

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF RESOLVING A)	RESOLUTION NO. 18-4885
DISPUTE BETWEEN THE CITY OF)	
WILSONVILLE AND THE CITY OF)	Introduced by Chief Operating Officer Martha
TUALATIN REGARDING THE CONCEPT)	Bennett in concurrence with Council
PLAN FOR THE BASALT CREEK PLANNING)	President Tom Hughes
AREA)	

WHEREAS, in 2004 Metro adopted Ordinance No. 04-1040B, which amended the Urban Growth Boundary to add 1,940 acres of land to satisfy an identified regional need for industrial land, including approximately 646 acres located between the City of Tualatin and the City of Wilsonville that is now known as the Basalt Creek Planning Area; and

WHEREAS, in 2007 Metro awarded a \$365,000 grant of construction excise tax funds to the cities of Tualatin and Wilsonville to undertake concept planning for the Basalt Creek Planning Area; and

WHEREAS, in 2011 Washington County, Metro, and the cities of Tualatin and Wilsonville entered into an Intergovernmental Agreement (IGA) that outlines the requirements and responsibilities of the parties regarding their coordinated efforts toward adopting a concept plan for the Basalt Creek Planning Area; and

WHEREAS, under the 2011 IGA, all parties must agree regarding the jurisdictional boundary between the cities and the planning designations in the concept plan before the county may transfer planning authority to the cities to facilitate future annexation and urban development; and

WHEREAS, between 2013 and 2016 the two cities engaged in a joint concept planning process for the Basalt Creek Planning Area, but reached an impasse in 2017 regarding the appropriate planning designation for a 52-acre portion of the planning area known as the “Central Subarea,” and asked Metro to take on the role of arbitrating their dispute; and

WHEREAS, on January 22, 2018 the two cities, Metro, and Washington County entered into an IGA that assigns Metro the task of creating a process for arbitrating the dispute between the cities and reaching a decision regarding the appropriate land use designation for the Central Subarea; and

WHEREAS, Metro created a special process for the arbitration wherein the Metro Chief Operating Officer (COO) agreed to accept written evidence and argument from the cities and county prior to issuing a written recommendation to the Metro Council that would be reviewed by the Council in an “on the record” proceeding; and

WHEREAS, the 2018 IGA and the arbitration process created by Metro recognize that Metro’s decision as arbitrator does not itself result in the adoption or amendment of any land use plan or map, and will not have any land use effects unless and until it is implemented by the cities through future city land use decisions that will be appealable to LUBA; and

WHEREAS, the Metro COO reviewed the evidence and argument submitted by the cities, Washington County, and two property owners, and issued her written COO Recommendation to the Metro Council on March 26, 2018 recommending that the cities should designate the Central Subarea for future employment use; and

WHEREAS, the Metro Council reviewed the COO Recommendation and all of the evidence that was placed in the record before the COO, and at the Council meeting on April 19, 2018 voted unanimously to approve the COO Recommendation; now therefore,

BE IT RESOLVED that:

1. The Metro Council approves the COO Recommendation and agrees that the cities should designate the 52-acre Central Subarea of the Basalt Creek Planning Area for employment purposes, as depicted on the Basalt Creek Land Use Concept Map attached to the COO Recommendation as Exhibit C.
2. The Metro Council adopts the COO Recommendation dated March 26, 2018, attached as Exhibit A to this Resolution and incorporated herein, as the Council's findings and conclusions in support of this decision.
3. The Metro Council also adopts the Supplemental Findings attached as Exhibit B to this Resolution and incorporated herein as the Council's supplemental findings and conclusions in support of this decision.

ADOPTED by the Metro Council this 3 day of May 2018


Tom Hughes, Council President



Approved as to Form:


Alison R. Kean, Metro Attorney

EXHIBIT A TO RESOLUTION 18-4885

Chief Operating Officer Recommendation to the Metro Council Regarding the Basalt Creek Planning Area

This is my recommendation to the Metro Council concerning the appropriate land use designation of a 52-acre portion of the Basalt Creek Planning Area known as the “Central Subarea,” which is identified in Figure 1 below. A decision by Metro on this issue is contemplated by the Intergovernmental Agreement (IGA) among Metro, the City of Tualatin, the City of Wilsonville, and Washington County creating a process for Metro to resolve the dispute between the two cities regarding whether the Central Subarea should be planned for employment or residential use. My recommendation is that the Central Subarea should be designated as an employment area, as shown on the Figure 1 map.

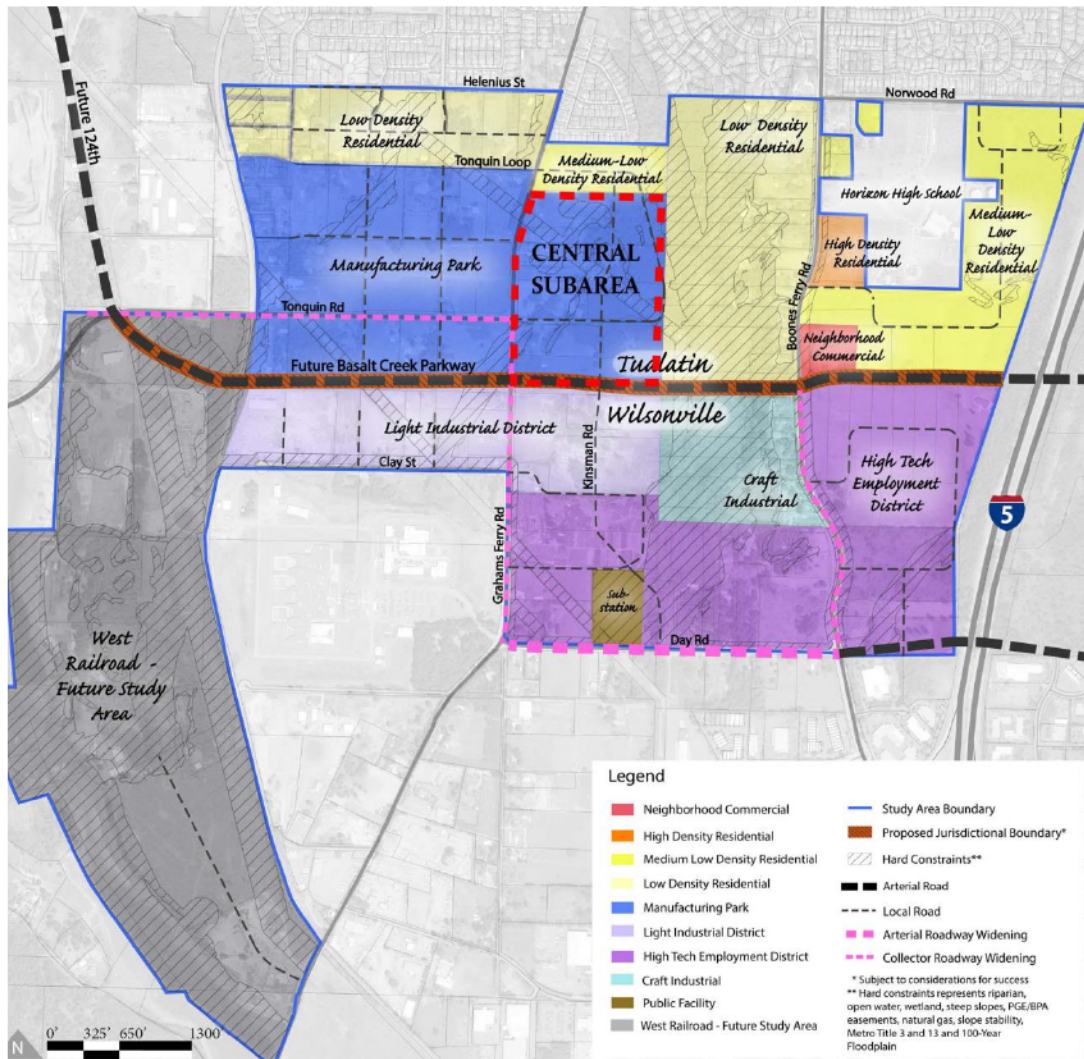


Figure 1: Basalt Creek Land Use Concept Map (Sept. 2016)

EXHIBIT A TO RESOLUTION 18-4885

A. Process

In 2017 the cities of Wilsonville and Tualatin reached an impasse regarding concept planning for a 52-acre portion of the Basalt Creek Planning Area known as the “Central Subarea” and asked Metro to take on the role of arbitrating their dispute. To that end, the cities, Metro, and Washington County entered into an IGA in January of 2018 that assigns Metro the task of making a final and non-appealable decision regarding the appropriate land use designation for the Central Subarea. The IGA is attached as Exhibit A and provides:

“Metro will have sole discretion to determine what to call this decision making process, where and when to hold the process, who Metro will appoint to make the decision, a briefing schedule, whether or not to hear oral argument, and ground rules that must be adhered to by the cities and county throughout the process.”

The process created by Metro began with the issuance of a staff report to the COO on February 21, 2018, which recommended an employment designation. The cities and the county then had until March 7, 2018 to submit written argument and evidence in support of their positions. The cities and county were provided an additional seven days to submit arguments and evidence in rebuttal to the first round of materials.

In addition to the materials submitted by the cities, Metro received a letter from the Chair of the Washington County Board of Commissioners in support of retaining the employment designation and stating concerns regarding Tualatin’s proposal to add more residential land in an area that has long been planned for industrial and employment use. Metro also received submittals from Herb Koss and Peter Watts, who own property within the Central Subarea and are advocating for a residential designation. Those two submittals include materials that had been provided to the two cities during the concept planning process.

After reviewing all of the documents provided by the parties and relevant regional planning materials, it is my conclusion that an employment designation for the Central Subarea is: (1) more consistent with the planning goals and expectations of the local government stakeholders over the last 14 years; and (2) supported by the greater weight of evidence in the record.

The Metro process calls for the Metro Council to review this recommendation and deliberate to a decision regarding whether to accept, reject, or modify it. The Council’s

EXHIBIT A TO RESOLUTION 18-4885

review will be based on the record of written materials submitted by the cities, county, and Metro staff. The Council will then adopt a resolution memorializing its decision and directing the cities to prepare concept plans consistent with Metro's final decision and with Title 11 of the Urban Growth Management Functional Plan. In the IGA, the cities agree that they will accept Metro's final decision and adopt corresponding concept plans.

B. Basalt Creek Planning History

1. 2004 UGB Expansion

The Basalt Creek Planning Area was added to the UGB as part of a 2004 expansion for industrial and employment purposes. Metro had previously expanded the UGB in 2002 to add 17,458 acres of land, with 15,047 acres added for residential purposes and 2,411 acres for employment. In the 2002 decision, Metro acknowledged that the amount of land being added for employment purposes was not sufficient to meet the identified 20-year need, and therefore requested that the Land Conservation and Development Commission (LCDC) assign a new work task that would allow Metro to complete its work and accommodate the region's need for industrial land. *See* Exhibit P to Metro Ordinance 02-969B. LCDC approved the majority of the decision, and returned the matter to Metro with instructions to satisfy the unmet 20-year need for industrial land.

Metro responded in 2004 by adopting Ordinance No. 04-1040B, the stated purpose of which was "to increase the capacity of the boundary to accommodate growth in industrial employment." That decision expanded the UGB to include 1,940 acres of land for industrial use, including the 646 acres now known as the Basalt Creek Planning Area between the cities of Tualatin and Wilsonville. The Metro Council adopted the following findings in support of adding the Basalt Creek area to the UGB:

"The Council chose this area because it is exception land (rural residential and rural industrial) with characteristics that make it suitable for industrial use. It lies within two miles of the I-5 corridor and within one mile of an existing industrial area, and portions of the area are relatively flat. These characteristics render it the most suitable exception area under consideration for warehousing and distribution, a significant industrial need facing the region." Metro Ordinance 04-1040B at Exhibit G, page 17.

During the Metro proceedings, the City of Tualatin and some of its residents expressed concerns about compatibility between future industrial uses in the Basalt Creek area and residential neighborhoods at the south end of the city, and about preserving the opportunity to choose an alignment between Tualatin and Wilsonville for the then-

EXHIBIT A TO RESOLUTION 18-4885

planned connector between Interstate 5 and Highway 99W. In response, the Metro Council adopted the following condition of approval:

“2. Title 11 planning shall incorporate the general location of the projected right of way alignment for the I-5/99W connector and the Tonquin Trail as shown on the 2004 Regional Transportation Plan. If the selected right-of-way for the connector follows the approximate course of the ‘south alignment,’ as shown on the Region 2040 Growth Concept Map, ... the portion of the Tualatin Area that lies north of the right-of-way shall be designated ‘Outer Neighborhood’ on the Growth Concept Map; the portion that lies south shall be designated ‘Industrial.’” Metro Ordinance 04-1040B at Exhibit F, page 3.

