zones, but also have a large supply of low-cost industrial development sites.

Region 2040 Implementation Case Studies: Dawson Creek, InFocus, Intel Jones Farm Campus, Synopsis, Port of Portland Terminal 1 and Mall 205 were selected to illustrate issues at the interface of metro area economic development and land use planning. Four sites are “green-fields” while the latter two involve redevelopment.

Each project has experienced development investment but none are yet fully built-out. In all cases, significant and potentially *deal-breaking* land use issues were experienced but have been resolved allowing development to proceed. However, there are potential issues yet to be addressed regarding future phase development and/or desires for flexibility in changing future use. For industrial sites, a challenging issue is proving to be the extent and conditions under which commercial office and support services may

be allowed. The two redevelopment sites pose perhaps the greatest challenges in reconciling market opportunity with land use planning objectives.

Stakeholder Interviews: More than 40 interviews were conducted with a representative cross-section of primarily private-sector stakeholder interests throughout the Portland-Vancouver metro area. Trends in site use over the last decade include greater industrial focus on *core business operations* together with the urban trend toward retail and residential *mixed use* development. Developers and property managers design for flexibility to maximize marketability upon re-lease. End users are more attuned to customizing space to the needs of their particular operation and also are more likely to reserve excess land for future expansion. Industrial/campus users and developers alike tend to prefer a homogenous area, surrounded by like users, albeit with more nearby supporting retail and services. Retailers prefer proximity to customers and/or integration with housing, consistent with 2040 Centers concepts.

In choosing sites, major employment uses and developers place priority on highway and freeway access – with I-5 access of greatest importance for industrial/distribution activity. Other repeatedly-mentioned siting criteria include rapid permitting in a “controllable timeline,” available and cost-competitive land complete with infrastructure, and access to well-educated labor force. Retailers including *big box* uses may be more willing to adapt to urban design and parking limitations to gain access to the local market.

Planning system *strengths* include preservation of value, certainty of use, and improved local permitting systems, including the Governor’s *shovel ready* site program. *Weaknesses* include reported high cost of development, confusing and changing codes, slow permitting, and lack of developable land. *Desired changes* are more flexibility with industrial zoning and design flexibility for urban development sites.

Planning & Zoning Options: Based on results of this preliminary research, the following definitional framework alternatives have been outlined for focus group presentation and discussion during the months of April and May:

- *Existing Framework* – maintaining current use-based zoning together with Metro design types.
- *Commercial/Industrial Code Refinement* – making minor modifications to existing employment zones offering greater flexibility and responsiveness to emerging market opportunities.
- *Performance Zoning* – simplifying or eliminating existing use-classification zoning in favor of performance standards to address conflicts between neighboring uses.
- *Urban Form & Design Zoning* – de-emphasizing use classifications in favor of broad design types and density objectives.
- *Other Options* – as identified by focus groups including possible hybrid combinations.

Questions to be posed in each of seven focus group sessions include: 1) What do you like about each planning and zoning option? 2) What don’t you like? 3) What additional features or refinements are desired? 4) What are the most important requirements for successfully implementing a preferred planning and zoning approach to employment lands *on the ground*?

Next Steps: Based on results of the focus groups, a preliminary recommended framework may be presented for consideration by the GMELS Technical Advisory Committee (TAC) and Policy Committee. Other reviewing bodies are expected to include the Regional Economic Partners, Metro MPAC and Council. The GMELS TAC also will make recommendations to project funders regarding the need and/or justification for proceeding with additional phases of GMELS.

Phase 1 GMELS is being conducted by the consulting team of E. D. Hovee & Company (trends research and project management), Otak Inc. (land use case studies), Group Mackenzie (Region 2040 case studies), and Barney & Worth, Inc. (focus group facilitation). GMELS is governed by a 45+ member Technical Advisory Committee (TAC) with a six-member Management Subcommittee for detailed oversight of consultant work products. A Policy Committee contains representation from each of the project funders. The Commercial Real Estate Economic Coalition (CREEC) provides project management and serves as fiscal agent on behalf of the Management Subcommittee.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ENDORSING METRO'S DRAFT)
GOAL 5 PHASE 2 ESEE ANALYSIS, MAKING) RESOLUTION NO. 04-3440
PRELIMINARY DECISIONS TO ALLOW, LIMIT, OR)
PROHIBIT CONFLICTING USES ON REGIONALLY) Introduced by Michael Jordan, Chief
SIGNIFICANT FISH AND WILDLIFE HABITAT; AND) Operating Officer, with the concurrence
DIRECTING STAFF TO DEVELOP A PROGRAM TO) of the Council President
PROTECT AND RESTORE REGIONALLY
SIGNIFICANT FISH AND WILDLIFE HABITAT

WHEREAS, Metro is developing a regional fish and wildlife habitat protection and restoration program consistent with the state planning Goal 5 administrative rule, OAR 660-023-0000 through OAR 660-023-0250; and

WHEREAS, Metro is conducting its analysis of the economic, social, environmental, and energy (ESEE) consequences of allowing, limiting, or prohibiting conflicting uses on identified habitat land and impact areas in two phases; and

WHEREAS, on October 30, 2003, Metro Council adopted Resolution No. 03-3376B for the purpose of endorsing Metro's draft Goal 5 Phase 1 Economic, Social, Environmental and Energy Analysis and directing staff to conduct more specific ESEE analysis of multiple fish and wildlife habitat protection and restoration program options; and

WHEREAS, Metro has now completed a draft Phase 2 ESEE consequences analysis of the tradeoffs identified in Phase 1 as applied to six program options for protection of regionally significant resource sites, attached as Exhibit A (the "Draft Phase 2 ESEE Analysis"); and

WHEREAS, based on the Draft Phase 2 ESEE Analysis, Metro is prepared to make a preliminary decision of where to allow, limit, or prohibit development on regionally significant fish and wildlife habitat lands and impact areas and, based on that preliminary decision, to develop a Program to Achieve Goal 5; and

WHEREAS, throughout its ESEE analysis, Metro has continued to rely on the input and advice of the Goal 5 Technical Advisory Committee, the Water Resources Policy Advisory Committee, the Goal 5 Economics Technical Advisory Committee, the Goal 5 Independent Economic Advisory Board, and an independent, well-respected economic consultant, ECONorthwest, and those advisors reviewed the Draft Phase 2 ESEE Analysis and provided input and advice on that document; and

WHEREAS, Metro engaged in extensive public outreach to inform the citizens of the region about this stage of Metro's work to develop a fish and wildlife habitat protection and restoration program consistent with the Goal 5 administrative rule, including participating in seven public open houses, distributing material at public events, and presenting Goal 5 material to other interested organizations, groups, businesses, non-profit agencies, and property owners; now therefore

BE IT RESOLVED:

1. Endorse Draft Phase 2 ESEE Analysis

The Metro Council endorses the Draft Phase 2 ESEE Analysis in Exhibit A and reserves the opportunity to minimally or substantially alter the ESEE analysis prior to adoption of a final ESEE analysis and Program to Achieve Goal 5, after additional public comment and review. The Metro Council further directs staff to address and consider comments regarding Exhibit A that were received from several Metro advisory committees, as identified on the “Addendum to Exhibit A,” and to revise the Draft Phase 2 ESEE Analysis accordingly. As used in this resolution, “Exhibit A” includes both the Draft Phase 2 ESEE Analysis and the Addendum to Exhibit A.

