

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF EXPRESSING COUNCIL ) RESOLUTION NO. 98-2718  
INTENT TO AMEND THE URBAN GROWTH )  
BOUNDARY FOR LOCATIONAL ADJUSTMENT ) Introduced by Mike Burton,  
CASE 98-4: TSUGAWA ) Executive Officer

WHEREAS, Metro received a petition for a locational adjustment for 15 acres located within Washington County southeast of the intersection of NW Cornelius Pass Road and West Union Roads, as shown in Exhibit A; and

WHEREAS, Metro staff reviewed and analyzed the petition, and completed a written report to the Hearing Officer, recommending approval of the petition with the addition of approximately 1.5 acres of adjacent roadway; and

WHEREAS, Metro held a hearing to consider the petition on July 9, 1998, conducted by an independent Hearing Officer; and

WHEREAS, The Hearing Officer submitted his report on August 6, 1998, recommending approval of the petition for 16.5 acres; and

WHEREAS, The property is currently outside, but contiguous to the Metro jurisdictional boundary; and

WHEREAS, Metro Code Section 3.01.065(f)(1) provides that action to approve a petition including land outside Metro shall be by resolution expressing intent to amend the Urban Growth Boundary if and when the affected property is annexed to Metro; now, therefore,

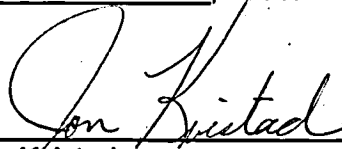
BE IT RESOLVED,

1. That the Metro Council, based on the findings in Exhibit B attached herein, expresses its intent to adopt an ordinance amending the Urban Growth Boundary as

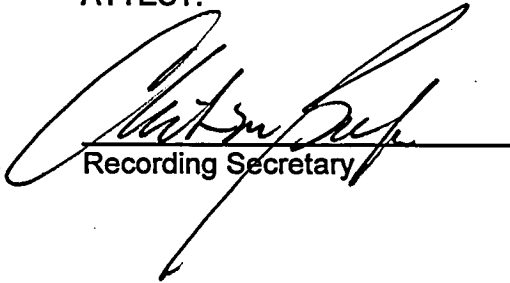
shown in Exhibit A within 30 calendar days of receiving notification that the property has been annexed to Metro, provided such notification is received within six (6) months of the date on which the resolution is adopted.

2. That the Metro Council approves and endorses the request by the owners of the land and electors residing on the land that the subject property be annexed to Metro..

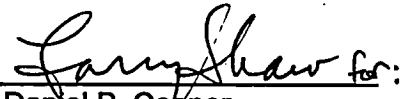
ADOPTED by the Metro Council this 15<sup>th</sup> day of OCTOBER, 1998.

  
Jon Kvistad  
Presiding Officer

ATTEST:

  
Recording Secretary

Approved as to Form:

  
Daniel B. Cooper  
General Counsel

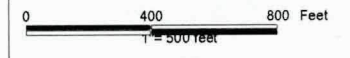
I:\GMUGBadmt.98\98-4, Tsugawa\MCresolution.doc

# Exhibit A 98-776

## UGB Locational Adjustment

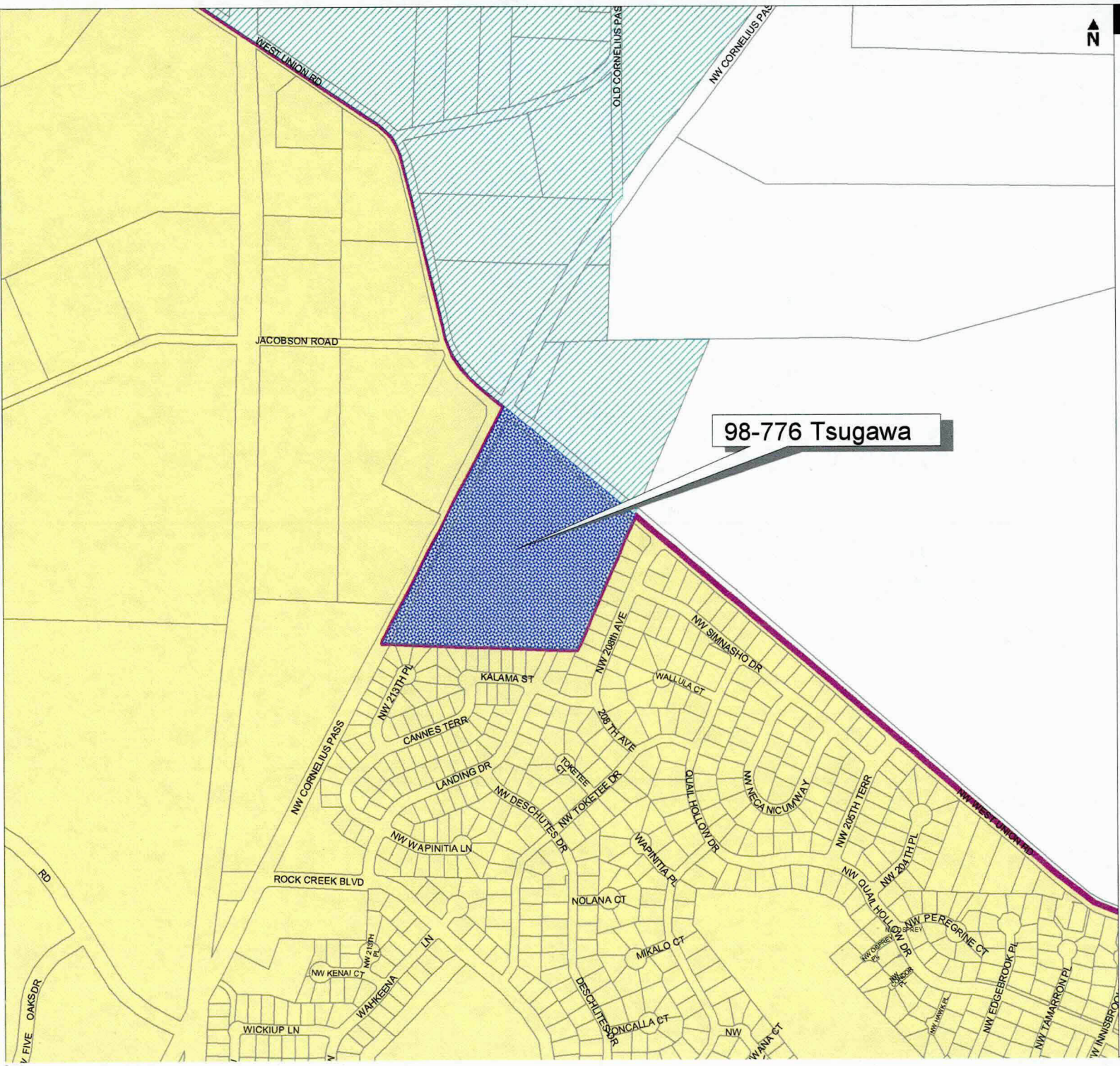
-  Subject Property
-  Urban Reserves
-  First Tier
-  Other Reserves
-  Urban Growth Boundary

98-776 Tsugawa



**METRO**  
600 NE Grand Ave.  
Portland, OR 97232-2736  
503 797-1742 FAX 503 797-1909  
Email: [drc@metro.dst.or.us](mailto:drc@metro.dst.or.us)

Plot date: Sep 29, 1998; d:\projects\ugb\98-4.apr



**BEFORE THE METROPOLITAN SERVICE DISTRICT  
(METRO)**

**In the Matter of the Petition of the )  
JIM & AMY TSUGAWA for a )  
locational adjustment to the Urban )  
Growth Boundary (UGB) in )  
Washington County )**

**Contested Case # 98 -4  
REPORT AND  
RECOMMENDATION OF THE  
HEARING OFFICER**

**I. INTRODUCTION**

This is a proposal for a locational adjustment to the Urban Growth Boundary (UGB) for a 15-acre site, plus approximately 1.5 acres of road right-of-way. The property is located at the southeast corner of the intersection of N.W. Cornelius Pass Road and West Union Road in Washington County. (Attachment A). The PLAN/ZONING designation is Washington County AF-5 (Agriculture/Forest 5 acre). The applicable review criteria is Metro Code 3.01.035.