A copy of the 2004 version of the 2040 Growth Concept Map showing the two proposed alignments for the I-5/99W connector is attached as Exhibit B. That exhibit also shows the locations of the Central Subarea and the Basalt Creek Parkway. The Metro Council adopted the following findings describing the purpose of the condition:

“Second, the Council states that, so long as the alignment for the Connector falls close to the South Alignment shown on the 2040 Growth Concept Map, it will serve as the buffer between residential development to the north (the portion least suitable for industrial uses) and industrial development to the south (the portion of the area most suitable for industrial use).” Metro Ordinance 04-1040B at Exhibit G, pages 17-18.

2. Local Concept Planning

In 2007, Metro awarded a \$365,000 CET Grant to the cities of Tualatin and Wilsonville to perform concept planning for the Basalt Creek Planning Area. In 2011 the cities, Metro, and Washington County entered into an IGA that outlines the requirements and responsibilities of the parties regarding their coordinated efforts on the Basalt Creek concept plan. The IGA defines a decision-making process that requires all four parties to agree to the final decisions about the jurisdictional boundary between the two cities and the appropriate land use designations for the entire area.

The concept plan was put on hiatus from 2011 to 2013 while transportation planning issues for the larger South County Industrial Area were being resolved via the Basalt Creek Transportation Refinement Plan. The stakeholders concluded that it was important to address transportation issues for the area prior to any industrial development occurring. As part of that transportation planning effort, the Basalt Creek Parkway was one of several options identified as critical to the success of the transportation system. The

EXHIBIT A TO RESOLUTION 18-4885

Parkway was seen as one of the vital connectors for truck traffic from the Tonquin and Southwest Tualatin Industrial areas to the north down to Interstate 5, in order to mitigate the traffic impacts on Tualatin-Sherwood Road and the Tualatin Town Center.

Upon completion of the Basalt Creek Transportation Refinement Plan in 2013, the cities of Wilsonville and Tualatin resumed their concept planning efforts, utilizing Metro's CET grant funds. In December of 2015, the City Councils of Wilsonville and Tualatin reached an agreement regarding a jurisdictional boundary between the cities, delineated by the Basalt Creek Parkway. Further work between the cities resulted in a "Preferred Basalt Creek Land Use Map" in September of 2016, which designated the majority of the area north of the Basalt Creek Parkway in Tualatin, including the Central Subarea, with a Manufacturing Park zoning classification. Exhibit C.

3. Summary of Dispute

In October of 2016, a property owner in the Central Subarea presented the City of Tualatin with a proposal to change the designation of the subarea from employment to residential. The property owner asserted that the area is not well suited for employment uses due to topography and geologic conditions. In support of this proposal, the property owner submitted a request from OTAK to amend the Preferred Basalt Creek Land Use Map, stating a concern that the Central Subarea would be difficult to develop for employment purposes due in part to the existence of slopes in excess of ten percent. The property owner also submitted letters from other development professionals stating that the site topography is too challenging for industrial development and is better suited for smaller footprint buildings such as housing. Tualatin Brief, Exhibit 108.

At a Tualatin City Council work session on October 10, 2016, the City Council directed planning staff to consider the property owner's request as proposed by OTAK. The matter came back to the City Council on November 28, 2016. The Tualatin planning department staff report for that meeting noted that the OTAK proposal to amend the concept plan "includes substantially more residential land uses in the central subarea" than had been previously discussed, and recommended rejecting the property owner's proposal and retaining the proposed employment designation: "After consideration of OTAK's proposal and all of the above factors together, staff believes the central subarea can be developed for employment over the long-term. While there are some hilly areas, the Manufacturing Park designation can be made flexible enough to include some smaller scale employment uses." Wilsonville Rebuttal Brief, Exhibit G.

EXHIBIT A TO RESOLUTION 18-4885

In response to the property owner's testimony to the City of Tualatin in October of 2016 regarding the unsuitability of the Central Subarea for employment uses, Washington County hired Mackenzie development group to undertake an independent study regarding the viability of employment uses in that area. The study was completed in January of 2017 and concluded that employment uses are viable in the Central Subarea, specifically for flex business park, office campus, manufacturing, and commercial support services. Wilsonville Brief, Exhibit G.

In February of 2017, the Tualatin City Council directed their staff to proceed with changing the designation of the Central Subarea from employment to residential. In March of 2017, the City of Wilsonville hired the engineering firm KPFF to evaluate the feasibility of development for employment uses in the Central Subarea. The resulting KPFF feasibility study provided three different scenarios for viable employment development, taking into consideration the slope and geologic composition of the site. Wilsonville Brief, Exhibit D.

Under the 2011 IGA regarding concept planning for the Basalt Creek Planning Area, all parties must agree regarding the jurisdictional boundary between the cities and the land use designations. Since the cities cannot agree, the area cannot be planned or annexed by either city. The cities asked Metro to act as an arbitrator and resolve the dispute.

ANALYSIS

A. Planning Goals and Expectations of Local Government Stakeholders

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 area was brought into the UGB by Metro in 2004 as part of an expansion for the purpose of meeting a regional need for industrial land, and the entire Basalt Creek Planning Area is designated on Metro's Title 4 map as a future industrial area.

Although the 2004 UGB expansion decision did contemplate that some portions of the Basalt Creek Planning Area could become residential, the relevant condition of approval and findings (quoted above on page 3) drew a line at the location of the south alignment of the proposed I-5/99W connector and stated that areas north of that line, closer to the City of Tualatin boundary, are more appropriate for residential use, while areas south of that line (including the Central Subarea) are more appropriate for industrial use.

As noted by the City of Wilsonville in its brief, the City of Tualatin has already designated a substantial portion of its share of the 2004 UGB expansion area for

EXHIBIT A TO RESOLUTION 18-4885

residential development. Without removing the employment designation from the Central Subarea, 91 the 194 developable acres in Tualatin's portion of the Basalt Creek Planning Area are designated as residential. Those 91 acres include flat land adjacent to Interstate 5 at the eastern edge of the planning area between Norwood Road and the future Basalt Creek Parkway that appear to be ideal for employment purposes. Wilsonville Brief, Exhibit A. If the Central Subarea designation is changed from employment to residential, Tualatin will have designated 65% of its developable land in the planning area for residential purposes.

Evidence in the record indicates that the City of Tualatin strongly advocated for an employment designation in the Central Subarea during the concept planning process until the end of 2016, when the property owner and OTAK proposed the change to residential. Wilsonville Brief, Exhibit A and Exhibit C at page 6; Wilsonville Rebuttal Brief, Exhibit I. Evidence in the record also shows that the City of Tualatin moved the proposed jurisdictional boundary between the cities farther south in order to provide more employment opportunities for Tualatin. Minutes from the Tualatin City Council work session on August 24, 2015 state:

“Mayor Ogden stated he did not believe the mix of residential and industrial in this option [boundary option 3] is a good value for the people who live in Tualatin. This mix creates more trips in turn creating more congestion. He understands the need for residential capacity but does not believe it should be done at the exclusivity of other options. His recommendation would be to move the boundary line further down to accommodate for job producing land options creating a more balanced growth option.

“Council Bubenik would like to see more land in this option converted to light industrial.

“Council President Beikman expressed dissatisfaction with boundary option three. She stated boundary option three removes all industrial land and converts it to residential leaving no room for job growth.” Wilsonville Rebuttal Brief, Exhibit A.

As a result of this direction from the Tualatin City Council regarding the city's desire for more employment land, Tualatin planning staff generated a new Boundary Option 4, which moved the boundary between the two cities south to Tonquin Road and changed the designation of the Tualatin portion of the Central Subarea from residential to

EXHIBIT A TO RESOLUTION 18-4885

employment. Wilsonville Rebuttal Brief, Exhibit C. Planning staff then presented Boundary Option 4 at the joint meeting between the two city councils on December 16, 2015. Wilsonville Rebuttal Brief, Exhibit D.

At the December 16, 2015 meeting, the two city councils agreed that the boundary line between the two cities should be moved even farther south, to the future location of the Basalt Creek Parkway. Tualatin Reply Brief, Exhibit 128. The City of Wilsonville argues that there was an express agreement between the cities at the December 16, 2015 joint meeting regarding an employment designation for the Central Subarea. The City of Tualatin disagrees, noting that the stated purpose and outcome of the meeting was limited to the agreement regarding the location of the jurisdictional boundary, and that future land use designations were not included as part of the presentation to the two city councils. Tualatin Reply Brief, Exhibits 128, 129 and 130.

The City of Tualatin appears to be correct that there was no formal agreement or vote taken by the two cities at the December 16, 2015 joint meeting regarding land use designations. However, the evidence, and common sense, support the City of Wilsonville's contention that its agreement regarding the jurisdictional boundary was based in part on the Tualatin City Council's position regarding Tualatin's need for more employment land, and that Wilsonville would not have agreed to cede more land to Tualatin if it was proposed to be residential.

There is no dispute that the Tualatin City Council directed its staff to move the city boundary south to Tonquin Road because it believed Tualatin was not being provided enough employment land for future job growth in the city. That directive resulted in Boundary Option 4, which changed the Tualatin portion of the Central Subarea from residential to employment. At the same December 16, 2015 joint meeting where Tualatin's Boundary Option 4 was presented to the two city councils, the councils reached agreement on a boundary location even farther south, at the Basalt Creek Parkway. Given Tualatin's push to move the boundary south in order to provide itself with more employment land, there was no reason for Wilsonville to think that Tualatin was going to change its proposed employment designation for the Central Subarea to residential. Although there was no vote or other formal action taken at the December 16, 2015 joint meeting regarding land use designations, the evidence supports a finding that Wilsonville's agreement regarding the jurisdictional boundary was premised on its belief that areas north of that boundary would remain in an employment designation as proposed by Tualatin on December 16, 2015. As stated by Wilsonville Mayor Tim Knapp at a city council work session on March 20, 2017, "Our prior offer to set the boundary at the parkway is contingent on the rest of that agreement that has, apparently, disappeared.

EXHIBIT A TO RESOLUTION 18-4885

So the proposal to put the boundary at the parkway is no longer operative.” Wilsonville Rebuttal Brief, Exhibit I, page 2.

Since 2016, Washington County has objected to changing the employment designation based on the county’s planning expectations and related transportation investments in the Basalt Creek Planning Area. The March 5, 2017 submittal from the Chair of the Washington County Commission states:

“Our position remains consistent with my letter to Mayor Ogden and members of the Tualatin City Council dated October 27, 2016, wherein I expressed the concerns of the Board of County Commissioners regarding potential increases in the amount of residential units proposed in the Tualatin side of the Basalt Creek Concept Plan. The County supports the planned employment uses in this area and has invested over \$65 million in the construction of the new 124th arterial to leverage future economic development in the area.”

A copy of the county’s October 27, 2016 letter is attached as Exhibit D. That letter provides, in relevant part:

“We believe this area to be prime future industrial land needed to support the regional economy. In 2013, Washington County, City of Tualatin, City of Wilsonville, and Metro acknowledged the Basalt Creek Transportation Refinement Plan. This plan identified transportation infrastructure needed to support this future industrial area. We have moved forward in support of this agreement with construction of the new 124th arterial to leverage future economic development. We believe that eliminating industrial land beyond what the latest concepts show would be a big mistake for the economic health of South County and counter to our agreement.”

The Basalt Creek Transportation Refinement Plan Recommendations from 2013, attached as Exhibit E, supports the assertion of Washington County that an important function of the planned Basalt Creek Parkway (also referred to as the SW 124th arterial) is “supporting industrial access from the Tonquin, Southwest Tualatin, and Basalt Creek Planning Areas.” Exhibit E, page 2. This planning objective is also reflected in Metro’s 2014 Regional Transportation Plan (RTP), which describes the recommended alternative to the I-5/99W connector proposal as follows:

“The recommended alternative ... is based upon the principle that it is preferable to spread the traffic across three smaller arterials rather than one

EXHIBIT A TO RESOLUTION 18-4885

large expressway. The analysis concluded this approach could effectively serve the traffic demand, would provide better service to urban land uses in the Tualatin/Sherwood area, especially industrial lands, and could be built incrementally based upon need to serve growth and revenue availability.”

