

BEFORE THE METRO COUNCIL

TO ADOPT THE HEARINGS OFFICER FINDINGS)
AND RECOMMENDATION, APPROVING URBAN)
GROWTH BOUNDARY CASE 97-1: WEST LINN)
)
) ORDINANCE NO. 97-712
) Introduced by Mike Burton,
) Executive Officer

WHEREAS, Metro received a petition for a locational adjustment for 17.34 acres of 55.18-acre Lot 200 of Map No. 2 1E 26, located west of the intersection of Rosemont Road and Day Road in Clackamas County, as shown in Exhibit A; and

WHEREAS, Metro staff reviewed and analyzed the petition, and completed a written report to the Hearing Officer, recommending approval of the petition with the condition the site must be developed with a school use ; and

WHEREAS, Metro held a hearing to consider the petition on June 17, 1997, conducted by an independent Hearings Officer; and

WHEREAS, Jeffrey Seymour requested that the record remain open on June 17, 1997, which was granted by the Hearings Officer, with the record closing on June 25, 1997; and

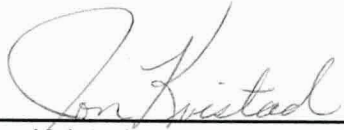
WHEREAS, The Hearings Officer submitted his *Report and Recommendation of the Hearing Officer* on July 11, 1997, recommending approval of the petition with the condition the site must be developed with a school use; and

WHEREAS, Robert Thomas and John Shonkwiler filed exceptions to the Hearings Officer proposed findings and recommendation, which were considered and heard by the Metro Council upon first reading of this Ordinance; now, therefore,

THE METRO COUNCIL HEREBY ORDAINS AS FOLLOWS:

1. To accept the Hearings Officer Report and Recommendation, as attached herein as Exhibit B; and
2. The Hearings Officer Findings and Recommendation, included as Sections VI and VII of Exhibit B, be adopted approving the petition in Case 97-1: West Linn.

ADOPTED by the Metro Council this 2nd day of October, 1997.



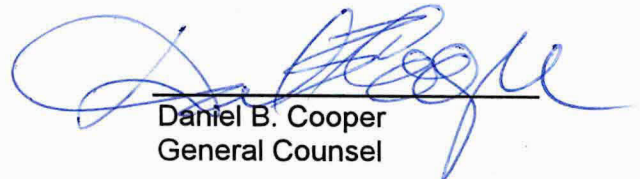
Jon Kvistad
Presiding Officer

ATTEST:

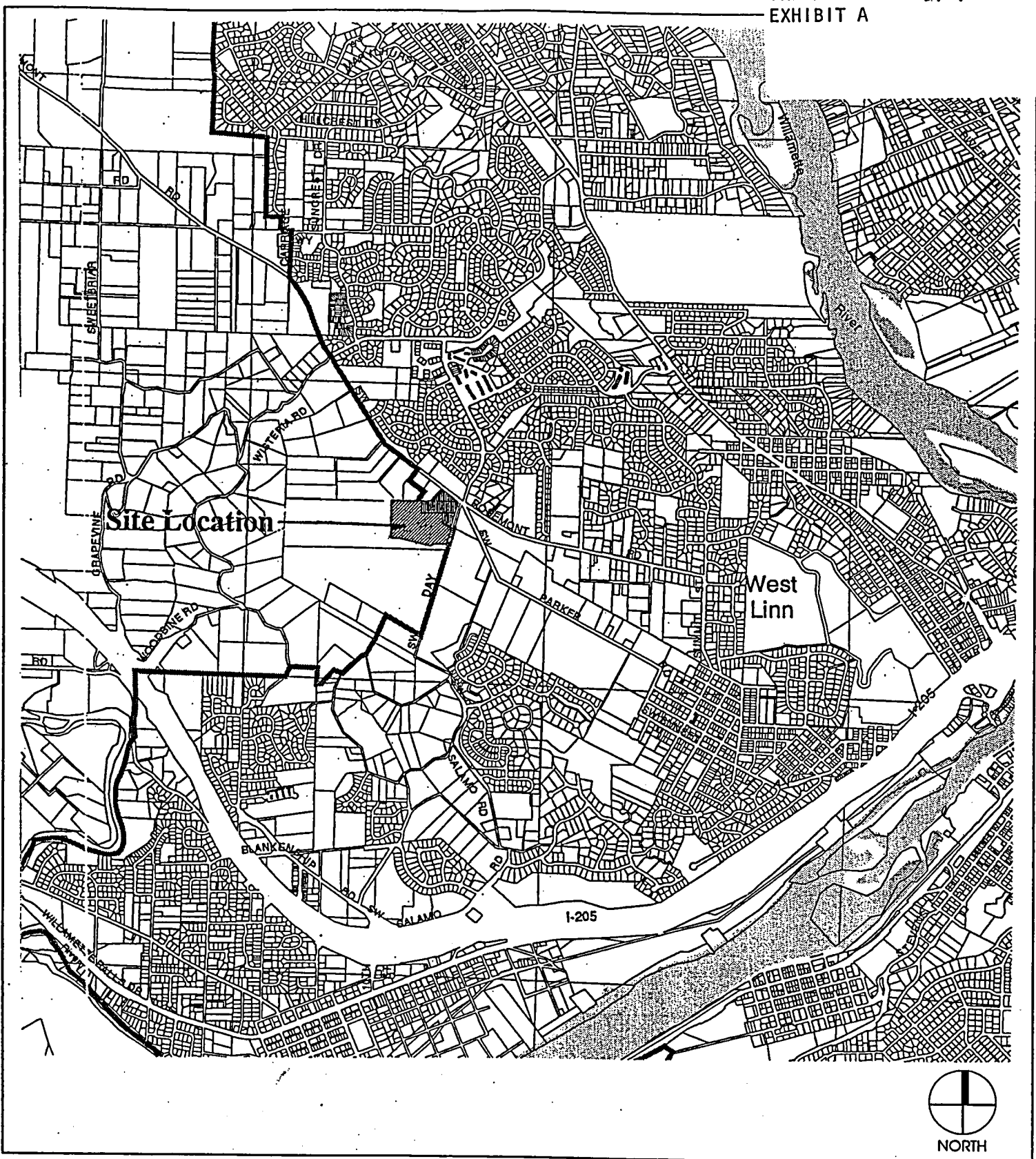


Recording Secretary

Approved as to Form:



Daniel B. Cooper
General Counsel



LEGEND

-  Site Location
-  UGB

Source: Metro

MM
McKeever/Morris, Inc.
722 S. W. Second Avenue
Suite 400
Portland, Oregon 97204
(503) 228-7355
fax (503) 228-7365

Figure 1
Vicinity Map
Locational Adjustment Application
City of West Linn

STAFF REPORT

CONSIDERATION OF ORDINANCE NO. 97- 712 TO ADOPT THE HEARINGS OFFICER FINDINGS AND RECOMMENDATION, APPROVING URBAN GROWTH BOUNDARY CASE 97-1: WEST LINN

Date: September 4, 1997

Presented by: Richard Forester, Hearings Officer
Prepared by: Ray Valone, Growth Management

PROPOSED ACTION

Adoption of Ordinance 97-712 , approving *Case 97-1: West Linn*, a locational adjustment to the UGB.

BACKGROUND AND ANALYSIS

On March 15, 1996, the City of West Linn submitted a petition for a locational adjustment to the UGB for the purpose of accommodating a new middle school for the West Linn-Wilsonville School District. The application was deemed incomplete because it lacked a statement from the Clackamas County Board of Commissioners. The city requested and obtained a waiver of the application deadline from the Metro Council on May 9, 1996. The deadline was established at 30 days after the Council designated urban reserves. The city resubmitted its application on March 31, 1997, and it was deemed complete on April 4.

Proposal Description:

The proposal is to adjust the UGB to include 17.34 acres of land, located west of the intersection of Rosemont and Day roads along the western boundary of West Linn (Attachment 1). It is the eastern portion of a 55.18-acre parcel. The site is exception land and zoned RRF-5 (Rural Residential Farm Forest, 5 acre minimum lot size) in Clackamas County. It is currently used for grazing cattle.

The school district plans to construct the middle school buildings on 4.5 acres of land within the UGB adjacent to the subject site, and use the subject site for playing fields and parking lots (Attachment 2).

Staff Report and Hearing:

Staff reviewed and analyzed the petition and supplemental information provided by the applicant (Attachment 3) for compliance with the applicable criteria in Metro Code 3.01.035. A written report to the Hearings Officer was completed recommending approval of the petition with a condition that the site must be developed with a school use (Attachment 4). A hearing was held at the West Linn City Hall on June 17, 1997. After presentation of the staff report and testimony from three witnesses in favor of the proposal and two witnesses opposed, the Hearings Officer left the record open until June 25 at the request of Jeffrey Seymour, attorney for Chris Hunter. Additional information was submitted to staff by June 25 and made part of the record.

Hearings Officer Recommendation and Proposed Findings

Richard Forester, Hearings Officer, submitted his report and recommendation to Metro on July 11, 1997 (Attachment 5). He recommends approval of the petition with the condition that the subject site must be developed with a school use.

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

Request to Reopen Record:

The Metro Code (3.01.065(e)) provides for parties to the case to file a motion to reopen the record. A request was filed by Robert Thomas during the 20-day exception period to reopen the record to receive admissible evidence not available at the June 17 hearing (Attachment 6). Mr. Thomas wishes to further substantiate his claim that adequate water is not available to serve the proposed school site. A request to reopen the record must explain why the information was not provided at the hearing, and must demonstrate that such evidence meets the standards of Metro Code Section 2.05.030 and would likely result in a different decision (Metro Code 2.05.035(c)). According to Section 2.05.035(c), the Metro Council shall:

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

The Council should make a decision on what option to take prior to hearing any exceptions.

Exceptions:

The Metro Code (3.01.060) provides for parties to the case to file an exception to the Hearings Officer recommendation. Two written exceptions were filed. Robert Thomas filed an exception based upon the Hearings Officer interpretations and conclusions under Criterion 2 of the report regarding provision of public facilities and services to the site (Attachment 7). In particular, he states that existing water facilities are not adequate to serve the site.

John Shonkwiler, attorney for Curtis Hunter and Jeffery Seymour, filed an exception to the report and recommendation based on objections that the Hearings Officer "exceeded his jurisdiction, failed to follow procedures applicable to the matter before him in a manner that prejudiced the substantial rights of the participants, made a decision not supported by substantial evidence in the whole record, and improperly construed the applicable law for the

applicable criteria". Mr. Shonkwiler takes exception to the Hearings Officer findings regarding several of the applicable criteria and suggests that the proposed condition of approval requiring that the property be used as a school site only be eliminated or modified to automatically terminate within a fixed period of time (Attachment 8).

According to Metro Code 2.05.045(b), the Council shall, upon receipt of a proposed ordinance and consideration of exceptions, adopt the proposed ordinance or revise or replace the findings or conclusions in a proposed order or remand the matter to the Hearings Officer.

FINDINGS

The Hearings Officer recommends adoption of Ordinance 97-712 based upon the findings in the *Report and Recommendation of the Hearing Officer*, which are summarized below.

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

BUDGET IMPACT

There is no budget impact from adopting this ordinance.

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JUL 11 1997

BEFORE THE METROPOLITAN SERVICE DISTRICT
(METRO)

In the Matter of the Petition of the CITY)
OF WEST LINN for a locational)
adjustment to the Urban Growth)
Boundary (UGB))
)

Contested Case # 97 -1
REPORT AND
RECOMMENDATION OF THE
HEARING OFFICER

I. Nature of the Case

This is a petition by the CITY OF WEST LINN (Petitioner) to add approximately 17.34 acres to the area within the Urban Growth Boundary. The land is along the western boundary of West Linn, adjacent to and west of Day Road near (in southwesterly direction) the intersection of Day, Rosemont and Parker Roads. It is the eastern portion of a 55.18-acre parcel (Tax Lot 200 of Map No.2 IE 26). Zoned for rural residential, the site contains a single family residence and several accessory buildings. Most of the site is currently used as pasture for cattle.

The subject site is within Urban Reserve Site 30, one of several land reserves the Metro Council designated for eventual inclusion into the urban growth boundary (UGB). This reserve has not been designated a first tier site and will not be among the first ones for inclusion into the UGB.

Proposal Description: The petitioner proposes to adjust the UGB to include this 17.34-acre portion of land for the purpose of accommodating a new middle school for the West Linn-Wilsonville School District. In addition to this land, the district plans on using 4.5 acres of land located immediately northeast of the site and within the UGB for the school buildings. After searching for a middle school site entirely within the UGB which meets the district's standard of 17-22 acres, the city and school district concluded that there is a lack of suitable sites in the attendance area.

The subject property is part of the Tanner Basin Master Plan area. The plan was developed jointly

by the City of West Linn and Clackamas County and is part of their comprehensive plans. It applies to the mostly unincorporated land located east of Day Road, all of which is within the existing UGB. In part, the plan addresses the need for schools to accommodate the projected residential growth in the area. The plan identifies a potential site for a middle school near the intersection of Rosemont and Day roads. The petitioner states that additional acreage is needed, however, to site the school. The middle school would serve the future needs of the Tanner Basin as well as the existing and projected development within the district's northern attendance area, which includes north West Linn and some unincorporated land outside the UGB west of Rosemont and Day roads.

The school district plans to construct the two middle school buildings on 4.5 acres of land adjacent to the subject site within the UGB. An application for a conditional use permit to construct the school buildings and related facilities were submitted during May of 1997 to Clackamas County and West Linn simultaneously. The RRFF-5 zone allows schools as a conditional use. The target date for school opening has been set by the district for September 1998.

Petitioner states that if the petition is approved, they will seek annexation to Lake Oswego. Maps showing the land areas attached to the March 31, 1997 Locational Adjustment petition and reproduced in the Staff Report. The legal description of the land is:

Tax Lot 200 of Map 2 1E 26

II. Proceedings and Record

On June 17, 1997, beginning at 7 p.m. following publication and mailing of a notice to property owners who were identified by Petitioner or the hearings officer as living within 250 feet of the proposed addition area, the hearings officer held a hearing on the petition at West Linn City Hall. Approximately 5 witnesses testified for and against the petition.

At the close of the June 17 hearing, the hearings officer left the record open until 5 p.m. on June

25th, at the request of Jeffrey Seymour, attorney for Curtis Hunter. All additional evidence or memoranda were to be submitted to Jeff Valone at Metro and date and time stamped. Nothing received after 5pm on June 25th was to be considered. Once the record was kept open all the participants were given the option of adding to the record in order to strengthen their cases based on the testimony received at the hearing.

The following documents either are a part of Metro's public file in this matter, were introduced at the public hearing or were submitted by 5 p.m. on June 25th following the hearing pursuant to the hearings officer's ruling on late evidence:

- Exhibit 1: *Locational Adjustment, Prepared for the City of West Linn and the West Linn-Wilsonville School District (March 31, 1997)*
- Exhibit 2: Letter from Clackamas County from Douglas McClain, confirming county's original position concerning service provision.
- Exhibit 3: Copy of minutes from West Linn City Council special session of March 3, 1997, concerning approval of school district request to extend water to the portion of the proposed middle school site within the UGB.
- Exhibit 4: Letters from West Linn (Scott Burgess and Joe Schiewe) confirming city's original position concerning service provision.
- Exhibit 5: *Tanner Basin Master Plan (October 1991)*
- Exhibit 6: *West Linn Middle School Transportation Impact Study, DKS Associates (February 24, 1997)*
- Exhibit 7: Locational Adjustment Petition supplemental findings, McKeever/Morris, Inc. (June 3, 1997)
- Exhibit 8: Sign-up sheet for testimony at June 17, 1997 hearing
- Exhibit 9: Letter of Responses to Comments from McKeever/Morris, Inc., representing petitioner (June 25, 1997); and copy of *Conditional Use Petition, Prepared for Clackamas County and the West Linn-Wilsonville School District (May 23, 1997)*
- Exhibit 10: STAFF REPORT TO THE HEARINGS OFFICER OF METRO (June 17, 1997)

- Exhibit 11: Letter from Kent Seida to Roger Woehl, with attachments (June 19, 1997)
- Exhibit 12: Letter from Robert Thomas (June 24, 1997)
- Exhibit 13: Letter and Exhibits from Jeffrey Seymour on behalf of Curtis Hunter (June 17th, 1997 and submitted at the hearing. Exhibits related to Notice of Pendency of Action between Curtis Hunter and West Linn - Wilsonville School District)
- Exhibit 14: Letter from Jeffrey Seymour dated June 25, 1997, but faxed to the Hearing Officer on June 27, 1997.
- Exhibit 15: An Archaeological Survey of a Proposed Middle School Location Near West Linn, Oregon, Report No, 1996, David V. Ellis, MPA and Eric E. Forgeng, MA (October 11, 1996) received June 24, 1997.
- Exhibit 16: Videotape of the June 17th, 1997 Hearing

The noticing requirements for the proposed UGB locational adjustment, Case 97-1: West Linn, were fulfilled in the following manner:

- Notice of the proposal was given to the Department of Land Conservation & Development (DLCD) on May 5, 1997, using the Department's form; and a copy of the proposal was included with the form. These submittals were received by DLCD on May 6, 1997.
- Notices of the Hearings Officer hearing were mailed on May 28, 1997, to persons designated in Metro Code 3.01.050.
- Notices of the Hearings Officer hearing appeared in The Oregonian and the West Linn Tidings on June 5, 1997.

IV. Legal Framework

In 1981, Metro first adopted Ordinance No. 81-105, which established procedures and criteria for review of proposed "locational adjustments" to the UGB. The purpose of the ordinance was to provide a method for allowing relatively minor UGB amendments in a manner consistent with UGB amendment requirements established by the Oregon Land Conservation and Development Commission.

LCDC's UGB amendment requirements are contained in Goals 14 (Urbanization) and 2 (Land Use Planning).

The pertinent portions of Goal 14 state:

"14. URBANIZATION

"GOAL: To provide for an orderly and efficient transition from rural to urban land use.

"Urban growth boundaries shall be established to identify and separate urbanizable land from rural land.

Establishment and change of the boundaries shall be based upon consideration of the following factors:

- (1) Demonstrated need to accommodate long-range urban population growth requirements consistent with LCDC goals;
- (2) Need for housing, employment opportunities, and livability;
- (3) Orderly and economic provision for public facilities and services;
- (4) Maximum efficiency of land uses within and on the fringe of the existing urban area;
- (5) Environmental, energy, economic and social consequences;
- (6) Retention of agricultural land as defined, with Class I being the highest priority for retention and Class VI the lowest priority; and,
- (7) Compatibility of the proposed urban uses with nearby agricultural activities.

The results of the above considerations shall be included in the comprehensive plan. In the case of a change of a boundary, a governing body proposing such change in the boundary separating urbanizable land from rural land, shall follow the procedures and requirements as set forth in the Land Use Planning Goal (Goal 2) for goal exceptions.

Land within [the UGB] shall be considered available over time for urban uses. Conversion of urbanizable land to urban uses shall be based on consideration of:

- (1) Orderly, economic provision for public facilities and services;
- (2) Availability of sufficient land for the various uses to insure choices in the market place;
- (3) LCDC goals; and,
- (4) Encouragement of development within urban areas before conversion of urbanizable areas."

Goal 2, Land Use Planning, contains "Exceptions" requirements, which are the requirements that Goal 14 specifies must be met for UGB amendment. In 1983, however, the Oregon Legislature adopted ORS 197.732, which itself establishes "exceptions" requirements. Since then, LCDC has incorporated these requirements in OAR 660-04-010(c)(B). That regulation states in pertinent part:

"Revised findings and reasons in support of an amendment to an established urban growth boundary shall demonstrate compliance with the seven factors of Goal 14 and demonstrate that the following standards are met:

- (i) Reasons justify why the state policy embodied in the applicable goals should not apply (This factor can be satisfied by compliance with the seven factors of Goal 14);
- (ii) Areas which do not require a new exception cannot reasonably accommodate the use;
- (iii) The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and
- (iv) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts."

Metro adopted standards for evaluating locational adjustments adding land to the UGB, contained in Metro Code Section 3.01.035 (Ordinance No.92-450A, Sec 1) incorporating relevant portions of statewide goals 2 and 14. as follows:

- (b) All locational adjustment additions and administrative adjustments for any one year shall not exceed 100 net acres and no individual locational adjustment shall exceed 20 net acres. Natural areas adjustments shall not be included in the annual total of 100 acres and shall not be limited to 20 acres, except as specified in 3.01.035(g), below.
- (c) All petitions for locational adjustments except natural area petitions shall meet the following criteria:
 - (1) Orderly and economic provision of public facilities and services. A locational adjustment shall result in a net improvement in the efficiency of public facilities and services, including but not limited to, water, sewerage, storm drainage, transportation, parks and open space in the adjoining areas within the UGB. Any area to be added must be capable of being served in an orderly and economical fashion.
 - (2) Maximum efficiency of land uses. The amendment shall facilitate needed development on adjacent existing urban land. Needed development, for the purposes of this section, shall mean consistent with the local comprehensive plan and/or applicable regional plans.
 - (3) Environmental, energy, economic and social consequences. Any impact on regional transit corridor development must be positive and any limitations imposed by the presence of hazard or resource lands must be addressed.
 - (4) Retention of agricultural land. When a petition includes land with Agricultural Class I-IV soils designated in the applicable comprehensive plan for farm or forest use, the petition shall not be approved unless it is factually demonstrated that:
 - (A) Retention of any agricultural land would preclude urbanization of an adjacent area already inside the UGB, or
 - (B) Retention of the agricultural land would make the provision of urban services to an adjacent area inside the UGB impracticable.

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

(d) Petitions for locational adjustments to remove land from the UGB may be approved under the following conditions:

- (1) Consideration of the factors in section 3.01.035(c) demonstrate that it is appropriate the land be excluded from the UGB.
- (2) The land is not needed to avoid short-term urban land shortages for the district and any long-term urban land shortage that may result can reasonably be expected to be alleviated through the addition of urban land in an appropriate location elsewhere in the region.
- (3) Removals should not be granted if existing or planned capacity of major facilities such as sewerage, water and transportation facilities will thereby be significantly under-utilized.

(e) A petition for a locational adjustment to remove land from the UGB in one location and add land to the UGB in another location (trades) may be approved if it meets the following criteria:

- (1) The requirements of paragraph 3.01.035(c) (4) are met.
- (2) The net amount of vacant land proposed to be added may not exceed 20 acres; nor may the net amount of vacant land removed exceed 20 acres.
- (3) The land proposed to be added is more suitable for urbanization than the land to be removed, based on a consideration of each of factors of section 3.01.035(c) (1-3 and 5) of this chapter.

(f) Petitions for locational adjustments to add land to the UGB may be approved under the following conditions:

- (1) An addition of land to make the UGB coterminous with the nearest property lines may be approved without consideration of the other conditions in this subsection if the adjustment will add a total of two gross acres or less, the adjustment would not be clearly inconsistent with any of the factors in subsection (c) this section, and the adjustment includes all contiguous lots divided by the existing UGB.
- (2) For all other additions, the proposed UGB must be superior to the UGB as presently located based on a consideration of the factors in subsection (c) of this section.
- (3) The proposed UGB amendment must include all similarly situated contiguous land which could also be appropriately included within the UGB as an add-on based on the factors above.

- (g) All natural area petitions for locational adjustments must meet the following conditions:
- (1) Any natural area locational adjustment petition shall be proposed at the initiative of the property owner, with concurrence from the agency proposed to accept the land.
 - (2) At least 50 percent of the land area in the petition, and all land in excess of 40 acres, shall be owned by or donated to a county, city, parks district or the district, in its natural state, without mining, logging or other extraction of natural resources, or alteration of water-courses, water bodies or wetlands.
 - (3) Any developable portion of the lands included in the petition, not designated as a natural area, shall not exceed twenty acres and shall lie between the existing UGB and the area to be donated.
 - (4) The natural area portion owned by or to be donated to a county, city, parks district, or the district must be identified in a city or county comprehensive plan as open space or natural area or equivalent, or in the district's natural areas and open space inventory.
 - (5) The developable portion of the petition shall meet the criteria set out in parts (b), (c) (1), (c) (2) and (c) (3) of section 3.01.035.

V. Hearing and Discussion

The June 17th, 1997 Hearing was videotaped and is marked as Exhibit #16 in the record. After the Hearing Officer reviewed the process and rights of parties, Ray Valone of the METRO staff introduced the Petition, the location and the staff report (Exhibit # 15) recommending approval of the locational adjustment, with the condition that the site must be developed with a school use. A key part of his and the petitioner's testimony related to looking for other appropriate school sites within this attendance area. He confirmed that Metro staff verified the petitioner's search for a vacant and relatively flat twenty acre site within the UGB that was not already committed to another school, and found none other.

Jill Horne, Mayor of West Linn testified that the Petition is in compliance with the West Linn and Clackamas County Comprehensive Plans, that all services can be provided, and that the Tanner Basin Master Plan provides for a school at this site. Keith Liden, the petitioner's consultant testified that he agreed with the findings and recommendations of the staff report. The site selection was consistent with the Tanner Basin Master Plan and the long range school facilities.

master plan. Selecting a school site involved identifying an efficient attendance areas and an ideal school location. In West Linn terrain is a key issue, because of slopes. This area is ideal for a school site because of its relative flatness. The site plan dictates where it is.

Attorney Jeffrey Seymour representing Curtis Hunter (See Exhibits #13 & #14) testified that there are two different law suits affecting this site which “ show a significant cloud on the district’s title and right to the property.” He requested that the district’s Petition be denied pending the resolution of the above litigation. As the petitioner correctly responds (See Exhibit #9) the petitioner in this case is the City of West Linn and not the school district and schools title is not relevant to this matter, except as to its subsequent ability to meet the proposed condition of approval relating to the use of this site for school purposes. The school denies there is a cloud on title. In any event, the title may be an issue in the district’s conditional use application for the middle school, but is not relevant to the City of West Linn’s standing to apply for a locational adjustment of an area adjoining the City and Mr. Seymour provides no authority or legal analysis to the contrary.

Mr. Seymour than raised arguments based on the approval criteria. On Criteria #2 he asserted that there is not enough water. As evidence he cites that an unnamed, but major developer had to construct a reservoir, that a building moratorium is being considered in the Horton and Rosemont pressure zones, that unspecified tort claim notice was being served on the City due to lack of water and that Boundary Commission laws are being violated by sewer and water construction outside the city limits. The petitioner responds that the Boundary Commission considers extraterritorial extension of water service after land use approvals. The Hearing Officer notes that the relevant water service providers have stated that water is available and that the remainder of the assertions are speculative opinions unsupported by any evidence in the record or specific references to public documents. As this is a quasi-judicial proceeding, I find that there is no basis on which to dispute specific testimony and comments from the City of West Linn that water is available for the proposed school.

The second point is that the school district plans will alter natural storm water runoff and drainage

in violation of an unspecified law. The petitioner rebuts by saying that the storm drainage system will comply with applicable city and county ordinances and the specific plans can be considered and modified during the conditional use process. The Hearing Officer agrees that this is a matter for a conditional use or site plan review.

On criteria # 3, Mr. Seymour alleges that various Intergovernmental Agreement between the county, the city and school district requiring close coordination between have been violated. Again no evidence is introduced for this opinion, and the Hearing Officers, notes close cooperation on this Petition.

On criteria #4 Mr. Seymour alleges American Indian artifacts on the site. The archeology report, Exhibit #15 recommends that to assure compliance with Oregon statutes there should be systematic excavation of site 35CL225 (See Figure 11) which is on the western end of this site. ORS 97.745 requires halt in construction and notification of state and Indian parties if burial or suspected burial grounds are encountered during construction. Again this is at best a conditional use or a building permit issue.

On criteria # 6 Mr. Seymour's argument is with the accuracy of staff's sloping description for the site, but the relevance of this argument remains a mystery to the Hearing Officer.

On criteria # 8 Mr. Seymour makes an argument that the area across Day Rd. is superior, and that the staff did not accurately describe its sloping. In his testimony Mr. Seymour offered that the school district has not come up with a reason for not choosing the east of Day Rd. site within the urban growth boundary. The significance of that argument is not clear to the Hearing Officer. The Officer notes from his site visit the area east of Day Rd. has greater sloping than the proposed area, see also the slope contours on Figures 5 & 6 of the Petition, showing much sharper sloping to the east and towards Parker Rd. The Officer further notes that the Tanner Basin Master Plan designates the proposed area for the middle school, and that area east of Day Rd would be adjacent to proposed elementary school. Mr. Seymour also alleges conflict of interest by Mr. Sam Nutt, who has an ownership interest in the east of Day Rd. lot and is

allegedly the school district business manager. The Hearing Officer finds that this school site is being proposed by the City of West Linn and that Metro staff independently determined that there are no other sites within the UGB which can serve this attendance area and which meet the requisite school site criteria and finally that the Tanner Basin Master Plan has also designated this site almost 10 years ago.

Mr. Robert Thomas testified next and submitted additional written comments (Exhibit # 12). He made several points. One that letting the school in is just a foot in the door before the entire Urban Reserve area becomes urbanized. Two, that the City of West Linn is in the throws of a water delivery crisis. In his open record submission he alleges that it is "very premature to build a middle school at this site or any other nearby site because it was originally intended to primarily serve new developments in Tanner Basin, which is less than 20% built out." He also alleges that there is now inadequate infrastructure therefore it is very expensive to provide the needed utilities and roads for this site. He also raises the issue of school ownership of the Dollar Street site within the UGB, which he maintains is flatter and generally superior. Mr. Thomas then lurches into a long discussion about motives of various people and their machinations to expand the UGB, which even if true are not connected to any of the approval criteria upon which I need to make this decision. He alleges, without demonstrating that the Dollar Street site would be less expensive to develop for school and alleges all sorts of undue motivation for the choice of the Day Rd. site, including incidently that it would aid in the development of properties of certain individuals. While the consequences that Mr. Thomas adduces may be true, the Officer notes that Tanner Basin Master Plan envisaged other developments on some of the lands identified and that it projected the school site where it is being proposed. The Tanner Basin Master Plan had been incorporated into various City and County plans, and it is not the Hearing Officer's job to dissemble it or second guess the motives behind the infrastructure placement or finance strategy adopted therein. Even if everything Mr. Thomas alleges is true, it is not illegitimate for a municipal government to plan its developments or infrastructure in a manner calculated to aid the completion of said Master Plan (see page 24 - Of the Conditional Use Application - Ex. #9). The Tanner Basin Plan is a given, and the only relevant issue raised is whether this use can be accommodated within the UGB. The record in Appendix A of the Conditional Use Application

(Ex. #9) covers the same locational choice issues as have been raised in this case and the Hearing Officer finds that the selection of this site is consistent with the locational adjustment criteria as shown in the findings below.

In his rebuttal at the hearing, John Jackley responded that there is no moratorium on water, and that a hearing on water availability is scheduled and that the condition of approval relating to school use of the property requires a conditional use approval demonstrating availability of water. The City has an interim arrangement to assure water for the site. All of the schools are now at or over capacity. Other sites that the school may have are also needed for other facilities. Other available properties of this size are steeper. Tanner Basin Master Plan supports this site. Eventual location and nature of Parker Rd. would make east of Day Rd. site difficult. Schools have to go through a Conditional Use and Site Plan Review before Clackamas County and the City of West Linn. Site selection process as well criteria for choosing a school site are relevant to the conditional use applications and are presented in the Appendix A of the Conditional Use Application (Exhibit 9 of this record) showing that the subject site is the most suitable available.

VI. Findings

The criteria for a locational adjustment to the UGB are contained in Metro Code 3.01.35 and are met by the petitioner, as follows:

1. **Locational adjustments shall not exceed 20 net acres. [3.01.35(b)]** The petition is for 17.34 acres which is less than the 20 acre maximum allowed, and under 100 acres per year.
2. **Orderly and economic provision of public facilities and services. A locational adjustment shall result in a net improvement in the efficiency of public facilities and services, including but not limited to water, sewerage, storm drainage, transportation, parks and open space in the adjoining areas within the UGB. Any area to be added must be capable of being served in an orderly and economical fashion. [3.01 .35(c)(1)]**

The petitioner states that the adjustment is needed to provide a public service to the community. Although the school will make demands on public facilities and services, it will provide important educational needs and recreational opportunities. As discussed in the Petition on pages 19-20, the petitioner states that the public facilities and services have adequate capacity to serve the new school by the scheduled date of opening in September of 1998. The petitioner's submittal includes completed forms signed in March 1996 by the potential service provide~ for the school site. The following list is a summary of service provider information based on the forms and other submittal documents.

- Water - The City of West Linn signed a statement that existing water lines, including a 16" line in Rosemont Road and a 12" line in Day Road, are adequate to serve the proposed school. To support the school district's conditional use permit applications, the West Linn City Council adopted a motion on March 3, 1997, to approve a request by the school district to extend city water to the portion of the proposed school site outside the city limits but inside the UGB. In exchange, the district agrees to waive its right to remonstrate against annexation to the city, and prior to receiving occupancy permits, the district must annex the middle school property to the city. The approval of the extra-territorial extension of water is subject to approval by the Portland Metropolitan Area Local Government Boundary Commission.

- Sewerage - The city signed a statement that providing sewer to the site would allow the adjacent urban areas to be served more efficiently because it would allow the city to remove a temporary pump station from service and switch to a gravity system. The school's sanitary waste will be discharged into a new Parker Road line. Extension of the sewer line to the school will provide an important segment of the system that will enable the pump station to be retired and the gravity system introduced. This change will enhance the efficiency of the system.

- Storm drainage - The city signed a statement that the storm drain system requirements can be met completely on site. The water will be collected from the site and piped to the southwest to the existing drainage swale on the subject property. Before discharge, the water will be detained and treated pursuant to county requirements.

● Transportation - The city signed a statement that Rosemont and Day roads provide the necessary transportation needs of the proposed school. The petition states that Rosemont Road, Day Road, Parker Road and Santa Anita Drive are planned to be improved. The improvements include widening the first three roads and adding bike lanes, curbs and sidewalks to all four roads. Improvements would be funded and constructed in conjunction with approved development along these roadways. A transportation impact study, conducted by DKS Associates (February 24, 1997), concludes that the school project would not significantly affect operating conditions on the surrounding roads and does not require any capacity improvements. Transit service is not available in the site area, however, the city is negotiating to have bus service for the Tanner Basin area in the future.

● Parks and Open Space - The school would provide additional recreational opportunities for the surrounding area, including playing fields and a running track. The school district has a policy to make such facilities available to the general public when they are not in use during school hours.

● Police Services - The city signed a statement that a middle school is included in its comprehensive plan for this area and for plans to provide adequate police service to serve the school and other adjacent areas inside the UGB.

● Fire/Emergency Services - The city signed a statement that fire and emergency services would be adequate to serve the site and that there would be no efficiency impact to do so. The Tanner Basin Plan identifies the need for a new fire station to be located near the intersection of Rosemont, Day and Parker roads. The city has appropriated funds to acquire the site and is actively working toward purchasing it.

● Public Education - The middle school will provide improved educational facilities for residents within the school district boundaries.

● Other Services - Portland General Electric, Northwest Natural Gas and US West have signed statements that they could adequately serve the site.

In addition to the site being capable of service in an orderly and economic fashion, the petitioner states that a net improvement in the efficiency of public facilities and services would be realized in the adjoining areas within the UGB. This is especially true for sewer service, transportation, parks and open space and public education.

Given the unrebutted information contained in the petitioner's submittal of March 31, 1997, and additional information obtained by staff it appears that the site is capable of being served in an orderly and economic fashion. Services are available and adequate to serve the site according to statements signed by all service providers in March of 1996. A letter was sent to these providers on May 6, 1997, requesting that they confirm or change their original statements. Replies have been received from the City of West Linn and Clackamas County confirming their 1996 statements.

The petitioner's claim that there would be a net improvement in efficiency seems to be valid for public education, recreation facilities and sewer service. It is less obvious that a net improvement in efficiency for adjoining areas would be realized for transportation. The petitioner states that whether the school is located here or not, the noted improvements will need to be made to the streets in the area to accommodate development that is currently planned within the UGB. If street improvements are needed to serve planned development within the UGB, it would seem that extension of the UGB and siting of a middle school could use up a portion of the capacity gained from the improvements. While the school district will likely be required to provide or contribute to road improvements along its frontage with Rosemont and Day roads this in itself would likely not offset the schools impact to the transportation system. The DKS traffic impact study, however, concluded that the school project would not affect operating conditions on surrounding roads or intersections. This study assumed that the intersection of Rosemont and Day roads would be realigned, as planned by the city, such that Parker Road approach is changed to align with Day Road south of the school site.

The petitioner has demonstrated that the subject site is capable of being served with public facilities and services in an orderly and economic manner, and that the adjustment would result in a net improvement in their efficiency. The Hearing Officer finds that this criterion is satisfied.

3. **Maximum efficiency of land uses. The amendment shall facilitate needed development on adjacent existing urban land. Needed development, for the purposes of this section, shall mean consistent with the local comprehensive plan and/or applicable regional plans. [3.01 .35(c)(2)]**

The petitioner states the middle school will serve the residential growth in the north West Linn area as well as the adjacent rural lands in Clackamas County. The proposed school is consistent with the Tanner Basin Master Plan, which was adopted by both the city and county. The county comprehensive plan currently designates the subject property and surrounding land as appropriate for rural residential development. This designation also allows schools as a conditional use.

Based on information from the petitioner and school district, the siting of a middle school at the subject location would facilitate the educational and recreational needs for an expanding urban population. The proposed school is consistent with the Tanner Basin Plan which will guide the development of the immediately surrounding area within the UGB. The school will help facilitate the additional development needed within West Linn to achieve the city's share of the regional housing target capacities contained in the Urban Growth Management Functional Plan. The functional plan was adopted in December of 1998 to implement the Regional Urban Growth Goals and Objectives (RUGGO), which were adopted by the Metro Council to guide the future urban form for the Portland metropolitan area.

Metro staff believes that the amendment will facilitate needed development on adjacent existing urban land for another reason. The siting of a new middle school is needed to accommodate the expected growth in the district's northern attendance area. The district conducted an alternative site analysis according to its adopted site selection criteria contained in the Long Range School Facilities Plan. Of the five alternative sites analyzed, only the one at the corner of Rosemont and Day roads, which includes the 17.34-acre proposal, meets the district's criteria. The proposed site is needed, therefore, to make the 4.5-acre site viable as a new middle school site.

For the above reasons, the Hearing Officer also finds that this criterion is satisfied.

4. **Environmental, energy, economic and social consequences. Any impact on regional transit corridor development must be positive and any limitations imposed by the presence of hazard or resource lands must be addressed.**

[3.01.35(c)(3)]

The petitioner states that the subject site has been planned and is suitable for development, and it contains no environmentally sensitive resources or natural hazards. The school improvements would be located to the east and uphill of a stream that runs across tax lot 200. The siting of a school involves vehicle trips and therefore has an impact on air quality. This site would be located close to existing and future residential development minimizing the number and length of vehicle trips. Walking and bicycling opportunities would be improved after the planned street improvements are completed. The school would be within one mile of 45% of its students further enhancing bicycle and pedestrian opportunities..

The school has been included in all future development plans and will not require more service and facility capacity than will be needed for other area development. The school will, therefore, allow for more efficient utilization of constructed public facilities. By providing the educational needs and community center/recreational opportunities for the Rosemont Tanner Basin area of West Linn, the proposed amendment will have positive social consequences.

Consumption of energy and air quality impacts are inherent with development of any new school. The subject site, however, is located close to a significant percentage of the student population and will eventually serve new development within the Tanner Basin and Urban Reserve Site 30 areas. Because the school would be located within a short distance of much of the population it will serve, there will be a reduction in vehicle miles traveled and an increase in walking and bicycling to the site. This situation will have a beneficial impact on energy consumption and air quality.

Because the proposed site could be served by the planned improvements to facilities and services for other development without increasing capacity, and because the school would be located within one mile of 45% of the student population, there is likely an economic benefit to the public from locating the school at this site. The proposed school site would have a positive social impact for existing and future development in the area due to the educational needs and recreational opportunities it would provide.

The only transit corridor of regional significance is State Highway 43, located approximately one mile to the east of the site. There would be no impact to this corridor as a result of this boundary adjustment. Based on information from Clackamas County, the site does not have any environmental or cultural constraints to development.

For the above reasons, the Hearing Officer finds that this criterion is satisfied.

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

(A) Retention of any agricultural land would preclude urbanization of an adjacent area already inside the UGB; or

(B) Retention of the agricultural land would make the provision of urban services to an adjacent area inside the UGB impracticable. [3.01 .35(c)(4)]

The petitioner states that this criterion is not relevant because the property and surrounding land is designated for rural residential development in the Clackamas County Comprehensive Plan. While the site contains Class III soil, the county does not consider this land as prime farm or forest land. The county was granted an exception to Statewide Planning Goal 3 (Agricultural Lands) and Goal 4 (Forest Lands) for the land now designated Rural residential.

The comprehensive plan designation of Rural and zoning district of RRFF-5 (Rural Residential Farm Forest-5) are intended primarily to maintain the character of rural areas and implement the goals and policies for residential uses in rural areas. Through its plan

goals and policies, the county makes a distinction between Rural designated land and Agriculture and Forest designated land. According to the Rural section of the comprehensive plan "Rural lands are those which are outside the Urban Growth Boundaries and are suitable for sparse settlement, small farms or acreage home sites with no or hardly any public services and which are not suitable, necessary or intended for urban, agriculture or forest uses. The first goal of this section of the plan is to provide a buffer between urban and agricultural or forest uses. In addition, schools are allowed as a conditional use in this zone district.

Metro Staff agrees that the subject site and surrounding parcels, being designated as Rural and RRFF-5, are not designated for exclusive farm or forest use. According to the plan, "This zone is applied to areas designated as Rural on the comprehensive plan map and which have a general parcel size of five acres; are affected by development; contain no serious natural hazards and the topography and soils, are suitable for development, and are easily accessible to a Rural Center or incorporated city". Primary uses allowed include, but are not limited to single-family dwellings, current employment for general farm uses, propagation or harvesting of a forest product, and parks, campgrounds and recreational grounds. Schools are allowed as a conditional use. Currently, the site has a single family residence with accessory buildings, and is being used as pasture land for cattle.

Since the subject site is not designated by the county comprehensive plan for exclusive farm or forest use, and the primary purpose of the zoning district is to provide for rural residential living, the Hearing Officer finds that this criterion is satisfied.

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

The petitioner states that Christmas tree farming and cattle grazing are the two agricultural activities in the area (Attachment C). The subject property and land to the south and

west are used as pasture for cattle. Christmas tree uses are to the northwest, south and east. Properties to the north are large acreage home sites with some tree farming. The tree farming to the northeast and east across Day Road is on land within the UGB, which is designated for urban development.

