

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPROVING) ORDINANCE NO 98-777
URBAN GROWTH BOUNDARY)
LOCATIONAL ADJUSTMENT CASE) By Order of the Metro Council
98-2; DENNIS DERBY AND ADOPTING)
FINDINGS AND CONCLUSIONS)

WHEREAS, Metro received a petition for a locational adjustment for 14.84 acres located southwest of the intersection of Stafford and Rosemont roads in unincorporated Clackamas County, as shown on Exhibit A; and

WHEREAS, Metro staff reviewed and analyzed the petition, and completed a written report to the Hearings Officer, recommending denial of the petition; and

WHEREAS, Metro held a hearing to consider the petition on June 24, 1998, conducted by an independent Hearings Officer; and

WHEREAS, The Hearings Officer submitted his report on July 24, 1998, recommending denial of the petition for 14.84 acres; and

WHEREAS, the applicant filed timely exceptions to the Hearings Officer's report recommendation; and

WHEREAS, the Council, after hearing the Report and Recommendations and the exceptions thereto, moved unanimously to direct the Office of General Counsel to prepare findings and conclusions to support a decision to approve the application based on the exceptions filed by the applicant; and

WHEREAS, the Office of General Counsel has prepared the Findings and Conclusions attached hereto as Exhibit B, now, therefore:

THE METRO COUNCIL HEREBY ORDAINS AS FOLLOWS:

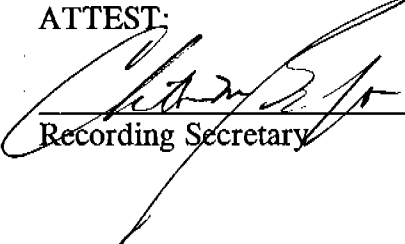
1. The Office of General Counsel's Findings, Conclusions and Final Order, attached hereto as Exhibit B are adopted, approving the petition in Case 98-2: Dennis Derby.
2. The Urban Growth Boundary is amended to include approximately 14.84 acres as shown on the map in Exhibit A.

ADOPTED by the Metro Council this 22nd day of OCTOBER 1998.



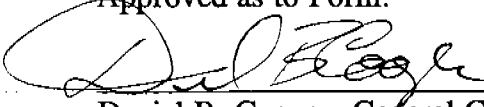
Jon Kvistad, Presiding Officer

ATTEST:



Recording Secretary

Approved as to Form:



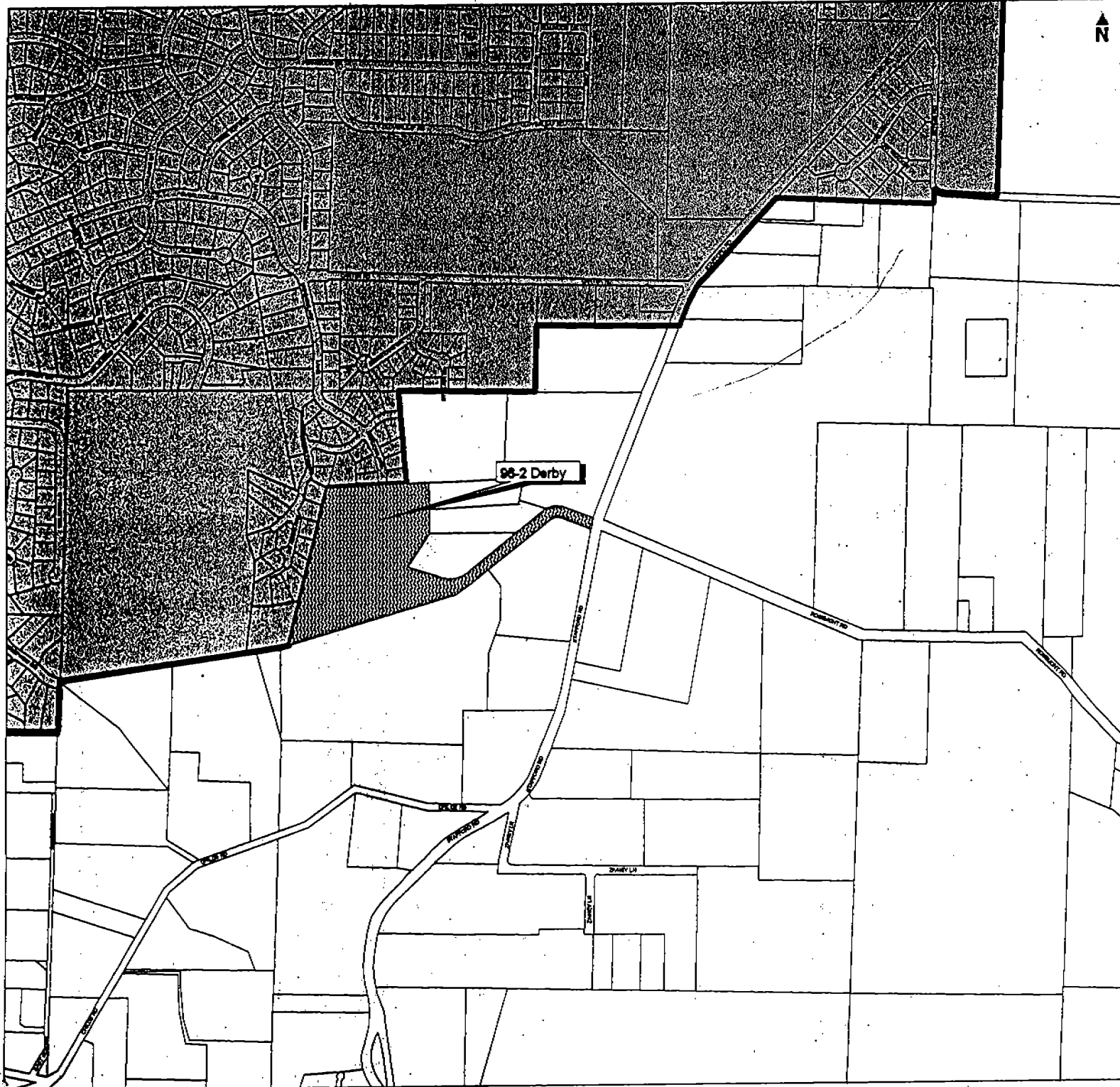
Daniel B. Cooper, General Counsel



Proposed Adjustment

Case # 98-2
Derby

-  Subject Property
-  Urban Growth Boundary



1" = 800 feet



METRO

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1 **Exhibit B**
2 **BEFORE THE METRO COUNCIL**

3
4 In the matter of the petition of Dennis Derby for a) **FINDINGS,**
5 Locational Adjustment to the Urban Growth Boundary) **CONCLUSIONS &**
6 southwest of the intersection of Stafford and Rosemont) **FINAL ORDER**
7 Roads in unincorporated Multnomah County) **Contested Case No. 98-02**
8

9 **I. BASIC FACTS, PUBLIC HEARINGS AND THE RECORD**
10

11 1. On March 10, 1998, Dennis Derby ("petitioner") completed filing a petition for
12 a locational adjustment to the Urban Growth Boundary ("UGB"), including exhibits
13 required by Metro rules for locational adjustments. See Exhibit 1 for the original petition
14 for locational adjustment (the "petition"). Basic facts about the petition include the
15 following:
16

17 a. The land to be added to the UGB is described as Tax Lot 610, Section
18 16, T2S-R1E, WM, Multnomah County (the "subject property"). It is south of and
19 adjoins the southern terminus of Meadowlark Lane, west of the intersection of Stafford
20 and Rosemont Roads. The UGB forms the north and west edges of the subject property.
21 Land to the north and west is inside the UGB and the City of Lake Oswego. See Exhibits
22 1, 13 and 19 for maps showing the subject property. All of the adjoining land within
23 Lake Oswego has access to urban services relevant to the locational adjustment except tax
24 lot 900, which adjoins the southwest corner of the Derby site.
25

26 (i) TL 900, located within the existing UGB, originally was part of
27 lot 14 of the Ridge Pointe subdivision in the City of Lake Oswego. See Exhibit 17 for a
28 copy of the plat. When created, lot 14 had frontage on Ray Pointe Drive and access to
29 utilities in that right of way.
30