2. Preliminary Allow-Limit-Prohibit Decision

Based upon and supported by the Metro Council’s review of the economic, social, environmental, and energy consequences of decisions to allow, limit, or prohibit conflicting uses in identified fish and wildlife habitat resources and impact areas, on the technical and policy advice Metro has received from its advisory committees, and on the public comments received regarding the ESEE analysis, the Metro Council concludes that the preliminary allow, limit, and prohibit decisions described in Exhibit B, which represent a modified regulatory Option 2B, best reflect the ESEE tradeoffs described in Exhibit A.

3. Direct Staff to Develop Regulatory Program

The Metro Council directs staff to develop a program to protect and restore fish and wildlife habitat as described in Exhibit C. Such regulatory program shall be consistent with the preliminary allow, limit, and prohibit decision described in Exhibit B.

4. Direct Staff to Develop Non-Regulatory Program

The Metro Council directs staff to further develop and analyze a non-regulatory program to protect and restore fish and wildlife habitat as described in Exhibit D.

5. This Resolution is Not a Final Action

The Metro Council’s action in this resolution is not a final action designating regionally significant fish and wildlife habitat areas, a final action on an ESEE analysis, a final action on whether and where to allow, limit, or prohibit conflicting uses on regionally significant habitat and impact areas, or a final action to protect regionally significant habitat through a Program to Achieve Goal 5. Pursuant to OAR 660-023-0080, when Metro takes final action to approve a Program to Achieve Goal 5 it will do so by adopting an ordinance that will include an amendment to the Urban Growth Management Functional Plan, approval of the final designation of significant fish and wildlife habitat areas, and approval of a final ESEE analysis (including final allow, limit, and prohibit decisions), and then Metro will submit such functional plan amendments to the Oregon Land Conservation and Development Commission for acknowledgement under the provisions of ORS 197.251 and ORS 197.274.

ADOPTED by the Metro Council this ____ day of _____ 2004.

David Bragdon, Council President

Approved as to Form:

Dan Cooper, Metro Attorney

M:\attorney\confidential\DOCS#07.P&D\04 2040 Growth Concept\03 UGMFP\02 Stream Protection (Title 3)\02Goal5\R04-3440 with exhibits 040804.DOC

EXHIBIT B TO RESOLUTION NO. 04-3440

REGULATORY PROGRAM OPTION

Based on the results of the Phase II ESEE analysis, public comments, and technical review, Metro Council recommends Option 2B as modified (shown in the table below) to form the basis for a regulatory program to protect fish and wildlife habitat.

Option 2B (modified): Low level of protection in high urban development value areas, moderate level of protection in other areas.

Fish & wildlife habitat classification	HIGH Urban development value	MEDIUM Urban development value	LOW Urban development value	Other areas
	Primary 2040 components, ¹ high employment value, or high land value ⁴	Secondary 2040 components, ² medium employment value, or medium land value ⁴	Tertiary 2040 components, ³ low employment value, or low land value ⁴	Parks and Open Spaces, no design types outside UGB
Class I Riparian/Wildlife	ML	SL	SL	SL
Class II Riparian/Wildlife	LL	LL	ML	ML
Class III Riparian/Wildlife	LL	LL	LL	ML
Class A Upland Wildlife	LL	ML	ML	SL
Class B Upland Wildlife	LL	LL	ML	ML
Class C Upland Wildlife	LL	LL	LL	ML
Impact Areas	A	A	A	A

¹Primary 2040 components: Regional Centers, Central City, Regionally Significant Industrial Areas

²Secondary 2040 components: Town Centers, Main Streets, Station Communities, Other Industrial areas, Employment Centers

³Tertiary 2040 components: Inner and outer neighborhoods, Corridors

⁴ Land value excludes residential lands.

Key to abbreviations

- SL = strictly limit
- ML = moderately limit
- LL = lightly limit
- A = allow

EXHIBIT C TO RESOLUTION NO. 04-3440

DEVELOPING A REGULATORY PROGRAM

The third step of the Goal 5 process calls for the development of a program to protect habitat areas by allowing, limiting, or prohibiting conflicting uses on habitat land based on the results of the ESEE analysis. Council directs staff to address the following concerns when developing a regulatory program to protect fish and wildlife habitat:

A. Defining limit in the program phase

- Specifically define limit. As a guiding principle, first avoid, then limit, and finally mitigate adverse impacts of development to protect fish and wildlife habitat. Some of the key issues in the definition relate to expected impact on housing and employment capacity, disturbance area extent and location, and mitigation, as illustrated below:
 - ❖ **Strictly Limit** – Strict avoidance of the habitat (especially Habitats of Concern) with maximum allowable disturbance areas, design standards, and mitigation requirements. Allow trails, roads and other public access to meet the public good (e.g. construction and maintenance of public utilities such as water storage facilities). Expect some overall loss of development capacity; consider development of a transfer of development right (TDR) program to compensate for lost development capacity.
 - ❖ **Moderately Limit** – Avoid impacts, limit disturbance area, require mitigation, and use design standards and other tools to protect habitat (especially Habitats of Concern) while achieving goals for employment and housing densities. Work to minimize loss of development capacity; consider development of a TDR program to compensate for lost capacity.
 - ❖ **Lightly Limit** – Avoid impacts (especially Habitats of Concern), allow development with less restrictive limits on disturbance area, design standards, and mitigation requirements. Assumes no loss of development capacity.

B. Effect on existing development and redevelopment

- Clarify that a regulatory program would apply only to activities that require a land use permit and not to other activities (such as gardening, lawn care, routine property maintenance, and actions necessary to prevent natural hazards).
- Clarify that redevelopment that requires permits could be subject to new regulations, which could depend on a redevelopment threshold determined in the program.