Conditional use applications for siting the school buildings on the 4.5 acres within the UGB have been submitted to the City of West Linn and Clackamas County. Though the Petition is not technically at issue for this UGB adjustment request it is included in the record, and the petitioner believes that it is related to the issue of compatibility of the proposed use with nearby agricultural activities. Based on the information in the conditional use permit application and site plan (Attachment D), the petitioner claims that the proposed adjustment is compatible with nearby tree farm and grazing uses in the following ways:

- The site plan locates school buildings on the land within the UGB adjacent to the subject site. The athletic fields and parking area are located to the south and west on the subject site. This plan is necessary due to the need to locate utilities, especially sewer, on the uphill portion of the site. Storm drain and detention facilities would be located on the subject site, which is sloping westward toward the stream.
- The state Transportation Planning Rule requires buildings to be located near public streets for easy pedestrian and bicycle access. Locating the school buildings away from streets would be contrary to these requirements.
- The athletic fields will provide excellent buffering between any agricultural activities and classroom activities. Due to security issues, a 6-foot high chain link fence will be installed which will eliminate any potential conflicts with adjoining property owners.
- A school is allowable as a conditional use in the RRF-5 zone. The proposed school is consistent with the county's conditional use criteria. Further, the county does not have any specific requirements for non-resource uses to be compatible with farm or forest activities.

Based on air photo information and site visits staff and the Hearing Officer confirm that tree farming and grazing activities are taking place on the subject site and adjacent land. These uses are allowed by the county's RRFF-5 zone district. Public and private schools are also allowed as conditional uses subject to special use requirements (Sections 805 and 808) as well as general conditional use criteria (Section 1203). The first set are basic locational, dimensional and parking requirements that are not relevant to this petition. The second set includes the criterion that the proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the underlying district. The primary uses include residential, farm and forest uses.

This criterion seeks to assess and evaluate whether an urban use allowed by granting a UGB adjustment would adversely impact and be incompatible with nearby agricultural activities; and whether the use outweighs its impacts with justification dependent on the previous criteria. Based on the foregoing discussion and evaluation of the proposal, staff concluded that the use of this site for a middle school, as proposed by the district, clearly outweighs any adverse impact to the surrounding activities for the following reasons:

- The use of the subject site for a middle school is consistent with all local and regional plans, including a specific area plan for development of the adjacent urban area. It would facilitate needed development on the adjacent land within the UGB by providing for a school that is needed to accommodate the projected increase in students. It would also provide recreational and social needs of the increased population projected for the area. In the longer term, the school would also provide these amenities for the additional urbanization of the area immediately west of the site, which has been designated as an urban reserve.
- The site and school can be served with public facilities and services in an orderly, economic and timely manner according to all service providers. Further, extension of sewer service to the site will help improve efficiency of the existing system that serves the adjacent urban area within the UGB by changing to a gravity system.

●Environmental, energy and social consequences of the proposal would be positive. The school would be within one mile of 45% of the student population, as well as within approximately .25 miles of a planned primary school site, as identified in the Tanner Basin Master Plan. A middle school would yield educational and increased recreational opportunities, thus providing improved social benefits to area residents.

●The existing zoning on the subject property allows a school as a conditional use. The criteria for this use must be met before the county issues permits. Based on information from the county and the district's conditional use permit application, the proposed middle school would be compatible with nearby tree farming and cattle grazing.

For the above reasons, the Hearing Officer finds that this criterion is satisfied.

7. An addition of land to make the UGB coterminous with the nearest property lines may be approved without consideration of the other conditions in this subsection if the adjustment will add a total of two gross acres or less, the adjustment would not be clearly inconsistent with any of the factors in subsection (c) this section, and the adjustment includes all contiguous lots divided by the existing UGB. [3.01 .35(f)(1)]

The petition is for 17.34 acres which is greater than the 2 acre or less threshold and, therefore, this criterion does not apply.

8. For all other locations, the proposed UGB must be superior to the UGB as presently located based on a consideration of the factors in subsection (c) if this section. [3.01 .35(f)(2)]

The petitioner states that the proposed amendment is an improvement to the current UGB due to four reasons:

- (1) Public facilities and services, including schools, will be more efficiently provided to land within the UGB if the school is brought into the UGB and annexed to West Linn.

- (2) Developing a middle school at the site is consistent with acknowledged local plans.
- (3) The environmental, energy, economic and social consequences of the proposal will be positive.
- (4) Agricultural or forest land will not be affected by the proposal.

The school district conducted a site selection process to determine the location for new schools. The first two parts of the process identified attendance areas and ideal locations for schools within those areas. The third step involved a site specific search and included consideration of five locations for middle schools within the northern attendance area. Based on the district's adopted site selection process, only Site 5 met the criteria. Site 5 includes the 4.5 acres along Day Road plus the 17.34 acres of land, which is the subject of this Petition.

Based on the petitioner's submittal, information obtained from county staff and service providers, and site visits, Metro staff agreed with statements (1) through (4) above. The district's site selection process, which resulted in identifying Site 5 as the only feasible one, is outlined in the district's application to the city and county for a conditional use permit for the middle school (appendix A - Exhibit #9). Metro staff conducted site visits to all five sites and confirmed the district's observations. Any other site outside the UGB would not have the advantage of using the 4.5 acres inside the UGB along Day Road for nearly all of the public facilities.

Metro staff also conducted an independent vacant land analysis of property within the city. Follow-up visits were conducted to observe site characteristics. The Metro staff analysis shows six locations that are build able and greater than 10 acres within the entire city (Staff Report - Attachment E). Sites A and B are the only ones inside the district's identified northern attendance area for middle schools. Site A, identified as Site 4 in the district study, is a 10-acre park. Surrounded by residential development, it does not meet the district size criteria. Site B, identified as Site 2 in the district study, consists of four tax lots in different ownership and has about 11 acres of developable land. This site does not meet district size criteria. Sites C, D, E and F are located outside the district's identified attendance area. Site C, approximately 16 acres, is proposed for a residential subdivision.

Site D, with about 8.5 develop able acres, is located at the top of a hill and has poor accessibility for a school use. Site E and F, containing about 12 and 18 developable acres respectively, are located at the southwest end of West Linn and not feasible to serve the district's northern middle school attendance area.

Based on the information contained in Criteria 2, 3, 4 and 6, the Hearing Officer concludes that this site for a needed middle school is better than any other site within the district attendance area, inside or outside the UGB. This criterion is satisfied.

9. **The proposed UGB amendment must include all similarly situated contiguous land which could also be appropriately included within the UGB as an addition based on the factors above. [3.01 .35(f)(3)]**

The petitioner states that the remainder of the 55.18-acre parcel is not included in this proposal because the school district only needs approximately 20 acres for the new school site, provision of services to the other 37.84 acres is limited by site conditions, the adjacent sites are not in the same ownership, and the site corresponds to the Tanner Basin Plan designation for a school site.

Staff agreed with the petitioner that contiguous land to the proposed site is not appropriate for inclusion with this proposal. The district's size criterion for middle schools, included under Policy '6 of the Long Range School Facilities Plan, is 17-22 acres. This is consistent with the petitioner's request for limiting the proposed UGB adjustment to the 17.34 acres, which when added to the 4.5 acres within the UGB equals 21.84 acres for the entire school site.

In addition to the facts cited by the petitioner, staff noted another reason for not including contiguous land. The site is part of Urban Reserve Site 30 which will eventually be included within the UGB. Any proposal to add more than 20 acres to the UGB, however, must include an Urban Reserve Plan. This plan must address several issues including but not limited to: Provision of minimum residential densities and diversity of housing; provision for commercial and industrial development needs; a transportation plan; public

facilities and services plan; school plan; and general locations of roads, housing, commercial and industrial land, open space and public facilities. The current petition does not address these issues, except the school plan, because 17.34 acres is all the land that is being proposed for addition to the UGB. This petition could not appropriately include additional land (greater than 20 acres) based on the above locational adjustment criteria.

VII. Summary and Recommendation

This petition seeks to bring 17.34 acres of land into the UGB for the purpose of siting a new middle school. The service provision, land use efficiency and site impact issues of this petition meet the criteria. Moreover, the petitioner has made a good case that the proposed UGB is superior to the existing one for two reasons: There would be a net improvement in efficiency for public facilities and services, especially for public education, recreation facilities and sewer service; and the subject site is the best one for locating a new middle school based on district criteria and the alternative site selection study.

A school is allowed as a conditional use in the zone district, given that it meets county siting criteria. The county must make a finding that the proposed use would not substantially alter the character of the surrounding area. The Hearing Officer concludes that the proposed UGB adjustment is superior to the UGB as presently located based on consideration of the above criteria. The construction of two new middle schools is needed according to the district, to accommodate the projected increase in students by 2010. Locations for new schools in the area is severely limited, based on alternative site selection studies. Expansion of the UGB at the subject location would accommodate the district's needs while contributing to the provision of public facilities and services in an efficient manner.

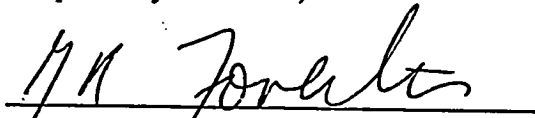
Metro staff recommended and the Hearing Officer concurs that placing the following condition should be attached to the decision: The subject site must be developed with a school use. The petitioner's case was made based on the siting of a middle school. The justification for adjusting the UGB is contingent upon the demonstrated need for land to locate a new school. The petitioner must still meet conditional use criteria of both Clackamas County and the City of West Linn in order to utilize this locational adjustment. The Hearing Officer agrees with the staff

proposed condition and favorable recommendation.

The petition meets the requirements of the Metro Code for locational adjustments. For that reason, the petition should be granted with the proposed condition.

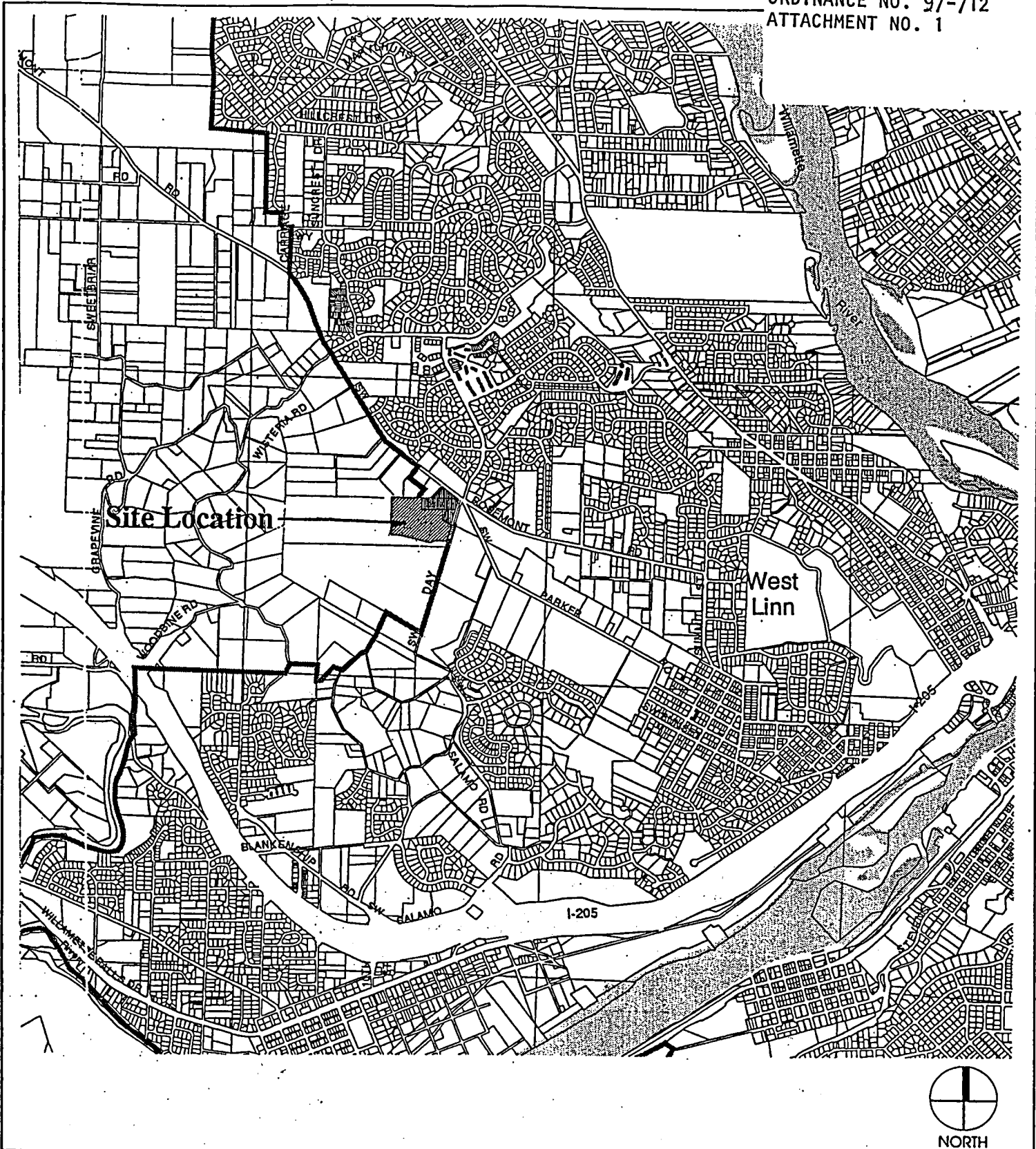
Dated: July 11, 1997

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "J. R. Forester", is written over a horizontal line.

J. Richard Forester

Hearings Officer



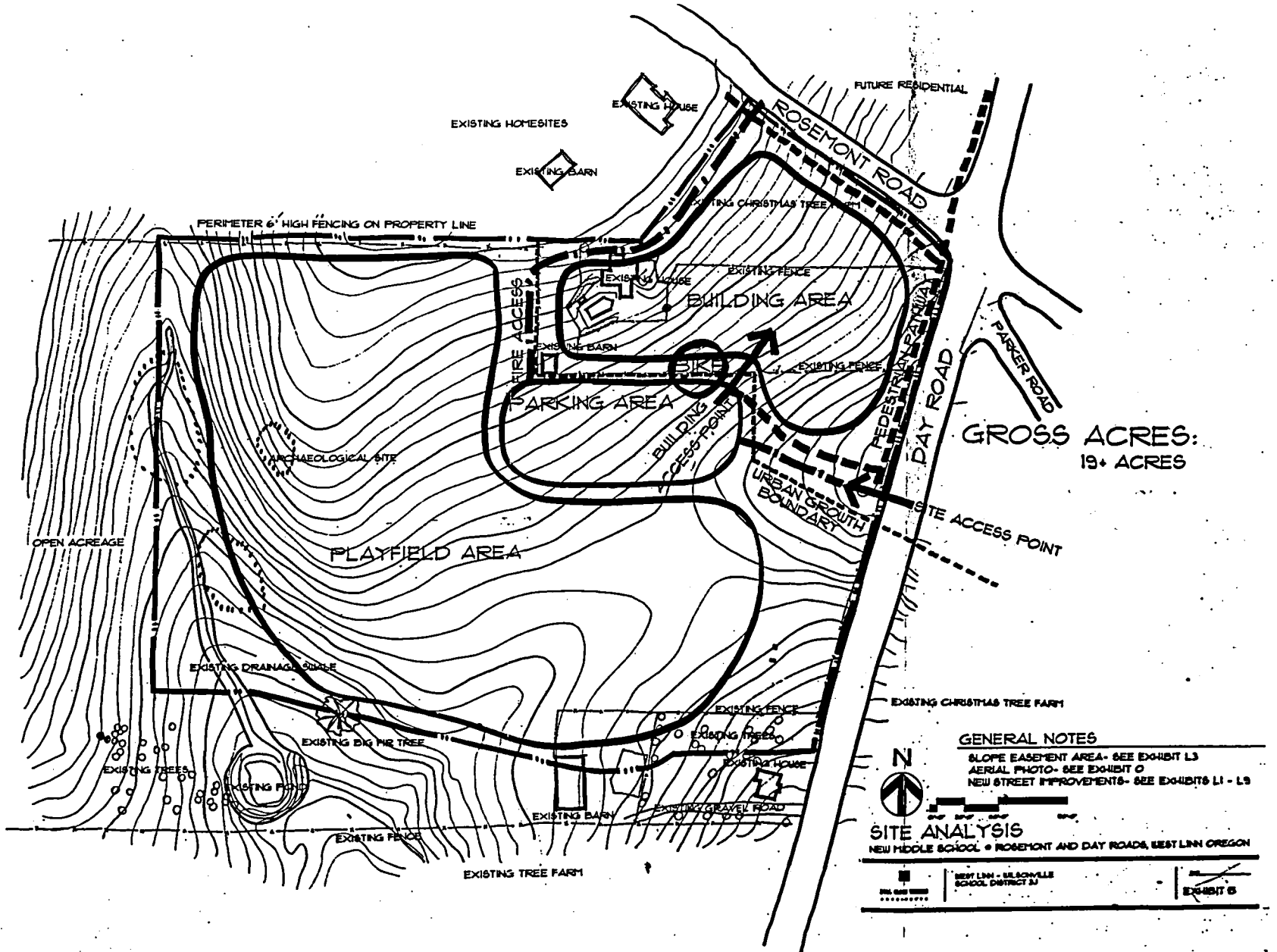
LEGEND

-  Site Location
-  UGB

Source: Metro

MM
McKeever/Morris, Inc.
722 S. W. Second Avenue
Suite 400
Portland, Oregon 97204
t (503) 228-7151
fax (503) 228-7365

Figure 1
Vicinity Map
Locational Adjustment Application
City of West Linn



THE ABOVE MAP WAS PREPARED BY: [Illegible Name]

F



LOCATIONAL ADJUSTMENT

PREPARED FOR THE
CITY OF WEST LINN
AND THE
WEST LINN-WILSONVILLE
SCHOOL DISTRICT

PREPARED BY
MCKEEVER/MORRIS, INC.
722 S.W. SECOND AVENUE, SUITE 400
PORTLAND, OREGON 97204
(503) 228-7352

MARCH 28, 1997

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PROPOSAL DESCRIPTION

A Locational Adjustment is requested to include approximately 17± acres of a 55 acre parcel in the Portland Metropolitan Urban Growth Boundary.

GENERAL INFORMATION

Location

The property is located on Tax Lot 200 of Map No. 2 1E 26 (see Figure 1, Vicinity Map) on the west side of Day Road.

Comprehensive Plan Designation

Rural - Clackamas County

Zoning Designation

RRFF-5 - Rural Residential Farm/Forest, 5 acre minimum lot size

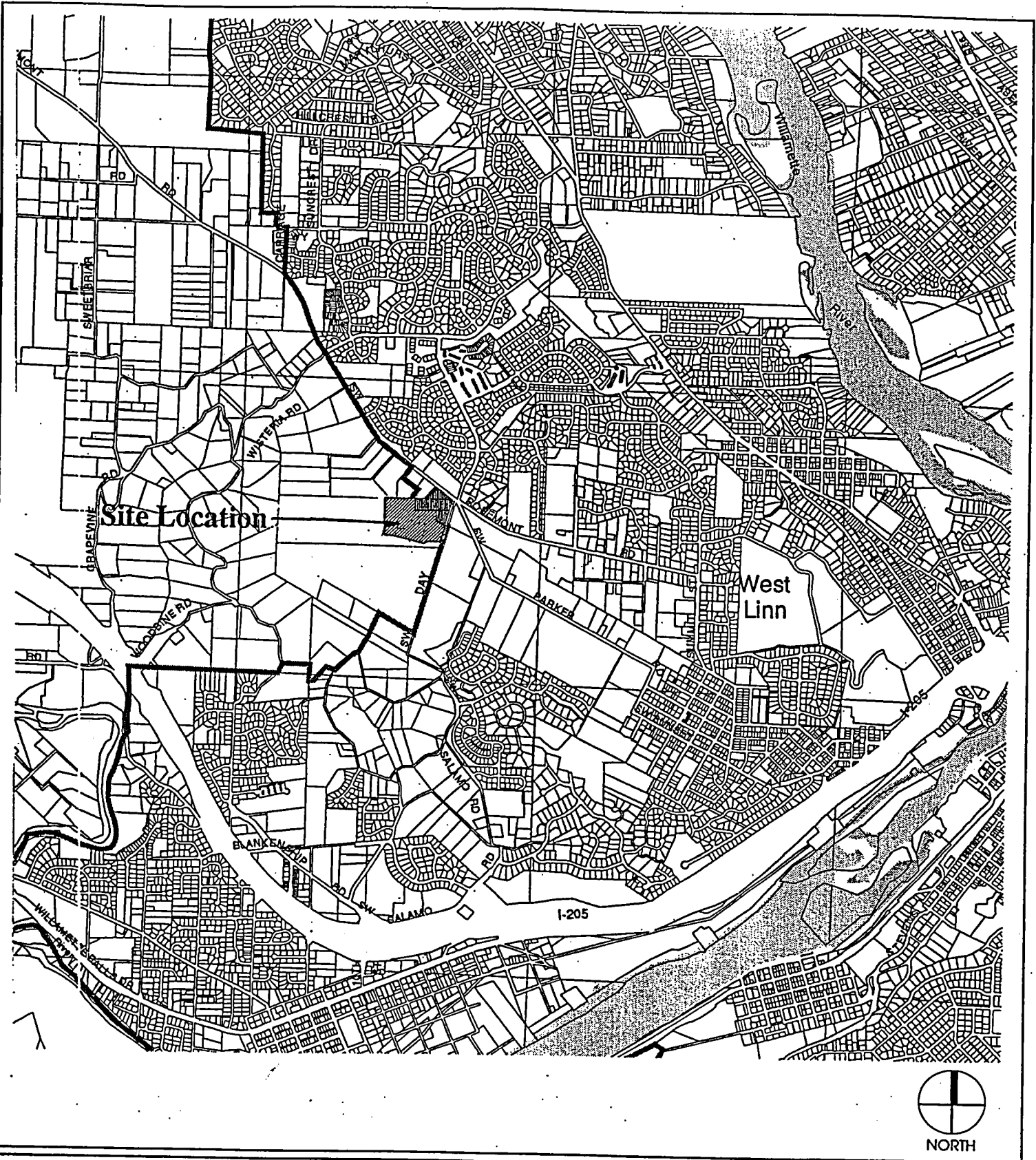
Applicant

City of West Linn
22825 Willamette Falls Drive
West Linn, OR 97068
Phone: (503) 657-0331
Fax: (503) 650-9041

Owners

West Linn-Wilsonville School District
Administration Building
West Linn, OR 97068
Phone: 503-638-9869/Fax: 503-638-9878

Kent Seida and Joyce Burnnett
17501 S. E. Forest Hill Drive
Clackamas, OR 97015



LEGEND

-  Site Location
-  UGB

Source: Metro

MM
 McKeever/Morris, Inc.
 722 S. W. Second Avenue
 Suite 400
 Portland, Oregon 97204
 (503) 228-7352
 Fax (503) 228-7363

Figure 1
 Vicinity Map
 Locational Adjustment Application
 City of West Linn

EXISTING CONDITIONS

Relevant Planning Programs

Clackamas County Comprehensive Plan

The subject property is part of a large land area that is designated Rural in the Clackamas County Comprehensive Plan and zoned RRFF-5 (see Figure 2). This area borders the west side of the Urban Growth Boundary (UGB) along Rosemont and Day Roads.

West Linn Comprehensive Plan

The area north of Parker Road and east of Rosemont Road is designated for Low Density Residential development in the West Linn Comprehensive Plan. The area is zoned R-10 - 10,000 square foot minimum lot size (see Figure 2).

Tanner Basin Master Plan

The Tanner Basin Master Plan was developed jointly by the city of West Linn and Clackamas County. It was adopted by both jurisdictions as an element of their respective comprehensive plans. The plan applies to land within the current UGB as shown in Figures 2 and 3. As a part of the analysis of public facilities and services, the need for schools is addressed. The plan recognizes that the amount of residential development proposed will create a need for one elementary school and a portion of a middle school. The elementary school site is located in the north-central portion of the plan study area. A "potential middle school site" is also identified on the west side of the Rosemont and Day Road intersection (Figure 3). At this location, the properties within the UGB total approximately eight acres, and a middle school requires approximately 20 acres. It was understood by the city and county that additional land outside the UGB would be necessary to establish a middle school at this location. Regarding the school site the plan states, "It is anticipated that the middle school would extend outside the Urban Growth Boundary and serve the Tanner Basin and the overall School District needs."

Long Range School Facilities Plan, West Linn-Wilsonville School District

The West Linn-Wilsonville School District serves the cities of West Linn and Wilsonville as well as the unincorporated area that lies between the two cities. The district adopted its Long Range School Facilities Plan. The plan is based upon full development in the district as it is presently zoned. The number and location of schools called for in the plan assume:

- There will not be urban levels of residential development outside of the current UGB;
- Residential development will occur at the maximum density allowed by the existing zoning;
- The present school enrollment guidelines will continue to apply (student enrollment: primary 500-550; middle 650-700; and high 1,200-1,500); and
- The ratio of students per household will remain the same.

These assumptions result in:

- An enrollment increase from 6,936 in 1995 to 11,818 in 2010;
- Five new primary schools for a total of 11;

- Two new middle schools for a total of 4; and
- An expansion to two full-size high schools.

A major component of this plan is a methodology for selecting future school sites throughout the district. The process for locating new school facilities includes four primary steps. These steps are summarized below.

1. Identify efficient attendance areas for existing primary, middle and high schools at build-out.
2. Identify efficient attendance areas for new primary, middle and high schools at build-out and adjust attendance areas as necessary for existing and new schools to optimize the efficiency of all attendance areas. For the attendance areas that do not have an existing school, an "ideal" location in the center of the future student population is identified.
3. Identify available sites within each of the attendance areas that will need a new school; and
4. Apply specific site selection criteria to the available sites. These criteria address:
 - Convenient location for the residents served;
 - Consistency with adopted plans;
 - Access;
 - Compatibility with surrounding uses;
 - Adequate public facilities; and
 - Appropriate school site characteristics.

If all sites fail to meet these specific site selection criteria, go back to step 2, find the next closest site to the ideal location, and apply the criteria to this site. Continue this process until an acceptable site is identified.

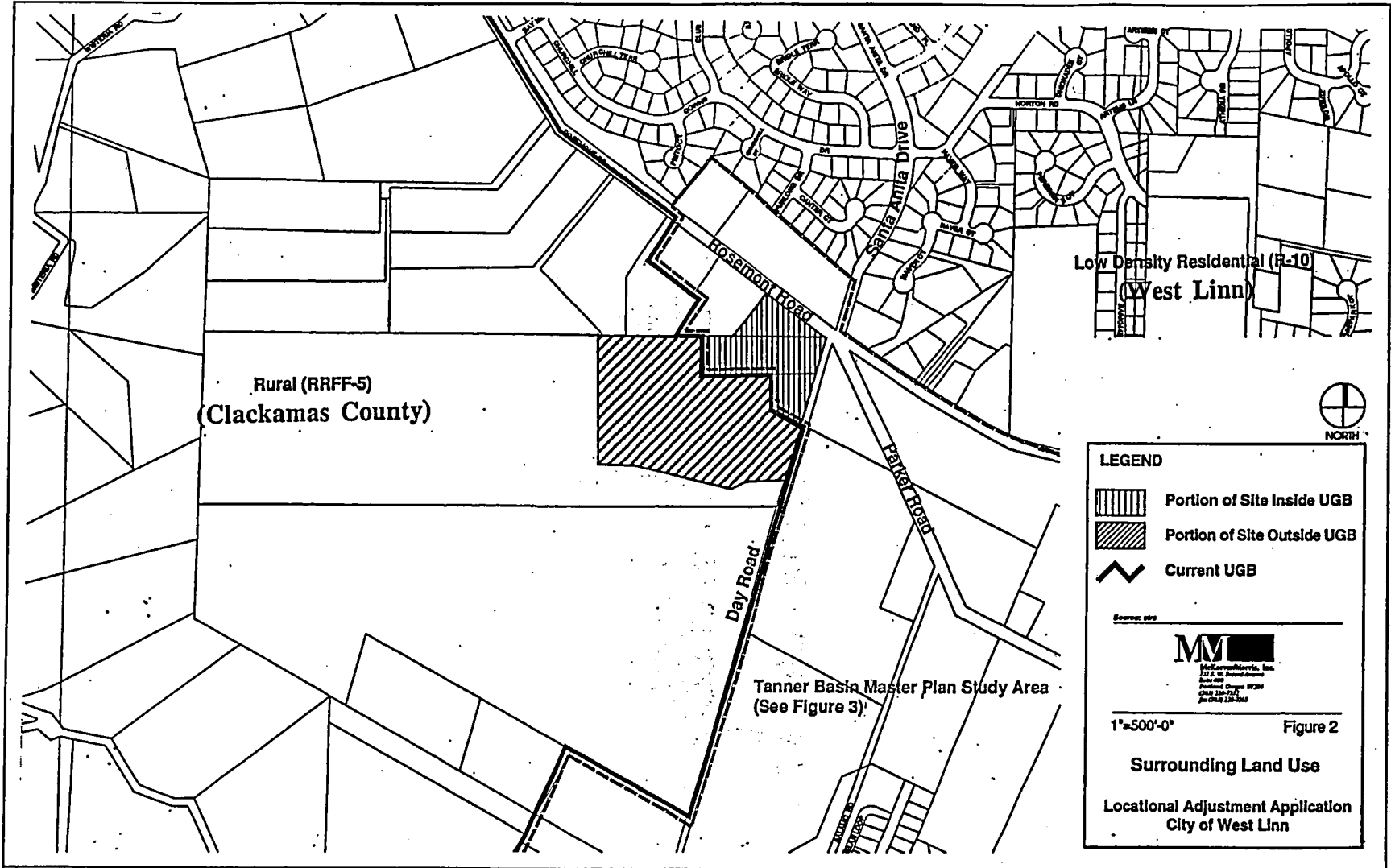
Efficient attendance areas and ideal school locations have been identified across the entire district for primary, middle and high schools. The attendance areas and ideal locations (steps 1 and 2) have been identified for the two new middle school sites which are planned for the West Linn area (Figure 4). The northern attendance area in West Linn is the one to be served by the proposed middle school.

The district and the city of West Linn have looked for school sites in this future attendance area. The primary limitation in the West Linn area is the severe lack of suitable sites that are of sufficient size (17-22 acres) for a middle school. This condition exists in the northern attendance area. The proposed middle school site is found to be the best location available in the attendance area to be served at build-out.

Although it is not in the ideal location, the proposed site is close to many of the students who will attend the school. Approximately 45 percent of the student body will be within one mile of the site when the attendance area shown in Figure 4 is fully developed.

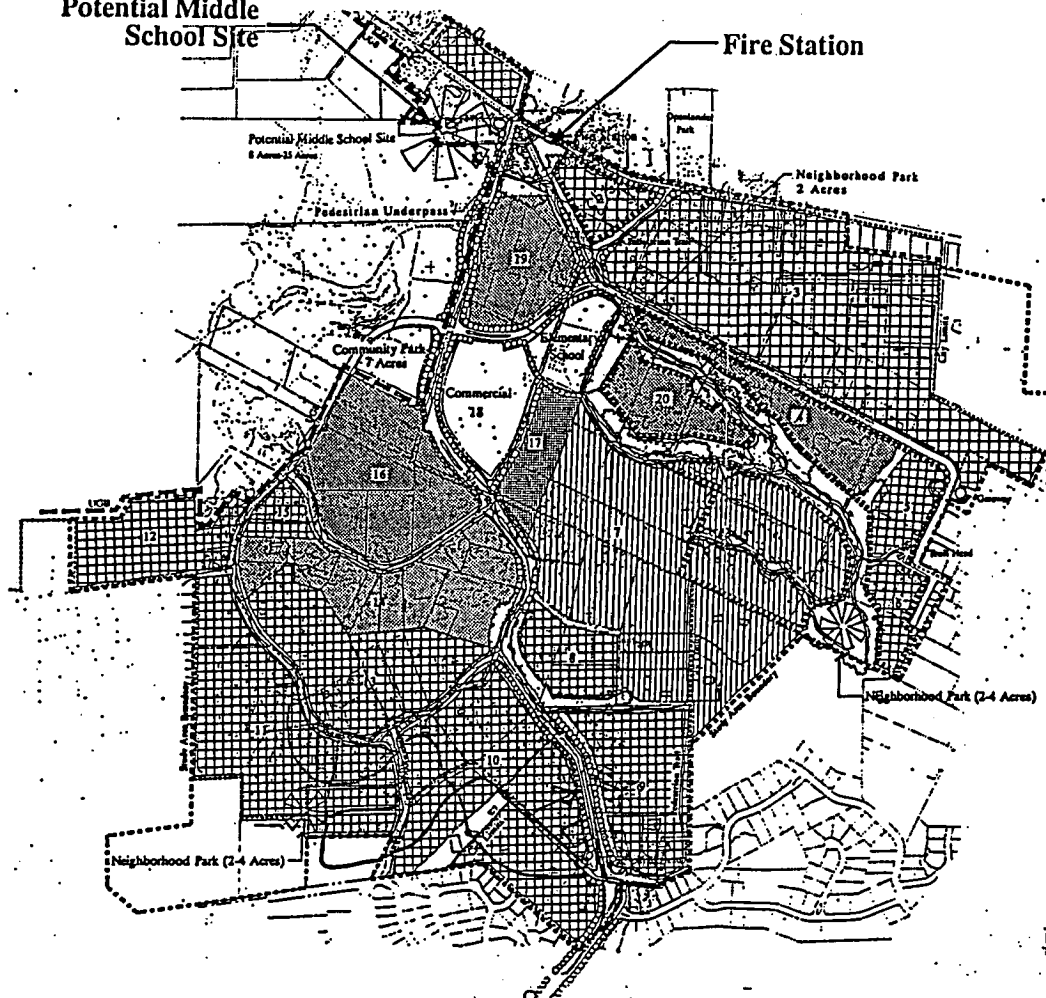
Region 2040 - Urban Reserves

The property is within Urban Reserve Site #30, which totals approximately 260 acres, including the proposed middle school site (Figure 5 - Urban Reserve Site #30). The city intends to use much of this urban reserve area for public purposes including open space, recreation and the middle school. The school site in the urban reserve area was proposed by the city of West Linn.



Potential Middle School Site

Fire Station



LEGEND

- Residential 12 D.U./Acre
- Residential 4-5 D.U./Acre
- Residential 2 D.U./Acre
- Residential 1 D.U./Acre
- Commercial/Community Service Area
- Open Space/Trail
- School
- F.S. Fire Station
- Urban Growth Boundary
- City Limits
- Study Area Boundary
- P.U.D. Overlay Area

Area	Acres	Plan Designation	Max # of Units
1	5	4-5 D.U./Green Area	25
2	9	4-5 D.U./Green Area	45
3	77	4-5 D.U./Green Area	367
4	16	12 D.U./Green Area	192
5	5	4-5 D.U./Green Area	25
6	8	4-5 D.U./Green Area	40
7	27	2 D.U./Green Area	174
8	29	4-5 D.U./Green Area	145
9	23	4-5 D.U./Green Area	115
10	46	4-5 D.U./Green Area	230
11	36	4-5 D.U./Green Area	180
12	13	4-5 D.U./Green Area	65
13	27	4-5 D.U./Green Area	135
14	29	1 D.U./Green Area	29
15	4	4-5 D.U./Green Area	20
16	31	12 D.U./Green Area	372
17	8	12 D.U./Green Area	96
18	12	Commercial	N/A
19	17	12 D.U./Green Area	204
20	12	12 D.U./Green Area	144
TOTAL	476		2,346

Area	Acres
Proposed Sewal System	21
Scout Shop	1
Summary	1
Middle	5-22
Open Space	26
Fire Station	1
TOTAL	123



NORTH

Source: City of West Linn

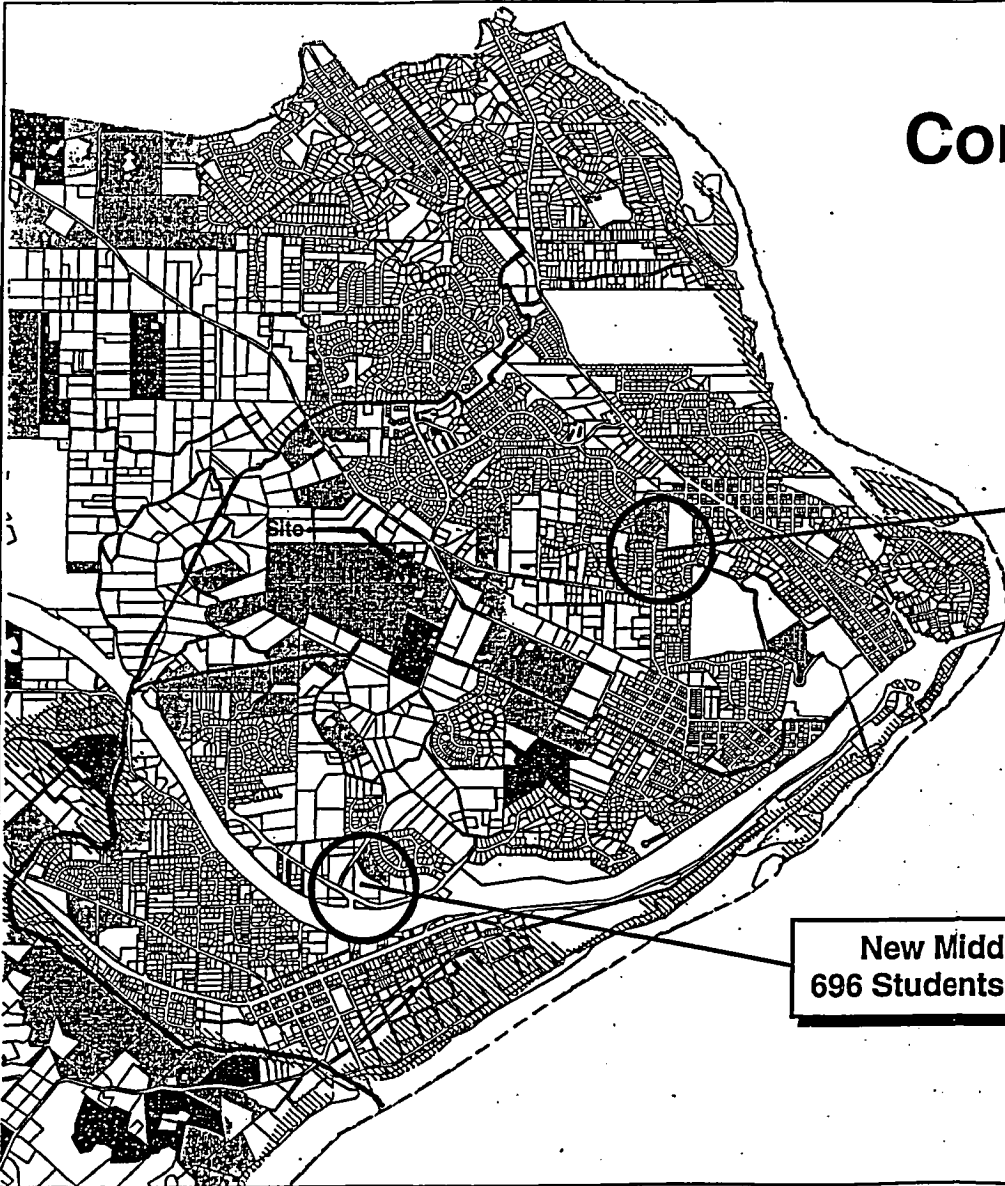


McEwen/Morris, Inc.
 222 E. W. Sanderson
 Suite 400
 Portland, Oregon 97201
 (503) 238-7220
 Fax (503) 238-2201

1"=1000'-0" Figure 3

Tanner Basin Master Plan
Locational Adjustment Application
City of West Linn

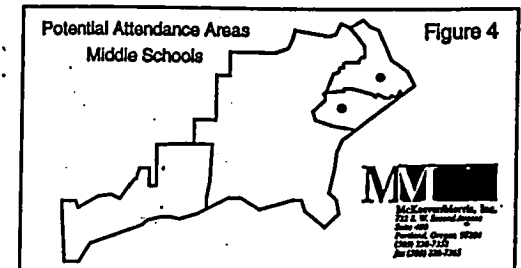
Conceptual Ideal Locations for New Middle Schools

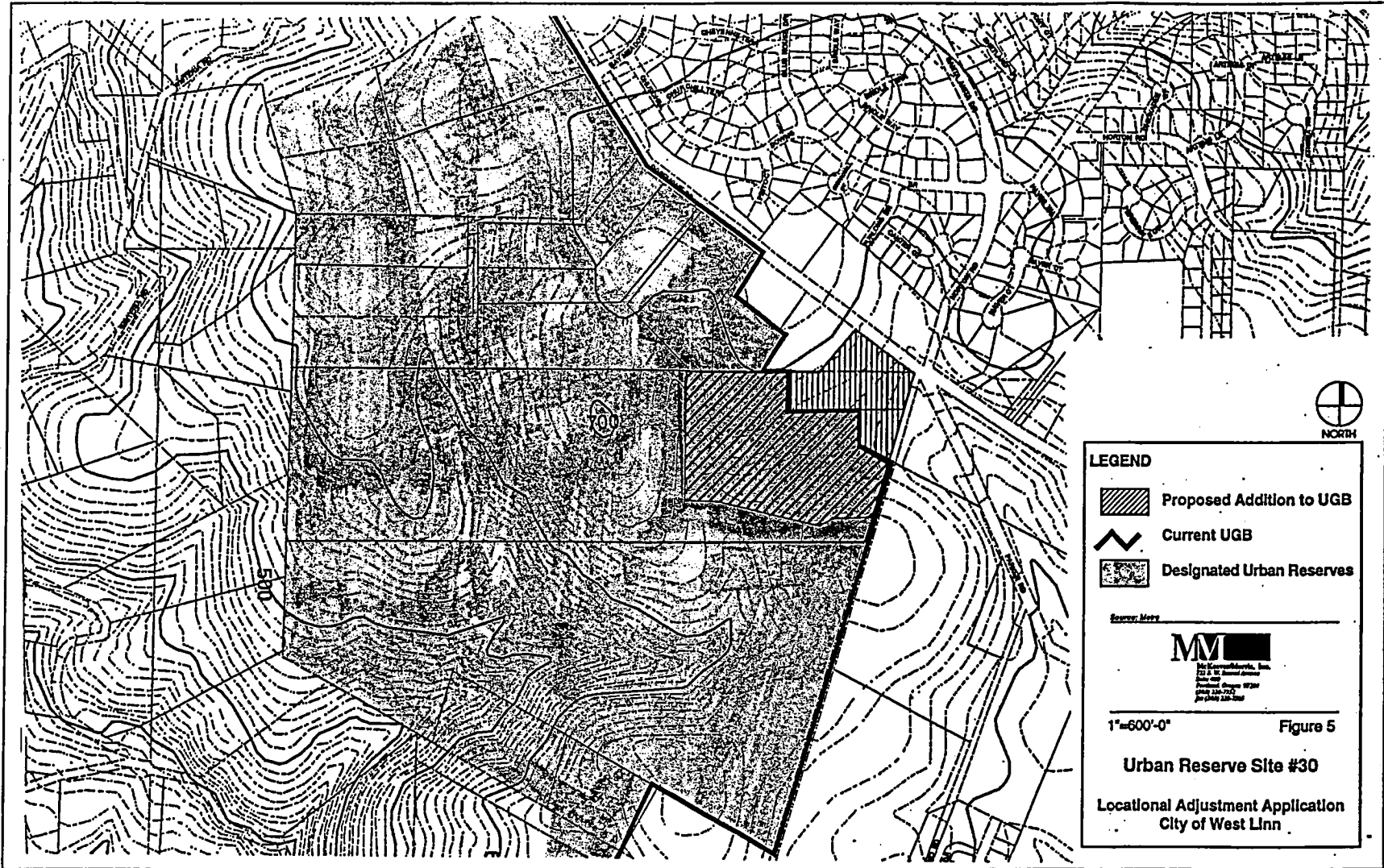


**New Middle School
667 Students At Build-out**




**New Middle School
696 Students At Build-out**

The ideal locations indicate the approximate geographic center of the student population at build-out. They are theoretical and do not consider transportation, land use, topographic and other issues. They are not site specific.