31 (ii) At some time since the plat was filed in 1985, the city
32 approved a partition of lot 14 into two parcels, one of which is now referred to as TL 900.
33 After the partition, TL 900 did not have frontage on a city street. Easements were not
34 reserved for access from TL 900 to Ray Pointe Drive or to city services in that right of
35 way. Therefore TL 900 is landlocked, and it does not have access to city services.
36

1 b. The subject property is a roughly rectangular-shaped parcel 700 to 900
2 feet north-south by about 600 to 900 feet east-west with a roughly 60-foot wide access
3 strip extending east from the southeast corner of the site to the north side of Stafford
4 Road at its intersection with Rosemont Road. The site contains 14.84 acres. It is in an
5 exception area to Statewide Planning Goals 3 and 4. It is designated "Rural
6 Residential/Farm Forest" on the acknowledged Clackamas County Comprehensive Plan
7 Map and is zoned RRFF5 (Rural Residential/Farm Forest, 5-acre lot size). The subject
8 property is part of Urban Reserve No. 33. It is located in that part of Urban Reserve No.
9 33 which is designated as a "first tier" site by the Metro Council.

10
11 c. The subject property slopes down to the southeast from a high of about
12 585 feet above mean sea level ("msl") at the northwest corner to a low of about 450 feet
13 msl along the south boundary. Moving eastward along the access strip, the topography
14 continues to drop towards the western fork of Pecan Creek. (See exhibit 19). The creek is
15 located at roughly 410 feet msl where it crosses the access strip portion of the site. East
16 of the creek the topography rises again to an elevation of roughly 440 feet msl where the
17 access strip abuts Stafford Road. Slopes on the site range from 12 to 25 percent.

18
19 d. The petition was accompanied by comments from affected jurisdictions
20 and service providers. See Exhibits 6, 8 and 9.

21
22 i. The City of Lake Oswego City Council adopted Resolution 98-
23 10 in support of the petition. See exhibit 6.

24
25 ii. The City of Lake Oswego also commented as a service
26 provider. See exhibit 8. The City commented that urban services could be provided to the
27 subject property in an orderly and economic fashion. The comments are summarized
28 below:

29
30 (1) The project would provide the opportunity for
31 transportation connectivity to adjacent local streets, parks and open spaces. "This would
32 have some impacts on transportation efficiencies in the local area." Connectivity "has the
33 opportunity to enhance fire and police protection in the local area."
34

1 (2) Extension of gravity flow sewers to serve the subject
2 property "might" make it possible for other first tier urban reserve lands to connect to
3 gravity sewers.

4
5 (3) Approval of the petition would improve efficiency of
6 water service delivery to properties within the existing UGB and would create a looped
7 water line from the existing main in Stafford Road.

8
9 (4) Development of this project "would make it
0 possible...to develop a 9.8-acre [park] parcel ...at the corner of Stafford and
1 [Rosemont]...pursuant to a City adopted Master Plan."

2
3 iii. The Clackamas County Board of Commissioners adopted an
4 order in which it declared no objection to the petition. See exhibit 9.

5
6 2. Metro staff mailed notices of a hearing to consider the petition by certified
7 mail to the owners of property within 500 feet of the subject property, to the petitioner, to
8 Clackamas County, to the City of Lake Oswego and to the Department of Land
9 Conservation and Development ("DLCD"). See Exhibits 11 and 14. A notice of the
10 hearing also was published in *The Oregonian* and *The Lake Oswego Review* at least 10
11 days before the hearing.

12
13 3. On June 24, 1998, Metro hearings officer Larry Epstein (the "hearings officer")
14 held a public hearing at the Lake Oswego City Hall to consider the petition. All exhibits
15 and records of testimony have been filed with the Growth Management Division of
16 Metro. The hearings officer announced at the beginning of the hearing the rights of
17 persons with an interest in the matter, including the right to request that the hearings
18 officer continue the hearing or hold open the public record, the duty of those persons to
19 testify and to raise all issues to preserve appeal rights, the manner in which the hearing
20 will be conducted, and the applicable approval standards. The hearings officer
21 disclaimed any *ex parte* contacts, bias or conflicts of interest. Ten witnesses testified in
22 person.