C. Regulatory flexibility

- Include regulatory flexibility that allows development while avoiding, minimizing and mitigating impacts on habitat in the program. Some ways in which regulations could limit development include lowered density, minimum disturbance areas, and setbacks from significant resources. Development can occur in a manner that avoids or reduces the impact on the habitat, for example: cluster development, streamside

buffers, and habitat-friendly development techniques can all provide some level of regulatory flexibility that allows development to occur while protecting habitat. A transfer of development rights (TDR) program could also compensate for loss of development capacity.

D. Mitigation, mitigation banking and restoration

- Include mitigation requirements for development in habitat areas to minimize habitat degradation, and consider methods for implementing a mitigation bank and enforcement mechanisms to ensure success. Mitigation could be targeted in accordance with an overall restoration plan.

E. Program specificity and flexibility

- As part of the regulatory program, provide a specific program that can be implemented without further local analysis.
- Provide a general framework for local jurisdictions to implement, as part of the regulatory program, through standards or other guidelines, flexibility during implementation for consideration of regionally significant public facilities (such as hospitals and educational institutions), riparian and wildlife district plans, and other case-by-case decisions.
- Clarify a timeline for when the program would be adopted by local governments after acknowledgement by the State.

F. Map corrections and inventory maintenance

- Continue addressing map corrections and complete the process by the adoption of the final program and define the on-going responsibilities for maintaining habitat maps.

G. Long-term monitoring

- Develop a plan to monitor program performance in protecting fish and wildlife habitat while meeting housing and employment capacity (both regulatory and non-regulatory) to determine the effectiveness of the regional fish and wildlife habitat protection plan and identify potential adjustments to the program in the future.

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EXHIBIT D TO RESOLUTION NO. 04-3440

DIRECTION ON NON-REGULATORY PROGRAMS

Although the Goal 5 rule does not require the consideration of non-regulatory tools to protect fish and wildlife habitat, the Metro Council has previously indicated a commitment to include incentives and restoration as part of an overall regional program to protect fish and wildlife habitat. Council directs staff to develop a proposal for implementing the most promising non-regulatory habitat protection and restoration programs to supplement and complement a regulatory program. Based on public comments and staff analysis of the effectiveness of non-regulatory programs, Council directs staff to further develop the following non-regulatory tools:

- A. **Technical assistance.** Determine if technical assistance is most effective when directed at individual owners, developers, or local jurisdiction staff, or a combination of the potential audiences. Develop a plan to implement a technical assistance program to assist in the implementation of habitat-friendly development techniques, better stewardship of habitat, and restoration on public and private land.
- B. **Grants for restoration and protection.** Develop a proposal for a grant program that could be aimed at individual property owners, public land model examples, habitat-friendly development, or green streets, wildlife crossings, and culvert replacements. Grants could also be targeted to agency-led efforts to restore habitat on public land, possibly utilizing volunteers. Identify potential sources of funding for grants. Develop a plan to define restoration priorities to effectively allocate restoration efforts and investments.
- C. **Willing-seller acquisition.** Develop a proposal for a targeted acquisition program that could work as a revolving acquisition fund. Identify a funding source for acquiring habitat land from willing sellers. Consider potential for encouraging expansion of local programs that use system development charges to purchase land that provides habitat functions for the public good (such as floodplains).
- D. **Property tax reductions.** Identify steps to encourage implementation of property tax reduction programs in the Metro region. There are two state programs that could be applicable within the urban area: the *Riparian Lands Tax Incentive Program* and the *Wildlife Habitat Conservation and Management Program*. Both of these programs would require county or city action to be implemented.

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DRAFT STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO 04-3440 FOR THE PURPOSE OF ENDORSING METRO'S DRAFT GOAL 5 PHASE II ESEE ANALYSIS, MAKING PRELIMINARY DECISIONS TO ALLOW, LIMIT, OR PROHIBIT CONFLICTING USES ON REGIONALLY SIGNIFICANT FISH AND WILDLIFE HABITAT; AND DIRECTING STAFF TO DEVELOP A PROGRAM TO PROTECT AND RESTORE REGIONALLY SIGNIFICANT FISH AND WILDLIFE HABITAT.

Date: April 7, 2004

Prepared by: Andy Cotugno and Chris Deffebach

CONTEXT AND BACKGROUND

The region's 2040 Growth Concept and other policies call for protection of natural areas while managing housing and employment growth. In 1998 the Metro Council adopted Title 3 of the Urban Growth Management Functional Plan to protect water quality and for flood management. Title 3 also included a commitment to develop a regional fish and wildlife habitat protection plan. As defined in a Vision Statement that was developed in cooperation with local governments at MPAC in 2000, the overall goal of the protection program is: "...to conserve, protect and restore a continuous ecologically viable streamside corridor... that is integrated with the urban environment." The Vision Statement also refers to the importance that "...stream and river corridors maintain connections with adjacent upland habitats, form an interconnected mosaic of urban forest and other fish and wildlife habitat..." Metro is currently developing this program, following the 3-step process established by the State Land Use Planning Goal 5 administrative rule (OAR 660-023).

In the first step, Metro identified regionally significant fish and wildlife habitat using the best available science, computer mapping, and fieldwork. In 2002, after review by independent committees, local governments and residents, Metro Council adopted the inventory of regionally significant fish and wildlife habitat lands. The inventory includes about 80,000 acres of habitat land inside Metro's jurisdictional boundary.

The second step of the process is to evaluate the Economic, Social, Environmental and Energy (ESEE) consequences of a decision to allow, limit or prohibit conflicting uses on these regionally significant habitat lands and on impact areas adjacent to the habitat areas. The impact areas add about 16,000 acres to the inventory. Metro is conducting the ESEE analysis in two phases. The first phase was to evaluate the ESEE consequences at a regional level. This work was completed and endorsed by the Metro Council in October 2003 (Resolution #03-3376). The resolution also directed staff to evaluate six regulatory program options and non-regulatory tools for fish and wildlife habitat protection in Phase II of the ESEE analysis. Staff has completed the Phase II ESEE analysis and is seeking direction from Metro Council on where conflicting uses within the fish and wildlife habitat areas and impact areas should be allowed, limited, or prohibited, as required in the Goal 5 administrative rule.

The Phase II analysis evaluates the ESEE consequences of possible protection and restoration options that include a mix of regulatory and non-regulatory components. Five potential

regulatory treatments are applied in each of the six regulatory options, ranging from allowing conflicting uses to prohibiting conflicting uses in habitat and impact areas. The consequences identify the effects on key ESEE issues identified in the Phase I analysis, including:

- Economic implications of urban development and ecosystem values
- Environmental effects including ecological function loss, fragmentation and connectivity
- Social values ranging from property owner concerns about limitations on development to concerns about loss of aesthetic and cultural values
- Energy trade-offs such as temperature moderating effects of tree canopy and potential fuel use associated with different urban forms.