Staff recommended that the hearing officer forward a recommendation to the Metro Council for approval. The hearing officer agrees with the staff recommendation and also recommends APPROVAL.

**Site Information:** The 15-acre site is located within Washington County southeast of the intersection of N.W. Cornelius Pass Road and West Union Road. It consists of Tax Map/Lot 1N214D 1201. The site is bounded on the north by West Union Road, on the east and south by R-5 residential land, and on the west by MP SID industrial land and by CI general commercial land. Zoned AF-5 (Agriculture/Forestry under Washington County's Comprehensive Plan, the site is currently being used as an orchard.

The Tsugawa property is included within Urban Reserve No. 64, which was designated by the Metro Council on March 6, 1997. Urban Reserves are land areas that have been identified as areas that will be available for inclusion into the UGB when a land need is identified. In December 1997, the Metro Council concluded that there was a land need present. The Council specified that the UGB is deficient in the amount of land needed to accommodate additional 32,370 households and 2,900 jobs. To date, no land has been added to the UGB.

**Proposal Description:** The petitioners propose to bring the site into the UGB and develop the site with residential uses. If the proposal is approved, the site will be zoned for residential use. The applicant intends for the property to be developed with 60 to 75 residential dwelling units. Washington County, or the City of Hillsboro, if the site is annexed, will make the final zoning determination. The City of Hillsboro has expressed a willingness to annex this property.

If the petition is approved by the Council, the strips of land between the centerlines of West

Union and Cornelius Pass Roads and the subject site will be included in the UGB. This area of land is approximately 1.5 acres.

**Local Government Statement:** The Washington County Board of Commissioners voted 3-0 to recommend no comment on the petition.

## II. PROCEEDINGS AND RECORD

The hearing on this matter was held on July 9, 1997, and one person, Frank Buehler (CPC #7 Steering Committee) testified against the proposal at that hearing. The record also contains one brief comment letter from Lawrence and Ara Babcock (Exhibit #9).

At the request of Dan Chandler, the petitioner's attorney, the record was kept open for seven days until July 16<sup>th</sup> in order, inter alia, to further discuss the interaction of the Transportation Planning Rule with the ODOT's negative comment on this proposal and the interaction of the fact that this site is an exception parcel with the Urban Reserve Rule. No comments were in fact provided within the seven day period.

Glen Bolen of the METRO staff introduced the Petition and the staff report (Exhibit # 7) recommending approval of the locational adjustment. A key part of his and the petitioner's testimony related to the absence of an explanation for excluding this parcel from the original urban growth boundary (UGB) which follows West Union road, but inexplicably circumvents the petitioner's orchard. The boundary would be improved by following the center line of West Union and the development will complete the intersection of two major roads with sidewalks, creating a continuous pedestrian connection along the northern boundary of the UGB. The area south of West Union is already heavily residential and this development pod would simply complete the development pattern without any major negative impacts.

The Babcocks (Exhibit #9) expressed regret over loss of the "beautiful filbert orchard" and suggested that housing development should use land to the south. They did not specifically discuss the approval criteria. Mr. Buehler testified about the absence of legal notice in the "Argus" and raised the issue that the land in the urban reserve was supposed to be last to be developed. He too expressed regret at the loss of the filberts, an important crop in Washington County. He reiterated traffic concerns raised by ODOT, namely that Cornelius Pass/ OR 26 western on ramp is at level E or F.

As to Mr. Buehler's issues, the hearing officer finds that the hearing notice was published in the Oregonian, a paper of general circulation, satisfying the legal notice requirement. On the Urban Reserve issue, the inclusion of the site within the UGB is not a development approval, and is governed by the approval criteria, which are satisfied. The orchard is in an exception area, and therefore properly within urban reserve. The traffic issue is discussed below.

The record in this case contains the following exhibits:

1.	2/10/98	Timothy Erwert, City of Hillsboro	In support, willing to annex
2.	2/19/98	United Sewage Agency	Service Provider Comment
3.	3/6/98	Wink Brooks, City of Hillsboro	In support, willing to annex
4.	3/10/98	Brent Curtis, Washington County	County Letter and staff report
5.	3/12/98	Dan Chandler	Application w/tax map/narrative
6.	3/25/98	Jim and Amy Tsugawa, owners	Intent to annex to Metro Boundary
7.	5/28/98	Glen Bolen, Metro	Staff Report
8.	6/2/98	Marah Danielson, ODOT	Service Provider, opposed
9.	6/30/98	Lawrence J. Babcock	Letter in opposition
10.	7/8/98	Dan Chandler	Letter re net transportation improvement
11.	7/9/98	Michael Hoglund, Metro	Response to ODOT
12.	7/9/98	Kittleson & Associates	Response to ODOT
13.	7/9/98	Kittleson & Associates	Net transportation efficiency
14.	7/9/98	Dan Chandler	3.01.035(c)(2) Facilitation

### III. FINDINGS

The criteria for a locational adjustment to the UGB are contained in Metro Code 3.01.035.

1. An addition of land to make the UGB coterminous with the nearest property lines may be approved without consideration of the other conditions in this subsection if the adjustment will add a total of two gross acres or less, the adjustment would not be clearly inconsistent with any of the factors in subsection (c) this section, and the adjustment includes all contiguous lots divided by the existing UGB. [3.01.035(f)(1)]

The petition is for a single tax lot 15 acres in size. Accordingly, this section is not applicable.

2. For all other locations, the proposed UGB must be superior to the UGB as presently located based on a consideration of the factors in subsection (c) of this section. [3.01.035(f)(2)] (Factors described as criteria 5-9 following.)

Based on analysis of the petition and other information submitted, the hearing officer concludes that approval of this application will result in a UGB that is superior to the UGB at its present location. The site can be efficiently served in an orderly and economic fashion with sewer, storm drainage, water, police, fire and parks. There will also be an increase in the net efficiency of the water, transportation, sewer and storm drainage systems.

Approval of this petition may facilitate needed development inside the current UGB, in that:

- Incorporation of the Tsugawa property into the UGB would allow improvements to the local street system.
- Addition of the Tsugawa property to the UGB would improve the connectivity of the local street system by providing a connection between the Rock Creek area and the realigned Jacobson Road.
- Development of the Tsugawa property would improve pedestrian connections between existing residential neighborhoods and nearby commercial areas.

These improvements should "facilitate needed development on adjacent existing urban land" to the west of Cornelius Pass Road (see Exhibit #10 and attachments). The improvements to Cornelius Pass Road constitute needed development because the road improvements are identified in the county transportation plan. At a minimum, the staff concedes that this approval will not have any adverse effects on development.

Based on the consideration of the factors taken as a whole, criterion 2 has been satisfied by the petitioner.

3. The proposed UGB amendment must include all similarly situated contiguous land that could also be appropriately included within the UGB as an addition based on the factors above. [3.01.035(f)(3)] (Factors described as criteria 5-9 following.)

The UGB takes a detour around this single parcel and there are no nearby properties with sewer and water stubbed to them, and therefore the neighboring properties are not similarly situated.

This criterion sets a condition for the amount of acreage that must be included in a petition for an UGB amendment. The basis for deciding on the amount of land is consideration of the factors in criteria 5-9 below. The intent of this criterion is twofold: first, to prevent carving out a piece of land 20 acres or less in order to qualify for a locational adjustment; and second, to minimize subsequent petitions for locational adjustments on adjacent land that should have been considered together with the original proposal. These reasons are intended to prevent using the

locational adjustment process as a tool for expansion of the UGB without demonstrating regional land need and without undertaking necessary urban reserve plans.

