

BEFORE THE METRO COUNCIL

APPROVING URBAN GROWTH BOUNDARY) ORDINANCE NO. 98-774
LOCATIONAL ADJUSTMENT CASE 98-5:)
VALLEY VIEW, AND ADOPTING THE HEARING)
OFFICER'S REPORT INCLUDING FINDINGS) Introduced by Mike Burton,
AND CONCLUSIONS) Executive Officer

WHEREAS, Metro received a petition for a locational adjustment for 19.18 acres located north of Tualatin Valley Highway immediately east of the City of Cornelius in Washington County, as shown in Exhibit A; and

WHEREAS, Metro staff reviewed and analyzed the petition, and completed a written report to the Hearing Officer, recommending denial of the petition due to existence of similarly situated contiguous land to the site which caused the petition to exceed the 20-acre maximum; and

WHEREAS, the petitioner amended the application to exclude the similarly situated land and reduce the acreage to 15.27 acres, as shown in Exhibit B, and staff changed its recommendation to approval; and

WHEREAS, Metro held a hearing to consider the petition on June 29, 1998, conducted by an independent Hearing Officer; and

WHEREAS, The Hearing Officer submitted his report on July 29, 1998, recommending approval of the amended petition for 15.27 acres; now, therefore,

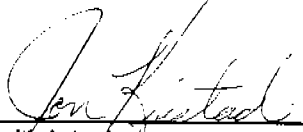
THE METRO COUNCIL HEREBY ORDAINS AS FOLLOWS:

1. To accept the Hearing Officer's *Report and Recommendation*, as attached herein as Exhibit C; and

2. The Hearing Officer's *Findings, Conclusions & Final Order*, attached herein as Exhibit D, be adopted approving the petition in Case 98-5: Valley View.

3. The urban growth boundary is amended to include approximately 15.27 acres as shown on map in Exhibit C.

ADOPTED by the Metro Council this 1ST day of OCTOBER, 1998.



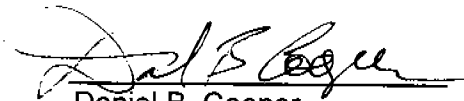
Jon Kvistad
Presiding Officer

ATTEST:



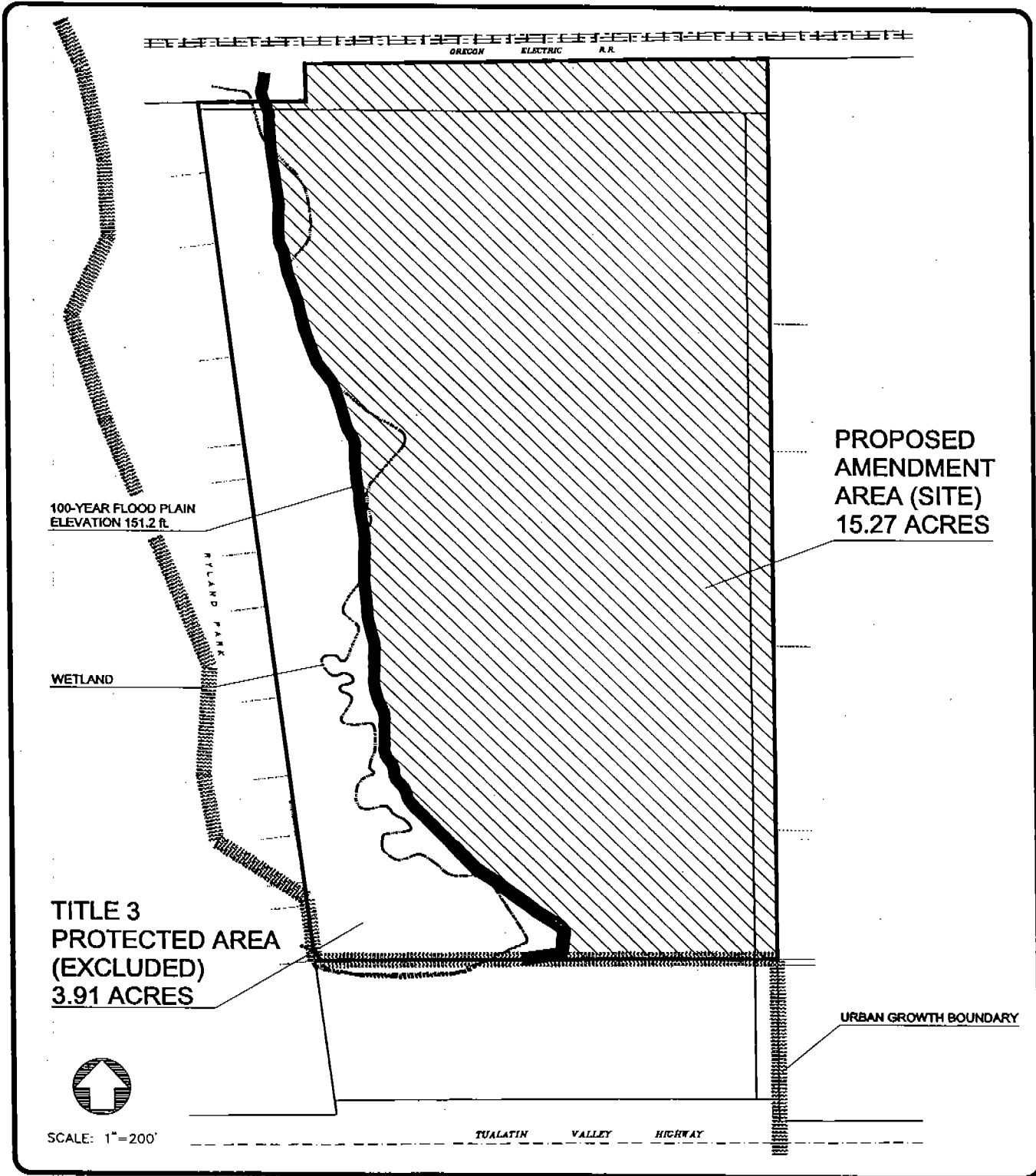
Recording Secretary

Approved as to Form:




Daniel B. Cooper
General Counsel

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DRAWING TITLE:
Valley View Mobile Court
 100-Year Floodplain Map
 Tax Map 1N3-35C
 Washington County, Oregon
 CADD File: 2223flood, plotted 6/29/98 by CEB

JOB NO.:
2223
 DRAWING NO.
 1
 of 1

BEFORE THE METRO COUNCIL

1
2
3 In the matter of the petition of Valley View Mobile Court) HEARINGS OFFICER'S
4 Inc. for a Locational Adjustment to the Urban Growth) REPORT AND
5 Boundary at 34265 SW Tualatin Valley Hwy. east of the) RECOMMENDATION
6 City of Cornelius in unincorporated Washington County) **Contested Case No. 98-05**
7

8 I. INTRODUCTION

9
10 This report contains a summary of the findings the hearings officer recommends to
11 the Metro Council regarding a petition for a locational adjustment to the Urban Growth
12 Boundary ("UGB"). The petition raises the following major issues:
13

- 14 • Whether the petitioners bore the burden of proof that including the proposed
15 developable area in the UGB increases the efficiency of service to land already in the UGB;
16
- 17 • Whether the petition includes all similarly situated lands;
18
- 19 • Whether granting the petition results in a superior UGB; and
20
- 21 • Whether petitioners bore the burden of proof that granting the petition will not
22 result in adverse environmental, energy, economic or social consequences.
23

24 II. SUMMARY OF BASIC FACTS

25
26 1. On April 23, 1998, Valley View Mobile Court ("petitioners") completed filing a
27 petition for a locational adjustment to the UGB. The amended petition proposes to add to
28 the UGB a 15.27-acre parcel identified as portions of tax lots 500, 590 and 600 (the
29 "subject property"). It is now situated in unincorporated Washington County. If included
30 in the UGB, the subject property could be annexed to the City of Cornelius or remain in
31 unincorporated Washington County.
32

33 a. The subject property is north of the Tualatin Valley Highway, east of the
34 City of Cornelius and south of the Oregon Electric Railroad right of way. Land already in
35 the UGB (in Cornelius) abuts the south boundary of the property and a small portion of the
36 west boundary.