23
24 a. Metro planner Carol Krigger verified the contents of the record and
25 summarized the staff report (Exhibit 13), including basic facts about the subject property,
26 the UGB and urban services, and comments from the City of Portland. She testified that
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1 the petitioner showed that the proposed locational adjustment complies with all but one of
2 the applicable approval criteria. She testified the petitioner failed to show that all
3 similarly situated land contiguous to the subject property is included in the petition,
4 largely because five physically similar and contiguous properties in Reserve Area 33 are
5 designated “first tier”, and those property’s are not included in the petition. If they were
6 included, the petition would exceed the acreage limit for a locational adjustment. She
7 argued:

8
9 i. All of the first tier properties in this area should be brought into
10 the UGB, planned and developed as a single unit.

11
12 ii. In particular, she felt TL 700 northeast of the subject property
13 should be included in this petition. St. Clair Drive is stubbed at the north boundary of TL
14 700. This street could be extended through TL 700 and the subject property, enhancing
15 multi-modal circulation and connectivity and access for emergency vehicles.

16
17 iii. Approval of the petition would facilitate needed development
18 on land within the existing UGB, Criteria 4. However including only the subject
19 property, excluding the five other parcels within the first tier urban reserve, she felt would
20 not result in maximum efficiency of development within the UGB.

21
22 b. Planner Richard Givens, engineer Greg Weston and attorney Wendie
23 Kellington appeared on behalf of the petitioner, Dennis Derby.

24
25 i. Mr. Givens described the location of existing public services
26 available to serve the subject property. The subject property is unique. Only the subject
27 property can provide access and public services to TL 900, a landlocked parcel within the
28 existing UGB, eliminate the long cul-de-sac street (Meadowlark Lane), and allow
29 construction of a looped water system. These improvements cannot be provided by
30 development of contiguous first tier properties. Therefore the adjacent first tier properties
31 are not “similarly situated.”

32
33 ii. Mr. Weston testified that only the subject property can provide
34 a connection between the Ridge Point development and Stafford Road. He testified the
35 existing sewer main in St. Clair Road is a pump station that was never intended to be
36 extended. This pump system would have to be reconstructed to serve the subject

1 property. He opined that the subject property could be developed with roughly 22 lots. If
2 basements were provided for the homes on these lots, then; four of the lots would likely
3 require a STEP system that does not rely on gravity flow for the basements. However, all
4 lots, including these four, could also be served by gravity.

5
6 iii. Ms. Kellington noted the Metro Code defines “first tier”
7 properties as those that “can be most cost-effectively provided with urban services...” She
8 argued that the first tier urban reserve designation creates legislative presumptions (1)
9 that public services can be provided in an orderly and economic manner to properties so
10 designated and (2) that including such properties will maximize the efficiency of
11 development. Therefore, the petition complies with Metro Code sections 3.01.035(c)(1)
12 and (2).

13
14 (1) She argued the subject property is unique and must be
15 considered on its own merits. Other adjacent first tier lands are not similarly situated and
16 cannot provide services to TL 900 west of the site and within the existing UGB. Only
17 this site can provide access to the dedicated but undeveloped right of way across TL 900
18 and to undeveloped Cook Park west of TL 900. She noted that Lake Oswego’s vacant
19 buildable lands inventory identifies TL 900 as suitable for residential development. But,
20 without the access that can be provided across the subject site, TL 900 cannot develop.

21
22 (2) She argued that TL 700 east of the site is not
23 contiguous to the subject property, because the two properties only touch for a small
24 distance. Even if it is contiguous, including TL 700 in the UGB would not enhance
25 services to land already in the UGB (e.g., TL 900). That fact that including TL 700 in the
26 UGB would increase the efficiency of sewer service, by allowing gravity flow sewer to
27 serve more of subject site, that is not relevant, because the subject site is not already in
28 the UGB.

29
30 (3) She argued that TL 1100 is not similarly situated,
31 because it is planned for development as a park. She cited the recent Metro staff report
32 regarding the Tsugawa petition as support for this argument.

33
34 (4) The subject property is separated from the adjoining
35 TLs 607, 608 and 609 by a driveway. Therefore it is not contiguous, based on the staff
36 report for the Tsugawa petition.