LEGEND

-  Proposed Addition to UGB
-  Current UGB
-  Designated Urban Reserves

Source: Mety

MM
 Mety & Associates, Inc.
 221 N. 1st Avenue
 West Linn, Oregon 97146
 Phone: 503-251-1234
 Fax: 503-251-1235

1"=600'-0" Figure 5

Urban Reserve Site #30

Locational Adjustment Application
City of West Linn

Property Description

Existing Development

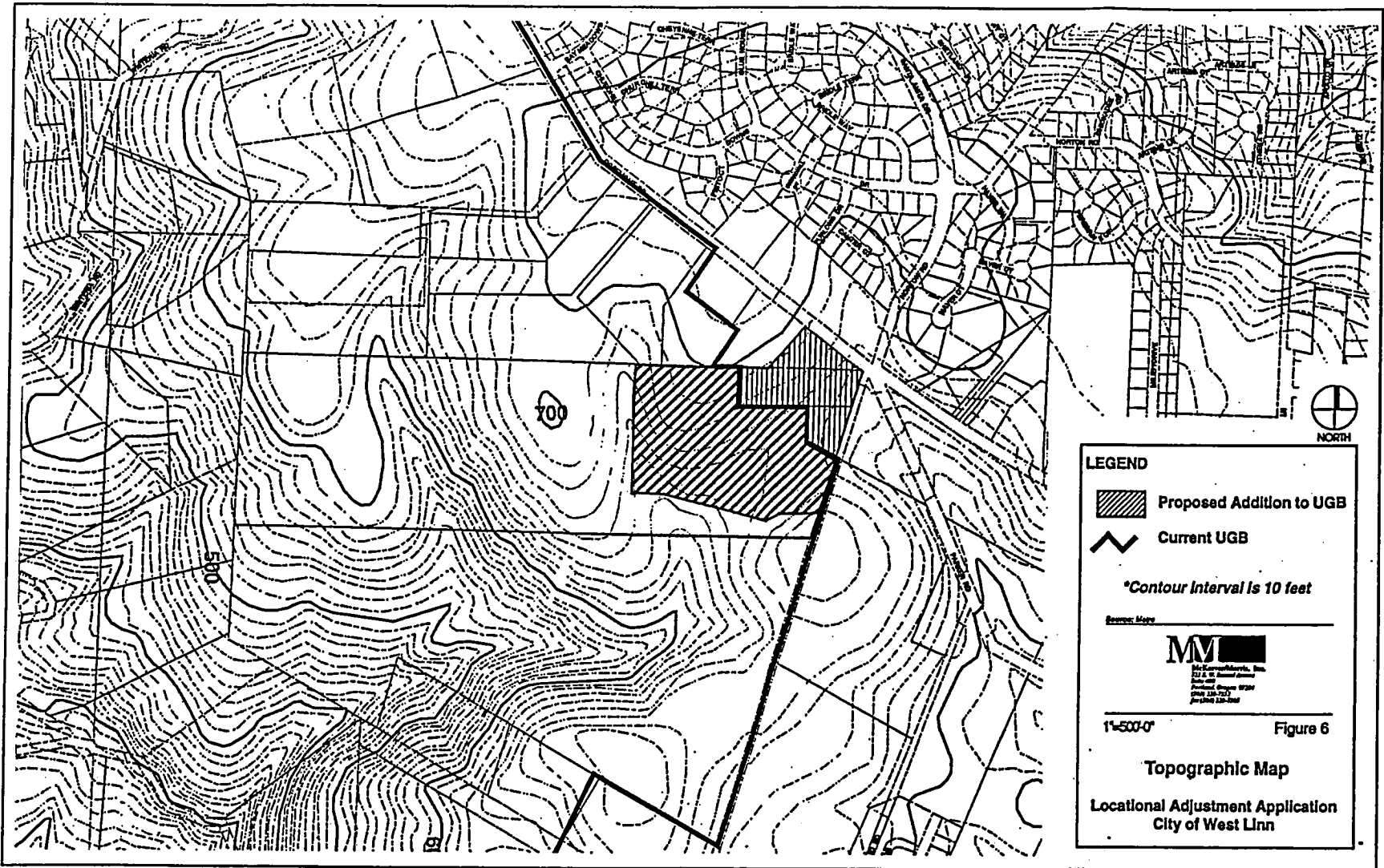
Most of the site is presently used as pasture for cattle. Improvements on the property include a residence and several accessory buildings.

Natural Features

The property is primarily covered by grass with some trees in the vicinity of a stream which runs along the approximate western boundary of the land proposed to be included in the UGB. The land slopes generally down in a south and southwesterly direction. Grades range from 5 to 15 percent. These features are shown on the topographic map (Figure 6) and aerial photo (Figure 7).

Proposed Middle School

The West Linn-Wilsonville School District proposes to construct a middle school on the site. The school will be designed to accommodate between 650 and 700 students. In addition, the middle school site will include approximately 4.5 acres that are also unincorporated but inside the present UGB. The school will serve the north West Linn area as well as unincorporated land west of Rosemont and Day Roads. When the district is fully developed, the attendance area for the school will resemble the one shown in Figure 4. The earliest opening of the proposed school will be September 1998.





LEGEND

- ▣▣▣▣ Proposed Site
- ▨▨▨▨ Portion of Site Outside UGB

Source: City of West Linn

MM
 MCM Consulting, Inc.
 224 S. Grand Avenue
 Suite 400
 Portland, Oregon 97204
 (503) 226-7271
 Fax (503) 226-7887

Scale Unknown Figure 7

Aerial Photo

**Locational Adjustment Application
 City of West Linn**

Description of the Surrounding Area

The subject property is among the largest parcels remaining in the area. All neighboring properties to the north, west and south are designated Rural and are typically less than 10 acres. The UGB borders the subject property on the east and northeast (Figure 2).

The plan and zoning designations and current land use of the surrounding area are summarized in Table 1 below:

**Table 1
Land Use Summary**

<i>Parcels</i>	<i>In UGB?</i>	<i>Urban Reserve Study Area?</i>	<i>Plan Designation</i>	<i>Zone Designation</i>	<i>Land Use</i>
Subject Property	No	Yes	Clackamas Co. - Rural Tanner Basin Master Plan - Potential middle school site	Clackamas Co. - Rural Residential Farm Forest/ 5 acre minimum (RRFF-5)	Agriculture - pasture
North	No (Except NE corner)	Yes	Clackamas Co. - Rural	County RRFF-5	Acreage home sites
East	Yes	No	Tanner Basin Master Plan - Fire station and residential 12 du per acre	County - Future Urban/10 acre minimum (FU-10)	Day Road Agriculture - Xmas trees
South	No	Yes	Clackamas Co. - Rural	County RRFF-5	Agriculture
West	No	No	Clackamas Co. - Rural	County RRFF-5	Acreage home sites

Public Facilities and Services

Transportation

Streets

The existing streets in the immediate area are shown in Figure 2, and the major streets are described in Table 2.

**Table 2
Street System**

<i>Street</i>	<i>Plan Designation</i>	<i>Existing Improvements</i>	<i>Planned Improvements</i>
Day Road	Minor Arterial	Paved, road width 22 ft. No curbs/sidewalks	Road width 36 ft., 2 lanes, bike lanes, curbs, 6 ft. wide sidewalks
Rosemont Road	Minor Arterial	Paved, road width 25 ft. No curbs/sidewalks	Road width 36 ft., 2 lanes, bike lanes, curbs, 6 ft. wide sidewalks
Parker Road	Minor Arterial	Paved, road width 18 ft. No curbs/sidewalks	Portion intersecting with Day and Rosemont will be eliminated and a new route will be constructed to the south connecting with Day Road. Road width 36 ft., 2 lanes, bike lanes, curbs, 6 ft. wide sidewalks
Santa Anita Dr.	Minor Arterial	Paved, road width 36 ft., 2 lanes, curbs, 6 ft. wide sidewalks	Road width 36 ft., 2 lanes, bike lanes, curbs, 6 ft. wide sidewalks

Transit

Transit service is not available in this area. Bus service is available east of the site on State Highway 43 (Tri-Met Route #35). A new route provides weekday bus service between the Willamette neighborhood area near I-205 and the Oregon City Transit Center (Tri-Met Route #154).

The city is negotiating to have regular bus service for the Tanner Basin area in the future. Discussions with Tri-Met officials indicate that service will be possible when the area is developed as contemplated in the Tanner Basin Master Plan (Figure 3). A proposed route will, at a minimum, follow Rosemont Road and/or Salamo Road (southern extension of Day Road). This would bring bus service to the proposed school site.

Bicycle Routes

On-street bike lanes and separate bicycle routes are planned in the area to serve both commuting and recreational purposes. One of the goals of both the Tanner Basin Master Plan and the West Linn Park System Master Plan is to make it possible to ride a bicycle from one side of the basin to the other on a system of bike paths separated from vehicular traffic. This system of bike routes will generally converge on the commercial area, community park and elementary school site which are across Day Road from the proposed school site ("Potential middle school site" in Figure 3). This middle school site is planned to be linked with the bike route system, connecting area

residences with the school. Because approximately 45 percent of the students will be within one mile of the site, bicycling will be a feasible transportation alternative for many of them.

Pedestrian Routes

In addition to sidewalks along public streets, the pathway system proposed for the area is intended for mixed use by bicyclists and pedestrians. Because many of the students will be living close by, walking to school will be a viable way to travel to and from the school.

Utilities

Public utilities are in place or can be extended to serve the proposed middle school. Water lines are adjacent to the property and have sufficient capacity to accommodate the proposed school. The location of these lines is shown in Figure 8.

Sanitary sewer capacity is available, and an 8 inch line will need to be extended along Parker Road to the site (Figure 9). The residential development on the north side of Rosemont and Parker Roads is presently served by a lift station that pumps the sewerage out of the basin. Once the sanitary sewer system is completed in Tanner Basin, this station is planned to be eliminated because the area north of Rosemont and Parker Roads can then be served by gravity using this system to the south. Extension of the sanitary sewer line to the middle school site will provide an important segment of this system that will lead to the retirement of the pump station, thereby enhancing the efficiency of the sanitary sewer system in the area.

Storm drainage in the Tanner Basin area will be accommodated through a combination of on-site detention/treatment and utilization of existing water courses. Other facilities are available as summarized in Table 3.

Services and facilities provided by utility companies are available and can be upgraded as needed to serve increased demands as the area grows. Major services for electricity, natural gas and telephone are summarized in Table 3.

Public Services

Public services including police, fire protection, emergency and recreational services are summarized in Table 4. The city of West Linn plans to provide the necessary police, fire protection, and emergency services to the Tanner Basin and the proposed middle school site. With the adoption of the Tanner Basin Master Plan and Resolution 96-09 (attached to the application form), the city is committed to providing these services by the time the school opens (September 1998 at the earliest). Police service is planned to include additional staff to serve the city's expanding area and population.

Fire and emergency service will be supplemented with additional staff and a new fire station in the vicinity. The Tanner Basin Master Plan envisions a fire station near the intersection of Rosemont, Day, and Parker Roads (Figures 2 and 3). The city has appropriated money for acquiring this site, and the city is actively working toward purchasing property for the fire station.

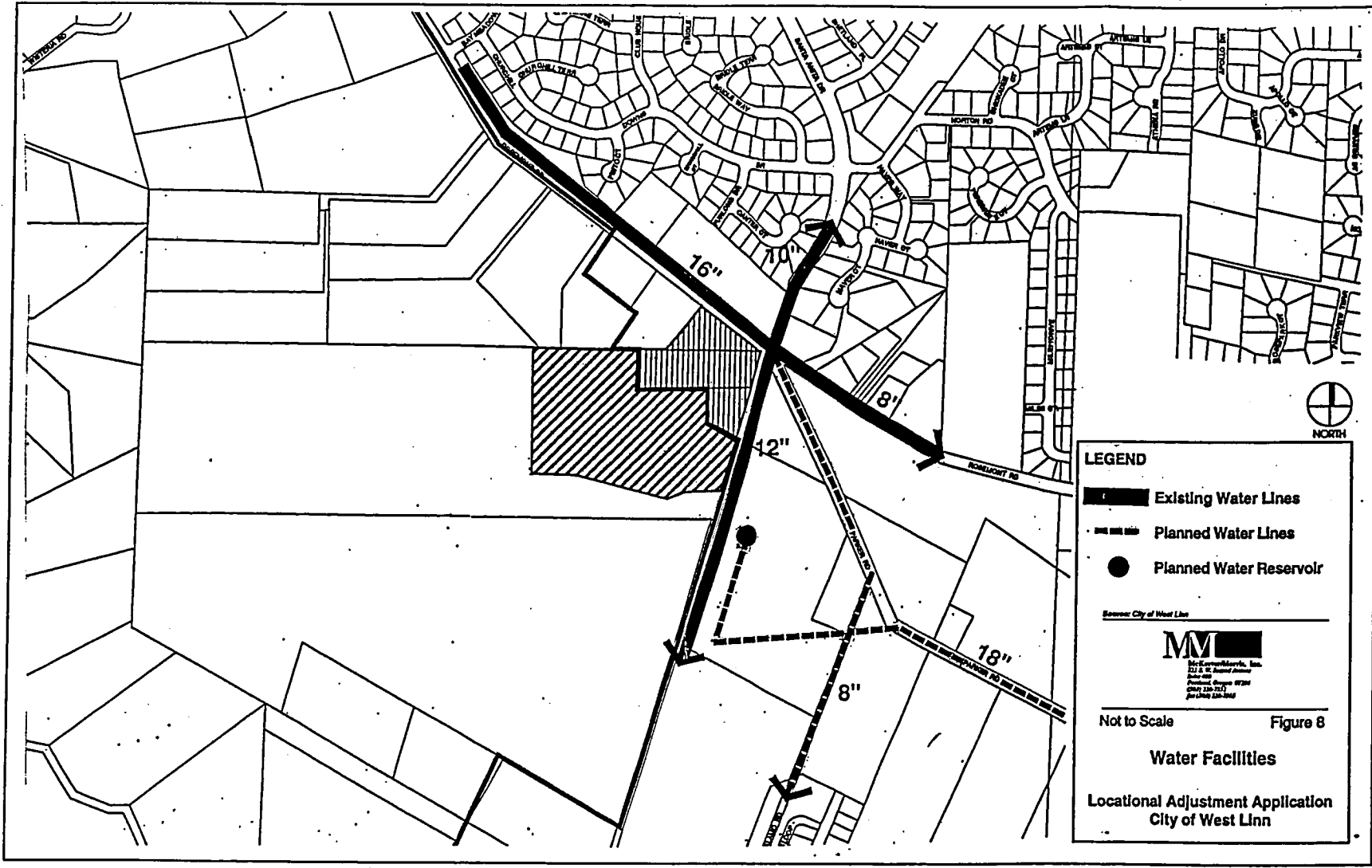
Recreational facilities in the area will be greatly enhanced with the addition of a middle school. Guidelines in the West Linn-Wilsonville School District Long Range School Facilities Plan state that middle schools should include 12 to 13 acres for activity fields for baseball, softball, football, track, and physical education. These facilities in addition to the gymnasium and other indoor facilities will be available to students and the general public. The proposed site will be large enough to provide these recreational opportunities.

Timing for Additional Facilities and Services




Because the Tanner Basin is a developing area, not all urban facilities and services are in place at this time. However, as described above, the city of West Linn has planned for the provision of these facilities and services as development occurs in the Tanner Basin. It is important to emphasize that the proposed middle school was included in the calculations for facility and service needs in the Tanner Basin Master Plan.

Table 3
Utility Facilities

<i>Utilities</i>	<i>Agency</i>	<i>Existing Facilities</i>	<i>Planned Improvements</i>
Water	City of West Linn	Capacity for approx. 250 additional homes (school needs equivalent of 45 homes). Water lines are adjacent to the site.	Water reservoir east side of Day Road and south of Rosemont Road by 1997. Additional service to be provided as new development occurs.
Sanitary Sewer	City of West Linn	8" line is available with capacity to serve the site.	Extension of the 8" line to the site. There will also be a connection with the lines that terminate near Santa Anita and Rosemont.
Storm Sewer	City of West Linn	None near the site. Tanner Basin is being developed with an extensive system of regional detention facilities.	Development of the middle school and community service center will include storm drainage facilities.
Electricity	Portland General Electric Company	Electrical lines that serve the area and the subject property.	Install a 3-phase primary line in 1996 or 1997 to accommodate new growth in the area.
Natural Gas	Northwest Natural Gas Company	Facilities on Day and Rosemont to serve the site.	None at this time.
Telephone	U. S. West	Adequate facilities to serve the site.	None at this time.



LEGEND

-  Existing Water Lines
-  Planned Water Lines
-  Planned Water Reservoir

Sooner City of West Linn

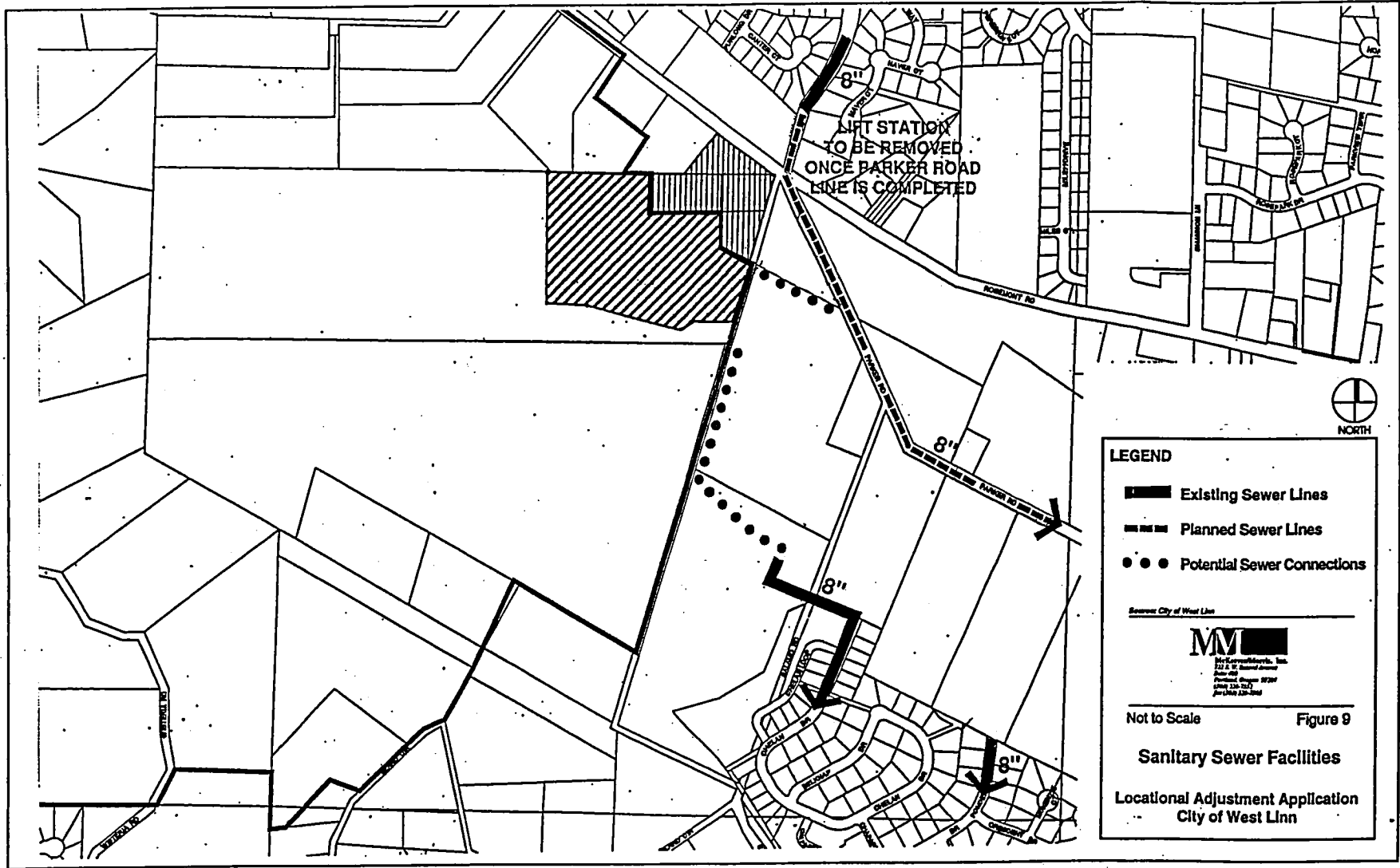
MM

M&K Engineering, Inc.
222 S. W. 2nd Avenue
Suite 400
Portland, Oregon 97201
Phone: 503-222-1111
Fax: 503-222-1112

Not to Scale Figure 8

Water Facilities

Locational Adjustment Application
City of West Linn



**Table 4
Public Services**

<i>Public Services</i>	<i>Agency</i>	<i>Existing Services and Facilities</i>	<i>Planned Improvements</i>
Police	City of West Linn	1.06 officers per 1,000 population.	Goal of 1.3 officers per 1,000 population.
Fire Protection	City of West Linn	Fire station on Hwy. 43.	New fire station at Rosemont and Day Road intersection.
Emergency and Ambulance	City of West Linn	Fire station on Hwy. 43.	New fire station at Rosemont and Day Road intersection.
Open Space, Parks and Recreation	City of West Linn	Openlander Field to the northeast of Rosemont and Parker Roads.	Community and neighborhood parks according to the Tanner Basin Master Plan (Figure 3).

LOCATIONAL ADJUSTMENT APPROVAL CRITERIA ANALYSIS

Section 3.01.035 (c)

Section 3.01.035 (c) of the Metro Code contains the evaluation criteria for Locational Adjustment applications. The criteria are noted below in *italic* followed by a response to each criterion.

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

The proposed amendment to the UGB is being proposed solely to provide a public service to the community. Although the school will make certain demands on public facilities and services, it will in turn provide important educational and recreational opportunities to the residents in the general area. The proposed middle school will have a net beneficial impact based upon the findings below which discuss the facilities and services affected by the proposal. The facility and service needs of the middle school were recognized in the Tanner Basin Master Plan and subsequent city planning activities for the area.

Water

The city of West Linn has sufficient water capacity to serve the proposed middle school. A water main of suitable size currently runs along the Day Road frontage.

Sanitary Sewer

The middle school is allowed as a conditional use in Clackamas County. On-site sewage disposal system is required because County Comprehensive Plan policy prohibits the extension of public sewers to new development in areas outside the UGB. To address this policy, the middle school building and related sewer facilities will be located on the portion of the site that is within the UGB.

The city of West Linn plans to serve the proposed middle school with the Tanner Basin sanitary sewer system. The existing and planned city sewer system will be able to accommodate the new school. This will allow more efficient utilization of the system which is required with or without the school. Extension of the sewer line to the school site will improve the system's efficiency because it will hasten the retirement of the pump station near Rosemont Road and Santa Anita Drive.

Storm Drainage

As part of the development of the property, detention and treatment of storm water runoff will be provided. This water will then be released into the natural drainage that runs south from the property. Because of the required on-site facilities, no negative impact on downstream water courses or storm drainage facilities will result.

Transportation

Whether the proposed middle school site and/or the remainder of the urban reserve study area are included in the UGB or not, the major streets in the area (including Rosemont, Day, Parker

and Santa Anita) will have to be improved as noted in Table 2 to accommodate the development that is currently planned within the present UGB. The school site will be located near an important focal area in the Tanner Basin. Not only do major streets come together near this site, but pedestrian and bicycle routes also are planned to serve the site (Figure 3). Building the middle school at this location will allow a more efficient use of this transportation system because the school (as well as other planned development in the area) will be accommodated by the planned street and pathway system without requiring supplemental improvements. This will allow the city and district to take full advantage of the public investment that will be made to improve this system.

As part of the conditions of development, it is expected that the district will have to provide, or contribute toward, some improvements to the street system, especially Day Road. This will result in full improvement to a portion of the existing street system.

Parks and Open Space

The proposed middle school will provide additional recreational opportunities to the surrounding area. The school will include play fields and a running track to be used by the school's physical education program. The district has a policy to make these and other school facilities available to the general public when they are not in use during school hours. The proposed middle school will improve the availability of recreational facilities in the area. These facilities will also complement the other recreation facilities proposed in the Tanner Basin Master Plan (Figure 3).

Public Education

The middle school site will provide improved educational facilities and opportunities for the residents in the West Linn-Wilsonville School District. The need for a school is documented in both the Tanner Basin Master Plan and the Long Range School Facilities Plan.

Police

As stated in city of West Linn Resolution 96-09, the city is committed to providing police services to the middle school and surrounding area. The city is committed to enhancing these services as planned development occurs within the city and Tanner Basin. The city plans to provide suitable levels of police service by the time the middle school is ready to open.

Fire and Emergency Services

As stated in city of West Linn Resolution 96-09 (Appendix A), the city is committed to providing fire and emergency services to the proposed middle school and the surrounding area. The city is committed to enhancing these services as planned development occurs within the city and Tanner Basin. The city plans to provide suitable levels of fire and emergency service by the time the middle school is ready to open. The city has appropriated funds for acquiring property for the planned fire station in the vicinity of the proposed middle school (Figure 3).

Other Facilities

Other facilities, including electricity, natural gas and telephone are available to serve the site without improvements that would exceed what is planned for the surrounding area. The school will allow more efficient use of existing and/or planned facilities.

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

The proposed middle school is a public facility which is designed to serve the residential growth in the West Linn area. As shown in Figure 4, the middle school is intended to serve the north West Linn area as well as the designated Rural lands in Clackamas County. The school will be within one mile of approximately 45 percent of the students attending the school when the attendance area is fully developed. The proposed middle school is consistent with the Tanner Basin Master Plan, which was adopted by both the city of West Linn and Clackamas County. The plan includes a "potential middle school" site in this location, and it recognizes the necessity for this site to include land outside the UGB.

The Clackamas County Comprehensive Plan designates the property and the surrounding land for Rural development. This designation includes residential uses and schools as conditional uses. The middle school is consistent with what is presently allowable under the existing county zoning.

3. *Environmental, energy, economic and social consequences. Any impact on regional transit corridor development must be positive and any limitations imposed by the presence of hazard or resource lands must be addressed.*

Environmental

The proposed site is suitable for development. The Clackamas County Comprehensive Plan designates the property and nearby lands to the west of the present UGB for rural development. This includes home sites (5 acre minimum) as permitted uses and schools as conditional uses. The Tanner Basin Master Plan designates the location of the proposed middle school as being suitable for this type of development.

The western boundary of the proposed school site coincides approximately with a drainage way. The school and related improvements will be located to the east of the drainage way. Future development of the remaining 35± acres of the Seida property will occur on the opposite side of the stream. Development on either side of the stream will comply applicable city and/or county requirements. There are no other environmentally sensitive resources or natural hazards on the site.

Any development that involves vehicle trips will have an adverse impact on air quality. The key consideration should be how to minimize the number and length of these trips. Because the proposed school site is in an easily accessible location, vehicle trips to and from the school will tend to be short and efficient. The Long Range School Facilities Plan created attendance areas that would be the most efficient district-wide. Because of the balancing that has to occur to make all attendance areas as accessible as possible, none of them will be optimal when considered alone. This is true with the proposed north West Linn area, but the environmental impact of transportation for the entire district will be minimized as much as possible by efficiently locating schools according to the school siting methodology developed for the Long Range School Facilities Plan. In addition, the bicycle and pedestrian facilities planned for the area will encourage walking and bicycling opportunities between the school and nearby residential development.

Energy

Although the entire school site straddles the UGB, it is well positioned to efficiently utilize the urban facilities and services which exist or are planned for the area. The school will be able to use these facilities without requiring an increase in their capacity. As discussed above, transportation to the school will be efficient because of the system that is planned as well as the close proximity of the students to the proposed middle school site (45 % within 1 mile). In addition, the planned system of pedestrian and bicycle facilities as well as the location of residential and commercial uses in the area will encourage walking and bicycling to school and other nearby destinations.

Economy

As noted in the preceding pages, the middle school has been anticipated in all of the city's recent planning work, including the Tanner Basin Master Plan. Facilities for water, sanitary sewer, storm drainage, and streets have all been planned with the middle school in mind. Perhaps more significantly, these facilities will need to be provided at the size proposed whether the school is opened or not. The impact of the proposed middle school will not affect the size of water or sewer lines or the magnitude of the street improvements in the area.

Because all of the necessary facilities and services are (or will be) available to the site and supplemental capacity is not needed to serve the school, the proposed site is economically sound. A school in this location will allow for more efficient utilization of facilities that will need to be constructed to serve other development in the area with or without the school.

Social

Schools serve as important community centers that provide neighborhood identity, education for school age students and other residents, recreation opportunities, and meeting places. Presently, there are no schools in the Rosemont area. The proposed middle school site will help supplement the community services that are planned for the immediate area, which include commercial services, parks, a primary school, and residential development (Figure 3).

Regional Transit Corridor

The site is located far from any regional transit corridors and therefore, this criterion is not applicable.

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

A. Retention of any agricultural land would preclude urbanization of an adjacent area already inside the UGB, or

B. Retention of the agricultural land would make the provision of urban services to an adjacent area inside the UGB impracticable.

This criterion is not relevant because the property and surrounding land is designated for rural development in the Clackamas County Comprehensive Plan.

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

The property is adjacent to land in the UGB on the northeast and east. The remaining properties in the surrounding area are also designated and zoned for rural development and are within Urban Reserve Site #30.

Section 3.01.035 (f)

Section 3.01.035 (f) of the Metro Code contains additional evaluation criteria which are related to Locational Adjustment applications. The criteria are noted below, followed by a response to each criterion.

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

This does not apply because the adjustment includes less than 20 acres.

2. *For all other additions, the proposed UGB must be superior to the UGB as presently located based on a consideration of the factors in subsection (c) of this section.*

The proposed Locational Adjustment represents an improvement to the current UGB as presented above because:

- Public facilities and services on the whole, will be more efficiently provided if the school is brought into the UGB and annexed into the city of West Linn;
 - Establishing a middle school in the location proposed is completely consistent with the Tanner Basin Master Plan, which is adopted by the city of West Linn and Clackamas County;
 - The environmental, energy, economic, and social consequences of the proposed UGB amendment for the middle school will be positive; and
 - Agricultural or forest resource land will not be directly or indirectly affected by the proposal.
3. *The proposed UGB amendment must include all similarly situated contiguous land which could also be appropriately included within the UGB as an addition based on the factors above.*

The proposed amendment to the UGB includes the easterly 20 acres of a 55 acre property. The remaining 35 acres is not included in this application for four primary reasons:

1. The school district only needs 20 acres to have a viable middle school site which meets the size guidelines in the Long Range School Facilities Plan.

2. The remaining 35 acres is not included because of anticipated limitations for providing urban services to this westerly portion of the property at the present time. A drainage way provides a natural break between the proposed school site and the remainder of the property (Figure 7).
3. None of the adjacent properties are under the same ownership.
4. This site is unique because it corresponds with the middle school designation in the Tanner Basin Master Plan. City utilities have been planned and constructed to accommodate a school in this location.

kl.HD/ACT doc 148
Locational Adj. Final



APPENDIX A
Application Form

PETITION FOR LOCATIONAL ADJUSTMENT TO
THE METRO URBAN GROWTH BOUNDARY (UGB)

ADDITION

REMOVAL

INCLUDES NATURAL AREA ADJUSTMENT

Note: *To add land in one location and remove land in another, please complete one form for the addition and another for the removal.*

1. a. Petitioner's name and address:

City of West Linn

22825 Willamette Falls Drive

West Linn, OR 97068

Phone Number: (503) 657-0331

b. Contact person, if other than petitioner (consultant or attorney) or if petitioner is a local government:

Scott Burgess, City Manager

Phone Number: (503) 657-0331

2. What is petitioner's interest in the property:

Property Owner

Contract Buyer

Option to Buy

Other Legal Interest (Specify: _____)

Local Government

3. County in which property is located: Clackamas

4. If the locational adjustment requested were approved, would you seek annexation to (or de-annexation from) a city?

Yes, the City of West Linn
 No

5. Does the property lie outside the Metro boundary?

Yes No

6. Description of properties included in the petition (list each lot individually and attach a copy of the appropriate tax assessor's map(s)):

a. Legal Description (Township, Range, Section, Lot):

2 IE Section 26 (Map No. 2 IE 26, Tax Lot 200)

b. Acres:

19.9

c. Owner's Name and Address (Mark "Same" if same as petitioner):

Kent Seida and Joyce Burnett

d. Improvements on Property (e.g., none, one single family dwelling, barn, gas station, etc.):

One residence and accessory Buildings

Attach additional sheets as needed.

7. a. What sewerage facilities currently serve the property?

None, All Land is Vacant

Package Sewage Treatment Plant

Sewer Line to Public System

Septic Tank

b. If septic tanks, have any septic tanks in the area failed?

Yes, (Explain: _____

_____)

No

8. a. How close is the nearest sewer trunk? Approximately 1/4 mile

b. Where is the nearest sewer trunk located? _____

9. a. Are additional sewer trunks for the area planned?

Yes No

b. If yes, how close to the property and where would the planned sewer lines run? _____
Adjacent to the east side of the property

10. How is water provided to the property?

Private Well

Inch Water Line Provided by _____ (city or water district)

No Water Provided

11. a. How close is the nearest water main? Adjacent to the site

b. Where is the nearest water main located? East side on Day Road

12. a. Are additional water mains for the area planned?

Yes No

b. How close to the property and where would the planned water lines run? _____
Within 1/4 mile

13. Give local plan classification for all roads bounding the property, and list any other adjacent transportation services or facilities.

Day Road - minor arterial

14. Are there any natural or man-made boundaries to development running along or near your property (rivers, cliffs, etc.)?

Yes (Describe: Drainage way on west side of 20 acres proposed to be included in the UGB

Mark location on assessor's map or attach other map or photo.

No

15. What is the local comprehensive plan designation of the property? Rural - Clackamas County and "Potential Middle School Site" Tanner Basin Master Plan

16. What is the current local zoning designation? RRFF-5 Rural Residential Farm/Forest

17. Does the comprehensive plan identify any natural hazards in this area?

Yes (Describe and explain applicable comprehensive plan policies) _____

No

18. Does the comprehensive plan identify any natural, cultural or historic resources in this area?

Yes (Describe resources and explain applicable plan policies) _____

No

19. Are there any agricultural lands (Class I-IV soils) present on the property or adjoining the property which are designated by the applicable comprehensive plan for farm or forest use?

_____ Yes (Describe type, location and acreage): _____

X No

20. a. Is the property or a portion of the property identified as open space, natural area or the equivalent in a city or county comprehensive plan, or in Metro's natural area and open space inventory?

_____ Yes X No If Yes, how many acres? _____

b. How many acres included in the petition will be placed in an open space, parks, or equivalent designation? 0 Acres

c. What public agency will accept the natural area land? _____

21. How do you plan to develop the property if your petition is approved, and what zoning designation would apply?

Middle school to serve the West Linn and portions of
unincorporated Clackamas county
Residential zoning

22. Has the local government, subject to this petition being approved, provided any conditional zoning for the land area?

_____ Yes (Please explain.) _____

X No

23. On a separate sheet of paper, please discuss how approval of your petition would comply with each of the applicable standards from Metro Code 3.01.35, Locational Adjustment Procedures. Only petitions found consistent with these procedures may be approved.

24. Petitioners Signatures

I/WE THE UNDERSIGNED HEREBY PETITION METRO TO ADD TO/REMOVE FROM THE URBAN GROWTH BOUNDARY THE PROPERTY DESCRIBED HEREIN.

SIGNED,

<u>Name</u>	<u>Tax Lot</u>	<u>Date</u>
See Attached Resolution		

Metro staff will use the information received from this petition, the local government and other sources as needed, to prepare a staff report for the Hearings Officer listing major issues and questions on whether the applicable standards have been met. You and other parties may then submit any additional testimony in support of or opposition to the petition at the hearing. The Hearings Officer will then weigh the testimony received and submit the findings and recommendations to the Metro Council for action.

afb
E:\gm\ugb\petition.loc
10/27/94

CITY OF WEST LINN
RESOLUTION
96-09

A RESOLUTION INITIATING THE APPLICATION OF
AN URBAN GROWTH BOUNDARY ADJUSTMENT REQUEST TO METRO

WHEREAS, the West Linn/Wilsonville School District has requested that the City of West Linn sponsor a request to amend the Metro Urban Growth Boundary to accommodate a new middle school along Day Road; and

WHEREAS, the City of West Linn and West Linn/Wilsonville School District have signed an intergovernmental agreement (IGA) calling for a cooperative effort in the pursuit of providing needed school facilities; and

WHEREAS, the City of West Linn passed Resolution 95-11 calling for the West Linn/Wilsonville School District to properly plan and implement school facilities in the District, and specifically within West Linn; and

WHEREAS, the City of West Linn has adopted the Tanner Basin Master Plan that includes the siting of a new middle school along Day Road; and

WHEREAS, in compliance with the requirements of the West Linn Comprehensive Plan, Public Facilities and Services, General Policy 3, access (i.e. roads), storm drainage, water and sewer can be provided coincident with construction of the school, and police and fire protection will be provided in response to construction of the school; and

WHEREAS, the Tanner Basin Master Plan includes the siting of a fire hall along Day Road which, when constructed and staffed, will provide fire service to the Tanner Basin area (i.e. the new middle school);

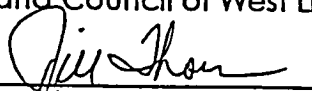
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WEST LINN, a municipal corporation of the state of Oregon, at a regular meeting held on the 25th day of March, 1996, that:

Section 1: The City authorizes staff to initiate an application to Metro, on behalf of the West Linn/Wilsonville School District, requesting an amendment to the Urban Growth Boundary (Exhibit B). Said amendment includes 20 acres of land located north of Day Road, for the purpose of locating a new middle school.

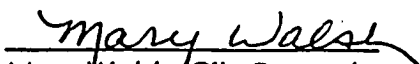
Section 2: The City recognizes its obligation and intent is to plan and finance public facilities and services, including police and fire necessary to accommodate the proposed new middle school.

Section 3: The City recommends that Metro approve the request to amend the Urban Growth Boundary as set forth in Exhibit B.

This Resolution adopted by the Mayor and Council of West Linn this 25th day of March, 1996.



BILL THORN, MAYOR


Mary Walsh, City Recorder

APPENDIX B
Service Provider Forms

REQUEST FOR COMMENT FROM SERVICE PROVIDER

(Part I to be completed by petitioner and submitted to each service provider. Part II to be completed by the service provider and returned to Growth Management Section, Metro, 600 N.E. Grand Avenue, Portland, Oregon 97232.)

PART I

To: City of West Linn - Streets
Name of Service Provider

From: City of West Linn
Name of Petitioner

Attached is a copy of a petition for a locational adjustment to the Metro Urban Growth Boundary (UGB). Please review this petition and submit your comments on it to Metro as soon as possible, but **NO LATER THAN** March 15, 1996.

In general, land placed inside the UGB will develop to a residential density of at least four units a net acre or for urban commercial or industrial use, as determined by local zoning. Land outside the UGB cannot be served by sewer, and generally, cannot be developed at more than one unit to the net acre. In reviewing this petition, please consider: (1) whether its approval would make it more efficient (less expensive) or less efficient (more expensive) to serve other, adjacent areas for which service is planned or expected; and (2) whether there would be an orderly and economic way to extend your service to the area included in the petition if the petition were approved.

Thank you for your help. Please call the Land Use Coordinator at Metro, 797-1808, if you have any questions.

PART II

I have reviewed the attached petition for a locational adjustment to Metro's UGB. In reviewing the petition, I have reached the following conclusions (mark an "X" in the appropriate space and indicate your reasons):

1. Approval of the petition would make it more efficient (less expensive on a per unit basis), less efficient (more expensive on a per unit basis), or would have no efficiency impact (same expense on a per unit basis) to serve other adjacent areas inside the UGB for which service is planned and expected, for the following reasons: THE SALAMO-DAY ROADWAY IS THE ARTERIAL STREET THAT ALONG WITH ROSEMONT ROAD PROVIDES ACCESS TO THE AREA. MOVING THE UGB TO INCLUDE PROPERTIES ON BOTH SIDES OF THE RIGHT OF WAY MAKES THE COST PER UNIT HALF OF WHAT IT WOULD HAVE BEEN.

2. If the petition were approved, the area X could, or ___ could not be served by us in an orderly and economic fashion, for the following reasons: THE MASTERPLAN SHOWS A MIDDLE SCHOOL AT THIS SITE. ROSEMONT AND SALAMON DAY ROAD PROVIDE THE NECESSARY TRANSPORTATION NEEDS OF THIS APPLICATION.

3. My position on the application is:

- I Support Approval I Oppose Approval
 I am Neutral I Support with Conditions

Comments and explanation (explain any conditions): _____

Signed Jan W. Matzinger Date 3/14/96
Title PUBLIC IMPROVEMENT PROGRAM MANAGER

REQUEST FOR COMMENT FROM SERVICE PROVIDER

(Part I to be completed by petitioner and submitted to each service provider. Part II to be completed by the service provider and returned to Growth Management Section, Metro, 600 N.E. Grand Avenue, Portland, Oregon 97232.)

PART I

To: City of West Linn - Water
Name of Service Provider

From: City of West Linn
Name of Petitioner

Attached is a copy of a petition for a locational adjustment to the Metro Urban Growth Boundary (UGB). Please review this petition and submit your comments on it to Metro as soon as possible, but NO LATER THAN March 15, 1996.