“* * * * *

“Since completion of the I-5/99W Connector Study, Washington County led the Basalt Creek Transportation Refinement Plan along with Metro, ODOT, and the Cities of Tualatin and Wilsonville. The purpose of this refinement plan was to determine the major transportation system to serve the Basalt Creek Planning Area. The plan sets the stage for land use concept planning and comprehensive plan development for the Basalt Creek area. The need to plan for the future transportation system was driven by future growth in the Basalt Creek area itself as well as almost 1000 acres of future industrial development targeted for surrounding areas.” 2014 RTP, pages 5-21 and 5-22.

The relevant transportation planning documents for the Basalt Creek Planning Area indicate that one reason for abandoning the I-5/99W connector proposal was to create a better plan for transportation connectivity for planned industrial development in the area. As noted by Washington County in its March 5, 2017 letter, a primary purpose of the \$65 million investment in the planning and development of the Basalt Creek Parkway is to support future economic development from planned employment areas in the Basalt Creek Planning Area. The City of Tualatin’s decision to add more residential land to the sizeable areas it has already planned for residential is not consistent with the county’s planning expectations and investment in the Basalt Creek Parkway arising out of the agreement reached by the local governments in the Basalt Creek Transportation Refinement Plan.

B. Consideration of the Cities’ Arguments

1. Consistency with Condition of Approval on 2004 UGB Expansion

The City of Tualatin contends that the Central Subarea must be designated for residential purposes under the condition of approval attached to the 2004 UGB expansion in Metro Ordinance 04-1040B. Tualatin asserts this is because the condition requires all areas north of the Basalt Creek Parkway to be designated “Outer Neighborhood.” However, the condition refers to the south alignment of the proposed I-5/99W connector and not to the Basalt Creek Parkway:

EXHIBIT A TO RESOLUTION 18-4885

“2. Title 11 planning shall incorporate the general location of the projected right of way alignment for the I-5/99W connector and the Tonquin Trail as shown on the 2004 Regional Transportation Plan. If the selected right-of-way for the connector follows the approximate course of the ‘south alignment,’ as shown on the Region 2040 Growth Concept Map, as amended by the portion of the Tualatin Area that lies north of the right-of-way shall be designated ‘Outer Neighborhood’ on the Growth Concept Map; the portion that lies south shall be designated ‘Industrial.’” Metro Ordinance 04-1040B at Exhibit F, page 3.

The map below (also attached as Exhibit B) shows the location of the Central Subarea and the Basalt Creek Parkway overlaid on the 2040 Growth Concept Map from 2004 with the proposed north and south alignments for the I-5/99W connector. As shown on this map, the south alignment is located along the northern boundary of the Central Subarea.

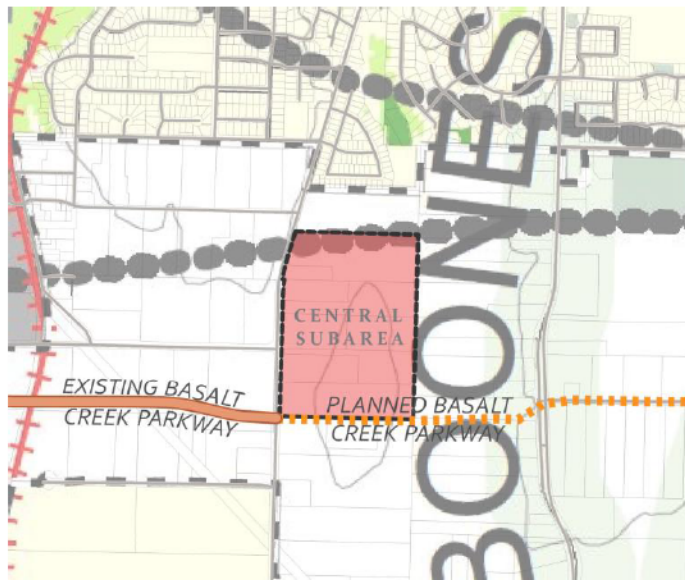


Figure 2: Central Subarea and Basalt Creek Parkway overlaid on Metro 2040 Growth Concept Map (2004 version)

In reviewing the cities’ arguments on this issue, it is important to note that the I-5/99W connector concept was abandoned by the stakeholders in favor of spreading traffic across three smaller arterials. Therefore the two alternative connector alignments have been removed from the current 2040 Growth Concept Map. As a result, the significance of this condition of approval is limited, since the proposed connector will never exist. Tualatin contends that the Basalt Creek Parkway should be treated as if it were the connector because it “follows the approximate course” of the south alignment, consistent with the condition of approval. Therefore, Tualatin argues, the Parkway must serve as the buffer

EXHIBIT A TO RESOLUTION 18-4885

between industrial development to the south and residential to the north, as stated in the Metro Council findings explaining the condition of approval:

“Second, the Council states that, so long as the alignment for the Connector falls close to the South Alignment shown on the 2040 Growth Concept Map, it will serve as the buffer between residential development to the north (the portion least suitable for industrial uses) and industrial development to the south (the portion of the area most suitable for industrial use).” Metro Ordinance 04-1040B at Exhibit G, pages 17-18.

However, the Basalt Creek Parkway and the previously proposed I-5/99W connector are not interchangeable facilities. As stated in the above-quoted portion of the 2014 RTP, the recommended alternative to the I-5/99W connector “is based on the principle that it is preferable to spread the traffic across three smaller arterials rather than one large expressway.” 2014 RTP, page 5-21.

More importantly, the location of the Basalt Creek Parkway is sufficiently south of the proposed connector’s south alignment that it cannot reasonably be considered the “approximate course” of that alignment. Tualatin argues that the distance is only approximately 1800 feet, or one-third of a mile. However, shifting the entire length of a proposed roadway project by one-third of a mile is not an insignificant change. Also, as pointed out by Wilsonville in its brief, the amount of acreage that would be changed from industrial to residential as a result of shifting the alignment that far south is significant – the residential acreage would increase from 110 acres to 380 acres. Wilsonville Rebuttal Brief at Exhibit F, page 2.

This highlights a flaw in Tualatin’s argument – if the condition of approval still applies as the city contends, and is interpreted so that the Basalt Creek Parkway is the equivalent of the I-5/99W connector and therefore must separate industrial uses to the south and residential to the north, then 100% of the approximately 200 acres of employment land in Tualatin’s portion of the planning area would need to be converted to residential. Wilsonville Rebuttal Brief at Exhibit H. This is an outcome that has never been contemplated by any party to this decade-long planning process, and would create further obstacles and disputes among the cities, county, and Metro regarding planning for the Basalt Creek area.

The part of the Metro Council’s 2004 UGB expansion findings regarding the location of the proposed south alignment that is more relevant today is that the Council identified the area north of the proposed alignment as being the least suitable for industrial use, and the

EXHIBIT A TO RESOLUTION 18-4885

area to the south as being the most suitable for industrial use. As shown on the map above (and attached as Exhibit B), the location of that proposed alignment follows the northern boundary of the Central Subarea.

In conclusion, the 2004 condition of approval does not support Tualatin's argument that the Central Subarea must be designated for housing. However, the 2004 Metro Council findings do indicate that Metro's UGB expansion decision identified the area south of the proposed I-5/99W connector, including the Central Subarea, as "the area most suitable for industrial use."

2. Suitability for Industrial/Employment Development

The primary reason stated by the City of Tualatin for changing the Central Subarea planning designation from employment to residential was that the area is too steep and too rocky to be developable for employment purposes. This issue was initially raised in testimony from a property owner in the Central Subarea, who hired OTAK to prepare and submit a request for an amendment to the concept plan that provides a bullet-point list of concerns, along with a slope analysis and a proposal for residential development in the subarea. The three concerns identified in the OTAK document are topography, access, and the fact that the subarea abuts the Basalt Creek Canyon. Tualatin Exhibit 108.

The property owner also submitted four one-page letters from development professionals at Brian Copton Excavating, Real Estate Investment Group, PacTrust, and Ken Leahy Construction stating that development of the Central Subarea for employment purposes would be "very difficult," "very inefficient," "uneconomic," and that the area is generally better suited for residential use due to its topography, rockiness, and access limitations. Wilsonville Brief, Exhibit H.

In response to this testimony, Washington County hired Mackenzie development group to undertake a study regarding the viability of employment uses in the Central Subarea. The study was completed in January of 2017 and provides a slopes map, an estimation of development area acreage for employment purposes, and a conceptual employment use concept plan. The Mackenzie report acknowledges that there are development constraints on the site, noting that nearly a third of the site consists of slopes greater than 10%, which are generally considered undevelopable for employment purposes. The report states that "of the 63 gross acres, approximately half of the site (about 37 acres) may be suitable for employment development, if slopes ranging above 5% to 10% can be mitigated." Wilsonville Brief Exhibit G, page 3. The report provides an employment use concept plan showing 40% developable area and approximately 315,000 square feet of building

EXHIBIT A TO RESOLUTION 18-4885

area, and goes on to conclude that employment uses are viable in the Central Subarea, specifically for flex business park, office campus, manufacturing, and commercial support services.

The Mackenzie report includes two incorrect assumptions that undercut the evidentiary value of the report's concept plan and conclusions. First, Mackenzie mistakenly included the 11-acre property to the north of the Central Subarea as part of its study, and located two buildings and an access road in that location in its concept plan. That property has been agreed upon as a future residential area and is not part of the dispute between the cities. It also includes some of the flattest terrain in the area, so its inclusion in the Mackenzie study skews the conclusions regarding total developable area. Second, the Mackenzie concept plan shows a public road access point onto the Basalt Creek Parkway, which is not correct due to the limited access nature of that facility. However, the Mackenzie report does have evidentiary value in that it describes land suitability factors for employment development, identifies the locations of the best developable areas within the Central Subarea for employment purposes, and identifies types of employment uses that could be located in those areas.

After the Tualatin City Council directed staff to change the designation of the Central Subarea from employment to residential in February of 2017, the City of Wilsonville hired the engineering firm KPFF to undertake a study evaluating the feasibility of development for employment uses in the Central Subarea. The KPFF study provides a comprehensive evaluation of the site, including environmental constraints, slopes, rock location and excavation, grading, and site access. Based on that evaluation, the KPFF study identifies three different "schemes" for employment development of the Central Subarea. The three schemes offer differing intensities of development, based in part on the level of desired protection of open space areas in the northern portion of the site. Scheme A shows a total building area of 480,000 square feet, Scheme B shows a total building area of 594,800 square feet, and Scheme C shows a total building area of 781,350 square feet. The KPFF study concludes as follows:

"Various employment opportunities can be accommodated on the site from larger industrial facilities such as Building A to smaller craft industrial facilities such as Building E. The slope on the site is conducive to the stepped and smaller buildings such as Buildings E and C. These buildings could provide office space as well as smaller craft facilities that can include breweries, textiles, pottery and metal works. Not only will these facilities increase the employment opportunities in the area but they also fill a need for providing space to support local artists and craft industry. As indicated

EXHIBIT A TO RESOLUTION 18-4885

in the three schemes there is flexibility on the site to use a variety of building types and footprints. This feasibility study has validated through the test fits that the area can be developed to increase employment opportunities in the region. As a result, other land uses were not analyzed for feasibility since the area is designated as a regional employment area.”

“The site does pose some grading challenges which will require the use of stepped foundations and retaining walls as indicated and discussed. This is not unexpected in the region and the use of retaining walls and stepped footings has been done in other projects locally as indicated by the included images. The cost for accommodating the grade changes is higher than if the project site were completely flat, but it is not out of line with development on similar types of sites. Infrastructure costs such as construction of new roadway and utilities are required for all greenfield sites and would be required to develop the feasibility study site regardless of the intended use.”
Wilsonville Brief, Exhibit D, page 28.

Metro is presented with a situation where there is conflicting evidence in the record regarding the viability of employment uses in the Central Subarea. Metro’s decision on this issue must be based on substantial evidence in the record, which is legally defined as evidence a reasonable person would rely on in making a decision. In reaching that decision, Metro may consider the weight and credibility of the relevant conflicting evidence and decide which evidence it finds to be more persuasive in reaching its decision.

