

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

AN ORDINANCE ADOPTING A FINAL) ORDINANCE NO. 90-371
ORDER AND DENYING THE PETITION FOR)
LOCATIONAL ADJUSTMENT IN CONTESTED)
CASE NO. 87-3: BLAZER HOMES, INC.)

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

Section 1. The Council of the Metropolitan Service District hereby adopts the Findings of Fact on Remand in Contested Case No. 87-3, attached as Exhibit A of this Ordinance, which is incorporated by this reference.

Section 2. The application of Blazer Homes, Inc. for a locational adjustment to the regional Urban Growth Boundary, as adopted by Ordinance No. 79-777 is hereby denied based on the Findings of Fact on Remand, attached as Exhibit A of this Ordinance, which is incorporated by this reference.

Section 3. This Ordinance is the Final Order in Contested Case No. 87-3.

Section 4. Parties to Contested Case No. 87-3 may appeal this Ordinance under Metropolitan Service District Code Section 2.05.050 and ORS chapter 197.

ADOPTED by the Council of the Metropolitan Service District
this _____ day of _____, 1990.

NOT ADOPTED
Tanya Collier, Presiding Officer

ATTEST:

Clerk of the Council
LS 1034

BEFORE THE METROPOLITAN SERVICE DISTRICT
OF THE STATE OF OREGON

IN THE MATTER OF THE APPLICATION)	
OF BLAZER HOMES, INC. FOR A)	FINDINGS OF FACT
LOCATIONAL ADJUSTMENT TO THE)	ON REMAND IN CONTESTED
REGIONAL URBAN GROWTH BOUNDARY)	CASE NO. 87-3

I. INTRODUCTION

This cause is before the Council on the petition of Blazer Homes, Inc. ("Petitioner") to add approximately 43.7 acres southeast of Lake Oswego to the regional Urban Growth Boundary (the "UGB"). Hearings on this matter originally resulted in Ordinance No. 88-268, with a Final Order adopted October 27, 1988. This action was appealed and the case was returned to the Council on remand from the Land Use Board of Appeals (LUBA). This document constitutes the Council's Supplemental Findings and Order on Remand. The record in Contested Case No. 87-3 was not reopened following the remand. Reconsideration was based on the existing record and it was restricted to the issues which were the basis for remand.

II. SUPPLEMENTAL FINDINGS

The Council did not extensively review the record or consider changes to those portions of the original findings that were not remanded by LUBA. Based on Council review of the original record on the issues of sewer facilities, streets, and traffic, and the burden of proof for locational adjustments the original findings are hereby readopted with the following amendments:

FINDINGS OF FACT IN CONTESTED CASE NO. 87-3

At Exhibit B of Ordinance No. 88-268, paragraphs XII-XV, pages 13-22, are hereby amended to read as follows:

"XII. Net Efficiency of Public Facilities

This locational adjustment would not result in substantial improvement in public facilities and services within the existing UGB. Specifically, it would result in the following net improvement:

a. Water Service. Inclusion of this site in the UGB would allow the dead end lines in Meadowlark Lane, Ridge

Pointe Road, and St. Clair Drive to be looped. This would improve fire flows to the surrounding subdivisions currently within the UGB; provide improved water pressure to those subdivisions; reduce sedimentation in water lines and thus reduce the need for periodic manual cleaning of the lines by opening the lines at their stubs or at hydrants; increase the efficiency of the lines by spreading their utilization over a larger population.

b. Sewer Service. An approximately 5 acre area within the UGB that currently has no service would be served as a result of the proposed locational adjustment. However, the area is too low to be served by gravity flow or by the existing pump station. If petitioner's site were brought into the UGB, a new pump station would be added to serve this presently unserved area. Replacement of an existing pump station with a new pump station to serve the petitioner's property and 5 unserved acres is only a slight net improvement in sewer facilities because a small number of unserved acres are reached only by the loss of the investment in the existing pump station.

c. Streets and Traffic. Development of the site by the proposed locational adjustment would facilitate potential completion of Westview Road by the dedication of right-of-way and construction of a portion of the roadway. Westview is shown on the Lake Oswego plan as a collector to provide direct access to the arterial Stafford Road from residential areas to the southwest. However, the record does not indicate that this amendment would result in the completion of Westview. Even if right-of-way across the proposed locational adjustment property were constructed by petitioner to serve the added property, there is no evidence that the lengthy unbuilt portion of Westview in hilly terrain to the southwest of the site will be constructed. Therefore, the only improvement of Westview resulting from this petition in the record is facilitating the potential development of Westview.

Development of the site will permit completion of Meadowlark Lane, St. Clair Drive, and Ridge Pointe Drive, which are currently stubbed at the UGB. It would, therefore, increase the traffic bearing capacity and utilization of those existing roadways within the UGB, and, hence, their efficiency.

The net improvement of efficiency to streets and traffic from this petition is a slight increase in efficiency to three existing residential streets.

d. Police Protection. The improvement of efficiency to the three residential streets is based on greater utilization of the existing capacity of the roadways. More

traffic and population at the outer limits of the service area does not increase efficiency of police services.

e. Storm Water Drainage. Drainage systems in the UGB would be improved in efficiency by the substitution of a large basin in the proposed addition for existing, small, hard-to-maintain basins within the UGB. The proposed addition area is well suited for this facility because of the main drainageway within it.

f. Conclusion. For the foregoing reasons, this UGB adjustment would result in a slight improvement in the efficiency of some public facilities and services in adjoining areas within the UGB.

"XIII. The Proposed UGB Is Not Greatly Superior to the Present UGB

The Council adopts the Findings of the Hearings Officer as stated in numbered paragraphs 2, 3, 4 and 5 at pp. 24-25 of the Hearings Officer's Report.⁴

Based on the Council's findings, the Council concludes that the proposed UGB is not greatly superior to the existing UGB, as required by Metro Code Section 3.01.040(a)(3). The larger the proposed adjustment over 10 acres, the greater must be the weight of evidence of increased suitability of the proposed UGB. Since this proposed 43.7 acres is near the 50-acre limit for locational adjustments, the evidence must demonstrate a greatly superior UGB as a result of the adjustment. Water, sewer, storm sewer, and traffic improvements were slight. There was no increase in the efficiency of police services. Therefore, the UGB as proposed is not sufficiently more suitable than the existing UGB based on the consideration of the factors in Metro Code Section 3.01.040(a).

"XIV. Similarly Situated Contiguous Land

There is no need to reach the consideration of all similarly situated contiguous land under Metro Code Section 3.01.040(d)(2) because of the insufficient evidence of improvement in public facilities and services, above.

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⁴Those paragraphs are uncontested.

"XV. Conclusion and Order

For the foregoing reasons, this petition for locational adjustment is hereby denied."

DATED: November , 1990.

By Order of the Metropolitan
Service District Council

By _____
Gwen Ware-Barrett
Clerk of the Council

The Council granted the petition by adoption of Ordinance
No. 90-371 attached.

LS
1034