This parcel is surrounded on three sides by the current UGB. The adjacent property on the fourth side is separated from the site by a roadway to the north which forms the UGB boundary in this area. Land that is zoned for Exclusive Farm Use, AF-5, and RCOM (Rural Commercial) surround the neighboring property. Contiguous land to the proposed site is not appropriate for inclusion with this proposal, based on criteria 5 through 9.

4. Locational adjustments shall not exceed 20 net acres. [3.01.035(b)]

The petitioners propose to include Tax Lot 1201 of section 14D of Township 1 North, Range 2 West for a total of 15 acres, as shown on the submitted map.

Staff confirmed that the proposal comprises 15 acres and complies with the 20-acre restriction. This criterion is satisfied.

5. Orderly and economic provision of public facilities and services. A locational adjustment shall result in a net improvement in the efficiency of public facilities and services, including but not limited to water, sewerage, storm drainage, transportation, parks and open space in the adjoining areas within the UGB. Any area to be added must be capable of being served in an orderly and economical fashion. [3.01.035(c)(1)]

The petitioners state that all services would be provided to the site in an orderly and economic fashion. The following is a summary of the petitioners' and service providers' responses to criterion 5. The Tualatin Valley Water District, the Washington County Sheriff and the Washington County Fire District #2, support approval of the petition. The Unified Sewerage Agency takes no position on the petition. The City of Hillsboro supports approval of the petition. The City has also indicated that it will annex the site if the petition is granted, and provide any necessary public services to the site that will not be provided by public service districts.

Sanitary Sewer & Storm Drainage -- The petitioners state that 70-75 percent of the property can be served by an existing 8" sewer line currently stubbed to the southeastern corner. Servicing the remainder of the property will involve either a lift station, or the extension of sewer lines along West Union or Cornelius Pass Roads. The petitioners correctly assert that either of these options will enhance the provision of sewer to surrounding unserved properties. The petitioners also state that the existing sewer system was designed and stubbed to this parcel and, therefore, it would be an inefficient use of the resources already expended, if this property is not brought within the UGB. The Unified Sewerage Agency has stated that because any improvements needed will be paid for or constructed by the petitioners, there would be no negative economic impact to the existing system. Storm Drainage will be



conveyed via roadside ditches to a stream corridor that flows under West Union Road and down to Holcomb Lake. Development of this parcel will complete the development of the small basin south of N.W. West Union Road. Addressing the water quality and quantity issues will allow more efficient use of the existing facilities in N.W. West Union Road, including the roadway crossing for the stream corridor.

Water -- The Tualatin Valley Water District supports approval of the petition. The petitioners state, reinforced by John M. Godsey, P.E., that development of this subject parcel will result in a connection of a line from N.W. Landing Drive to Cornelius Pass Road and/or West Union Road. This connection will improve flow characteristics in the existing lines in the abutting subdivision by providing an improved network of circulation. Increasing the network and connecting it to the 18-inch water mains will improve water quality in the existing lines by allowing increased circulation, and it will improve the fire fighting capabilities of the network by adding parallel routes, which will increase flow potential.

Fire Protection – Washington County Fire District #2 supports approval of the petition, and states that the area could be served in an orderly and economic fashion.

Police Protection – Police services are provided by the Washington County Sheriff's Office Enhanced Sheriffs Patrol District. As the Sheriff would continue to serve this area, there will be no efficiency impact. The Sheriff's office supports approval of the petition and states that the subject property can be served in an orderly and economic fashion.

Parks/Open Space – Tualatin Hills Park & Recreation District indicates that there would be no efficiency impact, as they already service the property. The District supports approval of the petition, but conditions their support by stating that they would not support annexation to the City of Hillsboro. The District states that the area could be served in an orderly and economic fashion.

Transportation – The petitioners state that development of the property will increase efficiency of the transportation system through connection of an existing subdivision with Cornelius Pass Road. According to the petitioners, the County plans to realign Jacobsen Road to connect with Cornelius Pass Road adjacent to the subject property. The combination of this realignment with the development of the subject property and subsequent new street connections would allow greater access to Highway 26 for existing properties inside the UGB.

The applicant references a Transportation Impact Analysis report from Kittleson & Associates. The analysis shows that development of this property will not affect a change to the current Level of Service (LOS) for the intersection of Cornelius Pass and West Union Roads. This intersection currently operates at LOS F, which means that signal warrants for the four-way stop are currently met. The report concludes that with the improvements included in the Washington County Transportation Plan, the West Union/Cornelius Pass intersection will function at LOS A.

The petitioners also claim that the inclusion of the Tsugawa property can provide enhanced pedestrian and bicycle connectivity as required by the Transportation Planning Rule. Both West Union and Cornelius Pass Roads are currently void of sidewalks and shoulders only at the frontage of the Tsugawa property. Development of the subject property will facilitate the completion of sidewalks and shoulders on both roadways.

Washington County staff, upon review of the draft traffic analysis, declared that there was not sufficient information to determine whether or not the proposal is consistent with the requirements of the Transportation Planning Rule with respect to County roads. Specifically, the County was not able to determine if the Cornelius Pass and West Union intersection would be consistent with the planned LOS for these roads.

ODOT submitted a letter on June 1, 1998 (Exhibit # 8), stating that the development of this property would impact eastbound ramps on US 26, which although at level D, are expected to reach LOS E or F shortly. Since this development will add traffic to an intersection that is expected to fail in the near future, and since ODOT does not have plans to do anything about it, in the short term, this project cannot now proceed in orderly and economic fashion as required by the criteria.

In response to this challenge from ODOT, the petitioners produce a response from Kittleson and Associates (Exhibit # 12), which is unrebutted. Similarly Metro transportation staff examines ODOT's claim (Exhibit #11) and concludes that:

"Our regional forecasting model shows the eastbound ramps of the interchange to beat an unacceptable operating condition by the year 2020, with or without the proposed locational adjustment and planned single family development of Tsugawa property. With improvements called out in the draft "strategic" RTP, the mainline operations of US 26 will be within acceptable levels of operation." (*Emphasis provided*).

Metro's transportation analysis concludes, after looking at all the transportation impacts that "the adjustment and subsequent development would likely have a neutral to slightly positive impact on transportation infrastructure."

Kittleson's analysis correctly points out that ODOT does not define, "short term". Year 2020 does not appear to be short term to the hearing officer. Kittleson also correctly points out that ODOT's claim lacks specificity and substantiation. Kittleson concludes that the number of trips from this project affecting this eastbound ramp are not statistically determinable, and the impact on US 26 is "nominal".

Kittleson concludes that:

". . .there are beneficial short term impacts to developing this property, since it would provide funding to mitigate existing

traffic congestion, the traffic congestion anticipated with short term growth, and any impacts of developing the property. The project would include providing public right-of-way which could be used to provide missing links with the pedestrian transportation system and road widening that is in the Washington County Transportation System Plan. These actions would lead to a net improvement of the efficiency of the roadway system and the pedestrian system that either could not be realized or would be more expensive to build without development of the property." (Exhibit #13, page 3)

The hearing officer concludes that the criteria as relating to net increase in transportation efficiency and adequacy of the transportation system is satisfied. In addition to the site being capable of service in an orderly and economic fashion, the petitioners state that a net improvement in the efficiency of public facilities and services would be realized in the adjoining subdivision inside the current UGB.

**Summary:** Given the information contained in the petitioners' submittals and additional information presented, it appears that the site is capable of being served in an orderly and economic fashion with sewer, storm drainage, water, police, fire, parks and transportation. Services are available and adequate to serve the site according to statements signed by these service providers. The City of Hillsboro has also confirmed a desire to annex and provide any necessary public services to the subject property. Staff concludes that transportation services can be provided in an orderly and economic fashion.