1 b. The Washington County Comprehensive Plan designation for the subject
2 property is Rural/Natural Resource. It is zoned AF-5 (Agriculture/Forest, 5-acre minimum
3 lot size). The subject property is in an exception area to Statewide Goals 3 and 4. Adjoin-
4 ing land to the south in the City of Cornelius is designated and zoned for commercial use.
5 Land to the west, also in the City of Cornelius, is designated and zoned for residential use.
6

7 c. The subject property is currently developed with a 63-unit mobile home
8 park. The mobile home park is currently served by on-site septic systems that have failed.
9 Failure of the existing drainfields is creating a public health hazard.
10

11 d. The majority of the subject property is relatively flat with areas of steeper
12 slopes along the west and southwest edges where it slopes down towards the Job Creek
13 floodplain. In addition, a drainage swale extends into the site from the west just north of
14 the middle of the site.
15

16 d. With the exception of public sewers, all urban services are currently
17 provided to the subject property. The petition was accompanied by comments from
18 relevant service providers, each of whom certified they can provide urban services in an
19 orderly and timely manner. The City of Hillsboro Water Department, the Cornelius Rural
20 Fire Department, the Oregon Department of Transportation and Tri Met took a neutral
21 position regarding the application. The City of Cornelius and the Cornelius Police
22 Department opposed the application due to concerns about negative net tax consequences.
23

24 e. Petitioners propose to maintain and possibly expand the existing mobile
25 home park. They propose to extend public sewers to the subject property to replace the
26 failing septic systems and to eliminate the existing public health hazard.
27

28 2. Metro hearings officer Larry Epstein (the "hearings officer") held a duly noticed
29 public hearing on June 29, 1998 to receive testimony and evidence in the matter of the
30 petition. Three witnesses testified in person, including a staff member from Metro, the
31 petitioner's representative, and a neighbor.

1 **III. SUMMARY OF APPLICABLE STANDARDS AND RESPONSIVE FINDINGS**

2
3 1. A locational adjustment to add land to the UGB must comply with the relevant
4 provisions of Metro Code ("MC") sections 3.01.035(c) and (f). Compliance with two of
5 these standards was not disputed (MC §§ 3.01.035(c)(4) and (c)(5)). The following
6 findings highlight the principal policy issues disputed in the case.

7
8 2. MC § 3.01.035(c)(1) requires the petitioner to show that public facilities can
9 serve the area to be added and that the adjustment results in a net improvement in the
10 efficiency of public facilities and services for land already in the UGB. Petitioners showed
11 that the subject property can be served by the relevant public facilities.

12
13 3. Metro rules do not define how to calculate net efficiency of urban services. The
14 hearings officer concluded the Council has used a two-tiered burden of proof regarding
15 public service efficiencies. When a petition involves property already developed for urban
16 uses and served by public facilities, the Council has required a lesser showing of service
17 efficiencies, presumably because the locational adjustment has relatively little impact.
18 When a petition involves undeveloped property, Council has required a greater showing of
19 service efficiencies, because the locational adjustment would allow a more significant land
20 use change.

21
22 a. In this case, the subject property is developed for urban residential uses
23 (and has been for more than 30 years) and is served by all urban facilities, except sanitary
24 sewers. Therefore the hearings officer applied the lower burden of proof.

25
26 b. The hearings officer found that the locational adjustment marginally
27 increases the efficiency of sewer service, because it allows extension of gravity flow
28 sewers through the site to serve adjacent properties within the UGB. It also facilitates
29 elimination of the existing public health hazard caused by failing septic systems on the
30 subject property.

31
32 4. MC § 3.01.035(c)(2) requires the amendment to facilitate permitted development
33 of adjacent land already in the UGB. The hearings officer found the petition complied with
34 this standard, because including the subject property in the UGB facilitates sewer service to
35 two commercially zoned properties south of the site necessary for permitted development of
36 those parcels.

1 5. MC 3.01.035(c)(3) requires consideration of environmental, energy, social and
2 economic consequences of the petition. It requires that any impact on regional transit
3 corridor development must be positive. It also requires hazards to be addressed.

4
5 a. The hearings officer found that the petition will result in positive
6 environmental impacts by eliminating the existing public health hazard on the subject
7 property and the potential contamination of wetlands and water bodies on and near the site.

8
9 b. The hearings officer found that there are no significant adverse
10 environmental, energy, social or economic consequences of the locational adjustment.

11
12 c. The hearings officer found that, because the subject property is already
13 developed, approval of the petition will have no impact on a regional transit corridor.

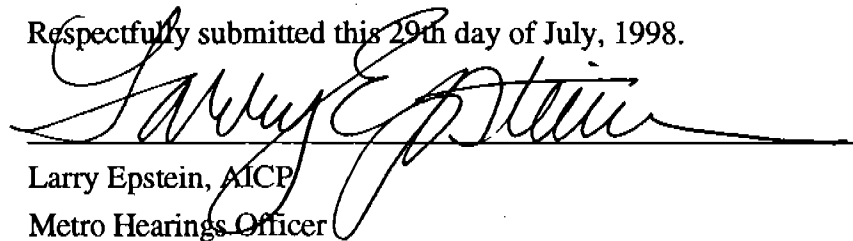
14
15 6. MC § 3.01.035(f)(3) requires a proposed location adjustment to include all
16 similarly situated lands. The hearings officer found that the proposed adjustment includes
17 all similarly situated lands. The subject property is developed with a mobile home park.
18 Adjacent lands are vacant or developed with low density rural residential uses.

19
20 7. MC § 3.01.035(f)(2) requires the proposed UGB to be superior to the existing
21 UGB. The hearings officer found the proposed UGB is superior, because it allows
22 extension of public services to otherwise undevelopable properties within the UGB,
23 recognizes existing urban development and eliminates an existing public health hazard.

24
25 IV. ULTIMATE CONCLUSION AND RECOMMENDATION

26
27 For the foregoing reasons, the hearings officer concludes the petition complies with the
28 relevant approval standards for a locational adjustment adding land to the UGB. Therefore
29 the hearings officer recommends the Metro Council grant the petition, based on this Report
30 and Recommendation and the Findings, Conclusions and Final Order attached hereto.

31
32 Respectfully submitted this 29th day of July, 1998.

33
34 
35 Larry Epstein, AICP
36 Metro Hearings Officer

BEFORE THE METRO COUNCIL

1
2
3 In the matter of the petition of Valley View Mobile Court) FINDINGS,
4 Inc. for a Locational Adjustment to the Urban Growth) CONCLUSIONS &
5 Boundary at 34265 SW Tualatin Valley Hwy. east of the) FINAL ORDER
6 City of Cornelius in unincorporated Washington County) Contested Case No. 98-05
7

8 I. BASIC FACTS, PUBLIC HEARINGS AND THE RECORD

9
10 1. On March 27, 1998, Valley View Mobile Court Inc. ("petitioner") completed
11 filing a petition for a locational adjustment to the Urban Growth Boundary ("UGB"),
12 including Exhibits required by Metro rules for locational adjustments. See Exhibit 1 for the
13 original petition for locational adjustment (the "petition"). The petitioner subsequently
14 revised the petition to exclude lands within the 100-year floodplain. See Exhibits 13, 14
15 and 15. Basic facts about the petition, as revised, include the following:
16

17 a. The land to be added to the UGB is described as portions of Tax Lots
18 500, 590 and 600, Section 19, Tax Map 1N3-35C, Washington County (the "subject
19 property"). It is north of Tualatin Valley Highway ("TV Highway"), south of and abuts
20 the Oregon Electric Railroad right of way and east of the City of Cornelius. The west
21 boundary of the subject property follows the upland boundary of the 100-year floodplain
22 for Job Creek. The UGB forms the south and a small portion of the west edge of the
23 subject property. Moving north, the UGB moves away from the subject property,
24 following the western edge of the 100-year floodplain. Land to the south and west of the
25 subject property is inside the UGB and the City of Cornelius. See Exhibits 1 and 11 for
26 maps showing the subject property.
27

28 b. The subject property is a roughly rectangular-shaped parcel about 1300
29 feet north-south by about 600 to 700 feet east-west. It contains 15.27 acres. It is in an
30 exception area to Statewide Planning Goals 3 and 4. It is designated "Rural/Natural
31 Resource" on the acknowledged Washington County Comprehensive Plan Map and is
32 zoned AF-5 (Agriculture/Forest, 5-acre minimum lot size).
33

34 c. The majority of the subject property is relatively flat with areas of steeper
35 slopes along the west and southwest edges where it slopes down towards Job Creek. A

1 drainage swale extends into the site from the west just north of the middle of the site. See
2 Exhibit 16.