After reviewing all of the relevant evidence in the record, and evaluating its comparative weight and credibility, the greater weight of more credible evidence supports a conclusion that it is feasible to develop the Central Subarea for employment purposes. The evidence indicates that, although the Central Subarea may not be a likely candidate for a large industrial facility, there is sufficient developable area on the site for multiple buildings housing smaller employment uses, as depicted in the Mackenzie and KPFF studies, such as office, flex business park, manufacturing, and craft industrial.

The best evidence in the record regarding the viability of employment uses in the Central Subarea is the KPFF study, which provides an independent and highly credible professional analysis of potential employment uses on the site, and concludes that although there will be some challenges and costs associated with grading and excavation that would not exist if the site were totally flat, those costs are “not out of line with development on similar types of sites.” Wilsonville Brief, Exhibit D, page 28. The KPFF

EXHIBIT A TO RESOLUTION 18-4885

study also provides photo examples of other projects in the Metro region where grading and retaining walls have been used to allow employment development in similarly sloped areas.

The property owner advocating for a residential designation has not provided a similarly thorough and independent professional study of the site. The OTAK materials provide topographic and slope maps that appear identical to those provided by Mackenzie and KPFF, and state the uncontested fact that the site contains slopes in excess of 10% and 25% that are unlikely to be developable. However, as noted in the Mackenzie study, those portions of the Central Subarea that contain slopes of less than 5% may be readily developed, as well as those areas between 5% and 10% with more significant grading. OTAK expressly agreed with this aspect of the Mackenzie analysis. Wilsonville Brief, Exhibit H, item #9. The Mackenzie and KPFF studies each show those locations where employment-related buildings may be developed, including areas with slopes up to 10%. The OTAK memorandum goes on to make two inconclusive statements regarding access and the presence of the Basalt Creek Canyon, which have little evidentiary value. Tualatin Brief, Exhibit 108.

The record includes four one-page letters from individuals in the construction and real estate professions, written at the request of the property owner, generally stating their opinions that the Central Subarea is not well suited for employment uses due to topography, rockiness, and limited access. None of these letters include or reference the type of detailed and site-specific evidence provided in the analysis undertaken by KPFF. Two of the letters state that large industrial or flex buildings would not be viable due to the size of their footprints, but do not appear to consider the types of smaller employment uses identified by KPFF and Mackenzie. The common theme of the letters is that development of the site for employment purposes will be expensive due to grading and excavation costs, followed by conclusions that those higher costs will make future development “inefficient” or “uneconomic,” but providing little or no direct evidence supporting those opinions.

Taking a step back, the question properly before the cities, and now Metro, is a *planning* question regarding what would be the best type of use in this particular location in the future, given the long-range plan for the area. The question is not whether the Central Subarea will be developed tomorrow, or even in the next three years, for employment purposes. Accordingly, testimony that raises potential concerns about site-specific development issues, and particularly economic feasibility, is necessarily less relevant in reaching a determination as to whether an employment designation is appropriate. In reaching a decision regarding a land use planning designation for future development, a

EXHIBIT A TO RESOLUTION 18-4885

local government is not required to demonstrate that there is a particular development plan for the property that could occur immediately.

The KPFF study demonstrates that it is feasible for the Central Subarea to be developed for employment uses. The study acknowledges that it will be more challenging (and expensive) than if the area were flat, but states that the resulting costs are not out of line with existing development on similar sites. As noted by the City of Wilsonville in its brief, employment properties in the region that are easy to develop have largely been developed already, requiring developers and local governments to become more innovative and flexible regarding the siting of employment uses. The importance of local government flexibility was recognized by City of Tualatin planning staff when it concluded that the Central Subarea could be developed for employment uses: “While there are some hilly areas, the Manufacturing Park designation can be made flexible enough to include some smaller scale employment uses.” Wilsonville Rebuttal Brief, Exhibit G,

The property owner also submitted three letters from engineering and planning firm CES/NW that are of higher evidentiary value than the other materials relied upon by the City of Tualatin, in that the CES materials include a more objective and evidence-based analysis than letters that primarily state opinion-based conclusions. The first letter, dated February 10, 2017, raises similar issues regarding slopes and access points; however, it is primarily aimed at critiquing the Mackenzie concept plan, which as acknowledged above includes incorrect assumptions regarding access and developable acreage. Those errors are correctly pointed out in the CES letter.

Since the flaws in the Mackenzie plan are now known, and it has been essentially superseded by the more detailed (and accurate) KPFF study, the subsequent CES letter dated May 18, 2017 is more relevant because it provides a direct review of the KPFF study and conceptual development plan. The letter from CES focuses on the preferred Scheme B and makes an estimate regarding the amount of grading that would be required and the associated costs of that grading plus necessary retaining walls. Significantly, one conclusion of the CES letter is that “we feel the proposed grading plan is possible.” Tualatin Brief, Exhibit 113. Thus, the consultants hired by the property owner admit that it is *possible* for the Central Subarea to be graded for employment use. The issue posed by CES is not physical feasibility; it is how much it would cost. The CES letter estimates \$10.5 million for grading and \$1.2 million for retaining walls. However, the letter does not provide any evidence or conclusions regarding whether or why those expenses would render development of the site economically infeasible. This letter has evidentiary value

EXHIBIT A TO RESOLUTION 18-4885

for the amount of money that could be required to grade the site, but not for a conclusion that grading costs would render development economically infeasible.

The question of economic feasibility is more directly addressed in the next letter from CES, dated July 20, 2017, the primary point of which is to compare residential development to employment development in the Central Subarea given its site constraints. But again, that letter stops short of saying that employment development is not feasible: “Add rock excavation at six to ten times the normal cost of grading to the excessive amount of grading required, and this property *may not be* economically feasible to develop.” Tualatin Brief, Exhibit 114 (emphasis added). This letter provides evidentiary support for the proposition that it will be more expensive to develop the Central Subarea for employment than residential, and that excavation and grading costs *could* make it economically infeasible. But it does not directly support the conclusion asserted by the City of Tualatin that developing the site for employment use “is not economically feasible.” Tualatin Brief, page 6.

In its brief, the City of Tualatin also challenges certain assumptions and conclusions in the KPFF study. Tualatin notes that all three potential development schemes depicted in the KPFF study “have office space as the predominant use, not industrial.” Tualatin Brief, page 11. Office space is an employment use and the debate here is about whether the site is appropriate for employment purposes, which of course could include industrial but are not limited to industrial. Tualatin also argues that the KPFF study concludes that “the area is useful, at best, for ‘split elevation’ office use.” Tualatin Brief, page 5. The City of Wilsonville provided the following response from KPFF engineer Matt Dolan, which more accurately describes the study’s conclusions: “To the contrary, the study suggests that a different building type could be utilized in areas with steeper slopes and does not suggest this approach for the entire area. All of the scenarios and building typologies imagined in the study support employment opportunities within the study area....” Wilsonville Rebuttal Brief, Exhibit K.

Tualatin also notes that the office buildings include “split elevations and access at varying levels to accommodate grade,” and then asserts “[a]s explained by an industrial/employment developer, stepped floors are not desired for industrial/employment development,” citing the PacTrust letter dated November 14, 2016. However, the PacTrust letter does not say anything about stepped floors being undesirable for employment development. The conclusion of the PacTrust letter is that “the topography of your site makes development of industrial or flex buildings uneconomic.” Tualatin Brief, Exhibit 115. Notably, the PacTrust letter does not say that the site topography

EXHIBIT A TO RESOLUTION 18-4885

renders development infeasible for other smaller employment uses, such as the office or craft industrial buildings that are included in the KPFF development schemes.

Tualatin also contends that the KPFF proposed development schemes do not comply with Oregon Fire Code requirements regarding the allowable grade of an access road and a need for secondary access to the southern development area. These issues are adequately addressed in the response from the KPFF engineer, who notes that applicable TVFR requirements allow grades up to 15%, and that whether and where secondary access will be provided would be determined in consultation with TVFR at the time development is actually proposed. The KPFF memo also includes the following assessment:

“The discussion regarding economic feasibility does not seem pertinent or relevant to the determination of the long range planning goals for the area. If they are to be considered, a much more impartial and holistic approach would need to be applied to some sort of criteria that can equally evaluate long term economics for varying development scenarios. This is well beyond the scope of the feasibility study or any conclusions that could be extrapolated from the report and development scenarios envisioned.”

Wilsonville Rebuttal Brief, Exhibit K.

Tualatin also argues that the KPFF study is “biased” because KPFF purposely ignored the possibility of residential development on the site, and only studied the possibility of employment uses. Tualatin Reply Brief at 6. This argument ignores the statement on the first page of the KPFF report that the purpose of the study is to “ascertain whether the policy objective of employment uses is achievable in this subarea. Only if this investigation determines employment uses not to be feasible on this site will this analysis then consider feasibility of other land uses.” Wilsonville Brief, Exhibit D, page 1.

After reviewing all of the evidence in the record, and evaluating its comparative weight and credibility, the greater weight of more credible evidence supports a conclusion that it is feasible to develop the Central Subarea for employment purposes. Regarding credibility, this analysis cannot overlook the property owners’ monetary incentive to obtain a residential designation, which is more likely to provide a higher investment return than employment.

The evidence indicates that, although the Central Subarea may not be a likely candidate for a large footprint industrial facility, there is sufficient developable area on the site for multiple buildings housing smaller employment uses, as depicted in the Mackenzie and KPFF studies, such as office, flex business park, manufacturing, and craft industrial. This

EXHIBIT A TO RESOLUTION 18-4885

conclusion is supported by the City of Tualatin staff report to the City Council dated November 28, 2016, which concludes: “After consideration of OTAK’s proposal and all of the above factors together, staff believes the central subarea can be developed for employment over the long-term. While there are some hilly areas, the Manufacturing Park designation can be made flexible enough to include some smaller scale employment uses.” Wilsonville Rebuttal Brief, Exhibit G.

3. Responding to the Housing Crisis

The City of Tualatin contends that changing the planning designation for the Central Subarea to housing is an effective response to the regional housing crisis. Tualatin cites Metro materials that identify an urgent need to provide more affordable housing in the region, including the proposed 2018 affordable housing bond.

The Metro materials relied upon by the city describe an urgent need to address the current shortage of affordable housing in the region. As correctly noted by the City of Wilsonville, there is no evidence to support a conclusion that new homes constructed in the Central Subarea would fit any traditional definition of “affordability.”

More importantly, zoning the Central Subarea for residential use also would not address an immediate need for any type of housing. New residential development in this type of greenfield area takes a very long time, due in part to the need to plan, finance and construct all of the necessary infrastructure. Areas in Washington County that were added to the UGB in 2002 have only recently begun to actually be developed with housing. The long timelines associated with greenfield development do not lend themselves to addressing short-term housing needs. That will require development in existing urban areas that are already served by infrastructure.

Tualatin asserts that it has a shortage of land available for housing, based on its number of estimated dwelling units in Metro’s 2015 Buildable Land Inventory (BLI). However, the BLI is an inventory, not a housing needs analysis. In the absence of any information regarding the city’s projected population growth and corresponding future housing needs, an inventory does not support a conclusion that there is a need for housing. Tualatin’s brief does not refer to a local housing needs analysis under Goal 10, and it is not clear if the city has a current acknowledged housing needs analysis.

Tualatin’s argument that adding housing in the Central Subarea is necessary in order to provide housing for workers in the Basalt Creek area is unsubstantiated. Data gathered by Metro regarding work commutes at the intra-county level suggest that decisions regarding where to live are influenced by many other factors besides proximity to work.

EXHIBIT A TO RESOLUTION 18-4885

Exhibit F. Locating housing near an employment area does not guarantee that people will choose to live and work in the same area. Also, the high costs of infrastructure for new residential construction in this greenfield area will likely result in home costs exceeding the available income of most individuals working in nearby industrial jobs.

C. Conclusion

Metro identified the Central Subarea as viable industrial and employment land and included it in the UGB for that purpose. It has a regional Industrial designation under Title 4 of Metro's functional plan. The area is close to Interstate 5, has good existing and planned transportation infrastructure, including the Basalt Creek Parkway, consists of relatively large parcels, and is in close proximity to other areas planned and developed for employment uses. As described above, the weight of more credible evidence in the record supports a conclusion that an employment designation remains appropriate for the Central Subarea, and that the area should be planned accordingly by the cities.