The petitioners' claim, that there would be a net improvement in efficiency of public facilities and services, has been sufficiently demonstrated. Parks, police and fire services can be provided without any negative impact. Water, transportation, sewer and storm drainage service can not only be provided with no negative economic impact, but will result in an increase in efficiency for the land area currently inside the UGB.

The petitioners have demonstrated that the subject site is capable of being served with public facilities and services in an orderly and economic manner, and that the adjustment would result in a net improvement in their efficiency. Staff concludes that this criterion is satisfied.

6. **Maximum efficiency of land uses.** The amendment shall facilitate needed development on adjacent existing urban land. Needed development, for the purposes of this section, shall mean consistent with the local comprehensive plan and/or applicable regional plans. [3.01.035(c)(2)]

The petitioners state that development of the site will facilitate the development of urban land to the west, across Cornelius Pass Road. This will be accomplished by enhancing the transportation system and by providing storm water retention in the

lower portion of the property, thus allowing development of the urban land to the west.

The petitioners note that this parcel is within an Urban Reserve, an area planned for inclusion to the UGB by Metro. Inclusion of the property, therefore, is consistent with Metro's identified regional land need, the 2040 Growth Concept, Regional Urban Growth Goals and Objectives, and the Urban Growth Management Functional Plan.

While development of this property has net positive impacts on the development of land inside the existing UGB as discussed in the previous criteria, if brought into the UGB it may not facilitate needed development. The case presented is that improving the roadway, water, sewer and storm drainage will assist with the neighboring development. Washington County staff, however, has stated that development is already occurring within the area in accordance with the Comprehensive Plan.

Because the impact on facilitation of new development is most likely neutral, this criterion is not satisfied.

7. Environmental, energy, economic and social consequences. Any impact on regional transit corridor development must be positive and any limitations imposed by the presence of hazard or resource lands must be addressed. [3.01.035(c)(3)]

The petitioners state that there are not any regional transit corridors near this site. In addition, there are no mapped hazard areas on the subject property, and it is not resource land.

Washington County maps show no flood plains or drainage hazard areas on the site.

The nearest regional transportation corridors, as defined by Metro's 2040 Growth Concept, are N.W. 185<sup>th</sup> Avenue to the east and N.W. Cornell Road to the south. Neither of these regional transit corridors are within one mile of the site, therefore, the proposed development would have no effect.

The petitioners' submittal adequately addresses the factors of criterion 7. In combination with other development, the proposal helps fill a gap and completes the urban form. For this reason, staff concludes and the hearing officer agrees that this criterion is satisfied.

8. Retention of agricultural land. When a petition includes land with Agricultural Class I-IV soils designated in the applicable comprehensive plan for farm or forest use, the petition shall not be approved unless it is factually demonstrated that:
  1. Retention of any agricultural land would preclude urbanization of an adjacent area already inside the UGB, or

2. Retention of the agricultural land would make the provision of urban services to an adjacent area inside the UGB impracticable. [3.01.035(c)(4)]

The petitioners state that the property was part of a 1986 "Irrevocably Committed" exception granted by the State Department of Land Conservation and Development. Therefore, the property is not agricultural land; thus this standard does not apply.

Metro maps, which are based on Washington County soil classification data, show the site consisting of a mixture of Class I and II soils. However, the land is identified AF-5 which is not considered Farm or Forest in Washington County's Comprehensive Plan. Therefore, the factors of criterion 8 do not apply to this application.

As the two members of the public noted, the parcel has filbert trees on it, notwithstanding that this is an exception parcel. As an exception parcel it has the first priority for inclusion in the urban reserve, so that its urbanization is inevitable. It's location and relatively small size, surrounded by residential development would in effect make impracticable pedestrian connections to a major intersection within the UGB; therefore, even if this standard did apply, it would have been met.

9. Compatibility of proposed urban uses with nearby agricultural activities. When a proposed adjustment would allow an urban use in proximity to existing agricultural activities, the justification in terms of all factors of this subsection must clearly outweigh the adverse impact of any incompatibility. [3.01.35(c)(5)]

The parcel is surrounded by the UGB on the east, south and west, and is bordered by West Union Road to the north. The land across is exception land. Petitioners claim that any other agricultural land in the vicinity is impacted by the existing residential subdivision to the east. The addition of this parcel to the UGB would not result in any further impact.

Staff and the two members of the public note that while the adjacent land is zoned AF-5, the land is currently being used for agricultural purposes. In addition, there is land to the northeast that is zoned EFU and is also in agricultural production. It appears, however, that inclusion of the subject site into the UGB will have no greater impact on nearby agricultural activities than is present today. This petition satisfies the criterion for this section.

## V. SUMMARY AND RECOMMENDATION

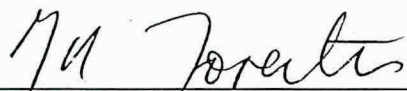
This petition seeks to bring 15 acres of land into the UGB for the purpose of developing residential dwelling units. The petitioners have provided sufficient evidence to demonstrate that the proposed UGB is superior to the UGB as presently located. It is evident that the site can be efficiently served in an orderly and economic fashion with sewer, storm drainage, water, police, fire and parks. Likewise, it is apparent that there will be an increase in net efficiency to the water, transportation, sewer and storm drainage systems.

The land use efficiency issue contained in criterion 6 is the only one that is arguable neutral, because needed development on adjacent urban land would proceed regardless of this proposal; however, it would not be as well connected to West Union/Cornelius Pass Road center.

Staff was unable to uncover facts about why the existing UGB detours around the Tsugawa property. There are no obvious facts that lend reason to its current location. It would appear that the subject property was in fact similarly situated to the contiguous land that was incorporated when the boundary was adopted on December 21, 1978.

Based on the consideration of all the factors above, the petitioners have demonstrated that the proposed UGB adjustment is superior to the UGB as presently located. The hearing officer agrees with the Staff recommendations and forwards a recommendation to the Metro Council for approval of this petition.

Submitted by,



J. Richard Forester, OSB # 74101  
METRO Contract Hearing Officer



Date

## STAFF REPORT

### CONSIDERATION OF RESOLUTION NO. 98-2718 FOR THE PURPOSE OF EXPRESSING COUNCIL INTENT TO AMEND THE URBAN GROWTH BOUNDARY FOR LOCATIONAL ADJUSTMENT CASE 98-4: TSUGAWA

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Date: September 29, 1998

Presented by: Richard Forester, Hearings Officer  
Prepared by: Glen Bolen, Growth Management

#### PROPOSED ACTION

Adoption of Resolution 98-2718, expressing intent to amend the urban growth boundary (UGB) for locational adjustment *Case 98-4: Tsugawa*.

#### BACKGROUND AND ANALYSIS

On March 25, 1998, Jim and Amy Tsugawa completed filing a petition for a 15-acre locational adjustment to the UGB for the purpose developing the site for residential use.

##### Proposal Description:

The 15-acre site is located within Washington County southeast of the intersection of NW Cornelius Pass Road and West Union Road. It consists of Tax Map/Lot 1N214D 1201. The site is bounded on the north by West Union Road, on the east and south by R-5 residential land, and on the west by MP SID industrial land and by CI general commercial land. Zoned AF-5 (Agriculture/Forestry) under Washington County's Comprehensive Plan, the site is currently being used as an orchard. The property is included within Metro Urban Reserve No. 64, but not within the Metro jurisdictional boundary.

The petitioners propose to adjust the UGB for the purpose of developing the site with residential uses. The applicant intends for the property to be developed with 60 to 75 residential dwelling units. Washington County or the City of Hillsboro if the site is annexed, will make the final zoning determination. The City of Hillsboro has expressed a willingness to annex this property.