3
4 d. The subject property is currently developed with a 63-unit mobile home
5 park. The mobile home park is currently served by on-site septic systems. Failure of the
6 existing drainfields is creating a public health hazard. The petitioner proposes to extend
7 public sewers to the subject property to replace the existing septic system.

8
9 e. The petition was accompanied by comments from affected jurisdictions
10 and service providers. See Exhibits 1, 2 and 5.

11
12 i. The City of Cornelius opposed the petition, arguing that the cost
13 of extending services to the subject property would exceed any tax benefit received. See
14 Exhibit 2.

15
16 ii. The Washington County Board of Commissioners adopted an
17 order in which it made no recommendation on the merits of the petition. See Exhibit 6.

18
19 iii. The City of Hillsboro Water Department, the Cornelius Rural
20 Fire Department, the Oregon Department of Transportation and Tri Met commented that
21 they currently provide services to the subject property and will continue to do so. Approval
22 of the petition would not improve efficiency of service delivery in the UGB. They took a
23 neutral position in regard to the petition. See Exhibit 15 to the petition, Exhibit 1.

24
25 iv. The Hillsboro School District testified that it was unable to
26 respond to the potential impacts of the petition without further information about potential
27 zoning changes on the subject property. See Exhibit 15 to the petition, Exhibit 1.

28
29 v. The Unified Sewerage Agency of Washington County (“USA”)
30 testified that the subject property is not located within the Agency’s service area, but is
31 located within the drainage basin. It appears the subject property can be served by gravity
32 sewers from an existing sewer line located 700 feet south of the subject property. USA
33 was unable to formulate an opinion regarding the relative efficiency or economic impact of
34 providing services to the subject property. See Exhibit 15 to the petition, Exhibit 1.

1 vi. The Washington County Sheriff's Office commented that it
2 could serve the subject property, and that approval of the petition would improve efficiency
3 of service delivery in the UGB. The Sheriff's Office expressed support for the petition.
4

5 vii. The Cornelius Police Department opposed the petition, citing
6 the City's opposition to annexation.
7

8 2. Metro staff mailed notices of a hearing to consider the petition by certified mail
9 to the owners of property within 500 feet of the subject property, to the petitioner, to
10 Washington County, to the City of Cornelius and to the Department of Land Conservation
11 and Development ("DLCD"). A notice of the hearing also was published in *The Oregonian*
12 at least 10 days before the hearing.
13

14 3. On June 29, 1998, Metro hearings officer Larry Epstein (the "hearings officer")
15 held a public hearing at the Cornelius City Hall to consider the petition. All exhibits and
16 records of testimony have been filed with the Growth Management Services Division of
17 Metro. The hearings officer announced at the beginning of the hearing the rights of
18 persons with an interest in the matter, including the right to request that the hearings officer
19 continue the hearing or hold open the public record, the duty of those persons to testify and
20 to raise all issues to preserve appeal rights, the manner in which the hearing will be
21 conducted, and the applicable approval standards. The hearings officer disclaimed any *ex*
22 *parte* contacts, bias or conflicts of interest. Three witnesses testified in person.
23

24 a. Metro planner Ray Valone verified the contents of the record and
25 summarized the staff report (Exhibit 11), including basic facts about the subject property,
26 the UGB and urban services, and comments from the service providers. He noted the
27 petitioner amended the petition to exclude land in the 100-year floodplain. The western
28 boundary of the subject property follows the upland boundary of the 100-year floodplain
29 and includes 15.27 acres. He testified that the petitioner showed that the proposed
30 locational adjustment, as revised, complies with all of the applicable approval criteria.
31

32 i. He argued that the initial petition to add 19.18 acres to the UGB
33 did not include similarly situated land and therefore did not comply with all of the approval
34 criteria. The subject property as originally proposed included portions of the 100-year
35 floodplain. The floodplain continued offsite to the north and south. These similarly
36 situated contiguous lands should have been included in the petition. The revised the

1 petition excluded all of the 100-year floodplain. Therefore the revised petition does not
2 violate the similarly situated contiguous lands standard.

3
4 b. Attorney Greg Hathaway testified on behalf of the petitioner.

5
6 i. He argued that the petition is consistent with the purpose of the
7 minor amendment process. Adding the subject property to the UGB would allow the
8 property to be rezoned consistent with its existing urban use, allowing the owners to
9 upgrade and improve the existing facilities. The mobile home park is a nonconforming use
10 under the current rural zoning. This limits the scope of improvements which can be made.

11
12 ii. He testified that approval of this petition is necessary to allow
13 development of properties within the existing UGB. The property abutting the south
14 boundary of the site and further south, across the TV Highway, are situated in the existing
15 UGB and zoned for commercial development. Sewer service must be extended through the
16 subject property to serve these properties. He introduced plans showing how gravity
17 sewer service can be extended to serve the site and the properties to the south, Exhibit 16.

18
19 iii. He testified that all necessary public services are or can be
20 provided to the subject property.

21
22 c. Dennis Fogarty, the owner of the property north of the site, across the
23 railroad right of way, questioned the location of the sewer line extension.

24
25 4. On June 29, 1998, the hearings officer filed with the Council a report,
26 recommendation, and draft final order granting the petition for the reasons provided
27 therein. Copies of the report and recommendation were timely mailed to parties of record
28 together with an explanation of rights to file exceptions thereto and notice of the Council
29 hearing to consider the matter.

30
31 5. The Council held a duly noticed public hearing to consider testimony and timely
32 exceptions to the report and recommendation. After considering the testimony and
33 discussion, the Council voted to grant the petition for Contested Case No. 98-05 (Valley
34 View Mobile Court), based on the findings in this final order, the report and
35 recommendation of the hearings officer in this matter, and the public record in this matter.

1 The record includes an audio tape of the public hearing on June 29, 1998 and the Exhibits
2 on the list attached to the final order.

3
4 **II. APPLICABLE APPROVAL STANDARDS AND RESPONSIVE FINDINGS**

5
6 1. Metro Code section 3.01.035(c) contains approval criteria for all locational
7 adjustments. Metro Code section 3.01.035(f) contains additional approval criteria for
8 locational adjustments to add land to the UGB. The relevant criteria from those sections are
9 reprinted below in italic font. Following each criterion are findings explaining how the
10 petition does or does not comply with that criterion.

11
12 *Orderly and economic provisions of public facilities and*
13 *services. A locational adjustment shall result in a net improvement in the*
14 *efficiency of public facilities and services, including but not limited to,*
15 *water, sewerage, storm drainage, transportation, parks and open space in*
16 *the adjoining areas within the UGB; and any area to be added must be*
17 *capable of being served in an orderly and economical fashion.*

18 Metro Code section 3.01.035(c)(1)

19
20 2. The subject property can be served in an orderly and economic manner by public
21 facilities and services, including water, sanitary sewers, roads, storm drainage, transit and
22 emergency services, based on the comments in the record from the service providers.

23
24 3. Metro rules do not define how to calculate net efficiency of urban services. In
25 the absence of such rules, the Council must construe the words in practice. It does so
26 consistent with the manner in which it has construed those words in past locational
27 adjustments. In this case, the Council concludes the locational adjustment results in a net
28 improvement in the efficiency of public services sufficient to comply with Metro Code
29 section 3.01.035(c)(1), based on the following findings:

30
31 a. The subject property is developed with an urban use, a mobile home
32 park. It has urban services connected to and indistinguishable from services inside the
33 UGB, with the exception of sanitary sewers. In the past, where a petition before the
34 Council proposed including developed land with urban services in-place, the Council has
35 imposed a lower burden of proof than where a petition involved undeveloped land without
36 in-place services. For instance, contrast the relevant findings in Council Orders regarding

1 UGB 91-04 (PCC Rock Creek), UGB 91-01 (Dammasch), UGB 88-03 (St. Francis) and
2 UGB 95-01 (Harvey) with corresponding findings in Council Orders regarding UGB 94-
3 01 (Starr/Richards), UGB 90-01 (Wagner) and UGB 88-02 (Mt. Tahoma).