In general, land placed inside the UGB will develop to a residential density of at least four units a net acre or for urban commercial or industrial use, as determined by local zoning. Land outside the UGB cannot be served by sewer, and generally, cannot be developed at more than one unit to the net acre. In reviewing this petition, please consider: (1) whether its approval would make it more efficient (less expensive) or less efficient (more expensive) to serve other, adjacent areas for which service is planned or expected; and (2) whether there would be an orderly and economic way to extend your service to the area included in the petition if the petition were approved.

Thank you for your help. Please call the Land Use Coordinator at Metro, 797-1808, if you have any questions.

PART II

I have reviewed the attached petition for a locational adjustment to Metro's UGB. In reviewing the petition, I have reached the following conclusions (mark an "X" in the appropriate space and indicate your reasons):

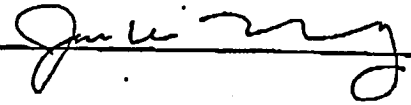
1. Approval of the petition would make it X more efficient (less expensive on a per unit basis), less efficient (more expensive on a per unit basis), or would have no efficiency impact (same expense on a per unit basis) to serve other adjacent areas inside the UGB for which service is planned and expected, for the following reasons: THE WATER SYSTEM IN THE AREA WAS DESIGNED TO PROVIDE FIRE FLOW TO A SCHOOL FACILITY. THE COMBINATION OF A 16" WATERLINE ON ROSEMONT AND A 12" WATERLINE ON DAY RD. MAKE THE SITE EFFICIENT ON A COST PER UNIT BASIS.

2. If the petition were approved, the area X could, or could not be served by us in an orderly and economic fashion, for the following reasons: THE AREA IS SERVED BY EXISTING WATERLINES THAT PROVIDE FOR ITS PROPOSED USE.

3. My position on the application is:

- I Support Approval
- I Oppose Approval
- I am Neutral
- I Support with Conditions

Comments and explanation (explain any conditions): _____

Signed 

Date 3/4/76

Title PUBLIC IMPROVEMENT PROGRAM MANAGER

REQUEST FOR COMMENT FROM SERVICE PROVIDER

(Part I to be completed by petitioner and submitted to each service provider. Part II to be completed by the service provider and returned to Growth Management Section, Metro, 600 N.E. Grand Avenue, Portland, Oregon 97232.)

PART I

To: City of West Linn - Sewer
Name of Service Provider

From: City of West Linn
Name of Petitioner

Attached is a copy of a petition for a locational adjustment to the Metro Urban Growth Boundary (UGB). Please review this petition and submit your comments on it to Metro as soon as possible, but **NO LATER THAN** March 15, 1996.

In general, land placed inside the UGB will develop to a residential density of at least four units a net acre or for urban commercial or industrial use, as determined by local zoning. Land outside the UGB cannot be served by sewer, and generally, cannot be developed at more than one unit to the net acre. In reviewing this petition, please consider: (1) whether its approval would make it more efficient (less expensive) or less efficient (more expensive) to serve other, adjacent areas for which service is planned or expected; and (2) whether there would be an orderly and economic way to extend your service to the area included in the petition if the petition were approved.

Thank you for your help. Please call the Land Use Coordinator at Metro, 797-1808, if you have any questions.

PART II

I have reviewed the attached petition for a locational adjustment to Metro's UGB. In reviewing the petition, I have reached the following conclusions (mark an "X" in the appropriate space and indicate your reasons):

1. Approval of the petition would make it more efficient (less expensive on a per unit basis), less efficient (more expensive on a per unit basis), or would have no efficiency impact (same expense on a per unit basis) to serve other adjacent areas inside the UGB for which service is planned and expected, for the following reasons: PROVIDING SEWER TO THE LOCATION WOULD ALLOW THE ADJECENT AREAS TO BE SERVED MORE EFFICIENTLY. SERVING THIS AREA WITH SEWER WOULD ALLOW THE CITY TO REMOVE A TEMPORARY PUMP STATION FROM SERVICE. THE EFFICIENCY OF THE SYSTEM WOULD IMPROVE WITHOUT THIS PUMP STATION.

REQUEST FOR COMMENT FROM SERVICE PROVIDER

(Part I to be completed by petitioner and submitted to each service provider. Part II to be completed by the service provider and returned to Growth Management Section, Metro, 600 N.E. Grand Avenue, Portland, Oregon 97232.)

PART I

To: City of West Linn - storm
Name of Service Provider

From: City of West Linn
Name of Petitioner

Attached is a copy of a petition for a locational adjustment to the Metro Urban Growth Boundary (UGB). Please review this petition and submit your comments on it to Metro as soon as possible, but **NO LATER THAN** March 15, 1996.

In general, land placed inside the UGB will develop to a residential density of at least four units a net acre or for urban commercial or industrial use, as determined by local zoning. Land outside the UGB cannot be served by sewer, and generally, cannot be developed at more than one unit to the net acre. In reviewing this petition, please consider: (1) whether its approval would make it more efficient (less expensive) or less efficient (more expensive) to serve other, adjacent areas for which service is planned or expected; and (2) whether there would be an orderly and economic way to extend your service to the area included in the petition if the petition were approved.

Thank you for your help. Please call the Land Use Coordinator at Metro, 797-1808, if you have any questions.

PART II

I have reviewed the attached petition for a locational adjustment to Metro's UGB. In reviewing the petition, I have reached the following conclusions (mark an "X" in the appropriate space and indicate your reasons):

1. Approval of the petition would make it more efficient (less expensive on a per unit basis), less efficient (more expensive on a per unit basis), or would have no efficiency impact (same expense on a per unit basis) to serve other adjacent areas inside the UGB for which service is planned and expected, for the following reasons: THE PROPOSAL HAS MORE ROOM FOR STORM DRAIN FACILITIES, AND HAS LESS HARD SURFACES THAN MOST OTHER USES. THE APPLICANT WOULD PROVIDE TREATMENT AND DETENTION FACILITIES ON SITE WHICH IS MORE EFFICIENT. THIS APPLICANT COULD OWN AND OPERATE THIS FACILITY AS PART OF PLANT MAINTENANCE.

2. If the petition were approved, the area X could, or could not be served by us in an orderly and economic fashion, for the following reasons: THE SITE IS AT THE TOP OF TWO DRAINAGE BASINS. THE STORM DRAIN SYSTEM REQUIREMENTS CAN BE MET COMPLETELY ON SITE.

3. My position on the application is:

 X I Support Approval

 I Oppose Approval

 I am Neutral

 I Support with Conditions

Comments and explanation (explain any conditions):

Signed *John W. King*

Date 3/14/96

Title PUBLIC IMPROVEMENT PROGRAM MANAGER

REQUEST FOR COMMENT FROM SERVICE PROVIDER

(Part I to be completed by petitioner and submitted to each service provider. Part II to be completed by the service provider and returned to Growth Management Section, Metro, 600 N.E. Grand Avenue, Portland, Oregon 97232.)

PART I

To: City of West Linn - Fire/Emergency
Name of Service Provider

From: City of West Linn
Name of Petitioner

Attached is a copy of a petition for a locational adjustment to the Metro Urban Growth Boundary (UGB). Please review this petition and submit your comments on it to Metro as soon as possible, but **NO LATER THAN** March 15, 1996.

In general, land placed inside the UGB will develop to a residential density of at least four units a net acre or for urban commercial or industrial use, as determined by local zoning. Land outside the UGB cannot be served by sewer, and generally, cannot be developed at more than one unit to the net acre. In reviewing this petition, please consider: (1) whether its approval would make it more efficient (less expensive) or less efficient (more expensive) to serve other, adjacent areas for which service is planned or expected; and (2) whether there would be an orderly and economic way to extend your service to the area included in the petition if the petition were approved.

Thank you for your help. Please call the Land Use Coordinator at Metro, 797-1808, if you have any questions.

PART II

I have reviewed the attached petition for a locational adjustment to Metro's UGB. In reviewing the petition, I have reached the following conclusions (mark an "X" in the appropriate space and indicate your reasons):

1. Approval of the petition would make it more efficient (less expensive on a per unit basis), less efficient (more expensive on a per unit basis), or x would have no efficiency impact (same expense on a per unit basis) to serve other adjacent areas inside the UGB for which service is planned and expected, for the following reasons: The City's Comprehensive Plan also shows a planned fire station in this general area. The City has plans to provide adequate fire and emergency services to services to serve the school in other adjacent areas inside the UGB. Technically, the school would have no efficiency impact based on expense per unit basis because the school is tax-exempt and therefore would not add to the City's tax base.

2. If the petition were approved, the area x could, or could not be served by us in an orderly and economic fashion, for the following reasons: _____

 see #1 above

3. My position on the application is:

 x I Support Approval

 I Oppose Approval

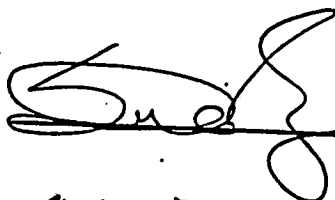
 I am Neutral

 I Support with Conditions

Comments and explanation (explain any conditions): _____

 See City Council Resolution No. 96-09

Signed



Date

March 25, 1996

Title

City Manager

REQUEST FOR COMMENT FROM SERVICE PROVIDER

(Part I to be completed by petitioner and submitted to each service provider. Part II to be completed by the service provider and returned to Growth Management Section, Metro, 600 N.E. Grand Avenue, Portland, Oregon 97232.)

PART I

To: City of West Linn - Police
Name of Service Provider

From: City of West Linn
Name of Petitioner

Attached is a copy of a petition for a locational adjustment to the Metro Urban Growth Boundary (UGB). Please review this petition and submit your comments on it to Metro as soon as possible, but **NO LATER THAN** March 15, 1996.

In general, land placed inside the UGB will develop to a residential density of at least four units a net acre or for urban commercial or industrial use, as determined by local zoning. Land outside the UGB cannot be served by sewer, and generally, cannot be developed at more than one unit to the net acre. In reviewing this petition, please consider: (1) whether its approval would make it more efficient (less expensive) or less efficient (more expensive) to serve other, adjacent areas for which service is planned or expected; and (2) whether there would be an orderly and economic way to extend your service to the area included in the petition if the petition were approved.

Thank you for your help. Please call the Land Use Coordinator at Metro, 797-1808, if you have any questions.

PART II

I have reviewed the attached petition for a locational adjustment to Metro's UGB. In reviewing the petition, I have reached the following conclusions (mark an "X" in the appropriate space and indicate your reasons):

1. Approval of the petition would make it more efficient (less expensive on a per unit basis), less efficient (more expensive on a per unit basis), or would have no efficiency impact (same expense on a per unit basis) to serve other adjacent areas inside the UGB for which service is planned and expected, for the following reasons: The City of West Linn's Comprehensive Plan includes a planned middle school in this general location. The City has plans to provide adequate police service to serve the school in other adjacent areas inside the UGB. Technically, the school would have no efficiency impact based on expense per unit basis because the school is tax-exempt and therefore would not add to the City's tax base.

2. If the petition were approved, the area x could, or ___ could not be served by us in an orderly and economic fashion, for the following reasons: _____

see #1 above

3. My position on the application is:

x I Support Approval

___ I Oppose Approval

___ I am Neutral

___ I Support with Conditions

Comments and explanation (explain any conditions): _____

See City Council Resolution No. 96-09

Signed

[Signature]

Date

March 25 1996

Title

City Manager

REQUEST FOR COMMENT FROM SERVICE PROVIDER

(Part I to be completed by petitioner and submitted to each service provider. Part II to be completed by the service provider and returned to Growth Management Section, Metro, 600 N.E. Grand Avenue, Portland, Oregon 97232.)

PART I

To: Portland General Electric
Name of Service Provider

From: City of West Linn
Name of Petitioner

Attached is a copy of a petition for a locational adjustment to the Metro Urban Growth Boundary (UGB). Please review this petition and submit your comments on it to Metro as soon as possible, but NO LATER THAN March 15.

In general, land placed inside the UGB will develop to a residential density of at least four units a net acre or for urban commercial or industrial use, as determined by local zoning. Land outside the UGB cannot be served by sewer, and generally, cannot be developed at more than one unit to the net acre. In reviewing this petition, please consider: (1) whether its approval would make it more efficient (less expensive) or less efficient (more expensive) to serve other, adjacent areas for which service is planned or expected; and (2) whether there would be an orderly and economic way to extend your service to the area included in the petition if the petition were approved.

Thank you for your help. Please call the Land Use Coordinator at Metro, 797-1808, if you have any questions.

PART II

I have reviewed the attached petition for a locational adjustment to Metro's UGB. In reviewing the petition, I have reached the following conclusions (mark an "X" in the appropriate space and indicate your reasons):

1. Approval of the petition would make it more efficient (less expensive on a per unit basis), less efficient (more expensive on a per unit basis), or would have no efficiency impact (same expense on a per unit basis) to serve other adjacent areas inside the UGB for which service is planned and expected, for the following reasons:

Improvements would have to be made along Dog Road to provide three phase, primary. This should be done when Cascade Summit (Commercial phase) is done. The summer of 96 or 97 to accommodate urban growth.

2. If the petition were approved, the area could, or could not be served by us in an orderly and economic fashion, for the following reasons:

Providing The Three phase Primary is installed along Day Road by The (Commercial) Cascade Summit line extension to Day Road and Rosemont Road.

3. My position on the application is:

I Support Approval

I Oppose Approval

I am Neutral

I Support with Conditions

Comments and explanation (explain any conditions):

Signed *Mike Starn*

Date *March 5th, 96*

Title *Service & Design Consultant*

PGE

REQUEST FOR COMMENT FROM SERVICE PROVIDER

(Part I to be completed by petitioner and submitted to each service provider. Part II to be completed by the service provider and returned to Growth Management Section, Metro, 600 N.E. Grand Avenue, Portland, Oregon 97232.)

PART I

To: Northwest Natural Gas
Name of Service Provider

From: City of West Linn
Name of Petitioner

Attached is a copy of a petition for a locational adjustment to the Metro Urban Growth Boundary (UGB). Please review this petition and submit your comments on it to Metro as soon as possible, but **NO LATER THAN** March 15.

In general, land placed inside the UGB will develop to a residential density of at least four units a net acre or for urban commercial or industrial use, as determined by local zoning. Land outside the UGB cannot be served by sewer, and generally, cannot be developed at more than one unit to the net acre. In reviewing this petition, please consider: (1) whether its approval would make it more efficient (less expensive) or less efficient (more expensive) to serve other, adjacent areas for which service is planned or expected; and (2) whether there would be an orderly and economic way to extend your service to the area included in the petition if the petition were approved.

Thank you for your help. Please call the Land Use Coordinator at Metro, 797-1808, if you have any questions.

PART II

I have reviewed the attached petition for a locational adjustment to Metro's UGB. In reviewing the petition, I have reached the following conclusions (mark an "X" in the appropriate space and indicate your reasons):

1. Approval of the petition would make it more efficient (less expensive on a per unit basis), less efficient (more expensive on a per unit basis), or XX would have no efficiency impact (same expense on a per unit basis) to serve other adjacent areas inside the UGB for which service is planned and expected, for the following reasons: _____

WE HAVE EXISTING FACILITIES ON DAY RD AND ROSEMONT RD THAT COULD
SERVE THE PROPERTY IN QUESTION.

2. If the petition were approved, the area XX could, or ___ could not be served by us in an orderly and economic fashion, for the following reasons: _____

3. My position on the application is:

_____ I Support Approval _____ I Oppose Approval
XXXX I am Neutral _____ I Support with Conditions

Comments and explanation (explain any conditions): _____

Signed Scott Palmer

Date MARCH 12, 1996

Title UTILITIES LIAISON COORDINATOR

REQUEST FOR COMMENT FROM SERVICE PROVIDER

(Part I to be completed by petitioner and submitted to each service provider. Part II to be completed by the service provider and returned to Growth Management Section, Metro, 600 N.E. Grand Avenue, Portland, Oregon 97232.)

PART I

To: US West
Name of Service Provider

From: City of West Linn
Name of Petitioner

Attached is a copy of a petition for a locational adjustment to the Metro Urban Growth Boundary (UGB). Please review this petition and submit your comments on it to Metro as soon as possible, but NO LATER THAN March 15.

In general, land placed inside the UGB will develop to a residential density of at least four units a net acre or for urban commercial or industrial use, as determined by local zoning. Land outside the UGB cannot be served by sewer, and generally, cannot be developed at more than one unit to the net acre. In reviewing this petition, please consider: (1) whether its approval would make it more efficient (less expensive) or less efficient (more expensive) to serve other, adjacent areas for which service is planned or expected; and (2) whether there would be an orderly and economic way to extend your service to the area included in the petition if the petition were approved.

Thank you for your help. Please call the Land Use Coordinator at Metro, 797-1808, if you have any questions.

PART II

I have reviewed the attached petition for a locational adjustment to Metro's UGB. In reviewing the petition, I have reached the following conclusions (mark an "X" in the appropriate space and indicate your reasons):

1. Approval of the petition would make it more efficient (less expensive on a per unit basis), less efficient (more expensive on a per unit basis), or X would have no efficiency impact (same expense on a per unit basis) to serve other adjacent areas inside the UGB for which service is planned and expected, for the following reasons: _____

2. If the petition were approved, the area X could, or could not be served by us in an orderly and economic fashion, for the following reasons: _____

3. My position on the application is:

 I Support Approval

 I Oppose Approval

X I am Neutral

 I Support with Conditions

Comments and explanation (explain any conditions): _____

Signed RA Hansen

Date 3/5/96

Title Mgr - Engineering

COPY

REQUEST FOR COMMENT FROM SERVICE PROVIDER

(Part I to be completed by petitioner and submitted to each service provider. Part II to be completed by the service provider and returned to Growth Management Section, Metro, 600 N.E. Grand Avenue, Portland, Oregon 97232.)

PART I

To: Clackamas County
Name of Service Provider

From: City of West Linn
Name of Petitioner

Attached is a copy of a petition for a locational adjustment to the Metro Urban Growth Boundary (UGB). Please review this petition and submit your comments on it to Metro as soon as possible, but **NO LATER THAN** March 15.

In general, land placed inside the UGB will develop to a residential density of at least four units a net acre or for urban commercial or industrial use, as determined by local zoning. Land outside the UGB cannot be served by sewer, and generally, cannot be developed at more than one unit to the net acre. In reviewing this petition, please consider: (1) whether its approval would make it more efficient (less expensive) or less efficient (more expensive) to serve other, adjacent areas for which service is planned or expected; and (2) whether there would be an orderly and economic way to extend your service to the area included in the petition if the petition were approved.

Thank you for your help. Please call the Land Use Coordinator at Metro, 797-1808, if you have any questions.

PART II

I have reviewed the attached petition for a locational adjustment to Metro's UGB. In reviewing the petition, I have reached the following conclusions (mark an "X" in the appropriate space and indicate your reasons):

1. Approval of the petition would make it X more efficient (less expensive on a per unit basis), less efficient (more expensive on a per unit basis), or would have no efficiency impact (same expense on a per unit basis) to serve other adjacent areas inside the UGB for which service is planned and expected, for the following reasons: The site is adjacent to

the Tanner Basin, a master-planned area which will be served by the City.

The school should be within the UGB where public facilities, including

sewer and water, can be provided. The alternative would be to develop with

on-site sewage disposal and a well, which should be avoided for a facility

of this size and purpose.

2. If the petition were approved, the area ___ could, or ___ could not be served by us in an orderly and economic fashion, for the following reasons: _____

Not applicable

3. My position on the application is:

I Support Approval

I Oppose Approval

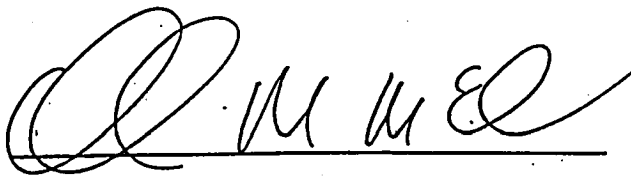
I am Neutral

I Support with Conditions

Comments and explanation (explain any conditions): Approval of this request

will allow consideration by the City of an urban-level use - a large middle school - provided with urban services. Clackamas County cannot provide sewer or water services to the site. Approval would be consistent with the Tanner Basin Master Plan, which recognizes the need for this school.

Signed



Date

3/8/96

Title

LAND USE & ENVIRONMENTAL PLANNING MANAGER

APPENDIX C
Surrounding Property Owner Information



McKeever/Morris, Inc.
 722 S.W. Second Avenue
 Suite 400
 Portland, Oregon 97204
 fax 503 228-7365
 503 228-7352

April 4, 1996

TO WHOM IT MAY CONCERN

The attached property owners list was prepared by Ticor Title Insurance Company to include all properties within 500 feet of the site which is the subject of a Locational Adjustment application submitted by the city of West Linn and the West Linn-Wilsonville School District.

Ticor Title provided the information which was checked by the staff at McKeever/Morris, Inc. for accuracy.

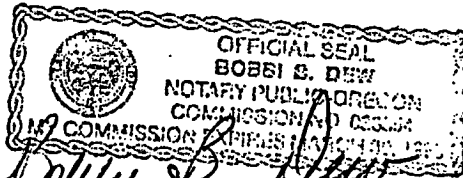
I certify that the property ownership information presented herein is accurate.

Dated: APRIL 4, 1996

McKEEVER/MORRIS, INC.
 Corporation Name

[Signature]
 By:

Subscribed and sworn to before me this 4th day of April, 1996



March 30, 1998
 My commission expires

[Signature]
 Notary Public

= METROSCAN PROPERTY REPORT =

Clackamas (OR) County

```
*****
* Date: 03/26/97                * Prepared For: STEVE                *
* Time: 9:17:44                 * Prepared By: TODD SEVERSON        *
* Report Type: Farm List        * Company: MCKEEVER-MORRIS        *
* Sort Type: Site Address       * Address:                          *
* Parcels Printed: 24          * City/St/Zip:                      *
*****
```

```
*****
* SEARCH PARAMETERS *
*****
```

```
*****
* ITEMS SELECTED                * INDEX USED                *
*****
*                               * Reference Parcel          *
* R21E26D 00900                *                               *
* R21E26D 00400                *                               *
* R21E26C 00200                *                               *
* R21E26C 00100                *                               *
* R21E26B 01302                *                               *
* R21E26B 01301                *                               *
* R21E26B 01300                *                               *
* R21E26B 01100                *                               *
* R21E26B 01000                *                               *
* R21E26A 01000                *                               *
* R21E26A 00900                *                               *
* R21E26A 00800                *                               *
* R21E26A 00700                *                               *
* R21E26A 00600                *                               *
* R21E26 00400                 *                               *
* R21E26 00300                 *                               *
* R21E26 00110                 *                               *
* R21E26 00108                 *                               *
* R21E26 00107                 *                               *
* R21E26 00106                 *                               *
* R21E26 00105                 *                               *
* R21E26 00104                 *                               *
* R21E26 00103                 *                               *
* R21E26 00100                 *                               *
*****
```

Carol Stein
485 River Rd
Gladstone OR 97027

David & Renee Herman
NO STREET NAME or NUMBER
West Linn OR 97068

Joyce Seida
17501 SE Forest Hill Dr
Clackamas OR 97015

Keith & Nancy Johnson
NO STREET NAME or NUMBER
Lake Oswego OR 97035

Samuel & Pauline Nutt
22000 S Day Rd
West Linn OR 97068

Gary & Marjorie Randall
1120 Rosemont Rd
West Linn OR 97068

K Robert & Karen Bates
1130 Rosemont Rd
West Linn OR 97068

Greg & Marla Fisher
1136 Rosemont Rd
West Linn OR 97068

Fred & Gwendolyn Reinke
1160 Rosemont Rd
West Linn OR 97068

WEST LINN-WILSONVILLE SC
PO Box 35
West Linn OR 97068

Patricia Beltz
1190 Rosemont Rd
West Linn OR 97068

Dawn O'Shaughnessy
21250 S Wisteria Rd
West Linn OR 97068

William & Marcia Janner
21470 S Wisteria Rd
West Linn OR 97068

Ronald & Dianna Hanlon
21510 S Wisteria Rd
West Linn OR 97068

David R Goode
21550 S Wisteria Rd
West Linn OR 97068

Richard Martin Jr.
Darcy Martin Jr.
21600 S Wisteria Rd
West Linn OR 97068

#=1
 Owner : REINKE FRED A;GWENDOLYN L TRUSTEE RefPar# :R21E26 00100
 CoOwner: Ph:503-656-6572 Total :\$9,730
 Site : *NO SITE ADDRESS* Struct :\$8,630
 Mail : 1160 ROSEMONT RD WEST LINN OR 97068 Land :\$1,100
 Legal : UNZONED FARM - POTENTIAL ADDITIONAL YrBl: 1900 96-97 Tx:\$96.94
 : TAX LIABILITY CORR #75-188 ORD 174 # Units: Xfered :
 Use Cd : 541 AGR,FARM LAND,IMPROVED,UNZONED Price :
 Bed: Bath: \$/SF: AC:2.04 Lot SqFt:88,862 BldgSqft:

#=2
 Owner : STEIN CAROL L RefPar# :R21E26 00103
 CoOwner: Ph:503-656-0375 Total :\$41,100
 Site : *NO SITE ADDRESS* Struct :
 Mail : 485 RIVER RD GLADSTONE OR 97027 Land :\$41,100
 Legal : FORESTLAND - POTENTIAL ADDITIONAL YrBl: 1900 96-97 Tx:\$409.44
 : TAX LIABILITY 1980 PT FARM USE # Units: Xfered :
 Use Cd : 640 VACANT,FOREST LAND Price :
 Bed: Bath: \$/SF: AC:5.02 Lot SqFt:218,671 BldgSqft:

#=3
 Owner : HERMAN DAVID G;RENEE M RefPar# :R21E26 00105
 CoOwner: Ph: Total :\$2,720
 Site : *NO SITE ADDRESS* Struct :
 Mail : WEST LINN OR 97068 Land :\$2,720
 Legal : UNZONED FARM - POTENTIAL ADDITIONAL YrBl: 1900 96-97 Tx:\$27.11
 : TAX LIABILITY ORD 174 TRI-MET 91-92 # Units: Xfered :07/28/94
 Use Cd : 540 VACANT,FARM LAND,UNZONED Price :\$200,000
 Bed: Bath: \$/SF: AC:5.04 Lot SqFt:219,542 BldgSqft:

#=4
 Owner : SEIDA JOYCE RefPar# :R21E26 00300
 CoOwner: Ph:503-658-3912 Total :\$470
 Site : *NO SITE ADDRESS* Struct :
 Mail : 17501 SE FOREST HILL DR CLACKAMAS OR 97015 Land :\$470
 Legal : UNZONED FARM - POTENTIAL ADDITIONAL YrBl: 1900 96-97 Tx:\$5.01
 : TAX LIABILITY ORD 174 TRI-MET 91-92 # Units: Xfered :10/01/89
 Use Cd : 540 VACANT,FARM LAND,UNZONED Price :
 Bed: Bath: \$/SF: AC:.87 Lot SqFt:37,897 BldgSqft:

#=5
 Owner : MCEB LAND;LIVESTOCK CO RefPar# :R21E26 00400
 CoOwner: Ph: Total :\$30,300
 Site : *NO SITE ADDRESS* Struct :
 Mail : Land :\$30,300
 Legal : SM WOODLAND - POTENTIAL ADDITIONAL YrBl: 1900 96-97 Tx:\$301.87
 : TAX LIABILITY CERT #03-0375 58.27 # Units: Xfered :
 Use Cd : 640 VACANT,FOREST LAND Price :
 Bed: Bath: \$/SF: AC:58.27 Lot SqFt:2,538,241 BldgSqft:

#=6
 Owner : BELTZ PATRICIA RefPar# :R21E26A 00900
 CoOwner: Ph: Total :\$79,180
 Site : *NO SITE ADDRESS* Struct :
 Mail : Land :\$79,180
 Legal : SAM SHANNON DLC TL 28-1 ORD 174 YrBl: 1900 96-97 Tx:\$843.13
 : TRI-MET 91-92 ORD 3354 CO LAW ENH # Units: Xfered :
 Use Cd : 100 VACANT,RESIDENTIAL LAND Price :
 Bed: Bath: \$/SF: AC:1.15 Lot SqFt:50,094 BldgSqft:

The Information Provided Is Deemed Reliable, But Is Not Guaranteed.

■=7
 Owner : NUTT SAMUEL C;PAULINE H RefPar# :R21E26A 01000
 CoOwner: Ph:503-656-9669 Total :\$160
 Site : *NO SITE ADDRESS* Struct :
 Mail : 22000 S DAY RD WEST LINN OR 97068 Land :\$160
 Legal : FORESTLAND - POTENTIAL ADDITIONAL YrBlt: 1900 96-97 Tx:\$1.68
 : TAX LIABILITY ORD 174 TRI-MET 91-92 # Units: Xfered :12/01/86
 Use Cd : 640 VACANT,FOREST LAND Price :\$13,000
 Bed: Bath: \$/SF: AC:1.85 Lot SqFt:80,586 BldgSqft:

■=8
 Owner : JOHNSON KEITH;NANCY RefPar# :R21E26C 00100
 CoOwner: Ph: Total :\$930
 Site : *NO SITE ADDRESS* Struct :
 Mail : LAKE OSWEGO OR 97035 Land :\$930
 Legal : FORESTLAND - POTENTIAL ADDITIONAL YrBlt: 1900 96-97 Tx:\$9.27
 : TAX LIABILITY 568 ROSEMONT AC LT 60 # Units: Xfered :05/15/95
 Use Cd : 640 VACANT,FOREST LAND Price :\$620,000
 Bed: Bath: \$/SF: AC: Lot SqFt: BldgSqft:

■=9
 Owner : JOHNSON KEITH;NANCY RefPar# :R21E26C 00200
 CoOwner: Ph: Total :\$770
 Site : *NO SITE ADDRESS* Struct :
 Mail : LAKE OSWEGO OR 97035 Land :\$770
 Legal : FORESTLAND - POTENTIAL ADDITIONAL YrBlt: 1900 96-97 Tx:\$7.66
 : TAX LIABILITY 568 ROSEMONT AC LT 61 # Units: Xfered :05/15/95
 Use Cd : 640 VACANT,FOREST LAND Price :\$620,000
 Bed: Bath: \$/SF: AC: Lot SqFt: BldgSqft:

■=10
 Owner : KOSS-BROD-GOODRICH;ASSOCIATES INC RefPar# :R21E26D 00900
 CoOwner: Ph: Total :\$790,500
 Site : *NO SITE ADDRESS* Struct :
 Mail : Land :\$790,500
 Legal : ORD 174 TRI-MET 91-92 1994 FARM USE YrBlt: 1900 96-97 Tx:\$8,417.42
 : REMOVED ORD 3354 CO LAW ENH 95-96 # Units: Xfered :12/16/93
 Use Cd : 400 VACANT,TRACT LAND ONLY Price :\$1,200,732
 Bed: Bath: \$/SF: AC:17.98 Lot SqFt:783,209 BldgSqft:

■=11
 Owner : NUTT SAMUEL C;PAULINE H RefPar# :R21E26D 00400
 CoOwner: Ph:503-656-9669 Total :\$281,490
 Site : 22000 S DAY RD WEST LINN 97068 Struct :\$111,780
 Mail : 22000 S DAY RD WEST LINN OR 97068 Land :\$169,710
 Legal : FORESTLAND - POTENTIAL ADDITIONAL YrBlt: 1962 96-97 Tx:\$2,997.36
 : TAX LIABILITY CORR 83-529 ORD 174 # Units: Xfered :
 Use Cd : 641 FOR,FOREST LAND,IMPROVED Price :
 Bed:3 Bath:2.50 \$/SF: AC:15.92 Lot SqFt:693,475 BldgSqft:2,720

■=12
 Owner : RANDALL GARY;MARJORIE RefPar# :R21E26 00108
 CoOwner: Ph: Total :\$483,540
 Site : 1120 ROSEMONT RD WEST LINN 97068 Struct :\$289,800
 Mail : 1120 ROSEMONT RD WEST LINN OR 97068 Land :\$193,740
 Legal : FARM USE REMOVED CORR 82-1573 ORD YrBlt: 1981 96-97 Tx:\$4,817.08
 : 174 TRI-MET 91-92 # Units: Xfered :
 Use Cd : 401 TRACT,TRACT LAND,IMPROVED Price :
 Bed:4 Bath:3.00 \$/SF: AC:5.05 Lot SqFt:219,978 BldgSqft:2,964

The Information Provided Is Deemed Reliable, But Is Not Guaranteed.

■=13
 Owner : BATES K ROBERT;KAREN S RefPar# :R21E26 00110
 CoOwner: Ph:503-557-7809 Total :\$928,220
 Site : 1130 ROSEMONT RD WEST LINN 97068 Struct :\$734,480
 Mail : 1130 ROSEMONT RD WEST LINN OR 97068 Land :\$193,740
 Legal : NO LONGER IN FARM USE-94 ADDITIONAL YrBlt: 1982 96-97 Tx:\$9,247.00
 : TAX LIABILITY 1982 PT FARM USE # Units: Xfered :01/01/85
 Use Cd : 401 TRACT,TRACT LAND,IMPROVED Price :\$450,000
 Bed:3 Bath:3.00 \$/SF:\$75.87 AC:5.05 Lot SqFt:219,978 BldgSqft:5,931

■=14
 Owner : FISHER GREG L;MARLA D RefPar# :R21E26 00107
 CoOwner: Ph: Total :\$515,180
 Site : 1136 ROSEMONT RD WEST LINN 97068 Struct :\$397,630
 Mail : 1136 ROSEMONT RD WEST LINN OR 97068 Land :\$117,550
 Legal : NO LONGER IN FARM USE-94 FORESTLAND YrBlt: 1993 96-97 Tx:\$5,132.28
 : - POTENTIAL ADDITIONAL TAX # Units: Xfered :07/15/94
 Use Cd : 641 FOR,FOREST LAND,IMPROVED Price :\$1
 Bed:4 Bath:3.50 \$/SF: AC:4.93 Lot SqFt:214,751 BldgSqft:3,747

■=15
 Owner : STEIN CAROL L RefPar# :R21E26 00106
 CoOwner: Ph:503-656-0375 Total :\$423,290
 Site : 1140 ROSEMONT RD WEST LINN 97068 Struct :\$353,530
 Mail : 485 RIVER RD GLADSTONE OR 97027 Land :\$69,760
 Legal : FORESTLAND - POTENTIAL ADDITIONAL YrBlt: 1978 96-97 Tx:\$4,216.84
 : TAX LIABILITY ORD 174 TRI-MET 91-92 # Units: Xfered :
 Use Cd : 641 FOR,FOREST LAND,IMPROVED Price :
 Bed:5 Bath:3.00 \$/SF: AC:4.82 Lot SqFt:209,959 BldgSqft:4,300

■=16
 Owner : HERMAN DAVID GLENN;RENEE M RefPar# :R21E26 00104
 CoOwner: Ph:503-650-5301 Total :\$670,780
 Site : 1148 ROSEMONT RD WEST LINN 97068 Struct :\$626,480
 Mail : 1148 ROSEMONT RD WEST LINN OR 97068 Land :\$44,300
 Legal : UNZONED FARM - POTENTIAL ADDITIONAL YrBlt: 1995 96-97 Tx:\$6,682.36
 : TAX LIABILITY ORD 174 TRI-MET 91-92 # Units: Xfered :05/01/95
 Use Cd : 541 AGR,FARM LAND,IMPROVED,UNZONED Price :
 Bed:5 Bath: \$/SF: AC:6.80 Lot SqFt:296,208 BldgSqft:4,836

■=17
 Owner : REINKE FRED A;GWENDOLYN L TRUSTEE RefPar# :R21E26A 00600
 CoOwner: Ph:503-656-6572 Total :\$194,870
 Site : 1160 ROSEMONT RD WEST LINN 97068 Struct :\$99,830
 Mail : 1160 ROSEMONT RD WEST LINN OR 97068 Land :\$95,040
 Legal : SAM MILLER DLC TL 9-2 ORD 174 YrBlt: 1925 96-97 Tx:\$2,075.00
 : TRI-MET 91-92 ORD 3354 CO LAW ENH # Units: Xfered :
 Use Cd : 101 RES,RESIDENTIAL LAND,IMPROVED Price :
 Bed:5 Bath:2.00 \$/SF: AC:1.32 Lot SqFt:57,499 BldgSqft:2,888

■=18
 Owner : WEST LINN-WILSONVILLE SCHOOL DISTRICT NO RefPar# :R21E26A 00700
 CoOwner: Ph: Total :\$349,550
 Site : 1180 ROSEMONT RD WEST LINN 97068 Struct :\$173,720
 Mail : PO BOX 35 WEST LINN OR 97068 Land :\$175,830
 Legal : UNZONED FARM - POTENTIAL ADDITIONAL YrBlt: 1948 96-97 Tx:\$3,722.08
 : TAX LIABILITY ORD 174 TRI-MET 91-92 # Units: Xfered :12/09/96
 Use Cd : 541 AGR,FARM LAND,IMPROVED,UNZONED Price :\$142,000
 Bed:3 Bath:3.00 \$/SF:\$43.64 AC:3.29 Lot SqFt:143,312 BldgSqft:3,254

■=19

Owner : BELTZ PATRICIA RefPar# :R21E26A 00800
 CoOwner: Ph:503-657-4006 Total :\$288,950
 Site : 1190 ROSEMONT RD WEST LINN 97068 Struct :\$174,010
 Mail : 1190 ROSEMONT RD WEST LINN OR 97068 Land :\$114,940
 Legal : SAM MILLER DLC TL 10-1 ORD 174 YrBlt: 1962 96-97 Tx:\$3,076.78
 : TRI-MET 91-92 ORD 3354 CO LAW ENH # Units: Xfered :09/01/86
 Use Cd : 101 RES,RESIDENTIAL LAND,IMPROVED Price :\$150,000
 Bed:3 Bath:3.00 \$/SF:\$58.59 AC:1.49 Lot SqFt:64,904 BldgSqft:2,560

■=20

Owner : O'SHAUGHNESSY DAWN RefPar# :R21E26B 01000
 CoOwner: Ph: Total :\$462,700
 Site : 21250 S WISTERIA RD WEST LINN 97068 Struct :\$312,720
 Mail : 21250 S WISTERIA RD WEST LINN OR 97068 Land :\$149,980
 Legal : ROSEMONT AC PT 55 CORR 11370 ORD YrBlt: 1925 96-97 Tx:\$4,609.45
 : 174 TRI-MET 91-92 # Units: Xfered :04/01/94
 Use Cd : 401 TRACT,TRACT LAND,IMPROVED Price :
 Bed:3 Bath:3.50 \$/SF: AC: Lot SqFt: BldgSqft:4,334

■=21

Owner : JANNER WILLIAM;MARCIA RefPar# :R21E26B 01100
 CoOwner: Ph: Total :\$285,340
 Site : 21470 S WISTERIA RD WEST LINN 97068 Struct :\$242,000
 Mail : 21470 S WISTERIA RD WEST LINN OR 97068 Land :\$43,340
 Legal : FORESTLAND - POTENTIAL ADDITIONAL YrBlt: 1982 96-97 Tx:\$2,842.58
 : TAX LIABILITY 568 ROSEMONT AC PT # Units: Xfered :
 Use Cd : 641 FOR,FOREST LAND,IMPROVED Price :
 Bed:4 Bath:3.00 \$/SF: AC: Lot SqFt: BldgSqft:3,602

■=22

Owner : HANLON RONALD L;DIANNA L RefPar# :R21E26B 01300
 CoOwner: Ph:503-650-8705 Total :\$778,990
 Site : 21510 S WISTERIA RD WEST LINN 97068 Struct :\$558,060
 Mail : 21510 S WISTERIA RD WEST LINN OR 97068 Land :\$220,930
 Legal : ROSEMONT ACRES PT LTS 56&57 CORR YrBlt: 1992 96-97 Tx:\$7,760.38
 : 81-363 PTR 81-1809B CORR 81-719 # Units: Xfered :01/01/89
 Use Cd : 401 TRACT,TRACT LAND,IMPROVED Price :\$96,000
 Bed:5 Bath:4.00 \$/SF:\$18.11 AC: Lot SqFt: BldgSqft:5,300

■=23

Owner : GOODE DAVID W R RefPar# :R21E26B 01302
 CoOwner: Ph:503-657-0416 Total :\$262,670
 Site : 21550 S WISTERIA RD WEST LINN 97068 Struct :\$203,540
 Mail : 21550 S WISTERIA RD WEST LINN OR 97068 Land :\$59,130
 Legal : FORESTLAND - POTENTIAL ADDITIONAL YrBlt: 1987 96-97 Tx:\$2,616.74
 : TAX LIABILITY 568 ROSEMONT ACRES PT # Units: Xfered :
 Use Cd : 641 FOR,FOREST LAND,IMPROVED Price :
 Bed:4 Bath:2.50 \$/SF: AC: Lot SqFt: BldgSqft:2,694

■=24

Owner : MARTIN RICHARD L JR;DARCY A RefPar# :R21E26B 01301
 CoOwner: Ph: Total :\$315,350
 Site : 21600 S WISTERIA RD WEST LINN 97068 Struct :\$131,360
 Mail : 21600 S WISTERIA RD WEST LINN OR 97068 Land :\$183,990
 Legal : NO LONGER IN FARM USE-94 ADDITIONAL YrBlt: 1980 96-97 Tx:\$3,141.56
 : TAX LIABILITY 568 ROSEMONT AC PT # Units: Xfered :06/01/90
 Use Cd : 401 TRACT,TRACT LAND,IMPROVED Price :\$219,000
 Bed:4 Bath:2.00 \$/SF:\$79.69 AC: Lot SqFt: BldgSqft:2,748

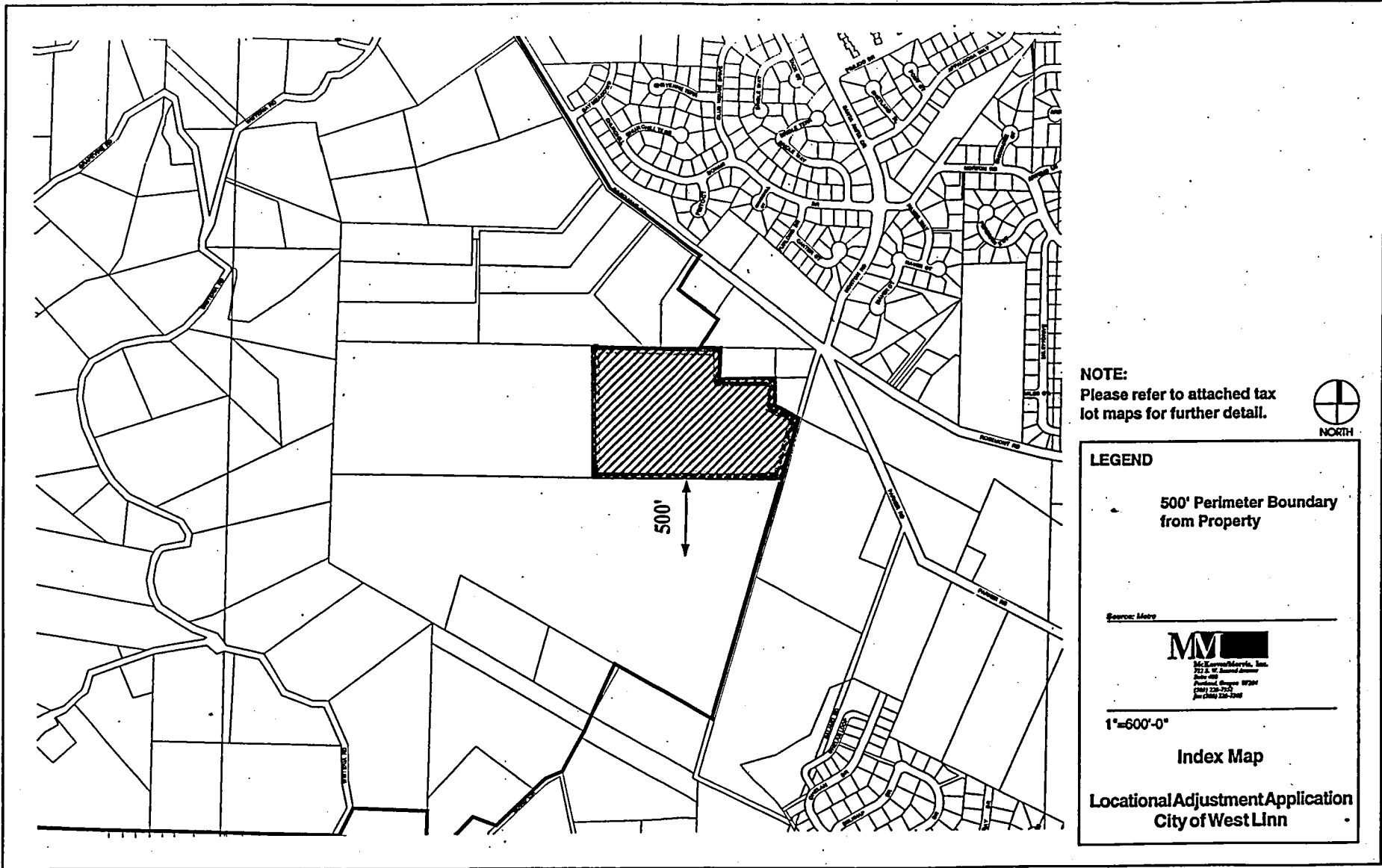
The Information Provided Is Deemed Reliable, But Is Not Guaranteed.

