

BEFORE THE METRO COUNCIL

TO WAIVE THE METRO URBAN GROWTH) RESOLUTION NO. 96-2318
BOUNDARY ANNUAL PETITION FILING)
DEADLINE FOR THE CITY OF WEST LINN)
ON BEHALF OF THE WEST LINN-WILSONVILLE)
SCHOOL DISTRICT FOR A LOCATIONAL)
ADJUSTMENT NEAR ROSEMONT AND DAY) Introduced by Mike Burton,
ROADS IN CLACKAMAS COUNTY) Executive Officer

WHEREAS, The City of West Linn on behalf of the West Linn-Wilsonville School District filed a locational adjustment petition on March 15, 1996 ,to amend the Urban Growth Boundary (UGB) for 19.9 acres in the vicinity of Day and Rosemont Roads in Clackamas County; and

WHEREAS, The petition was found to be incomplete and lacking a statement by the Clackamas County Board of Commissioners regarding the petition, as required by the Metro Code; and

WHEREAS, The petitioner had provided a staff comment by the County in regards to the County's position on the petition; and

WHEREAS, The petitioner was unable to get the formal statement of the County Board by the April 5, 1996, review deadline allowed by the Metro Code through no fault of their own; and

WHEREAS, The petitioner had also asked Metro in writing to withhold action on the petition until after the Metro Council had designated Urban Reserves this summer, and

WHEREAS, the Metro Council is scheduled to designate Urban Reserves this summer; now, therefore,

BE IT RESOLVED,

1. A waiver for filing the proposed locational adjustment petition at Day and Rosemont Roads is hereby granted to the City of West Linn on behalf of the West-Linn Wilsonville School District; and

2. The new deadline for this petition to be complete is hereby established, as requested, at thirty (30) days after the Metro Council has designated the Urban Reserves.

ADOPTED by the Metro Council this 9th day of May, 1996.



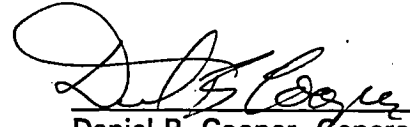
Jon Kvistad, Presiding Officer

ATTEST:

Approved as to Form:



Recording Secretary



Daniel B. Cooper, General Counsel

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 96-2318 TO WAIVE THE METRO URBAN GROWTH BOUNDARY ANNUAL PETITION FILING DEADLINE FOR THE CITY OF WEST LINN; A PETITION ON BEHALF OF THE WEST LINN-WILSONVILLE SCHOOL DISTRICT FOR A LOCATIONAL ADJUSTMENT NEAR ROSEMONT AND DAY ROADS IN CLACKAMAS COUNTY

Date: April 4, 1996

Presented by: Stuart Todd,
Growth Management Services

BACKGROUND INFORMATION

The West Linn-Wilsonville School District prepared a locational adjustment petition for 19.9 acres near Rosemont and Day Roads in Clackamas County. The petition was submitted on Metro's annual filing deadline for Urban Growth Boundary (UGB) amendments, March 15, 1996. However, the petition was lacking the required formal written statement expressing a position on the petition by the governing body of the jurisdiction with land use authority, in this case Clackamas County.

The petitioner was misled by both Clackamas County staff and Metro filing form instructions, that comment from the Clackamas County staff would suffice to meet the petition requirements. When the petitioner was notified of the deficiency in the petition and the two-week deadline to complete the petition, there was insufficient time to notice and hold a Board meeting on the matter (see Attachment "A").

In addition, the petitioner had requested in their petition that Metro not act on the petition until the Metro Council designated Urban Reserves, since this decision would have bearing on their case. Delaying the hearing until the urban reserve decision is made would be discretionary response by staff. There is no deadline by which UGB cases must receive a hearing, however, the most straight forward way to respond to the request for delay in processing the petition would be to grant a waiver of the filing deadline.

ACTION REQUESTED

The resolution would waive the filing deadline until the urban reserves decision has been made by the Metro Council. This would allow the petitioner to submit the County's required statement and complete the petition. It would accommodate the petitioner's request by not starting the action on the petition until the urban reserve decision has been made.

A waiver can be introduced by the Executive Officer or a Metro Councilor, and may be approved by a two-thirds vote of the Council. The resolution sets the new filing deadline for this case at thirty (30) days after the urban reserve decision. The other option is to let the petitioner file at the next available opportunity, March 15, 1997.

EXECUTIVE OFFICER RECOMMENDATION

The Executive Officer recommends adoption of Resolution No. 96-2318.



McKeever/Morris, Inc.
722 S.W. Second Avenue
Suite 400
Portland, Oregon 97204
fax 503 228-7365
503 228-7352

ATTACHMENT "A"

April 4, 1996

Mike Burton
Executive Officer
Metro
600 N. E. Grand Avenue
Portland OR 97232-2736

RE: Locational Adjustment Application
Waiver of Filing Deadline

Dear Mr. Burton:

On behalf of the city of West Linn and the West Linn-Wilsonville School District, I am requesting a waiver of the Locational Adjustment application filing deadline as provided by Section 3.01.33 (d) of the Metro Code.

On March 15, 1996, a Locational Adjustment application was submitted by the city of West Linn and the West Linn-Wilsonville School District for a portion of property located on the west side of Day and Rosemont Roads. Stuart Todd, Associate Regional Planner, reviewed the application and indicated that a response by the Clackamas County staff was not sufficient, and that a written comment must be provided from the County Board of Commissioners. I immediately contacted the county and found that it would not be possible to get such a comment until after April 5, 1996, which is the last day to correct all application deficiencies (Metro Code Section 3.01.33 (c)).