4
5 b. The inclusion of the subject property in the UGB allows those
6 properties to continue to be used for urban purposes. Therefore, at a minimum, it
7 sustains the existing efficiency of urban services to the site and adjoining land
8 already in the UGB.

9
10 c. In addition, including the subject property in the UGB increases the net
11 efficiency of sewer service, because it enables the petitioners to extend sanitary sewers
12 through the site to serve abutting commercially zoned properties, located within the existing
13 UGB. The lack of sewer service prevents efficient development of these properties.

14
15 d. Including the subject property in the UGB is necessary to allow
16 extension of public sewers to serve the subject property and eliminate the existing public
17 health hazard caused by failing septic systems.

18
19 *Maximum efficiency of land uses. The amendment shall facilitate*
20 *needed development on adjacent existing urban land. Needed development,*
21 *for the purposes of this section, shall mean consistent with the local*
22 *comprehensive plan and/or applicable regional plans.*

23 Metro Code section 3.01.035(c)(2)

24
25 4. Including the subject property in the UGB facilitates development on adjacent
26 existing urban land consistent with the local comprehensive plan, because it allows
27 development of the adjacent commercially zoned properties south of the site, within the
28 existing UGB, using public sewers and gravity flow.

29
30 *Environmental, energy, social & economic consequences. Any*
31 *impact on regional transit corridor development must be positive and any*
32 *limitations imposed by the presence of hazard or resource lands must be*
33 *addressed. Metro Code section 3.01.035(c)(3)*

1 5. The Council has considered economic, energy, social and environmental
2 impacts of including the subject property in the UGB, and concludes that it will not have
3 adverse economic, energy, social or environmental impact, because:

4
5 a. Including the land in the UGB results in a positive economic impact by
6 allowing the historic residential use of the property to continue, benefiting the property
7 owners, the existing residents and the business community serving the residents of the
8 subject property. In addition, extension of sewer service to the subject property would be
9 significantly less expensive than alternative methods of eliminating the existing public
10 health hazard. It may also result in significant cost savings for the property owners,
11 residents and public agencies through eliminating of site cleanup and treatment costs due to
12 failure of the on-site septic systems.

13
14 b. Including the land in the UGB results in positive energy impacts,
15 because the land is served by public transit and is developed with existing infrastructure.

16
17 c. Including the land in the UGB results in positive social impacts, because
18 it allows retention and possible expansion of existing low income housing.

19
20 d. Including the land in the UGB results in positive environmental impacts,
21 because it makes it feasible to remedy the existing public health hazard posed by the failing
22 septic systems on the subject property. It also prevents potential future hazards from
23 failing septic systems.

24
25 e. Because the subject property is already developed, approval of the
26 petition will have no impact on regional transit corridor development.

27
28 *Retention of agricultural land. When a petitioner includes land with*
29 *Agricultural Class I-IV soils designated in the applicable comprehensive*
30 *plan for farm or forest use, the petition shall not be approved unless it is*
31 *factually demonstrated that:*

32
33 (A) *Retention of any agricultural land would preclude urbanization of an*
34 *adjacent area already inside the UGB, or*

1 (B) *Retention of the agricultural land would make the provision of urban*
2 *services to an adjacent area inside the UGB impracticable. Metro Code*
3 *section 3.03.035(c)(4)*
4

5 6. The subject property contains Class II, III and IV soils. However the subject
6 property and surrounding properties are zoned AF-5 by Washington County. This is not
7 considered an exclusive farm or forest use designation. Therefore Council finds this
8 criterion does not apply.
9

10 *Compatibility of proposed urban uses with nearby agricultural*
11 *activities. When a proposed adjustment would allow an urban use in*
12 *proximity to existing agricultural activities, the justification in terms of this*
13 *subsection must clearly outweigh the adverse impact of any incompatibility.*
14 Metro Code section 3.01.035(c)(5)
15

16 7. There are limited agricultural activities on adjacent lands to the north and east of
17 the subject property. However the subject property has been used as a mobile home park
18 for several years without any significant conflicts with agricultural activities. The Council
19 finds, based on the historic lack of conflict between the existing urban development and the
20 existing agricultural uses, that urban development on the subject property will not have a
21 significant adverse impact on existing agricultural activities.
22

23 *Superiority. [T]he proposed UGB must be superior to the UGB as*
24 *presently located based on a consideration of the factors in subsection (c) of*
25 *this section. Metro Code section 3.01.035(f)(2)*
26

27 8. Council finds that the proposed UGB would be superior to the UGB as
28 presently located, because:
29

30 a. Public sanitary sewer could be provided to the subject site and land
31 already within the UGB, allowing development of land within the existing UGB and
32 eliminating an existing public health hazard.
33

34 b. The amended UGB would better reflect the historic urban use of the
35 subject property as a mobile home park.
36

1 *Similarly situated land. The proposed UGB amendment must include*
2 *all similarly situated contiguous land which could also be appropriately*
3 *included within the UGB as an addition based on the factors above. Metro*
4 *Code section 3.01.035(f)(3)*
5

6 9. The subject property is developed with an urban use, a 63-unit mobile home
7 park. Adjacent lands are vacant or developed with low density rural uses. See Exhibit 17.
8 Therefore the Council concludes there is no similarly situated property which could also be
9 appropriately included within the UGB based on the factors above.

10
11 **III. CONCLUSIONS**
12

13 Based on the foregoing findings, the Council adopts the following conclusions.
14

15 1. Public services and facilities, including water, sewer, storm drainage,
16 transportation, transit and police and fire protection, can be provided to the site in an
17 orderly and economical fashion.
18

19 2. Addition of the site would result in a slight improvement in the efficiency of
20 public sewer services, because the public sewer system can be extended to serve the subject
21 property and adjoining land already in the UGB. Extension of public sewers would also
22 eliminate an existing public health hazard.
23

24 3. The locational adjustment facilitates development of land within the UGB
25 consistent with the Cornelius Comprehensive Plan and land use regulations by providing
26 sewer service to adjacent properties within the UGB.
27

28 4. The locational adjustment will have no impact on regional transit corridor
29 development and will not have significant adverse energy, social and environmental
30 consequences.
31

32 5. The subject property does not include agricultural land, and the existing urban
33 uses do not conflict with existing agricultural activities. Therefore the location adjustment
34 will not remove agricultural land nor conflict with agricultural activities on nearby land.
35

ATTACHMENT "A" TO THE FINAL ORDER
IN THE MATTER OF CONTESTED CASE 98-05 :
EXHIBITS

Exhibit No. Subject matter

- 1.....Petition for locational adjustment and cover letter dated March 12, 1998
- 2.....Comment from John Greiner, City of Cornelius dated February 26, 1998
- 3.....Letter from Ray Valone to John Greiner dated March 2, 1998
- 4.....Washington County Planning Commission staff report dated March 10, 1998
- 5.....Notice of incomplete application dated March 25, 1998
- 6.....Letter from Brent Curtis, Washington County dated March 25, 1998
- 7.....Fax from Ryan O'Brien, LDC, dated March 26, 1998
- 8.....Notice of complete application dated March 27, 1998
- 9.....DLCD Notice of Proposed Amendment dated May 14, 1998
- 10.....Washington County staff report re Exception dated June 17, 1998
- 11.....Metro Staff Report dated June 19, 1998 with attachments
- 12.....Letter from Ralph Brown, Cornelius Mayor, dated June 17, 1998
- 13.....Letter from Ryan O'Brien, LDC, dated June 24, 1998
- 14.....Flood plain delineation dated June 1, 1998
- 15.....Letter from Ryan O'Brien, LDC, dated June 29, 1998
- 16.....Valley View Mobile Court Sewer Line Extension Plans
- 17.....Aerial photograph

STAFF REPORT

CONSIDERATION OF ORDINANCE NO. 98-774 APPROVING URBAN GROWTH BOUNDARY LOCATIONAL ADJUSTMENT CASE 98-5: VALLEY VIEW, AND ADOPTING HEARING OFFICER'S REPORT INCLUDING FINDINGS AND CONCLUSIONS

Date: September 24, 1998

Presented by: Larry Epstein, Hearings Officer
Prepared by: Ray Valone, Growth Management

PROPOSED ACTION

Adoption of Ordinance 98-774, approving *Case 98-5: Valley View*, a locational adjustment to the urban growth boundary (UGB).