* CURRENT *
* SALE STATISTICS *

* Average Sale Price : \$142,000 *
* Average Loan Amount : *
* *
* Number of sales in last year : 1 *
* Number of sales in last 6 months : 1 *
* *
* Note: Average Sale Price and Loan Amounts are calculated on *
* sales within the last year. *

* Farm Statistics *

* *
* Owner Occupied : 3 *
* Absent Owner : 21 *
* *
* Average square footage : 3,706 *
* Average # of bedrooms : 4 *
* Average # of bathrooms : 3.00 *
* Average year built : 1941 *
* *



NOTE:
Please refer to attached tax
lot maps for further detail.



LEGEND

500' Perimeter Boundary
from Property

Source: Map



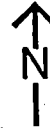
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Index Map

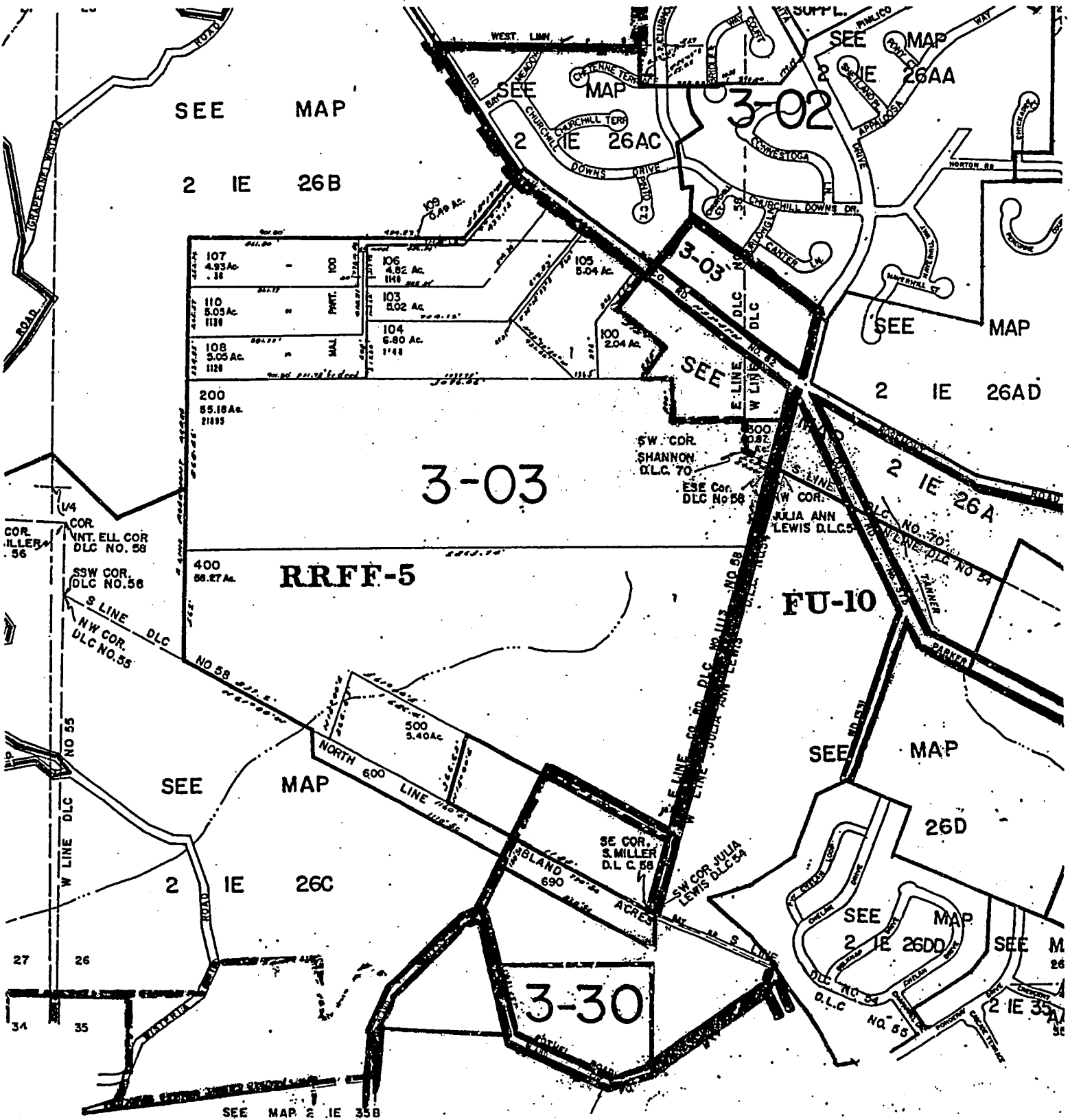
Locational Adjustment Application
City of West Linn

TICOR TITLE INSURANCE

This map is made solely for the purpose of assisting in locating said premises and the Company assumes no liability for variations, if any, in dimensions and location ascertained by actual survey.



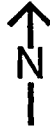
MAP NO. 21E26



SEE MAP 2 IE 35B

TICOR TITLE INSURANCE

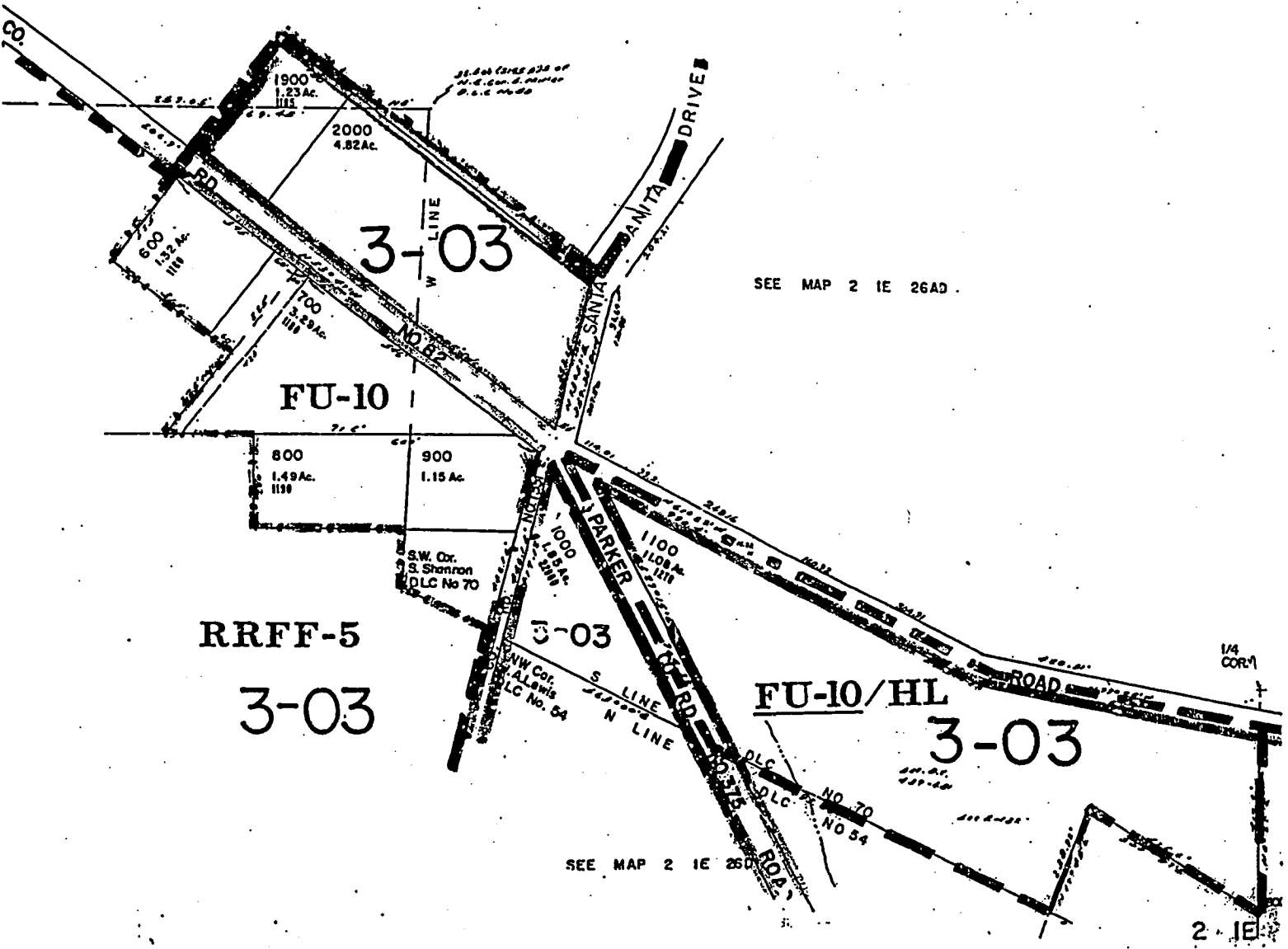
This map is made solely for the purpose of assisting in locating said premises and the Company assumes no liability for variations, if any, in dimensions and location ascertained by actual survey.



MAP NO. 2IE26A

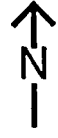
MAP 2 IE 26AC

3-02

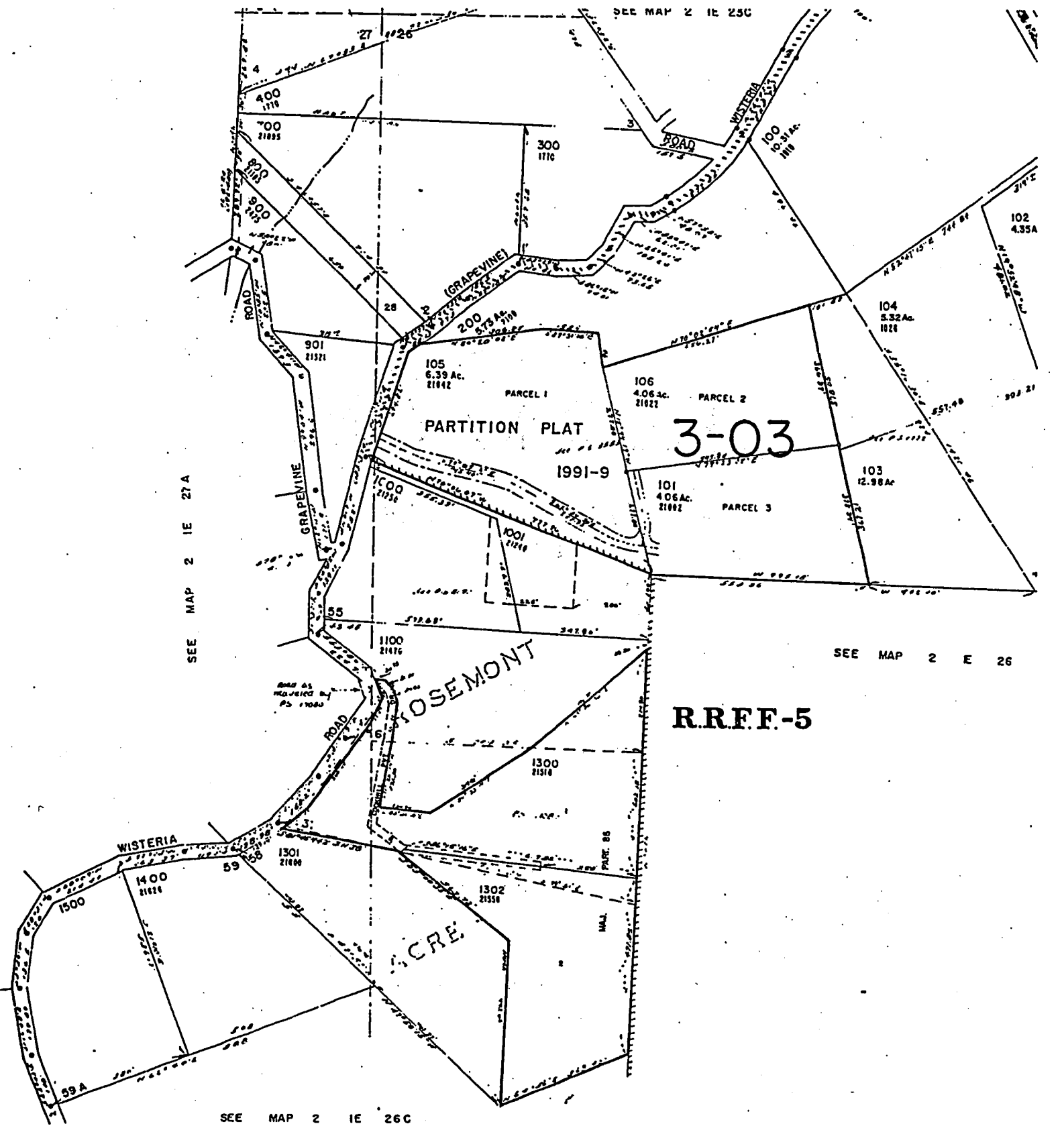


TICOR TITLE INSURANCE

This map is made solely for the purpose of assisting in locating said premises and the Company assumes no liability for variations, if any, in dimensions and location ascertained by actual survey.



MAP NO. 21E26B



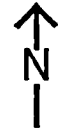
SEE MAP 2 1E 27A

SEE MAP 2 E 26

SEE MAP 2 1E 26C

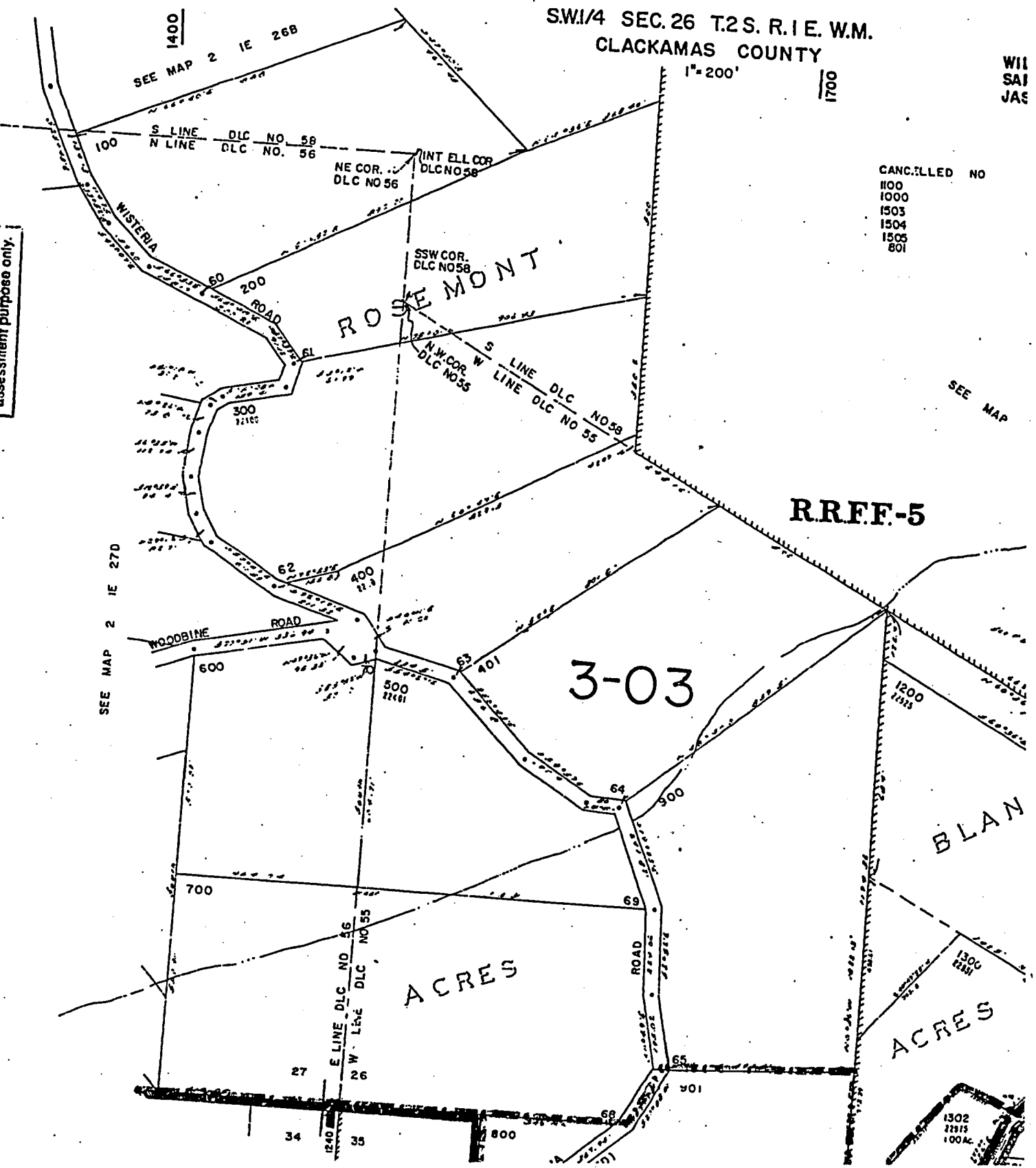
TICOR TITLE INSURANCE

This map is made solely for the purpose of assisting in locating said premises and the Company assumes no liability for variations, if any, in dimensions and location ascertained by actual survey.



MAP NO. 21E26C

This map was prepared for assessment purpose only.



WIL
SAI
JAS

CANCELLED NO
1100
1000
1503
1504
1505
801

SEE MAP

RRFF-5

3-03

ACRES

BLAN

ACRES

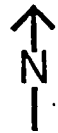
1302
21915
100Ac

SEE MAP 2 1E 27D

SEE MAP 2 1E 26B

TICOR TITLE INSURANCE

This map is made solely for the purpose of assisting in locating said premises and the Company assumes no liability for variations, if any, in dimensions and location ascertained by actual survey.



MAP NO. 21E26D

CLACKAMAS COUNTY
1" = 200'

2 1E 26D

2700

20000

3500

SEE MAP 2 1E 26

CANCELLED
100
200
300
1100
201

3-02

3-02

3-30

3-30

22400

FU-10

SEE MAP 2 1E 25

SE. Cor.
S. Miller
LC No 58

SW. Cor.
Julio Lewis
DLC No. 54
SLY

ACRES

WILLIAM BLAND NO. 55
SAMUEL MILLER NO. 58
S. SHANNON NO. 70

400
15.92Ac.
72700
NW COR.
JULIA LEWIS
DLC NO. 54

SLY LINE
S. SHANNON
300
NLY LINE DLC NO. 54
8.02Ac.

401
15.9Ac.
20015

500
7.57Ac.
11312

600
8.17Ac.
11111

700
8.69Ac.
11111

800
0.01Ac.

1300
22115

LINE OF DLC NO. 54

PRIVATE CHELAN LOOP
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McKeever/Morris, Inc.
209 S.W. Oak Street, Suite 200
Portland, Oregon 97204
503.228.7352
fax 503.228.7365

June 3, 1997

Ray Valone
Metro
600 N. E. Grand Avenue
Portland OR 97232-2736

Metro Growth Mgmt.

JUN 04 1997

RE: Locational Adjustment Application
City of West Linn

Dear Ray:

You have requested additional findings regarding two of the criteria which apply to locational adjustment applications. These criteria are identified below followed by supplemental findings.

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

A. Retention of any agricultural land would preclude urbanization of an adjacent area already inside the UGB, or

B. Retention of the agricultural land would make the provision of urban services to an adjacent area inside the UGB impracticable.

Response in the application

This criterion is not relevant because the property and surrounding land is designated for rural development in the Clackamas County Comprehensive Plan.

Supplemental response

As you accurately noted on the phone, the soils on the property in question are Class I-IV soils. However, this criterion means that in order to apply, these Class I-IV soils must also be "... designated in the applicable comprehensive plan for farm or forest use ..." The Clackamas County Comprehensive Plan is the applicable comprehensive plan. It designates a large area outside of the UGB as Rural near Rosemont and Day Roads (see attached Comprehensive Plan map - original in color, I marked designations). The subject property and all other properties outside of the UGB within approximately mile share this designation. As noted on the map legend, the county has separate designations for forest and agriculture uses.

The Comprehensive Plan goals for the Rural designation do not mention protection of resource land (Rural section of the plan is attached). One of the three Rural goals states that a purpose of the designation is:

To provide a buffer between urban and agricultural or forest uses.

Policy 13.0 states that the Rural designation is implemented through the use of three zone districts for two acre (RA-2), five acre (RRFF-5), and ten acre (FF-10) lots. Policy 13.0 goes on to state that the zoning districts "... maintain the character of Rural areas and implement the goals and policies of this Plan for residential uses in Rural areas (emphasis added)..."

The Clackamas County Comprehensive Plan was acknowledged by the state with an exception being taken to Statewide Planning Goals 3 - Agricultural Lands and 4 - Forest Lands for this and other areas with a Rural designation. The RRFF-5 zone is not considered as a farm or forest designation by the state or the county. It is a Rural residential designation.

The Rural Residential Farm/Forest 5 acres (RRFF-5) zone requirements are found in the Clackamas County Zoning Ordinance (attached). It applies to the subject property as well as the other properties in the vicinity which are outside of the UGB (see Figure 2 in the application). The purpose statements make no mention of protection of, or compatibility of development with, existing agricultural uses. Permitted (primary) uses in Section 309.03 list residential as well as a number of farming and forestry-related uses. The two-acre rural zone (RA-2) also allows the same mix of uses. It is common practice for rural residential zones to continue to allow agricultural and forestry uses even though the primary purpose of these zones is to promote rural residential development. Finally, Clackamas County does not have any special agricultural or forest compatibility requirements for non-farm or forest uses, such as residences and schools (confirmed in a phone conversation with Terry Curry, Senior Planner, Clackamas County).

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

Response in the application

The property is adjacent to land in the UGB on the northeast and east. The remaining properties in the surrounding area are also designated and zoned for rural development and are within Urban Reserve Site #30.

Supplemental response

Verification of nearby agricultural uses is best provided with an aerial photo. A supplemental photo to Figure 7 in the application is Exhibit O in the conditional use application to Clackamas County, which was sent to you earlier. As can be seen on the aerial photo, grazing and Christmas trees are the two primary agricultural activities in the

area. The subject property and the adjoining land to the south and west are used as pasture for cattle. It is assumed that grazing will continue on this property in the near future. However, the property owner has shown an interest in developing the property for non-resource use. In the past, the county has granted conditional use approvals (which were not exercised) for a golf driving range and a kennel.

South of the pasture land, the terrain becomes quite steep (see Figure 6 in the Locational Adjustment application). There is some Christmas tree production, but no intensive agricultural or forestry use. The properties north of the site are acreage home sites which typically have some Christmas trees as well, but no other agricultural or farming use. The Christmas trees found on the parcels to the northeast and on the east side of Day Road are within the UGB and are designated for urban development as described in the Tanner Basin Master Plan (see Figure 3).

Conditional use applications have recently been submitted to the city of West Linn and Clackamas County for a middle school on the property. Dual applications are required because the Tanner Basin Master Plan gives the city land use authority for areas within the UGB and plan study area. The copy of the county application that was submitted to you earlier should be made part of the record. Although the site plan for the school may not technically be at issue for the locational adjustment, there a number of factors related to this plan that are important when reviewing the potential compatibility issues with agricultural uses.

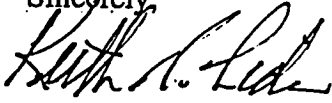
The proposed locational adjustment will be compatible with these agricultural uses for the following reasons:

- The site plan (see Exhibits B and C) shows the school building located within the current UGB on properties that are adjacent to the subject site. The athletic fields are located to the west and south of the building and parking lot. This layout of the site is necessary because of utility locations (especially sanitary sewer). Storm drainage, and related detention facilities are best accommodated with the impervious surfaces (building and parking) in the northeast (uphill) location and the drainage swales and detention facilities located down stream.
- The city of West Linn has Transportation Planning Rule implementation requirements for buildings, including schools, to be located near public streets for easy pedestrian and bicycle access. Locating the school building away from Rosemont and/or Day Roads would be contrary to these requirements.
- With the only feasible school building location near the Rosemont/Day Road intersection, the athletic fields must be located on the western and southern portions of the site. The fields will provide excellent buffering between any agricultural activities and the classroom activities in the building. Any noise, odors, dust, etc. generated by agricultural activity will be a significant distance from the school building. Because school security requirements, the perimeter of the site will have a 6-foot high chain link fence to keep students on the school property and to eliminate any potential conflicts with adjoining property owners.

- A school is allowable as a conditional use in the RRFF-5 zone, subject to criteria outlined in the county conditional used application (Section II). The proposed school is consistent with these criteria. As noted above, the county does not have any specific requirements for non-resource uses to be compatible with farm or forest activities.

Please call if there is any additional information that I may provide. Thanks for your help.

Sincerely,



Keith S. Liden, AICP
Project Manager

cc: Roger Woehl
Scott Burgess

KLHD/ACT comm 148
Valone ltr 6/3/97

RURAL

Rural lands are those which are outside the Urban Growth Boundaries and are suitable for sparse settlement, small farms or acreage homesite with no or hardly any public services and which are not suitable, necessary or intended for urban, agriculture or forest use.

GOALS

- . To provide a buffer between urban and agricultural or forest uses.
- . To perpetuate the rural atmosphere while maintaining and improving the quality of air, water and land resources.
- . To conserve open space and protect wildlife habitat.

POLICIES

- 1.0 The following areas may be designated Rural:
 - a. Areas which are presently developed, built upon or otherwise committed to sparse settlement or small farms with no or hardly any public services available.
- 2.0 Designation of additional rural lands shall be based on findings which shall include, but not be limited to:
 - a. Reasons why additional Rural land is needed or should be provided.
 - b. An evaluation of alternative areas in the County which should be designated Rural; and a statement of why the chosen alternative is more suitable.
 - c. An evaluation of the long term environmental, economic, social and energy consequences to the locality, region or state by designating this area Rural.
 - d. Reasons why designating the area Rural will be compatible with other adjacent uses.
 - e. For lands outside urban growth boundaries, require exceptions to LCDC Goals 3 and 4 for any Plan amendment or zone change to uses other than agriculture or forestry.
- 3.0 Areas impacted by major transportation corridors, adjacent to areas designated Urban or Rural and for which public services are committed or planned shall be given priority in designating additional rural areas.
- 4.0 Residential lot sizes shall be based upon:
 - a. Parcelization
 - b. Level of existing development

- c. Topography
 - d. Soil conditions
 - e. Compatibility with the types and levels of available public facilities
 - f. Proximity to existing Rural Centers or an incorporated city
 - g. Capacity and existing level of service of the road network
- 5.0 Existing large lots should be reduced to meet future rural housing needs prior to expanding the areas designated as Rural.
- 6.0 Areas with marginal or unsuitable soils for agricultural or forest use shall be given a higher priority for conversion to rural development than areas with more suitable soils.
- 7.0 Public facilities should be expanded or developed only when consistent with maintaining the rural character of the area.
- 8.0 Increased water service to an areas will not be used in and of itself to justify reduced lot sizes.
- 9.0 Sewerage systems shall be allowed only to alleviate a health hazard or water pollution problem which has been identified by the State of Oregon or Clackamas County.
- 10.0 All sewerage systems shall be maintained by a County service district or an incorporated city.
- 11.0 The County shall encourage grouping of dwelling units with lot sizes less than the minimum allowed by the zoning district, when such cluster development is compatible with the policies in this Plan and the overall density of the zoning district.
- 12.0 Preexisting nonconforming structures and uses which are destroyed by fire, other casualty or natural disaster shall be allowed to reconstruct, as provided by the Zoning Ordinance.
- 13.0 The Rural (Agricultural) two-acre (RA-2), Rural Residential Farm/Forest five-acres (RRFF-5) and the Farm Forest ten-acres (FF-10) zoning districts maintain the character of Rural areas and implement the goals and policies of this Plan for residential uses in Rural areas; these zoning districts and any other zoning district developed in the future, which implements these goals and policies, should be applied in Rural areas. These zones shall be applied as follows:
- 13.1 A two-acre zone shall be applied when all the following criteria are met:
 - a. Parcels are generally two acres or smaller.
 - b. The area is significantly affected by development.

- c. There are no natural hazards and the topography and soil conditions are well suited for the location of homes.
- d. A public or private community water system is available
- e. Areas are in proximity or adjacent to a Rural Center or Incorporated city.
- f. In areas adjacent to urban growth boundaries, 2 acre zoning shall be limited to those areas in which virtually all existing lots are already two acres or less.

13.2 A five-acre zone shall be applied when all the following criteria are met:

- a. Parcels are generally five acres.
- b. The area is affected by development.
- c. There are no serious natural hazards and the topography and soils are suitable for development.
- d. Areas are easily accessible to a Rural Center or Incorporated city.

13.3 A ten-acre zone shall be applied when one or more of the following criteria are met:

- a. Parcels are generally ten acres.
- b. The area is developed with a mixture of uses not consistent with extensive commercial agriculture or forestry uses.
- c. Access to a Rural Center or an Incorporated city is generally poor.

309 RURAL RESIDENTIAL FARM/FOREST 5 ACRES (RRFF-5) (2-9-95)

309.01 PURPOSE

- A. To provide areas for rural living where this type of development is compatible with the continuation of farm and forest uses.
- B. To conserve the natural scenic beauty of the County.
- C. To protect the watersheds of existing or potential major sources of municipal or domestic water supply from encroachment by uses that would affect the quantity or quality of water produced, protect wildlife habitats, and other such uses associated with the forest.
- D. To avoid the potential hazards of damage from fire, pollution, and conflict caused by urbanization.

309.02 AREA OF APPLICATION

The RRFF-5 zone is applied to those areas designated as Rural on the Clackamas County Comprehensive Plan map, and which have a general parcel size of five (5) acres; are affected by development; contain no serious natural hazards and the topography and soils are suitable for development, and are easily accessible to a Rural Center or incorporated city.

309.03 PRIMARY USES

- A. A single-family dwelling or residential home. A dwelling which is a mobile home shall be subject to provisions of Section 824. (5-29-91)
- B. Current employment of land for general farm uses including:
 - 1. Raising, harvesting and selling of crops.
 - 2. Feeding, breeding, selling and management of livestock, poultry, fur-bearing animals or honeybees.
 - 3. Selling of products of livestock, poultry, fur-bearing animals or honeybees.
 - 4. Dairying and the selling of dairy products.
 - 5. Preparation and storage of the products raised on such lands for man's use and animal use.
 - 6. Distribution by marketing or otherwise of products raised on such lands.

- 7. Any other agricultural use, horticultural use, animal husbandry or any combination thereof.
- C. The propagation or harvesting of a forest product.
- D. Public and private conservation areas and structures for the conservation of water, soil, forest, or wildlife habitat resources.
- E. Fish and wildlife management programs.
- F. Public and private parks, campgrounds, playgrounds, recreational grounds, hiking and horse trails, pack stations, corrals, stables and similar casual uses provided that such uses are not intended for the purpose of obtaining a commercial profit.
- G. Utility carrier cabinets, subject to Section 830. (2-29-84)

309.04 ACCESSORY USES

- A. Home occupations, subject to the provisions of Section 822. (Adopted 2/4/81)
- B. Accessory buildings and uses customarily incidental to any of the primary uses permitted in subsection 309.03.
- C. Produce stands, as defined in Section 202, subject to all applicable State regulations, and the requirements of this ordinance for parking and signing under Sections 1007 and 1010. (6-4-86)
- D. Signs, as provided under Section 1010. (8-6-81)
- E. A guest house, as defined in Section 202, subject to the provisions under Section 833. (2-3-88)
- F. Bed and Breakfast Homestays, subject to the major home occupation provisions under Section 822. (7-15-87)
- G. Family daycare provider home facilities, as defined in Section 202.

309.05 CONDITIONAL USES

- A. The following conditional uses may be allowed in an RRF-5 district, subject to review by the Hearings Officer, pursuant to Section 1300, or the review procedures provided under the specific 800 Section. (11-15-82). Approval shall not be granted unless the proposal satisfies the criteria under Section 1203, the applicable provisions of Section 800, and all other requirements of this Ordinance.

1. Churches, subject to the provisions of Section 804.
2. Public and private schools, subject to the provisions of Section 805 and 806.
3. Cemeteries, subject to the provisions of Section 808.
4. Golf courses, subject to the provisions of Section 813.
5. Aircraft land uses subject to the provisions of Section 816.
6. Sanitary Landfills, debris fills, subject to the provisions of Section 819.
7. Commercial recreational uses exceeding the limits of subsection 309.03F above, subject to the provisions of Section 813.
8. Operations conducted for the exploration, mining and processing of geothermal resources, aggregate and other mineral resources or other subsurface resources, subject to the provisions of Section 818.
9. Commercial or processing activities that are in conjunction with timber and farm uses.
10. Service recreational uses, subject to provisions of Section 813.
11. Daycare centers, subject to the provisions of Section 807.
12. Dog kennels, provided that the use and that portion of the premises used is located not less than two hundred (200) feet from all property lines.
13. Hydroelectric facilities, subject to the procedures and standards set forth in Section 829. (7-26-82)
14. Bed and Breakfast Residence or Inn, subject to the provisions under Section 832. (7-15-87)

309.06 PROHIBITED USES

- A. Structures and uses of land not specifically mentioned in Section 309 are prohibited in all RRF-5 districts.
- B. Outdoor advertising displays, advertising signs or advertising structures, except as provided in Section 1010.

- C. Any proposed division of land included within the Rural Farm/Forest 5 acre zone located within an urban growth boundary of the city resulting in the creation of one or more parcels of land of less than five (5) acres in size, with the exception of Conditional Uses approved by the Hearings Officer. (6-22-81)
- D. Residential subdivisions in Future Urbanizable areas.

309.07 DIMENSIONAL STANDARDS

- A. Purpose. The provisions of this subsection are intended to: (6-22-81)
 - 1. Provide for and protect the unique character, livability, and scenic quality of rural areas of the county;
 - 2. Provide for fire safety and protection of all structures;
 - 3. Protect the privacy and livability of dwellings and yard areas; and
 - 4. Preserve, within urban growth boundaries, large parcels of land for future development at urban densities.
- B. The minimum lot size shall be five (5) acres. This five (5) acre requirement shall not automatically be reduced due to the availability of community facilities such as sewers and/or water.
- C. Right of Way Inclusion: For purposes of satisfying the lot size requirements of this district, lots which front on existing county or public roads may include the land area between the front property line and the middle of the road right of way.
- D. Minimum Front Yard Setback: No structure constructed after the effective date of this amendment shall be located closer than thirty (30) feet from the front property line.
- E. Minimum Rear Yard Setback: Thirty (30) feet.
- F. Minimum Side Yard Setback: Ten (10) feet.
- G. Minimum Setbacks for Accessory Structures: No accessory structures constructed after the effective date of this amendment shall be located closer than thirty (30) feet from the front property line. Accessory structures shall observe a minimum rear and side yard setbacks of ten (10) feet.

- H. Bus shelters and roadside stands of no more than four hundred (400) square feet in size and not exceeding sixteen (16) feet in height, need not observe front yard setback lines excepting when located on a corner lot, then as provided in subsection 309.06I below.
- I. Corner vision: No sight-obscuring structures or plantings exceeding thirty (30) inches in height shall be located within a twenty (20) foot radius of the lot corner nearest the intersection of two public, county or state roads, or from the intersection of a private driveway or easement and a public, county or state road. Trees located within a twenty (20) foot radius of any such intersection shall be maintained to allow eight (8) feet of visual clearance below the lowest hanging branches.
- J. Scenic Roads: Structures built on lots adjacent to roads designated as Scenic Roads should be set back a sufficient distance from the right of way to permit a landscaped or natural buffer area.
- K. See Section 900 for exceptions to dimensional standards.
- L. Variances: The requirements of this subsection may be modified subject to staff review with notice pursuant to subsection 1305.02, when the modifications is consistent with the purposes set forth under 309.07A, and satisfies the criteria for a variance under Section 1205. (6-22-81)


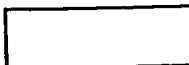
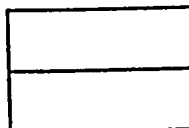

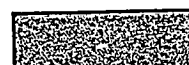
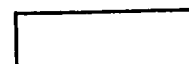
309.08 DEVELOPMENT STANDARDS

- A. See Section 1000 for applicable development standards.
- B. Subdivisions shall be developed as Planned Unit Developments when meeting the criteria under subsection 1013.02.
- C. Partitions in Future Urbanizable areas shall indicate the location of improvements, including easements and road dedications, structures, wells and septic drainfields which are consistent with the orderly development of the property at appropriate urban densities on the basis of the criteria for application of districts under subsection 301.02.
- D. A property line adjustment may be granted pursuant to the provisions of Section 1020. (2-9-95)

T.1S.

T.2S.

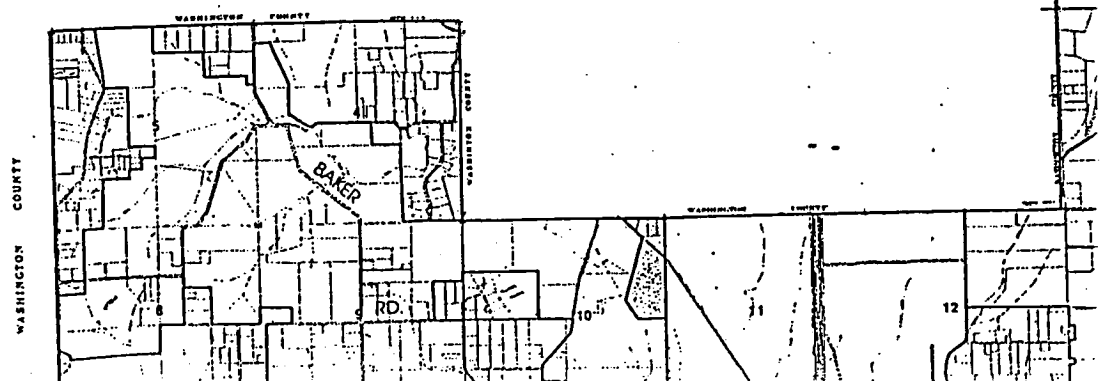
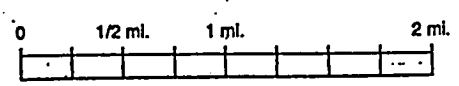
CLACKAMAS COUNTY NONURBAN AREA LAND USE PLAN MAP

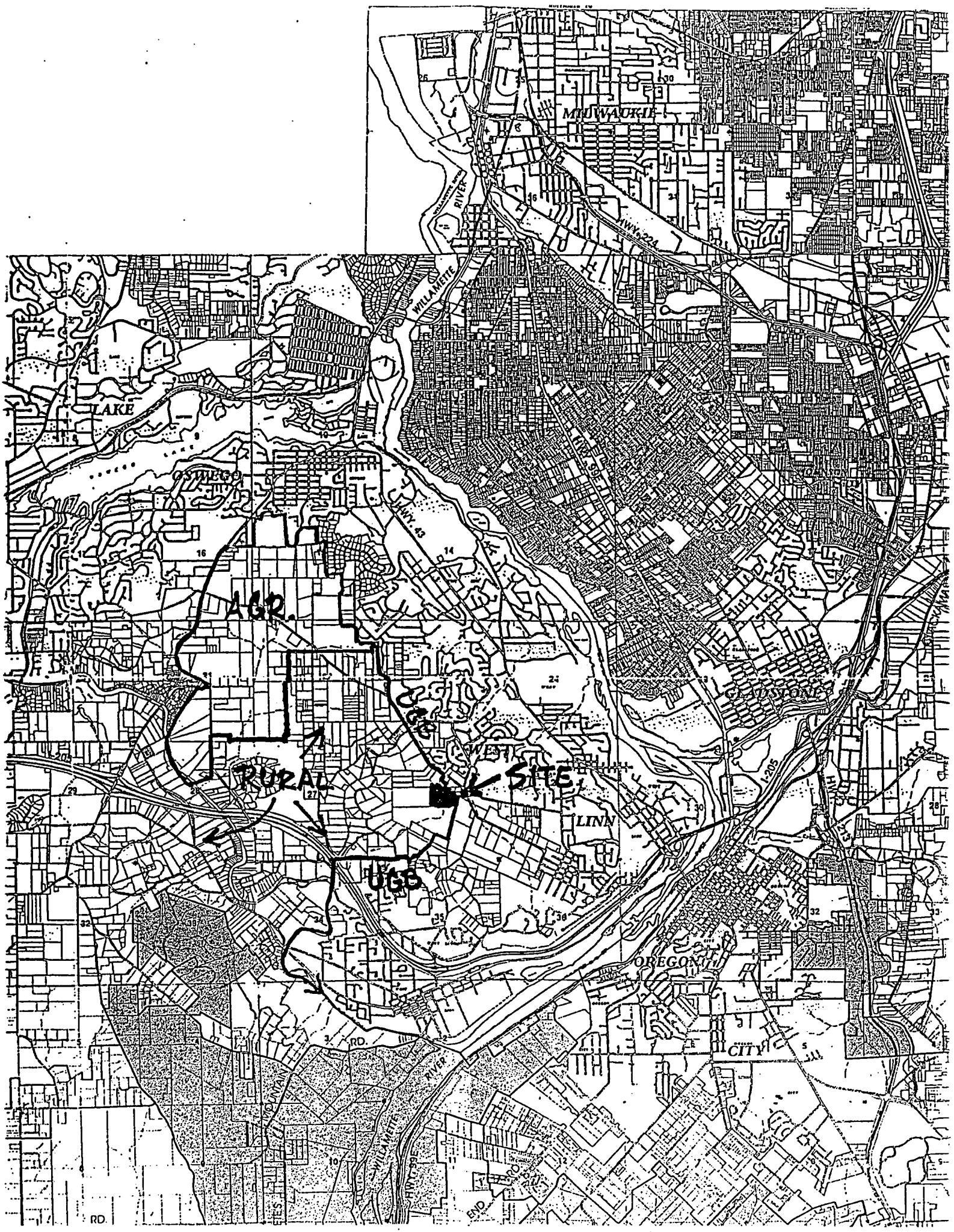
- URBAN GROWTH BOUNDARY
-  FOREST
-  AGRICULTURE
-  RURAL
RURAL CENTER
-  RURAL COMMERCIAL
-  RURAL INDUSTRIAL
-  INCORPORATED CITIES

CLACKAMAS COUNTY
COMPREHENSIVE PLAN



MAP IV-7_a







METRO

Date: June 17, 1997

**STAFF REPORT TO THE
HEARINGS OFFICER OF METRO**

SECTION I: APPLICATION SUMMARY

CASE: FILE NAME: West Linn
UGB Locational Adjustment Case 97-1

PETITIONER: City of West Linn **REPRESENTATIVE:** Keith Liden
22825 Willamette Falls Drive McKeever/Morris, Inc.
West Linn, OR 97068 722 SW Second Avenue
Portland, OR 97204

PROPOSAL: The petitioner has requested a 17.34-acre locational adjustment to the Urban Growth Boundary (UGB).