1
2 (5) Citing the Council's decision in the West Linn-
3 Wilsonville School District petition, she argued that abutting properties should not be
4 considered similarly situated because they are needed for the locational adjustment to
5 comply with applicable standards or to fulfill the petitioner's goals.
6

7 (6) She noted that there is no guarantee that all first tier
8 lands will be included in the UGB. She argued that approval of the petition will not
9 foreclose adjacent lots from being included in the UGB through the master plan process.
10

11 c. Jeffrey Evershed, the owner of TL 900, testified in support of the
12 petition. He argued the petition needs to be approved to allow him to develop his
13 property.
14

15 d. Delmore Smith argued that the purpose of the UGB is to benefit the
16 community. The petition will only benefit the applicant, a private developer. He argued
17 that there is inadequate infrastructure to serve additional development in the area. He
18 urged the hearings officer to recommend denial of the petition.
19

20 e. David Adams urged the hearings officer to recommend denial of the
21 petition. He argued that the UGB should not be expanded.
22

23 f. Al Patchet argued that the UGB is intended to avoid piecemeal growth.
24 It is not intended to accommodate individual developers.
25

26 g. Katie Sharp, the owner of TL 607 east of the site, expressed concern
27 that her property will be surrounded by but excluded from the UGB. She questioned
28 whether and how the remainder of the first tier properties would be brought into the
29 UGB.
30

31 h. Metro planner Ray Valone opined that the remaining first tier properties
32 could be brought into the UGB through legislative action of the Metro Council or through
33 a petition for a major amendment brought by a local government or developer.
34

35 i. Rick Cook argued that the City's water line in Stafford Road serves
36 more than just the PGE substation. His and other properties in the area receive public

1 water from this water main. He questioned the density of development that could occur
2 on the subject property. He questioned how much of the site could be served by gravity
3 flow sewers.
4

5 5. On July 24, 1998, the hearings officer filed with the Council a report,
6 recommendation, and draft final order denying the petition for the reasons provided
7 therein. Copies of the report and recommendation were timely mailed to parties of record
8 together with an explanation of rights to file exceptions thereto and notice of the Council
9 hearing to consider the matter.
10

11 6. The Council held a duly noticed public hearing to consider testimony and
12 timely exceptions to the report and recommendation. After considering the testimony and
13 discussion, the Council voted to approve the petition for Contested Case No. 98-2
14 (Derby); based on the findings in this final order and the public record in this matter.
15

16 II. APPLICABLE APPROVAL STANDARDS AND RESPONSIVE FINDINGS

17

18 1. Metro Code section 3.01.035(b) and (c) contains approval criteria for all
19 locational adjustments. Metro Code section 3.01.035(f) contains additional approval
20 criteria for locational adjustments to add land to the UGB. The relevant criteria from
21 those sections are reprinted below in italic font. Following each criterion are findings
22 explaining how the petition does or does not comply with that criterion.
23

24 *Area of locational adjustments. All locational adjustment additions and*
25 *administrative adjustments for any one year shall not exceed 100 net acres*
26 *and no individual locational adjustment shall exceed 20 net acres...*
27

28 Metro Code section 3.01.035(b)

29 2. One locational adjustment and one administrative adjustment has been
30 previously approved in 1998. The total acres added to the UGB through these
31 actions is less than 16 acres. Therefore not more than 100 acres has been added to
32 the UGB this year. The petition in this case proposes to add 14.84 acres to the
33 UGB, which is less than 20 acres. Therefore, as proposed, the petition complies
34 with Metro Code section 3.01.035(b).
35

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

7 Metro Code section 3.01.035(c)(1)
8

9 3. The subject property can be served by public water, storm and sanitary sewers,
10 roads and parks based on the comments from the City of Lake Oswego.

11
12 a. Water service is available to the site via a 12-inch main in Stafford Road
13 (outside the UGB) and an 8-inch line in Meadowlark Lane that stubs at the site boundary.

14
15 b. Sanitary sewer service is available from an existing line in Meadowlark
16 Lane that stubs at the site boundary. Gravity service is available to the developable
17 portions of the site.