BACKGROUND AND ANALYSIS

On March 27, 1998, Valley View Mobile Court, Inc. completed filing a petition for a 19.18-acre locational adjustment to the UGB for the purpose of allowing the existing mobile home park to connect to public sanitary sewer service. The petitioner subsequently revised the original petition to exclude land within the 100-year floodplain, reducing the request to 15.27 acres.

Proposal Description:

The proposal is to adjust the UGB to include 15.27 acres of land, located north of Tualatin Valley Highway and immediately east of the City of Cornelius (Attachment 1). The site is exception land and zoned Washington County AF-5 (Agricultural & Forest, 5 acre minimum lot size). It is currently developed as a 63-unit mobile home park.

The petitioner proposes to adjust the UGB for the purpose of allowing the existing mobile home park to connect to public sanitary sewer service. The onsite septic system is failing and it has been determined to be a public health hazard by the Washington County Department of Health and Human Services.

The Hearing Officer

Hearings Officer Recommendation and Proposed Findings

The Hearing Officer, Larry Epstein, conducted a public hearing at the Cornelius City Hall on June 29, 1998. He submitted a report and recommendation to Metro on July 29, 1998, recommending approval of the revised petition (Attachment 2).

The Hearing Officer finds that the criteria for a locational adjustment to the UGB as contained in Metro Code 3.01.035 are met by the petitioner. These criteria include: 1) Locational adjustments shall not exceed 20 net acres; 2) The site can be served with public facilities and services in an orderly and economic manner, and the adjustment would result in a net improvement in their efficiency; 3) The amendment would facilitate needed development on adjacent existing urban land; 4) The environmental, energy, economic and social consequences of amending the UGB have been considered; 5) The proposed use would be compatible with nearby agricultural activities; 6) The proposed UGB location would be superior

to the existing UGB location; and 7) The proposed adjustment must include all similarly situated contiguous land which could also be appropriately included within the UGB.

FINDINGS

The Hearing Officer recommends adoption of Ordinance 98-xxx based upon the findings and conclusions in his report that:

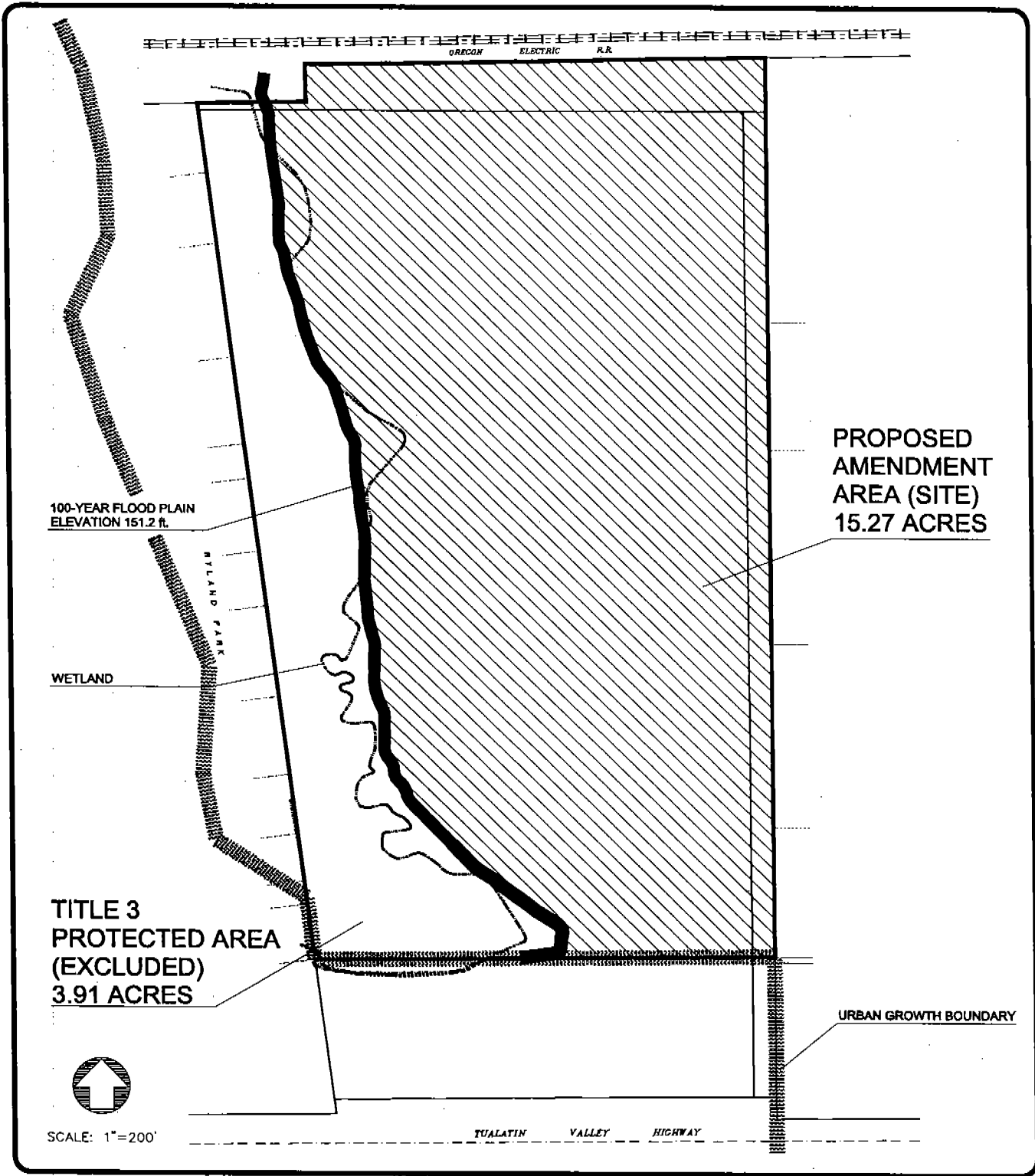
- All application and noticing requirements are met.
- A public hearing was conducted according the requirements and rules of Metro Code 3.01.050 and 3.01.055.
- The criteria for a locational adjustment to the UGB contained in Metro Code 3.01.035 are met by the petitioner.

The case record contains the petitioner submittals, Metro staff report, notification lists, relevant correspondence and the Hearing Officer's report. The complete list is included as part of the Hearing Officer's report.

BUDGET IMPACT

There is no budget impact from adopting this ordinance.

I:\GM\UGBadmt.98\98-5,ValleyViewMCstaffrpt



SCALE: 1"=200'

PREPARED FOR:

Jerry Davis
 34265 S.W. T.V. Highway
 Hillsboro, Oregon 97123
 ph: (503) 648-7826

CONSULTING ENGINEERS
 LANDSCAPE ARCHITECTS
 LAND SURVEYORS

LDC DESIGN GROUP

233 S.E. WASHINGTON ST.
 HILLSBORO, OREGON 97123
 PH: (503) 648-4061
 FAX: 503 - 681-7546
 EMAIL: lrd@lrd-1.net

DRAWING TITLE:

**Valley View Mobile Court
 100-Year Floodplain Map
 Tax Map 1N3-35C
 Washington County, Oregon**

CADD File: 2223flood, plotted 6/29/98 by CEB

JOB NO.: **2223**

DRAWING NO.
1 of **1**

BEFORE THE METRO COUNCIL

1
2
3 In the matter of the petition of Valley View Mobile Court) HEARINGS OFFICER'S
4 Inc. for a Locational Adjustment to the Urban Growth) REPORT AND
5 Boundary at 34265 SW Tualatin Valley Hwy. east of the) RECOMMENDATION
6 City of Cornelius in unincorporated Washington County) Contested Case No. 98-05
7