LOCATION: The property is located west of the intersection of Rosemont Road and Day Road (Attachment A).

PLAN/ZONING DESIGNATION: Clackamas County Rural/Clackamas County RRFF-5 (Rural Residential Farm/Forest, 5 acre minimum lot size).

APPLICABLE REVIEW CRITERIA: Metro Code 3.01.35.

SECTION II: STAFF RECOMMENDATION

Based on the following analysis, staff recommends that the Hearings Officer forward a recommendation to the Metro Council for APPROVAL of Case 97-1: West Linn, with the following condition: The subject site must be developed with a school use.

SECTION III: BACKGROUND INFORMATION

Site Information: The 17.34-acre site is located west of the intersection of Rosemont Road and Day Road along the western boundary of West Linn. It is the eastern portion of a 55.18-acre parcel (Tax Lot 200 of Map No. 2 1E 26). Zoned for rural residential, the site contains a single family residence and several accessory buildings. Most of the site is currently used as pasture for cattle.

The subject site is within Urban Reserve Site 30, one of several land reserves the Metro Council designated for eventual inclusion into the urban growth boundary (UGB) (Attachment B). This reserve has not been designated a first tier site, meaning it will not be among the first ones for inclusion into the UGB.

Proposal Description: The petitioner proposes to adjust the UGB to include a 17.34-acre portion of land for the purpose of accommodating a new middle school for the West Linn-Wilsonville School District. In addition to this land, the district plans on using 4.5 acres of land located immediately northeast of the site and within the UGB for the school buildings. After searching for a middle school site entirely within the UGB which meets the district's standard of 17-22 acres, the city and school district concluded that there is a lack of suitable sites in the attendance area.

The subject property is part of the Tanner Basin Master Plan area. The plan was developed jointly by the City of West Linn and Clackamas County and is part of their comprehensive plans. It applies to the mostly unincorporated land located east of Day Road, all of which is within the existing UGB. In part, the plan addresses the need for schools to accommodate the projected residential growth in the area. The plan identifies a potential site for a middle school near the intersection of Rosemont and Day roads. The petitioner states that additional acreage is needed, however, to site the school. The middle school would serve the future needs of the Tanner Basin as well as the existing and projected development within the district's northern attendance area, which includes north West Linn and some unincorporated land outside the UGB west of Rosemont and Day roads.

Case History: The city originally submitted a petition for inclusion of the subject property on March 15, 1996. The application was deemed incomplete because it lacked a statement by the Clackamas County Board of Commissioners. The city could not obtain a statement before the Metro Code review deadline on April 5, 1996. The city requested and obtained a waiver of the deadline from the Metro Council on May 9, 1996. The new deadline was established at 30 days after the Metro Council designated the urban reserves. The urban reserves were designated on March 6, 1997. The city resubmitted the petition on March 31 and it was deemed complete on April 4, 1997.

Current Status: The school district plans to construct the two middle school buildings on 4.5 acres of land adjacent to the subject site within the UGB. An application for a conditional use permit to construct the school buildings and related facilities were submitted during May of 1997 to Clackamas County and West Linn simultaneously. The RRFF-5 zone allows schools as a conditional use. The proposed site plan shows the buildings will be located within the existing UGB, and the parking lot and playing fields located outside the UGB on the subject property. The target date for school opening has been set by the district for September 1998.

SECTION IV: APPLICABLE REVIEW CRITERIA

The criteria for a locational adjustment to the UGB are contained in Metro Code 3.01.35. The criteria, petitioner responses (italics), and staff analysis follow.

1. Locational adjustments shall not exceed 20 net acres. [3.01.35(b)]

The petition is for 17.34 acres which is less than the 20 acre maximum allowed.

2. Orderly and economic provision of public facilities and services. A locational adjustment shall result in a net improvement in the efficiency of public facilities and services, including but not limited to water, sewerage, storm drainage, transportation, parks and open space in the adjoining areas within the UGB. Any area to be added must be capable of being served in an orderly and economical fashion. [3.01.35(c)(1)]

The petitioner states that the adjustment is needed to provide a public service to the community. Although the school will make demands on public facilities and services, it will provide important educational needs and recreational opportunities. As discussed in the application on pages 19 - 20, the petitioner states that the public facilities and services have adequate capacity to serve the new school by the scheduled date of opening in September of 1998. The petitioner's submittal includes completed forms signed in March 1996 by the potential service providers for the school site. The following list is a summary of service provider information based on the forms and other submittal documents.

- *Water - The City of West Linn signed a statement that existing waterlines, including a 16" line in Rosemont Road and a 12" line in Day Road, are adequate to serve the proposed school. To support the school district's conditional use permit applications, the West Linn City Council adopted a motion on March 3, 1997, to approve a request by the school district to extend city water to the portion of the proposed school site outside the city limits but inside the UGB. In exchange, the district agrees to waive its right to remonstrate against annexation to the city, and prior to receiving occupancy permits, the district must annex the middle school property to the city. The approval of the extra-territorial extension of water is subject to approval by the Portland Metropolitan Area Local Government Boundary Commission.*
- *Sewerage - The city signed a statement that providing sewer to the site would allow the adjacent urban areas to be served more efficiently because it would allow the city to remove a temporary pump station from service and switch to a gravity system. The school's sanitary waste will be discharged into a new Parker Road line. Extension of the sewer line to the school will provide an important segment of the system that will enable the pump station to be retired and the gravity system introduced. This change will enhance the efficiency of the system.*
- *Storm drainage - The city signed a statement that the storm drain system requirements can be met completely on site. The water will be collected from the site and piped to the southwest to the existing drainage swale on the subject property. Before discharge, the water will be detained and treated pursuant to county requirements.*
- *Transportation - The city signed a statement that Rosemont and Day roads provide the necessary transportation needs of the proposed school. The petition states that Rosemont Road, Day Road,*

Parker Road and Santa Anita Drive are planned to be improved. The improvements include widening the first three roads and adding bike lanes, curbs and sidewalks to all four roads. Improvements would be funded and constructed in conjunction with approved development along these roadways. A transportation impact study, conducted by DKS Associates (February 24, 1997), concludes that the school project would not significantly affect operating conditions on the surrounding roads and does not require any capacity improvements. Transit service is not available in the site area, however, the city is negotiating to have bus service for the Tanner Basin area in the future.

- *Parks and Open Space - The school would provide additional recreational opportunities for the surrounding area, including playing fields and a running track. The school district has a policy to make such facilities available to the general public when they are not in use during school hours.*
- *Police Services - The city signed a statement that a middle school is included in its comprehensive plan for this area and it plans to provide adequate police service to serve the school and other adjacent areas inside the UGB.*
- *Fire/Emergency Services - The city signed a statement that fire and emergency services would be adequate to serve the site and that there would be no efficiency impact to do so. The Tanner Basin Plan identifies the need for a new fire station to be located near the intersection of Rosemont, Day and Parker roads. The city has appropriated funds to acquire the site and is actively working toward purchasing it.*
- *Public Education - The middle school will provide improved educational facilities for residents within the school district boundaries.*
- *Other Services - Portland General Electric, Northwest Natural Gas and US West have signed statements that they could adequately serve the site.*

In addition to the site being capable of service in an orderly and economic fashion, the petitioner states that a net improvement in the efficiency of public facilities and services would be realized in the adjoining areas within the UGB. This is especially true for sewer service, transportation, parks and open space and public education.

Given the information contained in the petitioner's submittal of March 31, 1997, and additional information obtained by staff, it appears that the site is capable of being served in an orderly and economic fashion. Services are available and adequate to serve the site, according to statements signed by all service providers in March of 1996. A letter was sent to these providers on May 6, 1997, requesting that they confirm or change their original statements. Replies have been received from the City of West Linn and Clackamas County, confirming their 1996 statements.

The petitioner's claim that there would be a net improvement in efficiency seems to be valid for public education, recreation facilities and sewer service. It is less obvious that a net improvement in efficiency for adjoining areas would be realized for transportation. The petitioner states that whether the school is located here or not, the noted improvements will need to be made to the streets in the area to accommodate development that is currently planned within the UGB. If street improvements are needed to serve planned development within the UGB, it would seem that extension of the UGB and siting of a middle school could use up a portion of the capacity gained from the improvements. While the school district will likely be required to provide or contribute to road improvements along its

frontage with Rosemont and Day roads, this in itself would likely not offset the school's impact to the transportation system. The DKS traffic impact study, however, concluded that the school project would not affect operating conditions on surrounding roads or intersections. This study assumed that the intersection of Rosemont and Day roads would be realigned, as planned by the city, such that Parker Road approach is changed to align with Day Road south of the school site.

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

3. Maximum efficiency of land uses. The amendment shall facilitate needed development on adjacent existing urban land. Needed development, for the purposes of this section, shall mean consistent with the local comprehensive plan and/or applicable regional plans. [3.01.35(c)(2)]

The petitioner states the middle school will serve the residential growth in the north West Linn area as well as the adjacent rural lands in Clackamas County. The proposed school is consistent with the Tanner Basin Master Plan, which was adopted by both the city and county. The county comprehensive plan currently designates the subject property and surrounding land as appropriate for rural residential development. This designation also allows schools as a conditional use.

Based on information from the petitioner and school district, the siting of a middle school at the subject location would facilitate the educational and recreational needs for an expanding urban population. The proposed school is consistent with the Tanner Basin Plan which will guide the development of the immediately surrounding area within the UGB. The school will help facilitate the additional development needed within West Linn to achieve the city's share of the regional housing target capacities contained in the Urban Growth Management Functional Plan. The functional plan was adopted in December of 1996 to implement the Regional Urban Growth Goals and Objectives (RUGGO), which were adopted by the Metro Council to guide the future urban form for the Portland metropolitan area.

Staff believes that the amendment would facilitate needed development on adjacent existing urban land for another reason. The siting of a new middle school is needed to accommodate the expected growth in the district's northern attendance area. The district conducted an alternative site analysis according to its adopted site selection criteria contained in the Long Range School Facilities Plan. Of the five alternative sites analyzed, only the one at the corner of Rosemont and Day roads, which includes the 17.34-acre proposal, meets the district's criteria. The proposed site is needed, therefore, to make the 4.5-acre site viable as a new middle school site.

For the above reasons, staff concludes that this criterion is satisfied.

4. Environmental, energy, economic and social consequences. Any impact on regional transit corridor development must be positive and any limitations imposed by the presence of hazard or resource lands must be addressed. [3.01.35(c)(3)]

The petitioner states that the subject site has been planned and is suitable for development, and it contains no environmentally sensitive resources or natural hazards. The school improvements would be located to the east and uphill of a stream that runs across tax lot 200. The siting of a school involves vehicle trips and therefore has an impact on air quality. This site would be located close to existing and future residential development minimizing the number and length of vehicle trips.

Walking and bicycling opportunities would be improved after the planned street improvements are completed. The school would be within one mile of 45% of its students further enhancing bicycle and pedestrian opportunities..

The school has been included in all future development plans and will not require more service and facility capacity than will be needed for other area development. The school will, therefore, allow for more efficient utilization of constructed public facilities. By providing the educational needs and community center/recreational opportunities for the Rosemont/Tanner Basin area of West Linn, the proposed amendment will have positive social consequences.

Consumption of energy and air quality impacts are inherent with development of any new school. The subject site, however, is located close to a significant percentage of the student population and will eventually serve new development within the Tanner Basin and Urban Reserve Site 30 areas. Because the school would be located within a short distance of much of the population it will serve, there will be a reduction in vehicle miles traveled and an increase in walking and bicycling to the site. This situation will have a beneficial impact on energy consumption and air quality.

Because the proposed site could be served by the planned improvements to facilities and services for other development without increasing capacity, and because the school would be located within one mile of 45% of the student population, there is likely an economic benefit to the public from locating the school at this site. The proposed school site would have a positive social impact for existing and future development in the area due to the educational needs and recreational opportunities it would provide.

The only transit corridor of regional significance is State Highway 43, located approximately one mile to the east of the site. There would be no impact to this corridor as a result of this boundary adjustment. Based on information from Clackamas County, the site does not have any environmental or cultural constraints to development.

For the above reasons, staff concludes that this criterion is satisfied.

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

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

(B) Retention of the agricultural land would make the provision of urban services to an adjacent area inside the UGB impracticable. [3.01.35(c)(4)]

The petitioner states that this criterion is not relevant because the property and surrounding land is designated for rural residential development in the Clackamas County Comprehensive Plan. While the site contains Class III soil, the county does not consider this land as prime farm or forest land. The county was granted an exception to Statewide Planning Goal 3 (Agricultural Lands) and Goal 4 (Forest Lands) for the land now designated Rural Residential.

The comprehensive plan designation of Rural and zoning district of RRFF-5 (Rural Residential Farm-Forest-5) are intended primarily to maintain the character of rural areas and implement the goals and

policies for residential uses in rural areas. Through its plan goals and policies, the county makes a distinction between Rural designated land and Agriculture and Forest designated land. According to the Rural section of the comprehensive plan, "Rural lands are those which are outside the Urban Growth Boundaries and are suitable for sparse settlement, small farms or acreage homesites with no or hardly any public services and which are not suitable, necessary or intended for urban, agriculture or forest use". The first goal of this section of the plan is to provide a buffer between urban and agricultural or forest uses. In addition, schools are allowed as a conditional use in this zone district.

Staff agrees that the subject site and surrounding parcels, being designated as Rural and RRF-5, are not designated for exclusive farm or forest use. According to the plan, "This zone is applied to areas designated as Rural on the comprehensive plan map and which have a general parcel size of five acres; are affected by development; contain no serious natural hazards and the topography and soils, are suitable for development, and are easily accessible to a Rural Center or incorporated city". Primary uses allowed include, but are not limited to single-family dwellings, current employment for general farm uses, propagation or harvesting of a forest product, and parks, campgrounds and recreational grounds. Schools are allowed as a conditional use. Currently, the site has a single family residence with accessory buildings, and is being used as pasture land for cattle.

Since the subject site is not designated by the county comprehensive plan for exclusive farm or forest use, and the primary purpose of the zoning district is to provide for rural residential living, staff concludes that this criterion is satisfied.

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

The petitioner states that Christmas tree farming and cattle grazing are the two agricultural activities in the area (Attachment C). The subject property and land to the south and west are used as pasture for cattle. Christmas tree uses are to the northwest, south and east. Properties to the north are large acreage homesites with some tree farming. The tree farming to the northeast and east across Day Road is on land within the UGB, which is designated for urban development.

Conditional use applications for siting the school buildings on the 4.5 acres within the UGB have been submitted to the City of West Linn and Clackamas County. Though the application is not technically at issue for this UGB adjustment request, the petitioner believes that it is related to the issue of compatibility of the proposed use with nearby agricultural activities. Based on the information in the conditional use permit application and site plan (Attachment D), the petitioner claims that the proposed adjustment is compatible with nearby tree farm and grazing uses in the following ways:

- The site plan locates school buildings on the land within the UGB adjacent to the subject site. The athletic fields and parking area are located to the south and west on the subject site. This plan is necessary due to the need to locate utilities, especially sewer, on the uphill portion of the site. Storm drain and detention facilities would be located on the subject site, which is sloping westward toward the stream.*
- The state Transportation Planning Rule requires buildings to be located near public streets for easy pedestrian and bicycle access. Locating the school buildings away from streets would be contrary to these requirements.*

- *The athletic fields will provide excellent buffering between any agricultural activities and classroom activities. Due to security issues, a 6-foot high chain link fence will be installed which will eliminate any potential conflicts with adjoining property owners.*
- *A school is allowable as a conditional use in the RRFF-5 zone. The proposed school is consistent with the county's conditional use criteria. Further, the county does not have any specific requirements for non-resource uses to be compatible with farm or forest activities.*

Based on air photo information and site visits, staff confirms that tree farming and grazing activities are taking place on the subject site and adjacent land. These uses are allowed by the county's RRFF-5 zone district. Public and private schools are also allowed as conditional uses subject to special use requirements (Sections 805 and 806) as well as general conditional use criteria (Section 1203). The first set are basic locational, dimensional and parking requirements that are not relevant to this petition. The second set includes the criterion that the proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the underlying district. The primary uses include residential, farm and forest uses.

This criterion seeks to assess and evaluate whether an urban use allowed by granting a UGB adjustment would adversely impact and be incompatible with nearby agricultural activities; and whether the use outweighs its impacts with justification dependent on the previous criteria. Based on the foregoing discussion and evaluation of the proposal, staff concludes that the use of this site for a middle school, as proposed by the district, clearly outweighs any adverse impact to the surrounding activities for the following reasons:

- The use of the subject site for a middle school is consistent with all local and regional plans, including a specific area plan for development of the adjacent urban area. It would facilitate needed development on the adjacent land within the UGB by providing for a school that is needed to accommodate the projected increase in students. It would also provide recreational and social needs of the increased population projected for the area. In the longer term, the school would also provide these amenities for the additional urbanization of the area immediately west of the site, which has been designated as an urban reserve.
- The site and school can be served with public facilities and services in an orderly, economic and timely manner according to all service providers. Further, extension of sewer service to the site will help improve efficiency of the existing system that serves the adjacent urban area within the UGB by changing to a gravity system.
- Environmental, energy and social consequences of the proposal would be positive. The school would be within one mile of 45% of the student population, as well as within approximately .25 miles of a planned primary school site, as identified in the Tanner Basin Master Plan. A middle school would yield educational and increased recreational opportunities, thus providing improved social benefits to area residents.
- The existing zoning on the subject property allows a school as a conditional use. The criteria for this use must be met before the county issues permits. Based on information from the county and the district's conditional use permit application, staff believes the proposed middle school would be compatible with nearby tree farming and cattle grazing.

For the above reasons, staff concludes that this criterion is satisfied.

7. An addition of land to make the UGB coterminous with the nearest property lines may be approved without consideration of the other conditions in this subsection if the adjustment will add a total of two gross acres or less, the adjustment would not be clearly inconsistent with any

of the factors in subsection (c) this section, and the adjustment includes all contiguous lots divided by the existing UGB. [3.01.35(f)(1)]

The petition is for 17.34 acres which is greater than the 2 acre or less threshold and, therefore, this criterion does not apply.

8. For all other locations, the proposed UGB must be superior to the UGB as presently located based on a consideration of the factors in subsection (c) if this section. [3.01.35(f)(2)]

The petitioner states that the proposed amendment is an improvement to the current UGB due to four reasons:

1. *Public facilities and services, including schools, will be more efficiently provided to land within the UGB if the school is brought into the UGB and annexed to West Linn.*
2. *Developing a middle school at the site is consistent with acknowledged local plans.*
3. *The environmental, energy, economic and social consequences of the proposal will be positive.*
4. *Agricultural or forest land will not be affected by the proposal.*

The school district conducted a site selection process to determine the location for new schools. The first two parts of the process identified attendance areas and ideal locations for schools within those areas. The third step involved a site specific search and included consideration of five locations for middle schools within the northern attendance area. Based on the district's adopted site selection process, only Site 5 met the criteria. Site 5 includes the 4.5 acres along Day Road plus the 17.34 acres of land, which is the subject of this application.

Based on the petitioner's submittal, information obtained from county staff and service providers, and site visits, staff agrees with statements 1 through 4 above. The district's site selection process, which resulted in identifying Site 5 as the only feasible one, is outlined in the district's application to the city and county for a conditional use permit for the middle school. Staff conducted site visits to all five sites and confirms the district's observations. Any other site outside the UGB would not have the advantage of using the 4.5 acres inside the UGB along Day Road for nearly all of the public facilities.

Staff conducted an independent vacant land analysis of property within the city. Follow-up visits were conducted to observe site characteristics. The analysis shows six locations that are buildable and greater than 10 acres within the entire city (Attachment E). Sites A and B are the only ones inside the district's identified northern attendance area for middle schools. Site A, identified as Site 4 in the district study, is a 10-acre park. Surrounded by residential development, it does not meet the district size criteria. Site B, identified as Site 2 in the district study, consists of four tax lots in different ownership and has about 11 acres of developable land. This site does not meet district size criteria. Sites C, D, E and F are located outside the district's identified attendance area. Site C, approximately 16 acres, is proposed for a residential subdivision. Site D, with about 8.5 developable acres, is located at the top of a hill and has poor accessibility for a school use. Site E and F, containing about 12 and 18 developable acres respectively, are located at the southwest end of West Linn and not feasible to serve the district's northern middle school attendance area.

Based on the information contained in Criteria 2, 3, 4 and 6, staff concludes that this site for a needed middle school is better than any other site within the district attendance area, inside or outside the UGB. This criterion is satisfied.

9. The proposed UGB amendment must include all similarly situated contiguous land which could also be appropriately included within the UGB as an addition based on the factors above. [3.01.35(f)(3)]

The petitioner states that the remainder of the 55.18-acre parcel is not included in this proposal because the school district only needs approximately 20 acres for the new school site, provision of services to the other 37.84 acres is limited by site conditions, the adjacent sites are not in the same ownership, and the site corresponds to the Tanner Basin Plan designation for a school site.

Staff agrees that contiguous land to the proposed site is not appropriate for inclusion with this proposal. The district's size criterion for middle schools, included under Policy 6 of the Long Range School Facilities Plan, is 17-22 acres. This is consistent with the petitioner's request for limiting the proposed UGB adjustment to the 17.34 acres, which when added to the 4.5 acres within the UGB equals 21.84 acres for the entire school site.

In addition to the facts cited by the petitioner, staff notes another reason for not including contiguous land. The site is part of Urban Reserve Site 30 which will eventually be included within the UGB. Any proposal to add more than 20 acres to the UGB, however, must include an Urban Reserve Plan. This plan must address several issues including but not limited to: Provision of minimum residential densities and diversity of housing; provision for commercial and industrial development needs; a transportation plan; public facilities and services plan; school plan; and general locations of roads, housing, commercial and industrial land, open space and public facilities. The current petition does not address these issues, except the school plan, because 17.34 acres is all the land that is being proposed for addition to the UGB. This petition could not appropriately include additional land (greater than 20 acres) based on the above locational adjustment criteria.

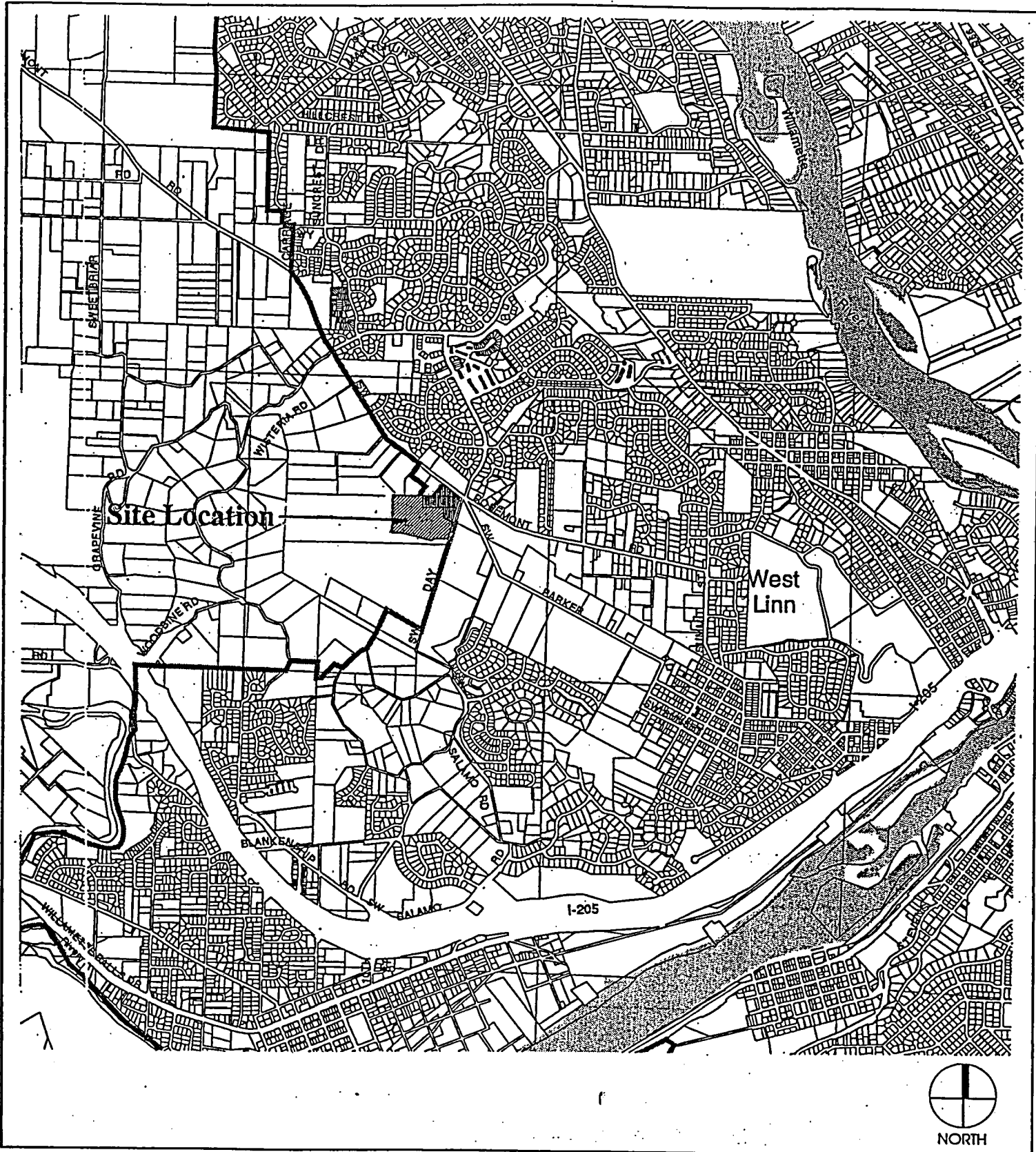
SECTION V: SUMMARY AND RECOMMENDATION

This petition seeks to bring 17.34 acres of land into the UGB for the purpose of siting a new middle school. The service provision, land use efficiency and site impact issues of this petition meet the criteria. Moreover, the petitioner has made a good case that the proposed UGB is superior to the existing one for two reasons: There would be a net improvement in efficiency for public facilities and services, especially for public education, recreation facilities and sewer service; and the subject site is the best one for locating a new middle school based on district criteria and the alternative site selection study.

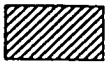

Criterion 5, Retention of Agricultural Land, is not applicable because the subject site is not identified as exclusive farm or forest land in the county comprehensive plan. The county was granted a statewide goal exception for the land and has designated it for rural residential development. While farm and forest uses are allowed, the county's goal for the Rural designation is use as a buffer between urban uses and agricultural or forest uses. Compatibility of the proposed use with nearby agricultural activities (Criterion 6) has been adequately demonstrated. A school is allowed as a conditional use in the zone district, given that it meets county siting criteria. The county must make a finding that the proposed use would not substantially alter the character of the surrounding area. There is no evidence for Metro staff, however, to conclude that a school use at this site would not be compatible with neighboring Christmas tree farms and cattle grazing. This is based on existing zoning, the character of the area and the submitted conditional use application by the district.

Staff concludes that the proposed UGB adjustment is superior to the UGB as presently located based on consideration of the above criteria. The construction of two new middle schools is needed, according to the district, to accommodate the projected increase in students by 2010. Locations for new schools in the area is severely limited, based on alternative site selection studies. Expansion of the UGB at the subject location would accommodate the district's needs while contributing to the provision of public facilities and services in an efficient manner.

If the Hearings Officer recommends approval of this petition to the Metro Council, staff recommends placing the following condition on the decision: The subject site must be developed with a school use. The petitioner's case was made based on the siting of a middle school. The justification for adjusting the UGB is contingent upon the demonstrated need for land to locate a new school. Staff analyzed the request based on this assumption and concludes that the petitioner has demonstrated this need.



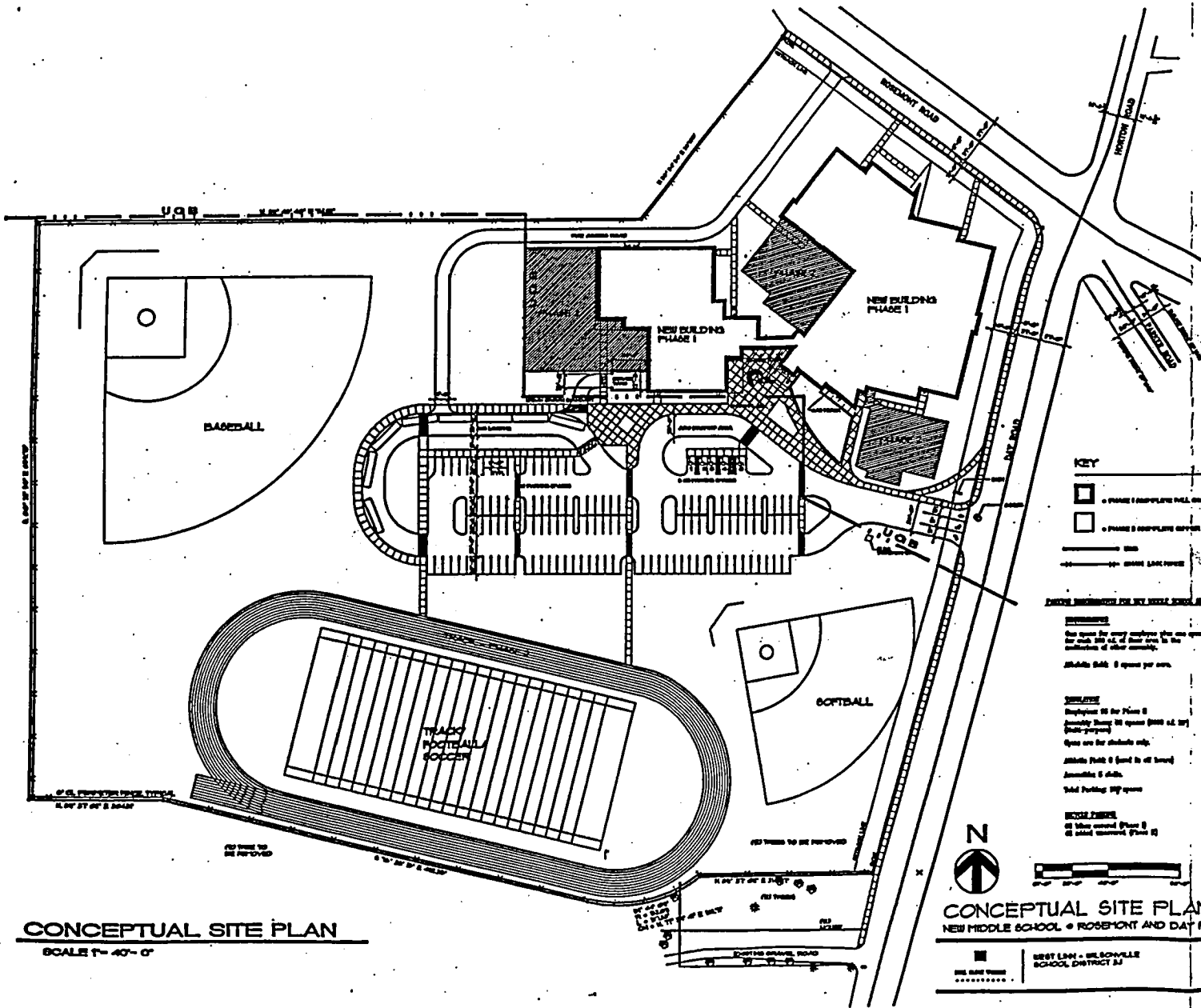
LEGEND

-  Site Location
-  UGB

Source: Malro

MM
 McKeever/Morris, Inc.
 722 S. W. Second Avenue
 Suite 400
 Portland, Oregon 97204
 (503) 228-7152
 fax (503) 228-7165

Figure 1.
 Vicinity Map
 Locational Adjustment Application
 City of West Linn



CONCEPTUAL SITE PLAN
SCALE 1"=40'-0"

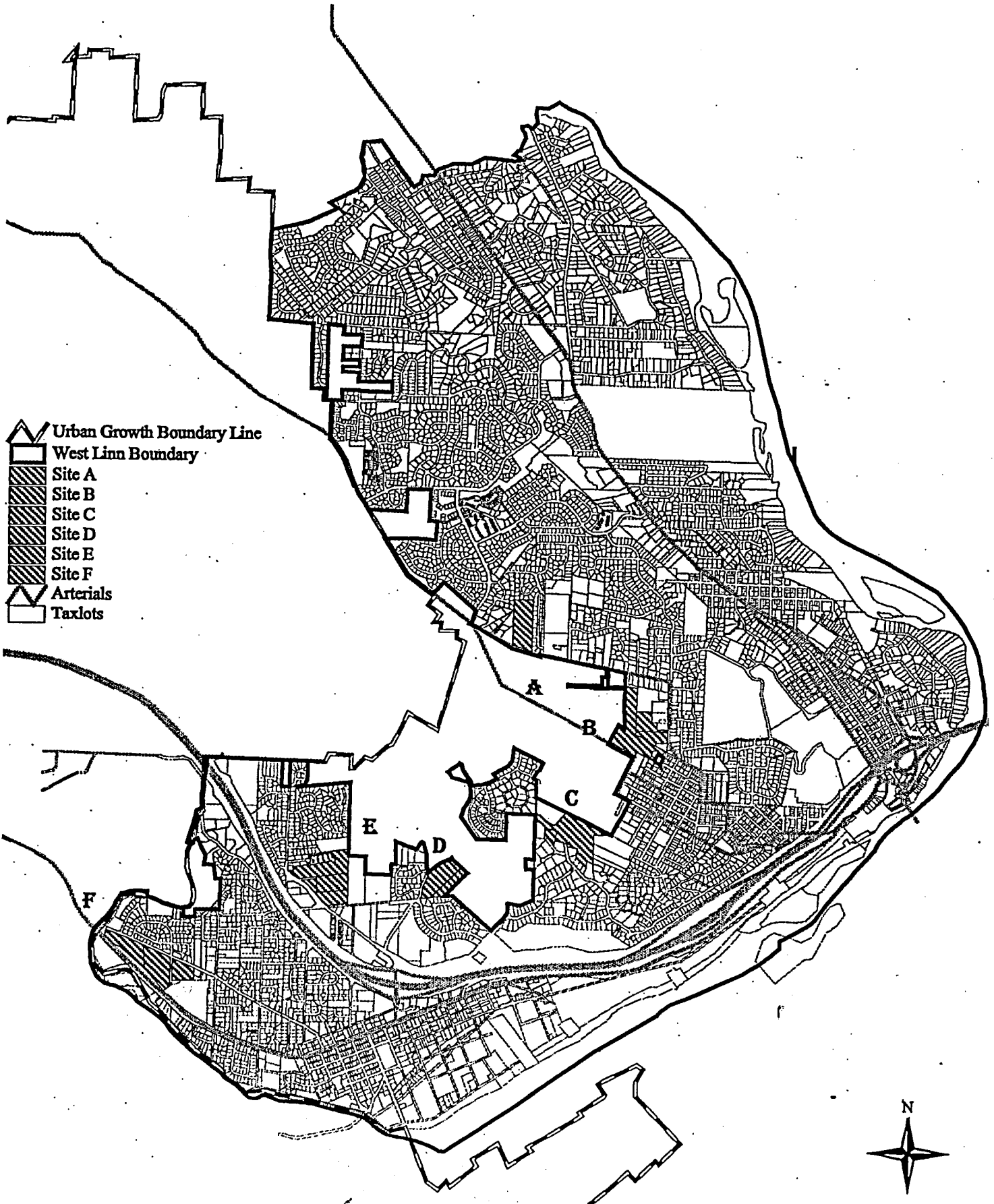
N

CONCEPTUAL SITE PLAN
NEW MIDDLE SCHOOL - ROSEMONT AND DAY ROADS, WEST LINN OREGON

 WEST LINN - WILSONVILLE SCHOOL DISTRICT #1	 EXHIBIT C
---------------------------------------------------	---------------

West Linn -- Large Vacant Areas





June 3, 1997



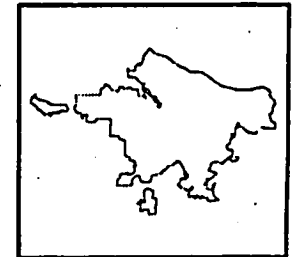
Regional Land Information System

Urban Reserves Tax Lot Boundaries

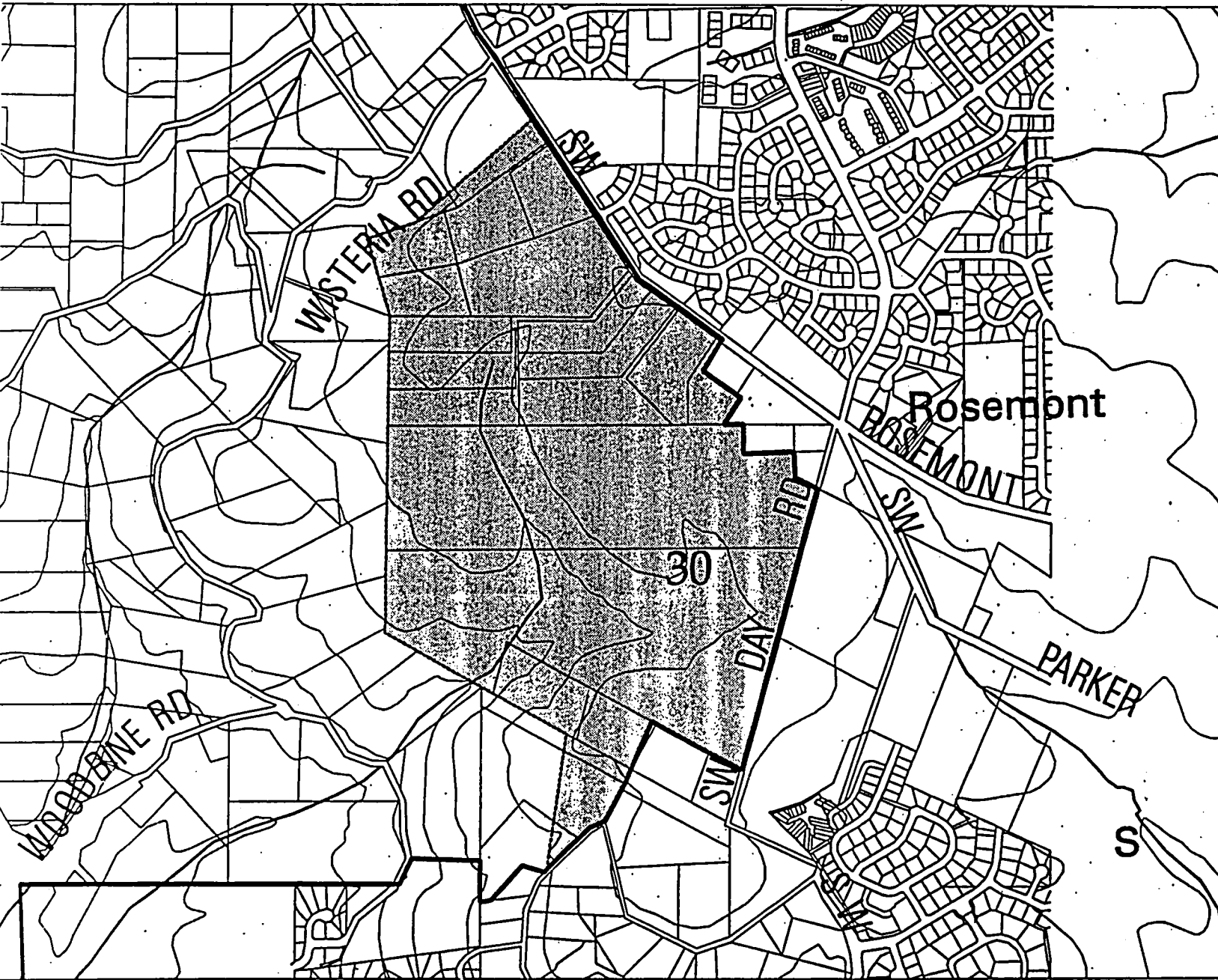
Staff Recommendation
2-3-97

-  Designated Urban Reserves
-  Resource Lands within Urban Reserves
-  Modified Urban Reserve Boundaries
-  Urban Growth Boundary

MAP #30



609 NE Grand Ave
 Portland, OR 97232-2734
 (503) 778-2762



95-418/plm/strw/aml, plot date: February 24, 1997



BEFORE THE METROPOLITAN SERVICE DISTRICT
(METRO)

JUL 11 1997

In the Matter of the Petition of the CITY)
OF WEST LINN for a locational)
adjustment to the Urban Growth)
Boundary (UGB))
)

Contested Case # 97 -1
REPORT AND
RECOMMENDATION OF THE
HEARING OFFICER

I. Nature of the Case

This is a petition by the CITY OF WEST LINN (Petitioner) to add approximately 17.34 acres to the area within the Urban Growth Boundary. The land is along the western boundary of West Linn, adjacent to and west of Day Road near (in southwesterly direction) the intersection of Day, Rosemont and Parker Roads. It is the eastern portion of a 55.18-acre parcel (Tax Lot 200 of Map No.2 IE 26). Zoned for rural residential, the site contains a single family residence and several accessory buildings. Most of the site is currently used as pasture for cattle.