18
19 c. Storm water can drain from the site to an existing drainageway near
20 Rosemont Road and, from there, to the Tualatin River. This drainageway already serves
21 development inside the UGB. If the site is annexed and developed, Lake Oswego would
22 regulate drainage impacts under its development regulations in a manner consistent with
23 DEQ rules for the Tualatin River basin and with the city's National Pollutant Discharge
24 Elimination System (NPDES) permit.

25
26 d. If the site is annexed and developed, Lake Oswego would require
27 dedication and improvement of roads on the site. These roads will lead to existing public
28 streets, including Meadowlark Lane and Stafford/Rosemont Roads, that can
29 accommodate the relatively small increment in additional traffic resulting from the
30 development.

31
32 e. Lake Oswego has stated in writing that it can serve the site with park
33 and open space features if it is annexed. There is no substantial evidence to the contrary.

34
35 f. Lake Oswego has stated in writing that it can serve the site with fire and
36 police services if it is annexed. There is no substantial evidence to the contrary.

1
2 4. Based on the foregoing, the subject site is capable of being served with public
3 infrastructure. All of that service can be achieved in an orderly fashion. All of that
4 service can be achieved in what the Council finds is an efficient manner.
5

6 5. The Council has not adopted rules describing how to assess the relative
7 efficiency of urban services. In the absence of such rules, the Council must interpret its
8 standards.
9

10 a. The Council concludes that the locational adjustment does result in a
11 net improvement in the efficiency of water services in the adjoining areas already in the
12 UGB because the locational adjustment allows the creation of a looped water system,
13 joining lines in Stafford Road and in Meadowlark Lane through the site.
14

15 b. Including the subject property in the UGB will increase the net
16 efficiency of transportation services, because the locational adjustment allows the
17 extension of Meadowlark Lane through the site to the intersection of Rosemont and
18 Stafford Roads, creating a more interconnected road system and reducing congestion and
19 out of direction travel for residents of the nearby city subdivisions. Also it would
20 facilitate improvement of a public street from the site to undeveloped Cook Park across
21 TL 900 to the west, which would enhance access to the park for residents of the city and
22 enhance emergency access.
23

24 c. Including the subject property in the UGB would allow the extension of
25 a roadway to TL 900 which will improve efficiency of parks/open space services by
26 allowing access to Cook Park. Including the subject property in the UGB will increase
27 the net efficiency of surface water management/storm drainage, and fire/police protection
28 for land already in the UGB by:
29

30 (i) Increasing the population served by those facilities and thereby
31 spreading their cost over a larger population base, making them more economical to
32 residents of land already in the UGB; and
33

34 (ii) The road improvements reasonably likely to follow from
35 inclusion of the site in the UGB will enhance vehicular access to and through the area,
36 particularly for fire and police services and for residents of the city to reach the

1 undeveloped part of Cook Park and to open spaces and parks outside the existing UGB.
2 This access would lead to public opportunity to safely enjoy the park.

3
4 d. Including the subject property in the UGB will result in a net increase
5 in sewer efficiency by providing service to TL 900.

6
7 e. TL 900 is a lot already in the UGB. It is not served by nor is it capable
8 of being served by water, roads, sewer, storm drainage, parks or police and fire services.
9 If the Derby parcel is included in the UGB, TL 900 would have access to all of these
10 facilities. Including the Derby parcel in the UGB would make available service to a lot
11 already in the UGB, included in the city's buildable lands inventory and which was
12 included in the city's Table 1 Functional Plan density targets, to which such services are
13 not now available. It is more efficient to have land in the UGB served by urban facilities.
14 To that extent, Council finds the locational adjustment would result in a net improvement
15 in the efficiency of urban services to this area in the UGB.

16
17 f. Council finds that including the Derby parcel in the UGB results in a
18 net improvement in sewer, storm drainage, parks and open space, and police and fire
19 services to warrant approval. Council concludes the petitioner carried the burden of proof
20 that the petition complies with Metro section 3.01.035(c)(1).

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

26 Metro Code section 3.01.035(c)(2)

27
28 6. Council finds that including the subject property in the UGB does facilitate
29 needed development on adjacent existing urban land (i.e., TL 900). Urban services
30 cannot be provided to that lot under existing conditions without approving the petition.

31
32 a. Tax Lot 900 is "needed development" under this standard because TL
33 900 is shown as a buildable urban lot under the city's buildable lands inventory and also
34 is included as an important assumption the city included as a developable lot in the Table
35 1 targets in the Functional Plan..

