

EXHIBIT B TO RESOLUTION 18-4885

Supplemental Findings of the Metro Council In Support of Resolution No. 18-4885 Regarding the Basalt Creek Planning Area

These findings supplement the decision of the Metro Council in Resolution No. 18-4885 regarding its arbitration of the dispute between the City of Tualatin and the City of Wilsonville concerning the concept plan for the Basalt Creek Planning Area. The Metro Council adopts these supplemental findings in support of its decision to adopt the Metro COO Recommendation dated March 26, 2018 regarding the appropriate designation of the Central Subarea.

1. Process and Record

The Intergovernmental Agreement (IGA) among Metro, the two cities, and Washington County dated January 22, 2018 expressly delegates complete authority and discretion to Metro regarding the creation of a process to arbitrate the dispute between the cities. Metro described the process in a letter to the cities and the county dated February 15, 2018. The process calls for a written recommendation to the Metro Council from the Metro Chief Operating Officer (COO) to be made after review of written evidence and argument submitted by the cities and the county during two consecutive open record periods. As stated in that letter, “the Metro Council’s review will be based on the record of written materials submitted by the cities, county, and Metro staff.”

The first open record period closed on March 7, 2018; the second (and final) open record period closed on March 14, 2018. As contemplated by the parties to the IGA, Metro received submittals from the two cities and the county during those time periods. Metro also received emails from two property owners, one from Peter Watts dated March 7, 2018 and another from Herb Koss dated March 8, 2018. Those emails raised objections to the process and requested that the emails and attached exhibits be included in the record. The email from Mr. Watts included references to 12 attached exhibits, but no exhibits were attached. However, the first 11 of the 12 referenced exhibits were attached to the email from Mr. Koss, which forwarded an earlier similar version of the email from Mr. Watts. The first 11 exhibits referenced in the email from Mr. Watts were also included in the exhibits attached to the briefs submitted by the cities on March 7, 2018, and those exhibits are therefore part of the record.

The process created by Metro calls for an “on the record” review of the COO Recommendation by the Metro Council. Accordingly, any evidence or other testimony that was not provided to the Metro COO during the open record period prior to the

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issuance of her recommendation is not properly before the Metro Council in this proceeding, and is expressly rejected.

The two property owners who submitted emails to the Metro COO raise objections to the process, alleging that Metro's proposal to only accept evidence and argument from the cities and the county violates Statewide Planning Goal 1 and Metro's Public Engagement Guide. As described above, Metro agreed to accept the testimony that was provided via email from the property owners on March 7, 2018 and March 8, 2018 for consideration by the Metro COO in making her recommendation to the Metro Council.

Metro disagrees with the implicit assertion by the property owners that the process created by Metro results in a final land use decision that is subject to Goal 1 and typical land use decision-making procedures. At the request of the cities, Metro agreed to create a unique arbitration process for the limited purpose of resolving their dispute. The purpose and intent of Metro and the cities was solely to resolve a dispute, and not to create a process that would result in a final land use decision.

The Metro Council's adoption of Resolution No. 18-4885 does not result in the adoption or amendment of a concept plan or a comprehensive plan map for the Basalt Creek area, and does not itself have any effects on land use. Metro's decision has no effect until it is implemented by the cities in their own future land use decisions, as described in paragraph 2 of the IGA. Those local land use decisions will need to be supported by substantial evidence in the record, and will be appealable to LUBA.

2. Regional Housing Needs

The March 7, 2018 email from Peter Watts includes a Metro-specific argument regarding regional housing needs that was not previously raised before the cities. The gist of the argument is that the Central Subarea should be designated for residential purposes in order to address an "extreme need" for more housing in the Metro region. Mr. Watts asserts that this need exists by challenging certain growth-related forecasts made by Metro in its most recent Urban Growth Report (UGR), which was adopted by the Metro Council in 2015 and concluded that the region has enough land inside the boundary to meet housing needs for 20 years.

A slightly different version of this argument is addressed in the COO Recommendation in response to arguments made by the City of Tualatin. The COO Recommendation notes that there is broad agreement in the region that there is an immediate need to address the

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current shortage of *affordable* housing, and building a new residential subdivision on undeveloped land south of Tualatin does not address that shortage.