The subject site is within Urban Reserve Site 30, one of several land reserves the Metro Council designated for eventual inclusion into the urban growth boundary (UGB). This reserve has not been designated a first tier site and will not be among the first ones for inclusion into the UGB.

Proposal Description: The petitioner proposes to adjust the UGB to include this 17.34-acre portion of land for the purpose of accommodating a new middle school for the West Linn-Wilsonville School District. In addition to this land, the district plans on using 4.5 acres of land located immediately northeast of the site and within the UGB for the school buildings. After searching for a middle school site entirely within the UGB which meets the district's standard of 17-22 acres, the city and school district concluded that there is a lack of suitable sites in the attendance area.

The subject property is part of the Tanner Basin Master Plan area. The plan was developed jointly

by the City of West Linn and Clackamas County and is part of their comprehensive plans. It applies to the mostly unincorporated land located east of Day Road, all of which is within the existing UGB. In part, the plan addresses the need for schools to accommodate the projected residential growth in the area. The plan identifies a potential site for a middle school near the intersection of Rosemont and Day roads. The petitioner states that additional acreage is needed, however, to site the school. The middle school would serve the future needs of the Tanner Basin as well as the existing and projected development within the district's northern attendance area, which includes north West Linn and some unincorporated land outside the UGB west of Rosemont and Day roads.

The school district plans to construct the two middle school buildings on 4.5 acres of land adjacent to the subject site within the UGB. An application for a conditional use permit to construct the school buildings and related facilities were submitted during May of 1997 to Clackamas County and West Linn simultaneously. The RRRFF-5 zone allows schools as a conditional use. The target date for school opening has been set by the district for September 1998.

Petitioner states that if the petition is approved, they will seek annexation to Lake Oswego. Maps showing the land areas attached to the March 31, 1997 Locational Adjustment petition and reproduced in the Staff Report. The legal description of the land is:

Tax Lot 200 of Map 2 1E 26

II. Proceedings and Record

On June 17, 1997, beginning at 7 p.m. following publication and mailing of a notice to property owners who were identified by Petitioner or the hearings officer as living within 250 feet of the proposed addition area, the hearings officer held a hearing on the petition at West Linn City Hall. Approximately 5 witnesses testified for and against the petition.

At the close of the June 17 hearing, the hearings officer left the record open until 5 p.m. on June

25th, at the request of Jeffrey Seymour, attorney for Curtis Hunter. All additional evidence or memoranda were to be submitted to Jeff Valone at Metro and date and time stamped. Nothing received after 5pm on June 25th was to be considered. Once the record was kept open all the participants were given the option of adding to the record in order to strengthen their cases based on the testimony received at the hearing.

The following documents either are a part of Metro's public file in this matter, were introduced at the public hearing or were submitted by 5 p.m. on June 25th following the hearing pursuant to the hearings officer's ruling on late evidence:

- Exhibit 1: *Locational Adjustment, Prepared for the City of West Linn and the West Linn-Wilsonville School District (March 31, 1997)*
- Exhibit 2: Letter from Clackamas County from Douglas McClain, confirming county's original position concerning service provision.
- Exhibit 3: Copy of minutes from West Linn City Council special session of March 3, 1997, concerning approval of school district request to extend water to the portion of the proposed middle school site within the UGB.
- Exhibit 4: Letters from West Linn (Scott Burgess and Joe Schiewe) confirming city's original position concerning service provision.
- Exhibit 5: *Tanner Basin Master Plan (October 1991)*
- Exhibit 6: *West Linn Middle School Transportation Impact Study, DKS Associates (February 24, 1997)*
- Exhibit 7: Locational Adjustment Petition supplemental findings, McKeever/Morris, Inc. (June 3, 1997)
- Exhibit 8: Sign-up sheet for testimony at June 17, 1997 hearing
- Exhibit 9: Letter of Responses to Comments from McKeever/Morris, Inc., representing petitioner (June 25, 1997); and copy of *Conditional Use Petition, Prepared for Clackamas County and the West Linn-Wilsonville School District (May 23, 1997)*
- Exhibit 10: STAFF REPORT TO THE HEARINGS OFFICER OF METRO (June 17, 1997)

- Exhibit 11: Letter from Kent Seida to Roger Woehl, with attachments (June 19, 1997)
- Exhibit 12: Letter from Robert Thomas (June 24, 1997)
- Exhibit 13: Letter and Exhibits from Jeffrey Seymour on behalf of Curtis Hunter (June 17th, 1997 and submitted at the hearing. Exhibits related to Notice of Pendency of Action between Curtis Hunter and West Linn - Wilsonville School District)
- Exhibit 14: Letter from Jeffrey Seymour dated June 25, 1997, but faxed to the Hearing Officer on June 27, 1997.
- Exhibit 15: An Archaeological Survey of a Proposed Middle School Location Near West Linn, Oregon, Report No, 1996, David V. Ellis, MPA and Eric E. Forgens, MA (October 11, 1996) received June 24, 1997.
- Exhibit 16: Videotape of the June 17th, 1997 Hearing

The noticing requirements for the proposed UGB locational adjustment, Case 97-1: West Linn, were fulfilled in the following manner:

- Notice of the proposal was given to the Department of Land Conservation & Development (DLCD) on May 5, 1997, using the Department's form; and a copy of the proposal was included with the form. These submittals were received by DLCD on May 6, 1997.
- Notices of the Hearings Officer hearing were mailed on May 28, 1997, to persons designated in Metro Code 3.01.050.
- Notices of the Hearings Officer hearing appeared in The Oregonian and the West Linn Tidings on June 5, 1997.

IV. Legal Framework

In 1981, Metro first adopted Ordinance No. 81-105, which established procedures and criteria for review of proposed "locational adjustments" to the UGB. The purpose of the ordinance was to provide a method for allowing relatively minor UGB amendments in a manner consistent with UGB amendment requirements established by the Oregon Land Conservation and Development Commission.

LCDC's UGB amendment requirements are contained in Goals 14 (Urbanization) and 2 (Land Use Planning).

The pertinent portions of Goal 14 state:

"14. URBANIZATION

"GOAL: To provide for an orderly and efficient transition from rural to urban land use.

"Urban growth boundaries shall be established to identify and separate urbanizable land from rural land.

Establishment and change of the boundaries shall be based upon consideration of the following factors:

- (1) Demonstrated need to accommodate long-range urban population growth requirements consistent with LCDC goals;
- (2) Need for housing, employment opportunities, and livability;
- (3) Orderly and economic provision for public facilities and services;
- (4) Maximum efficiency of land uses within and on the fringe of the existing urban area;
- (5) Environmental, energy, economic and social consequences;
- (6) Retention of agricultural land as defined, with Class I being the highest priority for retention and Class VI the lowest priority; and,
- (7) Compatibility of the proposed urban uses with nearby agricultural activities.

The results of the above considerations shall be included in the comprehensive plan. In the case of a change of a boundary, a governing body proposing such change in the boundary separating urbanizable land from rural land, shall follow the procedures and requirements as set forth in the Land Use Planning Goal (Goal 2) for goal exceptions.

Land within [the UGB] shall be considered available over time for urban uses. Conversion of urbanizable land to urban uses shall be based on consideration of:

- (1) Orderly, economic provision for public facilities and services;
- (2) Availability of sufficient land for the various uses to insure choices in the market place;
- (3) LCDC goals; and,
- (4) Encouragement of development within urban areas before conversion of urbanizable areas."

Goal 2, Land Use Planning, contains "Exceptions" requirements, which are the requirements that Goal 14 specifies must be met for UGB amendment. In 1983, however, the Oregon Legislature adopted ORS 197.732, which itself establishes "exceptions" requirements. Since then, LCDC has incorporated these requirements in OAR 660-04-010(c)(B). That regulation states in pertinent part:

"Revised findings and reasons in support of an amendment to an established urban growth boundary shall demonstrate compliance with the seven factors of Goal 14 and demonstrate that the following standards are met:

- (i) Reasons justify why the state policy embodied in the applicable goals should not apply (This factor can be satisfied by compliance with the seven factors of Goal 14);
- (ii) Areas which do not require a new exception cannot reasonably accommodate the use;
- (iii) The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and
- (iv) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts."

Metro adopted standards for evaluating locational adjustments adding land to the UGB, contained in Metro Code Section 3.01.035 (Ordinance No.92-450A, Sec 1) incorporating relevant portions of statewide goals 2 and 14. as follows:

(b) All locational adjustment additions and administrative adjustments for any one year shall not exceed 100 net acres and no individual locational adjustment shall exceed 20 net acres. Natural areas adjustments shall not be included in the annual total of 100 acres and shall not be limited to 20 acres, except as specified in 3.01.035(g), below.

(c) All petitions for locational adjustments except natural area petitions shall meet the following criteria:

- (1) Orderly and economic provision of public facilities and services. A locational adjustment shall result in a net improvement in the efficiency of public facilities and services, including but not limited to, water, sewerage, storm drainage, transportation, parks and open space in the adjoining areas within the UGB. Any area to be added must be capable of being served in an orderly and economical fashion.
- (2) Maximum efficiency of land uses. The amendment shall facilitate needed development on adjacent existing urban land. Needed development, for the purposes of this section, shall mean consistent with the local comprehensive plan and/or applicable regional plans.
- (3) Environmental, energy, economic and social consequences. Any impact on regional transit corridor development must be positive and any limitations imposed by the presence of hazard or resource lands must be addressed.
- (4) Retention of agricultural land. When a petition includes land with Agricultural Class I-IV soils designated in the applicable comprehensive plan for farm or forest use, the petition shall not be approved unless it is factually demonstrated that:
 - (A) Retention of any agricultural land would preclude urbanization of an adjacent area already inside the UGB, or
 - (B) Retention of the agricultural land would make the provision of urban services to an adjacent area inside the UGB impracticable.

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

(d) Petitions for locational adjustments to remove land from the UGB may be approved under the following conditions:

- (1) Consideration of the factors in section 3.01.035(c) demonstrate that it is appropriate the land be excluded from the UGB.
- (2) The land is not needed to avoid short-term urban land shortages for the district and any long-term urban land shortage that may result can reasonably be expected to be alleviated through the addition of urban land in an appropriate location elsewhere in the region.
- (3) Removals should not be granted if existing or planned capacity of major facilities such as sewerage, water and transportation facilities will thereby be significantly under-utilized.

(e) A petition for a locational adjustment to remove land from the UGB in one location and add land to the UGB in another location (trades) may be approved if it meets the following criteria:

- (1) The requirements of paragraph 3.01.035(c) (4) are met.
- (2) The net amount of vacant land proposed to be added may not exceed 20 acres; nor may the net amount of vacant land removed exceed 20 acres.
- (3) The land proposed to be added is more suitable for urbanization than the land to be removed, based on a consideration of each of factors of section 3.01.035(c) (1-3 and 5) of this chapter.

(f) Petitions for locational adjustments to add land to the UGB may be approved under the following conditions:

- (1) An addition of land to make the UGB coterminous with the nearest property lines may be approved without consideration of the other conditions in this subsection if the adjustment will add a total of two gross acres or less, the adjustment would not be clearly inconsistent with any of the factors in subsection (c) this section, and the adjustment includes all contiguous lots divided by the existing UGB.
- (2) For all other additions, the proposed UGB must be superior to the UGB as presently located based on a consideration of the factors in subsection (c) of this section.
- (3) The proposed UGB amendment must include all similarly situated contiguous land which could also be appropriately included within the UGB as an add-on based on the factors above.

- (g) All natural area petitions for locational adjustments must meet the following conditions:
- (1) Any natural area locational adjustment petition shall be proposed at the initiative of the property owner, with concurrence from the agency proposed to accept the land.
 - (2) At least 50 percent of the land area in the petition, and all land in excess of 40 acres, shall be owned by or donated to a county, city, parks district or the district, in its natural state, without mining, logging or other extraction of natural resources, or alteration of water-courses, water bodies or wetlands.
 - (3) Any developable portion of the lands included in the petition, not designated as a natural area, shall not exceed twenty acres and shall lie between the existing UGB and the area to be donated.
 - (4) The natural area portion owned by or to be donated to a county, city, parks district, or the district must be identified in a city or county comprehensive plan as open space or natural area or equivalent, or in the district's natural areas and open space inventory.
 - (5) The developable portion of the petition shall meet the criteria set out in parts (b), (c) (1), (c) (2) and (c) (3) of section 3.01.035.

V. Hearing and Discussion

The June 17th, 1997 Hearing was videotaped and is marked as Exhibit #16 in the record. After the Hearing Officer reviewed the process and rights of parties, Ray Valone of the METRO staff introduced the Petition, the location and the staff report (Exhibit # 15) recommending approval of the locational adjustment, with the condition that the site must be developed with a school use. A key part of his and the petitioner's testimony related to looking for other appropriate school sites within this attendance area. He confirmed that Metro staff verified the petitioner's search for a vacant and relatively flat twenty acre site within the UGB that was not already committed to another school, and found none other.

Jill Horne, Mayor of West Linn testified that the Petition is in compliance with the West Linn and Clackamas County Comprehensive Plans, that all services can be provided, and that the Tanner Basin Master Plan provides for a school at this site. Keith Liden, the petitioner's consultant testified that he agreed with the findings and recommendations of the staff report. The site selection was consistent with the Tanner Basin Master Plan and the long range school facilities

master plan. Selecting a school site involved identifying an efficient attendance areas and an ideal school location. In West Linn terrain is a key issue, because of slopes. This area is ideal for a school site because of its relative flatness. The site plan dictates where it is.

Attorney Jeffrey Seymour representing Curtis Hunter (See Exhibits #13 & #14) testified that there are two different law suits affecting this site which " show a significant cloud on the district's title and right to the property." He requested that the district's Petition be denied pending the resolution of the above litigation. As the petitioner correctly responds (See Exhibit #9) the petitioner in this case is the City of West Linn and not the school district and schools title is not relevant to this matter, except as to its subsequent ability to meet the proposed condition of approval relating to the use of this site for school purposes. The school denies there is a cloud on title. In any event, the title may be an issue in the district's conditional use application for the middle school, but is not relevant to the City of West Linn's standing to apply for a locational adjustment of an area adjoining the City and Mr. Seymour provides no authority or legal analysis to the contrary.

Mr. Seymour than raised arguments based on the approval criteria. On Criteria #2 he asserted that there is not enough water. As evidence he cites that an unnamed, but major developer had to construct a reservoir, that a building moratorium is being considered in the Horton and Rosemont pressure zones, that unspecified tort claim notice was being served on the City due to lack of water and that Boundary Commission laws are being violated by sewer and water construction outside the city limits. The petitioner responds that the Boundary Commission considers extraterritorial extension of water service after land use approvals. The Hearing Officer notes that the relevant water service providers have stated that water is available and that the remainder of the assertions are speculative opinions unsupported by any evidence in the record or specific references to public documents. As this is a quasi-judicial proceeding, I find that there is no basis on which to dispute specific testimony and comments from the City of West Linn that water is available for the proposed school.

The second point is that the school district plans will alter natural storm water runoff and drainage

in violation of an unspecified law. The petitioner rebuts by saying that the storm drainage system will comply with applicable city and county ordinances and the specific plans can be considered and modified during the conditional use process. The Hearing Officer agrees that this is a matter for a conditional use or site plan review.

On criteria # 3, Mr. Seymour alleges that various Intergovernmental Agreement between the county, the city and school district requiring close coordination between have been violated. Again no evidence is introduced for this opinion, and the Hearing Officers, notes close cooperation on this Petition.

On criteria #4 Mr. Seymour alleges American Indian artifacts on the site. The archeology report, Exhibit #15 recommends that to assure compliance with Oregon statutes there should be systematic excavation of site 35CL225 (See Figure 11) which is on the western end of this site. ORS 97.745 requires halt in construction and notification of state and Indian parties if burial or suspected burial grounds are encountered during construction. Again this is at best a conditional use or a building permit issue.

On criteria # 6 Mr. Seymour's argument is with the accuracy of staff's sloping description for the site, but the relevance of this argument remains a mystery to the Hearing Officer.

On criteria # 8 Mr. Seymour makes an argument that the area across Day Rd. is superior, and that the staff did not accurately describe its sloping. In his testimony Mr. Seymour offered that the school district has not come up with a reason for not choosing the east of Day Rd. site within the urban growth boundary. The significance of that argument is not clear to the Hearing Officer. The Officer notes from his site visit the area east of Day Rd. has greater sloping than the proposed area, see also the slope contours on Figures 5 & 6 of the Petition, showing much sharper sloping to the east and towards Parker Rd. The Officer further notes that the Tanner Basin Master Plan designates the proposed area for the middle school, and that area east of Day Rd would be adjacent to proposed elementary school. Mr. Seymour also alleges conflict of interest by Mr. Sam Nutt, who has an ownership interest in the east of Day Rd. lot and is

allegedly the school district business manager. The Hearing Officer finds that this school site is being proposed by the City of West Linn and that Metro staff independently determined that there are no other sites within the UGB which can serve this attendance area and which meet the requisite school site criteria and finally that the Tanner Basin Master Plan has also designated this site almost 10 years ago.

Mr. Robert Thomas testified next and submitted additional written comments (Exhibit # 12). He made several points. One that letting the school in is just a foot in the door before the entire Urban Reserve area becomes urbanized. Two, that the City of West Linn is in the throws of a water delivery crisis. In his open record submission he alleges that it is "very premature to build a middle school at this site or any other nearby site because it was originally intended to primarily serve new developments in Tanner Basin, which is less than 20% built out." He also alleges that there is now inadequate infrastructure therefore it is very expensive to provide the needed utilities and roads for this site. He also raises the issue of school ownership of the Dollar Street site within the UGB, which he maintains is flatter and generally superior. Mr. Thomas then lunches into a long discussion about motives of various people and their machinations to expand the UGB, which even if true are not connected to any of the approval criteria upon which I need to make this decision. He alleges, without demonstrating that the Dollar Street site would be less expensive to develop for school and alleges all sorts of undue motivation for the choice of the Day Rd. site, including incidently that it would aid in the development of properties of certain individuals. While the consequences that Mr. Thomas adduces may be true, the Officer notes that Tanner Basin Master Plan envisaged other developments on some of the lands identified and that it projected the school site where it is being proposed. The Tanner Basin Master Plan had been incorporated into various City and County plans, and it is not the Hearing Officer's job to dissemble it or second guess the motives behind the infrastructure placement or finance strategy adopted therein. Even if everything Mr. Thomas alleges is true, it is not illegitimate for a municipal government to plan its developments or infrastructure in a manner calculated to aid the completion of said Master Plan (see page 24 - Of the Conditional Use Application - Ex. #9). The Tanner Basin Plan is a given, and the only relevant issue raised is whether this use can be accommodated within the UGB. The record in Appendix A of the Conditional Use Application

(Ex. #9) covers the same locational choice issues as have been raised in this case and the Hearing Officer finds that the selection of this site is consistent with the locational adjustment criteria as shown in the findings below.

In his rebuttal at the hearing, John Jackley responded that there is no moratorium on water, and that a hearing on water availability is scheduled and that the condition of approval relating to school use of the property requires a conditional use approval demonstrating availability of water. The City has an interim arrangement to assure water for the site. All of the schools are now at or over capacity. Other sites that the school may have are also needed for other facilities. Other available properties of this size are steeper. Tanner Basin Master Plan supports this site. Eventual location and nature of Parker Rd. would make east of Day Rd. site difficult. Schools have to go through a Conditional Use and Site Plan Review before Clackamas County and the City of West Linn. Site selection process as well criteria for choosing a school site are relevant to the conditional use applications and are presented in the Appendix A of the Conditional Use Application (Exhibit 9 of this record) showing that the subject site is the most suitable available.

VI. Findings

The criteria for a locational adjustment to the UGB are contained in Metro Code 3.01.35 and are met by the petitioner, as follows:

1. **Locational adjustments shall not exceed 20 net acres. [3.01.35(b)]** The petition is for 17.34 acres which is less than the 20 acre maximum allowed, and under 100 acres per year.
2. **Orderly and economic provision of public facilities and services. A locational adjustment shall result in a net improvement in the efficiency of public facilities and services, including but not limited to water, sewerage, storm drainage, transportation, parks and open space in the adjoining areas within the UGB. Any area to be added must be capable of being served in an orderly and economical fashion. [3.01 .35(c)(1)]**

The petitioner states that the adjustment is needed to provide a public service to the community. Although the school will make demands on public facilities and services, it will provide important educational needs and recreational opportunities. As discussed in the Petition on pages 19-20, the petitioner states that the public facilities and services have adequate capacity to serve the new school by the scheduled date of opening in September of 1998. The petitioner's submittal includes completed forms signed in March 1996 by the potential service provide~ for the school site. The following list is a summary of service provider information based on the forms and other submittal documents.

- Water - The City of West Linn signed a statement that existing water lines, including a 16" line in Rosemont Road and a 12" line in Day Road, are adequate to serve the proposed school. To support the school district's conditional use permit applications, the West Linn City Council adopted a motion on March 3, 1997, to approve a request by the school district to extend city water to the portion of the proposed school site outside the city limits but inside the UGB. In exchange, the district agrees to waive its right to remonstrate against annexation to the city, and prior to receiving occupancy permits, the district must annex the middle school property to the city. The approval of the extra-territorial extension of water is subject to approval by the Portland Metropolitan Area Local Government Boundary Commission.

- Sewerage - The city signed a statement that providing sewer to the site would allow the adjacent urban areas to be served more efficiently because it would allow the city to remove a temporary pump station from service and switch to a gravity system. The school's sanitary waste will be discharged into a new Parker Road line. Extension of the sewer line to the school will provide an important segment of the system that will enable the pump station to be retired and the gravity system introduced. This change will enhance the efficiency of the system.

- Storm drainage - The city signed a statement that the storm drain system requirements can be met completely on site. The water will be collected from the site and piped to the southwest to the existing drainage swale on the subject property. Before discharge, the water will be detained and treated pursuant to county requirements.

● Transportation - The city signed a statement that Rosemont and Day roads provide the necessary transportation needs of the proposed school. The petition states that Rosemont Road, Day Road, Parker Road and Santa Anita Drive are planned to be improved. The improvements include widening the first three roads and adding bike lanes, curbs and sidewalks to all four roads. Improvements would be funded and constructed in conjunction with approved development along these roadways. A transportation impact study, conducted by DKS Associates (February 24, 1997), concludes that the school project would not significantly affect operating conditions on the surrounding roads and does not require any capacity improvements. Transit service is not available in the site area, however, the city is negotiating to have bus service for the Tanner Basin area in the future.

● Parks and Open Space - The school would provide additional recreational opportunities for the surrounding area, including playing fields and a running track. The school district has a policy to make such facilities available to the general public when they are not in use during school hours.

● Police Services - The city signed a statement that a middle school is included in its comprehensive plan for this area and for plans to provide adequate police service to serve the school and other adjacent areas inside the UGB.

● Fire/Emergency Services - The city signed a statement that fire and emergency services would be adequate to serve the site and that there would be no efficiency impact to do so. The Tanner Basin Plan identifies the need for a new fire station to be located near the intersection of Rosemont, Day and Parker roads. The city has appropriated funds to acquire the site and is actively working toward purchasing it.

● Public Education - The middle school will provide improved educational facilities for residents within the school district boundaries.

● Other Services - Portland General Electric, Northwest Natural Gas and US West have signed statements that they could adequately serve the site.

In addition to the site being capable of service in an orderly and economic fashion, the petitioner states that a net improvement in the efficiency of public facilities and services would be realized in the adjoining areas within the UGB. This is especially true for sewer service, transportation, parks and open space and public education.

Given the unrebutted information contained in the petitioner's submittal of March 31, 1997, and additional information obtained by staff it appears that the site is capable of being served in an orderly and economic fashion. Services are available and adequate to serve the site according to statements signed by all service providers in March of 1996. A letter was sent to these providers on May 6, 1997, requesting that they confirm or change their original statements. Replies have been received from the City of West Linn and Clackamas County confirming their 1996 statements.

The petitioner's claim that there would be a net improvement in efficiency seems to be valid for public education, recreation facilities and sewer service. It is less obvious that a net improvement in efficiency for adjoining areas would be realized for transportation. The petitioner states that whether the school is located here or not, the noted improvements will need to be made to the streets in the area to accommodate development that is currently planned within the UGB. If street improvements are needed to serve planned development within the UGB, it would seem that extension of the UGB and siting of a middle school could use up a portion of the capacity gained from the improvements. While the school district will likely be required to provide or contribute to road improvements along its frontage with Rosemont and Day roads this in itself would likely not offset the school's impact to the transportation system. The DKS traffic impact study, however, concluded that the school project would not affect operating conditions on surrounding roads or intersections. This study assumed that the intersection of Rosemont and Day roads would be realigned, as planned by the city, such that Parker Road approach is changed to align with Day Road south of the school site.

The petitioner has demonstrated that the subject site is capable of being served with public facilities and services in an orderly and economic manner, and that the adjustment would result in a net improvement in their efficiency. The Hearing Officer finds that this criterion is satisfied.

3. **Maximum efficiency of land uses.** The amendment shall facilitate needed development on adjacent existing urban land. Needed development, for the purposes of this section, shall mean consistent with the local comprehensive plan and/or applicable regional plans. [3.01 .35(c)(2)]

The petitioner states the middle school will serve the residential growth in the north West Linn area as well as the adjacent rural lands in Clackamas County. The proposed school is consistent with the Tanner Basin Master Plan, which was adopted by both the city and county. The county comprehensive plan currently designates the subject property and surrounding land as appropriate for rural residential development. This designation also allows schools as a conditional use.

Based on information from the petitioner and school district, the siting of a middle school at the subject location would facilitate the educational and recreational needs for an expanding urban population. The proposed school is consistent with the Tanner Basin Plan which will guide the development of the immediately surrounding area within the UGB. The school will help facilitate the additional development needed within West Linn to achieve the city's share of the regional housing target capacities contained in the Urban Growth Management Functional Plan. The functional plan was adopted in December of 1998 to implement the Regional Urban Growth Goals and Objectives (RUGGO), which were adopted by the Metro Council to guide the future urban form for the Portland metropolitan area.

Metro staff believes that the amendment will facilitate needed development on adjacent existing urban land for another reason. The siting of a new middle school is needed to accommodate the expected growth in the district's northern attendance area. The district conducted an alternative site analysis according to its adopted site selection criteria contained in the Long Range School Facilities Plan. Of the five alternative sites analyzed, only the one at the corner of Rosemont and Day roads, which includes the 17.34-acre proposal, meets the district's criteria. The proposed site is needed, therefore, to make the 4.5-acre site viable as a new middle school site.

For the above reasons, the Hearing Officer also finds that this criterion is satisfied.

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

The petitioner states that the subject site has been planned and is suitable for development, and it contains no environmentally sensitive resources or natural hazards. The school improvements would be located to the east and uphill of a stream that runs across tax lot 200. The siting of a school involves vehicle trips and therefore has an impact on air quality. This site would be located close to existing and future residential development minimizing the number and length of vehicle trips. Walking and bicycling opportunities would be improved after the planned street improvements are completed. The school would be within one mile of 45% of its students further enhancing bicycle and pedestrian opportunities..

The school has been included in all future development plans and will not require more service and facility capacity than will be needed for other area development. The school will, therefore, allow for more efficient utilization of constructed public facilities. By providing the educational needs and community center/recreational opportunities for the Rosemont Tanner Basin area of West Linn, the proposed amendment will have positive social consequences.

Consumption of energy and air quality impacts are inherent with development of any new school. The subject site, however, is located close to a significant percentage of the student population and will eventually serve new development within the Tanner Basin and Urban Reserve Site 30 areas. Because the school would be located within a short distance of much of the population it will serve, there will be a reduction in vehicle miles traveled and an increase in walking and bicycling to the site. This situation will have a beneficial impact on energy consumption and air quality.

Because the proposed site could be served by the planned improvements to facilities and services for other development without increasing capacity, and because the school would be located within one mile of 45% of the student population, there is likely an economic benefit to the public from locating the school at this site. The proposed school site would have a positive social impact for existing and future development in the area due to the educational needs and recreational opportunities it would provide.

The only transit corridor of regional significance is State Highway 43, located approximately one mile to the east of the site. There would be no impact to this corridor as a result of this boundary adjustment. Based on information from Clackamas County, the site does not have any environmental or cultural constraints to development.

For the above reasons, the Hearing Officer finds that this criterion is satisfied.

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

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

(B) Retention of the agricultural land would make the provision of urban services to an adjacent area inside the UGB impracticable. [3.01 .35(c)(4)]

The petitioner states that this criterion is not relevant because the property and surrounding land is designated for rural residential development in the Clackamas County Comprehensive Plan. While the site contains Class III soil, the county does not consider this land as prime farm or forest land. The county was granted an exception to Statewide Planning Goal 3 (Agricultural Lands) and Goal 4 (Forest Lands) for the land now designated Rural residential.

The comprehensive plan designation of Rural and zoning district of RRF-5 (Rural Residential Farm Forest-5) are intended primarily to maintain the character of rural areas and implement the goals and policies for residential uses in rural areas. Through its plan

goals and policies, the county makes a distinction between Rural designated land and Agriculture and Forest designated land. According to the Rural section of the comprehensive plan "Rural lands are those which are outside the Urban Growth Boundaries and are suitable for sparse settlement, small farms or acreage home sites with no or hardly any public services and which are not suitable, necessary or intended for urban, agriculture or forest uses. The first goal of this section of the plan is to provide a buffer between urban and agricultural or forest uses. In addition, schools are allowed as a conditional use in this zone district.

Metro Staff agrees that the subject site and surrounding parcels, being designated as Rural and RRFF-5, are not designated for exclusive farm or forest use. According to the plan, "This zone is applied to areas designated as Rural on the comprehensive plan map and which have a general parcel size of five acres; are affected by development; contain no serious natural hazards and the topography and soils, are suitable for development, and are easily accessible to a Rural Center or incorporated city". Primary uses allowed include, but are not limited to single-family dwellings, current employment for general farm uses, propagation or harvesting of a forest product, and parks, campgrounds and recreational grounds. Schools are allowed as a conditional use. Currently, the site has a single family residence with accessory buildings, and is being used as pasture land for cattle.

Since the subject site is not designated by the county comprehensive plan for exclusive farm or forest use, and the primary purpose of the zoning district is to provide for rural residential living, the Hearing Officer finds that this criterion is satisfied.

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

The petitioner states that Christmas tree farming and cattle grazing are the two agricultural activities in the area (Attachment C). The subject property and land to the south and

west are used as pasture for cattle. Christmas tree uses are to the northwest, south and east. Properties to the north are large acreage home sites with some tree farming. The tree farming to the northeast and east across Day Road is on land within the UGB, which is designated for urban development.

Conditional use applications for siting the school buildings on the 4.5 acres within the UGB have been submitted to the City of West Linn and Clackamas County. Though the Petition is not technically at issue for this UGB adjustment request it is included in the record, and the petitioner believes that it is related to the issue of compatibility of the proposed use with nearby agricultural activities. Based on the information in the conditional use permit application and site plan (Attachment D), the petitioner claims that the proposed adjustment is compatible with nearby tree farm and grazing uses in the following ways:

- The site plan locates school buildings on the land within the UGB adjacent to the subject site. The athletic fields and parking area are located to the south and west on the subject site. This plan is necessary due to the need to locate utilities, especially sewer, on the uphill portion of the site. Storm drain and detention facilities would be located on the subject site, which is sloping westward toward the stream.
- The state Transportation Planning Rule requires buildings to be located near public streets for easy pedestrian and bicycle access. Locating the school buildings away from streets would be contrary to these requirements.
- The athletic fields will provide excellent buffering between any agricultural activities and classroom activities. Due to security issues, a 6-foot high chain link fence will be installed which will eliminate any potential conflicts with adjoining property owners.
- A school is allowable as a conditional use in the RRFF-5 zone. The proposed school is consistent with the county's conditional use criteria. Further, the county does not have any specific requirements for non-resource uses to be compatible with farm or forest activities.

Based on air photo information and site visits staff and the Hearing Officer confirm that tree farming and grazing activities are taking place on the subject site and adjacent land. These uses are allowed by the county's RRF-5 zone district. Public and private schools are also allowed as conditional uses subject to special use requirements (Sections 805 and 808) as well as general conditional use criteria (Section 1203). The first set are basic locational, dimensional and parking requirements that are not relevant to this petition. The second set includes the criterion that the proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the underlying district. The primary uses include residential, farm and forest uses.

This criterion seeks to assess and evaluate whether an urban use allowed by granting a UGB adjustment would adversely impact and be incompatible with nearby agricultural activities; and whether the use outweighs its impacts with justification dependent on the previous criteria. Based on the foregoing discussion and evaluation of the proposal, staff concluded that the use of this site for a middle school, as proposed by the district, clearly outweighs any adverse impact to the surrounding activities for the following reasons:

- The use of the subject site for a middle school is consistent with all local and regional plans, including a specific area plan for development of the adjacent urban area. It would facilitate needed development on the adjacent land within the UGB by providing for a school that is needed to accommodate the projected increase in students. It would also provide recreational and social needs of the increased population projected for the area. In the longer term, the school would also provide these amenities for the additional urbanization of the area immediately west of the site, which has been designated as an urban reserve.
- The site and school can be served with public facilities and services in an orderly, economic and timely manner according to all service providers. Further, extension of sewer service to the site will help improve efficiency of the existing system that serves the adjacent urban area within the UGB by changing to a gravity system.

•Environmental, energy and social consequences of the proposal would be positive. The school would be within one mile of 45% of the student population, as well as within approximately .25 miles of a planned primary school site, as identified in the Tanner Basin Master Plan. A middle school would yield educational and increased recreational opportunities, thus providing improved social benefits to area residents.

•The existing zoning on the subject property allows a school as a conditional use. The criteria for this use must be met before the county issues permits. Based on information from the county and the district's conditional use permit application, the proposed middle school would be compatible with nearby tree farming and cattle grazing.

For the above reasons, the Hearing Officer finds that this criterion is satisfied.

7. An addition of land to make the UGB coterminous with the nearest property lines may be approved without consideration of the other conditions in this subsection if the adjustment will add a total of two gross acres or less, the adjustment would not be clearly inconsistent with any of the factors in subsection (c) this section, and the adjustment includes all contiguous lots divided by the existing UGB. [3.01 .35(f)(1)]

The petition is for 17.34 acres which is greater than the 2 acre or less threshold and, therefore, this criterion does not apply.

8. For all other locations, the proposed UGB must be superior to the UGB as presently located based on a consideration of the factors in subsection (c) if this section. [3.01 .35(f)(2)]

The petitioner states that the proposed amendment is an improvement to the current UGB due to four reasons:

- (1) Public facilities and services, including schools, will be more efficiently provided to land within the UGB if the school is brought into the UGB and annexed to West Linn.

- (2) Developing a middle school at the site is consistent with acknowledged local plans.
- (3) The environmental, energy, economic and social consequences of the proposal will be positive.
- (4) Agricultural or forest land will not be affected by the proposal.

The school district conducted a site selection process to determine the location for new schools. The first two parts of the process identified attendance areas and ideal locations for schools within those areas. The third step involved a site specific search and included consideration of five locations for middle schools within the northern attendance area. Based on the district's adopted site selection process, only Site 5 met the criteria. Site 5 includes the 4.5 acres along Day Road plus the 17.34 acres of land, which is the subject of this Petition.

Based on the petitioner's submittal, information obtained from county staff and service providers, and site visits, Metro staff agreed with statements (1) through (4) above. The district's site selection process, which resulted in identifying Site 5 as the only feasible one, is outlined in the district's application to the city and county for a conditional use permit for the middle school (appendix A - Exhibit #9). Metro staff conducted site visits to all five sites and confirmed the district's observations. Any other site outside the UGB would not have the advantage of using the 4.5 acres inside the UGB along Day Road for nearly all of the public facilities.

Metro staff also conducted an independent vacant land analysis of property within the city. Follow-up visits were conducted to observe site characteristics. The Metro staff analysis shows six locations that are build able and greater than 10 acres within the entire city (Staff Report - Attachment E). Sites A and B are the only ones inside the district's identified northern attendance area for middle schools. Site A, identified as Site 4 in the district study, is a 10-acre park. Surrounded by residential development, it does not meet the district size criteria. Site B, identified as Site 2 in the district study, consists of four tax lots in different ownership and has about 11 acres of developable land. This site does not meet district size criteria. Sites C, D, E and F are located outside the district's identified attendance area. Site C, approximately 16 acres, is proposed for a residential subdivision.

Site D, with about 8.5 develop able acres, is located at the top of a hill and has poor accessibility for a school use. Site E and F, containing about 12 and 18 developable acres respectively, are located at the southwest end of West Linn and not feasible to serve the district's northern middle school attendance area.

Based on the information contained in Criteria 2, 3, 4 and 6, the Hearing Officer concludes that this site for a needed middle school is better than any other site within the district attendance area, inside or outside the UGB. This criterion is satisfied.

9. **The proposed UGB amendment must include all similarly situated contiguous land which could also be appropriately included within the UGB as an addition based on the factors above. [3.01 :35(f)(3)]**

The petitioner states that the remainder of the 55.18-acre parcel is not included in this proposal because the school district only needs approximately 20 acres for the new school site, provision of services to the other 37.84 acres is limited by site conditions, the adjacent sites are not in the same ownership, and the site corresponds to the Tanner Basin Plan designation for a school site.

Staff agreed with the petitioner that contiguous land to the proposed site is not appropriate for inclusion with this proposal. The district's size criterion for middle schools, included under Policy '6 of the Long Range School Facilities Plan, is 17-22 acres. This is consistent with the petitioner's request for limiting the proposed UGB adjustment to the 17.34 acres, which when added to the 4.5 acres within the UGB equals 21.84 acres for the entire school site.

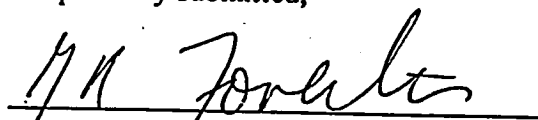
In addition to the facts cited by the petitioner, staff noted another reason for not including contiguous land. The site is part of Urban Reserve Site 30 which will eventually be included within the UGB. Any proposal to add more than 20 acres to the UGB, however, must include an Urban Reserve Plan. This plan must address several issues including but not limited to: Provision of minimum residential densities and diversity of housing; provision for commercial and industrial development needs; a transportation plan; public

proposed condition and favorable recommendation.

The petition meets the requirements of the Metro Code for locational adjustments. For that reason, the petition should be granted with the proposed condition.

Dated: July 11, 1997

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "J. R. Forrester", is written over a horizontal line.

J. Richard Forrester

Hearings Officer

facilities and services plan; school plan; and general locations of roads, housing, commercial and industrial land, open space and public facilities. The current petition does not address these issues, except the school plan, because 17.34 acres is all the land that is being proposed for addition to the UGB. This petition could not appropriately include additional land (greater than 20 acres) based on the above locational adjustment criteria.

VII. Summary and Recommendation

This petition seeks to bring 17.34 acres of land into the UGB for the purpose of siting a new middle school. The service provision, land use efficiency and site impact issues of this petition meet the criteria. Moreover, the petitioner has made a good case that the proposed UGB is superior to the existing one for two reasons: There would be a net improvement in efficiency for public facilities and services, especially for public education, recreation facilities and sewer service; and the subject site is the best one for locating a new middle school based on district criteria and the alternative site selection study.

A school is allowed as a conditional use in the zone district, given that it meets county siting criteria. The county must make a finding that the proposed use would not substantially alter the character of the surrounding area. The Hearing Officer concludes that the proposed UGB adjustment is superior to the UGB as presently located based on consideration of the above criteria. The construction of two new middle schools is needed according to the district, to accommodate the projected increase in students by 2010. Locations for new schools in the area is severely limited, based on alternative site selection studies. Expansion of the UGB at the subject location would accommodate the district's needs while contributing to the provision of public facilities and services in an efficient manner.

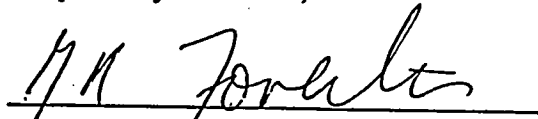
Metro staff recommended and the Hearing Officer concurs that placing the following condition should be attached to the decision: The subject site must be developed with a school use. The petitioner's case was made based on the siting of a middle school. The justification for adjusting the UGB is contingent upon the demonstrated need for land to locate a new school. The petitioner must still meet conditional use criteria of both Clackamas County and the City of West Linn in order to utilize this locational adjustment. The Hearing Officer agrees with the staff

proposed condition and favorable recommendation.

The petition meets the requirements of the Metro Code for locational adjustments. For that reason, the petition should be granted with the proposed condition.

Dated: July 11, 1997

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "J. Richard Forester", is written over a horizontal line.

J. Richard Forester

Hearings Officer

600 NORTHEAST GRAND AVENUE | PORTLAND, OREGON 97232-2736
TEL 503 787 1700 | FAX 503 787 1797

METRO

EXCEPTION FORM

Metro provides this form for parties to Urban Growth Boundary contested cases who wish to file an exception to the proposed order and findings of the hearings officer.

Standing to file an exception and participate in subsequent hearings is limited to parties to the case.

UGB Contested Case Number: *97-1*

Date: *August 4, 1997*

Name: *Robert J. Thomas*

Address: *2563 Pinlico Drive*

The basis of an exception must relate directly to the interpretation made by the hearings officer of the ways in which the petition satisfies the standards for approving a petition for a UGB amendment. Exceptions must rely on the evidence in the record for the case. Only issues raised at the evidentiary hearing will be addressed because failure to raise an issue constitutes a waiver to the raising of such issues at any subsequent administrative or legal appeal deliberations. (Metro Code 3.10.60(c))

Parties filing an exception with Metro must furnish a copy of their exception to all parties to the case and the hearings officer.