**INTERGOVERNMENTAL AGREEMENT
BETWEEN METRO, WASHINGTON COUNTY, AND THE CITIES OF
TUALATIN AND WILSONVILLE SEEKING A BINDING NON-APPEALABLE
DECISION FROM METRO CONCERNING ONE AREA, THE CENTRAL SUBAREA,
OF THE BASALT CREEK PLANNING AREA**

This Intergovernmental Agreement (IGA) is entered into by the following parties: Metro, a metropolitan service district organized under the laws of the State of Oregon (hereinafter referred to as "Metro"), Washington County, a political subdivision in the State of Oregon (hereinafter referred to as "County"), and the City of Tualatin ("Tualatin") and City of Wilsonville ("Wilsonville"), incorporated municipalities of the State of Oregon (hereinafter referred to as "Cities").

Whereas, in 2004 the Metro Council added two areas, known as the Basalt Creek and West Railroad Planning Areas, located generally between the Cities, to the Urban Growth Boundary (UGB) via Metro Ordinance No. 04-1040B; and

Whereas, Metro conditioned that these UGB expansion areas undergo Title 11 concept planning, as defined in Metro Code Chapter 3.07, cited as the Urban Growth Management Functional Plan (UGMFP); and

Whereas, County and Cities agreed to consider the Basalt Creek and the West Railroad areas in a single concept planning effort and to refer to the two areas generally as the Basalt Creek Planning Area; and

Whereas, located within the Basalt Creek Planning Area is a distinct subarea consisting of the following parcels identified by Washington County tax lot identification: 2S135CB00400, 2S135CB00500, 2S135CC00300, 2S135CC00100, 2S135CC00800, 2S135CC00900, 2S135CC00500, 2S135CC00600, 2S135CC00700, as reflected in Exhibit 1, attached hereto and incorporated by reference herein, which subarea is hereafter referred to as the "Central Subarea"; and

Whereas, in 2011, Metro, County, and Cities entered into an Intergovernmental Agreement (2011 IGA) for concept planning the Basalt Creek Planning Area; and

Whereas, in 2013, Metro, County, and Cities entered into the First Addendum to the 2011 IGA, acknowledging the Basalt Creek Transportation Refinement Plan; and

Whereas, in 2013, Cities began concept planning the Basalt Creek Planning Area; and

Whereas, a disagreement has arisen with respect to what the land use designation should be for the Central Subarea; and

Whereas, Tualatin wants the land use in the Central Subarea to be designated for housing; and

Whereas, Wilsonville wants the land use in the Central Subarea to be designated for employment; and

Whereas, representatives from the Cities jointly met with County representatives in an attempt to identify a process to move forward and complete the Basalt Creek land use Concept Plan map, but were unable to do so; and

Whereas, the governing bodies for the Cities and County agreed to ask Metro to settle the dispute and to make a final, binding, non-appealable decision on the sole issue of designation of the land use for the Central Subarea; and

Whereas, Metro has agreed to accommodate this request, based on the Cities' joint assertion that they cannot agree, with the clear understanding that this is not a role Metro intended, wanted, or asked for itself, but is willing to take on at the request of the Cities and the County;

Now, therefore, incorporating the above Recitals as if fully set forth below, the Cities, County, and Metro agree as follows:

1. FINAL BINDING AND NON-APPEALABLE DECISION BY METRO

Metro will act as the decision-maker to resolve the issue of the land use designation for the area known as the Central Subarea. In that capacity, Metro will have sole discretion to determine what to call this decision making process, where and when to hold the process, who Metro will appoint to make the decision, a briefing schedule, whether or not to hear oral argument, and ground rules that must be adhered to by the Cities and County throughout the process. Metro may require the Cities and County to sign ground rules and decision protocol, as determined solely by Metro. Once designated by Metro, the Parties agree that the Central Subarea will be designated in the final Concept Plans and in the Urban Planning Area Agreement between the Parties, as determined by Metro.

2. CITIES AND COUNTY AGREEMENT

The Cities agree to follow whatever decision-making process and rules are created by Metro, including timelines for submitting evidence and argument. The County may participate and advocate for its preference or may elect to be neutral. Cities and County agree that Metro's decision will be binding and non-appealable by any of them and, once made, all of their respective governing bodies and staff will support the decision to move the Basalt Creek Planning effort to completion without delay and in accordance with the decision of Metro. Each City agrees that it will prepare concept plans for the Basalt Creek Planning Area consistent with Metro's final decision and with Title 11 of Metro's Urban Growth Management Functional Plan. Each City agrees to adopt a resolution accepting the concept plan, reflecting the Metro decision, within 120 days after the date Metro's decision becomes final and effective and finalize their respective comprehensive plans to include that concept plan within one year of the Metro decision. Cities and County further agree that if the designation is appealed by any third party, each will vigorously defend and support the decision and will not support or assist in the

decision and will not support or assist in the appeal of the designation determined by Metro through this process. At the conclusion of Metro's decision, a binding agreement will be signed by all Parties to this effect, with any future disputes or violations with respect to the agreement to be resolved in accordance with the specified requirements of that binding decision. Hereafter the Parties will work in good faith to reach agreement on all other issues so that the final Concept Plans and Urban Planning Area Agreement can be finalized.

This Agreement is effective the 22nd day of January, 2018.

Exhibit 1 – Map

CITY OF WILSONVILLE, OREGON

By: 
Tim Knapp
As Its: Mayor

Date: 12/27/2017

ATTEST:

By: 

[Signatures continue on following pages]

CITY OF TUALATIN, OREGON

By: 

Lou Ogden

As Its: Mayor

Date: 12-11-2017

ATTEST:

By: 

[Signatures continue on following pages]

WASHINGTON COUNTY, OREGON

By: Andy Duyck
Andy Duyck
As Its: Chair, Board of County Commissioners

Date: 1-4-2018

ATTEST:


By: A. D. Napf

APPROVED WASHINGTON COUNTY
BOARD OF COMMISSIONERS

MINUTE ORDER # 17-351
DATE 12-19-2017
BY A. D. Napf
CLERK OF THE BOARD

[Signatures continued on following page]

ACCEPTED AND AGREED TO BY METRO:

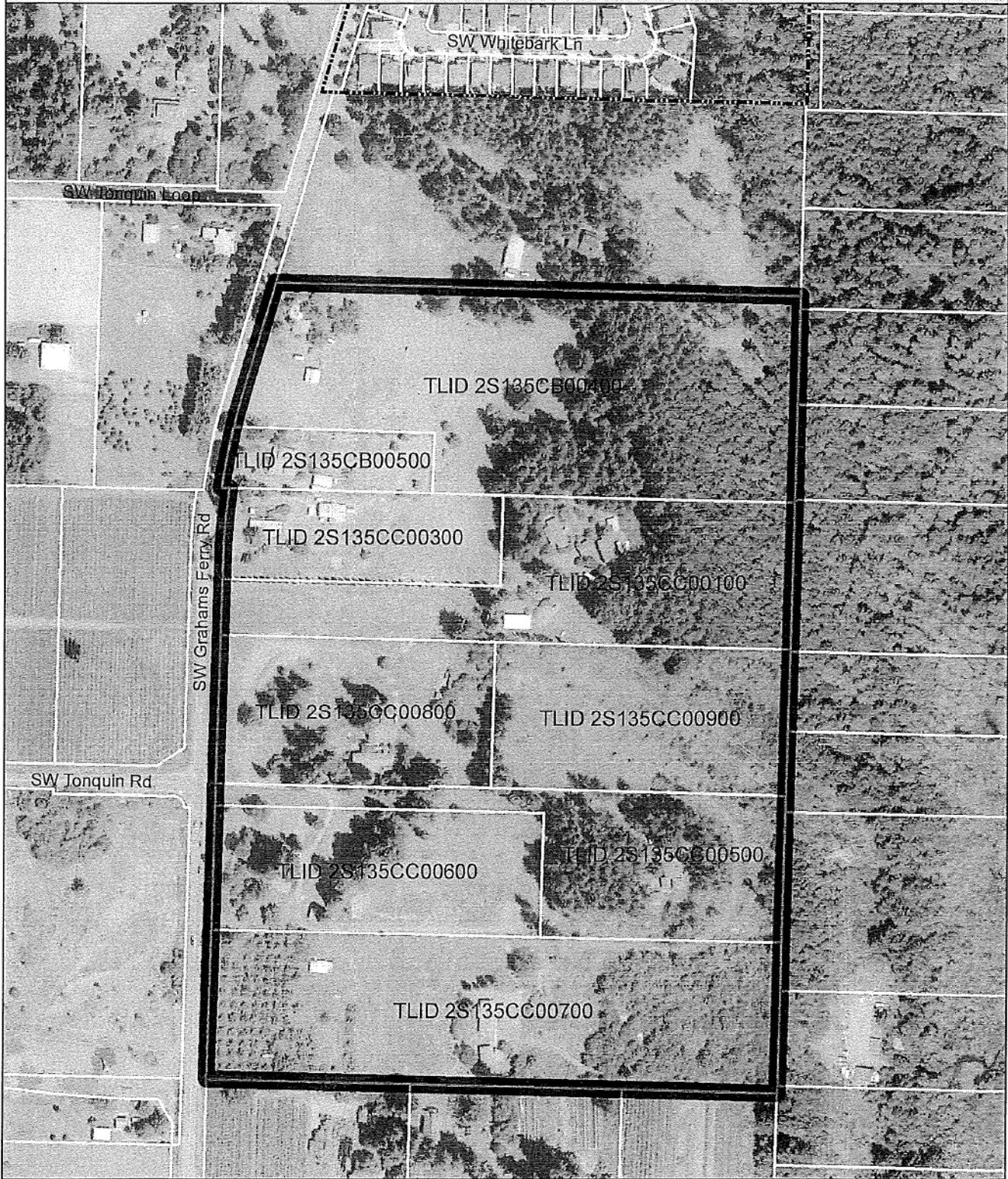
By: 
Martha Bennett
As Its: Chief Operating Officer

Date: 1/22/18

ATTEST:

By: 

Exhibit 1: Central Sub Area

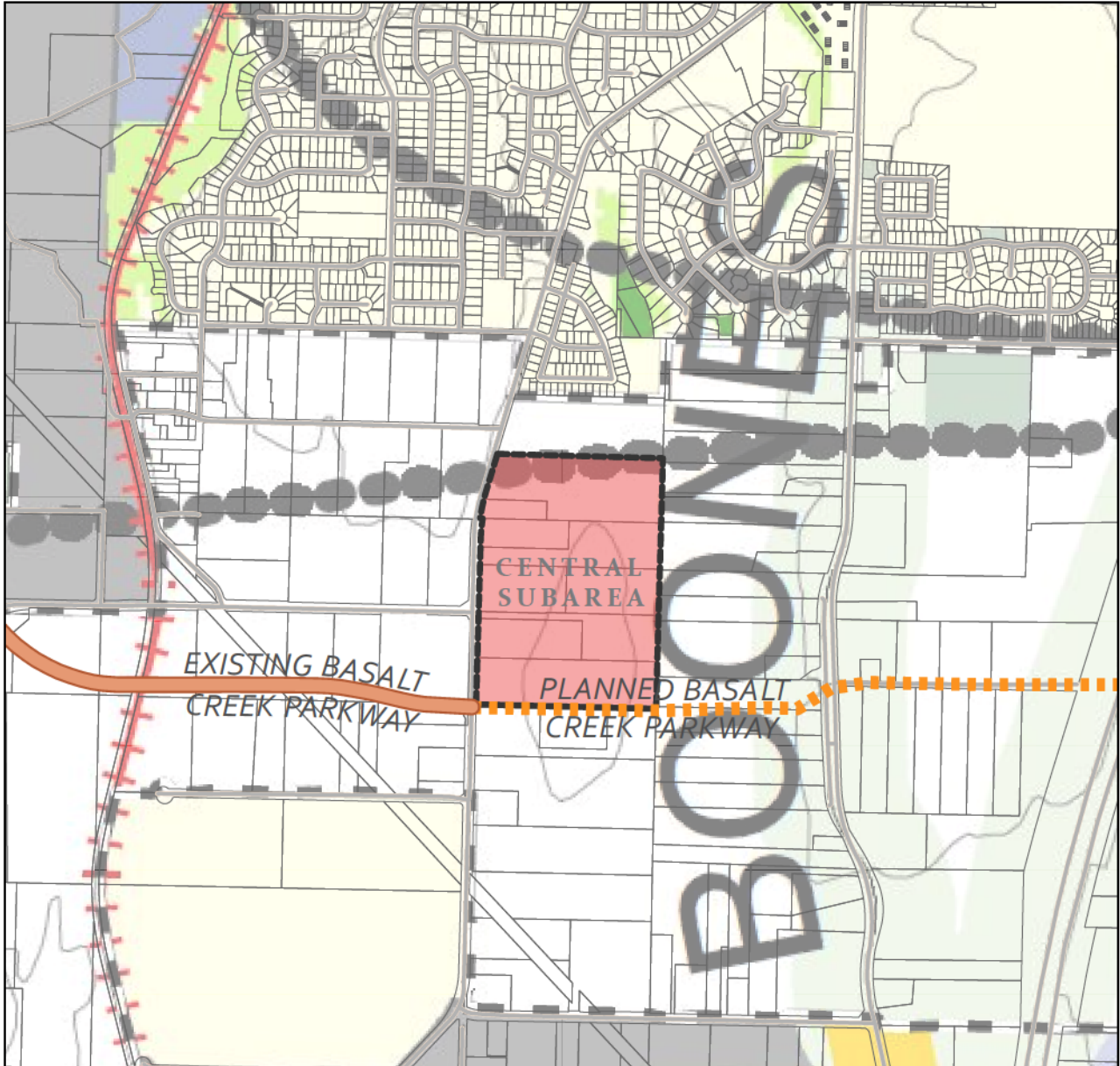


Central Sub Area



This map is derived from various digital database sources. While an attempt has been made to provide an accurate map, the City of Tualatin, OR assumes no responsibility or liability for any errors or omissions in the information. This map is provided "as is".