The city and the district proceeded diligently to complete the application, including agency comments, by the March 15 filing date. The requirement for a comment from the Board of Commissioners was not made clear to the city and the district because:

1. Section 3.01.33 (h) of the Metro Code indicates that comments from the "governing body of each city or county with land use jurisdiction" must be received. Subsection (3) indicates that a public hearing is optional. Also, with many types of land use cases, a governing body for a local jurisdiction will delegate decision making authority to another body, such as a planning commission, hearings officer or staff.
2. When asked about the Clackamas County process to obtain this comment, the staff indicated that no hearing was required and the staff customarily responds to these requests. This corresponded with our understanding that a governing body could delegate commenting responsibility to the staff.
3. The instruction sheet which came with the application (attached) is clearly misleading because it refers to comments from a county or city - not a governing body. In addition, it says that the local government will determine the process used to respond to the application.

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We have contacted the county for a response from the Board of Commissioners. The county apparently will schedule this issue for public hearing. To meet notice and scheduling requirements, it appears that a county response will be available in May. The city of West Linn and the West Linn-Wilsonville School District are requesting Metro to delay taking action on the application until after the decision has been made regarding the urban reserve area question. Therefore, this delay should not cause any scheduling difficulties for Metro.

The city of West Linn and the West Linn-Wilsonville School District would appreciate your assistance in forwarding a request to the Metro Council to waive the filing deadline to allow sufficient time to include this comment with the application. As requested by the Metro staff, the city and the district will formally submit the Locational Adjustment application within 30 days following designation of the urban reserve areas by the Metro Council.

Thank you for your help. If you have any questions, please contact me.

Sincerely



Keith S. Liden, AICP
Project Manager

cc: Roger Woehl, Superintendent, West Linn-Wilsonville School District
Peter Mersereau, School District Attorney
Mike Butts, Planning Director, City of West Linn
Doug McClain, Clackamas County
Stuart Todd, Metro

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**INSTRUCTIONS
FOR FILING A PETITION
FOR A LOCATIONAL ADJUSTMENT TO
THE METRO URBAN GROWTH BOUNDARY**

APR 04 1996

- A. When deciding to petition for a major amendment or locational adjustment, review the relevant standards for the procedure. The process is quasi-judicial and is first considered before an independent hearings officer, before a recommendation is forwarded to the Council for their final decision. In order to approve your petition, the Metro Council must find that the amendment or adjustment requested satisfies all of the applicable standards. Your petition must discuss and present evidence, for each applicable standard, showing that the standard is met.
- B. Please contact Metro's Growth Management Section to discuss the meaning and application of the standards or the steps in the petition process, or to schedule a "pre-application conference" among affected jurisdictions. If you decide to proceed with your petition, you should request a copy of the complete text of Metro Code Chapter 3.01 (Urban Growth Boundary Amendment Procedures).
- C. Please obtain a copy of the section map(s) for the area affected from the County Tax Assessor's office. Mark the area to be included in your petition in red on the section map(s). Obtain all maps necessary to include not only all of the subject property, but all tax lots that include any land within 500 feet of the subject property. Mark this outer 500' perimeter line in yellow. These maps must be attached to your petition.
- D. Please obtain from the County Planning staff (or County Assessor) or a title company a list of all owners of property within 500 feet of the subject property. This list must be certified as accurate.
- E. You will need to obtain the signatures of property owners who own in total at least 50 percent of the parcels and 50 percent of the land area in each area included in your petition.
- F. If the property is outside Metro jurisdictional boundary, contact the Portland Metropolitan Area Local Government Boundary Commission for a petition to annex to Metro. A completed and qualified copy of this petition must be submitted to Metro with your petition, although you need not file it with the Boundary Commission until after Metro has acted. Annexation to a city will automatically annex the property to Metro. A completed, but unfiled, petition to annex to a city (see item G) thus meets this requirement.
- G. To annex to a city, you will need to obtain an annexation petition from the Boundary Commission or the City, and file it with the City for their action. This step is encouraged, but not required for Metro consideration of your petition. It will provide you with information on the City's position on the desired annexation, and information helpful to Metro and the County in their reviews of your petition. The Boundary Commission will not act on the City's annexation request until after Metro has acted.

METRO

600 N.E. Grand Avenue
Portland, OR 97232
TEL 797-1700

- X** H. A complete petition must include comment on the amendment by the County (or City) in which your property is located. Also, you will need comments by any other service providers who would be responsible to service the property including a city government and special districts contracting with that city. Provide a complete petition form, and a "Request for Comment" form to all the potential providers of urban services, including but not limited to: water, sewerage, storm drainage, transportation, schools, parks and open space. A comment from the local jurisdiction's planning staff is adequate to address transportation as well as storm drainage unless a special district provides this service. Metro requires you allow up to four months time for service providers and local governments to comment.
- X** I. The County (or City in rare instances) will inform you of the procedures for its review. This may involve a hearing and there may be a fee.
- J. Your petition must be filed with Metro by March 15 of a given year and completed no later than three weeks after that date in order to receive a hearing before March 15 of the following year. The items required for a complete petition are summarized on the next page. You will be notified by March 22 of the items needed to complete your petition.
- K. A hearing before a hearings officer will be scheduled once your petition is judged eligible and complete. You will be notified of the hearing date and procedure at that time. In general Metro's consideration of your petition will take about four months.