Please state your exception (attach additional sheets as necessary):

*file a motion to reopen the record
See attached single page sheet dated
Aug. 4, 1997 by Robert J. Thomas*

Growth Management Services Department
Metro

600 NE Grand Avenue
Portland, OR 97232-2736

Aug 4, 1997

I want to file a motion to reopen the record to receive admissible evidence not available at the hearing. My additional evidence would be to further substantiate my claims that adequate water is not available to serve the proposed school site. This additional evidence was not provided at the hearing because I had no way of knowing that the hearing officer would accept and rely only upon the outdated and very inadequate information supplied by a former city engineering employee, Jim Montgomery and ignore all that I pointed out in regard to water in my testimony and not comment upon it or take it into consideration in coming to his conclusions about water and his recommendation for adjusting the UGB outward to encircle the school site. I had pointed out in my testimony that simply having existing water mains on Rosemont and Day roads is far from being adequate testimony that the school can be provided with adequate fire flow and its equivalent maximum daily demand. This is all that Jim Montgomery referred to in his attestation that adequate water and fire flow could be delivered to the school site. I have also pointed out that Montgomery's attestations and Schwiebes attestations are invalid because they do not meet the requirements of the State Engineers Examiners Board.

Robert J. Jones



METRO

EXCEPTION FORM

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Standing to file an exception and participate in subsequent hearings is limited to parties to the case.

UGB Contested Case Number: 97-1

Date: Aug. 4, 1997

Name: Robert S. Thomas

Address: 2563 ~~Pimlico~~ Pimlico Drive, West Linn 97068

The basis of an exception must relate directly to the interpretation made by the hearings officer of the ways in which the petition satisfies the standards for approving a petition for a UGB amendment. Exceptions must rely on the evidence in the record for the case. Only issues raised at the evidentiary hearing will be addressed because failure to raise an issue constitutes a waiver to the raising of such issues at any subsequent administrative or legal appeal deliberations. (Metro Code 3.10.60(c))

Parties filing an exception with Metro must furnish a copy of their exception to all parties to the case and the hearings officer.

Please state your exception (attach additional sheets as necessary):

See attached 5 page testimony
dated Aug. 4, 1997 by Robert S. Thomas

Growth Management Services Department
Metro
600 NE Grand Avenue
Portland, OR 97232-2736

TO: METRO Growth Management Services Department

August 4, 1997

FROM: Robert J. Thomas 2563 Pimlico Drive, West Linn, OR 97068. Phone: 657-7492

SUBJECT: Exceptions to Hearings Officer J. Richard Forester's Interpretations and conclusions under his Finding #2 in regard to water, sanitary sewer, storm drainage and roads, and more specifically in regard to his conclusions that existing water facilities are adequate to serve the proposed West Linn middle school near intersection of Rosemont and old Day roads and that it can be served in an orderly and economical fashion.

(A) BROAD EXCEPTIONS TO HEARING OFFICER'S CONCLUSIONS IN REGARD TO WATER, SANITARY SEWER, STORM DRAINAGE AND ROADS UNDER HIS FINDING #2.

I take broad exception to the hearings officer's interpretations and conclusions under his Finding #2 in regard to water, sanitary sewer, storm drainage and roads. I claim he is basing his findings on information supplied under Exhibit 4 in regard to these four categories of public facilities, and that such information is not presented and attested to in a way that is permissible because it is not in compliance with requirements of the State Engineers Examiners Board.

The State Engineers Examiners Board requires that all engineering employees or consultants engaging in engineering designs, plans, reports, documents, letters, memos or attestations concerning facilities affecting public health and safety must be and can only be signed by a registered professional engineer over his or her official licensed stamp or seal. A signature in itself by a registered engineer is not acceptable. It must be over his or her stamp or seal. Our city engineer and our former city water consultant were both reprimanded by the Board a few years ago for not signing over their stamp or seal. Former city employee, engineer Jim Montgomery, did not sign the Metro "Request for Comment from Service Provider" forms over his stamp or seal, and therefore his attestations on those forms in regard to adequacy of public facilities were not valid.

Also, the Engineer Examiners Board has told me that city engineering employee Joe Schiewe is not a registered professional engineer, and therefore he should not be officially attesting to or confirming anything in regard to public facilities. Therefore his confirmations in his letter of May 14, 1997 to Ray Valone and his signatures dated 5-14-97 on the forms filled out by Montgomery for the purpose of confirming Montgomery's attestations are not valid confirmations.

Therefore, the hearings officer cannot rely on any of Montgomery's attestations nor on any of Schiewe's confirmations in coming to conclusions under his Finding #2 in regard to the public facilities of water, sanitary sewer, storm drainage and roads.

(B) A MORE DETAILED AND SPECIFIC EXCEPTION TO HEARING OFFICER'S CONCLUSION IN REGARD TO WATER UNDER HIS FINDING #2.

(1) For the reasons outlined under Section (A) above, I take broad exception to the hearings officer's conclusions in regard to water under his Finding #2.

However, even if all of the requirements outlined under Section (A) above were complied with, I would still take more specific exception to the conclusion by the hearings officer under his Finding #2 to the effect that existing water facilities are adequate to serve the proposed West Linn middle school and that a locational adjustment of the UGB being petitioned would result in a net improvement of the efficiency of public facilities, including water.

2.

He is basing his interpretations and Findings in regard to water **on his unquestioning assumption** that information submitted from the City of West Linn under Exhibit 4 is all valid, adequate, supportable and confirmable information. That information includes a very cursory letter dated May 15, 1997 from West Linn City Manager Scott Burgess to Ray Valone, Metro Senior Regional Planner in which Burgess refers to City Staff having reviewed Metro's "Request for Comment from Service Provider" form dated March 15, 1996, and have confirmed their original analysis for the UGB adjustment for the proposed new middle school. In that letter, Burgess refers to a response regarding utilities sent under separate cover in another very cursory letter dated May 14, 1997 from Joe Schiewe, Public Improvement Manager of the West Linn Engineering Department. In that letter Schiewe says the City confirms its responses to the "Request for Comment from Service Provider" forms as were stated on enclosures dated 3-14-96 by former West Linn engineering employee Jim Montgomery regarding streets, sewer, water and storm drain facilities, and supports approval of the petition

I'll explain further on under Section (B)(2) why the information on water supplied by Montgomery on 3-14-96 was very inadequate information on which to base a claim of water adequacy for the school or for any other use in the Rosemont water pressure zone in which the school would be located. Even it were adequate information, which it isn't, it was no longer relevant in any case because it was old information and did not take into account the fact that the City acknowledged in late 1996 and early 1997 that planning criteria for pumping capacity had been exceeded by maximum demand in the Horton and Rosemont hilltop water pressure zones and that it was therefore necessary to consider a water moratorium due to a shortage of pumping capacity to deliver maximum daily water demand to those two zones. Such a moratorium decision is on hold until late August or early September 1997 when it's anticipated an updated water master plan will be finished.

On page 1 of my written testimony to the hearings officer dated 6-24-97, i talked about this recognition by the city of inadequate pumping facilities and why consideration of that is much more important in serving these hilltop zones and the school than just having water mains on Rosemont and Day roads by the school, which is all that Jim Montgomery referred to. And due to this pumping shortage I also pointed out the consequential pending water moratorium in these hilltop zones in my written testimony. **The hearings officer did not in any way consider or comment on this part of my testimony, and therefore I further take exception to his conclusions in regard to water under his Finding #2.**

I also explained under Section (A)(4) of my written testimony that even if there were no shortage of water delivery capabilities, that such a school site can be supplied with adequate water and sewer and services without any need to expand the UGB around the portion of the site that is now outside the UGB. **The hearings officer did not in any way consider or comment on this part of my testimony either and therefore I further take exception to his conclusions in regard to water under his Finding #2.**

The hearings officer not only ignored and did not comment on the above parts of my testimony in his report and recommendation, but took up nearly all of his commentary in regard to my testimony in ridiculing and denigrating it. His tone and attitude in this regard is offensive, and I feel he is way out of line in doing so.

I have studied in depth and followed the city's and school district's documents, actions and policies over the past six years and have perhaps gathered more information and insights about their operations and policies than any other "citizen watch dog". My conclusions are based on close observations and detailed involvement. As a registered professional engineer myself i have very

3.
closely followed and commented upon all aspects of the West Linn water system, and have especially concentrated on the water facilities and their inadequacies in the fast-growing Rosemont and Horton zones. **My testimony in this regard deserves a lot more consideration than the hearings officer gave it, which was none.**

In general, in his report and recommendation, he basically discounts and ignores all critical testimony and accepts without question whatever the City of West Linn and the School District contend or bring before him. What is the point of inviting public testimony if it is to be ignored or not given any credence regardless of how sound or relevant it is? In one sense, ignoring the public, not inviting public comment, and just simply rubber stamping whatever governmental entities come up with would save the public a lot of wasted time and effort, but it doesn't serve the cause of good government. A perfunctory jumping through hoops to arrive at a foregone conclusion is not serving the public nor the concept of checks and balances through public participation in our form government. **Does he proceed the way he does, so that the only way to try to get consideration and counter his recommendations is through appeal processes, which because of the large expenses involved, the need to hire attorneys etc., shuts out most citizens on a practical basis from making appeals?**

(2) In the cause of good government, I will nevertheless proceed in the face of the hearings officer's resistance to my input to explain in more detail that his findings in regard to water are not sound or supportable because the information he accepts without question from the city is not adequate, sound or supportable on an engineering basis.

Jim Montgomery's only comments under parts 1 and 2 of Part II of the "Request for Comment from Service Provider" form are: (1) The water system in the area was designed to provide fire flow to a school facility. The combination of a 16 inch water line on Rosemont and a 12 inch water line on Day Road make the site efficient on a cost per unit basis, and (2) The area is served by existing water lines that provide for its proposed use.

In regard to (1), what level of fire flow is he talking about? He doesn't say. West Linn's present water master plan requires provision of a fire flow for an unsprinklered school of 4000 gpm for 4 hours, or a total volume of 960,000 gallons. It requires provision of a fire flow for a sprinklered school of 3000 gpm for 3 hours, or a total volume of 540,000 gallons. Construction of a sprinklered school with certain fire retardant materials and with special automatic closing fire doors that compartmentalize a school during a fire, can reduce such a school's fire flow to a level of 2000 gpm for 2 hours, or a total volume of 240,000 gallons. West Linn has one unsprinklered school, which is the Sunset School in the Horton zone. All the rest of its schools are sprinklered, but without additional construction techniques to further reduce fire flow requirements.

Assume the new middle school in the Rosemont zone would be simply a sprinklered school, requiring a fire flow volume of 540,000 gallons, or an equivalent rate of flow of 3000 gpm for 3 hours. The Rosemont Water Tower, serving as the Rosemont zone's reservoir is undersized (it should contain over 1 million gallons of storage). It contains a total volume of only 400,000 gallons. When fighting such a school fire, that reservoir must not become empty in less than 3 hours in order to maintain a required pressure at fire hydrants at the top of the zone of not less than 20 psi. Therefore, assuming a full reservoir at the start of a fire (which isn't necessarily the case, especially on hot days), the reservoir could supply an average of 2222 gpm for 3 hours. Since required fire flow is 3000 gpm for 3 hours, that leaves a fire flow shortage of 778 gpm for 3 hours that must be supplied by Horton Pump Station pumps feeding the reservoir. But remember that the pumps must at the same time also be supplying the entire residential demand in the Rosemont zone, which on a day of maximum residential demand is projected by the city's water consultant to be about 1771

4,
gpm when averaged over a 24 hour day. This is the projection for the year 1999, and the school is not projected to be opened before September 1999. So that would require that the Horton Station pumps put out at least an average flow rate of $1771 + 778 = 2549$ gpm during a school fire on a day of maximum daily demand in 1999. But 2549 gpm is above not only the firm pumping capacity of the Horton Station of 1900 gpm, but also above the full pumping capacity of the station of 2370 gpm. Although such a fire flow may have been handled by the Rosemont Tower and the Horton Station when they were first built in 1991, it certainly can no longer be handled because of the residential demand growth in the Rosemont zone since then.

Also, unless enough money (at least \$800,000) is found to fully expand the Bolton Pump Station by 1999, which pumps all the water uphill to supply the demand of both the Horton and Rosemont zones and their respective Horton and Rosemont reservoirs (the Bolton Station pumps water uphill to the existing 1.5 million gallon Horton Reservoir #1 which not only serves the Horton zone but also has water pumped out of it by the Horton Pump Station alongside of it to relay water further up the hill to serve the higher Rosemont zone and fill its reservoir in the form of the undersized 400,000 gallon Rosemont Tower which should be over 1 million gallon capacity to meet the zones storage criteria), the pumping capacity of the Bolton Station will not be greater than its firm capacity of 2430 gpm (because its interim fix capacity through 1998 does not provide any greater pumping capacity than a firm capacity of 2430 gpm, or in other words no greater or "full capacity" will be available because a standby skid mounted pump will not be hooked up or energized unless one of the station's big permanently installed pumps fails). That 2430 gpm is not enough to supply the consultant's projected 1999 maximum daily residential demand on the Bolton Station of 2460 gpm, let alone any simultaneous fire flow demand either in the Horton zone or that which would be reflected down upon the Bolton Station from the Rosemont zone due to just a single family residential fire flow of only 1000 gpm for 2 hours (120,000 gallons), let alone any much larger school fire flow demand from either the Sunset school in the Horton zone or reflected down upon it from a new middle school fire in the Rosemont zone.

Therefore, to sum up the pumping situation in regard to fire flow demand for the proposed new middle school in the Rosemont zone, it has been shown that the Horton Pump Station cannot handle that, and if the Bolton Station isn't fully expanded by 1999 when the proposed middle school might be opened at the earliest, it's been shown that otherwise the Bolton Station won't be able to handle that either. In a sense, it's immaterial what happens to the Bolton Station's capacity by itself, because the existing Horton Station's capacity cannot handle that.

The only way such a school fire flow could be met and handled in the future is to not only fully expand the Bolton Pump Station but to also supplement the existing capacity of the Horton Pump Station by providing an additional pump station to pump more water into the Rosemont zone. The latter could only be provided by building three additional major water capital improvement projects costing several million dollars. These include building the long awaited 9000 foot long 16 inch Parker Road Transmission Main to convey water from a fully expanded Bolton Pump Station to the long awaited Horton Reservoir #2 in Tanner Basin, and to build a new pump station alongside it to pump more desperately needed water out of it into the rapidly growing Rosemont zone to supplement the capacity of the existing Horton Pump Station.

But there is no certain time line when construction will begin on these three major water projects, let alone when they will be finished. However, it is certain that they will not all be completed and operational until considerably further into the future than 1999. In the interim, it is certain that the fire flow needs of the proposed middle school cannot be met.

5
Neither can one be assured that the equivalent maximum daily water demands of the school (equivalent to the maximum daily demand of 65 single family dwelling units, as rated by the city's water consultant) be met simply by **only saying, as Jim Montgomery did**, that there is an existing water main on Rosemont Road and an existing water main on Day Road (the Rosemont main being 16 inch diameter and the Day main being 12 inch diameter). **It doesn't matter if those mains were the size of a the largest Los Angeles aquaduct. One would still have to pump water all the way from the bottom of the hill to top of the hill to put water in such aquaducts. Unless one can pump enough water uphill to satisfy all the demands, not just the school's equivalent residential and fire flow demands, the school cannot be considered to have adequate water supply.**

On this basis the school cannot be adequately served with water unless and until the Bolton Pump Station is fully expanded and the additional 3 major water improvement projects described above are operational, which as stated above cannot all be in place until a time considerably past the anticipated earliest possible opening date of the proposed school in 1999.

Therefore if the adjustment of the UGB to encircle the entire proposed school site is contingent upon adequate water being available to serve the school site, then **→ because such adequacy is not available, the UGB should not be adjusted outward to encircle the entire school site.** Even if the UGB were expanded outward it would definitely not be capable of being served in orderly and economical fashion for the above reasons. Neither would the approval of the petition make it efficient or more efficient (less expensive on a per unit basis) to serve the school or other adjacent areas inside the UGB, for the above reasons. In other words adjusting the UGB outward for this school site does not have any beneficial economic or efficiency effects either for itself or for adjacent areas inside the UGB.

→ On this overall review of the situation in regard to water which shows inadequacy of water, I take further exception to the hearing officer's recommendation to expand the UGB around the proposed school site.

Robert J. Thomas



METRO

Metro Growth Mgmt.

AUG 4 1997

EXCEPTION FORM

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UGB Contested Case Number: UGB CASE NO. 97-1: WEST LINN

Date: August 4, 1997

Name: JOHN W. SHONKWILER - Attorney for Curtis Hunter and Jeffery Seymour

Address: 13425 SW 72nd Ave.
Tigard, OR 97223
Telephone: 624-0917

The basis of an exception must relate directly to the interpretation made by the hearings officer of the ways in which the petition satisfies the standards for approving a petition for a UGB amendment. Exceptions must rely on the evidence in the record for the case. Only issues raised at the evidentiary hearing will be addressed because failure to raise an issue constitutes a waiver to the raising of such issues at any subsequent administrative or legal appeal deliberations. (Metro Code 3.10.60(c))

Parties filing an exception with Metro must furnish a copy of their exception to all parties to the case and the hearings officer.

Please state your exception (attach additional sheets as necessary):

(SEE ATTACHED)

Growth Management Services Department
Metro
600 NE Grand Avenue
Portland, OR 97232-2736

BEFORE THE METRO COUNCIL

UGB CASE NO. 97-1: WEST LINN

) CURTIS HUNTER AND JEFFREY
) SEYMOUR EXCEPTIONS TO
) HEARING OFFICER'S REPORT
) AND RECOMMENDATION
)
)
)
)
)
)
)

Curtis Hunter and Jeffrey Seymour (hereinafter the "Objectors") make the following exceptions to the Hearings Officer's Report and Recommendation pertaining to UGB Case No. 97-1: West Linn (dated July 11, 1997). The Objectors raise the objections that the Hearings Officer exceeded his jurisdiction, failed to follow procedures applicable to the matter before him in a manner that prejudiced the substantial rights of the participants, made a decision not supported by substantial evidence in the whole record, and improperly construed the applicable law for the applicable criteria as described hereinafter.

1. ORDERLY AND ECONOMIC PROVISION OF PUBLIC FACILITIES AND SERVICES [3.01.35 (C) (1)]

First, the Hearings Officer appears to place a priority emphasis on the "important educational needs and recreational opportunities" of the proposed school use. However, the Metro Code, LCDC goal and OAR 660 does not provide a prioritization of public facilities and services. They are all treated equally for analysis purposes. In fact, school uses are not even mentioned. If there is a priority consideration it is for "water, sewers, storm drainage, transportation, parks and open space."

Second, water service is inadequate and the petitioners have failed to provide substantial evidence to rebut that issue. The Hearings Officer's finding only relates to the size of existing water lines potentially serving the site. That finding completely "begs the question." The issue here is whether the City has adequate water capacity from existing reservoirs. It does not matter if the lines exist and are of adequate size if there is no water to flow through them.

The Objectors submitted evidence and testimony identifying that the City approved an annexation of land from Tanner Basin into the City back in 1992 that was specifically conditioned upon restricting future annexations and building permits because of a shortage in water reservoir capacity in the Horton Pressure Zone. The condition of approval required a new water reservoir to be constructed near Day Road and Rosemont Road before any further annexations and building permits in this Tanner Basin area. Subsequently, the Portland

1 - EXCEPTIONS OF CURTIS HUNTER
AND JEFFREY SEYMOUR

JOHN W. SHONKWILER, P.C.
ATTORNEY AT LAW
13425 SW 72ND AVE.
TIGARD, OR 97223
Telephone: (503) 624-0917

Metropolitan Area Local Government Boundary Commission approved these annexations (3096 and 3097) incorporating the same condition of approval (no further annexations and building permits in this area until a new water reservoir is constructed). Testimony identified that the approved building permit allocation has now been exceeded by the City and there is still no new water reservoir constructed to serve this area. Petitioner does not submit any evidence to refute the existence and the subsequent violation of this water supply condition to future annexations and building permits. The water capacity shortage is now far beyond critical.

Similarly, the water shortage raises serious concerns about fire suppression requirements for the new school being satisfied. State law requirements set a specific pressure-flow standard for new school construction and the shortage of water capacity testimony raises serious doubts that the new school can satisfy those minimum requirements. The petitioner has failed to provide substantial evidence establishing that these state requirements can be satisfactorily met. It should be noted that the school district has admitted that to served this site with water it will not permit summer classes. This illustrates an admission that the water supply for this area is already critically short. Allowing expansion of the boundary for a school use which will adversely impact an existing water supply shortage will also jeopardize the fire suppression safety and domestic water usage of existing residential dwellings within the urban area.

Third, sewerage facilities would also be inadequate since the water capacity is inadequate. Even though the new school could have toilets constructed and connected to existing sewer lines, there still needs to be adequate water pressure and flow to allow these toilet and sewer facilities to function. Thus if there is inadequate water supply, then both public facilities for water and sewer are equally inadequate.

Fourth, storm drainage is inadequate and the petitioner is proposing a storm drainage plan that is illegal. The site is not suitable for the proposed use based upon the natural storm drainage basins. The petitioner and school district proposed altering the storm drainage flow. In its current condition, storm water runs off the northern 6 acres of the site (the area proposed for the school building and parking lots) and then is discharged from the site through a culvert under Day Road to the east where it runs into the Tanner Basin (City drainage system). The remainder of the site drains into a different basin that discharges through exclusively rural and agricultural areas directly into the Tualatin River without entering the Tanner Basin. The petitioner and school district proposed to gather the water from the northern 6 acres of the site and discharge all of that storm drainage into the other drainage base. This conflicts with the approval criteria by directing urban storm water drainage excessively into rural and exclusive agricultural areas. This also is a violation of both Clackamas County ordinances (ZDO Section 1000 and 1008) and common law. Harbison v. City of Hillsboro, 103 Or. 457, 204 P. 613; Street v. Ringsmyer, 108 Or. 349, 357, 216 P. 1017.

Fifth, the "public education" aspect is also unsupportable and not economical for an adjustment to the UGB. Testimony established that the school district does not have sufficient money to

2 - EXCEPTIONS OF CURTIS HUNTER
AND JEFFREY SEYMOUR

JOHN W. SHONKWILER, P.C.
ATTORNEY AT LAW
13425 SW 72ND AVE.
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build the proposed middle school that forms the sole justification for this UGB adjustment. The school district has admitted that it must first pass a bond levy for an additional \$6.5 million dollars before it is economically able to construct this school. In essence, the petitioner is asking Metro to approve an expansion of the UGB for a school use where the necessary funding has not even been approved by the citizens of the school district. This is not "putting the cart before the horse." Instead, this is a clear case of the petitioner having a "cart without a horse."

Sixth, the Hearings Officer makes several other findings that are mere conclusions or unsupported by substantial evidence. The Hearings Officer asserts that the issue of whether the site is capable of being served in an orderly and economic fashion is "unrebutted." That indicates that the Hearings Officer failed to listen to the testimony and read the exhibits of the Objectors. The Hearings Officer also found that there was a net improvement in efficiency of public facilities and services "especially true" for sewer and public education. However, without water there is no adequate sewer service and without funding approved by the school district there is no "probability" or "reasonable feasibility" that the school use can be accomplished.

Seventh, this site has already been identified as a protectable Indian artifact site. It is not an orderly and efficient provision of public facilities and services if this site eventually precludes both the proposed school use and the public facilities and services needed to that use. The petitioners have failed to provide any evidence identifying that this site will not be ultimately precluded from urban development by the Indian artifacts (already discovered on this site). This is not an issue to be postponed for a conditional use hearing, it directly addresses the suitability or feasibility for future urban services.

2. MAXIMUM EFFICIENCY OF LAND USES [3.01.35 (c) (2)]

The City and the County have entered into an Intergovernmental Agreement that requires close coordination between these governments, particularly for land uses and planning in and near the Tanner Basin. Indeed, the Tanner Basin Master Plan has been adopted/or accepted by both jurisdictions as authority for their land use decisions in the Tanner Basin. This petition violates these regulations and agreements, and thereby illustrates that the petition will not be a maximum efficiency of land uses.

First, the substantial majority of the petition property is not in the "Tanner Basin." Only the northern 6 acres proposed is in the Tanner Basin. The Tanner Basin Master Plan, however, specifically excludes the entire 17.34 acres of the petition property from the Tanner Basin planning area. Thus, the Tanner Basin Master Plan is not and cannot be used as substantial evidence to support the location of a urban school in this location. The plan does propose a school near this area, but specifically limits it to the lands already located within the UGB.

Second, the lands within the UGB are zoned and designated in the County's Comprehensive Plan as future urbanizable or FU-10 (ZDO Section 314). Under this ordinance, a public school is not

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a permitted use nor allowable as a conditional use. As a result, the ordinance classifies a public school as a "prohibited use." Clackamas County Comprehensive Plan, Urbanization section, Policy 5.0, establishes that this land cannot be converted to immediate urban uses unless it is first annexed to the City. Indeed, the school district has declared that it will not annex any of the land (petition land and existing land within the UGB) to develop this school. The record repeatedly identifies that water and sewer service will be connected to this property by an extraterritorial extension of services by the City. Thus, the current zoning provides that the land cannot be used as a public school, the zoning cannot be changed to allow a school prior to annexation, and the Tanner Basin plan cannot be used as a basis for justifying an expansion of the UGB to change this land into immediate urban. The entire reasoning for approval of the petition accepted by the Hearings Officer is without any factual or legal basis.

Third, there is no reliable evidence to support the conclusion (or alleged "finding") that amendment to the UGB will facilitate immediate development on adjacent existing urban land. The Tanner Basin Master Plan calls for all urban services to be developed within the Tanner Basin boundary (which specifically excludes the petition property). The concept that placing a urban school in an area where it is surrounded on three sides by rural lands so that it will be close to a high percentage of potential students is the worst form of "misleading semantics." Obviously, placing the school inside the UGB will cause it to be even closer to an even greater percentage of potential students.

Fourth, this site has already been identified as a protectable Indian artifact site. It is not a maximizing of efficiency of land uses if this site eventually precludes both the proposed school use and all other urban uses. The petitioners have failed to provide any evidence identifying that this site will not be ultimately precluded from urban development by the Indian artifacts (already discovered on this site). This is not an issue to be postponed for a conditional use hearing, it directly addresses the suitability or feasibility for future urban uses.

Finally, the Hearings Officer accepted the most recent site selection justification as an effective school location criteria. However, the school district adopted a set of locational standards that identified 5 acceptable school locations. Subsequently, numerous sites were excluded for reasons not identified in the locational standards. The school district selected the petitioner property and then changed its locational standards to justify this single site for this UGB amendment. That approach is not valid planning but merely inappropriate "manipulation." In fact, the school district has previously determined that the "Dollar Street" site is satisfactory as all locational standards including size, location, topography and price for this particular middle school. Further, immediately to the east of Day Road is the "Nutt" property which consists of 17 acres, the "Leverage" property which consists of 7 acres and the "Olsen" property which consists of approximately 9 acres. All of these properties are contiguous and within the UGB. All of these properties are buildable for a middle school and were included as acceptable school sites in the school district locational criteria before the school district artificially and subsequently modified the standards to only fit the petition property. There are multiple ownerships on this

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east of Day Road site. However, the proposed middle school site west of Day Road (which includes the petition property) also involves multiple ownerships (comprising three ownerships and at least three separate residences). Thus by the school district's own selection process for the petition property, "multiple ownership" is not a valid basis for precluding consideration of other lands within the UGB. Nevertheless, these sites have been excluded without submittal of any evidence to justify why these existing sites within the UGB are not realistically adequate under analysis appropriate for Goal 14, OAR 660, ORS 197.732 and Metro Code 3.01.035 compliance.

3. ENVIRONMENTAL, ENERGY, ECONOMIC AND SOCIAL CONSEQUENCES [3.01.35 (c) (3)]

First, this site has already been identified as a protectable Indian artifact site. There are no school related social consequences if this site eventually precludes both the proposed school use and all other urban uses. In deed, the presence of Indian artifacts upon this very site affects both economic and social consequences that require a determination based on substantial evidence that the school construction is feasible. *See also*, application of LCDC Goal 5 pertaining to historic areas as precluding approval of this application. The petitioners have failed to provide any evidence identifying that this site will not be ultimately precluded from urban development by the Indian artifacts (already discovered on this site). This is not an issue to be postponed for a conditional use hearing, it directly addresses the suitability or feasibility for future urban uses.

Second, the Hearings Officer erroneously finds that previously adopted plans for the placement of this school on the petition site will have a positive affect on social consequences in the Tanner Basin area. The petition site is not within the Tanner Basin nor its planning area.

Third, the absence of adequate water capacity invalidates the availability of water and sanitary sewer facilities for this site. Allowing an expansion of the UGB to construct a school without first determining that such public services are conclusively available, contradicts proper application of energy, economic and social consequences considerations.

Fourth, placing an urban parking lot frequented by large buses and trucks, as well as, a high volume of automobiles in an area surrounded on three sides by rural uses is not a enhancement of environmental considerations for air quality or consideration of noise, light and trespass impacts on neighboring rural uses. The record does not provide substantial evidence that such adverse environmental impacts will be within acceptable levels for surrounding uses.

Fifth, there is no reliable evidence to support the conclusion (or alleged "finding") that this applicable criteria will be satisfied by the assertion that "the school would be located within one mile of 45% of the student population." The concept that placing a urban school in an area where it is surrounded on three sides by rural lands so that it will be close to a-high percentage of

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potential students is the worst form of "misleading semantics." Obviously, placing the school inside the UGB will cause it to be even closer to an even greater percentage of potential students.

4. RETENTION OF AGRICULTURAL LAND [3.01.35 (c) (4)]

The Hearings Officer erroneously interpreted this criteria as only applying to "exclusive" farm or forest use, and therefore, the RRF-5 designation does not present a conflict with the "retention of agricultural land" requirement. First, the Hearings Officer misinterpreted the applicable zoning ordinance. ZDO Section 309 specifically declares in its purposes section that this zoning designation includes "continuation of farm and forest uses." ZDO Section 309.01 A. The Primary Uses designated under the zone include "current employment of land for general farm uses" and "the propagation or harvesting of a forest product." ZDO Section 309.03 B. and C.

The Hearings Officer attempted to focus upon the fact that the zone also allows single family dwelling or residential home uses as another "primary use." He also attempted to diminish the agricultural and forestry aspects of the rural residential comprehensive plan designation by focusing on its transitional or buffering function between urban and purely agriculture or forest use. The Hearings Officer conveniently ignored the Comprehensive Plan's emphasis in its statement that "rural lands are those which are outside the Urban Growth Boundaries and are suitable for...small farms...with no or hardly any public services...." Policy 1.0 also provides: "The following areas may be designated Rural: a. Areas which are presently developed, built upon or otherwise committed to sparse settlement or small farms with no or hardly any public services available." Emphasis added. Policy 2.0 e. also provides "For lands outside urban growth boundaries, require exceptions to LCDC Goals 3 and 4 for any Plan amendment or zone change to uses other than agriculture or forestry." This clearly identifies that the lands fall under agriculture and forestry, not a pseudo-urban where agriculture/forestry is not a prime consideration.

Applying the retention of agricultural land criteria, the petition site clearly contains Class III soils. Thus, the first element for application of the criteria is present. As identified above, the lands are clearly identified in the comprehensive plan as being for farm and forest use. Thus, the second element for application is present. Therefore, Subsections A or B must be factually demonstrated by the petitioner.

The retention of any agricultural land in this area would not preclude urbanization of an adjacent area already inside the UGB. The adjacent area inside the UGB was previously used as residential (although large lot) and has availability of urban services for full development. Indeed, the petitioner is claiming that the adjacent UGB land has no limitations for urban development. Therefore, the petitioner has failed to factually demonstrate compliance with Subsection A. Similarly, retention of the agricultural land would not make the provision of urban services to an adjacent area inside the UGB impracticable. There is no linkage of urban services that needs to extend across this rural land (petition property). The Petitioner has not

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identified any urban services that would be precluded or cut off by failure to change the petition property to urban. In fact, Petitioner admits that extension of services to the petition property are only a single extension function affecting only this petition property. The Petitioner and Hearings Officer even recommend restricting the development of this property to a middle school as a condition of petition approval. Clearly, this boundary expansion is not needed for extension services to other urban uses. The record fails to provide any substantial evidence that this Subsection B is satisfied. As a result, the petition should be denied as failing to with the requirements for retention of agricultural land.

5. COMPATIBILITY OF PROPOSED URBAN USES WITH NEARBY AGRICULTURAL ACTIVITIES [3.01.35 (c) (5)]

The record is uncontroverted in establishing that surrounding parcels in the "Rural Residential Farm/Forest" zone includes adjacent properties pasturing cattle and farms dedicated to Christmas tree production. Both of these agricultural/forest activities include practices that may easily be interfered with and/or precluded by urban uses. The cattle immediately adjacent to the proposed school include pasture for beef cattle and mature bulls. It is well established that children climb fences, including 6 foot chain link fences. The proposed middle school will have a student body that comprises ages that are old enough to climb fences and young enough to be both curious and without practical sense to stay away from a farm pasture/cattle. It is also well established that children are in extreme danger if they encounter a mature bull within a confined pasture.

Objectors believe that this school will present a direct conflict with accepted farm practices on adjacent lands. The endangerment of middle school children will dramatically increase potential liability and the cost of insurance to these neighboring cattle farms, thereby increasing the cost of farming and decreasing the probability of continuing the farming. The provision of only a 6 foot chain link fence is completely inadequate to preventing children from trespassing into the neighboring pastures. It should be noted that this fence will be adjacent to the athletic fields where the children are under far less direct supervision than they are when they are inside the school building. Objectors have an even greater concern to the safety of these children and do not want to see any of them harmed by their curiosity causing them to trespass into the agricultural uses.

The neighboring Christmas tree farms regularly spray the fields and trees with potent insecticides, herbicides and other sprays that are a potential endangerment to children. If children come in direct contact with these sprays by trespass or spray drifting offsite, these Christmas tree farms will face liability and dramatically increased insurance costs.

The petitioner is proposing to place the least supervised children activities and only outdoor activities immediately adjacent to the neighboring farm and forest uses. The Hearings Officer's finding that the school building will be located on the property where lands are already inside the UGB completely ignores the requirement of this criteria. The issue is the conflict of urban uses

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with the agriculture/forestry uses. The proposed fencing is clearly not adequate to prevent the interferences to these adjacent farm and forest uses. The record clearly identifies that the petitioner is not willing to re-arrange the building and athletic fields to diminish this impact, nor to provide evidence that a factually effective fencing can be constructed to prevent trespass and conflicts with agriculture/forestry spraying. Contrary to the Hearing Officer's finding that the athletic fields will provide "excellent buffering," the close proximity of the least supervised area of children and the only outside function immediately next to the agricultural/forestry uses is the worst planning and will provide the greatest probability of conflicts.

The Hearings Officer also notes that the storm drainage will be located on the subject site, which is sloping westward towards the stream (actually this is the drainage basin that is not part of the urban drainage basin referred to as "Tanner Basin"). This presents yet another direct conflict with agriculture/forestry uses downstream from the subject site. The petitioner is proposing to alter the stormwater flow by artificially draining 6 acres of the site (Tanner Basin drainage) into the westward drainage basin that flows down through rural and exclusive agricultural lands. This will potentially cause significant erosion to agricultural lands and agricultural improvements within these down stream agricultural properties. Besides being illegal, there is no evidence in the record to establish that the proposed urban expansion will not cause these adverse impacts.

The school use is specifically prohibited in the FU-10 zone for the property already inside the UGB where the school building is proposed to be constructed. The RRFF-5 zone does allow for a school as a "conditional use," but the school district is not placing the school buildings within the RRFF-5 zone. Only urban intensive athletic fields and parking lots would be placed in the RRFF-5 zone. The ordinance is not clear as to whether it would allow approval of these uses in the RRFF-5 zone as an "accessory use." Accessory uses are normally only allow with "primary uses" and a school use is not a "primary use" under the RRFF-5 ordinance. Further, the proposed middle school is clearly intended to serve urban needs and not just rural needs. Thus, the Hearings Officer's finding on the allowance of a school under zoning and comprehensive planning is in error. Further, this petition property is specifically excluded from provision for the proposed middle school within the Tanner Basin Master Plan.

As previously identified in decisions of other criteria above, the site and school cannot be adequately served by public facilities and services in an orderly, economic and timely manner. The Hearings Officer's finding as it pertains to this criteria is equally in error. Similarly, the Objectors reiterate the comments they made pertaining to the criteria for environmental, energy and social consequences. Again, the Hearings Officer's finding as it pertains to this criteria is equally in error.

6. FOR ALL OTHER LOCATIONS, THE PROPOSED UGB MUST BE SUPERIOR TO THE UGB AS PRESENTLY LOCATED [3.01.35 (f) (2)]

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The four specific findings supporting the assertion that the proposed amendment is an improvement to the current UGB (thus "superior") are all disputed by the Objectors. The Objectors reiterate all of their comments previously raised under other above discussed approval criteria, that pertain to: (1) adequacy of public facilities and services, (2) location of middle school at this site being consistent with acknowledged local plans, (3) environmental, energy, economic and social consequences being positive, and (4) agricultural and forest land will not be affected by the proposal. All four of these findings are in error and are not supported by substantial evidence.

This site has already been identified as a protectable Indian artifact site. There are no school related social consequences if this site eventually precludes both the proposed school use and all other urban uses. In deed, the presence of Indian artifacts upon this very site affects both economic and social consequences that require a determination based on substantial evidence that the school construction is feasible. See also application of LCDC Goal 5 pertaining to historic areas as precluding approval of this application. The petitioners have failed to provide any evidence identifying that this site will not be ultimately precluded from urban development by the Indian artifacts (already discovered on this site). This is not an issue to be postponed for a conditional use hearing, it directly addresses the suitability or feasibility for future urban uses.

The site selection referred to by the Hearings Officer is insufficient and not reliable. First, the criteria for selection of a middle school site specifically included the "Dollar Street" site as adequate under all the school selection standards including in size, location and topography. The school district actually purchased that site for the location of this middle school. Due to "political" pressure from the City of West Linn, unrelated to land use planning principles or UGB expansion considerations, the school district abandoned the use of the Dollar Street site. However, the school district still owns this site and it is still available for location of the school. Failure to use this site violates the Metro criteria for boundary expansion because the Dollar Street site is already within the UGB and there is no substantial evidence for precluding its selection.

Further, immediately to the east of Day Road is the "Nutt" property which consists of 17 acres, the "Leverage" property which consists of 7 acres and the "Olsen" property which consists of approximately 9 acres. All of these properties are contiguous and within the UGB. All of these properties are buildable for a middle school and were included as acceptable school sites in the school district locational criteria before the school district artificially and subsequently modified the standards to only fit the petition property. There are multiple ownerships on this east of Day Road site. However, the proposed middle school site west of Day Road (which includes the petition property) also involves multiple ownerships (comprising three ownerships and at least three separate residences). Thus by the school district's own selection process for the petition property, "multiple ownership" is not a valid basis for precluding consideration of other lands within the UGB.

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The Hearings Officer attempted to find that the lands east of Day Road are more steep than the lands west of Day Road (the petition property). However, the Hearings Officer's finding is in error and not supported by substantial evidence. The properties to the east of Day Road are "superior" to the petition property because, overall, slopes are less to the east of Day Road. There is a small portion of the "Nutt" property that is steeper than the slopes on the petition property, however, the steep slopes on the "Nutt" property encompass far less area than the slope area on the petition property. Further, the "Nutt" property has adjacent properties available for acquisition by the school district (indeed, the school district already owns 1 of these parcels of approximately 7 acres) for which the school district can expand the site to completely avoid the steep area. The topography is clearly verifiable in the record to show that these east of Day Road properties are, overall, superior sites. All of these parcels east of Day Road are also within the existing UGB, and thus the petition to expand the boundary is completely unnecessary.

7. THE PROPOSED UGB AMENDMENT MUST INCLUDE ALL SIMILARLY SITUATED CONTIGUOUS LAND WHICH COULD ALSO BE APPROPRIATELY INCLUDED WITHIN THE UGB [3.01.35 (f) (3)]

As previously identified, the school district has several adequate and available sites already within the UGB to build a middle school. Of particular note are the Dollar Street site which was actually acquired for this middle school and the lands immediately east of Day Road. On these lands, more than 33 acres of usable lands are available for the school site. Thus, the petitioner does not have a justification for selecting any lands outside the UGB for locating this school. The Tanner Basin Master Plan calls for a middle school to be located within the existing UGB and specifically excludes this petition site and all surrounding rural lands from consideration as a middle school site.

8. THE CONDITION OF APPROVAL "THE SUBJECT SITE MUST BE DEVELOPED WITH A SCHOOL USE" SHOULD BE ELIMINATED

The petitioner and the Hearings Officer recommended that expansion of the UGB by this petition should be conditioned upon the land only being developed with a school use. The condition is not worded so that if the school district fails to develop the property as a school within a specific period of time (such as one year) then the UGB expansion is automatically terminated. Instead, this condition allows the permanent UGB expansion but ties the property only to a school construction. If the school district does not develop the property as a school, the effect will be to withdraw this land from any consideration for future housing needs.

This condition, effectively, conflicts with the recent decision of the Metro Council to include this same land in the Urban Reserve as Site 30. The basis for its inclusion was to fulfill future housing needs for the Metro area. This condition would withdraw 17.34 acres or conceivably at least 434 housing units from the Urban Reserve housing stock. In approving Urban Reserve Site 30, the Metro Council did not contemplate that this 17.34 acres would be removed from housing

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stock availability. Further, the petitioner and the school district did not testify or submit any evidence during the Urban Reserve hearings to suggest that this site should be restricted only to a middle school use regardless of Metro housing needs and regardless of whether the site is not actually developed as a school.

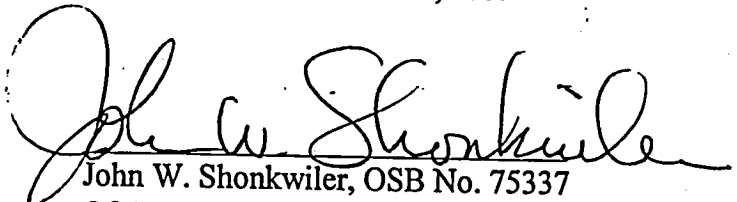
The proposed condition should be eliminated or modify to automatically terminate the UGB amendment if the middle school is not constructed within a fixed period of time such as one year.

CONCLUSION

The Objectors respectfully request that the Hearing Officer's recommendation and this petition be denied.

DATED this 4th day of August, 1997.

Respectfully submitted,
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