In addition, the analysis considered how well the six regulatory options would assist in meeting the requirements of the federal Endangered Species Act and the Clean Water Act.

The third and final step of the process is to develop a program that implements the habitat protection plan by ordinance through Metro's Urban Growth Management Functional Plan. After acknowledgment by the State Land Conservation and Development Commission, cities and counties within the Metro jurisdiction will be required to amend their comprehensive plans to be in compliance with the regional habitat protection program.

Cities and counties in the region currently have varying levels of protection for fish and wildlife habitat. As a result, similar quality streams or upland areas in different parts of the region receive inconsistent treatment. In addition, one ecological watershed can cross several different political jurisdictions – each with different approaches to habitat protection. With the adoption of the regional habitat protection program, cities and counties will adjust their protection levels, to a greater or lesser degree, to establish a consistent minimum level of habitat protection.

In January 2002 Metro entered into an intergovernmental agreement with local governments and special districts in the Tualatin Basin setting forth a cooperative planning process to address regional fish and wildlife habitat within the basin. The Tualatin Basin recommendation will be forwarded to the Metro Council for final approval as part of the regional habitat protection plan.

Current Action

Based on the results of the Phase II ESEE analysis and public comment, Resolution 04-3440 presents the staff recommendation for Metro Council consideration on a regulatory approach to fish and wildlife habitat protection and requests Council direction to staff on developing a program to implement the regulatory approach and to further develop non-regulatory options.

These recommendations and the key issues for Council consideration are highlighted below.

Public comment

Metro's fish and wildlife habitat protection (Goal 5) communications and community involvement program is designed to support the technical work and Council decision-making process. Its goal is to provide effective means of informing and engaging citizens in the making of important regional habitat protection policy. Metro held public outreach events, mailed notices to property owners in fall 2001 and summer 2002, and held public hearings prior to identifying regionally significant habitat. Upon completion of Phase I of the ESEE analysis, Metro conducted public outreach and held public hearings on Resolution 03-3376.

In the spring 2004 public outreach effort there were many opportunities for citizens to be informed and participate in the decision-making process: newspaper advertisements, information materials and interactive maps (by mail, online), property owner notices (mailed), comment cards (by mail, online), non-scientific survey (keypad, online), workshops, community stakeholder meetings and special events, open houses and formal public hearings.

Generally, people were supportive of habitat protection. Very few people expressed opposition to protecting habitat in the metropolitan area. Rather, opposition expressed was towards imposed regulations, especially those that reduce the development potential or economic value of private property. Overall, there seems to be a desire for a balance between regulatory and non-regulatory program options. Support is expressed for a variety of protection tools and recognition is generally given to the need for a mixed approach to protection. For a complete summary of the comments received see the March 2004 Public Comment Report in Attachment 1.

Technical review

This resolution and staff report will be reviewed by Metro's advisory committees including Economic Technical Advisory Committee (ETAC), Goal 5 Technical Advisory Committee (Goal 5 TAC), Water Resources Policy Advisory Committee (WRPAC), the Independent Economic Advisory Board (IEAB), and Metro Technical Advisory Committee (MTAC). The staff report will be updated to reflect technical committee comments.

Policy review

The Metro Policy Advisory Committee (MPAC) will review this resolution and staff report. This staff report will be updated to reflect MPAC comments.

1. RECOMMENDATION ON REGULATORY OPTIONS

Staff analyzed six regulatory options and evaluated their performance in the ESEE analysis. Three of the options apply regulatory treatments based on habitat quality alone (Options 1A, 1B and 1C), while three options (2A, 2B, 2C) apply regulatory treatments based on habitat quality and urban development value.

Habitat quality was measured during Metro's Goal 5 inventory process and was based on landscape features (e.g., trees, woody vegetation, wetlands, etc.) and the ecological functions they provide (e.g., shade, stream flow moderation, wildlife migration, nesting and roosting sites, etc.). The inventory was then classified into six categories for the ESEE analysis (Class I-III riparian/wildlife corridors and Class A-C upland wildlife habitat) to distinguish higher value habitat from lower value habitat. Class I riparian/wildlife corridors and Class A upland wildlife habitat are the highest valued habitats and include the identified habitats of concern (HOC) in the region, such as wetlands, bottomland hardwood forests, oak woodlands and other rare and declining habitat types.

Urban development values were categorized as high, medium or low. Areas without urban development value – parks and open space (both inside and outside the UGB) and rural areas outside the UGB – were not assigned a value. All other areas were assigned to categories based

on commercial and industrial land value, employment density, and 2040 design type. In the recent expansion areas, interim design types were used to determine urban development value. Areas receiving a high score in any of the three measures are called “high urban development value”, areas receiving no high scores but at least one medium score are called “medium urban development value”, and areas receiving all low scores are called “low urban development value.” High priority 2040 Growth Concept design types include the central city, regional centers and regionally significant industrial areas. Medium priority 2040 Growth Concept design types include town centers, main streets, station communities, other industrial areas and employment centers. Inner and outer neighborhoods and corridors are considered low priority 2040 Growth Concept design types.

In Resolution 03-3376 Council directed staff to define regionally significant public facilities, including major educational and medical institutions, and recommend the appropriate urban development value rank during Phase II of the ESEE analysis to determine appropriate habitat protection levels for these land uses. Staff is still working on this issue and expects that additional consideration will be appropriate during the program development phase. This analysis could lead to modifications in the recommendation for these locations.

Based on the ESEE analysis and public comment, staff recommends Option 2B, with a few modifications, as a starting place for Metro Council consideration for fish and wildlife habitat protection. Option 2B reflects the balancing of habitat protection and development needs described in Phases I and II of the ESEE analysis. This option applies a low level of habitat protection in high urban development value areas and a moderate to strict level of protection in other areas. This option recognizes habitat values and urban development values, accounting for the goals described in the 2040 Growth Concept. Option 2B ranked third or fourth (out of six) on all the ESEE consequences described by the evaluation criteria – falling in the middle of the range of regulatory options and balancing the conflicting goals of habitat protection and allowing conflicting uses.

The Phase II ESEE analysis and public comments highlighted the importance of accounting for urban development values in the development of a regional fish and wildlife habitat protection plan. Option 2A applies a very strict level of protection to Class I Riparian, including a *prohibit* treatment in low urban development value areas. Prohibiting conflicting uses on most residential land does not address the social considerations or potential impact on housing capacity within the existing urban growth boundary. On the other hand, Option 2C applies an *allow* treatment to all habitat types in high urban development value areas while substantially limiting conflicting uses in residential lands. This option does not balance habitat protection with the other ESEE factors.