Metro's most recent UGR in 2015 concluded that, based on peer-reviewed population growth forecasts for the region, there was no need to expand the Urban Growth Boundary because there is a sufficient supply of residentially zoned land in the region to accommodate 20 years of growth. The growth forecasts, buildable land inventory, and legal conclusions in the UGR were adopted by the Metro Council via Ordinance No. 15-1361. That ordinance and the UGR were not challenged by any party, are acknowledged by DLCD, and are not subject to collateral attack in this proceeding.

Metro planning department staff reviewed the arguments and data provided in the March 7, 2018 email from Mr. Watts and were unable to fully understand the arguments or corroborate the cited data regarding population forecasts and 2016 census figures. For example, there is a reference to U.S. Census estimates showing one-year 2016 population growth of 57,677 in Metro cities with populations over 5,000. Metro staff was unable to identify a census-based source for the 57,677 figure, which is significantly higher than the annual increases shown in U.S. Census data for the entire seven-county Portland Metropolitan Statistical Area (MSA).

The population forecast in Metro's UGR is based in part on census data for the seven-county MSA. Those figures show an average annual increase of just 23,300 people in all seven counties between 2010 and 2015. UGR Appendix 1a, page 9. The UGR forecast for 2020 predicts an average annual increase of 35,300 people in all seven counties. Based in part on the U.S. Census data, the UGR projects that there will be about 400,000 more people in the Metro UGB over the 20-year period ending in 2035, which reflects an average increase of approximately 20,000 people each year – a forecast that is consistent with previous annual averages within the UGB.

Even if the census data could be corroborated, it is empirically misguided to use a single year of estimated population growth in an attempt to disprove the accuracy of a 20-year forecast. Population increases are subject to fairly dramatic fluctuations on a year-to-year basis, and a single year of high growth can be easily offset by much lower growth in subsequent years. It appears that some of the figures cited by Mr. Watts attempt to create an annualized growth projection for individual cities. However, the purpose of the UGR is to assess the adequacy of the regional land supply over a 20-year horizon, not to assess the annual local growth and future land needs for each individual city. The UGR provides a long-term regional forecast regarding the next 20 years that is not intended to capture annual growth fluctuations and/or business cycles in individual jurisdictions.

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Another argument asserts that the 2015 UGR improperly allocates 27% of future housing to “high rise condos.” The actual figure in the UGR is 26%, and it is not assigned to “high rise condos,” it is assigned to any multifamily dwelling of two units or more. UGR Appendix 4, Table 11. This would include duplexes, rowhouses, one or two-story condos or co-housing developments, and any other form of ownership structure involving at least two attached units.

The housing-related argument is summarized as follows: (1) in the 2015 UGR, Metro incorrectly applied ORS 197.296 and adopted inaccurate future growth projections; (2) because of those errors, there is “an inadequate amount of available unconstrained buildable land in the region” for residential purposes; and (3) therefore, the 52-acre Central Subarea should be planned for residential purposes. First, Metro’s growth management decision in 2015 is not being reviewed in this proceeding. This arbitration does not provide a forum to collaterally attack Metro’s application of ORS 197.296 or Metro’s population forecasts in the 2015 UGR. The conclusions in the UGR were adopted by ordinance, acknowledged by DLCD, and under ORS 195.036 must be applied by Metro and local governments in the region for land use planning purposes until the next UGR is adopted at the end of 2018. Because that process is currently underway, stakeholders who are interested in regional growth issues already have an opportunity this year to comment on any perceived deficiencies in the population-related data and projections that were made in 2015.

Second, even if there was evidence in the record suggesting that actual growth in 2016 outpaced the 2015 forecast, that does not mean there is currently an inadequate amount of buildable land for housing in the Metro region. The Metro Council adopted the UGR a little over two years ago, concluding that there is enough buildable land inside the UGB to provide housing for the next 20 years. Mr. Watts is arguing that the region has already used up 20 years’ worth of its buildable land supply in the last 2.5 years; however, the evidence in the record does not support that conclusion.

The COO Recommendation provides a detailed analysis of the planning goals and expectations of local government stakeholders regarding the Basalt Creek Planning Area and the Central Subarea. As noted in that recommendation, “the planning history of the Central Subarea and the planning expectations of local government stakeholders lean heavily in the direction of an employment designation.” The Metro Council finds that unsubstantiated arguments regarding an inadequate land supply inside the UGB do not provide a compelling basis to reject the COO Recommendation.