1 b. Metro staff argued that “inclusion of the subject site alone does not
2 necessarily provide maximum efficiency of land uses with regard to regional plans. Staff
3 believes that maximum efficiency can be accomplished only by including similarly
4 situated land [outside] the UGB.” In effect Metro staff argued that section 3.01.035(c)(2)
5 includes two standards. One standard is found in the title of the section, and one is found
6 in the text of the section. The standard in the title requires the Council to find that
7 including the subject site in the UGB results in the maximum efficiency of land uses. It
8 is that standard that Metro staff believe the petition does not fulfill, because all of the Tier
9 One lands in Reserve Area 33 would be served more efficiently if they were planned for
10 as a unit, as envisioned by Council when it identified the Tier One lands and provided for
11 their imminent transition to urban development.

12
13 c. Council finds the foregoing argument by staff is incorrect. There is no
14 support for the conclusion that the title of the section is intended to be an approval
15 standard. It is the text that contains the standard, not the title. The title is a convenient (if
16 somewhat inaccurate) summary of the text, but it has no status independent of the text.
17 Even if it does, maximum efficiency is served by providing the opportunity for the city
18 and the region to realize the development contemplated on the Table 1 targets and
19 individual jurisdiction Goal 10 buildable lands inventories, thus cumulatively minimizing
20 the ultimate amount of land which will be required for UGB amendments over time.

21
22 *Environmental, energy, social & economic consequences. Any impact*
23 *on regional transit corridor development must be positive and any*
24 *limitations imposed by the presence of hazard or resource lands must be*
25 *addressed. Metro Code section 3.01.035(c)(3)*
26

27 7. Council finds including the subject property in the UGB would not have any
28 negative impact on regional transit corridor development, because the nearest regional
29 corridor is distant from the site (at Boones Ferry Road and Highway 43). Council further
30 finds that the subject property is not subject to hazards and does not contain resource
31 lands identified by Clackamas County. The presence of a high water table can be
32 addressed through techniques commonly used in the region during final engineering of
33 foundations.

34
35 *Retention of agricultural land. When a petitioner includes land with*
36 *Agricultural Class I-IV soils designated in the applicable comprehensive*

1 ~~plan for farm or forest use, the petition shall not be approved unless it is~~
2 ~~factually demonstrated that:~~

3
4 (A) *Retention of any agricultural land would preclude*
5 *urbanization of an adjacent area already inside the UGB, or*

6
7 (B) *Retention of the agricultural land would make the provision of*
8 *urban services to an adjacent area inside the UGB impracticable.*

9 Metro Code section 3.03.035(c)(4)

10
11 8. The subject property contains Class III and IV soils. However the Clackamas
12 County comprehensive plan designates the subject property and surrounding non-urban
13 lands as Rural Residential Farm Forest-5. This is not considered an exclusive farm or
14 forest use designation. Therefore Council finds this criterion does not apply.

15
16 ***Compatibility of proposed urban uses with nearby agricultural activities.***

17 *When a proposed adjustment would allow an urban use in proximity to*
18 *existing agricultural activities, the justification in terms of this subsection*
19 *must clearly outweigh the adverse impact of any incompatibility.* Metro
20 Code section 3.01.035(c)(5)

21
22 9. There are limited agricultural activities on nearby lands south of the subject
23 property on land zoned RRF-5 and on land zoned EFU; but these activities are relatively
24 small or low in intensity and the land on which these activities are conducted are
25 separated from the subject property by distance, Stafford Road and a drainageway such
26 that development on the subject property will not have a significant adverse impact on
27 existing agricultural activities. Therefore Council finds the petition complies with this
28 criterion.

29
30 ***Superiority.*** *[T]he proposed UGB must be superior to the UGB as*
31 *presently located based on a consideration of the factors in subsection (c)*
32 *of this section.* Metro Code section 3.01.035(f)(2)

33
34 10. Based on the evidence in the record, Council finds that the proposed UGB is
35 superior to the existing UGB, because it results in service efficiencies as described
36 elsewhere in these findings.