While Option 2B best balances the ESEE factors, staff has recommended areas where changes to the option could improve its performance and identified issues associated with Option 2B for further Council consideration. The 2B Option, recommended modifications and other issues for consideration are described below.

**Option 2B: Low level of protection in high urban development value areas,
moderate level of protection in other areas.
(Modifications are shown)**

Fish & wildlife habitat classification	HIGH Urban development value	MEDIUM Urban development value	LOW Urban development value	Other areas
	Primary 2040 components, ¹ high employment value, or high land value ⁴	Secondary 2040 components, ² medium employment value, or medium land value ⁴	Tertiary 2040 components, ³ low employment value, or low land value ⁴	Parks and Open Spaces, no design types outside UGB
Class I Riparian/Wildlife	LL ML	ML -SL	SL	SL
Class II Riparian/Wildlife	LL	LL	ML	ML
Class III Riparian/Wildlife	A LL	LL	LL	ML
Class A Upland Wildlife	LL	ML	ML	SL
Class B Upland Wildlife	LL	LL	ML	ML
Class C Upland Wildlife	A LL	LL	LL	ML
Impact Areas	A	LL A	LL A	LL A

¹Primary 2040 components: Regional Centers, Central City, Regionally Significant Industrial Areas

²Secondary 2040 components: Town Centers, Main Streets, Station Communities, Other Industrial areas, Employment Centers

³Tertiary 2040 components: Inner and outer neighborhoods, Corridors

⁴Land value excludes residential lands.

Key to abbreviations

SL = strictly limit

ML = moderately limit

LL = lightly limit

A = allow

Recommended modifications and issues for Council consideration on regulatory option 2B

A. **No allow treatments of habitat.** Option 2B applies an allow treatment in high urban development areas to Class III riparian habitat and Class C upland habitat. To ensure that existing functions are preserved and to maintain opportunities for mitigation, staff recommend that Class III Riparian and Class C Wildlife areas in high urban development value areas receive a **lightly limit** treatment instead of an allow treatment. Over eighty percent of Class III Riparian habitat is currently developed and would not be subject to new regulatory programs until redevelopment. Much of the Class III habitat is developed floodplain where low impact development techniques such as pervious pavers and stormwater runoff containment can improve nearby stream quality. In Class III areas with high urban development value, 96% is developed. If an allow decision is applied to these areas the opportunity to require redevelopment standards would be lost. Class C Wildlife habitat provides important connections between riparian areas and other upland wildlife habitats and 60% of this habitat area is currently vacant. The loss of Class C areas can subsequently reduce the quality of nearby higher quality habitats and can also reduce opportunities for restoration in the future. In Class C areas with high urban development value, 80% is vacant.

B. **Impact areas.** Option 2B applies an allow treatment to impact areas in high urban development value areas and a lightly limit treatment to impact areas in other urban development value categories. To achieve a better balance between environmental

effectiveness and regulatory effort, staff recommends that impact areas have an **allow** treatment. Much of the impact areas are developed (66%), and are, by definition, adjacent to the habitat and not the habitat itself. However, development or redevelopment in these areas can affect habitat conditions. Impact areas add 15,721 acres to the inventory, about half of which (7,152 acres) is residential land. Regulatory treatments applied to the impact area affect a large number of property owners. Yet, because the land has no resource value now, regulations would have a minor effect on improving habitat values until it redevelops. Metro staff identified two types of impact areas: riparian impact areas (land with no regionally significant habitat value within 150 feet of a stream) and other impact areas (a 25-foot buffer around all other habitat areas). Land uses within the riparian impact area have a direct effect on the stream due to their proximity. This affects the ecological integrity of the riparian habitat and water quality. Land uses within the other 25-foot impact area have more of an indirect effect on the surrounding habitat, especially when conflicting uses are allowed within the habitat lands. Staff recommends that the effects of conflicting uses in impact areas be addressed in broader watershed planning efforts that apply low impact design standards and other stormwater management tools to the broader area. Staff also recommends that the areas within 150 feet of a stream be considered when developing a restoration strategy. As an alternative, Council may want to consider regulations in the riparian-related impact areas only, where the negative environmental effects of development affect stream health most directly.

- C. ***High value habitat land.*** Option 2B applies a lightly limit treatment to the highest value habitat (Class I Riparian and Class A Wildlife) in high urban development value areas, while applying a moderate or strict level of protection in the other areas. Staff recommends increasing the level of protection for the Class I Riparian habitat in high urban development value lands to **moderately limit** and in medium urban development value lands to **strictly limit**. Staff also identifies the need for additional Council consideration of whether to increase protection in the Class A habitat, particularly for steep slopes and other sensitive areas in the program phase. The level of protection for these habitat types is important for several reasons. These habitat types encompass Habitats of Concern, which have been identified as the most scarce and declining habitats in the region. Class I Riparian habitat is critically important to maintain the ecological health of the stream system and connectivity of the riparian corridor. While many environmental issues are important to supporting requirements of the Endangered Species Act and the federal Clean Water Act, efforts to protect and improve the functions provided along the streams are some of the most important. Class I Riparian habitat is also associated with some of the strongest cultural and amenity values from the social perspective. Existing Title 3 Water Quality and Floodplain Protection standards cover about 72 percent of Class I Riparian habitat, which establishes an existing level of protection and limits on development.

Class A Wildlife habitat provides the most valuable environment for many species of concern and also provides important connections to and between riparian corridors. High value upland habitat areas are located in medium, low and other urban development areas. Title 3 Water Quality and Floodplain protection standards cover a little over one percent of Class A wildlife, which leaves it most vulnerable to loss. On the other hand, while protection

of the high value Class I and Class A habitat is critical from the ecological standpoint, this land also encompasses a large percent of the region's vacant and buildable land. About 42 percent (19,922 acres) of this high value habitat is currently in park status, 14 percent (6,578 acres) is considered developed, and 44 percent (21,057 acres) is vacant. High levels of habitat protection could impact the region's ability to meet housing and employment needs within the existing urban growth boundary. In high urban development value areas, 87% of the Class I Riparian is vacant, 41% of the vacant Class I habitat is not constrained for development by Title 3, utility location, or other factors (other than local regulations). A similar proportion of Class A habitat is vacant (75%), but of that vacant habitat most (78%) is considered buildable. A smaller number of vacant acres, about 200, is high urban value in Class A habitat. Any decision on Class I and A will have a significant impact because these areas include the greatest percentage (60 percent) of the habitat inventory.