I. INTRODUCTION

8
9
10 This report contains a summary of the findings the hearings officer recommends to
11 the Metro Council regarding a petition for a locational adjustment to the Urban Growth
12 Boundary ("UGB"). The petition raises the following major issues:
13

- 14 • Whether the petitioners bore the burden of proof that including the proposed
15 developable area in the UGB increases the efficiency of service to land already in the UGB;
16
- 17 • Whether the petition includes all similarly situated lands;
18
- 19 • Whether granting the petition results in a superior UGB; and
20
- 21 • Whether petitioners bore the burden of proof that granting the petition will not
22 result in adverse environmental, energy, economic or social consequences.
23

II. SUMMARY OF BASIC FACTS

24
25
26 1. On April 23, 1998, Valley View Mobile Court ("petitioners") completed filing a
27 petition for a locational adjustment to the UGB. The amended petition proposes to add to
28 the UGB a 15.27-acre parcel identified as portions of tax lots 500, 590 and 600 (the
29 "subject property"). It is now situated in unincorporated Washington County. If included
30 in the UGB, the subject property could be annexed to the City of Cornelius or remain in
31 unincorporated Washington County.
32

33 a. The subject property is north of the Tualatin Valley Highway, east of the
34 City of Cornelius and south of the Oregon Electric Railroad right of way. Land already in
35 the UGB (in Cornelius) abuts the south boundary of the property and a small portion of the
36 west boundary.

1 b. The Washington County Comprehensive Plan designation for the subject
2 property is Rural/Natural Resource. It is zoned AF-5 (Agriculture/Forest, 5-acre minimum
3 lot size). The subject property is in an exception area to Statewide Goals 3 and 4. Adjoin-
4 ing land to the south in the City of Cornelius is designated and zoned for commercial use.
5 Land to the west, also in the City of Cornelius, is designated and zoned for residential use.

6
7 c. The subject property is currently developed with a 63-unit mobile home
8 park. The mobile home park is currently served by on-site septic systems that have failed.
9 Failure of the existing drainfields is creating a public health hazard.

10
11 d. The majority of the subject property is relatively flat with areas of steeper
12 slopes along the west and southwest edges where it slopes down towards the Job Creek
13 floodplain. In addition, a drainage swale extends into the site from the west just north of
14 the middle of the site.

15
16 d. With the exception of public sewers, all urban services are currently
17 provided to the subject property. The petition was accompanied by comments from
18 relevant service providers, each of whom certified they can provide urban services in an
19 orderly and timely manner. The City of Hillsboro Water Department, the Cornelius Rural
20 Fire Department, the Oregon Department of Transportation and Tri Met took a neutral
21 position regarding the application. The City of Cornelius and the Cornelius Police
22 Department opposed the application due to concerns about negative net tax consequences.

23
24 e. Petitioners propose to maintain and possibly expand the existing mobile
25 home park. They propose to extend public sewers to the subject property to replace the
26 failing septic systems and to eliminate the existing public health hazard.

27
28 2. Metro hearings officer Larry Epstein (the "hearings officer") held a duly noticed
29 public hearing on June 29, 1998 to receive testimony and evidence in the matter of the
30 petition. Three witnesses testified in person, including a staff member from Metro, the
31 petitioner's representative, and a neighbor.

1 **III. SUMMARY OF APPLICABLE STANDARDS AND RESPONSIVE FINDINGS**

2
3 1. A locational adjustment to add land to the UGB must comply with the relevant
4 provisions of Metro Code ("MC") sections 3.01.035(c) and (f). Compliance with two of
5 these standards was not disputed (MC §§ 3.01.035(c)(4) and (c)(5)). The following
6 findings highlight the principal policy issues disputed in the case.

7
8 2. MC § 3.01.035(c)(1) requires the petitioner to show that public facilities can
9 serve the area to be added and that the adjustment results in a net improvement in the
10 efficiency of public facilities and services for land already in the UGB. Petitioners showed
11 that the subject property can be served by the relevant public facilities.

12
13 3. Metro rules do not define how to calculate net efficiency of urban services. The
14 hearings officer concluded the Council has used a two-tiered burden of proof regarding
15 public service efficiencies. When a petition involves property already developed for urban
16 uses and served by public facilities, the Council has required a lesser showing of service
17 efficiencies, presumably because the locational adjustment has relatively little impact.
18 When a petition involves undeveloped property, Council has required a greater showing of
19 service efficiencies, because the locational adjustment would allow a more significant land
20 use change.

21
22 a. In this case, the subject property is developed for urban residential uses
23 (and has been for more than 30 years) and is served by all urban facilities, except sanitary
24 sewers. Therefore the hearings officer applied the lower burden of proof.

25
26 b. The hearings officer found that the locational adjustment marginally
27 increases the efficiency of sewer service, because it allows extension of gravity flow
28 sewers through the site to serve adjacent properties within the UGB. It also facilitates
29 elimination of the existing public health hazard caused by failing septic systems on the
30 subject property.

31
32 4. MC § 3.01.035(c)(2) requires the amendment to facilitate permitted development
33 of adjacent land already in the UGB. The hearings officer found the petition complied with
34 this standard, because including the subject property in the UGB facilitates sewer service to
35 two commercially zoned properties south of the site necessary for permitted development of
36 those parcels.

1 5. MC 3.01.035(c)(3) requires consideration of environmental, energy, social and
2 economic consequences of the petition. It requires that any impact on regional transit
3 corridor development must be positive. It also requires hazards to be addressed.

4
5 a. The hearings officer found that the petition will result in positive
6 environmental impacts by eliminating the existing public health hazard on the subject
7 property and the potential contamination of wetlands and water bodies on and near the site.

8
9 b. The hearings officer found that there are no significant adverse
10 environmental, energy, social or economic consequences of the locational adjustment.

11
12 c. The hearings officer found that, because the subject property is already
13 developed, approval of the petition will have no impact on a regional transit corridor.

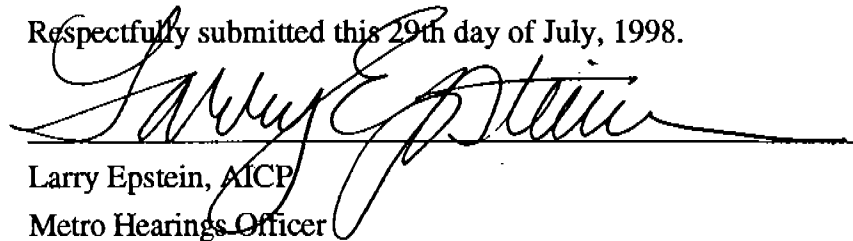
14
15 6. MC § 3.01.035(f)(3) requires a proposed location adjustment to include all
16 similarly situated lands. The hearings officer found that the proposed adjustment includes
17 all similarly situated lands. The subject property is developed with a mobile home park.
18 Adjacent lands are vacant or developed with low density rural residential uses.

19
20 7. MC § 3.01.035(f)(2) requires the proposed UGB to be superior to the existing
21 UGB. The hearings officer found the proposed UGB is superior, because it allows
22 extension of public services to otherwise undevelopable properties within the UGB,
23 recognizes existing urban development and eliminates an existing public health hazard.

24
25 IV. ULTIMATE CONCLUSION AND RECOMMENDATION

26
27 For the foregoing reasons, the hearings officer concludes the petition complies with the
28 relevant approval standards for a locational adjustment adding land to the UGB. Therefore
29 the hearings officer recommends the Metro Council grant the petition, based on this Report
30 and Recommendation and the Findings, Conclusions and Final Order attached hereto.

31
32 Respectfully submitted this 29th day of July, 1998.