Metro staff proposed to modify the application to include the adjacent roadways to assure consistency with the current Urban Growth Boundary. This modification added approximately 1.5 acres to the original petition.

##### Hearings Officer Recommendation and Proposed Findings

The Hearings Officer, Richard Forester, conducted a public hearing at the Washington County Public Services Building on July 9, 1998. He submitted a report and recommendation to Metro on August 6, 1998, recommending approval of the petition (Attachment 2).

The criteria from Metro Code 3.01.035 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 will 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.

The Hearings Officer finds that on balance, the criteria for a locational adjustment to the UGB as contained in Metro Code 3.01.035, are met by the petitioner. He states that criterion 3 (Facilitation of needed development) when examined independently is not satisfied by the petition, as facilitation of new development is most likely neutral. The Hearings Officer writes, "While development of this property has net positive impacts on the development of land inside the existing UGB... it may not facilitate needed development." The Hearings Officer further explains, "The land use efficiency issue contained in criterion 6 [from the staff report] is the only one that is arguably neutral, because needed development on adjacent urban land would proceed regardless of this proposal; however, it would not be as well connected to West Union/Cornelius Pass Roads."

The Hearings Officer recommends approval of *Case 98-4: Tsugawa* 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.
- On balance, the criteria for a locational adjustment to the UGB contained in Metro Code 3.01.035 are met by the petitioner.

#### Request to Reopen Record:

The Metro Code (3.01.065(e)) provides for parties to the case to file a motion to reopen the record. A request was filed by The Oregon Department of Transportation (ODOT) during the 20-day exception period to reopen the record to receive admissible evidence not available at the July 9 hearing (Attachment 3). ODOT wishes to respond to a letter from the applicant's traffic consultant (Kittleson and Associates), which was presented at the hearing. The new evidence regards level of service at the eastbound ramp for US Highway 26 at NW Cornelius Pass Road.

ODOT submitted a letter to the record on June 1, 1998 stating that development of this property would negatively impact eastbound ramps on US 26. The letter explained that the ramps are expected to reach an unacceptable operating condition in the near future.

Metro transportation staff examined ODOT's concerns and concluded that the eastbound ramp will reach this unacceptable condition by the year 2020 with or without approval of this petition. Proposed improvements in the draft "Strategic" RTP, ensure the operations of US 26 will be within acceptable levels of operation.

The Kittleson report points out that ODOT's claim lacks specificity and substantiation. The report concludes that the number of trips associated with the eastbound ramp is not statistically determinable, and that the impact on US 26 is nominal.

ODOT did not send a representative to attend the public hearing held on July 9, 1998, where this information was presented. Notice of the Metro Council hearing was mailed to ODOT on October 1, 1998. A copy of this staff report was mailed to ODOT on October 2, 1998.



A request to reopen the record must explain why the information was not provided at the hearing, and must demonstrate that such evidence meets the standards of Metro Code Section 2.05.030 and would likely result in a different decision (Metro Code 2.05.035(c)). According to Section 2.05.035(c), the Metro Council shall:

- (1) Refuse the request; or
- (2) Remand the proceeding to the Hearings Officer for the limited purpose of receiving the new evidence and oral argument and rebuttal argument by the parties on the new evidence; or
- (3) If the nature of the new evidence to be submitted is such that remand would serve no useful purpose, proceed to hear and consider the evidence and argument and rebuttal from the parties on the evidence.

### **SUMMARY**

The Council has the following options:

- Adopt Resolution 98-2718 to express the intent to approve *Case 98-4: Tsugawa*, based on the Hearings Officer's findings, if and when the subject property is annexed to Metro.
- Remand the proceeding to the Hearings Officer based on the ODOT request to open the record.
- Request the Metro Office of General Counsel or Hearings Officer to draft findings supporting a resolution to deny *Case 98-4: Tsugawa*.

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




### **BUDGET IMPACT**

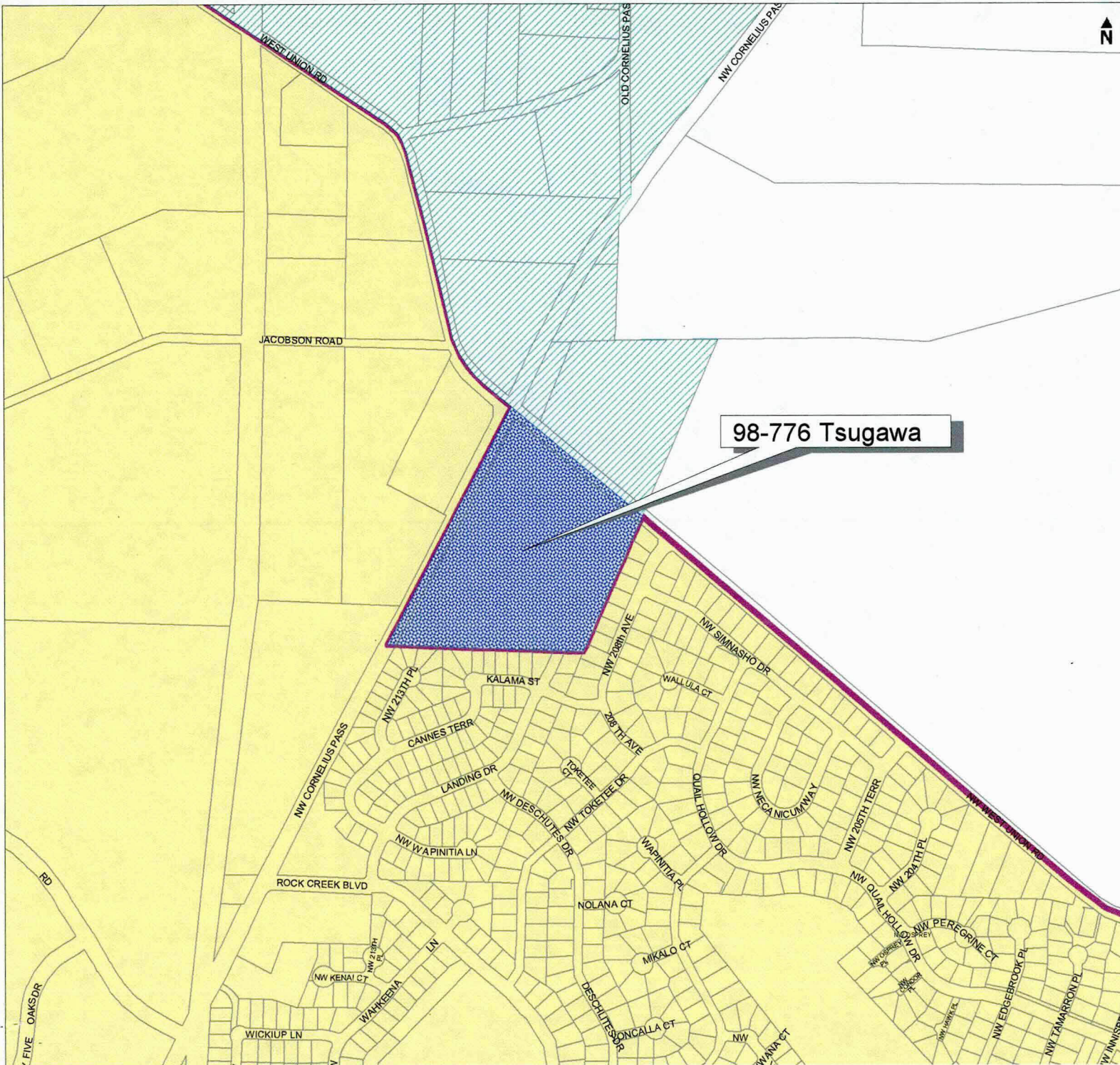
There is no budget impact from adopting this ordinance.