An important consideration in weighing the choices between lightly, moderately and strictly limit treatments is the extent to which loss of buildable land can be replaced elsewhere within the UGB or outside of the UGB on non-habitat land. Staff recommends that Council provide direction to fully explore tools such as transfer of development rights to mitigate the loss of building capacity as part of developing the protection program. In the program development phase, based on this analysis, Council may want to reconsider the recommendations for Class I and Class A habitat.

Class II Riparian, like Class I Riparian, is also important for riparian corridor health, but provides fewer primary functions than Class I. Council may want to consider increasing the level of protection in Class II riparian areas and to more closely match the level of protection in the Class I habitat areas.

D. Definition of urban development value and appropriate applications of different treatments. The modified Option 2B varies the level of protection by different urban development values. The 2040 design types in high, medium and low urban development values were defined by Council for the ESEE analysis. The staff recommendation recognizes the need to meet capacity needs in the Regional Centers, Central City and regionally significant industrial areas by reducing protection in areas of high urban development value compared to protection in low urban development value areas. Staff do not recommend changes to these definitions or to the range of protection, from lightly limit to strictly limit, from low to high development value. However these definitions and ranges of protection will require further consideration as the program develops. Another consideration may be redefining the boundaries of regional centers to avoid habitat areas.

E. Residential Land. In Option 2B, the residential land that makes up a significant portion of "low urban development value" receives stronger regulatory treatment (strictly or moderately limit) than the commercial and industrial land that comprises "high" and "medium" urban development value areas. Residential land makes up a significant portion of the habitat inventory (34 percent), especially within the UGB (48 percent) making development on vacant residential land and consideration of existing residential areas an important part of the fish and wildlife habitat protection program. While staff does not recommend a change in

the treatment of “low” urban development value, staff recognizes this as a continuing issue for consideration in the development of the program.

2. DIRECTION ON DEVELOPING A REGULATORY PROGRAM

The third step of the Goal 5 process calls for the development of a program to protect habitat areas by allowing, limiting, or prohibiting conflicting uses on habitat land based on the results of the ESEE analysis. Based on comments from public open houses and technical committees, the Metro staff has identified several areas of concern when developing a regulatory program. Staff requests Metro Council to give staff direction in these areas.

A. Defining limit in the program phase

The most commonly asked question from the public and technical review committees relates to how limit is defined in the program. The definitions of limit that have been described generally in the ESEE analysis will be further defined in the program phase. The definition of limit describes how well habitat is protected while maintaining development opportunities. The definition of limit will be one of the most important tasks in the program phase. As a guiding principle, the intent is to first avoid, then limit, and finally mitigate adverse impacts of development to protect fish and wildlife habitat. Some of the key issues in the definition relate to impacts on housing and employment capacity, disturbance area, mitigation, and allowable public uses such as roads, trails and other infrastructure as illustrated below:

- **Strictly Limit** – This treatment applies a high level of habitat protection. It would include strict avoidance of the habitat (especially Habitats of Concern) with maximum allowable disturbance areas and mitigation requirements. Based on technical review, Metro staff proposes to allow trails, roads and other public access to meet the public good (e.g., construction and maintenance of public utilities such as water storage facilities) subject to minimize and mitigate. Applying strong habitat protection would result in some overall loss of development capacity; however, there are some tools such as transfer of development rights (TDR) or cluster development that could compensate somewhat for lost development capacity.
- **Moderately Limit** – This treatment balances habitat protection with development needs, and does not preserve as much habitat as strictly limit. It would avoid habitat, limit disturbance areas, require mitigation, and use design standards and other tools to protect habitat (especially Habitats of Concern) while striving to achieve goals for employment and housing densities. Metro staff would work to define moderately limit to minimize the loss of development capacity, which could include development of a TDR program and other tools to compensate for lost capacity.
- **Lightly Limit** – This treatment would avoid habitat as possible to preserve habitat function (especially Habitats of Concern) while allowing development to occur. It would include less restrictive limits on disturbance area and encourage other low impact design considerations and mitigation requirements. Metro staff assumes that application of lightly limit treatments would result in no loss of development capacity.

B. Effect on existing development and redevelopment

Many of the comments received from the public were focused on how a regulatory program to protect habitat would affect existing development. Due to the fact that a substantial portion of the habitat inventory is on developed residential land (15,271 acres) there are

many property owners concerned with the results of the program phase. Since Metro's regulatory program would be triggered by land use activities it would not apply to actions that do not require a land use permit (such as gardening, lawn care, routine property maintenance, and actions necessary to prevent natural hazards). However, many citizens will not be aware that their activities would not be affected; therefore the program clarification would help people understand the potential effect on existing development. Redevelopment (subject to some threshold size or valuation) offers the potential to restore habitat functions in areas in which development patterns have not protected the habitat. Clarification in the program of the intended effects on redevelopment will be important.

C. Regulatory flexibility

Regulations to protect fish and wildlife habitat limit development options on land with habitat value. Some ways in which regulations could limit development include lowered density, minimum disturbance areas, and setbacks from significant resources. Development can occur in a manner that avoids or reduces the impact on the habitat, for example: cluster development, streamside buffers, and habitat-friendly development techniques can all provide some level of regulatory flexibility that allows development to occur while protecting habitat. A transfer of development rights (TDR) program could also compensate for loss of development capacity. Providing flexible regulations and tools to allow for development while protecting as much habitat as possible could allow Metro's goals of habitat protection and maintaining housing and job capacity within the UGB to be met. In addition, variations for local governments to implement the program at the district or other discretionary sites will be considered in the program phase, as described in section E below.

D. Mitigation, mitigation banking and restoration

Development within habitat areas degrades existing ecological function. To better achieve the goals described in Metro's Vision Statement, mitigation for these negative impacts could be required to reduce the effect of allowing conflicting uses on habitat lands. The regulatory program could include mitigation ratios and mitigation banking to facilitate efficient and effective use of mitigation to restore valuable habitat areas. Development on high value habitat land could require more mitigation than on low value habitat land, since the environmental effects would be greater. There will also be the question of where mitigation occurs – on-site, in the same stream reach, within the same watershed, in a neighboring watershed, or anywhere in the region. Mitigation banking could preserve the opportunity to require mitigation when there are no opportunities on-site by requiring funds to be paid into a bank, to be spent at a later date in an area identified through a subwatershed or watershed restoration plan. Monitoring and enforcement of mitigation requirements are an important component of maintaining ecological health. Long-term monitoring can measure the success of mitigation efforts to direct and adjust the magnitude of mitigation requirements. Enforcement of mitigation requirements is essential to ensure that the impacts of development on habitat are minimized. Mitigation can be targeted in accordance with an overall restoration plan.