33
34 
35 Larry Epstein, AICP
36 Metro Hearings Officer

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BEFORE THE METRO COUNCIL

In the matter of the petition of Valley View Mobile Court) FINDINGS,
Inc. for a Locational Adjustment to the Urban Growth) CONCLUSIONS &
Boundary at 34265 SW Tualatin Valley Hwy. east of the) FINAL ORDER
City of Cornelius in unincorporated Washington County) Contested Case No. 98-05

I. BASIC FACTS, PUBLIC HEARINGS AND THE RECORD.

1. On March 27, 1998, Valley View Mobile Court Inc. ("petitioner") completed filing a petition for a locational adjustment to the Urban Growth Boundary ("UGB"), including Exhibits required by Metro rules for locational adjustments. See Exhibit 1 for the original petition for locational adjustment (the "petition"). The petitioner subsequently revised the petition to exclude lands within the 100-year floodplain. See Exhibits 13, 14 and 15. Basic facts about the petition, as revised, include the following:

a. The land to be added to the UGB is described as portions of Tax Lots 500, 590 and 600, Section 19, Tax Map 1N3-35C, Washington County (the "subject property"). It is north of Tualatin Valley Highway ("TV Highway"), south of and abuts the Oregon Electric Railroad right of way and east of the City of Cornelius. The west boundary of the subject property follows the upland boundary of the 100-year floodplain for Job Creek. The UGB forms the south and a small portion of the west edge of the subject property. Moving north, the UGB moves away from the subject property, following the western edge of the 100-year floodplain. Land to the south and west of the subject property is inside the UGB and the City of Cornelius. See Exhibits 1 and 11 for maps showing the subject property.

b. The subject property is a roughly rectangular-shaped parcel about 1300 feet north-south by about 600 to 700 feet east-west. It contains 15.27 acres. It is in an exception area to Statewide Planning Goals 3 and 4. It is designated "Rural/Natural Resource" on the acknowledged Washington County Comprehensive Plan Map and is zoned AF-5 (Agriculture/Forest, 5-acre minimum lot size).

c. The majority of the subject property is relatively flat with areas of steeper slopes along the west and southwest edges where it slopes down towards Job Creek. A

1 drainage swale extends into the site from the west just north of the middle of the site. See
2 Exhibit 16.

3
4 d. The subject property is currently developed with a 63-unit mobile home
5 park. The mobile home park is currently served by on-site septic systems. Failure of the
6 existing drainfields is creating a public health hazard. The petitioner proposes to extend
7 public sewers to the subject property to replace the existing septic system.

8
9 e. The petition was accompanied by comments from affected jurisdictions
10 and service providers. See Exhibits 1, 2 and 5.

11
12 i. The City of Cornelius opposed the petition, arguing that the cost
13 of extending services to the subject property would exceed any tax benefit received. See
14 Exhibit 2.

15
16 ii. The Washington County Board of Commissioners adopted an
17 order in which it made no recommendation on the merits of the petition. See Exhibit 6.

18
19 iii. The City of Hillsboro Water Department, the Cornelius Rural
20 Fire Department, the Oregon Department of Transportation and Tri Met commented that
21 they currently provide services to the subject property and will continue to do so. Approval
22 of the petition would not improve efficiency of service delivery in the UGB. They took a
23 neutral position in regard to the petition. See Exhibit 15 to the petition, Exhibit 1.

24
25 iv. The Hillsboro School District testified that it was unable to
26 respond to the potential impacts of the petition without further information about potential
27 zoning changes on the subject property. See Exhibit 15 to the petition, Exhibit 1.

28
29 v. The Unified Sewerage Agency of Washington County (“USA”)
30 testified that the subject property is not located within the Agency’s service area, but is
31 located within the drainage basin. It appears the subject property can be served by gravity
32 sewers from an existing sewer line located 700 feet south of the subject property. USA
33 was unable to formulate an opinion regarding the relative efficiency or economic impact of
34 providing services to the subject property. See Exhibit 15 to the petition, Exhibit 1.

1 vi. The Washington County Sheriff's Office commented that it
2 could serve the subject property, and that approval of the petition would improve efficiency
3 of service delivery in the UGB. The Sheriff's Office expressed support for the petition.
4

5 vii. The Cornelius Police Department opposed the petition, citing
6 the City's opposition to annexation.
7

8 2. Metro staff mailed notices of a hearing to consider the petition by certified mail
9 to the owners of property within 500 feet of the subject property, to the petitioner, to
10 Washington County, to the City of Cornelius and to the Department of Land Conservation
11 and Development ("DLCD"). A notice of the hearing also was published in *The Oregonian*
12 at least 10 days before the hearing.
13

14 3. On June 29, 1998, Metro hearings officer Larry Epstein (the "hearings officer")
15 held a public hearing at the Cornelius City Hall to consider the petition. All exhibits and
16 records of testimony have been filed with the Growth Management Services Division of
17 Metro. The hearings officer announced at the beginning of the hearing the rights of
18 persons with an interest in the matter, including the right to request that the hearings officer
19 continue the hearing or hold open the public record, the duty of those persons to testify and
20 to raise all issues to preserve appeal rights, the manner in which the hearing will be
21 conducted, and the applicable approval standards. The hearings officer disclaimed any *ex*
22 *parte* contacts, bias or conflicts of interest. Three witnesses testified in person.
23

24 a. Metro planner Ray Valone verified the contents of the record and
25 summarized the staff report (Exhibit 11), including basic facts about the subject property,
26 the UGB and urban services, and comments from the service providers. He noted the
27 petitioner amended the petition to exclude land in the 100-year floodplain. The western
28 boundary of the subject property follows the upland boundary of the 100-year floodplain
29 and includes 15.27 acres. He testified that the petitioner showed that the proposed
30 locational adjustment, as revised, complies with all of the applicable approval criteria.
31

32 i. He argued that the initial petition to add 19.18 acres to the UGB
33 did not include similarly situated land and therefore did not comply with all of the approval
34 criteria. The subject property as originally proposed included portions of the 100-year
35 floodplain. The floodplain continued offsite to the north and south. These similarly
36 situated contiguous lands should have been included in the petition. The revised the

1 petition excluded all of the 100-year floodplain. Therefore the revised petition does not
2 violate the similarly situated contiguous lands standard.

3
4 b. Attorney Greg Hathaway testified on behalf of the petitioner.

5
6 i. He argued that the petition is consistent with the purpose of the
7 minor amendment process. Adding the subject property to the UGB would allow the
8 property to be rezoned consistent with its existing urban use, allowing the owners to
9 upgrade and improve the existing facilities. The mobile home park is a nonconforming use
10 under the current rural zoning. This limits the scope of improvements which can be made.

11
12 ii. He testified that approval of this petition is necessary to allow
13 development of properties within the existing UGB. The property abutting the south
14 boundary of the site and further south, across the TV Highway, are situated in the existing
15 UGB and zoned for commercial development. Sewer service must be extended through the
16 subject property to serve these properties. He introduced plans showing how gravity
17 sewer service can be extended to serve the site and the properties to the south, Exhibit 16.

18
19 iii. He testified that all necessary public services are or can be
20 provided to the subject property.

21
22 c. Dennis Fogarty, the owner of the property north of the site, across the
23 railroad right of way, questioned the location of the sewer line extension.

24
25 4. On June 29, 1998, the hearings officer filed with the Council a report,
26 recommendation, and draft final order granting the petition for the reasons provided
27 therein. Copies of the report and recommendation were timely mailed to parties of record
28 together with an explanation of rights to file exceptions thereto and notice of the Council
29 hearing to consider the matter.

30
31 5. The Council held a duly noticed public hearing to consider testimony and timely
32 exceptions to the report and recommendation. After considering the testimony and
33 discussion, the Council voted to grant the petition for Contested Case No. 98-05 (Valley
34 View Mobile Court), based on the findings in this final order, the report and
35 recommendation of the hearings officer in this matter, and the public record in this matter.

1 The record includes an audio tape of the public hearing on June 29, 1998 and the Exhibits
2 on the list attached to the final order.

3
4 **II. APPLICABLE APPROVAL STANDARDS AND RESPONSIVE FINDINGS**

5
6 1. Metro Code section 3.01.035(c) contains approval criteria for all locational
7 adjustments. Metro Code section 3.01.035(f) contains additional approval criteria for
8 locational adjustments to add land to the UGB. The relevant criteria from those sections are
9 reprinted below in italic font. Following each criterion are findings explaining how the
10 petition does or does not comply with that criterion.