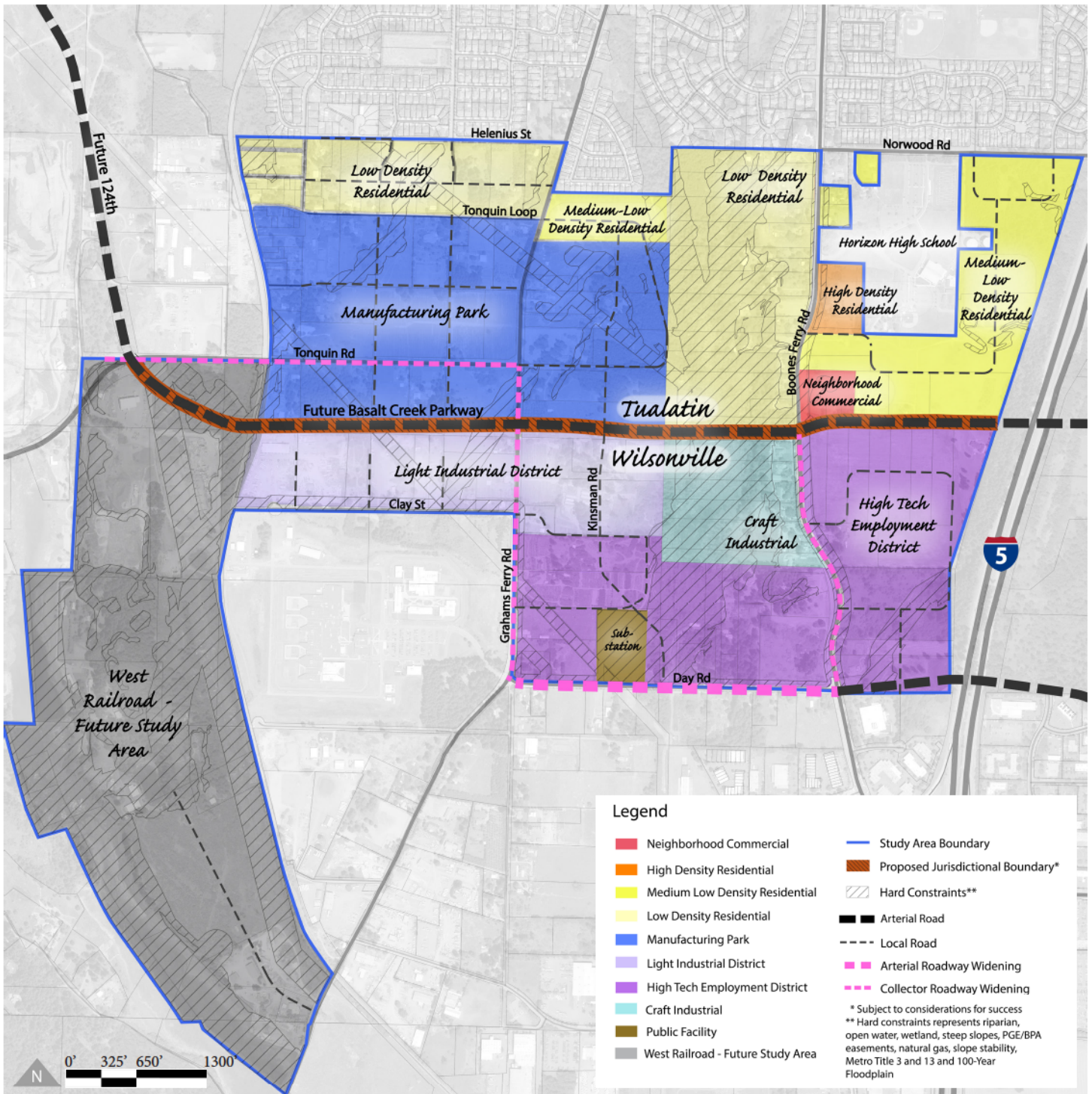
**EXHIBIT A TO RESOLUTION 18-4885
EXHIBIT B**



Central Subarea and Basalt Creek Parkway
overlaid on 2040 Growth Concept Map

EXHIBIT A TO RESOLUTION 18-4885

EXHIBIT C



Basalt Creek Land Use Concept Map

DRAFT September 16, 2016

EXHIBIT A TO RESOLUTION 18-4885

EXHIBIT D



WASHINGTON COUNTY
OREGON

October 27, 2016

Mayor Ogden
Tualatin City Council
18880 SW Martinazzi Ave,
Tualatin, OR 97062

Dear Mayor Ogden and Members of the Tualatin City Council:

I am writing to express concerns to the Board of County Commissioners regarding potential increases in the amount of residential units proposed in the Tualatin side of the Basalt Creek Concept Plan.

We believe this area to be prime future industrial land needed to support the regional economy. In 2013, Washington County, City of Tualatin, City of Wilsonville, and Metro acknowledged the Basalt Creek Transportation Refinement Plan. This plan identified transportation infrastructure needed to support this future industrial area. We have moved forward in support of this agreement with construction of the new 124th arterial to leverage future economic development. We believe that eliminating industrial land beyond what the latest concepts show would be a big mistake for the economic health of South County and counter to our agreement.

Our IGA calls for the Cities to coordinate with the County in developing a concept plan for the Basalt Creek area. After the concept plan is complete, we can amend our Urban Planning Area Agreement to include this area, which is necessary for annexations to occur. This area is currently not included in our Urban Planning Area Agreement with Tualatin.

The City needs to be reminded the Basalt Creek Planning area is not currently within our Urban Planning Area Agreements. We believe Washington County is a partner in the planning of this area and would like to weigh in before any decision is made or report accepted that would substitute more residential units for employment areas.

Sincerely,

A handwritten signature in cursive script, appearing to read "Andy Duyck".

Andy Duyck, Chairman
Washington County Board of Commissioners

c: Andrew Singelakis, Director, Land Use & Transportation

Board of County Commissioners
155 N. First Avenue, Suite 300, MS 22 Hillsboro, OR 97124-3072
Phone: (503) 846-8681 Fax: (503) 846-4545

Basalt Creek Transportation Refinement Plan Recommendations

Introduction

The Basalt Creek transportation planning effort analyzed future transportation conditions and evaluated alternative strategies for phased investments that support regional and local needs.¹ This document reflects the Policy Advisory Group’s unanimous approval of the transportation investments, next steps for policy and plan updates, and potential funding strategies described in this document.

Purpose

The purpose of this refinement plan was to determine the major transportation system connecting Tualatin-Sherwood Road to I-5 in North Wilsonville through the Basalt Creek Planning Area, which is currently an unincorporated urban area of Washington County between the cities of Tualatin to the north, and Wilsonville to the south (see Figure 1). This plan refines recommendations from the I-5/99W Connector Study and the Regional Transportation Plan, setting the stage for land use concept planning and comprehensive plan development for the Basalt Creek area.

Planning Context

The need to plan for the future transportation system in the Basalt Creek area is driven not only by future growth in the Basalt Creek Planning area itself, but by future growth in surrounding areas targeted for industrial development. Basalt Creek currently lacks the multi-modal transportation facilities needed to support economic and urban-level development. Several planning

The Basalt Creek Transportation Refinement Plan was a joint effort involving:

- Washington County
- City of Tualatin
- City of Wilsonville
- Metro
- The Oregon Department of Transportation
- Area Citizens

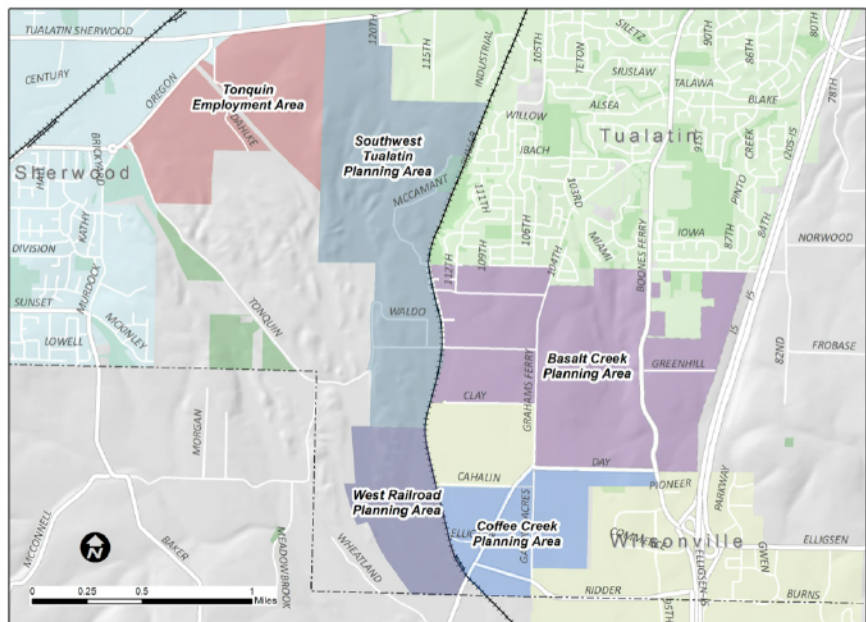


Figure 1: Basalt Creek Planning Area Location

¹ See *Basalt Creek Transportation Refinement Plan Technical Report* for more information.

EXHIBIT A TO RESOLUTION 18-4885 EXHIBIT E

January 2013

efforts, summarized below, provide background and context for the Basalt Creek Transportation Refinement Plan.

- The **I-5/99W Connector Study** recommended an alternative that spreads east-west traffic across three smaller arterials rather than a single expressway. Although specific alignments for these arterials were not defined, the eastern end of the Southern Arterial was generally located within the Basalt Creek Planning Area, south of Tonquin Road. The present planning effort aims to further define the location of the connection between the SW 124th Avenue Extension and the I-5/Elligsen interchange in a manner that does not preclude the future Southern Arterial west of SW 124th.
- The **2035 Regional Transportation Plan (RTP)** calls for detailed project planning and near-term construction of an extension of SW 124th Avenue from Tualatin-Sherwood Road to the I-5/Elligsen Road interchange, supporting industrial access from the Tonquin, Southwest Tualatin, and Basalt Creek Planning Areas. The RTP also calls for the near-term construction of the Tonquin Trail (see below).
- The **Tonquin Employment Area, Southwest Tualatin Concept Planning Area, and Coffee Creek Planning Area** together comprise about 1,000 acres surrounding the Basalt Creek area that are planned primarily for industrial use. These areas are expected to generate growing freight and work-related travel demands on the multi-modal transportation network that runs through the Basalt Creek area.
- The **SW 124th Avenue Extension** Project, currently underway, is planning and designing the corridor described in the RTP from Tualatin-Sherwood Road to Tonquin Road. The present planning effort aims to extend the corridor to I-5 as envisioned in the RTP and ensure consistency with current SW 124th Avenue project.
- Washington County's **Boones Ferry Road** improvement project, also currently underway, provides pedestrian and bicycle improvements and an intermittent center turn lane between Norwood Road and Day Road. It is an assumed improvement for the Basalt Creek area.
- Near-term construction of the **Tonquin Trail** is called for in the RTP. The master plan identifies an alignment for new bicycle and pedestrian connections between Sherwood, Tualatin, and Wilsonville, with connections to the larger regional trail system. The Tonquin Trail will travel through the Southwest Tualatin Concept Plan Area and the Tonquin Employment Concept Plan Area, and is an assumed improvement within the Basalt Creek Transportation Refinement Plan.
- **Transportation System Plan** updates for Washington County, Tualatin, and Wilsonville are currently underway. Washington County will incorporate recommendations from this refinement plan into the County TSP update. The cities of Tualatin and Wilsonville will not incorporate these recommendations into their current TSP updates, but will carry the recommendations into land use concept planning and future TSP updates.