E. Program specificity and flexibility

Local jurisdiction partners have indicated a need for a regulatory program that could serve both as a general framework for local jurisdictions to implement and as a specific program

that could be implemented without further local analysis. Stakeholder groups have continued to express interest in the possibility of planning for the unique habitat and economic concerns within a smaller area, such as in the existing major medical and educational campuses as regional public facilities, other regional public facilities and in riparian or wildlife districts.

In addition, questions about the reasonable timeframe for local implementation of fish and wildlife habitat have also been raised. Title 3 currently exempts some local jurisdictions from complying with a regional habitat protection until their next scheduled periodic review. This could be a challenge for developing regionally consistent protection and standards in the region, especially since the State may not be reviewing local plans with as much frequency as they have in the past. Review of the implementation schedule during the development of the program will be an important consideration.

F. Map corrections and inventory maintenance

The resolution adopting the regionally significant habitat inventory included a process for accepting habitat inventory corrections and requires Metro to complete the map correction process when the final program is adopted and to develop a post-adoption correction process. Metro has been accepting corrections to the habitat inventory map since it was released in 2002. Metro staff will continue reviewing map corrections and will adjust the inventory maps as required until the adoption of the final program. Direction during the program phase for the on-going responsibilities between Metro and local governments regarding maintaining the inventory maps in the post-adoption phase of the program will be important and will have implications for Metro's budget.

G. Long-term monitoring

Monitoring is important to mitigation as described above, but it is also critical to the success of the overall fish and wildlife habitat protection program. Monitoring how well the regulatory and non-regulatory program elements protect fish and wildlife habitat while meeting housing and employment capacity will be important in determining the effectiveness of Metro's efforts and identifying potential adjustments to the program in the future. Monitoring could be included as part of Metro's Performance Measures efforts.

3. DIRECTION ON NON-REGULATORY PROGRAMS

While not a requirement of the Goal 5 rule, Metro has committed to include incentives and non-regulatory tools to protect and restore habitat to complement regulatory program elements. Non-regulatory tools are a key component of a strategy to protect fish and wildlife habitat. Incentives, education, and acquisition strategies are popular among landowners and can be used in situations where regulations do not apply. For example, regulations only come into effect when a land use action is taken. Non-regulatory strategies can apply to other activities such as landscaping, reducing pesticide/herbicide use, and voluntary restoration.

Restoration is a critical component of an effective fish and wildlife habitat protection program. Without active restoration efforts, ecological conditions will likely deteriorate further, even if most habitat lands are protected through regulations. Mitigation for the negative environmental impacts of development may be included as part of a regulatory program. However, actions to

restore habitat to a condition better than exists today cannot be required as part of a regulatory program; restoration could be included as a major part of a non-regulatory approach. Regulations can protect land that can then be restored through non-regulatory approaches to provide better functioning habitat.

Metro staff examined the following potential non-regulatory tools:

- Stewardship and recognition programs
- Financial incentives (grants, incentives for green streets, property tax reduction)
- Education (information center, technical assistance, other education activities)
- Volunteer activities
- Agency-led restoration
- Acquisition (outright purchase, conservation easements, revolving acquisition fund)

Based on public comments and staff analysis of the effectiveness of non-regulatory programs, staff recommends that the program phase include further development of technical assistance, restoration grants, acquisition programs and property tax reduction incentives. Key issues for consideration in further development include the level of funding or commitment that would be needed, possible funding sources, an implementation schedule and an assessment of responsibilities between local and regional governments, the private sector and non-governmental organizations. Staff request Metro Council to give direction in how these issues are further developed as non-regulatory approaches to habitat protection.

A. ***Technical assistance.*** Whether directed at individual owners, developers, or local jurisdiction staff, technical assistance could assist in the implementation of habitat-friendly development techniques, better stewardship of habitat, and restoration on public and private land. Technical assistance would be particularly useful in conjunction with the application of limit treatments to allow for development within habitat areas that protects the most habitat while also meeting capacity needs. Habitat-friendly, low-impact development and green building techniques are innovative methods of minimizing the impacts of the built environment on surrounding habitat. Assistance in these areas for developers, citizens, and local jurisdictions could help to ensure the success of a regulatory program.

Technical assistance programs are noted for being responsive to landowner needs, providing practical information, and having knowledgeable resource staff. Such a program would not provide direct protection to habitat, but would offer a means of improving stewardship and enhancement by private landowners. Technical assistance could help supplement cost-sharing programs, such as grants, to further protection and restoration efforts. Technical assistance could be focused on landowners, development practices, and/or local partners. Metro has provided technical assistance to local partners throughout the implementation of the Regional Framework Plan and the Regional Urban Growth Management Functional Plan. This has proved especially important in the implementation of Title 3 (stream and floodplain protection) and planning for centers.

Metro could work with local partners to develop technical assistance, incentives, recognition programs, and awards for development that helps protect fish and wildlife habitat. Metro, in conjunction with local partners, could develop regional low impact development standards to

reduce development impacts on fish and wildlife habitat. The Green Streets Handbook serves as a successful model of technical assistance aimed at minimizing environmental impacts of transportation infrastructure. The cost of providing technical assistance could vary depending on the use of existing staff or the need to use new staff and other resources.

As part of a regional, habitat-friendly development program, Metro could develop a *Habitat-oriented Development Program* similar to Metro's Transit-oriented Development (TOD) Program to encourage construction of new developments or redevelopment that protects and restores fish and wildlife habitat. As part of the technical assistance program, this would require funds to provide the incentives for developers to practice habitat friendly development.

- B. ***Grants for restoration and protection.*** Achieving restoration on private and public lands typically requires some type of financial incentive to induce property owners to conduct activities such as planting of native vegetation, removal of invasive species, and other habitat improvements. Grants could be aimed at individual property owners, at public agencies that create model examples of habitat restoration, habitat-friendly development, or green streets, wildlife crossings, and culvert replacements. Grants could also be targeted to agency-led efforts to restore habitat on public land, possibly utilizing volunteers. Defining restoration priorities is important to effectively allocate restoration efforts and investments.

Grants for restoration can provide the incentive for supportive landowners and other organizations to restore habitat on private and public lands. A small grant program, targeted to watershed councils, friends organizations, or local governments could be created similar to Metro's recent grants for Regional and Town Center planning efforts. Applicants could submit projects one or two times per year, and they could be reviewed and ranked based on set criteria. Small grants given in strategic places could build on existing work and encourage more efforts in targeted areas.