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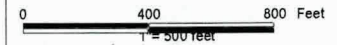
# Attachment 1 98-776

UGB Locational Adjustment

-  Subject Property
-  Urban Reserves
-  Urban Growth Boundary



98-776 Tsugawa



**METRO**

600 NE Grand Ave.  
Portland, OR 97232-2736  
503 797-1742 FAX 503 797-1909  
Email: [drc@metro.dst.or.us](mailto:drc@metro.dst.or.us)

Plot date: Sep 29, 1998: d:\projects\ugb\98-4.apr

**BEFORE THE METROPOLITAN SERVICE DISTRICT  
(METRO)**

**In the Matter of the Petition of the )  
JIM & AMY TSUGAWA for a )  
locational adjustment to the Urban )  
Growth Boundary (UGB) in )  
Washington County )**

**Contested Case # 98 -4  
REPORT AND  
RECOMMENDATION OF THE  
HEARING OFFICER**

**I. INTRODUCTION**

This is a proposal for a locational adjustment to the Urban Growth Boundary (UGB) for a 15-acre site, plus approximately 1.5 acres of road right-of-way. The property is located at the southeast corner of the intersection of N.W. Cornelius Pass Road and West Union Road in Washington County. (Attachment A). The PLAN/ZONING designation is Washington County AF-5 (Agriculture/Forest 5 acre). The applicable review criteria is Metro Code 3.01.035.

Staff recommended that the hearing officer forward a recommendation to the Metro Council for approval. The hearing officer agrees with the staff recommendation and also recommends APPROVAL.

**Site Information:** The 15-acre site is located within Washington County southeast of the intersection of N.W. Cornelius Pass Road and West Union Road. It consists of Tax Map/Lot 1N214D 1201. The site is bounded on the north by West Union Road, on the east and south by R-5 residential land, and on the west by MP SID industrial land and by CI general commercial land. Zoned AF-5 (Agriculture/Forestry under Washington County's Comprehensive Plan, the site is currently being used as an orchard.

The Tsugawa property is included within Urban Reserve No. 64, which was designated by the Metro Council on March 6, 1997. Urban Reserves are land areas that have been identified as areas that will be available for inclusion into the UGB when a land need is identified. In December 1997, the Metro Council concluded that there was a land need present. The Council specified that the UGB is deficient in the amount of land needed to accommodate additional 32,370 households and 2,900 jobs. To date, no land has been added to the UGB.

**Proposal Description:** The petitioners propose to bring the site into the UGB and develop the site with residential uses. If the proposal is approved, the site will be zoned for residential use. The applicant intends for the property to be developed with 60 to 75 residential dwelling units. Washington County, or the City of Hillsboro, if the site is annexed, will make the final zoning determination. The City of Hillsboro has expressed a willingness to annex this property.

If the petition is approved by the Council, the strips of land between the centerlines of West

Union and Cornelius Pass Roads and the subject site will be included in the UGB. This area of land is approximately 1.5 acres.

Local Government Statement: The Washington County Board of Commissioners voted 3-0 to recommend no comment on the petition.

## II. PROCEEDINGS AND RECORD

The hearing on this matter was held on July 9, 1997, and one person. Frank Buehler (CPC #7 Steering Committee) testified against the proposal at that hearing. The record also contains one brief comment letter from Lawrence and Ara Babcock (Exhibit #9).

At the request of Dan Chandler, the petitioner's attorney, the record was kept open for seven days until July 16<sup>th</sup> in order, inter alia, to further discuss the interaction of the Transportation Planning Rule with the ODOT's negative comment on this proposal and the interaction of the fact that this site is an exception parcel with the Urban Reserve Rule. No comments were in fact provided within the seven day period.

Glen Bolen of the METRO staff introduced the Petition and the staff report (Exhibit # 7) recommending approval of the locational adjustment. A key part of his and the petitioner's testimony related to the absence of an explanation for excluding this parcel from the original urban growth boundary (UGB) which follows West Union road, but inexplicably circumvents the petitioner's orchard. The boundary would be improved by following the center line of West Union and the development will complete the intersection of two major roads with sidewalks, creating a continuous pedestrian connection along the northern boundary of the UGB. The area south of West Union is already heavily residential and this development pod would simply complete the development pattern without any major negative impacts.

The Babcocks (Exhibit #9) expressed regret over loss of the "beautiful filbert orchard" and suggested that housing development should use land to the south. They did not specifically discuss the approval criteria. Mr. Buehler testified about the absence of legal notice in the "Argus" and raised the issue that the land in the urban reserve was supposed to be last to be developed. He too expressed regret at the loss of the filberts, an important crop in Washington County. He reiterated traffic concerns raised by ODOT, namely that Cornelius Pass/ OR 26 western on ramp is at level E or F.

As to Mr. Buehler's issues, the hearing officer finds that the hearing notice was published in the Oregonian, a paper of general circulation, satisfying the legal notice requirement. On the Urban Reserve issue, the inclusion of the site within the UGB is not a development approval, and is governed by the approval criteria, which are satisfied. The orchard is in an exception area, and therefore properly within urban reserve. The traffic issue is discussed below.

The record in this case contains the following exhibits:

1.	2/10/98	Timothy Erwert, City of Hillsboro	In support, willing to annex
2.	2/19/98	United Sewage Agency	Service Provider Comment
3.	3/6/98	Wink Brooks, City of Hillsboro	In support, willing to annex
4.	3/10/98	Brent Curtis, Washington County	County Letter and staff report
5.	3/12/98	Dan Chandler	Application w/tax map/narrative
6.	3/25/98	Jim and Amy Tsugawa, owners	Intent to annex to Metro Boundary
7.	5/28/98	Glen Bolen, Metro	Staff Report
8.	6/2/98	Marah Danielson, ODOT	Service Provider, opposed
9.	6/30/98	Lawrence J. Babcock	Letter in opposition
10.	7/8/98	Dan Chandler	Letter re net transportation improvement
11.	7/9/98	Michael Hoglund, Metro	Response to ODOT
12.	7/9/98	Kittleson & Associates	Response to ODOT
13.	7/9/98	Kittleson & Associates	Net transportation efficiency
14.	7/9/98	Dan Chandler	3.01.035(c)(2) Facilitation

### III. FINDINGS

The criteria for a locational adjustment to the UGB are contained in Metro Code 3.01.035.

1. An addition of land to make the UGB coterminous with the nearest property lines may be approved without consideration of the other conditions in this subsection if the adjustment will add a total of two gross acres or less, the adjustment would not be clearly inconsistent with any of the factors in subsection (c) this section, and the adjustment includes all contiguous lots divided by the existing UGB. [3.01.035(f)(1)]

The petition is for a single tax lot 15 acres in size. Accordingly, this section is not applicable.

2. For all other locations, the proposed UGB must be superior to the UGB as presently located based on a consideration of the factors in subsection (c) of this section. [3.01.035(f)(2)] (Factors described as criteria 5-9 following.)

Based on analysis of the petition and other information submitted, the hearing officer concludes that approval of this application will result in a UGB that is superior to the UGB at its present location. The site can be efficiently served in an orderly and economic fashion with sewer, storm drainage, water, police, fire and parks. There will also be an increase in the net efficiency of the water, transportation, sewer and storm drainage systems.

Approval of this petition may facilitate needed development inside the current UGB, in that:

- Incorporation of the Tsugawa property into the UGB would allow improvements to the local street system.
- Addition of the Tsugawa property to the UGB would improve the connectivity of the local street system by providing a connection between the Rock Creek area and the realigned Jacobson Road.
- Development of the Tsugawa property would improve pedestrian connections between existing residential neighborhoods and nearby commercial areas.

These improvements should "facilitate needed development on adjacent existing urban land" to the west of Cornelius Pass Road (see Exhibit #10 and attachments). The improvements to Cornelius Pass Road constitute needed development because the road improvements are identified in the county transportation plan. At a minimum, the staff concedes that this approval will not have any adverse effects on development.