EXHIBIT A TO RESOLUTION 18-4885

EXHIBIT E

January 2013

Facility Considerations and Characteristics

At the outset of this effort, agencies articulated a set of considerations to guide selection of the preferred transportation system as well as preferred characteristics of the primary east-west facility through the area.

- **Guiding considerations** included: ability to fund and phase improvements, level of impacts (environmental, right-of-way, etc.), support for development, consistency with regional policy, and traffic operations performance.
- **Facility characteristics** included: for the primary arterial connection, a 45 mph prevailing speed and access spacing of one-half mile to one mile to improve capacity.

Recommendation

The Policy Advisory Group (PAG), which consists of elected officials and key staff from the project's five partner agencies, recommends the following elements as part of an overall Action Plan (illustrated in Figure 2) for the area.

Roadways

The final recommendation is for a combination of new and improved roadways through the Basalt Creek area. The key new roadway through the area is a five-lane east-west extension of SW 124th Avenue, aligned south of Tonquin Road and extending east to Boones Ferry Road. The recommendation also includes improvements to existing roadways in the area, such as Tonquin Road, Grahams Ferry Road, Boones Ferry Road, and Day Road.

Protection of right-of-way for the new east-west roadway from the 124th Avenue extension to Boones Ferry Road is a key element of this recommendation. Right-of-way protection and purchase will be addressed separately, concurrent with the Basalt Creek land use concept planning.

During the planning process, the City of Wilsonville expressed concern about the structural condition of Day Road (i.e., failing roadway base and resulting pavement deterioration) and its ability to carry freight traffic for further development of industrial lands. While the Basalt Creek Transportation Refinement Plan focused on roadway needs related to capacity, the PAG agreed that the function of the arterial network in the Basalt Creek area includes providing roadways with adequate structural design for regional freight needs. Therefore, the PAG agreed that the project recommendations include a commitment to address the construction, operations, and maintenance of the arterial network through the concept planning process.

Overcrossings

The ability to construct two new I-5 overcrossings, including an off-street multi-use path, should be preserved in order to provide for future circulation and connectivity across the Basalt Creek area and into areas east of I-5. These overcrossings are recommended as long-term improvements and are likely not needed until 2035 or later. Forecasts show that the second overcrossing is not needed unless surrounding urban reserve areas east of I-5 and south of I-205 are developed. This refinement plan is neutral on the timing of urban reserves development, and therefore does not specify the timing and order of overcrossing improvements.

EXHIBIT A TO RESOLUTION 18-4885 EXHIBIT E

January 2013

Active Transportation

All improved roadways in the Action Plan include bike lanes and sidewalks consistent with Washington County urban standards. This recommendation also includes integration of the regional Tonquin Trail into the transportation network. Metro, in close coordination the cities of Tualatin, Wilsonville, Sherwood, and Washington and Clackamas counties, led the master planning effort that identified a preferred alignment that travels through the Basalt Creek Planning Area. Roadway cross-sections and right-of-way purchases for the future east-west facility will consider needs for the Tonquin Trail in the design for the railroad overcrossing and improvements to Tonquin Road between Morgan Road and Tonquin Loop Road. Design for the east-west facility should also consider providing an of-street multi-use path that connects to the Tonquin Trail and extends east of I-5. Details of how this multi-use path will be integrated with the east-west facility design will be refined during later land use concept planning.

Action Plan

The recommended Action Plan consists of 18 transportation investments, shown in Figure 2. Timing of projects was prioritized through an analysis of likely transportation needs in 2020, 2030, and 2035 based on growth assumptions from the adopted Regional Transportation Plan. Because of uncertainty regarding the years during which development in the Basalt Creek Planning Area and surrounding areas will occur, phasing for investments is classified as short-term, medium-term, and long-term. Descriptions of these investments, as well as timing and the funding needed, are shown in Table 1. Cost estimates include right-of-way.

EXHIBIT A TO RESOLUTION 18-4885 EXHIBIT E

January 2013

Table 1: Basalt Creek Action Plan

ID	Project	Short-Term	Medium-Term	Long-Term	Cost (\$2012)
1	124 th Avenue Extension (Tualatin-Sherwood Road to Tonquin Road): Construct three lane road extension with bike lanes and sidewalks	x			\$20,000,000
2	Tonquin Road (124 th Avenue to Grahams Ferry Road): Widen to three lanes with bike lanes and sidewalks, grade separate at railroad, improve geometry at Grahams Ferry Road ¹	x			\$10,500,000
3	Grahams Ferry Road (Tonquin Road to Day Road): Widen to three lanes with bike lanes and sidewalks	x			\$5,400,000
4	Boones Ferry Road (Norwood Road to Day Road): Widen to three lanes with bicycle and pedestrian improvements	x			\$10,800,000
5	124 th Avenue/Tonquin Road Intersection: Signal (may include Tonquin Trail crossing)	x			. ²
6	Grahams Ferry Road/Tonquin Road Intersection: Signal	x			\$500,000
7	Boones Ferry Road/Day Road Intersection: Add second southbound through approach lane	x			. ³
8	Boones Ferry Road/95 th Avenue Intersection: Construct dual left-turn and right-turn lanes; improve signal synchronization, access management and sight distance	x			\$2,500,000
9a	Tonquin Trail (Clackamas County Line to Tonquin Loop Road): Construct multi-use trail with some segments close to but separated from road	x			\$8,900,000 ⁴
9b	Tonquin Trail (Tonquin Loop Road to Tualatin-Sherwood Road): Construct multi-use trail with some segments close to but separated from road		x		\$7,100,000 ⁴
10	124 th Avenue Extension (Tualatin-Sherwood Road to Tonquin Road): Widen from three to five lanes with bike lanes and sidewalks		x		\$14,000,000
11	East-West Arterial (124 th Avenue to Boones Ferry Road): Construct 5 lane roadway with railroad and creek crossings, integrate segment of Tonquin Trail ⁵		x		\$57,900,000
12	Boones Ferry Road (East-West Arterial to Day Road): Widen to five lanes with bike lanes and sidewalks		x		\$1,100,000
13	Kinsman Road Extension (Ridder Road to Day Street): Construct three lane road extension with bike lanes and sidewalks		x		\$10,400,000
14	Day Road (Kinsman Road to Boones Ferry Road): Widen to five lanes with bike lanes and sidewalks		x		\$5,800,000
15	I-5 Southbound off-ramp at Boones Ferry Road/Elligsen Road: construct second right turn lane		x		\$500,000
16	Boones Ferry Road/95 th Avenue Intersection: Access management		x		. ⁶
17	Day Road Overcrossing: Extend new four lane crossing over I-5 from Boones Ferry Road to Elligsen Road			x	\$33,700,000- \$44,100,000 ⁷
18	East-West Arterial Overcrossing: Extend new four lane crossing over I-5 from Boones Ferry Road to Stafford Road. Integrate multi-use path in corridor that connects to Tonquin Trail			x	\$38,000,000
TOTAL		\$59M	\$97M	\$72-82M	\$228-238M

¹ Grade separation for Tonquin Road is optional. An at-grade crossing would reduce cost by around \$2,000,000

² Cost included in Project 1

³ Coordinate with Project 4. Cost of approach lane included in estimate for Project 12

⁴ Tonquin Trail cost estimated by Metro as part of trail planning effort

⁵ Project 11 can potentially be built in two phases funded separately, west and east of Grahams Ferry Road. However, traffic benefits needed in the medium term (around 2030) will not be realized unless entire project is completed

⁶ Project details to be determined by further coordination between City of Wilsonville and ODOT. Cost expected to be minimal

⁷ Specific alignment approaching Elligsen Road will determine project cost. Alignment to Parkway Center Drive is estimated at \$33,700,000, and alignment to Canyon Creek Road is estimated at \$44,100,000

**EXHIBIT A TO RESOLUTION 18-4885
EXHIBIT E**

January 2013

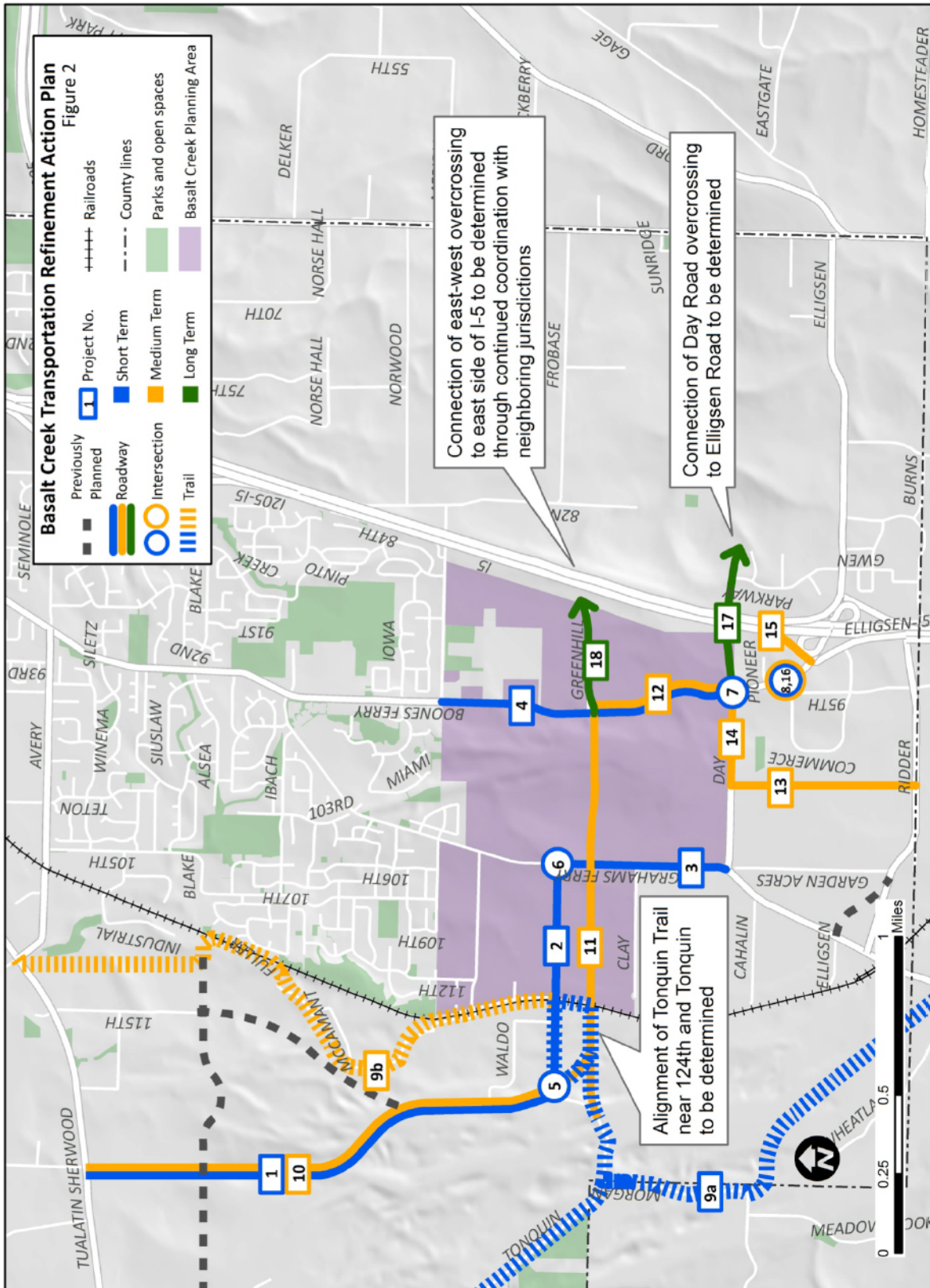


EXHIBIT A TO RESOLUTION 18-4885 EXHIBIT E

January 2013

Each investment adds important improvements to the major transportation system in the Basalt Creek area to support future development, adding new multimodal facilities and upgrading existing facilities to urban standards. Although not shown on the map, it is expected that future concept planning will identify locations for additional, lower-classification roads and other transportation facilities to serve future development as well.