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

5 Metro Code section 3.01.035(f)(3)

6
7 9. Council finds that the unique circumstances of the site distinguish it from
8 other properties. These circumstances, including its unique ability to enable public
9 services to TL 900 and to extend a public road to Stafford Road, that will provide access
10 to Cook Park for not only the public, but also emergency service vehicles. It also
11 provides the city the opportunity to improve city water service delivery by allowing a
12 looped system.

13
14 a. Council acknowledges that including the subject site in the UGB provides a
15 unique benefit to TL 900 located within the UGB. That is, only if the subject property is
16 included in the UGB will TL 900 have access to urban services. Council also
17 acknowledges that including the subject property in the UGB provides a unique benefit to
18 the city of Lake Oswego, generally by access to Cook Park and enabling a looped water
19 system.

20
21 **III. CONCLUSIONS**

22
23 Based on the foregoing findings, the Council adopts the following conclusions.

24
25 1. Public services and facilities, including water, sanitary sewer, storm drainage,
26 transportation, schools, and police and fire protection, can be provided to the subject
27 property in an orderly and economical fashion.

28
29 2. Council concludes the petition complies with MC section 3.01.035(c)(1),
30 because including the subject site in the UGB will result in a net improvement in the
31 efficiency of public sanitary sewers, storm drainage, parks and open space and police and
32 fire services both to the subject property and to other property within the existing UGB.

33
34 3. The petitioner established the proposed addition will facilitate needed
35 development on adjacent existing urban land. Therefore, Council concludes the petition
36 complies with MC section 3.01.035(c)(2).

1
2 4. The petitioner established including the subject property in the UGB will not
3 adversely affect regional transit corridor development. Therefore, Council concludes the
4 petition complies with MC section 3.01.035(c)(3).

5
6 5. The petitioner established the proposed addition will result in a superior UGB.

7
8 6. The petition includes all similarly situated contiguous land outside the UGB.

9
10 **IV. DECISION**

11
12 Based on the findings and conclusions adopted herein and on the public record in
13 this matter, the Metro Council hereby approves the petition in Contested Case 98-02
14 (Derby).

15
16 DATED: _____

17
18 By Order of the Metro Council

19
20 By _____
21

ATTACHMENT "A" TO THE FINAL ORDER
IN THE MATTER OF CONTESTED CASE 98-02 (Derby) :
EXHIBITS

Exhibit No. Subject matter

- 1.....Petition for locational adjustment dated March 10, 1998
- 2.....City of Lake Oswego Planning Memo dated February 4, 1998
- 3.....City of Lake Oswego Planning Commission Minutes dated February 9,
1998
- 4.....City of Lake Oswego City Council Minutes dated February 10, 1998
- 5.....City of Lake Oswego City Council Minutes dated February 17, 1998
- 6.....City of Lake Oswego Resolution 98-10
- 7.....Letter from Ron Bunch to Ray Valone dated February 19, 1998
- 8.....Service provider comments from Lake Oswego dated February 24, 1998
- 9.....Clackamas County Board of Commissioners Order No. 98-47
- 10.....Letter from Carol Krigger to Rick Givens dated March 25, 1998
- 11.....e-mail from John Lewis to Carol Krigger dated June 11, 1998
- 12.....Letter from Richard Givens to Carol Krigger dated June 11, 1998
- 13.....Metro Staff Report dated June 15, 1998 with attachments
- 14.....DLCD Notice of Proposed Amendment
- 15.....Letter from Jeffrey A. Evershed dated June 19, 1998
- 16.....Notice of Public Hearing
- 17.....Luscher Farm Master Plan dated July 15, 1997
- 18.....Letter from James Sitzman, DLCD, dated June 24, 1998
- 19.....Memo from Wendie Kellington dated June 24, 1998 with attachments
- 20.....Plat of Ridge Point subdivision
- 21.....Map of First Tier Urban Reserves dated March 6, 1997
- 22.....Map of UGB and Reserve Areas in vicinity of Lake Oswego
- 23.....Map of Urban Infill Opportunities in City of Lake Oswego

24.....Plat of Ridge Point subdivision dated June, 1985

25.....Photos of site and surrounding properties

26.....Map of "Derby Property" dated June 22, 1998

27.....Witness sign-up cards (9)

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