Based on the consideration of the factors taken as a whole, criterion 2 has been satisfied by the petitioner.

3. The proposed UGB amendment must include all similarly situated contiguous land that could also be appropriately included within the UGB as an addition based on the factors above. [3.01.035(f)(3)] (Factors described as criteria 5-9 following.)

The UGB takes a detour around this single parcel and there are no nearby properties with sewer and water stubbed to them, and therefore the neighboring properties are not similarly situated.

This criterion sets a condition for the amount of acreage that must be included in a petition for an UGB amendment. The basis for deciding on the amount of land is consideration of the factors in criteria 5-9 below. The intent of this criterion is twofold: first, to prevent carving out a piece of land 20 acres or less in order to qualify for a locational adjustment; and second, to minimize subsequent petitions for locational adjustments on adjacent land that should have been considered together with the original proposal. These reasons are intended to prevent using the

locational adjustment process as a tool for expansion of the UGB without demonstrating regional land need and without undertaking necessary urban reserve plans.

This parcel is surrounded on three sides by the current UGB. The adjacent property on the fourth side is separated from the site by a roadway to the north which forms the UGB boundary in this area. Land that is zoned for Exclusive Farm Use, AF-5, and RCOM (Rural Commercial) surround the neighboring property. Contiguous land to the proposed site is not appropriate for inclusion with this proposal, based on criteria 5 through 9.

4. Locational adjustments shall not exceed 20 net acres. [3.01.035(b)]

The petitioners propose to include Tax Lot 1201 of section 14D of Township 1 North, Range 2 West for a total of 15 acres, as shown on the submitted map.

Staff confirmed that the proposal comprises 15 acres and complies with the 20-acre restriction. This criterion is satisfied.

5. Orderly and economic provision of public facilities and services. A locational adjustment shall result in a net improvement in the efficiency of public facilities and services, including but not limited to water, sewerage, storm drainage, transportation, parks and open space in the adjoining areas within the UGB. Any area to be added must be capable of being served in an orderly and economical fashion. [3.01.035(c)(1)]

The petitioners state that all services would be provided to the site in an orderly and economic fashion. The following is a summary of the petitioners' and service providers' responses to criterion 5. The Tualatin Valley Water District, the Washington County Sheriff and the Washington County Fire District #2, support approval of the petition. The Unified Sewerage Agency takes no position on the petition. The City of Hillsboro supports approval of the petition. The City has also indicated that it will annex the site if the petition is granted, and provide any necessary public services to the site that will not be provided by public service districts.

Sanitary Sewer & Storm Drainage -- The petitioners state that 70-75 percent of the property can be served by an existing 8" sewer line currently stubbed to the southeastern corner. Servicing the remainder of the property will involve either a lift station, or the extension of sewer lines along West Union or Cornelius Pass Roads. The petitioners correctly assert that either of these options will enhance the provision of sewer to surrounding unserved properties. The petitioners also state that the existing sewer system was designed and stubbed to this parcel and, therefore, it would be an inefficient use of the resources already expended, if this property is not brought within the UGB. The Unified Sewerage Agency has stated that because any improvements needed will be paid for or constructed by the petitioners, there would be no negative economic impact to the existing system. Storm Drainage will be

conveyed via roadside ditches to a stream corridor that flows under West Union Road and down to Holcomb Lake. Development of this parcel will complete the development of the small basin south of N.W. West Union Road. Addressing the water quality and quantity issues will allow more efficient use of the existing facilities in N.W. West Union Road, including the roadway crossing for the stream corridor.

Water -- The Tualatin Valley Water District supports approval of the petition. The petitioners state, reinforced by John M. Godsey, P.E., that development of this subject parcel will result in a connection of a line from N.W. Landing Drive to Cornelius Pass Road and/or West Union Road. This connection will improve flow characteristics in the existing lines in the abutting subdivision by providing an improved network of circulation. Increasing the network and connecting it to the 18-inch water mains will improve water quality in the existing lines by allowing increased circulation, and it will improve the fire fighting capabilities of the network by adding parallel routes, which will increase flow potential.

Fire Protection – Washington County Fire District #2 supports approval of the petition, and states that the area could be served in an orderly and economic fashion.

Police Protection – Police services are provided by the Washington County Sheriff's Office Enhanced Sheriffs Patrol District. As the Sheriff would continue to serve this area, there will be no efficiency impact. The Sheriff's office supports approval of the petition and states that the subject property can be served in an orderly and economic fashion.

Parks/Open Space – Tualatin Hills Park & Recreation District indicates that there would be no efficiency impact, as they already service the property. The District supports approval of the petition, but conditions their support by stating that they would not support annexation to the City of Hillsboro. The District states that the area could be served in an orderly and economic fashion.

Transportation – The petitioners state that development of the property will increase efficiency of the transportation system through connection of an existing subdivision with Cornelius Pass Road. According to the petitioners, the County plans to realign Jacobsen Road to connect with Cornelius Pass Road adjacent to the subject property. The combination of this realignment with the development of the subject property and subsequent new street connections would allow greater access to Highway 26 for existing properties inside the UGB.

The applicant references a Transportation Impact Analysis report from Kittleson & Associates. The analysis shows that development of this property will not affect a change to the current Level of Service (LOS) for the intersection of Cornelius Pass and West Union Roads. This intersection currently operates at LOS F, which means that signal warrants for the four-way stop are currently met. The report concludes that with the improvements included in the Washington County Transportation Plan, the West Union/Cornelius Pass intersection will function at LOS A.



The petitioners also claim that the inclusion of the Tsugawa property can provide enhanced pedestrian and bicycle connectivity as required by the Transportation Planning Rule. Both West Union and Cornelius Pass Roads are currently void of sidewalks and shoulders only at the frontage of the Tsugawa property. Development of the subject property will facilitate the completion of sidewalks and shoulders on both roadways.

Washington County staff, upon review of the draft traffic analysis, declared that there was not sufficient information to determine whether or not the proposal is consistent with the requirements of the Transportation Planning Rule with respect to County roads. Specifically, the County was not able to determine if the Cornelius Pass and West Union intersection would be consistent with the planned LOS for these roads.

ODOT submitted a letter on June 1, 1998 (Exhibit # 8), stating that the development of this property would impact eastbound ramps on US 26, which although at level D, are expected to reach LOS E or F shortly. Since this development will add traffic to an intersection that is expected to fail in the near future, and since ODOT does not have plans to do anything about it, in the short term, this project cannot now proceed in orderly and economic fashion as required by the criteria.

In response to this challenge from ODOT, the petitioners produce a response from Kittleson and Associates (Exhibit # 12), which is unrebutted. Similarly Metro transportation staff examines ODOT's claim (Exhibit #11) and concludes that:

"Our regional forecasting model shows the eastbound ramps of the interchange to be in an unacceptable operating condition by the year 2020, with or without the proposed locational adjustment and planned single family development of Tsugawa property. With improvements called out in the draft "strategic" RTP, the mainline operations of US 26 will be within acceptable levels of operation." (*Emphasis provided*).

Metro's transportation analysis concludes, after looking at all the transportation impacts that "the adjustment and subsequent development would likely have a neutral to slightly positive impact on transportation infrastructure."

Kittleson's analysis correctly points out that ODOT does not define, "short term". Year 2020 does not appear to be short term to the hearing officer. Kittleson also correctly points out that ODOT's claim lacks specificity and substantiation. Kittleson concludes that the number of trips from this project affecting this eastbound ramp are not statistically determinable, and the impact on US 26 is "nominal".

