February 13, 2014

TO:       Land Conservation and Development Commission

FROM:    Jim Rue, Director
         Angela Lazarean, Mid-Willamette Valley Regional Representative
         Rob Hallyburton, Community Services Division Manager

SUBJECT:  Agenda Item 4, February 13-14, 2014, LCDC Meeting

Distributed by DLCD to LCDC at the hearing.

This is intended to be an inventory of issues raised in objections to the Newberg UGB amendment submittal and in exceptions to the January 23, 2014 DLCD staff report to the commission. It is subject to revision as the commission hears testimony.

**Newberg UGB Questions**

1. Did the city inappropriately exclude land from consideration for a UGB expansion under OAR 660-024-0060(5) due to its interpretation of the definition of “site characteristics”? (Friends Objection 1; Staff Report at 19-34; Friends Exception 1, Newberg exception at 6-14; Supplemental Report at 4)

   a. Did the city demonstrate that the challenged site characteristics are “typical” of a particular use? (Friends Objection 1; Staff Report at 26; Friends Exception 1)

   b. Did the city demonstrate that the challenged site characteristics are “meaningfully connected” to a particular use? (Friends Objection 1; Staff Report at 19-34)

   c. Is an industrial district or park a “particular use” as that term is used in OAR 660-009-0015(2)? (Friends Objection 1; Staff Report at 17)

   d. Did the city use site characteristics under OAR 660-009-0015(2) to exclude land from further analysis for the UGB when the factors the city used to exclude the property were appropriately considered when addressing the Goal 14 location factors? (Friends Objection 1.A-1.D; Staff Report at 18)

2. Did the city demonstrate that residential compatibility is an operational need for industrial use or should it have included it during consideration of the Goal 14 location factors? (Friends Objection 1.A and 1.C; Staff Report at 23, 28; Friends Exception 2)
a. If residential compatibility is an appropriate site characteristic, is the city required to make a distinction between urban and rural residential in its compatibility analysis? (Friends Objection 1.C; Staff Report at 28; Newberg exception at 19)

3. Can the location of a site be a valid site suitability characteristic? (Friends Objection 1.A; Staff Report at 24)

4. Was the city correct in limiting its consideration of “close and suitable access” to arterials, or should it have considered major collectors? (Friends Objection 1.D and 1.E; Staff Report at 31; Friends Exception 4)

5. Did the city err in excluding study areas that had slopes predominantly greater than five percent? (Friends Objection 1.F; Staff Report at 31; Newberg exception at 23)

6. Did the city adequately describe the nature of farm use and the impacts of urban development in its consideration of Goal 14 location factors? (Friends Objection 7; Staff Report at 56; Newberg exception at 39)

7. Did the city adequately consider the impacts of the UGB expansion on farmland in northern Marion County? (Friends Objection 7; Carl objection; Staff Report at 57)

8. Did the city correctly implement ORS 197.298? (Multiple objections; Staff Report at 19)

Questions for the March meeting

The department is prepared to address the questions in italics if there is time during the February meeting.

9. Did the city’s study of comparable industrial areas contain methodological problems? (Friends Objection 1.B, 1.E, 1.F, Exception 3)

10. Is the city required to address possible future road alignments and functional classifications when assessing site suitability? (Friends Objections 1.D and 1.E, Exception 5)

11. Did the city’s analysis of required industrial site sizes include conclusions unsupported by evidence that resulted in required site sizes larger than the record shows is necessary? (Friends Objection 2, Exception 6)

12. Was the city’s inventory of employment land completed in conformity with the requirements of OAR 660-009-0015(3)? (Friends Objection 4, Exception 7; Newberg exception at 27)

   a. Did the city appropriately address the capacity of the UGB to accommodate employment on fully developed land? (Friends Objection 3, Newberg exception at 26)
b. Does the city have a surplus of commercial land in the UGB? (Friends Objection 4, Exception 7)

13. Is the city’s analysis of alternative areas to accommodate needed industrial land adequate? (Friends Objection 5; Cooper objection; Does objection; Schaad objection; Salmonsson objection; Staff Report at 39-49; Friends Exception 8; Newberg exception at 27-34)

   a. Is the analysis of alternative areas based on substantial evidence? (Ibid.)

   b. Does the analysis demonstrate how much of the need can reasonably be accommodated inside the existing UGB? (Ibid.)

   c. If areas studied for suitability to accommodate industrial need inside and outside the existing UGB are adjacent, must the city consider them as one study area or, alternatively, explain why they are not considered together? (Friends Objection 5; Staff Report at 43; Friends Exception 8 at 18)

14. Did the city include more large sites in the UGB than its own analysis showed is needed? (Friends Objection 6.A; Staff Report at 49; Friends Exception 9)

   a. Is the “Waste Management” site vacant? (Friends Objection 6.A; Staff Report at 50; Newberg exception at 34)

15. Did the city inappropriately include extra acreage that is unbuildable and for which no need was demonstrated? (Friends Objection 6.B; Staff Report at 50; Friends Exception 10)