11
12 *Orderly and economic provisions of public facilities and*
13 *services. A locational adjustment shall result in a net improvement in the*
14 *efficiency of public facilities and services, including but not limited to,*
15 *water, sewerage, storm drainage, transportation, parks and open space in*
16 *the adjoining areas within the UGB; and any area to be added must be*
17 *capable of being served in an orderly and economical fashion.*

18 Metro Code section 3.01.035(c)(1)

19
20 2. The subject property can be served in an orderly and economic manner by public
21 facilities and services, including water, sanitary sewers, roads, storm drainage, transit and
22 emergency services, based on the comments in the record from the service providers.

23
24 3. Metro rules do not define how to calculate net efficiency of urban services. In
25 the absence of such rules, the Council must construe the words in practice. It does so
26 consistent with the manner in which it has construed those words in past locational
27 adjustments. In this case, the Council concludes the locational adjustment results in a net
28 improvement in the efficiency of public services sufficient to comply with Metro Code
29 section 3.01.035(c)(1), based on the following findings:

30
31 a. The subject property is developed with an urban use, a mobile home
32 park. It has urban services connected to and indistinguishable from services inside the
33 UGB, with the exception of sanitary sewers. In the past, where a petition before the
34 Council proposed including developed land with urban services in-place, the Council has
35 imposed a lower burden of proof than where a petition involved undeveloped land without
36 in-place services. For instance, contrast the relevant findings in Council Orders regarding

1 UGB 91-04 (PCC Rock Creek), UGB 91-01 (Dammasch), UGB 88-03 (St. Francis) and
2 UGB 95-01 (Harvey) with corresponding findings in Council Orders regarding UGB 94-
3 01 (Starr/Richards), UGB 90-01 (Wagner) and UGB 88-02 (Mt. Tahoma).

4
5 b. The inclusion of the subject property in the UGB allows those
6 properties to continue to be used for urban purposes. Therefore, at a minimum, it
7 sustains the existing efficiency of urban services to the site and adjoining land
8 already in the UGB.

9
10 c. In addition, including the subject property in the UGB increases the net
11 efficiency of sewer service, because it enables the petitioners to extend sanitary sewers
12 through the site to serve abutting commercially zoned properties, located within the existing
13 UGB. The lack of sewer service prevents efficient development of these properties.

14
15 d. Including the subject property in the UGB is necessary to allow
16 extension of public sewers to serve the subject property and eliminate the existing public
17 health hazard caused by failing septic systems.

18
19 *Maximum efficiency of land uses. The amendment shall facilitate*
20 *needed development on adjacent existing urban land. Needed development,*
21 *for the purposes of this section, shall mean consistent with the local*
22 *comprehensive plan and/or applicable regional plans.*

23 Metro Code section 3.01.035(c)(2)

24
25 4. Including the subject property in the UGB facilitates development on adjacent
26 existing urban land consistent with the local comprehensive plan, because it allows
27 development of the adjacent commercially zoned properties south of the site, within the
28 existing UGB, using public sewers and gravity flow.

29
30 *Environmental, energy, social & economic consequences. Any*
31 *impact on regional transit corridor development must be positive and any*
32 *limitations imposed by the presence of hazard or resource lands must be*
33 *addressed. Metro Code section 3.01.035(c)(3)*

1 5. The Council has considered economic, energy, social and environmental
2 impacts of including the subject property in the UGB, and concludes that it will not have
3 adverse economic, energy, social or environmental impact, because:

4
5 a. Including the land in the UGB results in a positive economic impact by
6 allowing the historic residential use of the property to continue, benefiting the property
7 owners, the existing residents and the business community serving the residents of the
8 subject property. In addition, extension of sewer service to the subject property would be
9 significantly less expensive than alternative methods of eliminating the existing public
10 health hazard. It may also result in significant cost savings for the property owners,
11 residents and public agencies through eliminating of site cleanup and treatment costs due to
12 failure of the on-site septic systems.

13
14 b. Including the land in the UGB results in positive energy impacts,
15 because the land is served by public transit and is developed with existing infrastructure.

16
17 c. Including the land in the UGB results in positive social impacts, because
18 it allows retention and possible expansion of existing low income housing.

19
20 d. Including the land in the UGB results in positive environmental impacts,
21 because it makes it feasible to remedy the existing public health hazard posed by the failing
22 septic systems on the subject property. It also prevents potential future hazards from
23 failing septic systems.

24
25 e. Because the subject property is already developed, approval of the
26 petition will have no impact on regional transit corridor development.

27
28 ***Retention of agricultural land. When a petitioner includes land with***
29 ***Agricultural Class I-IV soils designated in the applicable comprehensive***
30 ***plan for farm or forest use, the petition shall not be approved unless it is***
31 ***factually demonstrated that:***

32
33 ***(A) Retention of any agricultural land would preclude urbanization of an***
34 ***adjacent area already inside the UGB, or***

1 ***(B) Retention of the agricultural land would make the provision of urban***
2 ***services to an adjacent area inside the UGB impracticable. Metro Code***
3 ***section 3.03.035(c)(4)***
4

5 6. The subject property contains Class II, III and IV soils. However the subject
6 property and surrounding properties are zoned AF-5 by Washington County. This is not
7 considered an exclusive farm or forest use designation. Therefore Council finds this
8 criterion does not apply.
9

10 ***Compatibility of proposed urban uses with nearby agricultural***
11 ***activities. When a proposed adjustment would allow an urban use in***
12 ***proximity to existing agricultural activities, the justification in terms of this***
13 ***subsection must clearly outweigh the adverse impact of any incompatibility.***
14 ***Metro Code section 3.01.035(c)(5)***
15

16 7. There are limited agricultural activities on adjacent lands to the north and east of
17 the subject property. However the subject property has been used as a mobile home park
18 for several years without any significant conflicts with agricultural activities. The Council
19 finds, based on the historic lack of conflict between the existing urban development and the
20 existing agricultural uses, that urban development on the subject property will not have a
21 significant adverse impact on existing agricultural activities.
22

23 ***Superiority. [T]he proposed UGB must be superior to the UGB as***
24 ***presently located based on a consideration of the factors in subsection (c) of***
25 ***this section. Metro Code section 3.01.035(f)(2)***
26

27 8. Council finds that the proposed UGB would be superior to the UGB as
28 presently located, because:
29

30 a. Public sanitary sewer could be provided to the subject site and land
31 already within the UGB, allowing development of land within the existing UGB and
32 eliminating an existing public health hazard.
33

34 b. The amended UGB would better reflect the historic urban use of the
35 subject property as a mobile home park.
36

ATTACHMENT "A" TO THE FINAL ORDER
IN THE MATTER OF CONTESTED CASE 98-05 :
EXHIBITS

Exhibit No. Subject matter

- 1.....Petition for locational adjustment and cover letter dated March 12, 1998
- 2.....Comment from John Greiner, City of Cornelius dated February 26, 1998
- 3.....Letter from Ray Valone to John Greiner dated March 2, 1998
- 4.....Washington County Planning Commission staff report dated March 10, 1998
- 5.....Notice of incomplete application dated March 25, 1998
- 6.....Letter from Brent Curtis, Washington County dated March 25, 1998
- 7.....Fax from Ryan O'Brien, LDC, dated March 26, 1998
- 8.....Notice of complete application dated March 27, 1998
- 9.....DLCD Notice of Proposed Amendment dated May 14, 1998
- 10.....Washington County staff report re Exception dated June 17, 1998
- 11.....Metro Staff Report dated June 19, 1998 with attachments
- 12.....Letter from Ralph Brown, Cornelius Mayor, dated June 17, 1998
- 13.....Letter from Ryan O'Brien, LDC, dated June 24, 1998
- 14.....Flood plain delineation dated June 1, 1998
- 15.....Letter from Ryan O'Brien, LDC, dated June 29, 1998
- 16.....Valley View Mobile Court Sewer Line Extension Plans
- 17.....Aerial photograph

CHRIS - PLEASE MAIL MC AGENDA PACKET FOR UGB
CASE 98-5 TO THE FOUR PARTIES CIRCLED BELOW
THANKS,
Riq V

PARTIES TO THE CASE
UGB CASE 98-5: Valley View

Jerry & Hilja Davis
34265 SW Tualatin Valley Hwy
Hillsboro, OR 97123

Ryan O'Brien
LDC Design Group
233 SE SE Washington Street
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