Are these new projects?

While cost estimates for the entire recommendation may total as high as \$238,000,000, all of the 18 projects have some relation to investments already planned in the adopted RTP. Table 2 shows projects from the RTP that have overlap or similarity to projects contained in the Action Plan. **Note that many of these projects are different in scope from those contained in the Action Plan, and will have different cost estimates. Future RTP updates may include updated cost estimates from this study.**

Table 2: Related projects from the Regional Transportation Plan

RTP ID	RTP Project	Related Action Plan Projects	Time Period	Cost (\$2007)
10736	124 th Avenue: Construct new street from Tualatin-Sherwood Road to Tonquin Road: 5 lanes	1,5,10,11	2008-2017	\$82,500,000
10590	Tonquin Road: Realign and widen to three lanes with bike lanes and sidewalks (Oregon Street to Grahams Ferry Road)	2,6	2018-2025	\$28,406,000
10588	Grahams Ferry Road: Widen to three lanes, add bike/pedestrian connections to regional trail system and fix undersized railroad crossing (Helenius Street to Clackamas County line)	3	2008-2017	\$28,000,000
10732	Boones Ferry Road: Widen to five lanes (Norwood Road to Day Road)	4,7,12	2018-2025	\$40,050,000
10852	95 th /Boones Ferry/Commerce Circle Intersection Improvements	8,16	2008-2017	\$2,500,000
10854	Tonquin Trail: Construct multi-use trail with some on-street segments (Tualatin-Sherwood Road to Clackamas County line)	9a,9b	2008-2017	\$3,000,000
10853	Kinsman Road extension with bike lanes and sidewalks (Ridder Road to Day Road)	13	2008-2017	\$6,500,000
11243	Day Road reconstruction to accommodate trucks (Grahams Ferry Road to Boones Ferry Road)	14	2008-2017	\$3,200,000
11342	I-5/99W Connector Southern Arterial/I-5 Interface ¹	15,17,18	2026-2035	\$50,000,000

¹ Construction of projects specifically related to the I-5/99W Connector Southern Arterial, such as the I-5 interface, are contingent on certain project conditions being met. See Regional Transportation Plan for details.

EXHIBIT A TO RESOLUTION 18-4885

EXHIBIT E

January 2013

Policy and Plan Updates

Recommendations in this plan allow new concept planning efforts to move forward and provide guidance for updates of existing transportation plans.

Basalt Creek and West Railroad Area Concept Planning

The transportation system recommended in this plan becomes the framework for more detailed land use concept planning of the Basalt Creek Planning Area and West Railroad Planning Area by the cities of Tualatin and Wilsonville. Key recommendations to be carried forward during concept planning include:

- Protection of the major transportation facility corridors from development encroachment.
- Coordination of the local transportation system with the transportation investments included in this plan (unless amended by the parties of this study). Each roadway in the Basalt Creek area has access spacing standards that protect the safety and operations of the system, and these standards help determine appropriate local street connections. The new east-west facility is limited to accesses at 124th Avenue, Grahams Ferry Road, and Boones Ferry Road.
- Detailed concept planning in the Basalt Creek area should consider multi-use path connections to the Tonquin Trail that emphasize directness and minimize conflicts, enhancing bicycle and pedestrian access to new residential and employment areas. In the West Railroad area, concept planning will also include sections of the Tonquin Trail.

Regional Transportation Plan

In many cases, this transportation refinement plan provides new detail and cost estimates for projects that are already in the adopted RTP. These refined project descriptions, cost estimates, and timing considerations should be considered when projects are forwarded to Metro for the next RTP update. Examples of RTP projects that overlap with projects in this refinement plan include:

- 10590 (Tonquin Road). Action Plan project #2 includes a grade-separated railroad crossing, which is not included in the RTP project description.
- 10852 (95th/Boones Ferry/Commerce). Action Plan projects 8 and 16 will require further coordination with ODOT to determine geometry and timing of intersection improvements.
- 11243 (Day Road). Action Plan project #14, which widens part of Day Road, should also upgrade the roadway structure and pavement conditions to accommodate increasing heavy truck volumes. Although project #14 applies only to the section of Day Road between Kinsman Road and Boones Ferry Road, funding of roadway reconstruction between Kinsman Road and Grahams Ferry Road should also be discussed as part of land use concept planning.
- 10854 (Tonquin Trail). Action Plan projects #2, #5, #11 all need to consider Tonquin Trail in their design, including most recent alignment information and cost estimates from the trail master plan.

Washington County TSP Update

Most of the projects included in the Action Plan are new facilities in unincorporated Washington County or improved facilities already under County jurisdiction. An amendment to update the Washington County TSP will be done in 2013 to incorporate the descriptions, cost estimates, and timing of these projects.

EXHIBIT A TO RESOLUTION 18-4885

EXHIBIT E

January 2013

Tualatin and Wilsonville TSP Updates

The Cities of Tualatin and Wilsonville are also currently updating their transportation system plans. However, because concept planning for Basalt Creek will include agreement on the future city limit boundary between the two cities, as well as more detailed transportation network considerations, the projects included in this plan will not be incorporated as part of the current TSP updates. Future TSP updates may reflect elements from this refinement plan by amending project lists, maps, and funding strategies.

Funding

Funding for some short-term Action Plan projects has already been programmed by Washington County through their Major Streets Transportation Improvement Program (MSTIP). This includes \$16.9 million (\$10.9 million in MSTIP funding and \$6 million from other sources) for an interim two-lane extension of SW 124th Avenue from Tualatin-Sherwood Road to Tonquin Road. It also includes an additional \$10 million for right-of-way purchase or other improvements from the list identified by this Plan. Washington County has also provided \$11 million in funding for the current Boones Ferry Road improvement project.

While this recommendation does not identify a specific overall funding strategy for the Action Plan, there are many existing revenue sources that may be used to fund the recommended investments. **Many are subject to a state or regionally competitive process where success can hinge on having a broadly supported plan in place.**

The revenue sources listed below form the basis of the financially constrained Regional Transportation Plan and related project list, which already contains many of the recommended Basalt Creek investments. The RTP assumes federal, state, and local sources, all of which will be key to funding the Action Plan.

Federal

Based on MAP-21² legislation, sources may include:

- **National Highway Performance Program (NHPP).** These funds are intended for rehabilitation and expansion of principal arterials, especially those with important freight functions.
- **Regional Surface Transportation Program (STP) funds.** These funds may be used for virtually any transportation purpose short of building local residential streets.
- **Congestion Mitigation/Air Quality (CMAQ) funds.** These funds typically support biking, walking, and transit projects, and other projects that help to achieve air quality standards.
- **Transportation Alternatives (TA) funds.** TA takes the place of previous programs such as Transportation Enhancements and Recreational Trails, and may be used to fund a variety of non-motorized projects.

² For more information see <http://www.fhwa.dot.gov/map21/>

EXHIBIT A TO RESOLUTION 18-4885 EXHIBIT E

January 2013

These funds are allocated to projects through a state or regionally managed competitive process for inclusion in the Metropolitan Transportation Improvement Program (MTIP) and the State Transportation Improvement Program (STIP).

State

State sources include the statewide gas tax, vehicle registration fees, and weight-mile taxes on trucks. These funds typically go to road and bridge maintenance projects, but funding for projects of regional significance, such as those provided by Oregon House Bill 2001 Jobs and Transportation Act (JTA), may be made available for modernization. Again, having a plan in place allows projects to access funds when new funding opportunities become available.

Local

A variety of local funding sources are available, although some, such as urban renewal and local improvement districts, are subject to approval. Sources may include:

- Washington County Major Streets Transportation Improvement Program (MSTIP)
- Local portion of State Highway Trust Fund
- Local gas tax
- Transportation System Development Charges (SDCs) or Transportation Development Taxes (TDTs) levied on new development
- Urban renewal funding
- Developer contributions
- Local improvement districts (LIDs)

EXHIBIT A TO RESOLUTION 18-4885

EXHIBIT F

Where Portland region's residents work

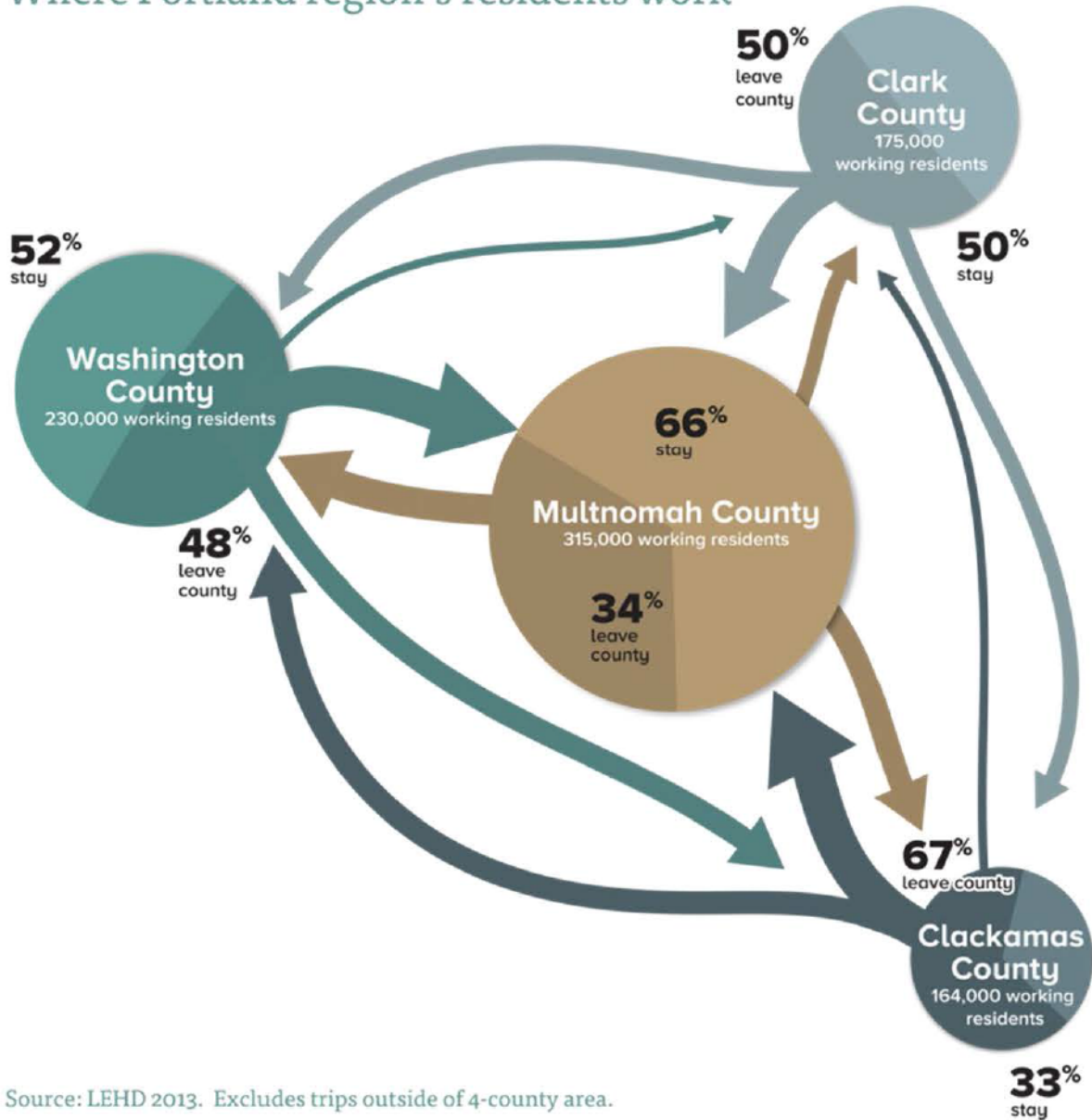


EXHIBIT B TO RESOLUTION 18-4885

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

EXHIBIT B TO RESOLUTION 18-4885

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

EXHIBIT B TO RESOLUTION 18-4885

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 DLCDC, 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.

EXHIBIT B TO RESOLUTION 18-4885

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.