Funding can leverage additional benefits such as education and volunteerism. Private landowners may be interested in the concept of improving the habitat value on a portion of their land, and the availability of dollars can provide the impetus to conduct restoration activities. Many grants are provided with a required match of either dollars or in-kind materials or labor. These incentives provide landowners who contribute a portion of the proposed cost for conservation or restoration activities with additional funding opportunities. There are several programs in place for rural land in agriculture or forestry use, and some for urban lands. A grant program could target specific activities along stream reaches or within watersheds in coordination with Watershed Action Plans to accomplish the most effective restoration. A monitoring component of a restoration plan would be essential to assess effectiveness over time at restoring habitat function.

- C. ***Willing-seller Acquisition.*** The most certain way to protect habitat is to publicly acquire it for open space preservation. There are various ways to acquire land (outright purchase, easements, development rights, transfers, etc.) and all acquisition programs involve the expenditure of a significant amount of money. Acquisition is the most effective non-regulatory tool to achieve definitive habitat protection. Acquisition can achieve permanent

protection and also preserves land to be restored at a later date. However, the high cost of purchasing land, especially within the urban growth boundary, and the dependence of an acquisition program on willing sellers limits the effectiveness of such a program.

If additional funding to purchase habitat land was secured, an acquisition program could focus on regionally significant fish and wildlife habitat, targeted to achieve specific goals. The goals could include protection of Habitats of Concern, floodplains, regional connector habitat, strategically located high-value habitat, and key restoration opportunities. Acquisition may also target land when the regulatory approach could not protect it to the level desired. Riparian Class I habitat contains over 11,000 acres of undeveloped habitat land. Based on the cost of land purchased through the Metro Greenspaces Acquisition program, land costs inside the UGB average about \$45,000/acre and outside the UGB average about \$8,600/acre. Due to the expense, acquisition clearly is not a tool that could be used alone to protect even this most ecologically valuable habitat.

One way to maximize limited acquisition dollars is to create a revolving acquisition fund. A program could be developed to purchase habitat land, place development restrictions or conservation easements to protect the habitat areas, or subdivide the property to separate the resource land from the developable land and then sell or exchange (via land swaps) the remainder of the land for development or continued use. Funds from the sale could then be used to protect additional land. Such a program could maximize the use of conservation dollars by protecting only the habitat areas on a parcel of land, rather than the entire parcel.

Some jurisdictions currently use surface water management fees or system development charges (SDCs) to purchase land that provides habitat functions for the public good (such as floodplains); these programs could be expanded. However, there may be concerns about raising SDCs or other fees in the current economic environment

- D. **Property tax reductions.** There are two state programs that could be applicable within the urban area; the *Riparian Habitat Tax Incentive Program (OAR 308A.350 to 308A.383)* and the *Wildlife Habitat Conservation and Management Program (2003 Oregon Laws Ch. 539)*. Both of these programs would require county or city action to be implemented.

Property tax reduction is a useful tool to provide motivated landowners with an incentive to manage their land for habitat values, and can also serve as a mechanism to achieve some restoration if a habitat management plan includes requirements for enhancement of existing habitat. However, property tax reductions would reduce jurisdictional revenues. Alternatively, these properties could be included by agencies such as Metro, Portland's Bureau of Environmental Services, Water Environmental Services in Clackamas County or Clean Water Services in Washington County that conduct restoration activities. Habitat protection and restoration may be most effective ecologically if this tool is applied strategically, for example in a specific stream reach or headwater area. This tool could serve as an important incentive to encourage landowners to work in a coordinated fashion to leverage ecological improvements in a specific area. A downside to using property tax relief as a tool for habitat protection is that a landowner can leave the program at any time, the only

penalty being payment of back taxes, similar to opting out of a farm or forest tax deferral program.

ANALYSIS/INFORMATION

1. **Known Opposition.** Metro has received public comments from individuals and interest groups representing a broad spectrum of viewpoints as to whether and how Metro should protect fish and wildlife habitat. (See, for example, the "public comment" section of this staff report for a general summary of such comments received at the March 2004 public open houses.) Metro staff expect comments both in favor of, and opposed to, this draft resolution and Metro's approach to fish and wildlife habitat planning between the time this resolution is first introduced and the time a resolution is approved by the Metro Council
2. **Legal Antecedents.** Policies in Metro's Regional Framework Plan and Section 5 of Title 3 in Metro's Urban Growth Management Functional Plan support the development of a Fish and Wildlife Habitat Protection Program. In addition, the two phases of Metro's ESEE analysis continues compliance with the State Land Use Planning Goal 5 administrative rule (OAR 660-023). Metro's adoption of the Draft Regionally Significant Fish and Wildlife Habitat Inventory and a Local Plan Analysis by Resolution No. 02-3218A formed the basis for the ESEE analysis and development of a habitat protection program that this resolution endorses.
3. **Anticipated Effects.** Approval of this resolution will allow Metro to complete the ESEE analysis as required by State Land Use Goal 5 and provides a preliminary decision on where to allow, limit or prohibit development on regionally significant fish and wildlife habitat lands. With the completion of the analysis as directed by this Resolution and a Metro Council decision on an Allow/Limit/Prohibit map, the third step of the Goal 5 process, development of a protection and restoration program for adoption into Metro's Functional Plan, can begin.
4. **Budget Impacts.** The adopted budget for FY04 includes resources for staff and consultants to initiate development of a program that includes regulatory and non-regulatory components. The proposed baseline FY05 budget has identified resources to support completion of the program depending upon the breadth and scope of the program direction in this resolution. On-going implementation of non-regulatory and regulatory elements will have long-term budget and staffing implications, depending on how the program is defined and decisions by the Metro Council should be made with the intent that budget resources will be sufficient to implement the direction.

RECOMMENDED ACTION

Staff requests that Metro Council endorse the Phase II ESEE analysis as described in Exhibit A to the Resolution and direct staff to develop a program to protect fish and wildlife habitat that includes regulatory and non-regulatory components as described in Exhibits B, C and D.

ATTACHMENTS TO THE STAFF REPORT

Attachment 1. Public comment report

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Exhibit A to Resolution 04-3440

This report is 158 pages long. A full copy can be obtained from Paulette Copperstone (503) 797-1562.

**METRO FISH AND WILDLIFE HABITAT
PROTECTION PROGRAM**

**Economic, Social,
Environmental
and Energy
Analysis (ESEE)**

**Phase II: Analysis of
program options**

April 2004 Draft



METRO

PEOPLE PLACES
OPEN SPACES

This document is 60 pages long. A full copy can be obtained from Paulette Copperstone (503) 797-1562.



MARCH 2004

Public Comment Report

Executive Summary

Metro Fish and Wildlife Habitat Protection Program

Economic, Social, Environment and Energy Analysis Phase II



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