Kittleson concludes that:

". . .there are beneficial short term impacts to developing this property, since it would provide funding to mitigate existing

traffic congestion, the traffic congestion anticipated with short term growth, and any impacts of developing the property. The project would include providing public right-of-way which could be used to provide missing links with the pedestrian transportation system and road widening that is in the Washington County Transportation System Plan. These actions would lead to a net improvement of the efficiency of the roadway system and the pedestrian system that either could not be realized or would be more expensive to build without development of the property." (Exhibit #13, page 3)

The hearing officer concludes that the criteria as relating to net increase in transportation efficiency and adequacy of the transportation system is satisfied. In addition to the site being capable of service in an orderly and economic fashion, the petitioners state that a net improvement in the efficiency of public facilities and services would be realized in the adjoining subdivision inside the current UGB.

Summary: Given the information contained in the petitioners' submittals and additional information presented, it appears that the site is capable of being served in an orderly and economic fashion with sewer, storm drainage, water, police, fire, parks and transportation. Services are available and adequate to serve the site according to statements signed by these service providers. The City of Hillsboro has also confirmed a desire to annex and provide any necessary public services to the subject property. Staff concludes that transportation services can be provided in an orderly and economic fashion.

The petitioners' claim, that there would be a net improvement in efficiency of public facilities and services, has been sufficiently demonstrated. Parks, police and fire services can be provided without any negative impact. Water, transportation, sewer and storm drainage service can not only be provided with no negative economic impact, but will result in an increase in efficiency for the land area currently inside the UGB.

The petitioners have demonstrated that the subject site is capable of being served with public facilities and services in an orderly and economic manner, and that the adjustment would result in a net improvement in their efficiency. Staff concludes that this criterion is satisfied.

6. Maximum efficiency of land uses. The amendment shall facilitate needed development on adjacent existing urban land. Needed development, for the purposes of this section, shall mean consistent with the local comprehensive plan and/or applicable regional plans. [3.01.035(c)(2)]

The petitioners state that development of the site will facilitate the development of urban land to the west, across Cornelius Pass Road. This will be accomplished by enhancing the transportation system and by providing storm water retention in the

lower portion of the property, thus allowing development of the urban land to the west.

The petitioners note that this parcel is within an Urban Reserve, an area planned for inclusion to the UGB by Metro. Inclusion of the property, therefore, is consistent with Metro's identified regional land need, the 2040 Growth Concept, Regional Urban Growth Goals and Objectives, and the Urban Growth Management Functional Plan.

While development of this property has net positive impacts on the development of land inside the existing UGB as discussed in the previous criteria, if brought into the UGB it may not facilitate needed development. The case presented is that improving the roadway, water, sewer and storm drainage will assist with the neighboring development. Washington County staff, however, has stated that development is already occurring within the area in accordance with the Comprehensive Plan.

Because the impact on facilitation of new development is most likely neutral, this criterion is not satisfied.

7. Environmental, energy, economic and social consequences. Any impact on regional transit corridor development must be positive and any limitations imposed by the presence of hazard or resource lands must be addressed. [3.01.035(c)(3)]

The petitioners state that there are not any regional transit corridors near this site. In addition, there are no mapped hazard areas on the subject property, and it is not resource land.

Washington County maps show no flood plains or drainage hazard areas on the site.

The nearest regional transportation corridors, as defined by Metro's 2040 Growth Concept, are N.W. 185<sup>th</sup> Avenue to the east and N.W. Cornell Road to the south. Neither of these regional transit corridors are within one mile of the site, therefore, the proposed development would have no effect.

The petitioners' submittal adequately addresses the factors of criterion 7. In combination with other development, the proposal helps fill a gap and completes the urban form. For this reason, staff concludes and the hearing officer agrees that this criterion is satisfied.

8. Retention of agricultural land. When a petition includes land with Agricultural Class I-IV soils designated in the applicable comprehensive plan for farm or forest use, the petition shall not be approved unless it is factually demonstrated that:
  1. Retention of any agricultural land would preclude urbanization of an adjacent area already inside the UGB, or

2. Retention of the agricultural land would make the provision of urban services to an adjacent area inside the UGB impracticable. [3.01.035(c)(4)]

The petitioners state that the property was part of a 1986 "Irrevocably Committed" exception granted by the State Department of Land Conservation and Development. Therefore, the property is not agricultural land; thus this standard does not apply.

Metro maps, which are based on Washington County soil classification data, show the site consisting of a mixture of Class I and II soils. However, the land is identified AF-5 which is not considered Farm or Forest in Washington County's Comprehensive Plan. Therefore, the factors of criterion 8 do not apply to this application.

As the two members of the public noted, the parcel has filbert trees on it, notwithstanding that this is an exception parcel. As an exception parcel it has the first priority for inclusion in the urban reserve, so that its urbanization is inevitable. It's location and relatively small size, surrounded by residential development would in effect make impracticable pedestrian connections to a major intersection within the UGB; therefore, even if this standard did apply, it would have been met.

9. Compatibility of proposed urban uses with nearby agricultural activities. When a proposed adjustment would allow an urban use in proximity to existing agricultural activities, the justification in terms of all factors of this subsection must clearly outweigh the adverse impact of any incompatibility. [3.01.35(c)(5)]

The parcel is surrounded by the UGB on the east, south and west, and is bordered by West Union Road to the north. The land across is exception land. Petitioners claim that any other agricultural land in the vicinity is impacted by the existing residential subdivision to the east. The addition of this parcel to the UGB would not result in any further impact.

Staff and the two members of the public note that while the adjacent land is zoned AF-5, the land is currently being used for agricultural purposes. In addition, there is land to the northeast that is zoned EFU and is also in agricultural production. It appears, however, that inclusion of the subject site into the UGB will have no greater impact on nearby agricultural activities than is present today. This petition satisfies the criterion for this section.

## V. SUMMARY AND RECOMMENDATION

This petition seeks to bring 15 acres of land into the UGB for the purpose of developing residential dwelling units. The petitioners have provided sufficient evidence to demonstrate that the proposed UGB is superior to the UGB as presently located. It is evident that the site can be efficiently served in an orderly and economic fashion with sewer, storm drainage, water, police, fire and parks. Likewise, it is apparent that there will be an increase in net efficiency to the water, transportation, sewer and storm drainage systems.

The land use efficiency issue contained in criterion 6 is the only one that is arguable neutral, because needed development on adjacent urban land would proceed regardless of this proposal; however, it would not be as well connected to West Union/Cornelius Pass Road center.

Staff was unable to uncover facts about why the existing UGB detours around the Tsugawa property. There are no obvious facts that lend reason to its current location. It would appear that the subject property was in fact similarly situated to the contiguous land that was incorporated when the boundary was adopted on December 21, 1978.

Based on the consideration of all the factors above, the petitioners have demonstrated that the proposed UGB adjustment is superior to the UGB as presently located. The hearing officer agrees with the Staff recommendations and forwards a recommendation to the Metro Council for approval of this petition.

Submitted by,

  
\_\_\_\_\_  
J. Richard Forester, OSB # 74101  
METRO Contract Hearing Officer

  
\_\_\_\_\_  
Date

Attachment 3



# Oregon

September 8, 1998

John A. Kitzhaber, M.D., Governor

Department of Transportation

Region 1

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FILE CODE:

Fr: Marah Danielson, Associate Planner

Att: Metro Council c/o Glen Bolen

Subject: **UGB Case 98-4: Tsugawa  
US 26/Cornelius Pass Road Interchange**

Request: ODOT requests the Metro Council reopen the above referenced case to consider new evidence at a newly schedule a public hearing.

Reason: ODOT did not receive copies of the traffic consultant's (July 2, 1998 Kittleson letter) before the hearing. ODOT has not had an opportunity to respond. The new evidence regards level of service at the eastbound ramp at US 26/Cornelius Pass.

Cc: Elaine Wilkerson, Planning Director

MD/gc/tw

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*For Res No  
98-2718*